

***District of Columbia***

**REGISTER**

**HIGHLIGHTS**

- D.C. Council enacts Law 25-217, Fiscal Year 2025 Budget Support Act of 2024
- D.C. Council enacts Law 25-218, Fiscal Year 2025 Local Budget Act of 2024
- D.C. Council schedules a public oversight hearing to consider the “DCPS Budget “
- D.C. Council schedules a public roundtable to discuss “The Office of Neighborhood Safety and Engagement’s Oversight of Violence Intervention Grants”
- Department of Energy and Environment seeks to fund one eligible nonprofit organization to remove and replace impermeable surfaces, capture stormwater runoff, and facilitate outreach and education with community members
- Board of Ethics and Government Accountability updates regulations on confidential financial disclosure filings
- Department of Health announces availability of 32 awards to qualified applicants to provide a variety of clinical and medical support services to indigent, uninsured, and under-insured persons living with HIV/AIDS in the Washington, DC Eligible Metropolitan Area (EMA)

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# DISTRICT OF COLUMBIA REGISTER

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## COUNCIL OF THE DISTRICT OF COLUMBIA

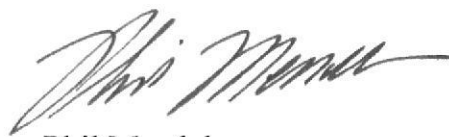
## NOTICE

## D.C. LAW 25-208

**"Fiscal Year 2024 Revised Local Budget Adjustment Temporary Act of 2024"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 25-788 on First Reading and Final Reading, on June 12, 2024, and July 9, 2024, respectively. Following the signature of the Mayor on July 26, 2024, pursuant to Section 404(e) of the Charter, the bill became Act 25-530 and was published in the August 9, 2024 edition of the D.C. Register (Vol. 71, page 009914). Act 25-530 was transmitted to Congress on August 6, 2024 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 25-530 is now D.C. Law 25-208, effective September 18, 2024.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
August	6,7,8,9,12,13,14,15,16,19,20,21,22,23,26,27,28,29,30
September	3,4,5,6,9,10,11,12,13,16,17



## COUNCIL OF THE DISTRICT OF COLUMBIA

## NOTICE

## D.C. LAW 25-209

**"2024 Summer Olympics, Paralympic Games, Art All Night, and Dine All Night  
Temporary Amendment Act of 2024"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 25-855 on First Reading and Final Reading, on June 25, 2024, and July 9, 2024, respectively. Following the signature of the Mayor on July 23, 2024, pursuant to Section 404(e) of the Charter, the bill became Act 25-520 and was published in the August 2, 2024 edition of the D.C. Register (Vol. 71, page 009572). Act 25-520 was transmitted to Congress on August 6, 2024 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 25-520 is now D.C. Law 25-209, effective September 18, 2024.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
August	6,7,8,9,12,13,14,15,16,19,20,21,22,23,26,27,28,29,30
September	3,4,5,6,9,10,11,12,13,16,17

## COUNCIL OF THE DISTRICT OF COLUMBIA

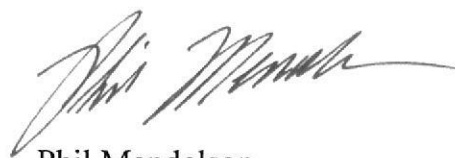
## NOTICE

## D.C. LAW 25-210

**"Voluntary Agreement Moratorium Temporary Amendment Act of 2024"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 25-858 on First Reading and Final Reading, on June 25, 2024, and July 9, 2024, respectively. Pursuant to Section 404(e) of the Charter, the bill became Act 25-531 and was published in the August 9, 2024 edition of the D.C. Register (Vol. 71, page 009936). Act 25-531 was transmitted to Congress on August 6, 2024 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 25-531 is now D.C. Law 25-210, effective September 18, 2024.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
August	6,7,8,9,12,13,14,15,16,19,20,21,22,23,26,27,28,29,30
September	3,4,5,6,9,10,11,12,13,16,17

## COUNCIL OF THE DISTRICT OF COLUMBIA

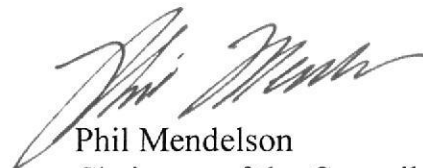
## NOTICE

## D.C. LAW 25-211

**"Tenant Payment Plan Phasing Continuation Temporary Act of 2024"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 25-860 on First Reading and Final Reading, on June 25, 2024, and July 9, 2024, respectively. Pursuant to Section 404(e) of the Charter, the bill became Act 25-532 and was published in the August 9, 2024 edition of the D.C. Register (Vol. 71, page 009938). Act 25-532 was transmitted to Congress on August 6, 2024 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 25-532 is now D.C. Law 25-211, effective September 18, 2024.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
August	6,7,8,9,12,13,14,15,16,19,20,21,22,23,26,27,28,29,30
September	3,4,5,6,9,10,11,12,13,16,17

## COUNCIL OF THE DISTRICT OF COLUMBIA

## NOTICE

## D.C. LAW 25-212

**"Foreclosure Moratorium and Homeowner Assistance Fund Coordination  
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Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 25-862 on First Reading and Final Reading, on June 25, 2024, and July 9, 2024, respectively. Following the signature of the Mayor on July 26, 2024, pursuant to Section 404(e) of the Charter, the bill became Act 25-533 and was published in the August 9, 2024 edition of the D.C. Register (Vol. 71, page 009942). Act 25-533 was transmitted to Congress on August 6, 2024 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 25-533 is now D.C. Law 25-212, effective September 18, 2024.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
August	6,7,8,9,12,13,14,15,16,19,20,21,22,23,26,27,28,29,30
September	3,4,5,6,9,10,11,12,13,16,17

## COUNCIL OF THE DISTRICT OF COLUMBIA

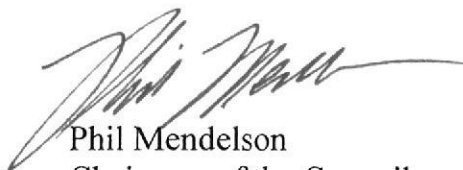
## NOTICE

## D.C. LAW 25-213

**"Green Housing Coordination Temporary Amendment Act of 2024"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 25-864 on First Reading and Final Reading, on June 25, 2024, and July 9, 2024, respectively. Following the signature of the Mayor on July 25, 2024, pursuant to Section 404(e) of the Charter, the bill became Act 25-534 and was published in the August 9, 2024 edition of the D.C. Register (Vol. 71, page 009946). Act 25-534 was transmitted to Congress on August 6, 2024 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 25-534 is now D.C. Law 25-213, effective September 18, 2024.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
August	6,7,8,9,12,13,14,15,16,19,20,21,22,23,26,27,28,29,30
September	3,4,5,6,9,10,11,12,13,16,17

## COUNCIL OF THE DISTRICT OF COLUMBIA


## NOTICE

## D.C. LAW 25-214

**"Migrant Services and Supports Extension Temporary Amendment Act of 2024"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 25-866 on First Reading and Final Reading, on June 25, 2024, and July 9, 2024, respectively. Following the signature of the Mayor on July 25, 2024, pursuant to Section 404(e) of the Charter, the bill became Act 25-535 and was published in the August 9, 2024 edition of the D.C. Register (Vol. 71, page 009949). Act 25-535 was transmitted to Congress on August 6, 2024 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 25-535 is now D.C. Law 25-214, effective September 18, 2024.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
August	6,7,8,9,12,13,14,15,16,19,20,21,22,23,26,27,28,29,30
September	3,4,5,6,9,10,11,12,13,16,17

## COUNCIL OF THE DISTRICT OF COLUMBIA

## NOTICE

## D.C. LAW 25-215

**"Short-Term Disability Insurance Benefit Protection Clarification Temporary  
Amendment Act of 2024"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 25-870 on First Reading and Final Reading, on June 25, 2024, and July 9, 2024, respectively. Following the signature of the Mayor on July 25, 2024, pursuant to Section 404(e) of the Charter, the bill became Act 25-536 and was published in the August 9, 2024 edition of the D.C. Register (Vol. 71, page 009953). Act 25-536 was transmitted to Congress on August 6, 2024 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 25-536 is now D.C. Law 25-215, effective September 18, 2024.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
August	6,7,8,9,12,13,14,15,16,19,20,21,22,23,26,27,28,29,30
September	3,4,5,6,9,10,11,12,13,16,17

## COUNCIL OF THE DISTRICT OF COLUMBIA

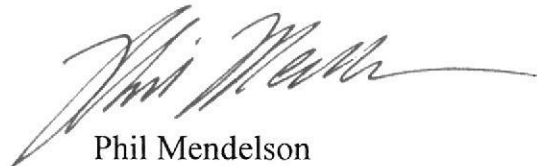
## NOTICE

## D.C. LAW 25-216

**"Medical Cannabis Conditional License and Unlicensed Establishment Closure  
Clarification Temporary Amendment Act of 2024"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 25-873 on First Reading and Final Reading, on June 25, 2024, and July 9, 2024, respectively. Following the signature of the Mayor on July 23, 2024, pursuant to Section 404(e) of the Charter, the bill became Act 25-521 and was published in the August 2, 2024 edition of the D.C. Register (Vol. 71, page 009575). Act 25-521 was transmitted to Congress on August 6, 2024 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 25-521 is now D.C. Law 25-216, effective September 18, 2024.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
August	6,7,8,9,12,13,14,15,16,19,20,21,22,23,26,27,28,29,30
September	3,4,5,6,9,10,11,12,13,16,17



## COUNCIL OF THE DISTRICT OF COLUMBIA

## NOTICE

## D.C. LAW 25-217

**"Fiscal Year 2025 Budget Support Act of 2024"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 25-784 on First Reading and Final Reading, on May 29, 2024, and June 25, 2024, respectively. Pursuant to Section 404(e) of the Charter, the bill became Act 25-550 and was published in the August 9, 2024 edition of the D.C. Register (Vol. 71, page 009990). Act 25-550 was transmitted to Congress on August 6, 2024 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 25-550 is now D.C. Law 25-217, effective September 18, 2024.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
August	6,7,8,9,12,13,14,15,16,19,20,21,22,23,26,27,28,29,30
September	3,4,5,6,9,10,11,12,13,16,17

## COUNCIL OF THE DISTRICT OF COLUMBIA

## NOTICE

## D.C. LAW 25-218

**"Fiscal Year 2025 Local Budget Act of 2024"**

Pursuant to Section 412 of the District of Columbia Home Rule Act, P.L. 93-198 (the Charter), the Council of the District of Columbia adopted Bill 25-785 on First Reading and Final Reading, on May 29, 2024, and June 12, 2024, respectively. Pursuant to Section 404(e) of the Charter, the bill became Act 25-501 and was published in the July 19, 2024 edition of the D.C. Register (Vol. 71, page 008366). Act 25-501 was transmitted to Congress on August 6, 2024 for a 30-day review, in accordance with Section 602(c)(1) of the Home Rule Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional review period has ended, and Act 25-501 is now D.C. Law 25-218, effective September 18, 2024.



Phil Mendelson  
Chairman of the Council

Days Counted During the 30-day Congressional Review Period:

Month	Dates Counted
August	6,7,8,9,12,13,14,15,16,19,20,21,22,23,26,27,28,29,30
September	3,4,5,6,9,10,11,12,13,16,17

## ENROLLED ORIGINAL

## A RESOLUTION

25-608

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To declare the existence of an emergency with respect to the need to adopt the local portion of the budget of the District of Columbia government for the fiscal year ending September 30, 2025.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Fiscal Year 2025 Local Budget Act Emergency Declaration Resolution of 2024”.

Sec. 2. (a) On June 12, 2024, the Council approved on final reading the Fiscal Year 2025 Local Budget Act of 2024, enacted on July 15, 2024 (D.C. Act 25-501; 71 DCR 8366). The act was enacted on July 15, 2024, and transmitted to Congress on August 6, 2024, for the 30-day passive review period required by section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)).

(b) Legislation approving a Fiscal Year 2025 budget must be effective prior to October 1, 2024, the start of the new fiscal year.

(c) Due to the congressional recess schedule, the Fiscal Year 2025 Local Budget Act of 2024 will not complete the congressional review period before October 1, 2024.

(d) The Mayor therefore transmitted to the Council the Fiscal Year 2025 Local Budget Emergency Act of 2024 to ensure that an approved budget and financial plan for Fiscal Year 2025 will be effective before the start of the fiscal year.

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Fiscal Year 2025 Local Budget Emergency Act of 2024 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-609

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To declare the existence of an emergency, due to congressional review, with respect to the need to continue foreclosure protections for homeowners who applied for funding from the DC Homeowner Assistance Fund ("DC HAF") program before September 30, 2022 and whose applications remain under review, pending approval, pending payment, or under appeal, and to require that notices continue to be sent to homeowners informing them of the DC HAF program before a foreclosure action.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Foreclosure Moratorium and Homeowner Assistance Fund Coordination Congressional Review Emergency Declaration Resolution of 2024".

Sec. 2. (a) On June 25, 2024, the Council passed the Foreclosure Moratorium and Homeowner Assistance Fund Coordination Emergency Amendment Act of 2024 (D.C. Act 25-514; 71 DCR 9340), which was enacted on July 18, 2024, and expires on October 16, 2024.

(b) On July 9, 2024, the Council passed a corresponding Foreclosure Moratorium and Homeowner Assistance Fund Coordination Temporary Amendment Act of 2024 (D.C. Act 25-533; 71 DCR 9942), which was transmitted to Congress on August 6, 2024, and is projected to become law on December 7, 2024.

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

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Foreclosure Moratorium and Homeowner Assistance Fund Coordination Congressional Review Emergency Amendment Act of 2024 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-610

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To declare the existence of an emergency, due to congressional review, with respect to the need to continue existing requirements for providers of commercial or residential rental property to abide by agreed upon rent payment plans with eligible tenants.

RESOLVED, BY THE COUNCIL DISTRICT OF COLUMBIA, That this resolution may be cited as the “Tenant Payment Plan Phasing Continuation Congressional Review Emergency Declaration Resolution of 2024”.

Sec. 2. (a) On June 25, 2024, the passed the Tenant Payment Plan Phasing Continuation Emergency Act of 2024 (D.C. Act 25-513; 71 DCR 9336), which was enacted on July 18, 2024, and expires on October 16, 2024.

(b) On July 9, 2024, the Council passed a corresponding Tenant Payment Plan Phasing Continuation Temporary Act of 2024 (D.C. Act 25-532; 71 DCR 9938), which was transmitted to Congress on August 6, 2024, and is projected to become law on December 7, 2024.

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

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Tenant Payment Plan Phasing Continuation Congressional Review Emergency Act of 2024 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-611

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To declare the existence of an emergency, due to congressional review, with respect to the need to amend the Rental Housing Act of 1985 to maintain a moratorium on voluntary agreements.

RESOLVED, BY THE COUNCIL DISTRICT OF COLUMBIA, That this resolution may be cited as the “Voluntary Agreement Moratorium Congressional Review Emergency Declaration Resolution of 2024”.

Sec. 2. (a) On June 25, 2024, the Council passed the Voluntary Agreement Moratorium Emergency Amendment Act of 2024 (D.C. Act 25-0517; 71 DCR 9351), which was enacted on July 18, 2024, and expires on October 20, 2024.

(b) On July 9, 2024, the Council passed a corresponding Voluntary Agreement Moratorium Temporary Amendment Act of 2024 (D.C. Act 25-0531; 71 DCR 9936), which was transmitted to Congress on August 6, 2024, and is projected to become law on December 7, 2024.

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

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Voluntary Agreement Moratorium Congressional Review Emergency Amendment Act of 2024 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-612

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To declare the existence of an emergency, due to congressional review, with respect to the need to enact and amend provisions of law necessary to support the Fiscal Year 2025 budget.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Fiscal Year 2025 Budget Support Congressional Review Emergency Declaration Resolution of 2024”.

Sec. 2. (a) On June 25, 2024, the Council passed the Fiscal Year 2025 Budget Support Emergency Act of 2024, effective July 15, 2024 (D.C. Act 25-506; 71 DCR 8406) (“Emergency Act”), which enacted and amended provisions of law necessary to support the Fiscal Year 2025 budget and will expire on October 13, 2024.

(b) On June 25, 2024, the Council also passed the Fiscal Year 2025 Budget Support Act of 2024, enacted on July 26, 2024 (D.C. Act 25-550; 71 DCR 9990) (“Permanent Act”), which is substantially similar to the Emergency Act. The Permanent Act was transmitted to Congress on August 6, 2024.

(c) The congressional review period for the Permanent Act will create a gap in authority between expiration of the Emergency Act and the effective date of the Permanent Act. This congressional review emergency act is necessary to avoid that gap in the implementation of the Fiscal Year 2025 Budget and Financial Plan.

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Fiscal Year 2025 Budget Support Congressional Review Emergency Act of 2024 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-613

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To declare the existence of an emergency, due to congressional review, with respect to the need to amend the Universal Paid Leave Amendment Act of 2016 to prohibit private disability insurance providers from reducing short-term disability benefits based on actual or estimated paid leave benefits to which an eligible individual may be entitled to from the District, regardless of the jurisdiction in which the insurance policy was issued or written; and to amend Title I of the Insurance Trade and Economic Development Amendment Act of 2000 to make the prohibition on offsetting or reducing benefits under a private market short-term disability insurance policy based on estimated or actual benefits received under the Universal Paid Leave Amendment Act of 2016 enforceable under that law, regardless of the jurisdiction in which the insurance policy was issued or written.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Short-Term Disability Insurance Benefit Protection Clarification Congressional Review Emergency Declaration Resolution of 2024”.

Sec. 2. (a) On June 25, 2024, the Council passed the Short-Term Disability Insurance Benefit Protection Clarification Emergency Amendment Act of 2024, effective July 18, 2024 (D.C. Act 25-0515; 71 DCR 009344) (“emergency act”). The emergency act will expire on October 16, 2024.

(b) On July 9, 2024, the Council passed the Short-Term Disability Insurance Benefit Protection Clarification Temporary Amendment Act of 2024, enacted on July 25, 2024 (D.C. Act 25-0536; 71 DCR 009953) (“temporary act”). The temporary act is now pending congressional review and has a projected law date of December 7, 2024.

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

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Short-Term Disability Insurance Benefit Protection Clarification Congressional Review Emergency Amendment Act of 2024 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.



## ENROLLED ORIGINAL

## A RESOLUTION

25-620

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To confirm the reappointment of Ms. Wanda Wheeler to the Board of Social Work.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Board of Social Work Wanda Wheeler Confirmation Resolution of 2024”.

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

Ms. Wanda Wheeler  
Kansas Avenue, NW  
Washington, DC 20011  
(Ward 4)

as an independent clinical social worker licensed in the District member of the Board of Social Work, pursuant to section 212 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.12), for a term to end March 3, 2027.

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

Sec. 4. This resolution shall take effect immediately.

ENROLLED ORIGINAL

## A RESOLUTION

25-621

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To confirm the reappointment of Ms. Seleyra Moore to the Board of Social Work.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Board of Social Work Selerya Moore Confirmation Resolution of 2024”.

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

Ms. Selerya Moore  
Ingraham Street, NW  
Washington, DC 20011  
(Ward 4)

as a consumer member of the Board of Social Work, pursuant to section 212 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.12), for a term to end March 3, 2026.

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

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-622

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To confirm the appointment of Mr. Rodrick McGill to the Board of Pharmacy.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Board of Pharmacy Rodrick McGill Confirmation Resolution of 2024”.

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

Mr. Rodrick McGill  
Gainesville Street, SE  
Washington, DC 20002  
(Ward 8)

as a consumer member of the Board of Pharmacy, pursuant to section 208 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.08), for a term to end March 12, 2027.

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

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-623

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To confirm the appointment of Ms. Emily Arkin to the Board of Dietetics and Nutrition.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Board of Dietetics and Nutrition Emily Arkin Confirmation Resolution of 2024”.

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

Ms. Emily Arkin  
Farragut Street, NW  
Washington, DC 20011  
(Ward 4)

as a dietician licensed in the District member of the Board of Dietetics and Nutrition, pursuant to section 202 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.02), for a term to end March 12, 2025.

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

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-624

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To confirm the reappointment of Dr. Andrea Anderson to the Board of Medicine.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Board of Medicine Andrea Anderson Confirmation Resolution of 2024”.

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

Dr. Andrea Anderson  
Vista Street, NE  
Washington DC 20018  
(Ward 5)

as a physician licensed to practice in the District member of the Board of Medicine, pursuant to section 203 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.03), for a term to end August 3, 2026.

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

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-625

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To confirm the appointment of Dr. Eric Bradshaw to the Board of Dentistry.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Board of Dentistry Dr. Eric Bradshaw Confirmation Resolution of 2024”.

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

Dr. Eric Bradshaw  
New Hampshire Avenue, NE  
Washington, DC 20011  
(Ward 4)

as a dentist licensed in the District member of the Board of Dentistry, pursuant to section 201 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.01), for a term to end November 30, 2026.

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

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-626

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To confirm the appointment of Dr. Jonelle Anamelechi to the Board of Dentistry.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Board of Dentistry Dr. Jonelle Anamelechi Confirmation Resolution of 2024”.

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

Dr. Jonelle Anamelechi  
Irving Street, NE  
Washington, DC 20017  
(Ward 5)

as a dentist licensed in the District member of the Board of Dentistry, established by section 201 of the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1202.01), for a term to end November 30, 2027.

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

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-627

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To confirm the reappointment of Mr. Howard Gibbs to the District of Columbia Water and Sewer Authority Board of Directors.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “District of Columbia Water and Sewer Authority Board of Directors Howard Gibbs Confirmation Resolution of 2024”.

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

Mr. Howard Gibbs  
3rd Street, SW  
Washington, DC 20024  
(Ward 6)

as a member of the Board of Directors of the District of Columbia Water and Sewer Authority, in accordance with section 204 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Official Code § 34-2202.04), for a term to end September 12, 2028.

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

Sec. 4. This resolution shall take effect immediately.



## ENROLLED ORIGINAL

## A RESOLUTION

25-628

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To confirm the reappointment of Mr. Richard Jackson to the District of Columbia Water and Sewer Authority Board of Directors.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “District of Columbia Water and Sewer Authority Board of Directors Richard Jackson Confirmation Resolution of 2024”.

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

Mr. Richard Jackson  
B Street, SE  
Washington, DC 20019  
(Ward 7)

as the cabinet-level officer member of the Board of Directors of the District of Columbia Water and Sewer Authority, in accordance with section 204 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Official Code § 34-2202.04), for a term to end September 12, 2028.

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

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-629

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To confirm the reappointment of Mr. Anthony Giancola to the District of Columbia Water and Sewer Authority Board of Directors.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “District of Columbia Water and Sewer Authority Board of Directors Anthony Giancola Confirmation Resolution of 2024”.

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

Mr. Anthony Giancola  
Cedar Street, NW  
Washington, DC 20012  
(Ward 4)

as a member of the Board of Directors of the District of Columbia Water and Sewer Authority, in accordance with section 204 of the Water and Sewer Authority Establishment and Department of Public Works Reorganization Act of 1996, effective April 18, 1996 (D.C. Law 11-111; D.C. Official Code § 34-2202.04), for a term to end September 12, 2028.

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

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-630

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To confirm the reappointment of Ms. Deborah Loomis to the Green Finance Authority Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Green Finance Authority Board Deborah Loomis Confirmation Resolution of 2024”.

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

Ms. Deborah Loomis  
34th Street, SE  
Washington, DC 20032  
(Ward 7)

as a voting member with financial, project development, or legal expertise in clean energy, clean infrastructure, clean transportation, stormwater management, or green infrastructure of the Green Finance Authority Board, established by section 201 of the Green Finance Authority Establishment Act of 2018, effective August 22, 2018 (D.C. Law 22-155; D.C. Official Code § 8-173.21), for a term to end July 9, 2027.

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

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-631

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To confirm the reappointment of Mr. Ricardo Nogueira to the Green Finance Authority Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Green Finance Authority Board Ricardo Nogueira Confirmation Resolution of 2024”.

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

Mr. Ricardo Nogueira  
Euclid Street, NW  
Washington, DC 20009  
(Ward 1)

as a voting member with experience at a financial institution operating within the District of the Green Finance Authority Board, established by section 201 of the Green Finance Authority Establishment Act of 2018, effective August 22, 2018 (D.C. Law 22-155; D.C. Official Code § 8-173.21), for a term to end July 9, 2027.

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

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-632

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To confirm the reappointment of Mr. Todd Monash to the Green Finance Authority Board.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Green Finance Authority Board Todd Monash Confirmation Resolution of 2024”.

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

Mr. Todd Monash  
River Road, NW  
Washington, DC 20016  
(Ward 3)

as a voting member with experience at a financial institution operating within the District of the Green Finance Authority Board, established by section 201 of the Green Finance Authority Establishment Act of 2018, effective August 22, 2018 (D.C. Law 22-155; D.C. Official Code § 8-173.21), for a term to end July 9, 2027.

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

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-634

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To amend the Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 25, Resolution of 2023 to eliminate the Committee on Recreation, Libraries, and Youth Affairs and transfer jurisdiction of its subject matter and agencies to the Committee of the Whole, to establish the Subcommittee on Recreation and Community Affairs and the Subcommittee on Libraries and Youth Affairs under the Committee of the Whole; to amend the Council Period 25 Appointment of Chairperson Pro Tempore, Committee Chairpersons, and Committee Membership Resolution of 2023 to no longer appoint a chairperson and membership of the Committee on Recreation, Libraries, and Youth Affairs, and to appoint the chairpersons and members of the Subcommittee on Recreation and Community Affairs and the Subcommittee on Libraries and Youth Affairs; and to authorize outside counsel to assist in the investigation of Councilmember Trayon White.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Council Period 25 Rules of Organization and Procedure and Appointment of Committee Chairpersons and Membership Amendment Resolution of 2024”.

Sec. 2. The Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 25, Resolution of 2023, effective January 3, 2023 (Res. 25-1; 71 DCR 238), is amended as follows:

(a) The table of contents is amended by striking the phrase “240. COMMITTEE ON RECREATION, LIBRARIES, AND YOUTH AFFAIRS.” and inserting the phrase “240. COMMITTEE ON RECREATION, LIBRARIES, AND YOUTH AFFAIRS. [REPEALED].” in its place.

(b) Section 231 is amended as follows:

(1) Subsection (a) is amended by striking the phrase “and building safety;” and inserting the phrase “and building safety; public libraries; public parks and recreation; cable television and entertainment; matters relating to Caribbean, Latino, African, African American, and Asian and Pacific Islander affairs; and youth affairs (other than juvenile justice);” in its place.

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(2) Subsection (e) is amended by adding the following agencies to the list of agencies that come within the purview of the Committee of the Whole, to be inserted in alphabetical order within the existing list:

- “Advisory Commission on Caribbean Community Affairs
- “Board of Library Trustees
- “Commission on African Affairs
- “Commission on African American Affairs
- “Commission on Asian and Pacific Islander Affairs
- “Commission on Fathers, Men, and Boys
- “Commission on Latino Community Development
- “Department of Parks and Recreation
- “Department of Youth Rehabilitation Services
- “District of Columbia Public Library System
- “District of Columbia Public Library Trust Fund
- “Juvenile Abscondence Review Committee
- “Office of Cable Television, Film, Music and Entertainment
- “Office of East of the River Services
- “Office on African Affairs
- “Office on African American Affairs
- “Office on Asian and Pacific Islanders Affairs
- “Office on Caribbean Affairs
- “Office on Fathers, Men, and Boys
- “Office on Latino Affairs
- “Public Access Corporation
- “Serve DC.”.

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

“(f)(1) The Subcommittee on Recreation and Community Affairs, as delegated by the Committee of the Whole, shall be responsible for public parks and recreation; Asian and Pacific Islander, Caribbean, and Latino affairs; and cable television and entertainment.

“(2) The following agencies come within the purview of the Subcommittee on Recreation and Community Affairs:

- “Advisory Commission on Caribbean Community Affairs
- “Commission on Asian and Pacific Islander Affairs
- “Commission on Fathers, Men, and Boys
- “Commission on Latino Community Development
- “Department of Parks and Recreation
- “Office on Asian and Pacific Islanders Affairs
- “Office of Cable Television, Film, Music and Entertainment
- “Office on Caribbean Affairs

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“Office on Fathers, Men, and Boys

“Office on Latino Affairs

“Public Access Corporation

“(g)(1) The Subcommittee on Libraries and Youth Affairs, as delegated by the Committee of the Whole, shall be responsible for matters relating to public libraries; African and African American affairs; and youth affairs (other than juvenile justice).

“(2) The following agencies come within the purview of the Subcommittee on Libraries and Youth Affairs:

“Board of Library Trustees

“Commission on African Affairs

“Commission on African American Affairs

“Department of Youth Rehabilitation Services

“District of Columbia Public Library System

“District of Columbia Public Library Trust Fund

“Juvenile Abscondence Review Committee

“Office of East of the River Services

“Office on African Affairs

“Office on African American Affairs

“Serve DC.”.

(c) Section 240 is amended to read as follows:

“240. COMMITTEE ON RECREATION, LIBRARIES, AND YOUTH AFFAIRS.

[REPEALED].

“Repealed.”.

Sec. 3. The Council Period 25 Appointment of Chairperson Pro Tempore, Committee Chairpersons, and Committee Membership Resolution of 2023, effective January 3, 2023 (Res. 25-2; 62 DCR 669), is amended as follows:

(a) The long title is amended by striking the word “committee” and inserting the phrase “committee and subcommittee” in its place.

(b) Section 3 is amended as follows:

(1) The lead-in language is amended by striking the word “committee” and inserting the phrase “committee and subcommittee” in its place.

(2) Paragraph (9) is repealed.

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

“(11) The chairperson of the Subcommittee on Recreation and Community Affairs, established by section 231(f) of the Rules, pursuant to section 245 of the Rules, shall be Matt Frumin and its members shall be Kenyan McDuffie and Brianne Nadeau.

“(12) The chairperson of the Subcommittee on Libraries and Youth Affairs, established by section 231(g) of the Rules, pursuant to section 245 of the Rules, shall be Zachary



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Parker and its members shall be Anita Bonds and Robert White.”.

Sec. 4. Authorization of investigation.

(a)(1) Pursuant to Rule 652(a)(5) of the Rules of Organization and Procedure for the Council of the District of Columbia, Council Period 25 (“Council Rules”), the Chairman appoints Latham & Watkins (the “Law Firm”) to assist the ad hoc committee, established by the Chairman’s August 23, 2024, memorandum, in investigating the conduct of Councilmember Trayon White, in accordance with paragraph (2) of this subsection.

(2) The scope of the investigation authorized by paragraph (1) of this subsection shall be whether Councilmember Trayon White violated the law by residing in a ward other than Ward 8 or violated the Code of Conduct, as that term is defined in section 101(7) of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code § 11161.01(7)), or Council Rules, including those provisions of the Code of Conduct or the Council Rules that relate to conflicts of interest, taking any action that adversely affects the confidence of the public in the integrity of the District government, outside activities, use of government resources, or acting solely in the public interest.

(b) In furtherance of the investigation authorized by subsection (a) of this section, the Council authorizes the ad hoc committee and the Law Firm to issue subpoenas to compel the attendance of witnesses, to obtain testimony, or to require the production of documents or other information or tangible items. Notwithstanding Council Rule 612, a report to the Secretary to the Council before issuing a subpoena as part of the investigation shall not be required.

(c) The Law Firm may take testimony of witnesses by oral, written, or videotaped depositions.

(d) Upon completion of the investigation, the Law Firm shall assist the ad hoc committee in filing a report containing findings on the allegations investigated pursuant to subsection (a) of this section with the Secretary to the Council, along with all records obtained during the investigation that support the findings.

Sec. 5. This resolution shall take effect immediately.

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## A RESOLUTION

25-635

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To declare the existence of an emergency with respect to the need to approve the borrowing of funds by the District through the issuance and sale of income tax secured bonds and notes and general obligation bonds and notes in an aggregate principal not to exceed \$2,410,577,362.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Fiscal Year 2025 Income Tax Secured Revenue Bond, General Obligation Bond and General Obligation and Income Tax Secured Bond Anticipation Note Issuance Authorization Emergency Declaration Resolution of 2024”.

Sec. 2. Emergency legislation is necessary to ensure that the District can issue bonds in a timely manner and take advantage of favorable market conditions to provide funding for or to reimburse the District for funds already expended on Fiscal Year 2025 capital projects approved and undertaken pursuant to the District’s Fiscal Year 2025 Budget and Financial Plan.

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Fiscal Year 2025 Income Tax Secured Revenue Bond, General Obligation Bond and General Obligation and Income Tax Secured Bond Anticipation Note Issuance Authorization Emergency Approval Resolution of 2024 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-636

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To approve, on an emergency basis, the borrowing of funds by the District through the issuance and sale of income tax secured revenue bonds, notes, or other obligations and general obligation bonds, notes or other obligations in an aggregate principal amount not to exceed \$2,410,577,362, and to approve the execution and delivery of documents connected to the issuance, sale, and delivery of the bonds or notes.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that this resolution may be cited as the "Fiscal Year 2025 Income Tax Secured Revenue Bond, General Obligation Bond and General Obligation and Income Tax Secured Bond Anticipation Note Issuance Authorization Emergency Approval Resolution of 2024".

Sec. 2.(a) Pursuant to and in accordance with D.C. Official Code § 47-335.01, the General Obligation Bonds and Bond Anticipation Notes for Fiscal Years 1999 -2004 Authorization Act of 1999, effective July 29, 1999 (D.C. Law 13-22; D.C. Official Code § 1-204.61, note); the General Obligation Bonds and Bond Anticipation Notes for Fiscal Years 2002 -2007 Authorization Act of 2002, effective March 25, 2003 (D.C. Law 14-214; D.C. Official Code § 1-204.61, note); the General Obligation Bonds and Bond Anticipation Notes for Fiscal Years 2007-2012 Authorization Act of 2006, effective March 6, 2007 (D.C. Law 16-212; D.C. Official Code § 1-204.61, note), the General Obligation Bonds and Bond Anticipation Notes for Fiscal Years 2013-2018 Authorization Act of 2012, effective March 19, 2013 (D.C. Law 19-231), the General Obligation Bonds and Bond Anticipation Notes for Fiscal Years 2018-2023 Authorization Act of 2017, effective March 29, 2018 (D.C. Law 22-80), and any successor acts thereto, ("Bond Acts"), the General Obligation Bonds and Bond Anticipation Notes for Fiscal Years 2023-2028 Authorization Act of 2023, effective June 13, 2023 (D.C. Law 25-9; 70 DCR 6095) and Subchapter II-D of the District of Columbia Official Code (§ 47-340.26 *et seq.*) ("Income Tax Bond Act"), the Council approves the issuance and sale of:

(1) Income tax secured revenue bonds and general obligation bonds in an aggregate principal amount not to exceed, when aggregated with the principal amount of any bond anticipation notes pursuant to paragraph (2) of this subsection, \$2,410,577,362, to fund the following capital projects, as that term is defined in the Income Tax Bond Act or the Bond Acts,

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plus all costs and expenses authorized by the Income Tax Bond Act or the Bond Acts, including, but not limited to, reimbursing amounts temporarily advanced from the General Fund of the District of Columbia, any enterprise fund or other fund or account of the District, and all costs and expenses of issuing and delivering the bonds, including, but not limited to, underwriting, rating agency fees, legal fees, accounting fees, financial advisory fees, bond insurance and other credit enhancements, liquidity enhancements, printing costs and expenses, capitalized interest, establishment of debt service or other reserve funds related to the bonds, the payment of costs of contracts described in the Income Tax Bond Act or the Bond Acts, and the payments of other debt program-related costs as provided in the related agreements:

<b>Project Category</b>	<b>Total Borrowing Plan \$</b>
Building Systems Assessments and Improvements	\$17,825,460
Correctional Facilities	28,500,000
Environmental	35,659
Equipment	44,360,501
Fire/EMS Stations	10,825,000
Fleet	135,015,991
General Support Facilities	137,009,219
Housing	50,774,439
Information Technology	89,421,888
Local and Regional Transportation	387,715,914
Parks	30,901,423
Police Stations	30,000,000
Public Health Facilities	22,500,000
Pools	43,171,914
Public Libraries	15,435,600
Recreation Centers	211,106,659
Redevelopment Infrastructure	400,430,134
School Facilities	525,534,847

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Supportive Housing	37,498,000
University Facilities	31,500,000
WMATA CIP Contribution	159,864,714
Youth Rehabilitation Facilities	1,150,000
<b>Total</b>	<b>\$2,410,577,362</b>

(2) Income tax secured federally tax-exempt and taxable bond anticipation notes (or other obligations) or general obligation secured federally tax-exempt and taxable bond anticipation notes (or other obligations) in an aggregate principal amount that when combined with amounts issued pursuant to paragraph (1) of this subsection shall not exceed \$2,410,577,362, to fund the initial costs of capital projects, as those projects are, from time to time, included in the District's annual Budget and Financial Plan and defined in the Income Tax Bond Act or the Bond Acts, plus all costs and expenses authorized by the Income Tax Bond Act or the Bond Acts, including, but not limited to, reimbursing amounts temporarily advanced from the General Fund of the District of Columbia, any enterprise fund or other fund or account of the District and all costs and expenses of issuing and delivering the commercial paper, including, but not limited to, underwriting, rating agency fees, legal fees, accounting fees, financial advisory fees, bond insurance and other credit enhancements, liquidity enhancements, printing costs and expenses, capitalized interest, establishment of debt service or other reserve funds related to the commercial paper, the payment of costs of contracts described in the Income Tax Bond Act or the Bond Acts, and the payments of other debt program-related costs as provided in the related agreements.

(b) The capital projects referenced in subsection (a) of this section have been authorized pursuant to section 446 of the District of Columbia Home Rule Act, approved December 24, 1973 (Pub. L. No. 93-198; 87 Stat. 801; D.C. Official Code § 1-204.46); the Continuing Appropriations Act, 2014, approved October 17, 2013 (Pub. L. No. 113-46; 127 Stat 558); the Consolidated Appropriations Act, 2014, approved January 17, 2014 (Pub. L. No. 113-76; 128 Stat 5); the Continuing Appropriations Resolution, 2015, approved September 19, 2014 (Pub. L. No. 113-164; 128 Stat 1867); Joint Resolution Making further continuing appropriations for fiscal year 2015, and for other purposes, approved December 12, 2014 (Pub. L. No. 113-202; 128 Stat. 2069); Joint Resolution Making further continuing appropriations for fiscal year 2015, and for other purposes, approved December 13, 2014 (Pub. L. No. 113-203, 128 Stat. 2070); the Consolidated and Further Continuing Appropriations Act, 2015, approved December 16, 2014 (Pub. L. No. 113-235; 128 Stat. 2130); the Continuing Appropriations Act, 2016, approved September 30, 2015 (Pub. L. No. 114-53; 129 Stat. 502); the Further Continuing Appropriations Act, 2016, approved December 11, 2015 (Pub. L. No. 114-96; 129 Stat. 2193); the Joint Resolution Making further continuing appropriations for fiscal year 2016, and for other purposes, approved December 16, 2015 (Pub. L. No. 114-100; 129 Stat. 2202); the Consolidated Appropriations Act, 2016, approved December 18, 2015 (Pub. L. No. 114-113; 129 Stat. 2242);

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the Fiscal Year 2017 Local Budget Act of 2016, effective July 29, 2016 (D.C. Law 21-142); the Continuing Appropriations Act, 2017, as amended, approved September 29, 2016 (Pub. L. No. 114-223; 130 Stat. 857); the Consolidated Appropriations Act, 2017, approved May 5, 2017 (Pub. L. No. 115-31; 131 Stat. 135); the Fiscal Year 2018 Local Budget Act of 2017, effective August 29, 2017 (D.C. Law 22-16); the Continuing Appropriations Act, 2018, as amended, approved September 8, 2017 (Pub. L. No. 115-56; 131 Stat. 1129); the Consolidated Appropriations Act, 2018, approved March 23, 2018 (Pub. L. No. 115-141; 132 Stat. 348); the Fiscal Year 2019 Local Budget Act of 2018, effective August 29, 2018 (D.C. Law 22-158), the Consolidated Appropriations Act, 2019, approved February 15, 2019 (Pub. L. No. 116-6; 133 Stat. 13), the Fiscal Year 2020 Local Budget Act of 2019, introduced March 20, 2019 (D.C. Bill 23-208) effective August 31, 2019 (D.C. Law 23-11), the Consolidated Appropriations Act, 2020, approved December 20, 2019 (Pub. L. No. 116-93; 133 Stat. 2317), the Fiscal Year 2021 Local Budget Act of 2020, effective October 20, 2020 (D.C. Law 23-136), the Consolidated Appropriations Act, 2021, approved December 27, 2020 (Pub. L. No. 116-260; 134 Stat. 1182), the Fiscal Year 2022 Local Budget Act of 2021, effective November 3, 2021 (D.C. Law 24-43), the Fiscal Year 2022 Local Budget Act of 2021, effective November 3, 2021 (D.C. Law 24-43), the Consolidated Appropriations Act, 2022, approved March 15, 2022 (Pub. L. No. 117-103; 136 Stat. 49), the Fiscal Year 2023 Local Budget Act of 2022, effective September 9, 2022 (D.C. Law 24-166), the Consolidated Appropriations Act, 2023, approved December 29, 2022 (Pub. L. No. 117-328; 136 Stat. 4459), the Fiscal Year 2024 Local Budget Act of 2023, effective August 29, 2023 (D.C. Law 25-47), Further Consolidated Appropriations Act, 2024, approved March 23, 2024 (Pub. L. No. 118-47; 138 Stat. 460), the Fiscal Year 2025 Local Budget Act of 2024, enacted July 15, 2024 (D.C. Act 25-501; 71 DCR 8366), and are capital projects for which the District of Columbia is authorized to incur indebtedness under the Bond Acts and the Income Tax Bond Act.

(c) The Chief Financial Officer is further authorized to determine whether income tax secured revenue bonds, general obligation bonds, or bond anticipation notes or other notes or obligations authorized by the Income Tax Bond Act or the Bond Acts, will be issued to finance or refinance the capital projects described in subsection (a) of this section. If notes or other temporary obligations are issued to finance the capital projects described in subsection (a) of this section, the Chief Financial Officer shall determine when and whether income tax secured revenue bonds or general obligation bonds will be issued to refund or refinance the outstanding notes in accordance with the Income Tax Bond Act, the Bond Acts, and other applicable laws.

Sec. 3. If the funds allocated to any agency pursuant to this resolution exceed the amount required by that agency to complete any authorized capital project listed in section 2 for that agency, the excess funds shall be made available to finance other capital projects approved by a prior or subsequent Council bond issuance resolution or act.

**ENROLLED ORIGINAL**

Sec. 4. Pursuant to sections 7 and 8 of the Bond Acts, section 2 of the Income Tax Bond Act, and other applicable law, the Council approves the execution and delivery by the Mayor, or the Chief Financial Officer, on behalf of the District, of any agreement, document, contract and instrument (including any amendment of or supplement to any such agreement, document, contract, or instrument) in connection with the issuance, sale and delivery of District of Columbia general obligation bonds or notes or income tax secured revenue bonds or notes pursuant to the Bond Acts or the Income Tax Bond Act.

Sec. 5. The Council shall submit a copy of this resolution, upon its adoption, to the Mayor.

Sec. 6. 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. 7. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-637

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To declare the existence of an emergency with respect to the need to approve an agreement to enter into a long-term subsidy contract for 15 years in support of the District's Local Rent Supplement Program to fund housing costs associated with affordable housing units for Contract No. 2024-LRSP-05A with Congress LIHTC Owner, LLC for units at 1109 Congress Street Apartments, located at 1109 Congress Street, NE.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Local Rent Supplement Program Contract No. 2024-LRSP-05A with Congress LIHTC Owner, LLC Emergency Declaration Resolution of 2024".

Sec. 2. (a) There exists an immediate need to approve Contract No. 2024-LRSP-05A between Congress LIHTC Owner, LLC and the District of Columbia Housing Authority to authorize local rent supplement program payments.

(b) Council approval of the contract is necessary to facilitate the development of affordable housing and support extremely low-income households participating in the permanent supportive housing program.

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Local Rent Supplement Program Contract No. 2024-LRSP-05A with Congress LIHTC Owner, LLC Emergency Act of 2024 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.



## ENROLLED ORIGINAL

## A RESOLUTION

25-638

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To declare the existence of an emergency with respect to the need to amend the Retired Police Officer Redeployment Amendment Act of 1992 to allow retired Metropolitan Police Department officers and retired firefighters from the Fire and Emergency Services Department to be eligible for rehire at the discretion of the Director of the Office of Unified Communication as temporary full-time or temporary part-time 911 call takers or 911 dispatchers without jeopardy to the retirement benefits of the employees.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Retired Firefighter and Police Officer Redeployment Extension Emergency Declaration Resolution of 2024”.

Sec. 2. (a) Most retired District government employees who collect pension benefits and are rehired by another District agency are subject to an annuity offset. There are pension offset exemptions for retired Metropolitan Police Department (“MPD”) officers who are rehired as fully sworn temporary full-time or temporary part-time police officers, rehired as temporary full-time or temporary part-time employees at the Department of Forensic Sciences, or hired by the Superintendent of the District of Columbia Public Schools as security personnel. These exemptions allow former District government employees to apply their specific skills in new roles for which they are uniquely suited.

(b) Under the Retired Firefighter and Police Officer Redeployment Temporary Amendment Act of 2023, effective March 1, 2024 (D.C. Law 25-131; 71 DCR 861) (“temporary legislation”), which is set to expire on October 12, 2024, firefighters retired from the Fire and Emergency Medical Services Department (“FEMS”) and police officers retired from MPD are eligible for rehire at the discretion of the Director of the Office of Unified Communications (“OUC”) as temporary full-time or temporary part-time 911 call takers or 911 dispatchers without decreasing their retirement benefits. One firefighter has fully onboarded as a 911 dispatcher and additional firefighters plan to apply for dispatcher and call-taker positions as they become eligible.

(c) The exemption created by the temporary legislation gave OUC access to a new pool of candidates who are familiar with dispatch operations from the FEMS and MPD perspectives

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and bring expertise and knowledge gained over decades on the front lines of emergency response into the heart of OUC operations.

(d) Permanent, identical legislation is pending in the Council. An extension of the provisions of the temporary legislation is necessary to allow OUC to continue employing the firefighter hired as a dispatcher and to continue recruiting and hiring retired firefighters and police officers as 911 call takers and 911 dispatchers.

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Retired Firefighter and Police Officer Redeployment Extension Emergency Amendment Act of 2024 be adopted after a single reading.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-639

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To declare the existence of an emergency with respect to the need to confirm the appointment of Sharon Kershbaum as the Director of the District Department of Transportation.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Director of the District Department of Transportation Sharon Kershbaum Confirmation Emergency Declaration Resolution of 2024”.

Sec. 2. (a) By law, the District Department of Transportation (“DDOT”) must be led by a Director that is appointed by the Mayor and confirmed by the Council. After the departure of former DDOT Director Everett Lott in October 2023, Sharon Kershbaum served as the agency’s Interim, and now Acting, Director.

(b) On April 10, 2024, Chairman Mendelson introduced PR25-0723, the Director of the District Department of Transportation Sharon Kershbaum Confirmation Resolution of 2024, at the request of the Mayor. PR25-0723 would confirm Acting Director Kershbaum’s appointment as the permanent Director for the District Department of Transportation. PR25-0723 will be deemed approved on September 22, 2024.

(c) PR25-0723 was referred to the Committee on Transportation and the Environment on April 23, 2024 and the Committee held a public roundtable on the measure on June 20, 2024. Although the Committee voted to approve PR25-0723 at its September 16, 2024 additional meeting, the Committee will not have filed its report in time for the Council to consider the measure at the September 17, 2024 legislative meeting.

(d) If the Council does not vote on Acting Director Kershbaum’s nomination at the September 17, 2024 legislative meeting, PR25-0723 will be deemed approved without the Council affirmatively acting on her nomination. Given the important role that the Director of DDOT plays in overseeing the design and construction of transportation projects, building safer streets, and transforming public spaces for the community to enjoy, the full Council should have an opportunity to consider and vote on Ms. Kershbaum’s nomination.

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Director of the District Department of

**ENROLLED ORIGINAL**

Transportation Sharon Kershbaum Confirmation Emergency Approval Resolution of 2024 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-641

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To declare the existence of an emergency with respect to the need to approve the proposed multiyear Contract No. PO-GF-2024-C-0001-NJH by and between the University of the District of Columbia and Ellucian Company LLC for continuation of software licensing, application hosting, and maintenance to support the University's Banner Enterprise Resource Planning system.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "University of the District of Columbia Multiyear Contract No. PO-GF-2024-C-0001-NJH with Ellucian Company LLC Emergency Declaration Resolution of 2024".

Sec. 2. (a) The University of the District of Columbia proposes to enter into a multiyear contract with Ellucian Company LLC for continuation of software licensing, application hosting, and maintenance to support the University's Banner Enterprise Resource Planning system.

(b) The firm fixed price for the term of this multiyear contract with Ellucian Company LLC is \$3,181,429 for a 3-year period of performance.

(c) Without emergency Council approval, the University will lose access to vital systems including student records, vendor and student payment, and class enrollment management.

(d) These critical technology services can only be obtained through the award of a multiyear contract with Ellucian Company LLC, which owns Banner.

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the University of the District of Columbia Multiyear Contract No. PO-GF-2024-C-0001-NJH with Ellucian Company LLC Emergency Approval Resolution of 2024 be adopted on an emergency basis.

Sec. 4. This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-642

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To approve, on an emergency basis, the proposed multiyear Contract No. PO-GF-2024-C-0001-NJH by and between the University of the District of Columbia and Ellucian Company LLC for renewal and continuation of software licensing, application hosting, and maintenance to support the University's Banner Enterprise Resource Planning system.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "University of the District of Columbia Multiyear Contract No. PO-GF-2024-C-0001-NJH with Ellucian Company LLC Emergency Approval Resolution of 2024".

Sec. 2. Pursuant to section 451(c) of the Home Rule Act (D.C. Official Code 1-204.51(c)) and 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 the University of the District of Columbia Multiyear Contract No. PO-GF-2024-C-0001-NJH by and between the University of the District of Columbia and Ellucian Company LLC for the firm fixed amount of \$3,181,429 for the renewal and continuation of software licensing, application hosting, and maintenance to support the University's Banner Enterprise Resource Planning system.

Sec.3. Transmittal.

The Council shall transmit a copy of this resolution, upon its adoption, to the President of the University of the District of Columbia.

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 6, 2006 (120 Stat. 2038; D.C. Official Code §1-301.47a).

Sec.5. Effective date.

This resolution shall take effect immediately.

## ENROLLED ORIGINAL

## A RESOLUTION

25-643

## IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

September 17, 2024

To declare the existence of an emergency with respect to the need to reduce the building restriction line along the southern side of Fern Street, NW on Lots 847, 973, 1016 to 1033, and 1062 to 1072 in Square 2950 from 15 feet to 9.5 feet.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Adjustment of Building Restriction Line in Square 2950 along the southern side of Fern Street NW, S.R. 23-06301 Emergency Declaration Resolution of 2024”.

Sec. 2. (a) On December 19, 2023, the Council passed the Adjustment of Building Restriction Line in Square 2950 along the southern side of Fern Street NW, S.O. 23-06301 Temporary Act of 2023, effective March 1, 2024 (D.C. Law 25-127; 71 DCR 853) (“temporary act”). The temporary act is set to expire on October 12, 2024.

(b) The permanent version, the Adjustment of Building Restriction Line in Square 2950 along the southern side of Fern Street NW, S.R. 23-06301 Act of 2023, passed on 1st reading on July 9, 2024 (Engrossed version of Bill 25-0611), is before the Council for second reading but will not be in effect before the temporary act expires.

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

Sec. 3. The Council determines that the circumstances enumerated in section 2 constitute emergency circumstances making it necessary that the Adjustment of Building Restriction Line in Square 2950 along the southern side of Fern Street NW, S.R. 23-06301 Emergency Act of 2024 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.gov>.

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**COUNCIL OF THE DISTRICT OF COLUMBIA**

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**PROPOSED LEGISLATION**

B25-0951     Ward 8 Chess Club and Tournament Act of 2024

Intro. 09-16-2024 by Councilmember T. White and referred sequentially to the Committee on Committee of the Whole, Subcommittee on Recreation and Community Affairs

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B25-0952     Luggage for All Youth in Foster Care Amendment Act of 2024 (Lisa's Law)

Intro. 09-16-2024 by Councilmembers Lewis George, T. White, Bonds, Pinto, Parker, Nadeau, Henderson, Gray, and R. White and referred to the Committee on Facilities and Family Services

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B25-0953     Transparency in Emergency Response Amendment Act of 2024

Intro. 09-16-2024 by Councilmembers Pinto, Nadeau, Henderson, Bonds, McDuffie, Gray, Parker, Lewis George, and Chairman Mendelson and referred to the Committee on Judiciary and Public Safety

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B25-0954     Childcare for First Responders Act of 2024

Intro. 09-16-2024 by Councilmembers Pinto, McDuffie, Henderson, and Gray

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and referred to the Committee on Judiciary and Public Safety with comments from the Committee of the Whole

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B25-0955 Child Marriage Prohibition Amendment Act of 2024

Intro. 09-16-2024 by Councilmembers Pinto, Nadeau, Lewis George, Henderson, R. White, Bonds, Frumin, Gray, and Parker and referred to the Committee on Judiciary and Public Safety

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B25-0956 Dolores Tucker Middle School Designation Act of 2024

Intro. 09-17-2024 by Councilmember Nadeau and referred to the Committee of the Whole

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B25-0957 Association Meeting Flexibility Amendment Act of 2024

Intro. 09-18-2024 by Councilmember R. White and referred to the Committee on Housing

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PR25-0964 Washington Convention and Sports Authority Board of Directors George T. Simpson Confirmation Resolution of 2024

Intro. 09-17-2024 by Chairman Mendelson and referred to the Committee on Business and Economic Development

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PR25-0965 Washington Convention and Sports Authority Board of Directors Marisa Flowers Confirmation Resolution of 2024

Intro. 09-17-2024 by Chairman Mendelson and referred to the Committee on Business and Economic Development

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PR25-0966 Washington Convention and Sports Authority Board of Directors Monica Ray Confirmation Resolution of 2024

Intro. 09-17-2024 by Chairman Mendelson and referred to the Committee on Business and Economic Development

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

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CHAIRMAN PHIL MENDELSON  
COMMITTEE OF THE WHOLE  
ANNOUNCES A PUBLIC OVERSIGHT HEARING

on

**DCPS Budget**

on

**Thursday, October 17, 2024, at 10:30 a.m.**

**Hearing Room 412 (Track B)  
John A. Wilson Building  
1350 Pennsylvania Avenue NW  
DC Council Website ([www.dccouncil.gov](http://www.dccouncil.gov))**

Council Chairman Phil Mendelson announces a public oversight hearing before the Committee of the Whole on *DCPS Budget*. The hearing will be held on **Thursday, October 17, 2024, at 10:30 a.m.**

The Mayor presented the Fiscal Year 2025 budget to Council with \$192 million more for the DC Public School system (DCPS), yet more than half of schools saw cuts to their budget or staff. The purpose of this hearing is to explore DCPS central's commitment to the Schools First in Budgeting Act, the efficiency of DCPS central's operations, the increase in contractual costs such as security, the increase in litigation costs such as Special education/ IEP claims, and other aspects of DCPS' budget.

Those who wish to testify must register using the Council's Hearing Management System at <https://lims.dccouncil.gov/hearings> by **5:00 p.m. on Tuesday, October 15, 2024. Testimony is limited to three minutes.** More time may be permitted by prior, individualized arrangement. 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 by emailing [cow@dccouncil.gov](mailto:cow@dccouncil.gov). 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. Witnesses will receive instructions on how to participate by Zoom prior to the hearing. If you have additional questions, please get in touch with Bijan Verlin, Legislative Policy Advisor, at (202) 724-4865 or [bverlin@dccouncil.gov](mailto:bverlin@dccouncil.gov).

Public witnesses will participate in-person or virtually via the Internet on the Zoom Video Conference platform. Those who wish to submit testimony for the record may do so by using the Council's Hearing Management System at <https://lims.dccouncil.gov/hearings> or by leaving a voicemail at (202) 430-6948 (up to 3 minutes which will be transcribed). Testimony will be publicly accessible upon Committee review. **The record will close at 5:00 pm on Thursday, October 31, 2024.**

**COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE OF THE WHOLE  
NOTICE OF PUBLIC ROUNDTABLE**

1350 Pennsylvania Avenue, NW, Washington, DC 20004

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

on

**PR 25-957, “Board of Trustees of the University of the District of Columbia Esther Barazzone  
Confirmation Resolution of 2024”**

on

**Monday, October 7, 2024 at 1:00 p.m.**

**Council Chambers, Room 412 (Track B)  
John A. Wilson Building  
1350 Pennsylvania Avenue NW  
DC Council Website ([www.dccouncil.gov](http://www.dccouncil.gov))**

Council Chairman Phil Mendelson announces a public roundtable before the Committee of the Whole on **PR 25-957**, the “Board of Trustees of the University of the District of Columbia Esther Barazzone Confirmation Resolution of 2024.” The public roundtable will be held at **1:00 p.m. on Monday, October 7, 2024**.

The purpose of PR 25-957 is to confirm the Mayor’s nomination to reappoint of Esther Barazzone to the Board of Trustees of the University of the District of Columbia for a term to expire May 15, 2029. According to D.C. Official Code §38-1202.01, UDC is governed by a Board of Trustees comprised of 15 members. Of these, 11 are appointed by the Mayor with the advice and consent of the Council, three are alumni from either the University or one of its predecessor institutions, and one is a full-time student elected by the UDC student body. Each trustee, except for the student trustee, serves a five-year term. This roundtable will serve as an opportunity for the Committee to hear from constituents, students, faculty, and others with regard to the fitness of the nominee to serve on UDC’s Board.

Those who wish to testify must register using the Council’s Hearing Management System at <https://lims.dccouncil.gov/hearings> by **5:00 p.m. on Thursday, October 3, 2024**. **Testimony is limited to four 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 by emailing [cow@dccouncil.gov](mailto:cow@dccouncil.gov). 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. Witnesses will receive instructions on how to participate by Zoom prior to the hearing. If you have additional questions, please contact Hannah Kozik, Legislative Policy Advisor, at (202) 724-8137 or [hkozik@dccouncil.gov](mailto:hkozik@dccouncil.gov).

Public witnesses may participate in person or virtually via the Internet on the Zoom Video Conference platform. Testimony should be submitted through the Council’s Hearing Management System (<https://lims.dccouncil.gov/hearings>) in advance of the hearing. That testimony will be publicly accessible upon Committee review. 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 through the Hearing Management System or left by voicemail by calling (202) 430-6948 (up to 3 minutes which will be transcribed). The record will close at 5:00 p.m. on Monday, October 14, 2024.

COUNCIL OF THE DISTRICT OF COLUMBIA  
COMMITTEE ON THE JUDICIARY AND PUBLIC SAFETY  
BROOKE PINTO, CHAIR

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**NOTICE OF PUBLIC ROUNDTABLE ON**  
**The Office of Neighborhood Safety and Engagement's**  
**Oversight of Violence Intervention Grants**

Monday, October 7, 2024, at 10:30 a.m.  
In the John A. Wilson Building, 1350 Pennsylvania Avenue, NW, Room 500  
and virtually via Zoom

**To watch live:**

Councilmember Pinto's YouTube Page ([www.youtube.com/@cmbrookepinto](https://www.youtube.com/@cmbrookepinto))  
DC Council Website ([dccouncil.gov](https://dccouncil.gov))  
Council Channel 13 (Cable Television Providers)  
Office of Cable Television Website ([entertainment.dc.gov](https://entertainment.dc.gov))

On Monday, October 7, 2024, at 10:30 a.m., Councilmember Brooke Pinto, Chairwoman of the Committee on the Judiciary and Public Safety, will hold a public oversight roundtable regarding the Office of Neighborhood Safety and Engagement's (ONSE's) oversight of violence intervention grants. The roundtable will be held in Room 500 of the John A. Wilson Building.

The purpose of this public oversight roundtable is to evaluate ONSE's grantmaking process and its ability to monitor and oversee grantees under the agency's Violence Intervention Initiative. The Committee has heard of longstanding concerns about oversight of grantees, and recent events have made clear the need to more deeply examine ONSE's processes in this regard. The Committee also understands that the Executive is undertaking a review of all of its violence intervention contracts and grants, including those awarded by ONSE, and expects to receive an update on the status of grants awarded for Fiscal Year 2025 before the time of this roundtable. The Committee believes in community-based violence interruption programs and is eager to work with ONSE, the Executive, and the Attorney General to ensure our violence interruption efforts are supported, efficient, effective, and transparently funded.

The Committee invites the public to testify. Those who wish to do so must register using the Council's Hearing Management System at <https://lims.dccouncil.gov/hearings> by **5:00 p.m. on Thursday, October 3**. All witnesses, including those who represent organizations, will have 3 minutes to speak. **Witnesses will have the option to testify in person or virtually**; witnesses should specify which option they are electing at the time they sign up to testify.

Witnesses who anticipate needing spoken language interpretation, or who require sign language interpretation, are requested to inform the Committee office of the need as soon as possible, but no later than 5 business days before the proceeding. We will make every effort to fulfill timely requests, although alternatives may be offered. Requests may be submitted via the Hearing Management System during registration or by contacting Ms. Aukima Benjamin, Committee Manager to the Committee on the Judiciary and Public Safety, at (202) 724-8058 or via e-mail at [judiciary@dccouncil.gov](mailto:judiciary@dccouncil.gov). It may not be possible to fulfill requests received less than 5 business

days before the proceeding. Witnesses will receive instructions on how to participate by Zoom prior to the proceeding. If you have additional questions, please contact Ms. Benjamin at the phone number or e-mail listed above.

If you are unable to testify at the public hearing, written statements are encouraged and will be made a part of the official record; written testimony should be submitted through the Council's Hearing Management System at <https://lims.dccouncil.gov/hearings>. Testimony will be publicly accessible following review by Committee staff.

The record will close at 5:00 p.m. on Monday, October 21, 2024.

**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 25-0079                      Grant Budget Modifications as of September 17, 2024**

RECEIVED: 14-day review begins September 19, 2024

**GBM 25-0080                      Grant Budget Modifications as of September 17, 2024**

RECEIVED: 14-day review begins September 20, 2024

**GBM 25-0081                      Grant Budget Modifications as of September 17, 2024**

RECEIVED: 14-day review begins September 20, 2024

COUNCIL OF THE DISTRICT OF COLUMBIA  
Notice of Reprogramming Requests

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

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

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

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Reprog. 25-0145: Request to reprogram Fiscal Year 2024 Local funds budget authority in the amount of \$1,500,000 within the Department of Corrections (DOC) was filed in the Office of the Secretary Friday, September 20, 2024. The funds are needed to support rising healthcare costs due to an increase in the average daily population of inmates.

RECEIVED: 14-day review begins September 23, 2024

Reprog. 25-0146: Request to reprogram Fiscal Year 2024 Local funds budget authority in the amount of \$934,571 within the Office of the State Superintendent of Education (OSSE) was filed in the Office of the Secretary Monday, September 23, 2024. Funds are needed to support costs associated with Course Collection Contract staff.

RECEIVED: 14-day review begins September 24, 2024

Reprog. 25-0147: Request to reprogram Fiscal Year 2024 Federal Payment funds budget authority in the amount of \$1,059,150 within the Office of the State Superintendent of Education (OSSE) was filed in the Office of the Secretary Monday, September 23, 2024. Funds are needed to carry out planned purchases related to the DC Tuition Assistance Grant program.

RECEIVED: 14-day review begins September 24, 2024

Reprog. 25-0148: Request to reprogram Fiscal Year 2024 Special Purpose Revenue funds budget authority in the amount of \$690,000 within the Office of the Chief Technology Officer (OCTO) was filed in the Office of the Secretary Tuesday, September 24, 2024. The funds are needed to support the agency's network infrastructure to implement the new Zero Trust service.

RECEIVED: 14-day review begins September 25, 2024



**ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION  
NOTICE OF PUBLIC HEARING**

Placard Posting Date: September 27, 2024  
Protest Petition Deadline: November 12, 2024  
Roll Call Hearing Date: December 2, 2024  
Protest Hearing Date: January 15, 2025

License No.: ABRA-129755  
Licensee: Logan Partnership, LLC  
Trade Name: Barrel House Café & Bar  
License Class: Retailer's Class "C" Restaurant  
Address: 1341 14th Street, N.W.  
Contact: Christopher Lynch: (917) 620-9330, lynchchris@aol.com

WARD 2

ANC 2F

SMD 2F04

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on December 2, 2024 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 [abca.legal@dc.gov](mailto:abca.legal@dc.gov) on or before the Petition deadline. The **Protest Hearing date** is scheduled on **January 15, 2025 at 1:30 p.m.**

**NATURE OF OPERATION**

New Retailer's Class "C" Restaurant with an interior seating capacity of 73 and Total Occupancy Load of 146. Summer Garden with 73 seats and a total capacity of 73. An Entertainment Endorsement is requested to provide live entertainment with Dancing and Cover Charge both indoors and outdoors. Alcohol Carry-out and Delivery and Holiday Extension of Hours Endorsements.

**HOURS OF OPERATION FOR INSIDE PREMISES**

Sunday through Thursday 7am – 1am, Friday and Saturday 7am – 2am

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

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

**HOURS OF OPERATION FOR SUMMER GARDEN**

Sunday through Saturday 7am – 12am

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

Sunday through Saturday 8am – 12am

**HOURS OF LIVE ENTERTAINMENT FOR INSIDE PREMISES**

Sunday through Thursday 11am – 1am, Friday and Saturday 11am – 2am

**HOURS OF LIVE ENTERTAINMENT FOR SUMMER GARDEN**

Sunday 12pm – 10pm, Monday through Friday 4pm – 10pm, Saturday 12pm – 10pm

**HOURS OF ALCOHOLIC BEVERAGE CARRYOUT AND DELIVERY**

Sunday through Saturday 10am – 10pm

## ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

## NOTICE OF PUBLIC HEARING

Placard Posting Date: September 27, 2024  
Protest Petition Deadline: November 12, 2024  
Roll Call Hearing Date: December 2, 2024  
Protest Hearing Date: January 15, 2025

License No.: ABRA-129303  
Licensee: Eaternity DC, LLC  
Trade Name: Brisa, El Jefe Taqueria  
License Class: Retailer's Class "C" Restaurant  
Address: 2121 1<sup>st</sup> Street, S.W.  
Contact: Faisal Gill: (310) 418-6675, fgill@glawoffice.com

WARD 6

ANC 6D

SMD 6D07

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on November 12, 2024 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 [abca.legal@dc.gov](mailto:abca.legal@dc.gov) on or before the Petition deadline. The **Protest Hearing date** is scheduled on **December 11, 2025 at 1:30 p.m.**

**NATURE OF OPERATION**

A restaurant with 206 seats and a Total Occupancy Load of 213 inside. Summer Garden Endorsement with 118 seats and a Total Occupancy Load of 120. The Total Occupancy Load of the entire establishment is 333. Entertainment Endorsement to include Cover Charge inside the premises only.

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

Sunday through Saturday 11am – 2am

**HOURS OF LIVE ENTERTAINMENT FOR INSIDE PREMISES**

Sunday through Saturday 8pm – 1am

## ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

## NOTICE OF PUBLIC HEARING

Placard Posting Date: September 27, 2024  
Protest Petition Deadline: November 12, 2024  
Roll Call Hearing Date: December 2, 2024  
Protest Hearing Date: January 15, 2025

License No.: ABRA-127929  
Licensee: Capitol Budz LLC  
Trade Name: N/A  
Registration/License Type: Medical Cannabis Retailer  
Address: 5223 Georgia Avenue N.W.  
Retailer Contact: Andre Foster: (202) 868-1799; connor@joynt.tech

WARD 4

ANC 4D

SMD 4D03

Notice is given that the above-named medical cannabis retailer applicant has requested a new license to be located at 5223 Georgia Avenue N.W. Pursuant to Title 22-C of the DCMR (Medical Cannabis Program) objectors are entitled to be heard regarding the new license application. Petitions and/or requests to appear before the ABC Board must be filed electronically to [abca.legal@dc.gov](mailto:abca.legal@dc.gov) on or before the petition deadline. The **Roll Call Hearing is scheduled for December 2, 2024 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009.** The **Protest Hearing date** is scheduled for **January 15, 2025, at 1:30 p.m.** All hearings before the Board are conducted virtually.

**NATURE OF OPERATION**

The medical cannabis retailer applicant is requesting to locate its operations at 5223 Georgia Avenue N.W. The proposed facility with approximately 1,400 square feet of space will provide cannabis flowers, cannabis concentrates, and a line of edible products. The applicant is requesting a delivery endorsement.

**HOURS OF OPERATION FOR RETAILER**

Sunday 8:00am – 8:30pm  
Monday-Saturday 9:00am – 8:30pm

**HOURS OF RETAILER SALES OPEN TO THE PUBLIC**

Sunday 8:00am – 8:30pm  
Monday-Saturday 9:00am – 8:30pm

**HOURS OF DELIVERY**

Sunday – Saturday 10:00am – 8:00pm

**ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION****NOTICE OF PUBLIC HEARING**

Placard Posting Date: September 27, 2024  
Protest Petition Deadline: November 12, 2024  
Roll Call Hearing Date: December 2, 2024  
Protest Hearing Date: January 15, 2025

License No.: ABRA-129890  
Licensee: Volo Buzzard Point LLC  
Trade Name: Club Volo Sport & Social | Club Volo  
License Class: Retailer's Class "C" Tavern  
Address: 20 Potomac Avenue, S.W.; Square 660, Lots 804 & 12  
Contact: Cameron Mixon: (202) 686-7600,  
cmixon@theveritaslawfirm.com

WARD 6

ANC 6D

SMD 6D08

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on December 2, 2024 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 [abca.legal@dc.gov](mailto:abca.legal@dc.gov) on or before the Petition deadline. The **Protest Hearing date** is scheduled on **January 15, 2025 at 1:30 p.m.**

**NATURE OF OPERATION**

A Class C Tavern providing outdoor recreational activity with ancillary food and beverage. Summer Garden Endorsement with 2500 seats and a Total Occupancy Load of 5000. The establishment will not have indoor seating. Entertainment Endorsement to include Cover Charge and Dancing. Extended Holiday Hours Endorsement.

**HOURS OF OPERATION, HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION, AND HOURS OF LIVE ENTERTAINMENT**

Sunday through Thursday 7am – 2am, Friday and Saturday 7am – 3am

**ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION****NOTICE OF PUBLIC HEARING****\*\*RESCIND**

Placard Posting Date: August 30, 2024  
Protest Petition Deadline: October 15, 2024  
Roll Call Hearing Date: November 4, 2024

License No.: ABRA-127797  
Licensee: Gursha 2023, LLC  
Trade Name: Gursha Ethiopian Cuisine  
License Class: Retailer's Class "C" Restaurant  
Address: 1195 20<sup>th</sup> Street, N.W.  
Contact: Endale Ashagre: (240) 887-5541, gurshadc@gmail.com

WARD 2

ANC 2C

SMD 2C02

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 November 4, 2024, 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 [abca.legal@dc.gov](mailto:abca.legal@dc.gov) on or before the Petition deadline.

**NATURE OF SUBSTANTIAL CHANGE**

Licensee is requesting a Change of Hours.

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

Sunday through Saturday 8am – 10pm

**PROPOSED HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION**

Sunday through Saturday 8am – 12am

## ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

## NOTICE OF PUBLIC HEARING

Placard Posting Date: September 27, 2024  
Protest Petition Deadline: November 12, 2024  
Roll Call Hearing Date: December 2, 2024  
Protest Hearing Date: January 15, 2025

License No.: ABCA-129942  
Licensee: Stealth Grey  
Trade Name: Love 420  
Registration/License Type: Medical Cannabis Retailer  
Address: 39 Q Street S.W.  
Retailer Contact: Dean Smothers: (240) 832-5227; dean.smothers@yahoo.com.com

WARD 6

ANC 6D

SMD 6D08

Notice is given that the above-named medical cannabis retailer applicant has requested a new license to be located at 39 Q Street, S.W. Pursuant to Title 22-C of the DCMR (Medical Cannabis Program) objectors are entitled to be heard regarding the new license application. Petitions and/or requests to appear before the ABC Board must be filed electronically to [abca.legal@dc.gov](mailto:abca.legal@dc.gov) on or before the petition deadline. The **Roll Call Hearing is scheduled for December 2, 2024, at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009.** The **Protest Hearing date** is scheduled for **January 15, 2025, at 1:30 p.m.** All hearings before the Board are conducted virtually.

**NATURE OF OPERATION**

The medical cannabis retailer applicant is requesting to locate its operations at **39 Q Street, S.W.** The proposed facility with approximately 8,952 square feet of space will provide cannabis flowers, cannabis concentrates, and a line of edible products and home delivery services to registered patients in Washington, D.C. The applicant is requesting a delivery endorsement.

**HOURS OF OPERATION FOR RETAILER**

Sunday 10 am – 10 pm  
Monday – Saturday 10 am – 11 pm

**HOURS OF RETAILER SALES OPEN TO THE PUBLIC**

Sunday 10 am – 10 pm  
Monday – Saturday 10 am – 11 pm

**HOURS OF DELIVERY FOR RETAILER**

Sunday – Saturday 12pm – 8pm

## ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION

## NOTICE OF PUBLIC HEARING

Placard Posting Date: September 27, 2024  
Protest Petition Deadline: November 12, 2024  
Roll Call Hearing Date: December 2, 2024  
Protest Hearing Date: January 15, 2025

License No.: ABCA-129298  
Licensee: Mirage Inc  
Trade Name: N/A  
Registration/License Type: Medical Cannabis Retailer  
Address: 1278 5<sup>th</sup> Street N.E.  
Retailer Contact: Henok Girma: (908) 238-8737; henokgirma213@gmail.com

WARD 5

ANC 5D

SMD 5D01

Notice is given that the above-named medical cannabis retailer applicant has requested a new license to be located at 1278 5<sup>th</sup> Street, N.E. Pursuant to Title 22-C of the DCMR (Medical Cannabis Program) objectors are entitled to be heard regarding the new license application. Petitions and/or requests to appear before the ABC Board must be filed electronically to [abca.legal@dc.gov](mailto:abca.legal@dc.gov) on or before the petition deadline. The **Roll Call Hearing is scheduled for December 2, 2024, at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009.** The **Protest Hearing date** is scheduled for **January 15, 2025, at 1:30 p.m.** All hearings before the Board are conducted virtually.

**NATURE OF OPERATION**

The medical cannabis retailer applicant is requesting to locate its operations at **1278 5<sup>th</sup> Street, N.E.** The proposed facility with approximately 2,500 square feet of space will provide cannabis flowers, cannabis concentrates, and a line of edible products and home delivery services to registered patients in Washington, D.C. The applicant is requesting a delivery endorsement.

**HOURS OF OPERATION FOR RETAILER**

Sunday – Saturday 9am – 10pm

**HOURS OF RETAILER SALES OPEN TO THE PUBLIC**

Sunday – Saturday 10am – 9pm

**HOURS OF DELIVERY FOR RETAILER**

Sunday – Saturday 10am – 9pm

**ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION****NOTICE OF PUBLIC HEARING****\*\*READVERTISEMENT**

Placard Posting Date: \*\*September 27, 2024  
Protest Petition Deadline: \*\*November 12, 2024  
Roll Call Hearing Date: \*\*December 2, 2024  
Protest Hearing Date: \*\*January 15, 2025

License No.: ABRA-129835  
Licensee: 734 15<sup>th</sup> St Club, LLC  
Trade Name: Ned's Club Washington DC  
License Class: Retailer's Class "C" Tavern  
Address: 730 15<sup>th</sup> Street, N.W.  
Contact: Cameron Mixon, Esq.: (202) 686-7600,  
[cmixon@theveritaslawfirm.com](mailto:cmixon@theveritaslawfirm.com)

WARD 2

ANC 2A

SMD 2A07

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on \*\*November 18, 2024, 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 [abca.legal@dc.gov](mailto:abca.legal@dc.gov) on or before the Petition deadline. The **Protest Hearing date** is scheduled for **\*\*December 11, 2024, at 1:30 p.m.**

**\*\*NATURE OF OPERATION**

New Class C Tavern with a Seating Capacity of 640, a Summer Garden with 125 Seats, and Total Occupancy Load of 1519. \*\*The Licensee is also requesting an Entertainment Endorsement with Dancing inside the premises and for the Outdoor Summer Garden. Holiday Extension of Hours Endorsement.

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

Sunday through Thursday 7am – 2am, Friday and Saturday 7am – 3am

**\*\*HOURS OF LIVE ENTERTAINMENT INSIDE PREMISES AND FOR THE OUTDOOR SUMMER GARDEN**

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



**ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION****NOTICE OF PUBLIC HEARING****\*\*RESCIND**

Placard Posting Date: \*\*September 13, 2024  
Protest Petition Deadline: \*\*October 28, 2024  
Roll Call Hearing Date: \*\*November 18, 2024  
Protest Hearing Date: \*\*December 11, 2024

License No.: ABRA-129835  
Licensee: 734 15<sup>th</sup> St Club, LLC  
Trade Name: Ned's Club Washington DC  
License Class: Retailer's Class "C" Tavern  
Address: 730 15<sup>th</sup> Street, N.W.  
Contact: Cameron Mixon, Esq.: (202) 686-7600,  
[cmixon@theveritaslawfirm.com](mailto:cmixon@theveritaslawfirm.com)

WARD 2

ANC 2A

SMD 2A07

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on \*\*November 18, 2024, 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 [abca.legal@dc.gov](mailto:abca.legal@dc.gov) on or before the Petition deadline. The **Protest Hearing date** is scheduled for **\*\*December 11, 2024, at 1:30 p.m.**

**\*\*NATURE OF OPERATION**

New Class C Tavern with a Seating Capacity of 640, a Summer Garden with 125 Seats, and Total Occupancy Load of 1519.

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

Sunday through Thursday 7am – 2am, Friday and Saturday 7am – 3am

**ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION****NOTICE OF PUBLIC HEARING**

Placard Posting Date: September 27, 2024

Protest Petition Deadline: November 12, 2024

Roll Call Hearing Date: December 2, 2024

License No.: ABRA-093687

Licensee: Radici Uno, LLC

Trade Name: Radici

License Class: Retailer's Class "B" Internet

Address: 700 Pennsylvania Avenue, S.E., Suite 2066

Contact: A. Bridget Sasso: (202) 596-5054, info@radici-market.com

WARD 6

ANC 6B

SMD 6B02

Notice is hereby given that this licensee has requested to transfer their license to a new location with a Substantial Change under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on December 2, 2024 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 [abca.legal@dc.gov](mailto:abca.legal@dc.gov) on or before the Petition deadline.

**NATURE OF OPERATION**

Applicant requests to Transfer License from 301 7<sup>th</sup> Street S.E, to a new location at 700 Pennsylvania Avenue S.E. Licensee also requests a Class Change from a Retailer B Full-Service Grocery to Retailer B Internet.

**HOURS OF OPERATION**

Sunday 7am – 9pm, Monday through Saturday 7am – 11pm

**HOURS OF ALCOHOLIC BEVERAGE SALES**

Sunday 9am – 9pm, Monday through Saturday 9am – 11pm

**ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION****NOTICE OF PUBLIC HEARING**

Placard Posting Date: September 27, 2024  
Protest Petition Deadline: November 12, 2024  
Roll Call Hearing Date: December 2, 2024

License No.: ABRA-000654  
Licensee: Seven Seas Restaurant, Inc.  
Trade Name: Seven Seas Restaurant  
License Class: Retailer's Class "C" Restaurant  
Address: 5915 Georgia Avenue, N.W.  
Contact: Olivette Lomax: (202) 625-7700, olomax@malliosobrien.com

WARD 4

ANC 4B

SMD 4B05

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 December 2, 2024 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 [abca.legal@dc.gov](mailto:abca.legal@dc.gov) on or before the Petition deadline.

**NATURE OF SUBSTANTIAL CHANGE**

Licensee is requesting to add a Games of Skill endorsement to their operations. The Establishment plans to place five (5) consoles to offer the game Edge District of Skill and Dragon's Ascent by Pace-o-Matic.

**HOURS OF OPERATION**

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

**HOURS OF ALCOHOLIC BEVERAGE SALES, SERVICE, AND CONSUMPTION**

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

**HOURS OF LIVE ENTERTAINMENT**

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

**ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION****NOTICE OF PUBLIC HEARING**

Placard Posting Date: September 27, 2024

Protest Petition Deadline: November 12, 2024

Roll Call Hearing Date: December 2, 2024

License No.: ABRA-120433

Licensee: The Cove Waterfront, LLC

Trade Name: The Cove

License Class: Retailer's Class "C" Tavern

Address: 25 Potomac Avenue, S.E.

Contact: Cameron Mixon: (202) 686-7600, atekle@theveritaslawfirm.com

WARD 8

ANC 8F

SMD 8F02

Notice is hereby given that this licensee has requested Substantial Changes 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 December 2, 2024 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 [abca.legal@dc.gov](mailto:abca.legal@dc.gov) on or before the Petition deadline.

**NATURE OF SUBSTANTIAL CHANGES**

Licensee is requesting a Class Change from Retailer Class "B" Manufacturer to Retailer Class "C" Tavern. Licensee is also requesting an Entertainment Endorsement to provide Live Entertainment.

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

Sunday through Saturday 11am – 12am

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

Sunday through Saturday 11am – 12am

**DISTRICT OF COLUMBIA  
BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY**

**NOTICE OF FINAL RULEMAKING**

The Board of Ethics and Government Accountability (Board), pursuant to the authority set forth in Sections 101, 209, and 221 of the Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code §§ 1-1162.09 and 1-1162.21), hereby gives notice of the adoption of the following amendments to Chapter 57 (Financial Disclosures and Honoraria), of Title 3 (Elections and Ethics) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this notice in the *District of Columbia Register*.

The amendments to Title 3 DCMR clarifies that confidential filers must file their FDS on the Board of Ethics and Government Accountability website and with the agency Ethics Counselor (Section 5704) and adds to the list of those who are considered public officials for purposes of financial disclosure and are, therefore, required to electronically file a Public Financial Disclosure Statement with the Board of Ethics and Government Accountability (Section 5710).

A Notice of Proposed Rulemaking was initially published in the *District of Columbia Register* on March 29, 2024 at 71 DCR 003590. Based on comments received in response to that rulemaking, a Second Notice of Proposed Rulemaking, adding additional boards and commissions to the list included in Subsection 5710.1, was published in the *District of Columbia Register* on July 12, 2024 at 71 DCR 008047. No comments have been received in response to the second proposed rulemaking and no additional changes were made to the final rulemaking.

The Board voted to adopt these rules as final on September 12, 2024. The rules shall become effective on publication of this Notice of Final Rulemaking in the *District of Columbia Register*.

**Title 3 DCMR, ELECTIONS AND ETHICS, is amended as follows:**

**Chapter 57, FINANCIAL DISCLOSURES AND HONORARIA, is amended as follows:**

**Section 5704, CONFIDENTIAL FINANCIAL DISCLOSURE FILINGS BY EMPLOYEES, is amended as follows:**

**Subsection 5704.1 is amended to read as follows:**

5704.1        All confidential financial disclosure statements shall be filed electronically at the Board of Ethics and Government Accountability website using the electronic filing system and by submission to the agency Ethics Counselor. BEGA will provide confidential filers with instructions on how to file using the electronic filing system.

New Section 5710 is added to read as follows:

**5710 ETHICS BOARD DESIGNATION OF CERTAIN BOARD, COMMISSION, COUNCIL, OR WORKING GROUP MEMBERS AS PUBLIC OFFICIALS**

5710.1 As set forth in Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-124; D.C. Official Code §§ 1-1161.01(47)(I), the Board of Ethics and Government Accountability designates members of the following boards, commissions, councils, and working groups as public officials and Public Financial Disclosure Statements filers:

- (a) Board of Accountancy
- (b) Board of Architecture, Interior Design, and Landscape Architecture
- (c) Board of Audiology and Speech-Language Pathology
- (d) Board of Barber and Cosmetology
- (e) Board of Chiropractic
- (f) Board of Dentistry
- (g) Board of Dietetics & Nutrition
- (h) Board of Funeral Directors
- (i) Board of Industrial Trades
- (j) Board of Long-Term Care Administration (formerly the Board of Nursing Home Administration)
- (k) Board of Marriage and Family Therapy
- (l) Board of Massage Therapy
- (m) Board of Medicine
- (n) Board of Nursing
- (o) Board of Occupational Therapy
- (p) Board of Optometry
- (q) Board of Pharmacy

- (r) Board of Physical Therapy
- (s) Board of Podiatry
- (t) Board of Professional Counseling
- (u) Board of Professional Engineering
- (v) Board of Psychology
- (w) Board of Real Estate Appraisers
- (x) Board of Respiratory Care
- (y) Board of Social Work
- (z) Board of Veterinary Medicine
- (aa) Citizen Review Panel for Child Abuse and Neglect
- (bb) Combat Sports Commission
- (cc) Commission on Health Equity
- (dd) Commission on Re-Entry and Returning Citizen Affairs
- (ee) Construction Codes Coordinating Board
- (ff) DC Retirement Board of Trustees
- (gg) District of Columbia State Athletics Commission
- (hh) Health Benefit Exchange Authority Executive Board
- (ii) Health Information Exchange Policy Board
- (jj) Higher Education Licensure Commission
- (kk) Humanities Council of Washington, D.C.
- (ll) Interagency Council on Homelessness
- (mm) Interagency Working Group on Autonomous Vehicles
- (nn) Interstate Commission on the Potomac River Basin
- (oo) Interstate Medical Licensure Compact Commission

- (pp) Metropolitan Washington Council of Governments
- (qq) Opioid Abatement Advisory Commission
- (rr) Police and Firefighter's Retirement and Relief Board
- (ss) Public Defender Service Board of Trustees
- (tt) Real Estate Commission
- (uu) Washington Metropolitan Area Transit Commission

5710.2 When a board, commission, council, or working group has District of Columbia members and non-District members only the District of Columbia members must file a Public Financial Disclosure Statement with the Board of Ethics and Government Accountability.



**DISTRICT OF COLUMBIA OFFICE OF ADMINISTRATIVE HEARINGS****NOTICE OF SECOND PROPOSED RULEMAKING**

The Chief Administrative Law Judge (CALJ) of the District of Columbia Office of Administrative Hearings (OAH), pursuant to the authority set forth in Sections 8(a)(7) and 8(b)(7) of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76, D.C. Official Code §§ 2-1831.05(a)(7) and (b)(7) (2016 Repl. & 2019 Supp.)), hereby gives notice of the adoption of the following proposed rulemaking to amend Chapter 28 (Office of Administrative Hearings: Rules of Practice and Procedure) and Chapter 29 (Office of Administrative Hearings: Rules for DCPS, Rental Housing, Public Benefits, and Unemployment Insurance Cases) of Title 1 (Mayor and Executive Agencies) of the District of Columbia Municipal Regulations (DCMR).

The proposed rulemaking governs the general rules of procedure before OAH and the procedures for District of Columbia Public Schools, District of Columbia Office of the State Superintendent of Education, District of Columbia Department of For-Hire Vehicles, Rental Housing, Public Sector Workers' Compensation, Public Benefits, and Unemployment Insurance cases.

The CALJ issued a Notice of Proposed Rulemaking (NOPR) published on May 10, 2024 (71 DCR 005424). As a result of comments received by stakeholders, the CALJ issues this Second NOPR to address many of the stakeholders' concerns including, among others: that the District shall not file the Notice of Infraction until at least fifteen (15) calendar days regardless of the method of service; ensuring that there is notice and an opportunity to be heard before substitution or addition of parties; preventing further inquiry into the membership of tenant associations beyond the information required by existing law and regulations; and including conclusory assertions among the legally insufficient basis for a motion to disqualify an ALJ from hearing a matter. Strike throughs and underlines indicate changes in the text. This Second NOPR supersedes the May 10, 2024, NOPR.

The CALJ of OAH also gives notice of the intent to take final rulemaking action to adopt these proposed rules not less than seven (7) days from the date of publication of this notice in the *District of Columbia Register*. Directions for submitting comments may be found at the end of this notice.

**Chapter 28 OFFICE OF ADMINISTRATIVE HEARINGS: RULES OF PRACTICE AND PROCEDURE, of Title 1 DCMR, MAYOR AND EXECUTIVE AGENCIES, is repealed in its entirety and replaced with:**

**CHAPTER 28 OFFICE OF ADMINISTRATIVE HEARINGS: RULES OF PRACTICE AND PROCEDURE****Sections**

<b>2800</b>	<b>SCOPE OF CHAPTER</b>
<b>2801</b>	<b>APPLICABILITY OF DISTRICT OF COLUMBIA SUPERIOR COURT RULES OF CIVIL PROCEDURE</b>

2802	BEGINNING A CASE AT OAH
2803	BEGINNING A CIVIL FINE CASE – NOTICE OF INFRACTION
2804	BEGINNING A CIVIL FINE CASE – NOTICE OF VIOLATION
2805	BEGINNING A CASE BY REQUESTING A HEARING
2806	IDENTIFICATION OF PARTIES
2807	SUBSTITUTION, ADDITION, AND INTERVENTION OF PARTIES
2808	REPRESENTATION BY ATTORNEYS AND LAW STUDENTS
2809	WITHDRAWAL OF APPEARANCE BY AN ATTORNEY
2810	OTHER AUTHORIZED REPRESENTATION
2811	FILING OF PAPERS AND EXHIBITS; REPRESENTATIONS TO OAH
2812	HOW TO SERVE A PAPER
2813	CALCULATING DEADLINES
2814	ANSWERS IN CIVIL FINE CASES
2815	DEFAULTS IN CIVIL FINE CASES
2816	INVOLUNTARY DISMISSALS AND DEFAULTS
2817	MOTIONS PROCEDURE
2818	VOLUNTARY DISMISSALS OF CASES
2819	SUMMARY ADJUDICATION
2820	MEDIATION
2821	DISCOVERY, EXPERT, AND OPINION TESTIMONY
2822	BURDEN OF PROOF
2823	HEARINGS AND EVIDENCE
2824	SUBPOENAS FOR WITNESSES AND FOR DOCUMENTS AT HEARINGS
2825	CONSOLIDATION AND SEPARATE HEARINGS
2826	LANGUAGE INTERPRETATION
2827	COURTROOM PROCEDURE
2828	RECORDINGS AND TRANSCRIPTS
2829	SANCTIONS
2830	REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER
2831	APPEALS
2832	CLERICAL MISTAKES
2833	PAYMENT PLANS IN CIVIL INFRACTIONS ACT CASES
2834	ABATEMENT COST REQUESTS
2835	INABILITY OF AN ADMINISTRATIVE LAW JUDGE TO PROCEED
2836	RECUSAL; ETHICS COMPLIANCE
2837	AMICUS CURIAE OR “FRIEND OF THE COURT
2838	CHIEF ADMINISTRATIVE LAW JUDGE RESPONSIBILITIES
2839	<del>RESERVED</del>
2899	DEFINITIONS
2800	SCOPE OF CHAPTER
2800.1	This Chapter contains general rules of procedure for the Office of Administrative Hearings (OAH). Chapter 29 of these Rules contains rules for cases referred to OAH by the District of Columbia Public Schools (DCPS) and the District of

Columbia Office of the State Superintendent of Education (OSSE); cases involving the Department of For-Hire Vehicles (DFHV) Establishment Act; rental housing; public sector workers' compensation cases; public benefits cases; and unemployment insurance cases.

- 2800.2 These Rules do not extend or limit the jurisdiction of OAH.
- 2800.3 These Rules shall be used to secure the fair, speedy, and inexpensive determination of every case.
- 2800.4 No Administrative Law Judge shall maintain standing, chamber, or other individual rules. However, an Administrative Law Judge may issue procedural orders in individual cases.
- 2800.5 These Rules (Chapters 28 and 29) may be cited as "OAH Rule\_\_\_\_," without reference to the District of Columbia Municipal Regulations (DCMR).
- 2800.6 These Rules control all procedures at OAH. No procedural rules adopted by any other District of Columbia government agency apply in cases at OAH.
- 2800.7 These Rules apply to all filings in new or pending cases on or after **[effective date of final rulemaking]**.

## **2801 APPLICABILITY OF DISTRICT OF COLUMBIA SUPERIOR COURT RULES OF CIVIL PROCEDURE**

- 2801.1 Where these Rules do not address a procedural issue, an Administrative Law Judge may refer to the District of Columbia Superior Court Rules of Civil Procedure as guidance to decide the issue.

## **2802 BEGINNING A CASE AT OAH**

- 2802.1 The District of Columbia ("District") may begin a case at OAH by filing a Notice of Infraction or Notice of Violation as described in §§ 2803 and 2804, respectively.
- 2802.2 Any party also may begin a case at OAH by filing a request for a hearing as described in § 2805.
- 2802.3 Chapter 29 contains Rules for how to begin cases referred to OAH by DCPS and OSSE; cases involving DFHV; rental housing cases; public sector workers' compensation cases; public benefits cases; and unemployment insurance cases.

**2803 BEGINNING A CIVIL FINE CASE – NOTICE OF INFRACTION**

- 2803.1 Section 2803 establishes procedures for cases in which the District seeks payment of a civil fine in accordance with the Civil Infractions Act (D.C. Official Code §§ 2-1802.01 –.05).
- 2803.2 The District shall file a Notice of Infraction, as authorized by law, at OAH when it is seeking a civil fine under § 2803. The District shall comply with §§ 2803.5 ~~through 2803.10~~ through 2803.7 when filing a Notice of Infraction under the Civil Infractions Act.
- 2803.3 The District shall only serve a copy of the Notice of Infraction on the Respondent as authorized by the Civil Infractions Act.
- 2803.4 If a Respondent files an answer before the District files a Notice of Infraction, OAH shall open a case. The Administrative Law Judge may require the District to file the original Notice of Infraction.
- 2803.5
- (a) If the District serves a Notice of Infraction to the Respondent by first-class mail, it shall not file the Notice of Infraction until at least fifteen (15) calendar days after the date that it mailed the Notice of Infraction. When it files the Notice of Infraction, the District also shall file an affidavit, on a form approved by the Chief Administrative Law Judge, verifying that the United States Postal Service (USPS) did not return the Notice of Infraction to the District.
    - (1) If the USPS returns a Notice of Infraction to the District after it has filed the affidavit required by this Subsection, the District shall notify OAH by filing a new affidavit, on a form approved by the Chief Administrative Law Judge.
    - (2) If the USPS returns the Notice of Infraction to the District, the District may file proof of any alternative service of the Notice of Infraction.
  - (b) If the District serves a Notice of Infraction on the Respondent by electronic service, it ~~may~~ shall not file the Notice of Infraction until at least fifteen (15) calendar days after the date that it emailed the Notice of Infraction. When it files the Notice of Infraction, the District also shall file an affidavit, on a form approved by the Chief Administrative Law Judge, attesting why service at the recipient email address is reasonably calculated to give actual notice to the Respondent. An affidavit, with supporting documentation, stating that the Respondent themselves provided the District with their recipient email address; ~~or~~ that the recipient email address was used for successful communication with Respondent within the past six (6) months; or that the email address was established for the registered agent of the

Respondent in the District's corporate registration records, will create a presumption that electronic service to that address was valid.

- (c) If the District serves a Notice of Infraction on the Respondent by personal service, it shall not file the Notice of Infraction until at least fifteen (15) calendar days after the date that it served the Notice of Infraction. If the District serves a Notice of Infraction to the Respondent by personal service (hand-delivery), or by delivery to the Respondent's or other person's last known home or business address, the District also shall file an affidavit, on a form approved by the Chief Administrative Law Judge, providing specific facts from which the presiding ALJ can determine that the person served was either the Respondent (in the case of personal service) or a person of suitable age and discretion residing with or employed by the Respondent (in the case of delivery to their home or business).
- (d) If the District serves a Notice of Infraction on the Respondent by conspicuous posting, it shall not file the Notice of Infraction until at least fifteen (15) calendar days after the date that it posted the Notice of Infraction. If the District serves a Notice of Infraction by posting the notice in accordance with D.C. Official Code § 2-1802.05(b), the District shall also file an affidavit, on a form approved by the Chief Administrative Law Judge, ~~explaining why~~ affirming that the identity or location of the property owner is unknown.

2803.6 When the District files a Notice of Infraction, it shall file a copy of all exhibits it expects to offer at any hearing in the case and shall provide a copy of each exhibit to the Respondent. An Administrative Law Judge may allow the District to use exhibits that it did not file or provide in accordance with this Subsection if there is no prejudice to the Respondent.

2803.7 OAH may refuse to accept for filing or later dismiss any Notice of Infraction that does not comply with the applicable law or these Rules.

## **2804 BEGINNING A CIVIL FINE CASE – NOTICE OF VIOLATION**

2804.1 Section 2804 establishes procedures for cases in which the District seeks payment of a civil fine in accordance with the Litter Control Administration Act (D.C. Official Code §§ 8-801 – 812).

2804.2 The District shall file a Notice of Violation, as authorized by law, at OAH, when it is seeking a civil fine. The District shall comply with § 2804.5 when filing a Notice of Violation under the Litter Control Administration Act.

2804.3 The District shall only serve a copy of the Notice of Violation on the Respondent as authorized by the Litter Control Administration Act.

- 2804.4 If a Respondent files an answer before the District files a Notice of Violation, OAH shall open a case. The Administrative Law Judge may require the District to file the original Notice of Violation.
- 2804.5
- (a) **If the District serves a Notice of Violation on the Respondent by certified mail, it shall not file the Notice of Violation until at least fifteen (15) calendar days after the date that it mailed the Notice of Violation.**  
If the District serves a Notice of Violation to a Respondent by certified mail, the District shall file a copy of a USPS electronic return receipt or other proof that the USPS delivered the Notice of Violation to the Respondent's address consistent with the requirements of the Litter Control Administration Act.
  - (b) **If the District serves a Notice of Violation on the Respondent by first-class mail, it shall not file the Notice of Violation until at least fifteen (15) calendar days after the date that it mailed the Notice of Violation.**  
If the District serves a Notice of Violation to a Respondent by first-class mail, the District shall file proof that the USPS delivered the Notice of Violation to the Respondent's address consistent with the requirements of the Litter Control Administration Act, which may include filing an affidavit, on a form approved by the Chief Administrative Law Judge, verifying that the United States Postal Service (USPS) did not return the Notice of Violation to the District.
  - (c) **If the District serves a Notice of Violation on the Respondent by personal service, it shall not file the Notice of Violation until at least fifteen (15) calendar days after the date that it served the Notice of Violation.** If the District serves a Notice of Violation by personal service (hand-delivery) to the owner, the owner's authorized agent, the building superintendent, the operator of equipment, or any other responsible individual at the premises, the District also shall file an affidavit, on a form approved by the Chief Administrative Law Judge, providing specific facts from which the presiding ALJ can determine the identity of the person served.
  - (d) **If the District serves a Notice of Violation on the Respondent by conspicuous posting mail, it shall not file the Notice of Violation until at least fifteen (15) calendar days after the date that it posted the Notice of Violation.** If the District serves a Notice of Violation by posting the notice in a conspicuous place on the premises in violation, the District also shall file an affidavit or other evidence providing specific facts regarding the time and location of posting.
- 2804.6 When it files a Notice of Violation, the District shall file a copy of all exhibits it expects to offer at any hearing in the case and shall provide a copy of each exhibit

to the Respondent. An Administrative Law Judge may allow the District to use exhibits that it did not file or provide in accordance with this Subsection if there is no prejudice to the Respondent.

2804.7 OAH may refuse to accept for filing or later dismiss any Notice of Violation that does not comply with the applicable law or these Rules.

**2805 BEGINNING A CASE BY REQUESTING A HEARING**

2805.1 Unless a statute or these Rules describe a different way to begin a case, a party seeking a hearing at OAH shall file a request for hearing in writing.

2805.2 The hearing request shall not have to follow any specific format. The Clerk's ~~office~~ **Office** shall make blank forms to request a hearing available. A hearing request shall contain the following information:

- (a) A short description of the dispute;
- (b) A description of what the party wants the judge to do;
- (c) Any key dates that are involved;
- (d) A copy of any ruling or decision that is being disputed or appealed;
- (e) The party's full name, mailing address, email address, and telephone number; and
- (f) If known, the full name, mailing address, email address, and telephone number of every other party involved in the dispute.

2805.3 Parties shall pay close attention to any deadlines for filing hearing requests. The deadlines are set by statute, regulations, or agency rules other than these Rules, and not by OAH.

2805.4 Any hearing request to appeal a Child Support Services Division (CSSD) enforcement action shall include a copy of an Order of Condemnation, if any, or a copy of a CSSD notice describing the enforcement action.

2805.5 Any hearing request to appeal a proposed tax assessment, other than a proposed real property tax assessment, shall be filed with OAH and a copy served on the District of Columbia Office of Tax and Revenue. The hearing request shall state the type of tax (for example, personal, business, or franchise), tax year(s), and amount of tax appealed. The hearing request shall include a copy of the proposed tax assessment.

- 2805.6 Any hearing request to appeal a decision concerning a Certificate of Need shall be filed with OAH and a copy sent to the Director of the State Health Planning and Development Agency (SHPDA) in the Department of Health. SHPDA shall transfer the agency record of the proceedings to OAH within thirty (30) calendar days of service of the request for hearing.

## **2806 IDENTIFICATION OF PARTIES**

- 2806.1 Any paper filed at OAH shall contain the name, mailing address, telephone number, and email address, if any, of the filer. After a case is assigned a case number, any paper filed in that case shall contain the case number.
- 2806.2 Any paper filed at OAH by an attorney or other representative shall identify the represented party and shall contain the District of Columbia Bar number, if any, of the attorney.
- 2806.3 A party, attorney, or representative shall notify the Clerk and all other parties in writing of any change in mailing address, telephone number, or email address previously provided to OAH within three (3) calendar days of the change.
- 2806.4 The most recent contact information provided by a party, attorney, or other representative under this Section shall be considered correct. A party or representative who does not keep an address current may fail to receive orders and may lose a case as a result.
- 2806.5 The Clerk may reject, or an Administrative Law Judge may strike, any paper that does not comply with this Section.

## **2807 SUBSTITUTION, ADDITION, AND INTERVENTION OF PARTIES**

- 2807.1 Except when a District agency is redesignated or ceases to exist, after proper notice and an opportunity to be heard, an Administrative Law Judge may substitute a person or entity for a named party or may add parties to a case. ~~An Administrative Law Judge may add a District agency or its contractor as a party to a case prior to the agency's receiving proper notice and an opportunity to be heard, but the agency or contractor may object at its initial appearance or in its initial filing.~~
- 2807.2 Anyone who has an interest in the subject matter of a pending case and contends that the representation of his or her interest is inadequate may file a motion to intervene. After proper notice and an opportunity to be heard, an Administrative Law Judge may allow an interested person or entity to intervene.
- 2807.3 If an Administrative Law Judge grants a motion for leave to intervene, the intervenor may participate to the extent allowed by the Administrative Law Judge.



- 2807.4 No person or entity may intervene as a co-Petitioner with the District in any enforcement action where the District seeks a fine unless a statute allows it.
- 2807.5 A person or entity to which the District has properly delegated a governmental function may request to intervene, but may not be substituted for the District.
- 2807.6 In the case where a District agency is redesignated or ceases to exist, the Clerk shall substitute the successor agency for the predecessor agency, consistent with the relevant statutory authority.

**2808 REPRESENTATION BY ATTORNEYS AND LAW STUDENTS**

- 2808.1 An attorney may represent any party before OAH. Unless otherwise provided by statute or these Rules, only attorneys who are active members in good standing of the District of Columbia Bar, or who are authorized to practice law in the District of Columbia pursuant to Rule 49(c) of the District of Columbia Court of Appeals, may appear before OAH as a representative of a party.
- 2808.2 An attorney who is not a member of the District of Columbia Bar, and who is not authorized to practice law in the District of Columbia pursuant to Rule 49(c) of the District of Columbia Court of Appeals, may appear before OAH either under § 2810 or after the filing and granting of a motion to appear *pro hac vice*, in which the attorney shall declare under penalty of perjury that:
- (a) I have not applied for admission *pro hac vice* in more than five (5) cases in OAH or in the courts of the District of Columbia during this calendar year. I have applied for admission *pro hac vice* in OAH and in the courts of the District of Columbia \_\_\_\_\_ (list number) times previously in this calendar year;
  - (b) I am a member in good standing of the bar of the highest court(s) of the State(s) of \_\_\_\_\_ (list all states);
  - (c) There are no disciplinary complaints pending against me for violation of the rules of the courts of those states (or describe all pending complaints);
  - (d) I am not currently suspended or disbarred for disciplinary reasons from practice in any court;
  - (e) I do not practice or hold out to practice law in the District of Columbia;
  - (f) I am familiar with OAH's Rules found at 1 DCMR 28 and 29;
  - (g) I am applying for admission *pro hac vice* for the following reason(s):  
\_\_\_\_\_ (list all reasons);

- (h) I acknowledge the jurisdiction of OAH and the courts of the District of Columbia over my professional conduct, and agree to be bound by the District of Columbia Court of Appeals Rules of Professional Conduct, in this matter, if I am admitted *pro hac vice*; and
- (i) I have informed my client that I am not a member of the District of Columbia Bar, and my client has consented to my representation in this case.

2808.3 For good cause shown, the presiding Administrative Law Judge may revoke the *pro hac vice* admission of any attorney.

2808.4 Current law students who have successfully completed forty-two (42) credit hours of law school may appear before OAH. An Administrative Law Judge may terminate a law student's representation under this Subsection at any time, for any reason, without notice or hearing. A law student practicing under this Subsection shall:

- (a) Be enrolled in a law school approved by the American Bar Association;
- (b) Have the consent and oversight of a supervising attorney assigned to the law student;
- (c) Sign and file a Notice of Appearance in the case with the supervising attorney;
- (d) Have the written permission of the client, which shall be filed in the record;
- (e) Not file any paper unless the law student and supervising attorney sign it;
- (f) Not appear at any proceeding without the supervising attorney;
- (g) Neither ask for nor receive a fee of any kind for any services provided under this rule, except for the payment of any regular salary made to the law student;
- (h) Comply with any limitations ordered by the presiding Administrative Law Judge; and
- (i) Not have been denied admission to practice before the District of Columbia Court of Appeals pursuant to its Rule 48.

2808.5 An attorney supervising a law student who appears pursuant to § 2808.4 shall:

- (a) Be an active member in good standing of the District of Columbia Bar;

- (b) Assume full responsibility for supervising the law student;
- (c) Sign and file a Notice of Appearance in the case with the law student;
- (d) Assist the law student in preparation of the case, to the extent necessary in the supervising lawyer's professional judgment to ensure that the law student's participation is effective on behalf of the person represented;
- (e) Appear at all proceedings with the law student; and
- (f) Review and sign any paper filed by the law student.

2808.6 The District of Columbia Rules of Professional Conduct ~~may~~ shall govern the conduct of all attorneys appearing before OAH, in addition to these Rules.

2808.7 The Chief Administrative Law Judge or presiding Administrative Law Judge may enter an order restricting the practice of any attorney appearing before OAH for good cause. The restrictions may include, without limitation:

- (a) Disqualification from a particular case;
- (b) Suspension or disqualification from practice before OAH;
- (c) A requirement that an attorney obtain ethics or other professional training or counseling; or
- (d) A requirement that an attorney appear only when accompanied by another attorney with particular skills or a particular level of experience.

2808.8 The attorney shall be given notice and opportunity to be heard either before the imposition of a restriction, or as soon thereafter as is practicable.

2808.9 An Administrative Law Judge's authority under § 2808.7 is limited to restricting the practice of an attorney in a pending case based on the conduct of the attorney in that case. Nothing in this Section limits the authority of the Chief Administrative Law Judge to enter a separate order restricting an attorney's practice before OAH.

2808.10 Any attorney appearing before OAH in a representative capacity under this Section shall provide, under his or her signature, the attorney's District of Columbia bar number, office address, and telephone number. Persons appearing (or applying to appear) under §§ 2808.2 or 2808.4 shall state, immediately under their signature, the Subsection under which they are appearing (or applying to appear), their office address, and telephone number. Persons appearing under § 2808.2 shall state the jurisdiction of their admission and shall provide the bar number, if any, from that jurisdiction, and their office address, and telephone number.

2808.11 An attorney representing a party may testify only as permitted by Rule 3.7 of the District of Columbia Rules of Professional Conduct.

**2809 WITHDRAWAL OF APPEARANCE BY AN ATTORNEY**

2809.1 An attorney may withdraw an appearance before a hearing date has been set if:

- (a) Another attorney simultaneously enters or has already entered an appearance on behalf of the client; and
- (b) The attorney files a consent to the withdrawal that the client has signed.

2809.2 If a hearing date has been set, or if the client's written consent is not obtained, or if the client is not represented by another attorney, an attorney shall move to withdraw an appearance and receive permission from the presiding Administrative Law Judge to withdraw from the case. Unless the client is represented by another attorney or the motion is made orally in front of the client and the Administrative Law Judge, the attorney shall certify that:

- (a) The attorney has served the client a notice advising the client to obtain other counsel, or if the client intends to represent himself or herself, or intends to object to the withdrawal, to notify the Administrative Law Judge in writing within fifteen (15) days of service of the notice or before the next hearing date, whichever is earlier; and
- (b) The attorney has served the client with a copy of the motion with a certificate of service listing the client's last known address.

2809.3 Except when an Administrative Law Judge has granted an oral motion to withdraw in the presence of the client, the order granting permission for the attorney to withdraw shall be served on the client. If no new counsel has entered an appearance or the client has not notified the Administrative Law Judge of an intention to represent himself or herself, the order shall instruct the client to arrange promptly for new counsel or be prepared to represent himself or herself.

2809.4 The presiding Administrative Law Judge may deny an attorney's motion to withdraw if the withdrawal would unduly delay the case, be unduly prejudicial to any party, or otherwise not be in the interests of justice.

**2810 OTHER AUTHORIZED REPRESENTATION**

2810.1 An individual may represent himself or herself in proceedings before OAH.

2810.2 Any person representing a party as permitted by this Section shall obtain the consent of the party.

- 2810.3 A family member or domestic partner may represent a party provided that person does not accept compensation in any form.
- 2810.4 In addition to an attorney authorized by § 2808, an authorized agency employee may represent an agency before OAH.
- 2810.5 If required by law, an Administrative Law Judge shall permit a party to be represented by another person who is not an attorney.
- 2810.6 An authorized officer, director, partner, or employee may represent a corporation, partnership, limited partnership, or other private legal entity before OAH.
- 2810.7 An individual or any representative of any entity listed in § 2810.6 may represent a party if the party has or had a contractual relationship with that individual or entity that is substantially related to the subject matter of the case (such as a landlord/tenant relationship in a civil fine case or owner/property manager relationship) and that relationship existed before the case arose.
- 2810.8 Section 2982 contains additional Rules for representation in unemployment compensation cases.
- 2810.9 Sections 2972 **and 2973** contains additional Rules for representation in public benefits cases.
- 2810.10 Section 2935 contains additional Rules for representation in rental housing cases.
- 2810.11 Any person authorized by the United States Tax Court to represent a party before that court may represent a party before OAH in any case arising under D.C. Official Code § 2-1831.03(b)(4), and on the same basis as would be permitted by the United States Tax Court.
- 2810.12 The Chief Administrative Law Judge or presiding Administrative Law Judge may enter an order restricting the practice of any non-attorney representative appearing at OAH.
- 2810.13 The non-attorney representative shall be given notice and opportunity to be heard either before the imposition of a restriction under § 2810.12, or as soon thereafter as is practicable.
- 2810.14 An Administrative Law Judge's authority under § 2810.12 is limited to restricting the practice of a non-attorney representative in a pending case based on the conduct of the non-attorney representative in that case. Nothing in this Section limits the authority of the Chief Administrative Law Judge to enter a separate order restricting a non-attorney representative's practice before OAH.

**2811 FILING OF PAPERS ~~AND EXHIBITS~~; REPRESENTATIONS TO OAH**

2811.1 ~~(a)~~ A “paper” means any pleading, motion, exhibit, ~~or~~ witness list, or any other written submission filed with OAH.

~~(b) An “exhibit” means a document, photograph, an audio or video recording, an electronic item, or any non-documentary or physical evidence filed with a paper or offered into evidence at a proceeding.~~

2811.2 Any paper filed at OAH shall be legible and signed by a party or a party’s representative.

2811.3 To file any paper at OAH, a person shall bring; mail; ~~fax~~; email to oah.filing@dc.gov; submit via the eFiling portal; or have the paper delivered to the Clerk’s **Office** ~~office~~ during regular business hours from 9:00 a.m. to 5:00 p.m. on a business day.

(a) A paper is filed on the day the Clerk’s ~~office~~ **Office** receives it during business hours, except as provided in §§ 2811.4, 2811.5, and 2811.6.

(b) This Section permits any party to file papers by email with OAH or via the eFiling portal and the District to file data electronically. It also permits OAH to serve orders and notices by e-mail. The filing of any paper by email or via the eFiling portal following the procedures set forth in this Section constitutes filing for all purposes under these Rules.

2811.4 **REPEALED** ~~The filing date of a fax transmission shall be determined as follows:~~

~~(a) The filing date is the date on which the fax is received in the Clerk’s office between the hours of 9:00 a.m. and 5:00 p.m. If a paper is received on a date or at a time when the Clerk’s office is not open, the paper shall be deemed to have been filed when the Clerk’s office is next open.~~

~~(b) A party filing a paper by fax is responsible for delay, disruption, interruption of electronic signals, and legibility of the paper, and accepts the risk that the paper may not be filed.~~

~~(c) Any incomplete or illegible fax shall not be considered received unless a hard copy of the fax is filed or a complete and legible fax is received within three (3) calendar days of the first transmission. In a response to a motion, the Administrative Law Judge may extend this time.~~

2811.5 The filing date for an email filing received in the correct OAH email box before 5:00 p.m. on any OAH business day shall be the date it is received. The filing date for an email filing received at other times shall be the next day that the Clerk’s

Office is open for business. The date and time recorded in the correct OAH email box shall be conclusive proof of when an email filing was received.]

- 2811.6 The filing date for a paper received and date-stamped through the eFiling portal before 5:00 pm on any OAH business day shall be the date it is received, which the Clerk's ~~office~~ **Office** shall communicate by email through the eFiling portal. The filing date for an eFiling portal paper received at other times shall be the next day that the Clerk's ~~office~~ **Office** is open for business. The date and time recorded on the eFiling portal date stamp shall be conclusive proof of when the paper was filed.
- 2811.7 A party filing any paper by email or by the eFiling portal is responsible for any delay, disruption, or interruption of electronic signals, as well as for the legibility and completeness of the transmitted image, and accepts the risk that the paper may not be filed.
- 2811.8 (a) All papers, documentary exhibits, and photographic exhibits to be filed by email or via eFiling portal shall be in portable document format (PDF). The papers shall be attached to an email, and not contained in the body of the email itself.
- (b) Audio and video exhibits filed with a paper shall be filed on a flash drive with the Clerk's ~~office~~. **Office; by email; via eFiling portal; or other electronic platform approved by the Clerk's Office. All audio and video exhibits shall be in mp4 format.**
- 2811.9 OAH may reject any email filings that do not conform to this Section.
- 2811.10 Pursuant to § 2806, every paper filed by email or via eFiling portal shall contain:
- (a) The name, mailing address, telephone number, and email address of the person filing it;
- (b) The case number assigned by OAH, or a statement that a case number has not yet been assigned; and
- (c) A brief description of the paper (for example, "request for hearing in a Medicaid matter," "motion for new hearing date for an unemployment hearing," "exhibits/documents for hearing in rental housing case").
- 2811.11 A filing that does not contain the information in § 2811.10 is subject to rejection. A cover page that can be used to satisfy this requirement is available at OAH. The "subject" line of the email shall also contain a brief description of the paper.
- 2811.12 If a paper filed by email or via eFiling portal is rejected, the party shall be notified by email. A rejected paper does not constitute a filing at OAH.

- 2811.13 Every filing, including papers filed ~~made~~ by email or via the eFiling portal, shall contain ~~either~~ a signature ~~image or a typed signature~~. A paper filed by email by an unrepresented party, that does not contain a signature as required by this Subsection, shall not be rejected on that basis alone.
- 2811.14 The certification requirement of ~~this Section~~ § 2811.15 shall apply to all papers filed by email and via the eFiling portal.
- 2811.15 A party or representative filing a paper with OAH certifies in good faith that the party or representative:
- (a) Has read the paper;
  - (b) Is not presenting it for any improper purpose, such as to harass, to cause unnecessary delay, or to increase the cost of litigation needlessly;
  - (c) Any legal contentions are warranted by existing law or a good faith argument to change existing law; and
  - (d) Any factual contentions have or are likely to have evidentiary support.
- 2811.16 If, after notice and an opportunity to respond, an Administrative Law Judge determines that an attorney or representative has violated this Section, the Administrative Law Judge may impose sanctions, including those authorized by §§ 2808.7 and 2810.12.
- 2812 HOW TO SERVE A PAPER**
- 2812.1 “Service” of a paper or to “serve” a paper means to send or deliver the paper as set forth in this Section.
- 2812.2 Every paper filed at OAH shall be served on the other parties or their attorneys or representatives no later than the day it is filed with OAH. Exceptions may be identified in these Rules, by statute, or by OAH order.
- 2812.3 Unless otherwise ordered by an Administrative Law Judge or agreed by the parties, service shall be made by delivering a copy, mailing a copy, emailing a copy, or sending a copy by commercial carrier. Service on an attorney for a party, or on a District agency through its Office of the General Counsel, designee, or its contractor, may be made by emailing a copy.
- 2812.4 Service by delivery means:
- (a) Handing a copy of a paper to the party or a representative;



- (b) Leaving a paper at the party's or representative's place of business with an employee; or
  - (c) Leaving a paper at the party's residence with an adult who lives there.
- 2812.5 Service by mail means mailing a properly addressed copy of a paper with first-class postage by depositing it with the United States Postal Service.
- 2812.6 Service by email means emailing a legible copy of a paper to the correct email address without the system receiving a reply that the email could not be delivered.
- 2812.7 Service by commercial carrier means giving a copy of a paper, properly addressed to the commercial carrier with the cost of delivery pre-paid for delivery within three calendar days.
- 2812.8 Unrepresented parties may consent to service by email or other means of service and may withdraw their consent. Both consent and withdrawal of that consent shall be in writing, **and shall be filed with OAH and served on all parties. Implied consent to service by email shall be presumed if the unrepresented party has already filed or served papers via email.**
- 2812.9 Any paper filed shall include a signed statement that the paper was served on the parties. This statement is known as a "certificate of service." The certificate of service shall identify the individual serving the paper, the parties and addresses served, the way the paper was served, and the date served.
- 2812.10 The Clerk may reject, or an Administrative Law Judge may strike, a paper if a party fails to file a certificate of service with the paper.
- 2812.11 A party's actual receipt of a paper shall bar any claim by the party of defective service except for a claim of late service.
- 2812.12 A party shall send a copy of any paper filed by email (except a request for a hearing that begins a case) to all other parties, and shall include a certificate of service as required by § 2812.9. ~~A party may not send the copy by email unless the other party consents, pursuant to this Section.~~
- 2812.13 The five (5) additional days added to the response times by § 2813.5 do not apply to orders, notices, or papers served by email, even if they are also served by other means.
- 2812.14 Unless otherwise ordered, a party who files or serves any original paper by email shall keep the original until after the case is concluded and the time for any appeals has expired. The party shall make the original available for inspection upon request of another party after prior reasonable notice filed with OAH. This Section shall

not limit the authority of an Administrative Law Judge to order production of the original.

2812.15 Parties ~~agreeing to service~~ served by email are responsible for monitoring their email accounts, including spam (bulk or junk) folders, and for opening the emails.

2812.16 The Clerk may serve orders and notices by email to any party who provides an email address and consents, in writing or on the record, to receiving papers by email. The party shall ensure that the Clerk has an accurate, up-to-date email address. ~~In an emergency, without a party's advance consent, the~~ The Clerk may serve orders and notices by email in addition to any other authorized method of service.

2812.17 If the District seeks to begin a case at OAH by filing a Notice of Infraction or a Notice of Violation pursuant to §§ 2803 and 2804, the District may transfer to OAH data from the Notice of Infraction or the Notice of Violation by electronic means, pursuant to prior technical arrangements with OAH. The electronic transfer by itself neither begins a case nor satisfies the District's obligations under §§ 2803 and 2804. The District shall file the Notice of Infraction or Notice of Violation and its attachments, substantially in the form provided to the Respondent, with the proof of service.

## **2813 CALCULATING DEADLINES**

2813.1 This Section applies to all time periods, whether set by these Rules, by an OAH order, or by any applicable law, unless a statute or specific regulation provides otherwise.

2813.2 When an action shall or may be taken within a specified number of days after an act or event, the day of the act or event shall not be counted against the days allowed. If OAH is closed on the day that is the specified number of days after the act or event, then the last day for taking the action is the next day that OAH is open.

2813.3 When an action shall or may be taken at least a specified number of days before an act or event, the day of the act or event shall not be counted toward the required number of days. If OAH is closed on the day that is the specified number of days before the act or event, then the last day for taking the action is the next day that OAH is open.

2813.4 In computing any time period measured in hours:

- (a) If any period expires before 10:00 a.m. on any day OAH is open, the period shall be extended to 10:00 a.m. on that day;
- (b) If any period expires after 4:00 p.m. on any day, the period shall be extended to 10:00 a.m. on the next day OAH is open; and

- (c) If any period expires on a day OAH is closed, the period shall be extended to 10:00 a.m. on the next day OAH is open.

2813.5 Unless a statute or regulation provides otherwise, when a party may or shall act within a specified time period, measured in days, after service of a document:

- (a) The specified time period shall apply if the document is served no later than 5:00 p.m. by a successfully completed hand-delivery, or email transmission. If service by one of these methods is completed after 5:00 p.m., the document shall be deemed served the following day.
- (b) One (1) day shall be added to the specified time period if the document is served by being delivered to or picked up by a commercial delivery service for next-day delivery.
- (c) Five (5) days shall be added to the specified time period if the document is served by being placed in the United States mail (postage paid) or in District of Columbia Government inter-agency mail.
- (d) Service is deemed complete when sent.

2813.6 When a party may or shall act within a specified time period, an Administrative Law Judge for good cause shown may reduce the time or extend it, even after the period has expired, except for any period prescribed by law, any period provided under § 2833, or any ten (10) day period provided under ~~§ 2828~~ **2830**.

2813.7 Any reference to “days” in an OAH order or in these Rules means calendar days unless specifically designated otherwise.

## **2814 ANSWERS IN CIVIL FINE CASES**

2814.1 To answer a Notice of Infraction or a Notice of Violation (both “Notice”), a Respondent shall file the Respondent’s copy of the Notice at OAH. The Respondent shall indicate on the Notice whether the Respondent’s answer is Admit, Admit with Explanation, or Deny.

2814.2 If a Respondent does not file the Respondent’s copy of the Notice, ~~a written answer shall be sufficient if it contains both the number of the Notice and a statement whether the Respondent’s answer is Admit, Deny, or Admit with Explanation.~~ **the answer shall be rejected by the Clerk’s Office.**

2814.3 A Respondent is not required to send a copy of the answer to the District. OAH shall send the District a copy of every answer of Deny or Admit with Explanation.

- 2814.4 A Respondent whose answer is Admit shall pay the fine specified on the Notice when filing the answer. A Respondent who pays the fine without stating a plea shall be deemed to have pleaded Admit.
- 2814.5 If a Respondent's answer is Deny, OAH ordinarily shall schedule a hearing and shall notify the Respondent and District, in writing, of the hearing date and time. The hearing order shall contain additional information about procedures for the hearing.
- 2814.6 If a Respondent's answer is Deny, an Administrative Law Judge may decide the case based on the papers submitted, without an in-person hearing, if the Administrative Law Judge determines that a hearing is unnecessary and after giving the District notice and an opportunity to respond.
- 2814.7 At least five (5) calendar days before any hearing date, the Respondent shall file with OAH, and also shall serve on the District copies of all exhibits that the Respondent intends to ask the Administrative Law Judge to consider at the hearing. An Administrative Law Judge may allow a Respondent to use exhibits at a hearing that the Respondent did not file or provide to the District before the hearing if there is no prejudice to the District.
- 2814.8 If a Respondent's answer is Admit with Explanation, a Respondent shall submit a written explanation stating why the Respondent believes the Administrative Law Judge should reduce or suspend the fine or any penalty. The Respondent also shall submit any papers, photographs, or other materials supporting the Respondent's explanation.
- 2814.9 OAH shall send a copy of an answer of Admit with Explanation and supporting materials to the District, and shall allow the District twenty-one (21) calendar days to reply. The District shall send the Respondent a copy of all papers the District files in reply.
- 2814.10 The Administrative Law Judge shall decide Admit with Explanation cases by considering all the materials filed by the parties, including any exhibits filed with the Notice, Respondent's explanation and supporting materials, and the District's reply and supporting materials. The Administrative Law Judge shall hold a hearing only if the parties' materials are not sufficient to allow him or her to decide the case.
- 2814.11 In an Admit with Explanation case, the Administrative Law Judge shall dismiss the Notice if he or she determines that the Respondent did not commit or is not responsible for the violation charged.
- 2814.12 In all civil fine cases, an Administrative Law Judge shall not impose a fine that exceeds the fine amount the District requests.

**2815        DEFAULTS IN CIVIL FINE CASES**

- 2815.1        This Section contains rules for deciding civil fine cases in which the Respondent does not file an answer.
- 2815.2        (a)        In a Civil Infractions Act or a Litter Control Administration Act case, if a Respondent fails to answer within the time allowed by law, an Administrative Law Judge shall determine whether:
- (1)        The District has submitted evidence of proper service; and
- (2)        The Notice of Infraction or Notice of Violation meets all legal requirements on its face.
- (b)        If an Administrative Law Judge determines the requirements of § 2815.2(a) have been met, the Administrative Law Judge shall find the Respondent in default and shall impose the legally authorized fine and penalty. If not, the Administrative Law Judge shall dismiss the Notice of Infraction or Notice of Violation without prejudice.
- 2815.3        In a Civil Infractions Act case, if the USPS returns an order finding the Respondent in default to the Clerk's Office, for reasons that call into question the accuracy of any affidavit filed under §§ 2803.5 through 2803.10, (for example, "no such address," "addressee unknown"), an Administrative Law Judge may issue an order requiring the District to show why the default order should not be vacated. If the District does not respond with sufficient evidence showing that it mailed the Notice of Infraction to a valid address for the Respondent, the default order shall be vacated and the Notice of Infraction shall be dismissed.
- 2815.4        In default cases brought under acts other than the Civil Infractions Act or the Litter Control Administration Act, the procedure shall be consistent with the applicable law and shall ensure that:
- (a)        There is sufficient evidence of proper service on the Respondent; and
- (b)        The charging document meets all legal requirements on its face.
- 2815.5        A Respondent who fails to answer shall be held in default and shall pay the legally authorized fine and penalty. If the Administrative Law Judge does not find the Respondent in default, the Administrative Law Judge shall dismiss the Notice without prejudice.

**2816 INVOLUNTARY DISMISSALS AND DEFAULTS**

- 2816.1 Except as provided in § 2816.2, if the party initiating a case fails to comply with an Administrative Law Judge's order or these Rules or otherwise fails to prosecute the case, the Administrative Law Judge may, on his or her own motion or on the motion of the opposing party, dismiss all or part of the case. Dismissal shall ordinarily be with prejudice unless the Administrative Law Judge finds good cause to dismiss without prejudice.
- 2816.2 Dismissals for defective service shall be without prejudice, unless the Administrative Law Judge decides otherwise.
- 2816.3 If an attorney, representative, or unrepresented party fails, without good cause, to appear at a hearing, the Administrative Law Judge may dismiss the case, enter an order of default, decide the case on the merits, or impose other sanctions.
- 2816.4 If an attorney, representative, or unrepresented party fails, without good cause, to appear at a prehearing or status conference or a mediation session, the Administrative Law Judge may determine the appropriate sanction, which may include dismissal or entry of default.

**2817 MOTIONS PROCEDURE**

- 2817.1 A "motion" is a request for an Administrative Law Judge to take some action. Before filing any motion (except a motion for summary adjudication, voluntary dismissal, reconsideration, relief from a final order, attorney's fees, or sanctions), a party shall make a good faith effort to ask all other parties if they agree to what the motion requests. The motion shall describe that good faith effort and say whether the other parties agreed to what the motion requests. If a party fails to comply with this § 2817.1, an Administrative Law Judge may deny the motion.
- 2817.2 Unless made during a hearing, all motions shall be in writing. Parties may choose to file, or an Administrative Law Judge may require the parties to file, briefs (written arguments) in support of or in opposition to a motion. The required format and structure for motions shall be as follows:
- (a) Without permission from an Administrative Law Judge, no motion or response (or any brief in support of or in opposition to a motion) shall exceed twenty (20) one and one-half (1.5)-spaced typed pages in length, excluding exhibits.
  - (b) The font size of a motion, response, or brief shall be at least twelve (12) points, with no less than one-inch margins.
  - (c) The first page of a motion, response, or brief shall include: the parties' names, the case number, and the name of the presiding Administrative Law

Judge, if known. The last page shall include a certificate of service that complies with § 2812.9.

- (d) A motion shall state what the party wants the Administrative Law Judge to do and why.

2817.3 When a motion is based on information not on the record, a party may support or oppose the motion with affidavits, declarations, or other papers.

2817.4 Except as otherwise ordered by an Administrative Law Judge, a separate memorandum of points and authorities shall not be filed with a motion.

2817.5 Before filing a motion to schedule or reschedule a hearing or status conference, a party shall make a good faith effort to consult with all other parties and seek agreement on two (2) or more acceptable dates and times for the hearing or status conference.

2817.6 Unless otherwise provided by these rules or ordered by an Administrative Law Judge, all parties opposing a motion shall have fourteen (14) calendar days from the service of the motion to file and serve a response. Further filings related to the motion are not permitted and may be rejected unless ordered by an Administrative Law Judge.

2817.7 The Administrative Law Judge may decide any motion without holding a hearing. No motion, including a motion to extend time, to continue a hearing, or to seek other relief, shall be effective until an Administrative Law Judge decides the motion in writing. Parties may contact OAH to learn if an Administrative Law Judge has decided a motion.

2817.8 The Administrative Law Judge may decide a motion regarding scheduling or rescheduling without waiting for a response.

## **2818 VOLUNTARY DISMISSALS OF CASES**

2818.1 The party initiating the case may move to dismiss the case at any time, and the Administrative Law Judge may grant the motion without waiting for a response from the opposing side.

2818.2 An opposing party who objects to the voluntary dismissal of a case may file a motion for reconsideration as provided in § 2830.

2818.3 The parties may file a joint motion for dismissal of a case with or without prejudice.

2818.4 Dismissal under this Section shall be without prejudice unless an Administrative Law Judge orders otherwise. A dismissal with prejudice may occur:

- (a) If the party requesting dismissal has previously dismissed the claim;
- (b) If the motion for dismissal is made pursuant to a settlement that does not specifically require dismissal without prejudice; or
- (c) In order to prevent harm to the other side.

2818.5 For any pending case, the agency issuing the Notice of Infraction or Notice of Violation shall file a Notice of Voluntary Dismissal with OAH within five (5) business days of any of the following occurring:

- (a) Payment of all fines cited in the subject Notice, and any applicable penalties, pursuant to an Admit plea submitted under § 2814.4.
- (b) Any settlement of the case or change of plea occurring prior to entry of a Final Order, including any settlements involving a waiver of fines upon abatement or acceptance of partial payment in full satisfaction of all outstanding fines and penalties.

2818.6 A Notice of Voluntary Dismissal filed pursuant to § 2818.5 shall reference one of the grounds above, if applicable.

2818.7 If a default order or Final Order is inadvertently entered by OAH due to an agency's failure to timely file a Notice of Voluntary Dismissal in accordance with this Rule, the agency shall file a Motion to Vacate in accordance with § 2830.11 within five (5) business days of service of the Final Order.

## **2819 SUMMARY ADJUDICATION**

2819.1 A party may move for an Administrative Law Judge to decide a case or part of a case summarily, without an evidentiary hearing, by filing a motion for summary adjudication. A motion for summary adjudication that relies on factual assertions shall include a statement of undisputed facts that support the decision requested by the party. A statement of undisputed facts sets forth facts that matter to the case and that the party has reason to believe are not or will not be genuinely disputed by the other party or parties. A motion for summary adjudication may include affidavits, declarations under penalty of perjury, exhibits, and a discussion of controlling legal authority.

2819.2 The party opposing a motion for summary adjudication may file a statement indicating for each fact set forth in the statement of undisputed facts whether the party admits the fact, denies the fact, or does not have sufficient information to admit or deny the fact. The party's opposition to the motion for summary adjudication may also include affidavits, declarations under penalty of perjury, exhibits, and a discussion of controlling legal authority.



2819.3 The Administrative Law Judge may treat as undisputed any facts set forth in the statement of undisputed facts that are not disputed by the opposing party. The Administrative Law Judge may also conduct a hearing on whether facts that matter to the case are genuinely in dispute.

2819.4 If the undisputed facts support the decision requested by the moving party, the Administrative Law Judge may grant a summary adjudication for the moving party.

## **2820 MEDIATION**

2820.1 Mediation is a process of assisted, informal negotiation which uses a neutral third party, the mediator, to aid the parties in exploring the possibility of settlement. No party shall be compelled to accept a settlement or other resolution of the dispute in mediation.

2820.2 At any time during case proceedings, an Administrative Law Judge may refer a case for mediation to a qualified mediator with or without the consent of the parties. Any party may request an Administrative Law Judge to refer a case for mediation.

2820.3 Mediations are confidential and shall be closed to the public. Mediations shall not be recorded electronically or in any other manner, with or without the consent of the parties. Evidence of anything that occurs during mediation sessions and documents prepared exclusively for or during mediation shall not be introduced into evidence or otherwise disclosed to the presiding Administrative Law Judge. Nothing in this Subsection prohibits the introduction or disclosure of information or evidence that any party obtained outside of mediation.

2820.4 The mediator may speak privately with any party or any representative during the mediation process.

2820.5 The mediator shall not disclose anything that occurs at mediation to the presiding Administrative Law Judge except to report without elaboration:

(a) Whether the parties reached an agreement; and, if not

(b) Whether he or she believes further mediation would be productive.

2820.6 The mediator shall not be called to testify, participate in discovery, or otherwise provide information in any subsequent proceeding related to the mediation.

2820.7 An Administrative Law Judge who conducts mediation shall not be the Administrative Law Judge in any subsequent proceedings for the case, but, with the consent of the parties, may issue an order on procedural matters concerning the mediation or reflecting any agreement reached during the mediation.

2820.8 All parties or their representatives shall appear for any mediation session. Any representative who appears shall have authority to resolve the case.

2820.9 If a party or representative fails to appear at a scheduled mediation session without good cause, the mediator shall notify the presiding Administrative Law Judge, who may impose an appropriate sanction, which may include dismissal or entry of default.

**2821 DISCOVERY, EXPERT, AND OPINION TESTIMONY**

2821.1 Discovery is generally not permitted. An Administrative Law Judge may authorize discovery for good cause shown, but interrogatories and depositions are disfavored.

2821.2 A party may move for an Administrative Law Judge to issue a subpoena to require any non-party to provide documents prior to the hearing in accordance with §§ 2824, 2934, 2975, and 2984, as applicable.

2821.3 Any motion for discovery shall explain the relevance of the information that is sought and shall describe all attempts to obtain consent from the opposing party, including a description of all discovery to which the opposing party has agreed.

2821.4 Unless otherwise ordered by an Administrative Law Judge, any motion for discovery shall be filed at least twenty (20) calendar days before the date of any scheduled evidentiary hearing.

2821.5 An Administrative Law Judge may impose appropriate sanctions if a party fails to comply with a discovery request, including prohibiting the party from offering evidence and ordering that specific facts are established.

2821.6 At an Administrative Law Judge's discretion, a witness may be allowed to offer opinion testimony even if the witness is not qualified by an Administrative Law Judge as an expert in a particular subject matter. A party wishing to present expert or other opinion testimony may disclose to the other parties in writing, a reasonable time prior to the witness's testimony, some or all of the following:

- (a) The witness's identity and professional experience (a resume or curriculum vitae);
- (b) The opinions to which the witness expects to testify;
- (c) A short and plain statement of the basis for each opinion to which the witness expects to testify; and
- (d) If the witness expects to base an opinion on publications, a list of those publications.

2821.7 The disclosures under § 2821.6 may be prepared by someone other than the witness. A party may be required to make any or all of these disclosures by order of an Administrative Law Judge.

2821.8 For good cause shown, including undue prejudice to a party, an Administrative Law Judge may limit, postpone, or refuse to allow expert or other opinion testimony. In deciding whether a witness may offer expert or other opinion testimony and in assessing how much weight to give to such testimony, an Administrative Law Judge may consider the adequacy, timing, or absence of the disclosures described in § 2821.6 as well as any failure to make an ordered disclosure.

## **2822 BURDEN OF PROOF**

2822.1 Unless otherwise established by law, the proponent of an order shall have the burden of proof, that is, the requirement to persuade the Administrative Law Judge on every contested factual issue.

2822.2 Unless otherwise established by law, the burden of production, that is, the requirement to introduce evidence first, shall be as follows:

- (a) Whenever a party challenges the District's denial of an application for a license, permit, or public benefit, the District shall have the burden of producing sufficient evidence to establish the reasons for the denial;
- (b) Whenever the District suspends, revokes, or terminates a license, permit, or public benefit, or proposes to do so, the District shall have the burden of producing sufficient evidence to establish the reasons for its action;
- (c) The party asserting an affirmative defense identified in District of Columbia Superior Court Civil Rule 8(c) shall have the burden of producing sufficient evidence to establish that defense; and
- (d) The party asserting an exception to the requirements or prohibitions of any statute or rule shall have the burden of producing sufficient evidence to establish that exception.

2822.3 Otherwise, an Administrative Law Judge shall allocate the burden of producing evidence to promote fairness, equity, substantial justice, and sound judicial administration.

2822.4 If a party has presented all of its evidence on an issue on which it has the burden of proof, and the presiding Administrative Law Judge concludes that the party has failed to meet its burden, the Administrative Law Judge may find against that party on that issue without awaiting the close of all the evidence in that case.

## **2823 HEARINGS AND EVIDENCE**

2823.1 The presiding Administrative Law Judge shall determine whether a hearing is required by law in any case.

- 2823.2 Unless otherwise ordered by an Administrative Law Judge, at least five (5) calendar days before any evidentiary hearing (except in unemployment compensation cases governed by § 2983.1 or in DFHV cases), a party shall serve on all other parties and file with the Clerk the following:
- (a) A list of the witnesses, other than a party or a charging inspector, whom the party intends to call to testify, including their address and telephone number if available; and
  - (b) An exhibit list, including a numbered copy of each exhibit that the party intends to offer into evidence, other than exhibits that were served with the Notice of Violation, Notice of Infraction, or Answer or are to be used solely for impeachment or rebuttal.
- 2823.3 The Administrative Law Judge may exclude any witnesses or exhibits not disclosed under § 2823.2 if he or she finds that the opposing party would be prejudiced by the failure to disclose.
- 2823.4
- (a) An Administrative Law Judge shall have the sole discretion to determine whether a proceeding or part of a proceeding will be conducted in person, via teleconference, or via videoconference.
  - (b) Subject to a party's right to request to appear in person or via videoconference, teleconferencing shall be presumptively used for pre-hearing conferences, status conferences and motion hearings.
  - (c) By OAH policy, ~~The~~ the Chief Administrative Law Judge shall establish the presumed manner of conducting evidentiary hearings.
  - (d) An in-person hearing shall be held only in an OAH courtroom, except as otherwise provided in this Section. An in-person hearing may be held in another physical location only as required by law or in exceptional circumstances with approval of the Chief Administrative Law Judge. An Administrative Law Judge may permit a party to appear or a witness to testify at an in-person hearing from a remote location by telephone, videoconferencing, or similar means. Unless otherwise permitted or ordered by an Administrative Law Judge, representatives of a party shall not appear by telephone at an in-person hearing.
  - (e) An Administrative Law Judge may determine the manner and extent of the use of teleconferencing or videoconferencing, and may require participants to attend court proceedings, in whole or in part, in whatever manner they deem appropriate.

- (f) Any party may request that a hearing may be conducted in an alternate platform or in-person if scheduled remotely. Any request to change the platform in which a hearing is to be conducted shall comply with § 2817 regarding the filing of motions. In considering a request to change the way a proceeding is conducted, the Administrative Law Judge shall consider:
  - (1) The capabilities of the Administrative Law Judge and the parties to participate in the platform to be used, including whether any necessary parties are unable to participate in the proceeding because of lack of technology, poor connectivity, actual inability to use technology, or inability to physically appear;
  - (2) Whether the other necessary parties consent to the request;
  - (3) Whether the platform to be used for the proceeding will facilitate the presentation of evidence in the case;
  - (4) Whether the platform to be used for the proceeding will prejudice either party, either positively or negatively; and
  - (5) Any other factors that the Administrative Law Judge may determine to be relevant.

2823.5 Parties shall have the following rights at a hearing:

- (a) To testify and to have other witnesses testify for them;
- (b) To cross-examine witnesses called by another party;
- (c) To request that any prospective witness be excluded from the courtroom;
- (d) To examine all exhibits offered into evidence by another party;
- (e) To object to the admission of any testimony or other evidence;
- (f) To subpoena witnesses, as provided in § 2824; and
- (g) To appear with a representative, as provided in §§ 2808 and 2810.

2823.6 At a hearing, all parties may present evidence. “Evidence” includes testimony by the parties and by any witnesses; papers; photographs; or any other items that a party believes may help the Administrative Law Judge decide the case. The Administrative Law Judge shall decide what evidence shall become part of the record.

- 2823.7 Testimony in any hearing ordinarily will be given in open court. An Administrative Law Judge may exclude testimony given by any other means, unless otherwise permitted by statute or these Rules.
- 2823.8 For good cause shown, an Administrative Law Judge may permit a witness to submit written testimony in advance of the hearing, subject to cross-examination and redirect examination at the hearing.
- 2823.9 For good cause shown, an Administrative Law Judge may allow parties to submit pre-recorded testimony subject to appropriate safeguards including cross-examination.
- 2823.10 All witnesses shall testify under oath or affirmation subject to the penalty of perjury. Nothing in this Subsection forbids the admission of an affidavit or other written statement under penalty of perjury.
- 2823.11 Hearsay evidence (generally, a statement by a person not present at the hearing) is admissible. When hearsay evidence is admitted, the Administrative Law Judge shall assess the reliability of the evidence to determine the weight it should be assigned. An Administrative Law Judge shall consider the speaker's absence in evaluating the evidence.
- 2823.12 In determining the admissibility and weight of evidence, an Administrative Law Judge may use the Federal Rules of Evidence for guidance, but they shall not be binding.
- 2823.13 An Administrative Law Judge may limit or exclude testimonial or documentary evidence to avoid surprise or prejudice to other parties, repetition, or delay.
- 2823.14 Whenever any applicable law or order requires or permits the filing of an affidavit or other writing signed under oath, the signer may submit a written declaration in substantially the following form:
- “I declare under penalty of perjury that the foregoing is true and correct. Signed on (date).
- (Signature)                      
(Printed or typed name)”
- 2823.15 All Administrative Law Judges are authorized to administer oaths.

## **2824 SUBPOENAS FOR WITNESSES AND FOR DOCUMENTS AT HEARINGS**

- 2824.1 Except as provided in § 2824.5 (unemployment compensation and rental housing cases), a subpoena for the appearance of witnesses and production of documents at a hearing shall only be issued by an Administrative Law Judge.

- 2824.2 A party may request a subpoena in writing, or an Administrative Law Judge may issue a subpoena without a party's request. Subpoenas and forms to request a subpoena are available from the Clerk's Office.
- 2824.3 To request a subpoena, unless otherwise authorized by an Administrative Law Judge, a party shall file a motion that states the relevance of the requested testimony or documents with a copy of the proposed subpoena. An Administrative Law Judge may modify the proposed subpoena.
- 2824.4 Unless otherwise provided by law or order of an Administrative Law Judge, any request for a subpoena shall be filed no later than seven (7) calendar days prior to the hearing.
- 2824.5 In unemployment compensation and rental housing cases, the Clerk shall, without an order of the Administrative Law Judge, issue the following subpoenas at the request of a party:
- (a) For subpoenas in unemployment compensation cases, refer to Section 2984.
  - (b) For subpoenas in rental housing cases, refer to Section 2934.
  - (c) When the Clerk issues a subpoena authorized by this Subsection, the Clerk shall sign it, but otherwise leave it blank. The party requesting the subpoena shall fill in the remaining information on the subpoena form.
  - (d) If a party in an unemployment insurance or rental housing case wants to obtain any subpoena not authorized by this Subsection, the party shall request an Administrative Law Judge to issue that subpoena in accordance with §§ 2824.1 through 2824.4.
- 2824.6 It is the responsibility of the requesting party to serve a subpoena in a timely fashion. Any person, including a party, who is at least eighteen (18) years of age, may serve a subpoena.
- 2824.7 Service of a subpoena for a witness to appear at a hearing shall be made by personally delivering the subpoena to the witness, or as consented to by the person or entity served, or as ordered by an Administrative Law Judge. Unless otherwise ordered by an Administrative Law Judge, service shall be made at least seven (7) calendar days before the hearing.
- 2824.8 A subpoena for the production of documents shall be directed to either an individual, a corporation, the District, or another entity.
- 2824.9 A subpoena to produce documents shall be served by any of the following means:
- (a) Handing it to the person or to a representative of the person or entity;

- (b) Leaving it at a person's office with a responsible adult, or if no one is available, leaving it in a conspicuous place in the office;
- (c) Leaving it with a responsible adult at an entity's office that is connected to the case;
- (d) Mailing it to the last known address of the person;
- (e) Mailing it to the last known address of an entity's office connected to the case; or
- (f) Delivering it by any other means, including electronic means, if consented to in writing by the person or entity served, or as ordered by an Administrative Law Judge.

2824.10 A person or entity ordered by subpoena to produce documents:

- (a) Shall not appear in person at the hearing unless ordered by an Administrative Law Judge to produce the documents at a hearing;
- (b) Shall produce the documents as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the subpoena; and
- (c) Shall expressly make any claims of privilege or protection with a description of the documents not produced that is sufficient to enable the requesting party to contest the claim.

2824.11 A subpoena may be served at any place within the District of Columbia, or at any place outside the District of Columbia that is within twenty-five (25) miles of the place of the hearing.

2824.12 Upon order of an Administrative Law Judge, to prove service of a subpoena, a party shall file a written statement or shall provide in-court testimony describing the date of service, manner of service, and names of the persons served.

2824.13 The recipient of a subpoena, or any party to the case, may file and serve a motion to quash or modify the subpoena. An Administrative Law Judge may quash or modify the subpoena for any reason, including, but not limited to, if the subpoena:

- (a) Was issued under §§ 2824.5, 2934.1 or 2984.1, but does not meet the requirements of those Subsections;
- (b) Was improperly served;



- (c) Fails to allow reasonable time for compliance;
- (d) Requires a person who is not a party or an officer of a party to travel to a hearing more than twenty-five (25) miles from where that person resides, is employed, or regularly transacts business, except that such a person may be ordered to appear by telephone;
- (e) Requires disclosure of privileged or other protected information; or
- (f) Subjects a person or entity to undue burden or expense.

2824.14 If a person or entity disobeys a subpoena, an Administrative Law Judge may order compliance with the subpoena, as authorized by D.C. Official Code § 2-1831.09(b)(1). If a person subject to the order fails to comply, the Administrative Law Judge may impose sanctions as authorized by D.C. Official Code § 2-1831.09(b)(8). A party may apply to the Superior Court of the District of Columbia for an order to show cause why that person should not be held in civil contempt, as authorized by D.C. Official Code § 2-1831.09(e).

## **2825 CONSOLIDATION AND SEPARATE HEARINGS**

2825.1 When cases involve a common question of law or fact, or when multiple Notices of Violation or Notices of Infraction have been issued to the same Respondent, an Administrative Law Judge may, in his or her discretion:

- (a) Consolidate the cases for all or any purposes; or
- (b) Order a joint hearing on all or any issues.

2825.2 An Administrative Law Judge may consolidate cases or order a joint hearing on motion of a party or on the Administrative Law Judge's own motion.

2825.3 An Administrative Law Judge may order a separate hearing on any issue in a case where appropriate.

## **2826 LANGUAGE INTERPRETATION**

2826.1 OAH shall provide oral or sign language interpretation services upon request for persons seeking information or participating in a hearing. An Administrative Law Judge may order the use of such services at a hearing. Only interpreters arranged by OAH shall be used during hearings.

2826.2 A person who needs oral or sign language interpretation services for a hearing shall request them as early as possible to avoid delay.

2826.3 Upon request by a party with impaired vision, OAH shall provide official documents in Braille or large print within seven (7) business days.

2826.4 An interpreter at a hearing shall ~~swear or affirm to~~ interpret accurately, completely, and impartially to the best of the interpreter's skills and judgment, **and under oath or affirmation subject to the penalty of perjury.**

## **2827 COURTROOM PROCEDURE**

2827.1 Unless otherwise prohibited by law or duly ordered by an Administrative Law Judge, proceedings at OAH shall be open to the public.

2827.2 Administrative Law Judges and OAH non-judicial staff may observe any proceedings at OAH. They shall keep confidential any confidential information that they may receive in those proceedings.

2827.3 Electronic devices that make noise, including cell phones, are prohibited unless set for silent operation.

2827.4 Audio and video recording, broadcasting, and photography are prohibited anywhere at OAH unless authorized by the Chief Administrative Law Judge. The presiding Administrative Law Judge may allow anyone to draw during proceedings in a hearing room so long as it does not disrupt those proceedings.

2827.5 Weapons, dangerous implements, and illegal drugs are prohibited at OAH and are subject to confiscation. The prohibition against weapons does not apply to authorized service weapons carried by law enforcement officers unless they are parties to a case.

2827.6 Dangerous or toxic items, including but not limited to chemicals and sharp objects, that pose a threat to health or safety are prohibited at OAH. Any party who wants to use such an item as evidence shall file a motion and obtain the approval of the presiding Administrative Law Judge prior to the hearing before bringing the item to OAH.

2827.7 Except for those animals assisting persons with disabilities, animals are prohibited at OAH.

2827.8 Any person who presents a threat to safety or who is disrupting OAH operations or proceedings may be removed.

## **2828 RECORDINGS AND TRANSCRIPTS**

2828.1 All proceedings, except for mediations, shall be recorded. The recording is the official record of what occurred at the proceeding.

- 2828.2 Any party may obtain a copy of the recording of a proceeding by request. OAH may charge a fee for the recording, but the fee may be waived by an Administrative Law Judge or by the Clerk's Office.
- 2828.3 Any transcript of a recording of a proceeding shall be prepared by a qualified reporter or transcriber who shall personally certify that he or she is not a party or counsel to a party or otherwise related to or employed by a party or counsel in the case; that he or she has no material interest in the outcome of the case; and that the transcript represents the testimony and proceedings of the case as recorded.
- 2828.4 In filings, a party may only rely upon a transcript prepared according to this Section.
- 2828.5 Unless otherwise stipulated by the parties or ordered by an Administrative Law Judge, if a party cites to a portion of a transcript, the entire transcript of the proceeding shall be filed at OAH, and a copy shall be served on all parties.
- 2828.6 In any case in which a party files a petition for review in the District of Columbia Court of Appeals, OAH shall arrange for the preparation and filing of a transcript without charge to any party.

## **2829 SANCTIONS**

- 2829.1 Before issuing an order imposing any sanctions under the OAH Establishment Act (D.C. Official Code §§ 2-1831.01 - .19), the presiding Administrative Law Judge shall allow the party subject to the sanction an opportunity to be heard. Any order imposing a sanction shall be in writing.

## **2830 REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER**

- 2830.1 This Section contains Rules about how to ask an Administrative Law Judge to change a final order after it has been issued or to request a new hearing whether or not a final order has been issued. Errors or omissions are not a sufficient basis for a new hearing or to change an order if the errors are harmless.
- 2830.2 No motion filed under this Section stays the final order or otherwise affects a party's obligations to comply with the final order, unless an Administrative Law Judge orders otherwise.
- 2830.3 Within ten (10) calendar days after a final order has been served, any party may file a motion asking the Administrative Law Judge to change the final order. Such a motion is a "motion for reconsideration or for a new hearing." The movant shall state whether an appeal has been filed.
- (a) If an appeal has been filed, OAH has no jurisdiction to decide the motion absent a remand for that purpose.

- (b) If an appeal has been filed, an Administrative Law Judge may, in his or her discretion, issue an indicative order to alert the appellate forum as to how they would rule on a motion for reconsideration if OAH had jurisdiction.

2830.4 With the exception of public sector worker<sup>2</sup>s' compensation cases, if any party files a motion for reconsideration or for a new hearing within the ten (10) calendar day deadline, the time for seeking judicial review of a final order does not start to run until the Administrative Law Judge rules on the motion.

2830.5 If any party files a motion for reconsideration or for a new hearing before a final order is issued or within the ten (10) calendar day deadline of § 2830.3, and where substantial justice requires, the Administrative Law Judge may change the final order or schedule a new hearing for any reason including, but not limited to, the following:

- (a) The party filing the motion did not attend the hearing, has a good reason for not doing so, and states an adequate claim or defense;
- (b) The party filing the motion did not file a required answer to a Notice of Infraction or Notice of Violation or did not file some other required document, has a good reason for not doing so, and states an adequate claim or defense;
- (c) The final order contains an error of law;
- (d) The final order's findings of fact are not supported by the evidence; or
- (e) New evidence has been discovered that previously was not reasonably available to the party filing the motion.

2830.6 An Administrative Law Judge shall treat any motion asking for a change in a final order as a motion for reconsideration or for a new hearing if it is filed within the ten (10) calendar day deadline specified in § 2830.3, regardless of the title that a party gives to that motion.

2830.7 After the ten (10) calendar day deadline, a party may file a motion asking the Administrative Law Judge to change the final order. A motion filed under this Subsection is a "motion for relief from the final order." The movant shall state whether an appeal has been filed. If an appeal has been filed, OAH has no jurisdiction to decide the motion absent a remand for that purpose.

2830.8 Any motion for relief from the final order has no effect on the deadline for seeking judicial review of the final order.

- 2830.9 Any motion for relief from the final order based on the grounds stated in § 2830.10 (a), (b), or (c) shall be filed within one-hundred twenty (120) calendar days after service of the final order. A motion for relief from the final order based on the grounds stated in § 2830.10 (d) or (e) may be filed at any time.
- 2830.10 On a motion for relief from the final order, an Administrative Law Judge may change the final order only for one or more of the following reasons:
- (a) Mistake, inadvertence, surprise, excusable neglect, or any other reason justifying relief (such as failure to attend a hearing for good cause; failure to answer a Notice of Infraction or Notice of Violation for good cause; or failure to file a required document for good cause), provided that the Administrative Law Judge considers whether the party:
    - (1) Had actual notice of the proceedings;
    - (2) Acted in good faith;
    - (3) Took prompt action;
    - (4) Presented an adequate defense, and
    - (5) Can argue that changing the final order would not prejudice the non-moving party;
  - (b) Newly discovered evidence that with reasonable diligence could not have been discovered in time to file a motion for reconsideration or for a new hearing within the ten (10) calendar day deadline;
  - (c) Fraud, misrepresentation, or other misconduct of an adverse party;
  - (d) The final order is void, such as when the final order has been entered following defective or invalid service of process; or
  - (e) A prior judgment on which the final order is based has been reversed or otherwise vacated, or it is no longer equitable that the judgment should have prospective application.
- 2830.11 For good cause shown, the agency issuing the Notice of Infraction or Notice of Violation may request that a final order issued in its favor be set aside.
- 2830.12 An Administrative Law Judge shall treat any motion asking for a change in a final order as a motion for relief from the final order, if the motion is not filed within the ten (10) calendar day deadline specified in § 2830.3, regardless of the title that a party gives to that motion.

- 2830.13 Any party filing any motion under this Section shall include a short and plain statement of all the reasons why the Administrative Law Judge should change the final order.
- 2830.14 An opposing party is not required to file a response to any motion under this Section, unless an Administrative Law Judge orders a response. Before granting any motion under the Section, an Administrative Law Judge shall issue an order allowing the opposing party an opportunity to respond to the motion.
- 2830.15 If an Administrative Law Judge grants a motion filed under this Section, he or she may:
- (a) Order further submissions from the parties;
  - (b) Order the parties to appear for a hearing; or
  - (c) Issue a new final order that may or may not change the result in the case.
- 2830.16 A party who files a motion under this Section may request, a ruling on the motion at any time before the Administrative Law Judge rules on the motion.

## **2831 APPEALS**

- 2831.1 Every appealable order shall include a statement of appeal rights and shall be served on the parties and their representatives.
- 2831.2 The filing of an appeal or a petition for review does not stay (or delay) the date a final order goes into effect unless a stay is ordered.
- 2831.3 Any party may file a motion to stay a final order pending appeal. A motion for a stay shall include the reasons for granting the stay. Any party may file a motion to stay the effective date of a final order.
- 2831.4 In determining whether to grant a stay, the Administrative Law Judge may consider the following factors: whether the party filing the motion is likely to succeed on the merits, whether denial of the stay will cause irreparable injury, whether and to what degree granting the stay will harm other parties, and whether the public interest favors granting a stay.

## **2832 CLERICAL MISTAKES**

- 2832.1 At any time, an Administrative Law Judge or the Clerk, in consultation with an Administrative Law Judge, may correct clerical, typographical, numerical, or technical mistakes in the record and errors from oversight or omission.

2832.2 An Administrative Law Judge may order that notice of such corrections be given to the parties.

2832.3 If a party has filed a request for appellate review, such mistakes may be corrected before the record is transmitted to the reviewing court, and thereafter may be corrected with leave of the reviewing court.

### **2833 PAYMENT PLANS IN CIVIL INFRACTIONS ACT CASES**

2833.1 If an Administrative Law Judge has imposed monetary sanctions under the Civil Infractions Act, a Respondent may request to pay the monetary sanctions in installments. An Administrative Law Judge may permit installment payments for no more than six months beyond the date of the final order and may charge a fee of one percent per month of the outstanding amount.

2833.2 In requesting a payment plan under this Section, a Respondent shall state, in writing, the reasons for seeking a payment plan, the length of time requested, and why Respondent cannot afford to pay the entire monetary sanction in a lump sum.

2833.3 A Respondent shall file with OAH and serve on the District a request for a payment plan within thirty (30) calendar days of the service of the final order.

2833.4 The District may file with OAH a response to a request for a payment plan within five calendar days of the service of the request.

### **2834 ABATEMENT COST REQUESTS**

2834.1 Before or after an Administrative Law Judge has issued a final order finding a Respondent liable for a violation of the Litter Control Administration Act, the District may file and serve a motion to require the Respondent to pay abatement costs. The District shall file and serve the motion, with an itemization of costs, not later than one-hundred and twenty (120) calendar days after service of a final order. A Respondent shall have fourteen (14) calendar days from the date of being served with the motion to file and serve a response on the District.

2834.2 A Respondent may request a hearing on the District's motion. The request shall be in writing and shall be filed within thirty (30) calendar days after the District serves its motion.

2834.3 If a Respondent timely requests a hearing on the District's motion, the presiding Administrative Law Judge shall hold a hearing on the issue of abatement costs. At the hearing on abatement costs, the Administrative Law Judge shall not consider any arguments or evidence relating to Respondent's previously established liability for the violation. A Respondent's liability has been previously established if:

- (a) An Administrative Law Judge has held a separate hearing on the violation and found the Respondent liable for the violation;
- (b) The Respondent has admitted liability; or
- (c) An Administrative Law Judge has found the Respondent in default.

2834.4 If liability has not been previously established, the Administrative Law Judge may consolidate the liability and abatement cost hearings in their sole discretion.

2834.5 If a Respondent does not file a timely request for a hearing on the District's motion, the Administrative Law Judge may:

- (a) Decide, based on the papers filed, whether the District is entitled to recover abatement costs and their amount; or
- (b) Before deciding the issue, order the District and the Respondent to appear for a hearing on the issue.

## **2835 INABILITY OF AN ADMINISTRATIVE LAW JUDGE TO PROCEED**

2835.1 If a hearing has commenced or is completed and the assigned Administrative Law Judge is unable to proceed, another Administrative Law Judge may proceed in the case. The successor Administrative Law Judge shall certify that he or she is familiar with the record.

2835.2 If a recording of the hearing is unavailable, the successor Administrative Law Judge shall, if requested by any party, recall a witness whose testimony is material and disputed.

2835.3 The successor Administrative Law Judge may serve the parties with a proposed final order and allow the parties to file exceptions and present argument before issuing a final order.

## **2836 RECUSAL; ETHICS COMPLIANCE**

2836.1 Whether or not a party has moved for recusal, an Administrative Law Judge who has a personal bias or prejudice in favor of or against any party in an assigned case, or who has another good reason to recuse himself or herself from the case, shall proceed no further in the case, and the case shall be reassigned to another Administrative Law Judge. An Administrative Law Judge may recuse himself or herself from a case only if there is good reason to do so.

2836.2 Administrative Law Judges at all times shall comply with the OAH Code of Judicial Ethics, which shall be available to the public.



2836.3 A party to a case may file a motion to disqualify the presiding Administrative Law Judge for reasons that include, but are not limited to:

- (a) The Administrative Law Judge has a personal bias or prejudice concerning a party or a party's lawyer or other representative involved in the proceeding;
- (b) The Administrative Law Judge served as lawyer or representative in the matter in controversy, or a lawyer with whom the Administrative Law Judge practiced law served during such association as a lawyer concerning the matter, or the Administrative Law Judge or such lawyer has been a material witness concerning it;
- (c) The Administrative Law Judge has served in other governmental employment and in such capacity participated as counsel, adviser or material witness concerning the proceeding or expressed an opinion concerning the merits of the particular case in controversy;
- (d) The Administrative Law Judge, individually or as a fiduciary, or the Administrative Law Judge's spouse or minor child residing in the Administrative Law Judge's household, has a more than trivial financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding; or
- (e) The Administrative Law Judge or the Administrative Law Judge's spouse or a person within the third degree of relationship to either of them or the spouse of such person:
  - (1) Is a party to the proceeding, or an officer, director, or trustee of a party;
  - (2) Is acting as a lawyer or representative in the proceeding;
  - (3) Is known by the Administrative Law Judge to have an interest that could be substantially affected by the outcome of the proceeding; or
  - (4) Is to the Administrative Law Judge's knowledge likely to be a material witness in the proceeding.

2836.4 A motion to disqualify the presiding Administrative Law Judge shall:

- (a) Allege the specific facts and reasons upon which the movant relies as the grounds for disqualification. The moving party shall include all grounds for disqualification that are known at the time the motion is filed;

- (b) Identify the precise date when the facts constituting the grounds for the motion were discovered by the party or the party's counsel;
- (c) Be filed within a reasonable time not to exceed fourteen (14) days after discovery by the party or party's counsel of the facts constituting the grounds for the motion. If a party discovers the grounds for disqualification within fourteen (14) days of a scheduled hearing, the motion shall be filed as soon as practicable; and
- (d) Be sworn by the movant or include a legally sufficient affidavit stating the specific facts and evidence supporting the grounds for disqualification.

2836.5 For the purposes of this Rule, the following grounds are not legally sufficient to support a motion to disqualify:

- (a) Generalized, speculative, **conclusory** or unsubstantiated assertions of ~~institutional or judicial bias or prejudice~~ **the grounds set forth in § 2836.3:**
- (b) Complaints of bias or prejudice based on adverse rulings by the Administrative Law Judge or statements and opinions made while ruling on matters before the court;
- (c) Complaints of bias or prejudice that would not lead an objectively reasonable observer to conclude that recusal was required; or
- (d) Actions taken or statements made by an Administrative Law Judge while disciplining a party or counsel or taking corrective action in order to maintain control and decorum in the courtroom or hearing, unless such statements or actions rise to a level of hostility or unprofessionalism that an objective, reasonable person would acknowledge represents more than mere discipline.

2836.6 The challenged judge shall rule on the motion to disqualify by examining the legal sufficiency of the motion. The challenged judge shall not weigh the evidence or dispute the factual allegations. If the motion is deemed legally sufficient and is granted, the case shall be reassigned to a different Administrative Law Judge. If the motion is denied, judicial review may be sought in accordance with applicable law.

## 2837 AMICUS CURIAE OR "FRIEND OF THE COURT"

2837.1 Any non-party having an interest in the issues in a case pending before OAH may move for leave to file an *amicus curiae* submission or to make an *amicus curiae* appearance, or an Administrative Law Judge may invite such a submission or appearance. The motion shall explain why the *amicus curiae* submission or appearance would be helpful to OAH.

**2838 CHIEF ADMINISTRATIVE LAW JUDGE RESPONSIBILITIES**

2838.1 The Chief Administrative Law Judge or his or her designee may administer an oath of office to an Administrative Law Judge or other OAH employee.

**~~2839 RESERVED~~****2899 DEFINITIONS**

For the purposes of this chapter the term:

**Agency** shall have the meaning provided that term in D.C. Official Code § 2-502(3).

**Civil Infractions Act** means the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, D.C. Official Code §§ 2-1801.01 - .05.

**Clerk** means the OAH Clerk of Court or authorized designee.

**Commercial carrier** means a business that accepts and delivers parcels, such as Federal Express or the United Parcel Service.

**District of Columbia or District** means the District of Columbia, or any government agency authorized by law to prosecute cases before OAH and whose administrative litigation falls under the jurisdiction of OAH, but does not include OAH.

**Electronic Signature means an electronic symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record.**

**Exhibit** means a document, photograph, ~~an audio or video recording~~, an audio or video recording, an electronic item, or any non-documentary or physical evidence filed with a paper, or offered into evidence at a proceeding.

**In-person proceeding** means a proceeding that is held in an OAH courtroom with all participants physically present in the same location.

**Litter Control Administration Act** means the Litter Control Administration Act of 1985, D.C. Official Code §§ 8-801 – 812.

**Motion** means a request for an Administrative Law Judge to take some action.

**OAH Establishment Act** means the Office of Administrative Hearings Establishment Act of 2001, D.C. Official Code §§ 2-1831.01 - .19.

**Paper** means any pleading, motion, exhibit, ~~or~~ witness list, or any other written submission filed with OAH.

**Party** means persons or entities who begin a case at OAH or the persons or entities on the other side.

**Presiding Administrative Law Judge** means an Administrative Law Judge assigned to a particular case.

**Respondent** means the person or entity against whom the District seeks payment of a fine for a Notice of Infraction or a Notice of Violation.

**Signature** means (1) an electronic symbol or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record[.]; (2) a scanned version of an original signature that has been copied and pasted into a PDF document; or (3) a person's name written in ink.

~~**Image** means that a scanned version of an original signature has been copied and pasted into a PDF document.~~

**Teleconferencing** means the use of a remote digital platform, used through an audio-only option, that sends audio signals over a transmission circuit so that two or more individuals can communicate with each other while in different physical locations.

**Videconferencing** means the use of a remote digital platform that sends video, voice, and/or data signals over a transmission circuit so that two or more individuals or groups can communicate with each other simultaneously using video codecs, monitors, cameras, audio microphones, and audio speakers.

**Chapter 29 OFFICE OF ADMINISTRATIVE HEARINGS: RULES FOR DCPS, RENTAL HOUSING, PUBLIC BENEFITS, AND UNEMPLOYMENT INSURANCE CASES, of Title 1 DCMR, MAYOR AND EXECUTIVE AGENCIES, is repealed in its entirety and replaced with:**

**CHAPTER 29 OFFICE OF ADMINISTRATIVE HEARINGS: RULES FOR DCPS & OSSE, DFHV, RENTAL HOUSING, PUBLIC SECTOR WORKERS' COMPENSATION, PUBLIC BENEFITS, AND UNEMPLOYMENT INSURANCE CASES**

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2999	DEFINITIONS
2900	DCPS AND OSSE HEARINGS – SCOPE
2900.1	Sections 2900 through 2909 shall govern procedures in cases referred to OAH by the District of Columbia Public Schools (DCPS) and by the District of Columbia Office of the State Superintendent of Education (OSSE).
2900.2	The Rules in Chapter 28 shall apply for procedural issues not addressed in §§ 2900 through 2909.
2900.3	OAH is not required to follow any other procedural rules adopted by DCPS or by OSSE in cases referred to OAH by DCPS or by OSSE.

**2901 DCPS STUDENT DISCIPLINE CASES – REFERRALS**

2901.1 DCPS may refer a student discipline case to OAH, for an Administrative Law Judge to hold a hearing and to decide:

- (a) The material facts;
- (b) Whether required due process procedures, including notice and the opportunity to respond to the charges, have been followed or have been waived;
- (c) Whether any failure to follow procedures identified in 5-B DCMR § 2505 was prejudicial;
- (d) Whether the facts show that the student committed any of the violations upon which a proposed disciplinary action is based; and
- (e) The proper Tier for any violation shown, as specified in 5-B DCMR § 2502.

2901.2 DCPS shall refer a student discipline case by filing with OAH a copy of the notice of recommended action provided to the adult student, or a minor student's parent or guardian. DCPS shall provide the adult student or minor student's parent or guardian with a hearing notice that states:

- (a) The date and time of the hearing;
- (b) Directions for attending the hearing remotely (or the location of an in-person hearing);
- (c) The hearing rights of the adult student or the minor student's parent or guardian; and
- (d) The consequences of failing to attend the hearing without a good reason.

**2902 DCPS STUDENT DISCIPLINE CASES – HEARINGS**

2902.1 An adult student, or a minor student's parent or guardian, may request DCPS or OAH to postpone the hearing for not more than five (5) school days, if necessary to prepare for the hearing or provide for the attendance of necessary parties or witnesses.

2902.2 The parties shall file exhibits and witness lists at least one (1) day before the hearing unless the party has a good reason for not doing so. DCPS shall provide an adult student or a minor student's parent or guardian with any exhibits and witness lists when it issues the Notice of Hearing.

- 2902.3 DCPS shall allow an adult student, or a minor student's parent or guardian, or a student's attorney, to inspect and copy the student's disciplinary file before the hearing upon request and consistent with any applicable laws or regulations.
- 2902.4 Prior to the hearing, DCPS shall make the student's disciplinary file electronically available to OAH and to the adult student or to the minor student's parent or guardian. Either party may move to introduce all or part of the disciplinary file into evidence at the hearing.
- 2902.5 The parties shall have all rights set forth in § 2823.5 at a hearing.
- 2902.6 An adult student or a minor student's parent or guardian may select another person to represent a student at a hearing, in addition to the representatives listed in §§ 2808 and 2810. The representative shall be subject to §§ 2810.12 through 2810.14.
- 2902.7 The hearing shall be closed to the public unless the adult student or the minor student's parent or guardian requests the hearing be open to the public.
- 2902.8 A party who fails to appear for a scheduled hearing may ask OAH, in writing, for a new hearing date. The request shall be filed within one (1) school day after the scheduled hearing date. The Administrative Law Judge may grant a new hearing date for good cause shown.

### **2903 DCPS STUDENT DISCIPLINE CASES – DECISIONS**

- 2903.1 After the close of the record in a student discipline case, the Administrative Law Judge shall issue Findings of Fact and Conclusions of Law on the issues identified in § 2901.1.
- 2903.2 The Administrative Law Judge shall issue the Findings of Fact and Conclusions of Law within one (1) school day after the close of the record. OAH shall provide copies to DCPS, to the adult student or minor student's parent or guardian, and to any authorized representative.
- 2903.3 In all student discipline cases, DCPS shall be bound by the Administrative Law Judge's Findings of Fact and Conclusions of Law and shall have no authority to reverse or modify the Findings of Fact or Conclusions of Law.
- 2903.4 If the Administrative Law Judge concludes that the student committed any of the violations upon which the disciplinary action is based, the Administrative Law Judge shall make a recommendation for the appropriate discipline within the Tier found to be proper, considering the factors in 5-B DCMR § 2502. OAH shall return the case to DCPS for it to decide the appropriate discipline.



2903.5 If the Administrative Law Judge concludes that due process was denied or that the student did not commit any of the violations upon which the disciplinary action is based, OAH shall return the case to DCPS for appropriate action.

2903.6 Because this Section requires that OAH return student discipline cases to DCPS for further action, the Administrative Law Judge's decision is not a final disposition of the matter, and a statement of appeal rights is not required in accordance with § 2831.1.

#### **2904 DCPS STUDENT DISCIPLINE CASES – RECONSIDERATION**

2904.1 Section 2830 of these Rules shall not apply to DCPS cases. If DCPS has not issued a final notice of disciplinary action, any party may file a written motion for reconsideration of the Findings of Fact and Conclusions of Law no later than one (1) school day after the date the decision is issued. A copy of any such motion shall be served on the opposing party. The presiding ALJ shall decide the motion within one (1) school day.

2904.2 If any party files a motion for reconsideration or for a new hearing, the Administrative Law Judge may change the Findings of Fact and Conclusions of Law or grant a new hearing where substantial justice requires, or for any reason including, but not limited to, the following:

- (a) The party filing the motion did not attend the hearing, has a good reason for not doing so, and states an adequate claim or defense;
- (b) The Findings of Fact and Conclusions of Law contain an error of law;
- (c) The Findings of Fact and Conclusions of Law are not supported by the evidence; or
- (d) New evidence has been discovered that previously was not reasonably available to the party filing the motion.

2904.3 If the adult student or minor student's parent or guardian did not receive actual notice of the hearing and DCPS has issued a final notice of disciplinary action, the adult student or minor student's parent or guardian may file a request for reconsideration with DCPS, and request that DCPS:

- (a) Vacate the final notice;
- (b) Refer the case back to OAH for a hearing, and
- (c) Vacate the Findings of Fact and Conclusions of Law.

2904.4 DCPS may order a new hearing, or request OAH to decide whether to grant a new hearing, when deciding the request for reconsideration.

**2905 OSSE CONTESTED RESIDENCY CASES – REFERRALS**

2905.1 OSSE may refer a contested residency case to OAH for a final decision.

**2906 OSSE CONTESTED RESIDENCY CASES – BEGINNING A CASE**

2906.1 OSSE shall refer a contested residency case to OAH by filing a copy of the exclusion letter given to the student’s parent, custodian, guardian, or other primary caregiver and the request for review that OSSE received, along with a statement that OSSE requests OAH to hear and decide the case.

**2907 OSSE CONTESTED RESIDENCY CASES – HEARINGS**

2907.1 In all contested residency cases, OAH shall set the hearing date and issue the hearing notice.

2907.2 The Rules in Chapter 28 shall apply to all hearings in contested residency cases, except that parties shall file and serve the witness lists and exhibit lists required by § 2823.2 no later than five (5) calendar days before the hearing date. All exhibits filed by OSSE shall be marked with numbers for identification beginning with 200.

2907.3 The student’s parent, custodian, guardian, or other primary caregiver who is claiming District of Columbia residency has the burden of proving the student’s residency status for the purpose of deciding whether the student may enroll in a District of Columbia public school tuition free.

**2908 OSSE CONTESTED RESIDENCY CASES – FINAL ORDERS**

2908.1 The presiding Administrative Law Judge shall issue a final order in all contested residency cases, which shall include the statement of appeal rights required by § 2831.1.

**2909 DCPS AND OSSE CASES – CONFIDENTIALITY OF THE RECORD**

2909.1 The OAH record in any case referred by DCPS or by OSSE shall be confidential. Only the following persons shall have access to that record:

- (a) The adult student or the adult student’s representative;
- (b) The minor student’s parent, guardian, or representative;
- (c) Any person who has the written consent of the adult student or the minor student’s parent or guardian;

- (d) School officials with a legitimate official interest; and
- (e) The student's parent, custodian, or other primary caregiver claiming District of Columbia residency, or their representative in a contested residency case.

## **2910 DFHV HEARINGS – SCOPE**

- 2910.1 Sections 2910 through 2913 shall govern procedures in cases adjudicated by OAH for Notices of Infraction issued by the District of Columbia ("District") that are enforced by the District of Columbia Department of For-Hire Vehicles (DFHV).
- 2910.2 The Rules in Chapter 28 shall apply for procedural issues not addressed in §§ 2910 through 2913.

## **2911 DFHV – BEGINNING A CIVIL FINE CASE**

- 2911.1 When the District is seeking civil fines or sanctions under the District of Columbia Department of For-Hire Vehicles Establishment Act of 1985 (D.C. Official Code §§ 50-301.01 - .34) ("DFHV Act"):
  - (a) The issuing agency of the Notice of Infraction may file it by entering it in the automatic ticket database presently maintained by the Department of Motor Vehicles (DMV). The day the Notice of Infraction data is entered into the DMV database shall be deemed the date of filing of the Notice of Infraction with OAH;
  - (b) If the issuing agency serves a Notice of Infraction by first-class mail, it may not file the Notice of Infraction with OAH until it submits proof of delivery. When the issuing agency serves the Notice of Infraction by first-class mail, it shall also file an affidavit, on a form approved by the Chief Administrative Law Judge, verifying that the United States Postal Service (USPS) did not return the Notice of Infraction to the issuing agency;
  - (c) If DFHV issues a Notice of summary or proposed denial, revocation, suspension or modification of a license, a Notice to cease and desist, or a Notice to take action, DFHV shall file the Notice with OAH promptly and serve it in the manner provided under the DFHV Act and implementing regulations. OAH shall schedule a hearing as required by law or on the request of the Respondent; or
  - (d) If DFHV takes other actions under the DFHV Act or implementing regulations appealable to OAH, DFHV shall file the relevant Notice, Order, or Action with OAH and serve it in the manner provided under the DFHV Act and implementing regulations. If the DFHV Act and implementing regulations do not specify a manner of service, DFHV shall follow paragraph (b) of this Subsection.

2911.2 The signature of an issuing officer shall not be required on a Notice of Infraction ~~is~~ issued from a hand-held electronic device; provided, that the officer's printed name, department, and badge number appear legibly on the face of the Notice of Infraction.

**2912 DFHV – ANSWERS IN CIVIL FINE CASES**

2912.1 In DFHV cases filed in the DMV automatic ticket database, the Respondent shall answer a Notice of Infraction (“Notice”) according to the instructions on the back of the Notice. The Respondent’s answer shall indicate whether the response to the Notice is Admit, Admit with Explanation, or Deny.

2912.2 The issuing agency shall have access to answers of Deny or Admit with Explanation in DFHV cases filed in the DMV automatic ticket database.

2912.3 In DFHV cases filed in the DMV automatic ticket database, OAH shall notify the issuing agency in writing of the hearing date and time selected by Respondent, either in writing or by calendaring the hearing in the DMV database. If Respondent does not select the date and time of the hearing, OAH shall notify the Respondent in writing of the date and time of the hearing.

2912.4 At least five **(5)** calendar days before any hearing date, the Respondent shall file with OAH copies of all exhibits that the Respondent intends to ask the Administrative Law Judge to consider at the hearing in the DMV database. An Administrative Law Judge may allow a Respondent to use exhibits at a hearing that the Respondent did not file or provide to the issuing agency before the hearing if there is no prejudice to the issuing agency.

2912.5 In DFHV cases filed in the DMV automatic ticket database, Respondent may file any materials supporting the answer of Admit with Explanation as to why the Respondent believes the Administrative Law Judge should reduce or suspend any fine or penalty through the DMV database.

2912.6 The issuing agency has access to the answer of Admit with Explanation and Respondent’s supporting materials through the DMV database. DFHV shall file any reply to the answer in the DMV database within twenty-one (21) days of the filing of the answer and shall also provide any reply to the Respondent.

2912.7 OAH shall schedule a hearing as required by law or on the request of the Respondent in a case involving a denial, revocation, suspension, or modification of a license issued under the DFHV Act; or any other order or action authorized under the DFHV Act, other than a Notice of Infraction. If the Respondent requests a hearing, OAH shall schedule the hearing as required by law or as soon as practicable. If DFHV does not appear for a hearing, the Administrative Law Judge may suspend the hearing and close the case.

**2913 DFHV – DEFAULTS IN CIVIL FINE CASES**

- 2913.1 In DFHV cases filed under ~~Subsection~~ § 2911.1(b), if the USPS returns to the Clerk’s office a default order that was mailed to Respondent for reasons that call into question the accuracy of any affidavit filed under § 2911.1(b), (for example, “no such address,” “addressee unknown”), an Administrative Law Judge may issue an order requiring the issuing agency to show why the default order should not be vacated. If the issuing agency does not respond with sufficient evidence showing that it mailed the Notice to a valid address for the Respondent, the default order shall be vacated and the Notice of Infraction shall be dismissed.
- 2913.2 The default procedure shall be consistent with the applicable law in default cases brought under the DFHV Act and shall ensure that:
- (a) There is sufficient evidence of proper service on the Respondent; and
  - (b) The charging document meets all legal requirements on its face.
- 2913.3 A Respondent who fails to answer shall be held in default and shall pay the legally authorized fine and penalty. If the Administrative Law Judge does not find the Respondent in default, the Administrative Law Judge shall dismiss the Notice without prejudice.

**2920 RENTAL HOUSING CASES – SCOPE**

- 2920.1 Sections 2920 through 2942 shall govern procedures in rental housing cases, including rent stabilization cases under the Rental Housing Act and conversion and sale cases under the Rental Housing Conversion and Sale Act, at OAH.
- 2920.2 The Rules in Chapter 28 shall apply for procedural issues not addressed in §§ 2920 through 2942.

**2921 RENTAL HOUSING CASES – BEGINNING A CASE**

- 2921.1 A party may begin a rent stabilization case by filing a petition with the Rent Administrator in accordance with 14 DCMR § 3901.
- 2921.2 For conversion and sale cases,
- (a) An aggrieved owner, tenant, or tenant organization may begin a conversion or sale case by filing a petition for declaratory relief with the Conversion and Sale Administrator in accordance with § 503a of the Rental Housing Conversion and Sale Act, D.C. Official Code § 42-3405.03a.

- (b) A party aggrieved by the rejection of an application pursuant to the Rental Housing Conversion and Sale Act may begin a case by filing a petition for reconsideration with the Conversion and Sale Administrator in accordance with § 504 of the Rental Housing Conversion and Sale Act, D.C. Official Code § 42-3405.04.
- (c) A party aggrieved by a temporary cease and desist order from unlawful practices under the Rental Housing Conversion and Sale Act may begin a case by filing a request for a hearing with the Conversion and Sale Administrator in accordance with § 506 of the Rental Housing Conversion and Sale Act, D.C. Official Code § 42-3405.06.
- (d) An owner aggrieved by the revocation of certification for conversion, or a tenant association aggrieved by the revocation of registration of a tenant organization, may begin a case by filing a request for a hearing with the Conversion and Sale Administrator in accordance with § 507 of the Rental Housing Conversion and Sale Act, D.C. Official Code § 42-3405.07.

2921.3 The timeliness of the filing of any petition shall be measured from the date the Rent Administrator or the Conversion and Sale Administrator receives the petition for filing.

2921.4 For rent stabilization cases, the Rent Administrator may refuse to accept for filing a petition for rent stabilization cases as provided in 14 DCMR § 3901.

2921.5 After receiving the filing of a petition or request, the Rent Administrator or the Conversion and Sale Administrator shall forward the petition or request and all accompanying papers to OAH, together with a copy of the registration statement for the housing accommodation.

2921.6 When OAH receives a petition or request from the Rent Administrator or the Conversion and Sale Administrator, OAH shall open the case. The parties then shall file all papers and attachments at OAH in accordance with § 2811.

## **2922 RENTAL HOUSING CASES – PARTIES**

2922.1 Any petition or request that is filed on behalf of more than one person or entity shall individually name each person or entity.

2922.2 When neither the claim asserted nor the relief requested requires the participation of the individual tenant member, any tenant association may file and shall be granted party status to prosecute or defend a petition on behalf of any one or more

of its members who have provided the association with written authorization to represent them in the action, or to seek on behalf of all members any relief available under the Rental Housing Act or the Rental Housing Conversion and Sale Act, as applicable. ~~No further inquiry into the membership of the association shall be permitted.~~

2922.3 **In order to establish the requisite standing to assert a claim in its name on behalf of its authorizing members in accordance with the Rental Housing Act or the Conversion and Sale Act, A** a tenant association that seeks to be named as a party in a petition or request shall file, along with the petition or request:

- (a) A list of all tenants who are members of the tenant association and parties to the petition or request, including each member's full name and unit number;
- (b) Proof of tenancy for each tenant who is a member of the tenant association and seeks to be represented by it, by rent receipt, cancelled check, copy of lease agreement, or any other documentation accepted by the Rental Accommodations Division or the Rental Conversion and Sale Division, as applicable; and
- (c) Written authorization from each tenant who is a member of the tenant association and seeks to be a party, giving the tenant association permission to represent the tenant.

2922.4 ~~An~~ **No** inquiry into the membership of the association beyond the information required by § 2922.3 shall ~~not~~ be permitted. Failure to provide the information in § 2922.3 is grounds to deny party status to a tenant association.

2922.5 Any tenant association that is a party to the action pursuant to § 2922.2 shall be listed in the caption.

2922.6 For rent stabilization cases, the housing provider as listed on the registration statement, if any, shall be a party, and shall be named in the caption. If a managing agent represents the housing provider in the proceeding, the managing agent also shall be a party, and shall be identified as the managing agent and named in the caption.

2922.7 For rental housing conversion and sale cases, in a petition for declaratory relief against an owner, the owner as listed on the certification statement for conversion or on the offer of sale, if any, shall be a party, and shall be named in the caption.

## **2923 RENTAL HOUSING CASES – SENDING NOTICE**

2923.1 OAH shall notify the parties of proceedings by first-class mail or, ~~with consent,~~ by email.

- 2923.2 For rent stabilization cases, OAH shall mail a copy of any tenant petition by first-class mail or, ~~with consent~~, by email to any adverse party named in the tenant petition and to the housing provider listed on the registration statement for the housing accommodation.
- 2923.3 For rent stabilization cases, a housing provider who files a petition shall provide for each tenant in the housing accommodation one copy of the petition and one envelope addressed to each tenant by name, address, and rental unit, with first class mail postage prepaid. The envelope shall bear OAH's return address unless the housing provider files a hardship petition or voluntary agreement. The envelopes for those petitions shall bear the return address of the Rent Administrator.
- 2923.4 For rent stabilization cases, if a housing provider files a petition for a building with ten (10) or more rental units, the housing provider shall provide a hard copy and computer file of a service list containing the name, address, and rental unit for each tenant. The computer file shall be in Microsoft Word format, arranged so that the list may be printed onto labels measuring one inch by two and five-eighths (2 5/8) inches.
- 2923.5 For conversion and sale cases involving a petition for declaratory relief against an owner, OAH shall mail a copy of any petition by first-class mail or, ~~with consent~~, by email to any adverse party named in the petition and, if needed, to the owner listed on the certification statement for conversion or on the offer of sale.

## **2924 RENTAL HOUSING CASES – SERVICE**

- 2924.1 For rent stabilization cases, every paper filed at OAH shall be served in accordance with § 904 of the Rental Housing Act (D.C. Official Code § 42-3509.04), as follows:
- (a) By handing the paper to the person, by leaving it at the person's place of business with some responsible person in charge, or by leaving it at the person's usual place of residence with a person of suitable age and discretion;
  - (b) By telegram, when the content of the information or document is given to a telegraph company properly addressed and prepaid;
  - (c) By mail or deposit with the USPS properly stamped and addressed; or
  - (d) By any other means that is in conformity with an order of the Rental Housing Commission (Commission) or OAH in any proceeding.
- 2924.2 For conversion and sale cases, every paper filed at OAH shall be served in accordance with § 508 of the Rental Housing Conversion and Sale Act (D.C.



Official Code § 42-3405.08), which allows papers to be served by registered mail or in any other authorized manner reasonably calculated to give actual notice.

**2925 RENTAL HOUSING CASES – CALCULATING DEADLINES**

2925.1 Section 2813 shall govern the calculation of deadlines. For rent stabilization cases, the timeliness of any appeal to the Commission shall be governed by the Commission Rules in 14 DCMR § 3802.

**2926 RENTAL HOUSING CASES – CONCILIATION, ARBITRATION, AND MEDIATION**

2926.1 For rent stabilization cases, the parties may request conciliation or arbitration of any dispute by the RAD in accordance with its regulations.

2926.2 The parties may request, or an Administrative Law Judge may order, mediation of any dispute pursuant to § 2820.

**2927 RENTAL HOUSING CASES – SUBSTITUTION OR ADDITION OF PARTIES**

2927.1 An Administrative Law Judge may substitute or add a party under § 2807.1 if: a party dies; a party entity is dissolved or reorganized; a party entity's ownership or interest changes; or, for rent stabilization cases, an amended registration statement for the housing accommodation is filed under 14 DCMR § 4103.

2927.2 If a party has been incorrectly named, the Administrative Law Judge may substitute or add the correct party under § 2807.1.

**2928 RENTAL HOUSING CASES – INTERVENORS**

2928.1 Sections 2807.2 and 2807.3 shall govern motions for intervention.

**2929 RENTAL HOUSING CASES – AMENDMENT OF PETITIONS, CONSOLIDATION OF PETITIONS AND EXPANDING THE SCOPE OF A PROCEEDING**

2929.1 An Administrative Law Judge may consolidate (join) two **(2)** or more petitions if they present identical or similar issues, involve the same rental unit or housing accommodation, or involve other circumstances in which consolidation would be expedient and would not prejudice the parties. A party may file a motion to consolidate, or an Administrative Law Judge may consolidate, cases on his or her own motion.

2929.2 If the Administrative Law Judge determines that the issues raised in a petition or request may affect other tenants or all tenants in the housing accommodation, the

Administrative Law Judge may expand the scope of the proceeding to include all affected tenants.

2929.3 Before expanding the scope of the proceeding, the Administrative Law Judge shall provide notice to the affected tenants and the housing provider or owner.

2929.4 Notice under § 2929.3 shall state the issues to be decided and shall advise the tenants that they have a right to participate in the proceedings and that any decision shall be binding on them.

2929.5 Tenants and the housing provider or owner may present arguments in support of or opposition to expanding the scope of the proceeding.

2929.6 A party may amend a petition to add additional allegations after the petition has been transferred to OAH, but before the hearing concludes, by moving to amend the petition with the presiding Administrative Law Judge. The motion shall state the allegations to be added and the factual basis for those allegations. No written motion to amend shall be considered unless it recites that the movant sought to obtain the consent of parties affected, and that the consent was granted or denied, including the identity of the party or parties who declined to consent. If the movant does not obtain a response from the opposing party, the movant shall demonstrate that the movant made a good faith effort in accordance with § 2817.5.

2929.7 In determining whether a motion to amend a petition should be granted, the Administrative Law Judge shall consider:

- (a) the number of requests to amend;
- (b) the length of time that the case has been pending;
- (c) the presence of bad faith or dilatory reasons for the request;
- (d) the merit of the proffered amendment;
- (e) any prejudice to the non-moving party; and
- (f) the orderly administration of justice.

## **2930 RENTAL HOUSING CASES – HEARINGS**

2930.1 A petition received by OAH shall be treated as a request for a hearing. OAH shall schedule a status conference, a hearing, or mediation after receiving the petition. OAH shall notify the parties of the hearing date and of their right to obtain a lawyer at least fifteen (15) calendar days before a hearing.

2930.2 An Administrative Law Judge may dismiss any petition or any claim in a petition without holding a hearing if the Rental Housing Act or the Rental Housing Conversion and Sale Act, as applicable, does not provide relief for the claim(s). The Administrative Law Judge shall first give the parties notice and an opportunity to respond.

**2931 RENTAL HOUSING CASES – RENT ADMINISTRATOR’S SHOW CAUSE ORDERS**

2931.1 For rent stabilization cases, if the Rent Administrator concludes after investigation that a housing provider has violated the Rental Housing Act, the Rent Administrator may file an order to show cause with OAH and shall serve the housing provider with a copy of the order to show cause.

2931.2 The order to show cause shall specify the sections of the Rental Housing Act or rules that the housing provider has allegedly violated and shall describe the evidence that supports the Rent Administrator’s assertions and the proposed corrective action or sanction.

2931.3 Once the Rent Administrator files the order to show cause, the case shall proceed under this chapter.

**2932 RENTAL HOUSING CASES – BURDEN OF PROOF**

2932.1 The proponent of an order shall have the burden of proof.

2932.2 For rent stabilization cases:

- (a) The tenant has the burden to prove the claims alleged in a tenant petition except that the housing provider has the burden to prove entitlement to any exemption under the Rental Housing Act.
- (b) The housing provider has the burden to prove the claims alleged in a housing provider petition.
- (c) In show cause hearings in rent stabilization cases, the burden of proof shall rest on the Rent Administrator.
- (d) In retaliation cases, the tenant has the burden of proving that retaliation occurred or that a presumption applies. If a presumption applies, then the housing provider has the burden to rebut the presumption by clear and convincing evidence.
- (e) In security deposit cases, if the tenant seeks an order to have the security deposit returned, the tenant shall prove the amount of the security deposit

paid and that the security deposit was not returned. If the housing provider seeks an order to withhold all or a portion of the security deposit, the housing provider shall prove the reasons for the withholding.

2932.3 For conversion and sale cases:

- (a) In cases involving petitions for declaratory relief, the petitioner has the burden to prove the claims alleged in the petition.
- (b) In cases involving the rejection of an application, a temporary cease and desist order, or the revocation of a certificate or registration, the agency has the burden to prove facts justifying the action.

2932.4 Unless otherwise provided by law, a party shall prove each fact essential to his or her claim by a preponderance of the evidence so that the Administrative Law Judge finds that it is more likely than not that each fact is proven.

**2933 RENTAL HOUSING CASES – PAPERS FILED WITH THE RAD, CASD, OR OTHER AGENCIES**

2933.1 Any party shall introduce a copy of that document into evidence the party who wishes the Administrative Law Judge to consider a document that is on file with the RAD, Conversion and Sale Division (CASD), or any other District of Columbia agency. The Administrative Law Judge shall admit the document into evidence if he or she finds that it is relevant and is an accurate copy of a document on file with the RAD, CASD, or other agency.

2933.2 A party can establish that a document is an accurate copy of a document on file with RAD, CASD, or other agency by:

- (a) Providing a copy with a legible original file stamp;
- (b) Providing a copy with a legible copy of the original file stamp;
- (c) Providing a copy certified by the Rent Administrator, Conversion and Sale Administrator, or an authorized employee of RAD or CASD;
- (d) Providing testimony or other evidence that the Administrative Law Judge finds satisfactory; or
- (e) Consent of all parties to the admission of the document into evidence.

**2934 RENTAL HOUSING CASES – SUBPOENAS AND DISCOVERY**

2934.1 In rent stabilization cases, the Clerk shall issue no more than three subpoenas to the tenant side and no more than three **(3)** subpoenas to the housing provider side under § 2824.5 to compel:

- (a) The appearance at a hearing of any witnesses, including housing inspectors, with knowledge of conditions, repairs, or maintenance in a party's rental unit or any common areas for the three-year (3) period immediately before the filing of the petition with the Rent Administrator;
- (b) The production at or before a hearing of all records not created by a government agency, relating to conditions, repairs, or maintenance to a party's rental unit or any common areas for the three-year (3) period immediately before the filing of the petition with the Rent Administrator;
- (c) The production at or before a hearing of housing violation notices in the possession of the District of Columbia Department of Buildings or the District of Columbia Department of Licensing and Consumer Protection relating to a party's rental unit or any common areas for the three-year (3) period immediately before the filing of the petition with the Rent Administrator; and
- (d) The production at or before a hearing of all records in a housing provider's possession relating to any rent increases demanded or implemented for a party's rental unit for the three-year **(3)** period immediately before the filing of the petition with the Rent Administrator.

2934.2 Section 2824 shall apply to all other subpoenas for witnesses and documents at hearings in rental housing cases.

2934.3 Section 2821 shall apply to discovery in all rental housing cases.

**2935 RENTAL HOUSING CASES – REPRESENTATION**

2935.1 Persons authorized to appear before OAH by §§ 2808 and 2810 may represent parties in rental housing cases.

2935.2 A tenant association may represent one or more tenants in any proceeding as follows:

- (a) A statement shall be filed with OAH stating that the tenant consents to representation by the tenant association and the tenant association consents to represent the tenant;

- (b) A tenant or a tenant association may revoke the consent by filing a statement to that effect;
- (c) A tenant association shall designate one or more members or attorneys to represent the association and any of the tenants it represents;
- (d) A tenant association may elect to proceed only in a representative capacity without being listed as a party or listed in the caption.

2935.3 The provisions of §§ 2808 and 2810 concerning discipline of persons appearing before OAH shall apply to all representatives in rental housing cases.

2935.4 If an Administrative Law Judge decides that a proceeding is so complex, or the potential liability is so great that a party should be represented by a lawyer, the Administrative Law Judge shall explain to the party the advantages of obtaining a lawyer and offer to continue the case to give the party an opportunity to obtain a lawyer.

**2936 RENTAL HOUSING CASES – APPEALS BEFORE A FINAL ORDER IN RENT STABILIZATION CASES**

2936.1 An Administrative Law Judge’s rulings in a rent stabilization proceeding ordinarily may not be appealed to the Commission until a final order is issued. Before a final order is issued, a party may appeal an order of the Administrative Law Judge only if the Administrative Law Judge certifies the ruling for appeal to the Commission.

2936.2 A party may move the Administrative Law Judge to certify to the Commission an appeal of any ruling other than a final order. Such an appeal is an “interlocutory appeal.”

2936.3 The Administrative Law Judge shall certify a ruling for interlocutory appeal only if he or she determines that the issue presented is of such importance to the proceeding that it requires the immediate attention of the Commission, and only if the following are shown:

- (a) The ruling involves an important question of law or policy requiring interpretation of the Rental Housing Act, and about which there is substantial basis for difference of opinion; and
- (b) Either of the following applies:
  - (1) An immediate ruling will materially advance the completion of the proceeding; or
  - (2) Denial of an immediate ruling will cause undue harm to the parties or the public.

- 2936.4 A party seeking review by interlocutory appeal shall file a motion for certification within five (5) calendar days of service of a ruling by the Administrative Law Judge. The opposing party shall have five (5) calendar days in which to respond. Unless extended by a written order, the Administrative Law Judge shall rule on the motion within ten (10) calendar days following the filing of any response.
- 2936.5 If the Administrative Law Judge declines to certify a ruling, the Commission may review that ruling on appeal from a final order.
- 2936.6 The Administrative Law Judge may stay the proceeding while an interlocutory appeal is pending.
- 2937 RENTAL HOUSING CASES – INITIAL DECISIONS AND FINAL ORDERS**
- 2937.1 For rent stabilization cases, after the close of the record in a case involving a tenant or housing provider petition, the Administrative Law Judge shall issue a final order.
- 2937.2 For rental housing conversion and sale cases, after the close of the record in cases involving petitions for declaratory relief pursuant to D.C. Official Code § 42-3405.03a, the Administrative Law Judge shall issue a final order.
- 2937.3 For rental housing conversion and sale cases, after the close of the record in cases involving the rejection of applications pursuant to D.C. Official Code § 42-3405.04, temporary cease and desist orders pursuant to D.C. Official Code § 42-3405.06, or a revocation of certifications or registrations pursuant to D.C. Official Code § 42-3405.07, the Administrative Law Judge shall issue an initial decision, pursuant to D.C. Code § 42–3405.08.
- 2937.4 OAH shall serve all initial decisions or final orders, as applicable, on the parties by first-class mail or, ~~with consent,~~ by email. OAH shall also serve:
- (a) For rent stabilization cases, OAH also shall serve all final orders on the Rent Administrator and the Commission; or
  - (b) For conversion and sale cases, OAH shall serve all initial decisions and final orders on the Conversion and Sale Administrator.
- 2938 RENTAL HOUSING CASES – REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER**
- 2938.1 Motions for reconsideration of an initial decision, reconsideration of a final order, a new hearing, or relief from a final order shall be decided in accordance with § 2830.

2938.2 For rental housing conversion and sale cases, any party may request reconsideration of an initial decision issued pursuant to D.C. Official Code § 42–3405.08.

~~2928.3~~ **2938.3** (a) Motions for reconsideration of an initial decision shall be filed with OAH within ten (10) calendar days of the date of service of the initial decision.

(b) If any party files a motion for reconsideration of an initial decision within the ten (10) calendar day deadline, the Conversion and Sale Administrator cannot issue a final decision for purposes of appeal to the D.C. Court of Appeals until the Administrative Law Judge rules on the motion.

2938.4 If any party files a motion for reconsideration or for a new hearing within the ten (10) calendar day deadline specified in § 2830.3, an Order shall not be final for purposes of appeal to the Commission or the D.C. Court of Appeals, as applicable, until the Administrative Law Judge rules on the motion. The motion shall state whether an appeal has been filed with the Commission or the D.C. Court of Appeals, as applicable. If an appeal has been filed, OAH has no jurisdiction to decide the motion absent a remand for that purpose.

2938.5 Any motion for relief from final order has no effect on the deadline for appealing to the Commission or the D.C. Court of Appeals, as applicable. If an appeal has been filed, OAH has no jurisdiction to decide a motion for relief from final order absent a remand for that purpose.

## **2939 RENTAL HOUSING CASES – APPEALS**

2939.1 For rent stabilization cases, the Administrative Law Judge’s final order is appealable to the Commission. A party shall file a petition for review by the Commission within ten (10) business days of the date of service of the final order.

2939.2 For conversion and sale cases,

(a) In cases involving the rejection of applications pursuant to D.C. Official Code § 42-3405.04, temporary cease and desist orders pursuant to D.C. Official Code § 42-3405.06, or a revocation of certifications or registrations pursuant to D.C. Official Code § 42-3405.07, the Administrative Law Judge’s initial decision is not appealable to the D.C. Court of Appeals. If no party requests reconsideration within the ten (10) calendar day deadline, or following an Administrative Law Judge’s decision on reconsideration, the Conversion and Sale Administrator shall adopt and render the initial decision as a final decision and serve upon each party a final order pursuant



to D.C. Official Code § 42-3405.08. The Conversion and Sale Administrator's final order is appealable to the D.C. Court of Appeals;

- (b) In cases involving petitions for declaratory relief pursuant to D.C. Official Code § 42-3405.03a, the Administrative Law Judge's final order is appealable to the D.C. Court of Appeals; and
- (c) For all appealable final orders, a party shall file a petition for review in the D.C. Court of Appeals within fifteen (15) calendar days of the date of service of the final order.

## **2940 RENTAL HOUSING CASES – OFFICIAL RECORD OF A PROCEEDING**

2940.1 The official record of a proceeding shall consist of the following:

- (a) The final order and any other orders or notices of the Administrative Law Judge;
- (b) The recordings or any transcripts of the proceedings before the Administrative Law Judge;
- (c) All papers and exhibits offered into evidence at the hearing; and
- (d) All papers filed by the parties or the Rent Administrator or Conversion and Sale Administrator, as applicable, at OAH.

2940.2 Documents attached to a petition or other filings shall be offered and received in evidence at a hearing before the Administrative Law Judge can use them to establish facts.

## **2941 RENTAL HOUSING CASES – ATTORNEY'S FEES IN RENT STABILIZATION CASES**

2941.1 All motions for an award of attorney's fees shall be filed within thirty (30) calendar days of service of the final order. But if a timely motion for reconsideration is filed, a motion for an award of attorney's fees shall be filed within thirty (30) days of the service date of the order deciding the motion ~~or within thirty (30) days of the deemed denial date.~~

2941.2 The motion shall state whether an appeal has been filed with the Commission. If an appeal has been filed, OAH has no jurisdiction to decide the motion and it shall be held in abeyance until all appeals of the final order are exhausted.

2941.3 If a party did not prevail before OAH but does so in an appeal to the Commission without remand, the party may file a motion for attorney's fees incurred before

OAH within thirty (30) calendar days of the service date of the Commission's decision.

- 2941.4 A party moving for an award of attorney's fees has the burden of proving the amount of the award with substantial evidence of the hours of services provided and the rates charged for those services. Motions for attorney's fees shall be decided in accordance with the Commission's standards as provided in Title 14 of the DCMR.

**2942 RENTAL HOUSING CASES – INTEREST ON SECURITY DEPOSITS IN RENT STABILIZATION CASES**

- 2942.1 In any case in which a tenant claims entitlement to interest on a security deposit under D.C. Official Code § 42-3502.17(b), the tenant shall produce evidence of the amount of the security deposit that was given to the housing provider, the date on which it was given, and amount of interest, if any, paid to the tenant.

- 2942.2 If the tenant meets the requirements of § 2924.1, the housing provider shall produce evidence of the amount of interest that was earned on the security deposit.

- 2942.3 If the housing provider fails to produce evidence of the amount of interest that was earned, or the security deposit was not held in an interest-bearing account, the Administrative Law Judge shall compute interest by applying the Superior Court of the District of Columbia judgment rate prevailing on January 1st and on July 1st for each six-month (6) period (or part thereof) of the tenancy.

**2950 PUBLIC SECTOR WORKERS' COMPENSATION CASES – SCOPE**

- 2950.1 Sections 2950 through 2956 shall govern OAH hearings of appeals of certain Public Sector Workers' Compensation decisions of the District of Columbia Office of Risk Management (ORM).

- 2950.2 The Rules in Chapter 28 shall apply for procedural issues not addressed in §§ 2950 through 2956.

- 2950.3 OAH shall hear the following appeals from ORM:

- (a) Initial awards for or against compensation benefits pursuant to D.C. Official Code § 1-623.24(b);
- (b) Appeals of overpayment determinations under D.C. Code § 1-623.29(b-1)(1);
- (c) Modifications of awarded benefits pursuant to D.C. Official Code § 1-623.24(d); and

- (d) Requests for determinations of whether a claimant has a permanent disability pursuant to D.C. Official Code § 1-623.06a.

**2951 PUBLIC SECTOR WORKERS' COMPENSATION — BEGINNING A CASE**

2951.1 Appeals shall be initiated by filing a written hearing request at OAH. The request may be made on a form supplied by the Public Sector Workers' Compensation Program (the Program) and approved by OAH. A hearing request shall contain:

- (a) The name, address, and email address of the claimant and of the claimant's representative, if any;
- (b) The type of claim;
- (c) Claimant's employing agency when the injury occurred;
- (d) A statement that the person signing the hearing request has read it and attests that the contents are true and accurate to the best of his or her knowledge;
- (e) The signature of the claimant or the claimant's representative, if any;
- (f) The specific nature and extent of the relief sought;
- (g) A statement that the person signing the hearing request has read it and attests that the contents are true and accurate to the best of his or her knowledge; and
- (h) The signature of the claimant or the claimant's representative, if any.

2951.2 A hearing request shall be accompanied by a copy of the decision being appealed or a copy of the Notice of Benefits Cap for appeals under D.C. Official Code § 1-623.06a if one has been issued.

2951.3 The claimant or claimant's representative shall sign the request for hearing and file it with OAH within thirty (30) days of service of the decision. Section 2811 prescribes procedures for filing.

2951.4 No hearing request shall exceed fifteen (15) pages, exclusive of the cover page. The Clerk may reject hearing requests that do not conform to these Rules.

2951.5 The presiding Administrative Law Judge may excuse a claimant's failure to comply with the specific requirements of this Section.

**2952 PUBLIC SECTOR WORKERS' COMPENSATION — SCHEDULING**

2952.1 After a hearing request is filed, OAH shall send a copy to the Program and may issue a scheduling order for a status conference. At the status conference, the

Administrative Law Judge shall ordinarily issue an order establishing deadlines for the following discovery and hearing activities:

- (a) Serving and filing of Discovery Requests, including designation of expert witnesses and exchange of witness reports, if any;
- (b) Scheduling of depositions of the parties and witnesses;
- (c) Close of Discovery;
- (d) Filing of a Joint Pre-Hearing Statement, including designation of all witnesses that a party proposes to call at the hearing and a list of all exhibits the party proposes to offer into evidence. Copies of all proposed exhibits shall be served on the other party and filed with the Court together with the Joint Pre-Hearing Statement;
- (e) Deadline for any Motions *in Limine* and responses;
- (f) Date and time of the Pre-Hearing Conference; and
- (g) Date and time of the Hearing.

2952.2

The following provisions shall be deadlines for Discovery:

- (a) Discovery Requests. No interrogatories, requests for admission, requests for production or inspection, or other discovery requests may be served after the deadline for discovery requests without approval of an Administrative Law Judge;
- (b) Depositions. Depositions for any purpose shall be noticed at least ten (10) days before the scheduled deposition date and the deposition date shall be before the close of discovery;
- (c) Exchange Lists of Fact Witnesses. On or before the applicable scheduling order deadline(s), each party shall serve and file a list of all the party's fact witnesses, including the address, and telephone number, if available. No witness who is not designated in the lists may be called to testify at the hearing except for impeachment or rebuttal or upon a showing that the party did not learn of the witness until after the deadline. For good cause, an Administrative Law Judge may allow an undesignated witness to testify if allowing the testimony shall not unduly prejudice the opposing party;
- (d) Expert Witness Report. If either party intends to offer an expert opinion, the opposing party may require the party to submit a report of the expert's testimony in accordance with § 2954.2. A treating physician may give opinion testimony about the cause and extent of a claimant's disability without having to prepare a report; and

- (e) Close of Discovery. No deposition or other discovery may be had after the applicable scheduling order deadline except by permission of an Administrative Law Judge upon a showing of good cause.

2952.3 The presiding Administrative Law Judge may schedule continued status conferences and extend discovery deadlines as may be appropriate. Before filing a motion to extend discovery, or to reschedule a status conference, a party shall seek consent of the opposing party as required by § 2817.5.

### **2953 PUBLIC SECTOR WORKERS' COMPENSATION — PRE-HEARING CONFERENCE**

2953.1 In accordance with the scheduling order, the parties shall file a Joint Pre-Hearing Statement that includes the following:

- (a) A joint statement of the case, including all stipulated facts;
- (b) A statement of the remaining issues in dispute;
- (c) A statement of any objections to admissibility of proposed exhibits, including the specific grounds for the objections;
- (d) A list of each party's proposed witnesses, excluding witnesses offered solely for impeachment or rebuttal;
- (e) A list of the exhibits each party proposes to offer, together with a copy of the exhibit. Claimants' exhibits shall be numbered 100 through 199. Agency exhibits shall be numbered 200 through 299. The parties are encouraged, but not required, to number the pages of the cumulative exhibits consecutively (Bates stamped), to avoid confusion about page references in the record; and
- (f) Designation of portions of deposition transcripts and discovery responses to be used at the Hearing (except for transcripts of depositions of expert witnesses).

2953.2 Each party shall serve and file any Motion *in Limine* or other motion concerning the conduct of the Hearing prior to the applicable scheduling order deadline.

2953.3 At the Pre-Hearing Conference the Administrative Law Judge shall discuss and make rulings on the following matters:

- (a) Whether the parties will agree to additional stipulations of fact or to the admissibility of exhibits;
- (b) The need to exchange any additional medical or vocational reports or other documents;

- (c) The approximate time that each party will require for the Hearing and whether it may be appropriate to set time limits or to limit the number of witnesses;
- (d) Resolution of any pending motions;
- (e) Whether the Hearing will be conducted in person, via videoconference, or via teleconference;
- (f) Whether interpreters will be needed; and
- (g) Any other matters that may be appropriate.

**2954 PUBLIC SECTOR WORKERS' COMPENSATION — DISCOVERY**

2954.1 Each party shall disclose the identity and proposed testimony of any expert witness in accordance with the scheduling order issued pursuant to § 2952.1.

2954.2 Unless otherwise stipulated, any Expert Witness Report shall contain the following:

- (a) A statement of all opinions the witness will express and the basis for those opinions;
- (b) The data or other information considered by the witness in forming them;
- (c) Any exhibits that will be used to summarize or support them;
- (d) The witnesses' qualifications, including a list of all publications authored in the previous ten (10) years;
- (e) A list of all other cases in which, during the previous four (4) years, the witness testified as an expert at trial or by deposition;
- (f) A statement of the compensation to be paid for the study and testimony in the case; and
- (g) The following certification signed by the witness: "I hereby certify that this report is a complete and accurate statement of all my opinions, and the basis and reasons for them, to which I will testify under oath."

2954.3 A party may depose any person who has been identified as an expert and whose opinions may be presented at the Hearing.

2954.4 Interrogatories. Unless otherwise stipulated or ordered, a party may serve on any other party no more than twelve (12) written interrogatories, including subparts. The interrogatories shall be answered as follows:

- (a) By the party to whom they are directed or, if by the District, by any officer or agent, who shall furnish the information available to the party;

- (b) The responding party shall serve answers or objections within twenty-one (21) days after being served;
- (c) Objections to interrogatories shall be stated specifically. Each interrogatory shall, to the extent it is not objected to, be answered separately and fully in writing under oath. Answers and objections shall identify and quote each interrogatory in full immediately preceding the answer or objection;
- (d) The person who makes the answers shall sign them, and the attorney who objects shall sign any objections; and
- (e) If the answer to an interrogatory may be determined by examining, auditing, compiling, abstracting, or summarizing a party's business records, including electronically stored information, and if the burden of deriving or ascertaining the answer is substantially the same for either party, the responding party may answer by:
  - (1) Specifying the records that shall be reviewed in sufficient detail to enable the interrogating party to locate them as readily as the responding party; and
  - (2) Giving the interrogating party a reasonable opportunity to examine and audit the records and to make copies, compilations, abstracts, or summaries.

2954.5 Requests for Production of Documents. Requests shall be made and responded to in accordance with D.C. Superior Court Civil Rule 34.

2954.6 Requests for Admission. Unless otherwise stipulated or ordered, a party may serve no more than fifteen (15) requests for admission on the other party. Requests shall be made and responded to in accordance with D.C. Superior Court Civil Rule 36.

2954.7 Depositions. Depositions shall be conducted in accordance with D.C. Superior Court Civil Rules 30 and 31.

2954.8 Motions to Compel Discovery. No party shall file a Motion to Compel Discovery without permission of the presiding Administrative Law Judge. Permission shall be granted only after the parties or counsel have conferred in an effort to resolve the dispute or a party or counsel has made at least three (3) attempts to contact the opposing party or counsel without success to set up a meeting to confer.

- (a) If the parties are unable to resolve the dispute after discussing it for a reasonable period, they shall request a telephone conference with the presiding Administrative Law Judge.

- (b) If the dispute cannot be resolved by conference call with the Administrative Law Judge, the Administrative Law Judge may direct the moving party to file a motion to compel discovery.
- (c) Before filing a Motion to Compel Discovery without having conferred with the opposing party or counsel, the moving party or counsel shall submit a written description of three separate attempts to contact the opposing party or counsel by telephone or email, including dates and times, and describe any response that was received. If an Administrative Law Judge finds that a party has made a good faith effort to resolve the issue, the Administrative Law Judge may direct the moving party to file a Motion to Compel Discovery. The Administrative Law Judge may also impose appropriate sanctions on the opposing party.
- (d) Any Motion to Compel Discovery shall state specifically the Discovery that was requested, and any objections raised by the opposing party and specify the information or documents that the opposing party declined to provide.
- (e) An opposing party may respond to a Motion to Compel Discovery within the time specified in § 2813.6 or such other time as the presiding Administrative Law Judge shall specify.

2954.9 Sanctions. If the District's Motion to Compel Discovery is granted, in addition to other sanctions that the presiding Administrative Law Judge may impose, the Administrative Law Judge shall deduct any reasonable expenses, costs, and fees incurred by the District, including attorney's fees, from any award of attorney's fees to the Claimant.

## **2955 PUBLIC SECTOR WORKERS' COMPENSATION — HEARINGS**

2955.1 The rules for hearings and evidence set forth in § 2823 shall apply to Public Sector Workers' Compensation hearings except as modified in this Section.

2955.2 All hearings shall be recorded. Any party may obtain a copy of the recording in accordance with § 2828.2. Except where OAH is required by law to prepare a transcript, parties who want written transcripts shall prepare them at their own expense in accordance with § 2828.3.

2955.3 The party with the ultimate burden of proof ordinarily shall go first, but the presiding Administrative Law Judge may change the order of presentation to accommodate the availability of witnesses or the needs of the parties.



**2956 PUBLIC SECTOR WORKERS' COMPENSATION — ATTORNEY'S FEES**

2956.1 An attorney who has represented a claimant who seeks to recover attorney's fees shall file a motion within thirty (30) days of the issuance of a final decision. The motion shall contain the following information:

- (a) An itemized description of each service rendered, including the date and the amount of time spent. Time shall be recorded in intervals of no greater than  $\frac{1}{4}$  hour. Intervals of one-tenth ( $\frac{1}{10}$ ) hour are preferred;
- (b) The amount of the fee which the attorney seeks; and
- (c) A statement explaining the basis for the requested fee.

2956.2 In determining the amount of any award, the Administrative Law Judge shall consider at least the following factors:

- (a) The nature, novelty, and complexity of the case;
- (b) The time and labor required;
- (c) The amount of benefits awarded;
- (d) Customary local charges for similar services; and
- (e) The professional qualifications of the attorney or other representative.

2956.3 Claims for attorney's fees are governed by D.C. Official Code § 1-623.27 and the Public Sector Workers' Compensation Benefits Rule on Attorney's Fees, 7 DCMR § 162.

**2970 PUBLIC BENEFITS CASES – SCOPE**

2970.1 Sections 2970 through 2979 shall govern hearings requested by individuals, other than service providers, concerning the following benefits:

- (a) Medicaid, Healthcare Alliance, or other healthcare programs administered by the District of Columbia;
- (b) Temporary Assistance for Needy Families (TANF);
- (c) Supplemental Nutrition Assistance Program (SNAP) (formerly Food Stamps);
- (d) Interim Disability Assistance;
- (e) Shelter and services for homeless persons;

- (f) Rental Assistance programs;
- (g) General Assistance for Children;
- (h) Child Care Subsidy;
- (i) Program on Work, Employment, and Responsibility (POWER);
- (j) Burial Assistance;
- (k) Any other benefits provided by the District of Columbia Department of Human Services (DHS);
- (l) Low Income Home Energy Assistance Program benefits provided by the District of Columbia Office of Energy and the Environment (DOEE);
- (m) Vocational Rehabilitation Services;
- (n) Randolph Sheppard Vending Facilities Program (RSVFP); and
- (o) Benefits subject to a complaint made under the District of Columbia Department of Disability Services' (DDS) Formal Complaint Process.

2970.2 Sections 2970 through 2979 also shall govern hearings requested by DHS when it seeks to disqualify someone from receiving SNAP (formerly Food Stamps) benefits due to an intentional program violation.

2970.3 The Rules in Chapter 28 shall apply for procedural issues not addressed in §§ 2970 through 2979.

2970.4 If there is a conflict between any federal law or regulation and anything in these Rules, the federal law or regulation shall control.

2970.5 If there is a conflict between any District of Columbia statute and these Rules, the District of Columbia statute shall control.

2970.6 If there is a conflict between any other agency's procedural rules or regulations and these Rules, these Rules shall control.

## **2971 PUBLIC BENEFITS CASES – BEGINNING A CASE**

2971.1 A person can request a hearing by e-mailing, filing via eFiling portal, mailing, ~~faxing~~, or bringing a written request to OAH, or by making an oral request in person at OAH or by telephone to OAH. OAH's email address is [oah.filing@dc.gov](mailto:oah.filing@dc.gov); ~~its fax number is 202-442-4789~~, its telephone number is 202-442-9094; ~~and its street~~

and mailing address is Office of Administrative Hearings, One Judiciary Square, 441 4<sup>th</sup> Street, NW, Suite 450 North, Washington, DC 20001.

2971.2 Hearing request forms shall be available at OAH (including on its website), at all DHS service centers, at the District of Columbia Department of Health Care Finance (DHCF), at DOEE, at the Division of Early Childhood Education at OSSE, and at DDS, Rehabilitation Services Administration.

- 2971.3 (a) A hearing request shall describe:
- (1) The type(s) of benefits involved;
  - (2) The action or inaction to which the person objects; and
  - (3) The name and, to the extent available, the telephone number, mailing address, and e-mail address of the person requesting a hearing.
- (b) Persons who request a hearing under the Homeless Services Reform Act may provide only an e-mail address at which they can receive any papers in the case, including notices and orders, if they do not have a street address or post office box where they can receive mail.
- (c) If available, a copy of the agency's notice of its action or decision shall be attached to the hearing request. A hearing request that does not contain a copy of the notice ~~need~~ shall not be rejected on that basis alone.

2971.4 To make a hearing request in writing, a person may email, file via eFiling portal, mail, ~~fax~~, or bring a written request to:

- (a) A DHS;
- (b) DHCF for a hearing concerning Medicaid, Healthcare Alliance, or other healthcare programs administered by the District of Columbia;
- (c) DOEE for a hearing concerning Low Income Home Energy Assistance Program benefits (LIHEAP);
- (d) A shelter or other service provider for a hearing under the Homeless Services Reform Act;
- (e) The Division of Early Childhood Education at OSSE for a hearing concerning childcare benefits;
- (f) DDS, Rehabilitation Services Administration, for a hearing concerning vocational rehabilitation services; or

(g) OAH.

2971.5 To make a hearing request in person, a person may visit:

- (a) A DHS service center;
- (b) DHCF, or the Office of the Health Care Ombudsman and Bill of Rights, for a hearing concerning Medicaid, Healthcare Alliance, or other healthcare programs administered by the District of Columbia, or the Aging and Disability Resource Center for a hearing concerning the Elderly and Persons with Physical Disabilities (EPD) waiver program;
- (c) DOEE, for a hearing concerning Low Income Home Energy Assistance Program benefits (LIHEAP);
- (d) The Division of Early Childhood Education at the OSSE, for a hearing concerning childcare benefits;
- (e) DDS, Rehabilitation Services Administration, for a hearing concerning vocational rehabilitation services; or
- (f) OAH.

2971.6 To make a hearing request by telephone, a person may call:

- (a) DHS;
- (b) DHCF, for a hearing concerning Medicaid, Healthcare Alliance, or other healthcare programs administered by the District of Columbia;
- (c) The Division of Early Childhood Education at OSSE, for a hearing concerning child-care benefits; or
- (d) DDS, Rehabilitation Services Administration, for a hearing concerning vocational rehabilitation services; or
- (e) OAH.

2971.7 If the agency or service provider receives a written hearing request, it shall file the request with OAH within three (3) calendar days of receiving the request.

2971.8 If the agency or service provider receives an oral or telephone hearing request, it shall prepare and file a hearing request form with OAH within three (3) calendar days of receiving the request.

- 2971.9 If OAH receives a written hearing request from an individual, it shall send the request to any agency or service provider whose decision is being challenged.
- 2971.10 If OAH receives an oral or telephone hearing request from an individual, it shall complete a written summary of the request and send it to any agency or service provider whose decision is being challenged.
- 2971.11 **If DHS requests** ~~can request~~ a hearing concerning a claim that a SNAP (formerly Food Stamps) recipient should be disqualified from receiving benefits due to an intentional program violation, **it shall do so** by completing and filing a hearing request form approved by the Chief Administrative Law Judge.

**2972 PUBLIC BENEFITS CASES – REPRESENTATION BY ATTORNEYS**

- 2972.1 An attorney or a law student may represent an applicant for, or recipient of, public benefits pursuant to § 2808. An attorney entering an appearance under § 2808 may withdraw an appearance only as allowed under § 2809.
- 2972.2 An attorney who meets the qualifications to represent a party under § 2808 may limit the scope of representation in accordance with this Section. Scope of representation may be limited by date, time period, activity, or subject matter.
- 2972.3 A party shall agree to the scope of representation. A party and an attorney may provide notice of their agreement to limited scope representation and specify the scope of representation by filing and serving a *Notice of Limited Scope Representation*.
- 2972.4 If the scope of representation is limited by date or time period, the attorney's appearance terminates at the end of the date or time period, without the necessity of leave of court. If the scope of representation is limited by activity or subject matter, the attorney's appearance terminates upon the attorney filing a *Notice of Completion*, which shall be filed with OAH and served on each party, including the attorney's client.
- 2972.5 Service on an attorney who has entered a limited appearance is required only for matters within the scope of the representation as stated in the notice. Service shall also be made on the party. Service on the attorney for matters outside the scope of the limited appearance does not extend the scope of the attorney's representation.
- 2972.6 An attorney may extend a limited appearance only by filing and serving a new notice of limited appearance pursuant to this Section or by filing and serving a *Notice of General Appearance* pursuant to § 2808.

**2973 PUBLIC BENEFITS CASES – REPRESENTATION BY NON-ATTORNEYS**

2973.1 An applicant for, or recipient of, public benefits may be represented by a relative, a friend, or any other representative who is not employed by the District of Columbia government.

2973.2 ~~An Administrative Law Judge may require any~~ Any person who is not a lawyer and who requests a hearing on behalf of another person shall ~~to~~ file a statement, signed by that other person, authorizing the non-lawyer to be a representative. A hearing request is subject to dismissal if the required statement is not filed.

2973.3 In accordance with the District of Columbia Public Assistance Act, D.C. Official Code § 4-210.10, if the public benefits applicant or recipient who requested the hearing is not represented by a lawyer, the District or a service provider may not be represented by a lawyer at any hearing involving the following public benefit programs:

- (a) Medicaid, Healthcare Alliance or other healthcare programs administered by the District of Columbia;
- (b) Temporary Assistance for Needy Families (TANF);
- (c) SNAP (formerly Food Stamps);
- (d) Interim Disability Assistance;
- (e) General Assistance for Children;
- (f) Shelter and services for homeless persons; and
- (g) Program on Work Employment and Responsibility (POWER).

2973.4 The District or a service provider may be represented by a lawyer at a hearing involving any other public benefit program regardless of whether the person who requested a hearing is represented by a lawyer.

2973.5 Sections 2808 and 2810 shall govern the practice of non-attorney representatives.

**2974 PUBLIC BENEFITS CASES – ADMINISTRATIVE REVIEWS**

2974.1 An administrative review is an informal meeting between the person who has requested a hearing at OAH and a representative of the agency or service provider whose action or inaction is being challenged by that person. The purpose of an administrative review is to determine whether the agency's or service provider's position is valid and, if possible, to achieve an informal solution.

2974.2 An agency or service provider shall offer each person who requests a hearing at OAH an opportunity for an administrative review, if required by law. At least five (5) calendar days before the hearing date, the agency or service provider shall file and send to all parties and their representatives a status report, which says whether an administrative review was held, and the results of any review.

2974.3 In cases involving shelter or other services for homeless persons, as required by the Homeless Services Reform Act, DHS ~~the Department of Human Services~~ shall conduct the administrative review.

2974.4 As required by law, the agency or service provider shall make the case file available to the person who requested the hearing.

## **2975 PUBLIC BENEFITS CASES – SUBPOENAS**

2975.1 Any party may file a request in writing for an Administrative Law Judge to issue a subpoena to require a witness to attend a hearing.

2975.2 The Administrative Law Judge shall issue a subpoena under this Section if it is likely that the witness will be able to provide testimony that will be helpful in deciding the case, and if requiring the witness to appear will not be unduly burdensome or otherwise contrary to law.

2975.3 Any party also may request a subpoena to require a witness to bring documents, photographs, or other materials to present as evidence at the hearing. The Administrative Law Judge shall issue a subpoena if it is likely that the requested items will be helpful in deciding the case, and if requiring those items to be produced will not be unduly burdensome or otherwise contrary to law.

2975.4 A form to be used to request a subpoena is available from OAH.

2975.5 If an Administrative Law Judge issues a subpoena, the party requesting the subpoena shall deliver it pursuant to §§ 2824.6 through 2824.9 and 2824.11. Unless otherwise ordered by an Administrative Law Judge, delivery shall be made at least two (2) days before the hearing.

## **2976 PUBLIC BENEFITS CASES – HEARING DATES**

2976.1 After a hearing request is filed, an Administrative Law Judge ordinarily shall schedule a hearing. If any applicable law requires that an administrative review be completed before a hearing takes place, a hearing shall not take place until the administrative review has been completed; a statutory deadline for completing the administrative review has passed; or the party requesting a hearing has waived their right to the administrative review.

2976.2 An Administrative Law Judge may schedule a status conference or other preliminary hearing to simplify the issues in the case, identify the parties' legal and factual positions, rule on any preliminary legal issues, or for any other purpose.

2976.3 Any party may ask an Administrative Law Judge for a different hearing date. Copies of a request form shall be sent with any hearing notice and are available from OAH.

2976.4 Only an Administrative Law Judge ~~can~~may change a hearing date.

## **2977 PUBLIC BENEFITS CASES – HEARINGS AND EVIDENCE**

2977.1 The Administrative Law Judge shall decide at each hearing the order in which the parties will present their cases.

2977.2 If a party who requests a hearing fails to attend the hearing or a status conference without good cause, the Administrative Law Judge may dismiss the case without prejudice. "Good cause" for failing to attend a hearing or status conference includes, but is not limited to: serious illness, an accident, an unexpected child-care issue, severe weather conditions, or other emergency.

2977.3 If the agency or service provider whose action or inaction is being challenged fails to attend the hearing, the Administrative Law Judge may rule in favor of the person who requested the hearing.

2977.4 In a SNAP (formerly Food Stamps) Intentional Program Violation case, the District shall prove its case even if the other party fails to attend the hearing.

2977.5 Parties shall have the following rights at a hearing:

- (a) To testify and to have other witnesses testify for them;
- (b) To cross-examine witnesses called by another party;
- (c) To request that any prospective witness be excluded from the courtroom;
- (d) To examine all exhibits offered into evidence by another party;
- (e) To object to the admission of any testimony or other evidence;
- (f) To subpoena witnesses, as provided in § 2975; and
- (g) To appear with a representative, as provided in §§ 2972 and 2973.

2977.6 At a hearing, all parties may present evidence. "Evidence" includes testimony by the parties and any witnesses that a party may present. Evidence also includes



documents, photographs, or any other items that a party believes may help the Administrative Law Judge decide the case. The Administrative Law Judge shall decide what evidence becomes part of the record.

2977.7 Unless otherwise ordered by the presiding Administrative Law Judge, at least five (5) calendar days before the hearing date, each party shall file with OAH, and send to the other parties, a list of witnesses' names and addresses, if available; and copies of any documents, photographs, or other items that the party wants the Administrative Law Judge to consider at the hearing. If the party who requested a hearing needs assistance copying or scanning documents or photographs, the party may request assistance from OAH.

2977.8 If anything is not filed according to the requirements of § 2977.7, and the other party shows that it has been prejudiced, the Administrative Law Judge shall have the discretion to set a new hearing date to allow the other party to prepare.

2977.9 If any party demonstrates that it has been prejudiced by the unexpected appearance of a witness, the Administrative Law Judge shall have the discretion to set a new hearing date to allow the other party to prepare for the witness testimony. If a witness was named on the witness list in the manner provided in § 2977.7, the Administrative Law Judge shall find that there has been no prejudice.

## **2978 PUBLIC BENEFITS CASES – DEADLINES**

2978.1 If a federal or District of Columbia law or regulation imposes any time limitation for issuing or serving the decision in a particular public benefits matter, that law or regulation shall govern.

## **2979 PUBLIC BENEFITS CASES – REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER**

2979.1 Motions for reconsideration, a new hearing, or relief from a final order shall be decided in accordance with § 2830.

## **2980 UNEMPLOYMENT INSURANCE CASES – SCOPE**

2980.1 Sections 2980 through 2986 shall govern hearings of appeals of decisions of the District of Columbia Department of Employment Services (DOES) concerning unemployment compensation insurance.

2980.2 The Rules in Chapter 28 shall apply for procedural issues not addressed in §§ 2980 through 2986.

2980.3 If there is a conflict between any federal law or regulation and anything in these Rules, the federal law or regulation shall control.

2980.4 If there is a conflict between any District of Columbia statute and anything in these Rules, the District of Columbia statute shall control.

2980.5 If there is a conflict between any other agency's procedural rules or regulations and these Rules, these Rules shall control.

**2981 UNEMPLOYMENT INSURANCE CASES – BEGINNING A CASE**

2981.1 A party requesting a hearing to appeal a DOES Claims Examiner's Determination in an unemployment compensation case shall file a copy of the determination that the party is appealing with the hearing request. If the party does not file a copy of the determination, OAH shall issue an order directing the party to file a copy of the determination in order to establish OAH's jurisdiction. If the copy is not provided, OAH may dismiss the case.

2981.2 In unemployment compensation cases, OAH may extend the deadline for filing a hearing request upon a showing of excusable neglect or good cause.

2981.3 Section 2805 shall govern all other procedures for requesting a hearing.

**2982 UNEMPLOYMENT INSURANCE CASES – REPRESENTATIVES**

2982.1 An authorized agent employed by a firm whose usual business includes providing representation in unemployment compensation cases may represent any party.

2982.2 Sections 2808 and 2810, shall govern the practice of lawyers or other party representatives.

**2983 UNEMPLOYMENT INSURANCE CASES – FILING OF PAPERS**

2983.1 (a) When a request for hearing is mailed to OAH, if the envelope containing the request bears a legible USPS postmark or if there is other proof of the mailing date, the request shall be considered filed on the mailing date. The filing date cannot be established by a private postage meter postmark alone.

(b) When a request for hearing is delivered to OAH by commercial carrier, the filing date is the date the commercial carrier received the request for delivery to the Clerk's Office, if the cost of delivery is prepaid and delivery is to occur within three (3) calendar days of the commercial carrier's receipt. The date of commercial carrier's receipt shall be established by a document or other record prepared by the commercial carrier in the normal course of business.

2983.2 Section 2811 shall govern all other procedures for filing papers.

**2984 UNEMPLOYMENT INSURANCE CASES – SUBPOENAS**

- 2984.1 In unemployment compensation cases, the Clerk shall issue no more than three (3) subpoenas to each party under § 2824.5 to compel:
- (a) The appearance at a hearing of persons who have direct knowledge of Claimant's separation from employment or of the reasons for an adverse action regarding Claimant's benefits; or
  - (b) The production at a hearing of documents, dated no earlier than six (6) months before the date of separation, in the other party's possession that directly relate to Claimant's separation from employment or to the reasons for an adverse action regarding Claimant's benefits.
- 2984.2 Service of a subpoena for a witness to appear at a hearing shall be made by personally delivering the subpoena to the witness. Unless otherwise ordered by an Administrative Law Judge, service shall be made at least two (2) calendar days before the hearing.
- 2984.3 Section 2824 shall govern all other procedures for subpoenas.

**2985 UNEMPLOYMENT INSURANCE CASES – HEARINGS AND EVIDENCE**

- 2985.1 At least three (3) business days before a hearing in an unemployment compensation case, a party shall serve on all other parties and file with the Clerk the following:
- (a) A list of the witnesses, other than a party, whom the party intends to call to testify; and
  - (b) A copy of each exhibit that the party intends to offer into evidence, other than exhibits to be used solely for impeachment or rebuttal.
- 2985.2 Section 2823 shall govern all other procedures for hearings.

**2986 UNEMPLOYMENT INSURANCE CASES – REQUESTING RECONSIDERATION, A NEW HEARING, OR RELIEF FROM A FINAL ORDER**

- 2986.1 Section 2830 shall govern decisions on motions for reconsideration, a new hearing, or relief from a final order.

**2999 DEFINITIONS**

- 2999.1 Unless otherwise provided, the definitions in Chapter 28 apply to this chapter.
- 2999.2 For purposes of this chapter, the term:

**CASD** means the Conversion and Sale Division of the Department of Housing and Community Development.

**Commission** means the Rental Housing Commission.

**Contested residency case** means a case in which an adult student or a minor student's parent or guardian has filed, pursuant to 5-E DCMR § 2009.3, a request for review of a decision by DCPS that a student is not entitled to tuition-free education because the student is not a resident of the District of Columbia.

**Conversion and Sale Act** means the Rental Housing Conversion and Sale Act of 1980, effective September 10, 1980 (D.C. Law 3-86; D.C. Official Code §§ 42-3401.01 – 3405.13).

**Conversion and Sale Administrator** means the Conversion and Sale Administrator of CASD

**DCPS** means District of Columbia Public Schools.

**DDS** means District of Columbia Department on Disability Services.

**DFHV** means District of Columbia Department of For-Hire Vehicles.

**DFHV Act** means the Department of For-Hire Vehicles Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code §§ 50-301.01 - .34)

**DHCF** means District of Columbia Department of Health Care Finance.

**DHS** means District of Columbia Department of Human Services.

**Disciplinary file** means any and all tangible evidence, in DCPS's possession, which forms the basis for the school's decision to propose the specific disciplinary action, including, but not limited to, student, staff, and other witness statements, incident reports, photographs, police reports, and security camera footage. Nothing in these rules prohibits DCPS from redacting any information it deems confidential or protected.

**District of Columbia or District** means the District of Columbia, or any government agency authorized by law to prosecute cases before OAH and whose administrative litigation falls under the jurisdiction of OAH, but does not include OAH.

**DOEE** means District of Columbia Department of Energy and Environment.

**DOES** means District of Columbia Department of Employment Services.

**Homeless Services Reform Act** means the Homeless Services Reform Amendment Act of 2017, effective February 28, 2018 (D.C. Law 22-65; D.C. Official Code §§ 4-751.01 – 756.07).

**Limited scope representation** means a relationship between an attorney and a person seeking legal services in which they have agreed that the scope of the legal services shall be limited by date, time period, activity, or subject matter.

**ORM** means District of Columbia Office of Risk Management.

**OSSE** means District of Columbia Office of the State Superintendent of Education.

**RAD** means the Rental Accommodations Division of the Department of Housing and Community Development.

**Rent Administrator** means the Rent Administrator of the RAD.

**Rental Housing Act** means the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code §§ 42-3501.01 – 3509.10).

**Rental housing cases** means cases initiated pursuant to the Rental Housing Act and the Rental Housing Conversion and Sale Act.

**School day** means a day that school is open, whether or not students are attending, but does not include any day that OAH is closed.

**Service Provider** means a person or entity that furnishes assistance to members of the public through a contract with or funding from the District.

**Student discipline case** means a case in which DCPS seeks to expel a student or to suspend a student for at least six (6) days.

All persons desiring to comment on the subject matter of this proposed rulemaking should submit comments in writing no later than seven (7) days after the date of publication of this notice in the *District of Columbia Register* via e-mail to [johnnie.barton@dc.gov](mailto:johnnie.barton@dc.gov), or to the Office of Administrative Hearings, 441 Fourth Street NW, Suite 450N, Washington, DC 20001, Attn: Johnnie Barton, Attorney Advisor. Copies of this proposed rulemaking may be obtained from [www.oah.dc.gov](http://www.oah.dc.gov) or from the address listed above.

## DEPARTMENT OF HUMAN SERVICES

**SECOND NOTICE OF EMERGENCY RULEMAKING**

The Director of the District of Columbia (District) Department of Human Services (Department or DHS), pursuant to the authority set forth in Section 31 of the Homeless Services Reform Act of 2005 (HSRA), effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-756.02), and pursuant to Mayor's Order 2006-20, dated February 13, 2006, hereby gives notice of the intent to adopt the following amendments to Chapter 78 (Family Re-Housing and Stabilization Program) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR), to become effective immediately.

The purpose of these rules is to amend the existing Chapter 78, which was adopted via a final rulemaking published at 63 DCR 005273 on April 8, 2016. Chapter 78 established the District's Family Re-Housing and Stabilization Program (FRSP). FRSP provides time-limited rental assistance to District residents who are experiencing homelessness or are at risk of experiencing homelessness. Families are offered a range of services, tailored to the unique needs and strengths of the entire household, to assist them in achieving greater housing stability and economic security, including individualized case management services, housing identification, connection to government and community-based resources, and time-limited rental subsidies.

Emergency action is necessary to promote the immediate preservation of the health, safety, and welfare of District residents who are experiencing homelessness or at risk of experiencing homelessness by permitting the Department to administer FRSP in compliance with policy changes reflected in these rules. The Department must have these critical policy changes in place to facilitate FRSP program exits through the end of Fiscal Year 2024.

The Department Director first adopted emergency rules on March 1, 2024, pursuant to a Notice of Emergency and Proposed Rulemaking published in the *District of Columbia Register* on March 22, 2024, at 71 DCR 003298. This second emergency rulemaking is necessary to maintain the rules in effect while the Department evaluates the experience of the first group of FRSP program exits since the COVID-19 pandemic, incorporates changes due to pending legislation, and prepares a final or second proposed rulemaking, which the Council must then review under Section 31 of the HSRA (D.C. Law 16-35; D.C. Official Code § 4-756.02).

These emergency rules were adopted on September 17, 2024, went into effect at that time, and shall remain in effect for one hundred and twenty (120) days from the adoption date or until January 15, 2025, unless superseded by publication of a Notice of Final Rulemaking in the *District of Columbia Register*.

**Amend Chapter 78 (Family Re-Housing and Stabilization Program) of Title 29 (Public Welfare) of the DCMR to read as follows:**

**CHAPTER 78      FAMILY RE-HOUSING AND STABILIZATION PROGRAM**

**7800 SCOPE**

- 7800.1 The purpose of the Family Re-Housing and Stabilization Program (“FRSP” or “Program”) is to support District residents who are experiencing homelessness or at imminent risk of experiencing homelessness, to achieve stability in permanent housing through individualized and time-limited assistance within the twelve (12)-month maximum allowable program assistance time period.
- 7800.2 FRSP participants shall work with their assigned Service Provider to increase their income during the program assistance period and attain at least the District’s minimum wage. In cases where a disabling condition prevents the participant from increasing income, the Service Provider will assess the family for additional services and refer them for appropriate services.
- 7800.3 FRSP offers a range of supports that are responsive to participant needs, including: optional individualized case management services, housing identification, connection to mainstream and community-based resources, and financial assistance.
- 7800.4 The provisions of this chapter describe the application process, eligibility criteria, assistance determination, description of assistance provided, and appeal procedures for the Program.
- 7800.5 Nothing in these rules shall be interpreted to mean that FRSP assistance is an entitlement. This Program shall be subject to annual appropriations and the availability of funds.
- 7800.6 The Department may execute contracts, grants, and other agreements as necessary to carry out the Program.

**7801 APPLICATION PROCESS**

- 7801.1 Each FRSP application shall be in writing on a form provided by the Department, signed by the applicant, and submitted to the Eligibility Provider. An authorized representative may apply on behalf of the applicant, if the applicant provides the Department a written and signed statement indicating the name and address of the person authorized to act on the applicant’s behalf.
- 7801.2 If an applicant with a disability or the authorized representative of an applicant with a disability requests assistance to complete the FRSP application, the Eligibility Provider shall assist such applicant or authorized representative with the application process to ensure that the applicant has an equal opportunity to submit an application.

- 7801.3 The Department shall provide FRSP application forms to the Eligibility Provider to use and disseminate to applicants, and the Eligibility Provider shall accept applications from each applicant who requests and is referred for FRSP assistance.
- 7801.4 At the time of application, the Eligibility Provider shall provide each applicant with a written FRSP notice explaining the program. Each applicant shall personally, or through an authorized representative, sign an FRSP notice acknowledgement form, acknowledging receipt of the FRSP notice.
- 7801.5 Each applicant, personally or through an authorized representative, shall sign an FRSP release form authorizing the Eligibility Provider to obtain or verify information necessary for processing the application.
- 7801.6 Each applicant shall provide the following information to the Eligibility Provider to determine the household's ability to achieve housing stability independent of the Program by the end of the FRSP assistance period.
- (a) The circumstances that brought about the applicant's experience of homelessness, or imminent risk of homelessness;
  - (b) Willingness to actively engage in the application process by providing required documents within the agreed upon timeline to their assigned case managers; and
  - (c) Documentation of the following:
    - (1) Household composition;
    - (2) Employment status and employment history;
    - (3) Income and financial assets history;
    - (4) Household expenses;
    - (5) Rental and other relevant housing history;
    - (6) Facts and circumstances surrounding financial and other barriers to housing stability; and
    - (7) Facts and circumstances surrounding work experience, education, or training that can contribute to the household's ability to achieve housing stability independent of the Program by the end of the FRSP assistance period.
- 7801.7 The request for documentation under § 7801.6(c) may be waived if the applicant signs a declaration containing the necessary information listed in § 7801.6(c).



- 7801.8 The applicant shall complete an Affordability Assessment that outlines the family's projected ability to pay thirty percent (30%) of their monthly income towards their rental obligation each month to help the applicant select appropriate housing. The affordability assessment includes:
- (a) Current income;
  - (b) Expected future income;
  - (c) Employment History; and
  - (d) Employment potential based on job skills, certifications, or participation in a training or employment program.
- 7801.9 The Eligibility Provider and the Department may attempt to verify the information in Section 7801.6 using any third-party data sources to which it has legal access to verify Program eligibility. The Eligibility Provider may use, among other things, documents, telephone conversations, personal and collateral interviews, reports, correspondence, and conferences to verify applicant information.
- 7801.10 If additional information is needed from the applicant to determine eligibility for the Program, the Eligibility Provider shall make the request, in writing, for additional information, which shall specify the information needed to complete the application. The written request shall also include information to assist the applicant with obtaining the required information or offer appropriate assistance in obtaining the required information. The application shall be considered complete when all required information is provided to the Eligibility Provider.
- 7801.11 If an applicant has not obtained and provided to the Eligibility Provider the required information for eligibility determination under § 7801 within thirty (30) calendar days of the date of application, then the Eligibility Provider shall make documented efforts to contact the applicant both by telephone and in writing to discuss whether the applicant wants to complete their application, and any barriers that are delaying the requested documentation.
- (a) If, at such time, contact with the applicant is made and services are still requested, the Eligibility Provider will take appropriate steps to assist the applicant in obtaining the required information.
  - (b) If, at such time, contact cannot be made, or the applicant no longer requests the services, an application shall be considered abandoned. The Department shall issue the applicant a written notice indicating that the application has been abandoned.

7801.12 The Eligibility Provider shall refer a complete application to the Department to determine eligibility.

**7802 APPLICANT UNIT**

7802.1 The applicant unit shall be composed of each individual who lives in the same household as the applicant and whose needs, assets, and income are combined to determine eligibility.

7802.2 To determine the household composition of the applicant unit, the Department shall consider individuals who live in the same physical housing unit as the applicant, including:

- (a) Persons related by blood or legal adoption with legal responsibility for minor children in the household;
- (b) Persons related by marriage or domestic partnership (as defined by Section 2(4) of the Health Care Benefits Expansion Act of 1992, effective June 11, 1992 (D.C. Law 9-114; D.C. Official Code § 32-701(4)), including stepchildren and unmarried parents of a common child who live together;
- (c) Persons with a legal responsibility for an unrelated minor child or an unrelated adult with a disability;
- (d) Any person not included by § 7802.2(a)-(c), regardless of blood relationship, age, or marriage, whose history and statements reasonably demonstrate that the individuals intend to remain together in the same household; and
- (e) Children who live in the household for fifty percent (50%) or more of the time.

7802.3 A person temporarily away from home due to employment, school, hospitalization, legal proceedings, or vacation shall be considered to be living in the household. A minor child who is away at school is considered to be living in the household if he or she returns to the housing unit on occasional weekends, holidays, school breaks, or during summer vacations. For purposes of this section, “temporarily” means no more than six (6) months at a time.

**7803 ELIGIBILITY CRITERIA**

7803.1 An applicant shall qualify to enroll into FRSP if the following criteria apply:

- (a) The applicant unit is a family, as defined by Section 2(16) of the Act (D.C. Official Code § 4-751.01(16));

- (b) The applicant unit is currently experiencing homelessness as defined by Section 2(18) of the Act (D.C. Official Code § 4-751.01(18)), or is at risk of experiencing homelessness as defined by Section 2(5B) of the Act (D.C. Official Code § 4-751.01(5B));
- (c) The applicant is a resident of the District of Columbia as defined by Section 2(32) of the Act (D.C. Official Code § 4-751.01(32));
- (d) The applicant unit earns forty percent (40%) or less of the District of Columbia Median Family Income for the Washington, D.C., Metropolitan Area, as determined by the U.S. Department of Housing and Urban Development (“HUD”); and
- (e) The applicant unit has been referred by an approved referral source as described in Section 7803.2.

7803.2 The following are approved referral sources for FRSP applicants (designated for the rest of this chapter as “Referring Providers”):

- (a) Providers of a Short-Term Family Housing Program;
- (b) Providers of the Homelessness Prevention Program; and
- (c) Department-approved providers of emergency domestic violence shelter programs.

7803.3 A Referring Provider shall assess whether FRSP is an appropriate referral for an applicant by using an evidence-based assessment such as the Westat Tool. Relevant factors for determining whether a household is appropriate for FRSP assistance include:

- (a) Assessment on a uniform tool as selected by the Department, such as the Service Prioritization Decision Assistance Tool (“SPDAT”), that identifies Rapid Re-Housing as the appropriate housing assistance option based on the applicant’s needs;
- (b) Identification by the District of Columbia Housing Authority (“DCHA”) or other subsidized housing provider, as a household that is reasonably likely to receive DCHA or other subsidized housing within approximately twelve (12) months;
- (c) Willingness to take steps that could reasonably lead to increased income in the household; and

- (d) Identification of and willingness to take steps that could reasonably lead to permanent housing stability in cohabitation with family, friends, or other appropriate and safe situations.

7803.4 The Department shall determine the eligibility in as short a time as feasible, but not later than ten (10) calendar days after receipt of a completed application by the Eligibility Provider. Delays caused by the following shall not count towards the ten (10)-day deadline:

- (a) The applicant's inability to supply information to document facts stated in the completed application needed to determine eligibility and type or amount of assistance;
- (b) The inability to contact the applicant through telephone, mail, or email;
- (c) Evidence of misrepresentation of information in the application; or
- (d) Delay by a third party from whom the Eligibility Provider has requested information.

7803.5 The Eligibility Provider shall create and maintain in the applicant's or participant's file detailed documentation of the Program's eligibility determination, including the assistance for which the applicant qualifies and subsequent case-management services provided.

7803.6 If an applicant is determined eligible for FRSP assistance pursuant to § 7803.1, the Eligibility Provider shall enter in the applicant's case file a written Notice of Eligibility Determination.

7803.7 The Referring Provider shall notify the applicant orally or via electronic communication when the Eligibility Provider enters a favorable Notice of Eligibility Determination in the applicant's case file. Pursuant to Section 9 of the Act (D.C. Official Code § 4-754.11(a)(6)), the applicant may request a hard copy of the favorable Notice of Eligibility Determination.

7803.8 If an applicant is determined ineligible for FRSP assistance, the Department shall give to the applicant, personally or through an authorized representative, oral and written notice of the denial. The written Notice of Denial of Eligibility shall state:

- (a) That the applicant is being denied eligibility;
- (b) The reason or reasons for the denial, including the factual and legal basis for the denial;
- (c) The applicable statute or regulation pursuant to which the denial was made; and

- (d) That the FRSP applicant has a right to appeal the denial through fair hearing and administrative review proceedings pursuant to § 7824 including the procedures and appropriate deadlines for requesting an appeal; and
- (e) Which programs or services within the Continuum of Care the applicant may qualify for and has been referred to, if applicable.

#### **7804 PRIORITY DETERMINATION**

- 7804.1 Families residing in a Department-funded family shelter shall receive the first priority for the Program.
- 7804.2 Families participating in the Department's Homelessness Prevention Program, or residing in domestic violence shelter, transitional housing program, or determined to be at imminent risk of needing admission to shelter or supportive housing pursuant to 29 DCMR § 2508.1(a)(1), shall receive the second priority for the Program.
- 7804.3 Within each of the first and second priority groups, additional priority determinations may be made based on the following:
  - (a) The applicant's prospective ability to achieve housing stability at the end of the FRSP assistance period, as demonstrated by income, documented work experience, completion of the Individual Responsibility Plan, the identification of other stable housing opportunities, or other relevant factors;
  - (b) The length of time the applicant has resided in their current program since the most recent placement;
  - (c) The need to provide a reasonable accommodation based on a disability; and
  - (d) Other relevant factors.

#### **7805 PRE-ENROLLMENT SERVICES**

- 7805.1 The FRSP assistance period begins when a family executes Program enrollment and leasing agreements for the FRSP-subsidized housing unit (referred to as "lease-up") and ends when FRSP is no longer paying the rental subsidy for the unit.
- 7805.2 A Referring Provider may assist a family who has been determined eligible for FRSP with the following housing identification services before they have signed a lease for their FRSP unit:
  - (a) Gathering documents required for lease-up, including ID, birth certificate, and proof of income;

- (b) Identification of a housing unit independently and/or accessing a listing of available housing units to identify a unit that best fits the participant's needs; and
- (c) Assistance in negotiating with landlords to reduce the rent or include utilities.

## **7806 RE-HOUSING AND STABILIZATION ASSISTANCE OVERVIEW**

7806.1 FRSP is a time-limited rapid re-housing program that supports District residents who are experiencing homelessness or at risk of experiencing homelessness to achieve stability in permanent housing through individualized and time-limited assistance.

7806.2 FRSP assistance comprises of appropriate needs-based supports, including the following:

- (a) Assignment to a qualified Service Provider with the capacity to provide individualized case management services using a progressive engagement model based on the presenting needs of the family;
- (b) Development of a Housing Stabilization Plan to facilitate attainment of participant's goals, including housing stability. For participants receiving District Temporary Assistance for Needy Families (TANF) and who already have an Individual Responsibility Plan (IRP), the IRP should serve this purpose and can be modified and evaluated as necessary in collaboration with other organizations and entities that are also engaged with the participant;
- (c) Assessment of the family to determine their potential eligibility and referral for longer-term housing assistance programs, including Permanent Supportive Housing (PSH) or Targeted Affordable Housing (TAH), through the Coordinated Assessment and Housing Placement (CAHP) process;
- (d) Connection to other community resources and services that are responsive to the needs of the household (*e.g.*, behavioral health, primary health care, educational supports, food and nutrition resources);
- (e) Rental assistance in the form of a monthly rental subsidy, the cost of a security deposit, move-in assistance, and utility assistance, as needed and identified in the Housing Stabilization Plan pursuant to paragraph (b) of this subsection, for up to twelve (12) months;

- (f) In cases where a relocation is approved, housing identification assistance through which the Service Provider assists participants with:
  - (1) Identification of a unit independently and/or accessing a pool of available housing units to identify a unit that best fits the participant's needs;
  - (2) Assistance in negotiating with landlords to reduce the rent or include utilities; and
  - (3) Scheduling a timely inspection of the unit;
- (g) Job placement and workforce development; and
- (h) Documentation of activities that can be credited toward a participant's IRP, such as housing search, housing counseling services, obtaining a GED certification, University of the District of Columbia class credit, work hours, or certification with the District Department of Employment Services (DOES) or other barrier remediation activities specifically identified in the plan.

7806.3 The Service Provider will have regular, no less than monthly, engagement with the participant as dictated by the goals in the Housing Stabilization Plan or IRP, coordinate with other Service Providers, and maintain current documentation on progress toward goals. This will include an assessment of progress made towards the completion of the Housing Stabilization Plan or IRP.

7806.4 The Service Provider shall conduct a formal review of services provided and the participant's participation in the Program after three (3), seven (7), and ten (10) months of assistance. This review will include the following:

- (a) Review of participant's income change and approved budget plan;
- (b) Review of progress on the Housing Stabilization Plan or IRP and the applicant's approved budget plan;
- (c) Needs-based assessments, using a progressive engagement model, to determine if a less or more aggressive intervention is required; and
- (d) Review of participant's likely ability to sustain housing stability independently of the Program at the end of the FRSP assistance period.

## **7807 UNIT SELECTION**

7807.1 Participation in the FRSP is conditioned upon selecting a housing unit that passes the FRSP required housing inspection, which shall conform to the National

Standards for Physical Inspection of Real Estate established by HUD or other standards designated by the Department, and meets the Rent Reasonableness Standard as determined by DCHA. The Department or the Department's designee may authorize selection of a housing unit that exceeds the maximum allowable rent for purposes of ensuring the program is readily accessible by large families and individuals with disabilities, in accordance with Sections 9 and 12 of the Act (D.C. Official Code §§ 4-754.11(a)(2) and 4-754.21(11)).

- 7807.2 An FRSP household shall be required to work with their case manager to identify a unit independently and access the pool of available housing units to identify a unit that best fits their needs.
- 7807.3 An FRSP-eligible family shall make a reasonable effort to identify a unit that will allow the household to achieve housing stability independent of the Program by the end of the FRSP assistance period as described in § 7801.8.
- 7807.4 The Department shall permit the following maximum number of bedrooms based on the household's composition:
- (a) A household with one parent and one child under the age of two (2) will be approved for a studio or a one (1)-bedroom apartment;
  - (b) A household of more than one person will be approved for a unit with one (1) bedroom for the head of household and spouse or partner and one (1) additional bedroom for each two (2) persons within the household pursuant to 14 D.C.M.R. § 402.2-402.3.
- 7807.5 The following exceptions shall apply to the maximum number of bedrooms policy in § 7807.4:
- (a) Children of the opposite gender shall be allocated separate bedrooms once one of the children is over the age of five (5) or if one (1) of the children will turn five (5) within six (6) months after the household's lease is signed;
  - (b) With the permission of the applicant and to allow the household to identify a unit that they believe will be more affordable in the long-term, the Department may allow children of opposite gender between the ages of six (6) and eleven (11) to occupy the same bedroom, in order to reduce the number of bedrooms required;
  - (c) Children of the same gender shall be allocated one (1) bedroom. Beginning once one (1) of the children turns age thirteen (13), if there is a difference of five (5) years or more between children of the same gender, they may have separate bedrooms; and



- (d) A bedroom shall not be assigned to an unborn child unless there is a parent in the household who is in their third trimester.

- 7807.6 If a household requests to lease up in a unit with more bedrooms than is allowed under § 7807.4 and 7807.5, the household shall request approval of their selected unit from the Department, which shall be granted only if the household demonstrates that the increase in bedrooms is necessary to accommodate the reasonable needs of a household member with a disability.
- 7807.7 If a parent shares custody of children, bedrooms shall be provided for children if the children live with the parent for fifty percent (50%) or more of the time. The Department shall require verification of the shared custody.
- 7807.8 If the family's household composition changes, the household may request an exception to the standards in § 7807.4 and 7807.5. If the household is already in a unit, the household can request a unit review.
- 7807.9 If the FRSP-eligible household is unable to secure a housing unit in a timely manner, he or she shall be offered at least one (1) unit from the available housing inventory to the extent that units are available in the housing inventory.
- 7807.10 FRSP assistance shall be provided only for housing units located within the District of Columbia. Any unit constructed before 1978 in which a child under the age of six (6) will be residing must comply with Section 302 of the Lead-Based Paint Poisoning Prevention Act, effective November 9, 1973 (Pub. L. 91-695; 42 U.S.C. § 4822), and implementing regulations at 24 C.F.R. part 35, subparts A, B, M, and R.
- 7807.11 Upon selection, successful inspection, and signing of a lease, the Service Provider shall ensure that the case manager's and Department's contact information is promptly provided to the landlord.
- 7807.12 The Service Provider shall assist a participant in relocating to a different unit if, at any time during the participant's tenancy:
- (a) The participant needs to move because of a reasonable accommodation;
  - (b) The participant needs to move because of domestic violence; or
  - (c) The unit has substantial housing code violations that adversely impact the health or safety of the participant's household, and that the landlord fails to address after receiving notice of the housing code violations.
- 7807.13 Relocation to a different unit shall have no effect on the participant's length of FRSP assistance.

**7808 RENTAL ASSISTANCE**

- 7808.1 FRSP provides rental assistance for up to twelve (12) months. The monthly FRSP rental assistance amount shall be the difference between the rental cost and the household contribution.
- 7808.2 The household shall contribute thirty percent (30%) of their adjusted annual income toward housing costs, which shall be assessed by the Eligibility Provider. The actual contribution amount will be calculated based on the participant's approved budget component of the Housing Stabilization Plan or IRP.
- 7808.3 The FRSP participant shall pay the monthly contribution amount for the duration of the FRSP assistance period. The FRSP participant shall not be responsible for paying the subsidized portion of the rent.
- 7808.4 The Department or the Department's designee shall pay the subsidized portion of the rent directly to the landlord, including any late fees or court costs that accrue due to a late payment rent on the part of the Department.
- 7808.5 The Program shall not be obligated to provide a monetary amount for a requested service if a less costly alternative is available.
- 7808.6 The rental cost for the unit may not exceed the rent reasonableness standard determined by DCHA. The Referring Provider and the participant shall attempt to identify housing units below market rent wherever possible.
- 7808.7 In addition to the monthly rent subsidy, FRSP rental assistance may include the cost of a security deposit, move-in assistance, and utility assistance, in accordance with the applicant's approved budget plan.
- 7808.8 The maximum FRSP payment for a security deposit shall be the actual amount of the deposit, which shall not exceed the cost of one (1) month's unsubsidized rent.
- 7808.9 An FRSP participant shall report to their Service Provider in writing within fifteen (15) calendar days of any change in income of fifty dollars (\$50) or more.
- 7808.10 The FRSP shall not increase the household's rental payment due to an increase in earnings unless a participant experiences an increase of more than one thousand dollars (\$1,000) per month for at least three (3) months.
- 7808.11 Upon receiving written notification from the household of a change in the household's monthly income, the Service Provider shall determine whether there is

a need to recalculate the amount of the household's housing cost contribution, based on the following criteria:

- (a) If the participant reports a decrease in monthly income of fifty dollars (\$50) or more, the Service Provider shall process and submit documentation to the Department to recalculate the household's contribution;
- (b) If the participant reports a decrease in monthly income of less than fifty dollars (\$50) the household may request that a recalculation be conducted;
- (c) If the participant reports an increase in monthly income of more than one thousand dollars (\$1,000) per month that will last for at least three (3) months, the Service Provider shall process and submit documentation to the Department to recalculate the household's contribution;
- (d) If the recalculation pursuant to paragraphs (a) or (b) results in an increase in the amount of FRSP rental assistance, the change shall take effect the first day of the month or the next day that rent is due if different from the first of the month, whichever is first, following completion of the calculation. The recalculation shall be completed within ten (10) business days of receipt of written notice from the household of the decrease in household income and request for a recalculation, and documentation necessary for the Department recalculation;
- (e) If the recalculation made pursuant to paragraphs (a), (b), or (c) results in a decrease in the amount of FRSP rental assistance, the change shall take effect the first of the month, or on the day that rent is next due if different than the first of the month, whichever is first, following the month in which written notice of the change is provided to the household; and
- (f) If the next day rent is due is less than fifteen (15) calendar days from the date the notice is either hand-delivered or postmarked, the change in the FRSP rental assistance shall be effective the second month (or the second date upon which rent is due) following the month in which written notice of the change is provided to the household.

7808.12 When the Eligibility Provider calculates the initial FRSP assistance or when a Service Provider requests a change in FRSP assistance based upon a reported change in income, the Eligibility Provider or Service Provider shall give to the participant household a written Notice of FRSP Rental Assistance or a Notice of Change in FRSP Rental Assistance, as appropriate. Each Notice shall state:

- (a) The basis for the rental assistance determination;
- (b) The statute or regulation under which the change was made;

- (c) The participant's current FRSP rental assistance and the participant's current share of the housing costs;
- (d) If the rental assistance is changing, a computation of the new amount of FRSP rental assistance and the new participant contribution to the rental amount;
- (e) If the rental assistance amount is changing, the effective date of the change in accordance with § 7808; and
- (f) The FRSP participant's right to a reconsideration of the initial calculation or the recalculation by the Department or the Department's designee, within thirty (30) calendar days of receipt of the written Notice, and instructions for submitting such requests for reconsideration.

7808.13 The Eligibility Provider shall respond to a request for reconsideration in accordance with § 7808.12(f) within five (5) business days of receipt of the household's written request for a reconsideration. The five (5) business day timeframe shall be tolled if the provider has requested documentation necessary to the review, and receipt of such documentation is pending.

7808.14 Within twenty-four (24) hours of the Eligibility Provider's calculation or recalculation of the household's rental assistance, notice required shall be either hand-delivered to an adult member of the participant household, mailed to the household by first class mail, or sent by electronic mail if the household has given consent.

7808.15 Only in rare circumstances, when required by a vendor or by a District or federal agency, may the assistance payment be made in the form of cash. In all other cases, the FRSP assistance payment shall be made in the form of non-cash direct vendor payments.

## **7809 CASE MANAGEMENT SERVICES**

7809.1 A family enrolled in FRSP shall receive case management services from a qualified Service Provider unless the family opts out of case management as described in § 7810.

7809.2 FRSP case management services shall use a progressive engagement model based on the presenting needs of the family and may include:

- (a) Development of a Housing Stabilization Plan to identify the family's goals for connecting to services, increasing income, and achieving housing stability after their FRSP assistance ends, and the intermediary steps the family must take to accomplish those goals;

- (b) Employment services, including job coaching and assistance identifying opportunities to increase earnings.
- (c) Regular contact and communication with a case manager to discuss progress towards the Housing Stabilization Plan and adjust them as needed;
- (d) Connection to other community resources and services that are responsive to the needs of the household, such as behavioral health, primary health care, educational supports, food and nutrition resources;
- (e) For FRSP participants who are also receiving TANF, documentation of activities that can be credited toward a participant's TANF IRP, such as housing search, housing counseling services, obtaining a GED certification, University of the District of Columbia class credit, work hours, or certification with DOES or other barrier remediation activities specifically identified in the plan; and
- (f) An updated assessment in response to changed circumstances or a significant life event.

7809.3 The Service Provider shall assess a participant's potential eligibility for longer-term housing assistance programs, including the PSH program and the TAH program, within the first ninety (90) days of the FRSP assistance period.

7809.4 The Service Provider shall confirm that a participant is registered to the DCHA waiting list. If not, the Service Provider shall assist with applying for housing through DCHA, if such application is available.

7809.5 The Service Provider will have regular engagement with the participant as dictated by the goals in the Housing Stabilization Plan, but no less than monthly; coordinate with other Service Providers; and maintain current documentation on progress toward goals. This includes an assessment of progress made towards the completion of the Housing Stabilization Plan.

7809.6 The Housing Stabilization Plan or IRP shall aim for a targeted progression towards exit from the FRSP assistance provided by the end of the twelve (12)-month FRSP assistance period.

7809.7 A family is expected to plan for the end of FRSP assistance after the end of the twelve (12)-month assistance period.

7809.8 The Service Provider shall engage the family on progress made towards the Housing Stabilization Plan, which is inclusive of the family's plan and actions steps to exit the program. If the family elects to request a program extension to receive assistance beyond the twelve (12)-month program time period, the Service Provider will review and process the request according to the requirements determined by

the Department and in accordance with Section 7812.

- 7809.9 FRSP participants who are also receiving TANF are required to comply with all TANF requirements and remain in active engagement status with their assigned TANF Employment Provider (TEP), and each Service Provider's Program Rules shall so provide. In cases where a participant is not engaging with the assigned TEP provider, the Service Provider may cite this as a program rules violation. Multiple program rules violations may result in adverse action, including recommendation of a program termination.

## **7810 OPTING OUT OF CASE MANAGEMENT**

- 7810.1 An FRSP participant may opt out of receiving case management services within the first ninety (90) days of the FRSP assistance period.
- 7810.2 The Department shall deny an FRSP participant's request to opt out of case management services if there are significant concerns about the safety of an individual in the household.
- 7810.3 An FRSP participant who opts out of case management services shall notify their Service Provider of their request. The Service Provider shall submit a request form to the Department.
- 7810.4 If the Department grants the participant's request to opt out of case management services, then the Service Provider may transfer the participant to another FRSP Service Provider that more appropriately meets the participant's needs, as permitted under Section 20(a)(2) of the Act (D.C. Official Code § 4-754.34(a)(2)).
- 7810.5 An FRSP participant who has opted out of case management services will not receive case management services as outlined in §7809.
- 7810.6 DHS cannot evaluate an FRSP participant's good faith efforts toward the achievement of goals set forth in an individualized plan after they opt out of case management. Accordingly, an FRSP participant who has opted out of case management will not be eligible for an extension of the twelve (12)-month FRSP assistance period.
- 7810.7 An FRSP participant who has opted out of case management may request emergency inspections, reasonable accommodations, relocations, and adjustments to rent by reaching out to their Service Provider via procedures established by the Department.
- 7810.8 An FRSP participant who does not opt out of case management must continue to engage with their case manager as required under this chapter and as described in the Service Provider's Program Rules.

- 7810.9 If a participant repeatedly fails to meet case management engagement requirements, the Department shall contact the participant and determine whether the participant wishes to maintain case management services.
- 7810.10 An FRSP participant who opts out of case management must continue to comply with TANF requirements, if applicable, as described in §7809.9.
- 7810.11 An FRSP participant who has opted out of case management may request to resume case management services. The Department may approve a request to resume case management services if the Department determines there is a safety issue regarding an individual in the household.
- 7810.12 Opting out of or resuming case management services shall have no effect on the standard twelve (12)-month FRSP assistance period.

## **7811 FINANCIAL INCENTIVES**

- 7811.1 The Department, subject to funding availability, may award a financial incentive to an FRSP participant who meets program goals related to exiting the program earlier than the twelve (12) month program timeframe to stable housing within specific timeframes. The participant may use these awarded funds only to pay rent or utilities.
- 7811.2 The FRSP financial incentive shall be in the amounts indicated in Section 7811.3.
- 7811.3 An FRSP participant shall qualify for an FRSP financial incentive if they achieve one of the following indicators of housing stability, subject to availability of funding:
- (a) If the participant has signed a lease in their current housing unit or in a new housing unit supported by a long-term housing voucher, including PSH, TAH, District Child and Family Services Agency (CFSA) Family Unification, District Department of Behavioral Health (DBH), or Section 8, within thirty (30) calendar days of approval for the voucher, the participant is eligible to receive up to two hundred fifty dollars (\$250).
  - (b) If the participant's household wages earned and unearned, are enough to afford rent at fifty percent (50%) Rent Burden or less within six (6) months of being in the program, the participant is eligible to receive up to two thousand dollars (\$2,000). If this goal is reached after six (6) months but within twelve (12) months of being in the program, the participant is eligible to receive up to one thousand dollars (\$1,000).
  - (c) If the participant has moved in or is planning to move in with family or friends and has a written commitment that they can live at that location for at least a year within six (6) months of being in the program, the participant

is eligible to receive up to two thousand dollars (\$2,000). If this goal is reached after six (6) months but within twelve (12) months of being in the program, the participant is eligible to receive up to one thousand dollars (\$1,000).

- (d) If the participant has entered into a shared housing agreement where the participant will be able to live in the housing for at least a year paying fifty percent (50%) Rent Burden or less within six (6) months of being in the program, the participant is eligible to receive up to two thousand dollars (\$2,000). If this goal is reached after six (6) months but within twelve (12) months of being in the program, the participant is eligible to receive up to one thousand dollars (\$1,000).

## **7812 EXTENSION CRITERIA**

- 7812.1 FRSP provides assistance for a maximum period of twelve (12) months, unless the Department has funding available for FRSP extensions, in a given fiscal year. When such funding is available, the Department may accept FRSP extension requests. If FRSP funding is available for extensions, an FRSP participant may request an extension of FRSP assistance for an additional six (6) months under certain circumstances. The Department will consider the totality of circumstances as described in this section when determining an extension request.
- 7812.2 The Department shall consider requests for FRSP assistance extending past twelve (12) months if funding is available within the FRSP budget for program extensions. The Department may rely on budget appropriations and Program spending projections based on the availability of current Fiscal Year funding for FRSP rental subsidies and other FRSP services for current FRSP participants, as well as families projected to enter the Program during the current Fiscal Year, when making this determination. DHS shall publish a notice in the *District of Columbia Register* when FRSP funding for extensions has been exhausted in a given fiscal year.
- 7812.3 A request for an extension of FRSP assistance must be submitted in writing between ninety (90) and sixty (60) days before the end of the participant's twelve (12)-month assistance period. The request for an extension must be on a form prescribed by the Department. The Service Provider will assist the participant in gathering and submitting the required information to the Department.
- 7812.4 The Department may grant an extension of FRSP assistance if the participant has demonstrated a good faith effort toward the achievement of goals set forth in their Housing Stabilization Plan or IRP as observed by the Service Provider at the three (3), seven (7), and ten (10) month reviews, but who cannot yet sustain housing stability independently of the program.



- 7812.5 For the purposes of this section, the participant shall have demonstrated a good faith effort toward the achievement of goals set forth in their Housing Stabilization Plan or IRP by meeting the following requirements:
- (a) The participant has missed no more than one monthly rent payment;
  - (b) The participant has no documented program rule violations in the past three (3) months;
  - (c) The participant has a housing stabilization plan with an aim of a targeted progression towards exit from the supports of FRSP;
  - (d) The participant has met, in-person or virtually, with their FRSP case manager at least once per month for the past five (5) months; and
  - (e) The participant has not opted out of FRSP case management.
- 7812.6 For the purposes of this section, the Department will determine whether the participant can sustain housing independently of FRSP using the Affordability Assessment described at Section 7801.8. An FRSP participant will not qualify for an extension of FRSP assistance if median rent based on unit size for the Washington-Arlington-Alexandria Metropolitan Area as defined by HUD is less than fifty percent (50%) of the FRSP participant's household income.
- 7812.7 The Department shall not accept a request for extension of FRSP assistance from an FRSP participant who has been approved for permanently affordable housing. Rather, the participant shall continue to receive FRSP assistance until the participant begins to receive services from the new housing program provider. FRSP rental assistance may continue until the new housing program provider activates the new source of rental assistance.
- 7812.8 For the purposes of this section, "permanently affordable housing" shall include federally or locally funded programs through which families receive long-term housing assistance. These programs include the Housing Choice Voucher Program, Permanent Supportive Housing, Targeted Affordable Housing, the DC Flexible Rent Subsidy Pilot Program, the Career Mobility Action Plan Program, and other comparable housing programs.
- 7812.9 When determining whether to grant a participant an extension beyond twelve (12) months of FRSP assistance, the Department shall consider the totality of the circumstances. In addition to the factors described above in this section, the totality of the circumstances shall also include the participant's progress toward attaining employment income equal to or exceeding the equivalent of at least an average of thirty (30) hours per week at the District's minimum wage and the length of total program assistance the participant has received.

- 7812.10 An FRSP participant shall not qualify for an extension of FRSP assistance beyond twelve (12) months unless they have earned the equivalent of at least an average of thirty (30) hours per week at or above the minimum wage of the District for the past four (4) months.
- 7812.11 DHS may waive the employment requirement in Section 7812.10, if, at the time of the participant's extension request, the participant faces a significant hardship, such as having a child in their custody under the age of six (6) months or experiencing a medical condition that prevents the FRSP participant from meeting the employment requirement. To qualify for this waiver, the participant must demonstrate reasonable efforts to engage with their case manager to overcome the hardship preventing their employment.
- 7812.12 FRSP is not an entitlement, and the program is not designed to be an indefinite bridge to long-term affordable housing. Therefore, an FRSP participant may not submit a request for an extension of FRSP assistance if they have already been granted one six (6)-month extension of program assistance.
- 7812.13 The Department shall notify the participant and the participant's Service Provider if the Department grants the request for an additional six (6) months of FRSP assistance.
- 7812.14 The Service Provider shall conduct two (2) additional formal reviews for an FRSP participant who receives an additional six (6) months of FRSP assistance to ensure the participant receives the support necessary to exit FRSP with stable housing.
- 7812.15 If the Department denies the request for an extension of FRSP assistance, the Department shall give the participant a written notice at least thirty (30) calendar days before the final FRSP subsidy payment. The written extension denial notice shall state:
- (a) The reason for the denial of additional FRSP assistance;
  - (b) The participant's right to appeal the determination through a fair hearing and administrative review, including deadlines for requesting an appeal; and
  - (c) The participant's right to continuation of FRSP assistance pending the outcome of any fair hearing requested within fifteen (15) calendar days' receipt of the written notice of denial.

## **7820 PROGRAM TERMINATION**

- 7820.1 A Service Provider may terminate its FRSP assistance pursuant to Section 22 of the Act (D.C. Official Code § 4-754.36).

7820.2 Termination under this provision shall apply to rental assistance, case management services, and any other service or assistance provided by the Service Provider by virtue of the participant's participation in FRSP.

7820.3 The Service Provider shall give written and oral notice to an FRSP participant of their termination from the program pursuant to this section at least thirty (30) calendar days before the effective date of the termination.

7820.4 The Service Provider's written notice to the participant of the termination shall include:

- (a) A clear statement of the termination and its effective date;
- (b) A clear and detailed statement of the factual basis for the termination, including the date or dates on which the basis or bases for the termination occurred;
- (c) A reference to the statute, regulation, or Program Rule pursuant to which the termination is being implemented;
- (d) A clear and complete statement of the participant's right to appeal the termination through administrative review and fair hearing proceedings pursuant to Section 7824, including the appropriate deadlines for instituting the appeal; and
- (e) A statement of the participant's right, if any, to continuation of benefits pending the outcome of any appeal, pursuant to Section 9(a)(18) of the Act (D.C. Official Code § 4-754.11(a)(18)).

7820.5 Termination pursuant to this section refers to a termination of the Service Provider's FRSP assistance only and does not provide the Department or an FRSP Provider with any authority to interfere with a participant's tenancy rights under the lease agreement as governed by Title 14 of the District of Columbia Municipal Regulations.

## **7821 PROGRAM EXIT**

7821.1 Pursuant to Section 22b(a) of the Act (D.C. Official Code § 4-754.36b(a)), a Service Provider may conduct a program exit when:

- (a) The FRSP participant reaches the end of their FRSP assistance period and;
- (b) The Department determines that the participant is no longer eligible for FRSP.

- 7821.2 The Service Provider shall provide the participant oral and written notice of the program exit at least thirty (30) calendar days before the effective date of the program exit. The Service Provider may issue the written notice via electronic transmission if the participant has consented and provided such contact information.
- 7821.3 The Service Provider's written notice to the participant of the program exit shall include:
- (a) A clear statement of the effective date of the participant's exit from the Program, including the final month for which the participant will receive FRSP housing assistance;
  - (b) A clear and detailed statement of the factual basis for the program exit, including the date or dates on which the basis or bases for the program exit occurred;
  - (c) A reference to the statute or regulation pursuant to which the program exit is being implemented;
  - (d) A clear and complete statement of the participant's right to appeal the program exit through a fair hearing and administrative review pursuant to §7824, including deadlines for instituting the appeal; and
  - (e) A statement of the participant's right to continuation of FRSP assistance pending the outcome of an appeal requested within fifteen (15) calendar days after receipt of written notice of the program exit, pursuant to § 7824.
- 7821.4 A program exit from FRSP shall not affect a participant's tenancy rights under an agreement governed by Title 14 of the District of Columbia Municipal Regulations.
- 7821.5 An FRSP participant may withdraw from FRSP, including all FRSP services and rental assistance, at any time.
- 7821.6 An FRSP participant who wishes to withdraw from FRSP shall submit a Voluntary Withdrawal Form to the Department. The Department shall respond in writing to indicate the final date of FRSP assistance.

## **7822 SUMMARY OF PROVIDER RESPONSIBILITIES**

- 7822.1 An Eligibility Provider is responsible for the following:
- (a) Assisting FRSP applicants with the overall application process, including assisting applicants in obtaining required information to complete the application process;

- (b) Referring completed FRSP applications to the Department in as short a time as possible;
- (c) Maintaining in the applicant's or participant's file the following detailed documentation:
  - (1) Assistance for which the applicant qualifies;
  - (2) Case-management reviews; and
  - (3) The applicant's or participant's individualized Housing Stabilization Plan or IRP;
- (d) For applicants who are determined ineligible for FRSP assistance, providing them with a referral or referrals to other programs and services within the Continuum of Care.

7822.2

A Service Provider is responsible for the following:

- (a) Providing individualized case management services using a progressive engagement model based on the presenting needs of everyone in the participant household;
- (b) Developing an individualized Housing Stabilization Plan or IRP in collaboration with the participant and other organizations and entities that are also engaged with the participant;
- (c) Connecting FRSP participants to other community resources, and ongoing evaluation of the Housing Stabilization Plan or IRP and modification as needed;
- (d) Conducting a review of case management services provided and participant participation after three (3), seven (7), and ten (10) months of assistance;
- (e) In cases of an approved relocation, assisting FRSP participants to identify a housing unit independently and/or access the pool of available housing units to identify a unit that best fits their needs;
- (f) Providing employment supports; and
- (g) Ensuring applicants receiving TANF receive credit for any work or barrier remediation activities and supports identified in the service plan, such as job search, GED preparation, housing search and counseling.

**7823 PARTICIPANT RIGHTS AND RESPONSIBILITIES**

- 7823.1 FRSP participants shall have the rights described pursuant to Sections 9 and 10a of the Act (D.C. Official Code §§ 4-754.11 and 4-754.12a).
- 7823.2 FRSP participants shall have the right to request to opt out of case management at any time during the FRSP assistance period.
- 7823.3 FRSP participants shall have the responsibilities described pursuant to Section 11 of the Act (D.C. Official Code § 4-754.13).
- 7823.4 FRSP participants shall also have the following responsibilities:
- (a) FRSP participants must pay their monthly rental contribution on time for the duration of the FRSP assistance period;
  - (b) FRSP participants are responsible for notifying the Department or their Service Providers if a member of their applicant unit will not reside in the unit for longer than 6 months; and
  - (c) FRSP participants are responsible for reporting changes in income pursuant to Section 7808.9.

**7824 FAIR HEARING AND ADMINISTRATIVE REVIEW**

- 7824.1 An FRSP applicant or participant shall have ninety (90) calendar days following the receipt of a written notice described in §§ 7803.8, 7812.15, 7820.3, or 7821.4 to appeal for the action that is the subject of the written notice. The appeal shall be conducted in accordance with the fair hearing and administrative review provisions of Sections 26 and 27 of the Act (D.C. Official Code §§ 4-754.41 and 4-75.42).
- 7824.2 Upon receipt of an appeal, the Department shall offer the appellant or the appellant's authorized representative an opportunity for an administrative review in accordance with Section 27 of the Act (D.C. Official Code § 4-754.42), except that if an eviction is imminent, the Department shall take all reasonable steps to provide an expedited administrative review to maximize resolution of the appeal in time to resolve the housing emergency and prevent the eviction.
- 7824.3 In accordance with Section 26 of the Act (D.C. Official Code § 4-754.41(b)(2)(F)), an appeal of a written notice of program exit issued because the participant reached the end of their FRSP assistance period may not be reviewed at a fair hearing. The administrative review decision by the Department shall be final in such cases.
- 7824.4 In accordance with Section 27 of the Act (D.C. Official Code § 4-754.42(d)(3)), the Department may conduct an administrative review on the papers and without an in-person hearing if the purpose of the administrative review is to ascertain the validity

of a decision to exit the participant because the participant reached the end of their FRSP assistance period.

- 7824.5 In accordance with Section 9 and 22b of the Act (D.C. Official Code § 4-754.11(a)(18) and 4-754.36b(c)) a participant who appeals within fifteen (15) days of receipt of a written notice of termination pursuant to § 7820 or program exit pursuant to § 7821 shall have the right to the continuation of FRSP services pending a final decision from the fair hearing proceedings, except, that a participant who appeals within fifteen (15) days of receipt of a written notice of program exit issued because the participant reached the end of their FRSP assistance period shall have the right to continuation of FRSP services pending the administrative review decision.

## 7899 DEFINITIONS

- 7899.1 The terms and definitions in 29 DCMR § 2599 are incorporated by reference in this chapter.

- 7899.2 For the purposes of this chapter, the following additional terms shall have the meanings ascribed:

**Act** – the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-751.01 *et seq.*).

**Approved Budget Plan** – a household’s estimate of costs, revenue, and resources over a specified period, reflecting a reading of future financial conditions and goals. An approved budget plan serves also as a: (1) plan of action for achieving quantified objectives, (2) standard for measuring performance, and (3) device for coping with foreseeable adverse situations.

**Authorized Representative** – an individual who is at least eighteen (18) years of age, who is acting on behalf of the applicant, and has sufficient knowledge of the applicant’s circumstances to provide or obtain necessary information about the applicant, or a person who has legal authorization to act on behalf of the applicant.

**Eligibility Provider** – an organization that receives Family Re-Housing and Stabilization Program funds and is authorized to assess eligibility and administer Family Re-Housing and Stabilization Program services, including the payment of rental subsidies.

**Family** – (A) a group of individuals with at least one minor or dependent child, regardless of blood relationship, age, or marriage, whose history and statements reasonably tend to demonstrate that they intend to remain together as a family unit; or (B) a pregnant woman in her third trimester.

**Housing Stability** – the ability to pay housing costs with or without assistance from another source, including rent and utilities, or to secure other viable and secure housing options necessary to retain housing without FRSP assistance.

**Individualized Housing Stabilization Plan** – the self-sufficiency plan that the Family Re-Housing and Stabilization Program participant has entered into with the shelter, housing, District Temporary Assistance for Needy Families (TANF), or other service provider that sets out the steps and goals necessary for the participant to achieve greater housing and economic self-sufficiency.

**Longer-Term Housing Assistance Program** – a program within the Continuum of Care that combines supportive services with permanent rental assistance.

**Progressive Engagement** – a strategy of starting off offering a small amount of assistance initially, and, after reassessment, adding more assistance if needed to help each household reach stability. This strategy uses the lightest touch possible for a household to be successful, knowing more assistance can be added later if needed.

**Rapid Re-Housing** – a supportive housing program that provides a homeless individual or family with financial assistance as a bridge to permanent housing, by providing some or all of a security deposit, first month's rent, short-term rental subsidy, and supportive services in order to help the recipient become self-sufficient. FRSP is a Rapid Re-Housing program.

**Referring Provider** – a Continuum of Care provider designated by Section 7803.2 as an approved referral source for applicants to FRSP.

**Rent Burden** – the share of a family's adjusted gross income that is paid towards rent and utilities

**Rental Payment** – a regular payment made by a tenant to an owner or landlord for the right to occupy or use property.

**Security Deposit** – a sum of money paid in advance that is required by the owner or landlord for leasing property as security against the tenant's inability to fulfill the lease or security to cover damage to the rental premises.

**Service Provider** – an organization that receives Family Re-Housing and Stabilization Program funds and is authorized to deliver Family Re-Housing and Stabilization Program services.

**Vendor** – a provider of a service or product, including landlords.



## DEPARTMENT OF HUMAN SERVICES

**NOTICE OF SECOND EMERGENCY RULEMAKING**

The Director of the Department of Human Services (“Department”), pursuant to the authority set forth in Section 31 of the Homeless Services Reform Act of 2005 (“HSRA”), effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-756.02), and Mayor’s Order 2006-20, dated February 13, 2006, gives notice of her adoption on an emergency basis of the following new Chapter 114 (Peer Case Management Institute and Certification) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (“DCMR”).

These rules establish the Department’s Peer Case Management Institute (“PCMI”) and the requirements for training and certifying peer case managers. The PCMI will train individuals with lived experience of homelessness for employment as peer case managers by Department-funded Continuum of Care (CoC) homeless services agencies, including providers of Medicaid-reimbursable housing stabilization and housing navigation services, low-barrier shelter providers, and other providers in the homeless services field. These rules establish PCMI eligibility criteria, the application and selection process, requirements for PCMI classroom training and a field practicum, and requirements for the awarding of the Peer Case Manager Certification. The purposes of training and certifying case managers through the PCMI are to: (a) leverage the expertise of individuals with lived experiences of homelessness and their unique ability to help clients navigate the homeless services system; (b) create longer-term pathways to employment and financial stability for individuals with lived experiences of homelessness; and (c) create a new pipeline of quality case managers to serve District residents experiencing or exiting homelessness.

Emergency action is necessary to promote the immediate preservation of the health, safety, and welfare of District residents who are homeless or at risk of experiencing homelessness by permitting the District to initiate PCMI contracts and application activities to align with the academic calendar. Implementing and maintaining these rules for the fall 2024 semester aligns with the Department’s work to ensure that the experience of homelessness within the District is rare, brief, and non-recurring.

The Department Director first adopted emergency rules on February 29, 2024, pursuant to a Notice of Emergency and Proposed Rulemaking published in the *District of Columbia Register* on March 15, 2024, at 71 DCR 002967. This second emergency rulemaking is necessary to maintain the rules in effect while the Department evaluates the experience of the first cohort of PCMI participants and, if necessary, issues a second proposed rulemaking.

These emergency rules were adopted by the Department Director on September 16, 2024, went into effect at that time, and shall remain in effect for one hundred and twenty (120) days after the adoption date or until January 14, 2025, unless earlier superseded by a final rulemaking.

**Title 29, PUBLIC WELFARE, of the DCMR is amended by adding a new Chapter 114, PEER CASE MANAGEMENT INSTITUTE AND CERTIFICATION, to read as follows:**

**CHAPTER 114      PEER CASE MANAGEMENT INSTITUTE AND CERTIFICATION**

**11400 PURPOSE AND APPLICATION**

- 11400.1 The purpose of the Department's Peer Case Management Institute (PCMI) is to train individuals with lived experience of homelessness to serve as case managers at homeless services agencies that are providers in the District's Continuum of Care (CoC).
- 11400.2 Individuals who successfully complete the PCMI will be eligible to receive a Department-issued Peer Case Manager Certification.
- 11400.3 A Department-funded CoC provider may substitute the Peer Case Manager Certification for the education and work requirements for the job that the Department requires the CoC agency to include for the job under the Department's contract with the CoC agency.
- 11400.4 This chapter applies to individuals seeking a Peer Case Manager Certification, CoC providers who employ peer case managers, and the Department.

**11401 GENERAL PROVISIONS**

- 11401.1 The Department shall administer the PCMI, including the issuance of Peer Case Manager Certifications, determining the requirements for the Peer Case Manager Certifications, and establishing how CoC agencies shall or may use the certification in hiring.
- 11401.2 To obtain the Peer Case Manager Certification, an individual shall successfully complete classroom-based training and a field-based practicum through the PCMI, as described in Sections 11403 and 11404.
- 11401.3 The Department shall provide notice to the public of upcoming openings to participate in the PCMI, including information on the application process.

**11402 PEER CASE MANAGEMENT INSTITUTE (PCMI) — ELIGIBILITY, APPLICATION, AND SELECTION**

- 11402.1 In order to be eligible to participate in the Peer Case Management Institute, an applicant shall be:
- (a) A District resident;
  - (b) At least eighteen (18) years of age; and
  - (c) Either:

- (1) A current or former consumer of services from a provider in the District's CoC of homeless services; or
  - (2) A person who has experienced homelessness at some point in their lifetime in the District or another jurisdiction in the United States.
- 11402.2 An applicant shall submit a completed application to the Department in the format prescribed by the Department.
- 11402.3 To be considered by the Department, the application shall be:
  - (a) Submitted during the designed timeframe for accepting applications; and
  - (b) Completed in full.
- 11402.4 The Department shall review each application it receives to determine the eligibility of the applicant and the timeliness and completeness of the application. The Department shall reject each incomplete or untimely application and each application from an ineligible applicant.
- 11402.5 The Department shall review each timely, complete application from an eligible applicant.
- 11402.6 The Department shall rank candidates for selection based on the number of open enrollment slots and the following factors:
  - (a) Personal essays submitted through the application process that demonstrate the applicant's interest in and commitment to working in case management.
  - (b) Writing proficiency as demonstrated through the personal essays submitted through the application process;
  - (c) Level of education completed, with preference given to those who have at least a high school diploma or GED;
  - (d) Strength of recommendation letters;
  - (e) Previous work experience in the CoC;
  - (f) Ability to speak another language, including American Sign Language; and
  - (g) The time and date the application was received, with preference going to the applications submitted first.

11402.7 Each applicant shall receive notice of their selection or denial to participate in the PCMI. Notice of denial shall conform to the requirements of Section 19(b) of the Act (D.C. Official Code § 4-754.33(b)).

**11403 PCMI — TRAINING REQUIREMENTS**

11403.1 To qualify for the Peer Case Manager Certification, a PCMI participant shall first successfully complete at least one hundred twenty hours (120) of required classroom training.

11403.2 The PCMI classroom training shall be structured to provide participants with an opportunity to develop the following core competencies:

- (a) Understanding case management functions and roles;
- (b) Understanding the unique value of lived experiences in the helping process;
- (c) Developing the participants' professional use of self;
- (d) Using self-care techniques;
- (e) Fostering a trauma-informed approach in understanding homelessness;
- (f) Developing effective engagement, communication, and de-escalation techniques;
- (g) Strengthening participants' understanding of cultural competence; and
- (h) Building a peer network to encourage ongoing learning and provide support.

11403.3 The PCMI classroom training shall be delivered in modules by an education provider selected by the Department.

11403.4 Classroom training shall address the core competencies set forth in § 11403.2.

11403.5 Participants may be required to complete additional hours of training depending on their proficiency in writing and using computers in accordance with standards set by the Department.

11403.6 The education provider shall indicate whether the participant successfully completed the classroom training, pursuant to standards developed by the Department.

11403.7 The education provider shall submit notice of a participant's completion of classroom training to the Department, along with the provider's assessment of whether the participant successfully completed the classroom training.

11403.8 Any PCMI participant who does not successfully complete the classroom training shall not participate in the field practicum and shall not receive a certification, but may reapply to participate in the PCMI.

#### **11404 PCMI — PRACTICUM REQUIREMENT**

11404.1 To qualify for the Peer Case Management Certification, a PCMI participant shall also successfully complete a field practicum.

11404.2 The purpose of the PCMI field practicum is to provide participants with an opportunity to apply the skills and knowledge acquired from the classroom work in a homeless services setting.

11404.3 Each homeless services provider that hosts a PCMI field practicum participant shall identify a qualified case manager or case manager supervisor to serve as the field practicum supervisor for the participant. Before serving as a field practicum supervisor, the identified qualified case manager or case manager supervisor shall complete a peer case manager supervisory orientation offered by the Department.

11404.4 The participant shall complete at least eighty (80) hours of field-based work to complete their field practicum.

11404.5 The field practicum supervisor shall ensure that:

- (a) The consumer (and the consumer's family if appropriate) receiving case management services delivered by the PCMI participant during the field practicum has consented to the delivery of such services by a PCMI participant;
- (b) Case management services delivered by the PCMI participant during the field practicum are consistent with the individualized case management plan for the consumer receiving the services; and
- (c) The PCMI participant has an opportunity to participate in the development of a case management plan and service coordination activities during the field practicum.

11404.6 The field practicum supervisor shall maintain a log of all supervisory meetings with the PCMI participant.

11404.7 The field practicum supervisor shall provide the following supervision to a PCMI participant during the field practicum:

- (a) Establish the field practicum objectives and guidelines for the PCMI participant within the first week of the practicum;
- (b) Provide a minimum of one (1) hour of face-to-face supervision with each PCMI participant once a week with additional support as needed or requested;
- (c) Supervise the PCMI participant throughout the field practicum, overseeing the full range of field practice;
- (d) Document all supervision activities in accordance with guidelines established by the Department;
- (e) Maintain regular contact with the PCMI participant and the PCMI as needed to achieve field practicum objectives; and
- (f) Complete a mid-way and final evaluation of the PCMI participant's performance according to evaluation guidance established by the Department.

11404.8 During the field practicum, the PCMI participant shall at a minimum:

- (a) Complete orientation on the field practicum site and its policies and procedures regarding the delivery of services;
- (b) Shadow a case manager in the homeless services field during work with consumers on significant activities, such as intake appointments, home visits, conducting assessments, developing a housing plan, or related activities;
- (c) Work directly with consumers; and
- (d) Participate as a full member in the case planning and case management service provision process.

11404.9 A PCMI participant may submit a written request to change their field practicum provider. All requests for changes shall be submitted to the Department for approval.

11404.10 Within five (5) business days after the PCMI participant completes the field practicum, the field practicum supervisor shall complete, sign, and submit to the PCMI a Department-promulgated Practicum Evaluation Form for the participant.

11404.11 In order to be eligible for the Peer Case Manager Certification, the PCMI participant shall have a passing score on their final practicum evaluation.

- 11404.12 The Department shall determine the final practicum evaluation criteria and establish a numerical system for determining a passing score.
- 11404.13 A participant who does not receive a passing score on the final evaluation of their practicum may request to complete a second practicum placement with a new provider or with the same provider, if the provider agrees to it.
- 11404.14 A participant may request reconsideration of their final practicum evaluation, or a mid-way evaluation for a second practicum placement, by submitting a written form promulgated by the Department within five (5) business days after receiving the evaluation.

**11405 PCMI — DISMISSAL**

- 11405.1 A participant who does not receive a passing score on the final evaluation of their initial practicum and does not request to complete a second practicum placement shall be dismissed from the program.
- 11405.2 If a participant requests a second practicum placement and does not receive a passing score on the midway evaluation of their second practicum placement, the participant shall be dismissed from the PCMI.
- 11405.3 If a participant does not pass the third practicum evaluation after two (2) different practicum placements, the participant shall be dismissed from the PCMI.
- 11405.4 A participant who misses more than two (2) days of classroom instruction or field practicum assignment without providing any written notice to the designated contact shall be dismissed from the PCMI. Written notice may include text message or email.
- 11405.5 A participant who misses more than four (4) days of classroom instruction or field practicum assignment, even with written notification, shall be dismissed from the PCMI.
- 11405.6 A participant who has been dismissed from the PCMI may reapply for admission pursuant to Section 11402.
- 11405.7 A participant may withdraw from the PCMI at any time.

**11406 PEER CASE MANAGER CERTIFICATION**

- 11406.1 A PCMI participant who successfully completes both the classroom-based training and the field practicum shall be eligible to receive the Peer Case Manager Certification.

11406.2 After verifying that a PCMI participant has met the requirements of this chapter for certification as a peer case manager, the Department shall issue a Peer Case Manager Certification, signed by the Director or their designee, to the participant as evidence of successful completion of the PCMI.

11406.3 The Peer Case Manager Certification is not a license, and completion of the PCMI does not guarantee employment with any agency or provider. Gaining employment as a case manager after successfully completing the PCMI will require successful completion of the individual employer's job candidate selection process, including any criminal background check and drug screening required for the particular position.

## 11499 DEFINITIONS

11499.1 The terms in this chapter shall have the definitions set forth in Section 2 of the Act (D.C. Official Code § 4-751.01).

11499.2 In addition, for the purposes of this chapter, the following terms shall have the meaning ascribed:

**Act** – the Homeless Services Reform Act of 2005, effective October 22, 2005 (D.C. Law 16-35; D.C. Official Code § 4-751.01 *et seq.*).

**Applicant** – a person who has submitted an application to participate in the Peer Case Management Institute.

**Certified Peer Case Manager** – an individual with lived experience of homelessness who has successfully completed the PCMI and received the Peer Case Management Certification.

**Department** – Department of Human Services.

**District** – District of Columbia.

**Participant** – a person selected to participate in the PCMI.



## METROPOLITAN POLICE DEPARTMENT

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Chief of the Metropolitan Police Department (“Chief”), pursuant to the authority under Sections 712 and 911(1)(C) of the Firearms Control Regulations Act of 1975, effective September 24, 1976 (D.C. Law 1-85; D.C. Official Code §§ 7-2507.11 and 7-2509.11(1)(C)) (“Firearms Control Regulations Act”), hereby gives notice of her adoption on an emergency basis of the following amendments to Chapter 23 (Guns and Other Weapons) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (“DCMR”).

The rulemaking amends regulatory provisions that implement the Firearms Control Regulations Act’s requirements for qualifying for a firearm registration certificate and concealed pistol license. Although the existing regulations are consistent with recent case law, there have been significant developments in judicial interpretations of what the Constitution requires for firearm regulations since these provisions were last updated nearly a decade ago. Most notably, the Supreme Court recently emphasized that America’s historical tradition of firearm regulation includes the government’s ability to temporarily “restrict[] gun use to mitigate demonstrated threats of physical violence.” *United States v. Rahimi*, 144 S. Ct. 1889, 1901 (2024). On review of the legal developments, the District’s existing regulations, and the regulations’ enforcement history, the Chief has determined that rulemaking action is appropriate to clarify provisions designed to temporarily restrict “individuals who present a credible threat to the physical safety of others” from obtaining firearm registration certificates and concealed pistol licenses. *See id.* at 1902.

Specifically, the rulemaking amends Section 2309.1(f) to provide that a person is disqualified from registration if the person has a history of violent behavior within the five years immediately preceding the application. This is identical to the requirement of Section 203(a)(6A) of the Firearms Control Regulations Act (D.C. Official Code § 7-2502.03(a)(6A)). Currently, Section 2309.1(f) states that “[a]rrest records” within the past five years showing a history of violent behavior disqualify a person from a firearm registration. This could be construed as requiring disqualification based on the existence of arrest records alone, rather than the person’s history of violent behavior. The rulemaking clarifies that the existence of arrest records alone is not per se disqualifying, but rather the disqualification must be based on a person’s history of violent behavior, as the statute provides. Under this provision, the Chief may consider any relevant evidence, including information in law enforcement records or other governmental or non-governmental records. Additionally, the rulemaking revises Section 2309.1 throughout for clarity and to further conform to Section 203 of the Act. In addition, the rulemaking adds a new Section 2309.3 to make clear that the revocation or denial of a firearm registration certificate is not permanent. It provides that, if a person reapplies for a firearm registration certificate after a revocation or denial, the Chief may not consider the previous revocation or denial to itself be a reason for disqualification. However, the Chief may consider any relevant evidence underlying the prior revocation or denial in determining whether to approve or deny the new application.

Further, the rulemaking amends Section 2335.1(d) to establish that a person is not suitable for a concealed carry license if the person has engaged in conduct, including threats, that demonstrates

that the person's carrying of a concealed pistol is a danger to the person or another. This establishes a clearer standard for disqualification based on a person's conduct than the existing language of Section 2335.1(d).

Finally, the rulemaking amends Section 2305 by correcting a numbering error, and Section 2337.3 by correcting a citation error.

These amendments to the District's firearm registration and concealed pistol license regulations are necessary for the immediate preservation of the public health, safety, and welfare. This emergency rulemaking was adopted by the Chief on September 19, 2024 and became effective immediately. It will remain in effect for one hundred twenty (120) days from the date of its adoption, until January 17, 2025 unless earlier amended or superseded by a final rulemaking.

The Chief also gives notice of her intent to take final rulemaking action to adopt these amendments in not less than thirty (30) days from the date of publication of this notice in the *District of Columbia Register*, and upon completion of the forty-five (45)-day Council review period, excluding Saturdays, Sundays, legal holidays, and days of Council recess, in accordance with Section 712 of the Firearms Control Regulations Act (D.C. Official Code § 7-2507.11).

**Chapter 23, GUNS AND OTHER WEAPONS, of Title 24, PUBLIC SPACE AND SAFETY, of the DCMR is amended as follows:**

**Section 2305, REGISTRATION OF FIREARMS: GENERAL PROVISIONS, is amended as follows:**

**Subsection 2505.5 is redesignated subsection 2305.5.**

**Section 2309, OTHER DISQUALIFICATIONS FOR REGISTRATION, is amended to read as follows:**

**2309 OTHER DISQUALIFICATIONS FOR REGISTRATION**

2309.1 An applicant shall be denied a firearm registration if the applicant:

- (a) Has been adjudicated negligent in a firearm mishap causing death or serious injury to another human being. For purposes of this paragraph:
  - (1) The Chief may consider any entry of a judgment or consent order or decree of negligence in any civil suit concerning the discharge of a firearm resulting in death or serious injury to a human being without regard to the filing of criminal charges, or the finding by a coroner of negligent homicide; and
  - (2) The term "serious injury" shall have the same meaning as the term "serious bodily injury" as provided in Section 806a(d) of An Act To establish a code of law for the District of Columbia, effective

August 20, 1994 (D.C. Law 10-151; D.C. Official Code § 22-404.01(d));

- (b) [RESERVED];
- (c) Has been convicted of an offense that makes it unlawful for the applicant to own, keep, or possess a firearm in the District of Columbia under Section 3 of An Act To control the possession, sale, transfer and use of pistols and other dangerous weapons in the District of Columbia, to provide penalties, to prescribe rules of evidence, and for other purposes, approved July 8, 1932 (47 Stat. 651; D.C. Official Code § 22-4503);
- (d) Has been a respondent in an intrafamily proceeding in which a civil protection order was issued against the applicant pursuant to D.C. Official Code § 16-1005, unless the applicant can demonstrate by a certified court record establishing that the order has expired or has been rescinded for a period of five (5) years;
- (e) Has been a respondent in a proceeding in which a foreign protection order, as that term is defined in D.C. Official Code § 16-1041(2), was issued against the applicant, unless the applicant can demonstrate by a certified court record establishing that the order has expired or has been rescinded for a period of five (5) years;
- (f) Has had a history of violent behavior within the past five (5) years immediately preceding the application. For purposes of this paragraph, the Chief may consider any relevant evidence, including, but not limited to, information contained in law enforcement records or other governmental records, or from non-governmental sources;
- (g) Has been convicted within the past five (5) years of two (2) or more violations of any law in the District or another jurisdiction restricting driving under the influence of drugs or alcohol; or
- (h) Is otherwise disqualified under Section 203(a) of the Act (D.C. Official Code § 7-2502.03(a)).

2309.2 For purposes of §§ 2309.1(c)-(e) and (g), the Chief may consider a record described in § 2307.1.

2309.3 The prior revocation or denial of a person's firearm registration application shall not on its own constitute the basis for the denial of a subsequent firearm registration application; however, the evidence underlying the prior revocation or denial may be considered by the Chief in determining whether the person is qualified to receive a firearm registration pursuant to the person's subsequent registration application.

**Section 2335, SUITABILITY TO OBTAIN A CONCEALED CARRY LICENSE, is amended as follows:**

**Subsections 2335.1(d) and (e) are amended to read as follows:**

- (d) Has not engaged in conduct, including threats, that demonstrates that the person's carrying of a concealed pistol poses a credible threat of danger to the person or others. For purposes of this paragraph, the Chief may consider any relevant evidence, including, but not limited to, information contained in law enforcement records or other governmental records, or from non-governmental sources; and
- (e) Does not currently suffer nor has suffered in the previous five (5) years from any mental disorder, illness, or condition that creates a substantial risk that the person is a danger to the person or others, or if the Chief has determined that the person is suitable based upon documentation provided by the person pursuant to § 2337.3.

**Section 2337, CONCEALED CARRY APPLICATIONS, is amended as follows:**

**Subsection 2337.3 is amended by striking the phrase “the requirements of § 2331.1(d)” and inserting the phrase “the requirements of § 2335.1(e)” in its place.**

All persons interested in commenting on these proposed rulemaking action may submit comments in writing to Kenneth Chandler, Metropolitan Police Department, 441 4th Street, N.W., Washington, DC 20001, or via e-mail at [firearms.regulations@dc.gov](mailto:firearms.regulations@dc.gov). Comments must be received no later than thirty (30) days after publication of this notice in the *District of Columbia Register*. Copies of the proposed rules can be obtained from the address listed above. Copies of this proposal may be obtained, at cost, by writing to the above address.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**

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**ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2024-179  
September 24, 2024

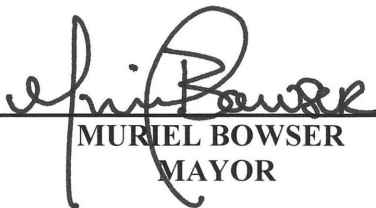
**SUBJECT:** Appointments and Reappointments — District of Columbia Innovation and Technology Inclusion Council

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(2) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2), and pursuant to Mayor's Order 2014-139, dated June 11, 2014, as amended by Mayor's Order 2014-236, dated October 10, 2014, it is hereby **ORDERED** that:

1. **JIM CHUNG** is appointed as the George Washington University member of the District of Columbia Innovation and Technology Inclusion Council (the "Council"), filling a vacant seat for a term to end September 22, 2022, and a subsequent term to end September 22, 2026.
2. **ERIN HORNE McKINNEY** is appointed as the Howard University member and Chairperson of the Council, filling a vacant seat formerly held by Grant Warner, for a term to end September 22, 2026.
3. **NATALIE ROISMAN** is appointed as the Georgetown University member of the Council, filling a vacant seat formerly held by Alexandra Givens, for a term to end September 22, 2026.
4. **WAYNE CURTIS** is reappointed as the University of the District of Columbia member of the Council, for a term to end September 22, 2022.
5. The following persons are appointed as public members of the Council, for terms to end September 22, 2026:
  - a. **NAEIM KHANJANI**, filling a vacant seat formerly held by Lisa Jones-Johnson.
  - b. **DIEGO MARSICAL**, filling a vacant seat formerly held by Stefanie Thomas.
  - c. **DEVON ROLLINS**, filling a vacant seat formerly held by Elizabeth Lindsey.
6. The following persons are reappointed as public members of the Council, for terms to end September 22, 2026:
  - a. **JULIAN ALCAZAR**
  - b. **KEVIN MORGAN**
7. The follow persons are appointed as public members of the Council for terms to end September 22, 2022, and for subsequent terms to end September 22, 2026:

- a. **NASIR QADREE**, filling a vacant seat formerly held by Yoshi Maisami.
  - b. **SCOTT RECHLER**, filling a vacant seat formerly held by Phillippe Chetrit.
8. **DARATANION WILLIAMS** is appointed as a public member of the Council, filling a vacant seat formerly held by Carlos Martin Del Campo, for a term to end September 22, 2022.
  9. **AMBER WASON** is reappointed as a public member of the Council, for a term to expire September 22, 2022, and a subsequent term to expire September 22, 2026.
  10. **AYANNA SMITH** is appointed as a public member of the Council, filling a vacant seat for a term to end September 22, 2026.
  11. **TSJENNA DALEY** is appointed as the representative of the Deputy Mayor for Planning and Economic Development member of the Council, filling a vacant seat formerly held by Katie Littman, to serve at the pleasure of the Mayor.
  12. **CAMILLE NIXON** is appointed as the representative of the Department of Small and Local Business Development member of the Council, filling a vacant seat formerly held by Katherine Mereand, to serve at the pleasure of the Mayor.
  13. **ELIZABETH KEETON** is appointed as the representative of the Office of the Chief Technology Officer member of the Council, filling a vacant seat formerly held by Adrian Sutton, to serve at the pleasure of the Mayor.
  14. **EFFECTIVE DATE:** Paragraphs 1, 4, 7, 8, and 9 of this Order shall be effective *nunc pro tunc* to September 22, 2018. Paragraphs 2 and 6 of this Order shall be effective *nunc pro tunc* to September 22, 2022. Paragraphs 3 and 5 of this Order shall be effective *nunc pro tunc* to January 20, 2023. Paragraph 10 of this Order shall be effective *nunc pro tunc* to January 6, 2023. Paragraph 11 of this Order shall be effective *nunc pro tunc* to April 4, 2024. Paragraph 12 of this Order shall be effective *nunc pro tunc* to January 3, 2023. Paragraph 13 of this Order shall be effective *nunc pro tunc* to July 18, 2024.

  
MURIEL BOWSER  
MAYOR

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

**ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION  
ALCOHOLIC BEVERAGE AND CANNABIS BOARD**

**NOTICE OF PUBLIC HEARINGS  
CALENDAR**

**WEDNESDAY, OCTOBER 2, 2024  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S  
WASHINGTON, D.C. 20009**

**Donovan W. Anderson, Chairperson  
Members: James Short, Silas Grant, Jr.**

**Protest Hearing (Status)**

**10:30 AM**

**Case # 24-PRO-00095**

JJHH Holdings, LLC, t/a High Demand  
511 11th Street SE  
License #128725  
Retailer MC  
ANC 6B  
**Application for a New License**

**Show Cause Hearing (Status)**

**10:30 AM**

**Case # 24-251-00016**

Dupont Estates, Inc., t/a Sign of the Whale  
1825 M Street NW  
License #116058  
Retailer CT  
ANC 2B  
**Sale to Minor Violation**

Board's Calendar

Page -2-October 2, 2024

**Show Cause Hearing (Status)**

**10:30 AM**

**Case # 24-CMP-00002**

Half Smoke, LLC, t/a Half Smoke

651 Florida Ave NW

License #100855

Retailer CR

ANC 1B

**Failed to File Quarterly Statement**

**Show Cause Hearing (Status)**

**10:30 AM**

**Case # 24-CMP-00035**

Marcellino, LLC, t/a Marcellino

300 Morse Street NE

License #119120

Retailer CR

ANC 5D

**No ABC Manager on Duty, Failed to Post License Conspicuously in the Establishment**

**Show Cause Hearing (Status)**

**10:30 AM**

**Case # 24-CMP-00013**

Kat, LLC, t/a Cloud Restaurant & Lounge Sports Bar

1919 9th Street NW

License #93572

Retailer CT

ANC 1B

**Increase in Occupancy**



Board's Calendar  
Page -3-October 2, 2024

**Fact Finding Hearing****10:30 AM**

Ingleside Presbyterian Retirement Community, Inc., t/a Ingleside at Rock Creek  
3050 Military Road NW

License #

Retailer CX

ANC 3/4G

**Review of License Application****Show Cause Hearing****10:30 AM****Case # 24-CMP-00017**

816 Dirty Water, LLC, t/a Dirty Water

816 H Street NE

License #125771

Retailer CT

ANC 6A

**Sale to Minor Violation, Permitted the Sale or Delivery of Alcohol to  
Intoxicated Persons**

**BOARD RECESS AT 12:00 PM**

**ADMINISTRATIVE AGENDA AT 1:00 PM**

**Show Cause Hearing****1:30 PM****Case # 24-CIT-00318**

BG & AS Beverage, LLC t/a Mac Market & Deli

5185 Macarthur Blvd NW

License #125344

Retailer A

ANC 3D

**No ABC Manager on Duty**

Board's Calendar  
Page -4-October 2, 2024

**Protest Hearing****1:30 PM****Case # 24-PRO-00082**

Artform DC, Inc., t/a Fish Shop DC  
610 Water Street SW  
License #128628  
Retailer CR  
ANC 6D

**Application for a New License****Protest Hearing****1:30 PM****Case # 24-PRO-00071**

Miku, LLC, t/a J & D Market  
2201 Minnesota Ave SE  
License #103723  
Retailer B  
ANC 8A

**Application to Renew the License**

*All of the ABC Board's public hearings are conducted virtually and are livestreamed on ABCA's YouTube channel which can be found here:*  
<https://www.youtube.com/@alcoholicbeverageregulation5683>.

*This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).*

**ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION  
ALCOHOLIC BEVERAGE AND CANNABIS BOARD**

**NOTICE OF PUBLIC HEARINGS  
CALENDAR**

**FRIDAY, OCTOBER 4, 2024  
2000 14<sup>TH</sup> STREET, N.W., SUITE 400S  
WASHINGTON, D.C. 20009**

**Donovan W. Anderson, Chairperson  
Members: James Short, Silas Grant, Jr.**

**Cease and Desist Hearing**

**10:00 AM**

Case # 24-ULC-00014  
Darryl Dawson, t/a VIPPEACE/Peace in the Air  
2118 18<sup>th</sup> Street NW  
ANC 1C  
**Request for Expedited Hearing on Board Order No. 2024-616**

**Cease and Desist Hearing**

**11:00 AM**

**Case # 24-ULC-00010**  
Elevate Lounge  
1512 U Street NW  
ANC 2B  
**Request for Expedited Hearing on Board Order No. 2024-617**

**BOARD RECESS AT 12:00 PM**

**ADMINISTRATIVE AGENDA AT 1:00 PM**

Board's Calendar

Page -2- October 4, 2024

**Protest Hearing**

**1:30 PM**

**Case # 24-PRO-00075 and Case # 24-PRO-00076**

Sahara Market, LLC, t/a Sahara Market

1901 Michigan Ave NE

License #s 128673 and 128674

Retailer B and CR

ANC 5B

**Application for a New License**

*All of the ABC Board's public hearings are conducted virtually and are livestreamed on ABCA's YouTube channel which can be found here:*

*<https://www.youtube.com/@alcoholicbeverageregulation5683>.*

*This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).*

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
COMMISSION ON THE ARTS AND HUMANITIES**

**NOTICE OF PUBLIC MEETING**

The District of Columbia Commission on the Arts and Humanities Board of Commissioners will hold its regular monthly business meeting on **Thursday September 26th, 2024, at 5:30 pm.** Below is a draft agenda for the meeting. Updates to the meeting agenda will be posted on the Commission's website at [www.dcarts.dc.gov](http://www.dcarts.dc.gov).

The meeting will be a hybrid meeting happening in person at 200 I St SE Washington DC 20003 as well as virtually via Zoom and livestreamed to the Commission's YouTube channel. Members of the public are invited to observe the meeting in person or through the live broadcast of the meeting online at <https://bit.ly/dcartsyoutube>. A recording of the meeting will be available on the Commission's website.

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**DRAFT AGENDA**

1. Call to Order
2. Roll Call and Determination of Quorum
3. Land Acknowledgement
4. Welcome
5. Presentation
6. Public Comment Period – Members of the public may request three minutes to make public comments before the Board. Requests to make public comments must be submitted by noon on the Thursday before the meeting via the online form at <https://dcarts.dc.gov/page/cah-public-comment-signup-form>
7. Executive Director's Report
8. Finance Update
9. Committee Reports
10. Unfinished and New Business
11. Adjournment

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This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).

**BASIS DC PUBLIC CHARTER SCHOOL  
NOTICE OF INTENT TO ENTER A SOLE SOURCE CONTRACT**

**Advertising Services**

BASIS DC, A Public Charter School, intends to enter into a Sole Source contract with OUTFRONT Media for Advertising Services from Dec. 09, 2024 – Mar. 02, 2024, at a cost not to exceed \$45,000.00. OUTFRONT Media is the sole source for the existing inventory of advertising space within the Washington Metropolitan Area Transit Authority properties.

If you have any questions, please contact Diana Mendoza, at [Diana.mendoza@basised.com](mailto:Diana.mendoza@basised.com)

**THE DISTRICT OF COLUMBIA CLEMENCY BOARD****NOTICE OF CLOSED HEARING**

Notice is hereby given that, pursuant to the Open Meetings Act, Section 2-757(b)(10) and 1 DCMR § 705.6(b), the District of Columbia Clemency Board has scheduled a closed hearing on Friday, November 1, 2024, at 2:30 p.m., to consider an application for a letter of recommendation. The hearing is virtual via Webex.

This hearing is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).

For additional information, including for the applicant to inform the Board of the need to reschedule the hearing, please contact Lisa M. Brannock, Executive Assistant at (202) 724-7681 or [lisa.brannock@dc.gov](mailto:lisa.brannock@dc.gov).

**OFFICE OF THE DISTRICT OF COLUMBIA CLEMENCY BOARD****NOTICE OF CLOSED MEETING**

On Monday, October 21, 2024, at 12:00 p.m., the District of Columbia Clemency Board will hold a closed meeting for the purpose of training members (Open Meetings Act, D.C. Code Section 2-575(b)(12)), pursuant to the Open Meetings Act, D.C. Code Section 2-575(b)).

The meeting will be held via Webex. This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).

For additional information, please contact Michael Porcello, Deputy General Counsel at (202) 727-0872 or [michael.porcello@dc.gov](mailto:michael.porcello@dc.gov).



## OFFICE OF THE DEPUTY MAYOR FOR EDUCATION

## NOTICE OF PUBLIC MEETING

**2024-25 Uniform Per Student Funding Formula (UPSFF) Working Group Session 2**

The Office of the Deputy Mayor for Education (DME) and The Office of the State Superintendent of Education (OSSE) will hold its 2<sup>nd</sup> meeting of the UPSFF Working Group on Wednesday, October 2, 2024, from 3 p.m. to 5 p.m. Community members are encouraged to join the webinar. Register to attend the meeting virtually [here](#).

**AGENDA**

- I. Welcome
- II. Focus Area
- III. Special Education Overview
- IV. IEP Distinctions and Classifications
- V. Implementation Discussion
- VI. Public Comment
- VII. Next Steps
- VIII. Adjournment

The Office of the State Superintendent of Education (OSSE) is convening a Uniform Per Student Funding Formula (UPSFF) Working Group pursuant to section 112(c) of the Uniform Per Student Funding Formula for Public Schools and Public Charter Schools Act of 1998, effective March 26, 1999 (DC Law 12-207; DC Official Code § 38-2911(c)). The focus area of the 2024-25 UPSFF Working Group is to explore ideas for potential changes to the UPSFF and to provide input and develop recommendations regarding these changes based on recommendations from the [2023 Funding Study](#).

**Date:** October 2, 2024  
**Time:** 3:00 p.m. – 5:00 p.m.  
**Location:** Virtual

\*Community members are encouraged to join. | Register to attend the meeting virtually [here](#).

**For more information:** Visit the OSSE's webpage on the UPSFF Working Group [here](#). Contact the working group facilitators at [Gabriel.Montague@dc.gov](mailto:Gabriel.Montague@dc.gov) or [Troy.Eckles@dc.gov](mailto:Troy.Eckles@dc.gov) with any questions.

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).

**DEPARTMENT OF ENERGY AND ENVIRONMENT****GREEN BUILDING ADVISORY COUNCIL****NOTICE OF PUBLIC MEETING**

The Green Building Advisory Council meeting will be held on Wednesday October 2, 2024 from 2:00 p.m. to 4:00 p.m. The meeting will be held virtually via WebEx.

Below is the draft agenda for this meeting. The link for the WebEx meeting will be included in the final agenda posted to the Green Building Advisory Council's webpage 48 hours in advance of the meeting at: <https://doee.dc.gov/node/674392>

For additional information, please contact: Jenn Hatch, Green Building Advisory Council Chair, at (202) 527-1779 or [jenn.hatch@dc.gov](mailto:jenn.hatch@dc.gov).

**Draft Meeting Agenda**

1. Announcements
2. Roundtable updates
3. Presentations and discussion
4. Adjourn

**DEPARTMENT OF ENERGY AND ENVIRONMENT  
NOTICE OF FUNDING AVAILABILITY**

**RiverSmart Communities**

The Department of Energy and Environment (the Department) seeks to fund one eligible nonprofit organization to remove and replace impermeable surfaces, capture stormwater runoff, and facilitate outreach and education with community members. The successful applicant will install at least six green stormwater infrastructure (GI) at nonprofit community organization properties, including houses of worship, and provide watershed education to increase the number of GI installations at homes and other community locations. The amount available for the two-year project is \$600,000.

Beginning 09-27-2024, the full text of the Request for Applications (RFA) will be available on the Department's website. A person may obtain a copy of this RFA by any of the following means:

**Download** from the Department's website, [www.doe.dc.gov](http://www.doe.dc.gov). Select the *Resources* tab. Cursor over the pull-down list and select *Grants and Funding*. On the new page, cursor down to this RFA. Click on *Read More* and download this RFA and related information from the *Attachments* section.

**Email** a request to [2024RSC.grants@dc.gov](mailto:2024RSC.grants@dc.gov) with "Request copy of RFA RFA-FY25-WPD-854" in the subject line.

**The deadline for application submissions is 11-12-2024.** The online application must be time-stamped by 11:59 p.m. on the date the application is due.

An informational public meeting will be held on October 24, 2024, from 11:00 AM to 12:00 PM online [via webex](#). Details appear on the RFA webpage.

**Eligibility:** All the checked institutions below may apply for these grants:

- ☒-Nonprofit organizations, including those with IRS 501(c)(3) or 501(c)(4) determinations;
- ☒-Faith-based organizations;
- ☐-Government agencies;
- ☐-Universities/educational institutions; and
- ☐-Private Enterprises.

For additional information regarding this RFA, write to: [2024RSC.grants@dc.gov](mailto:2024RSC.grants@dc.gov).

**BOARD OF ETHICS AND GOVERNMENT ACCOUNTABILITY****NOTICE OF PUBLIC MEETING**

The District of Columbia Board of Ethics and Government Accountability will hold a meeting at the Board of Ethics and Government Accountability, 1030 15<sup>th</sup> Street, NW, Suite 700 West, on October 10, 2024, at 12:00 p.m and virtually. Below is a draft agenda for the meeting. A final meeting agenda will be posted on the Board's website at [www.bega.dc.gov](http://www.bega.dc.gov) on the day of the meeting.

Members of the public are welcome to observe the meeting virtually or in person. In order to register for and attend the meeting virtually, please visit:

[Click here to join the meeting](#)

Meeting ID: 230 433 243 922

Passcode: p5D8YD

[Download Teams](#) | [Join on the web](#)

Join by phone: 1-202-594-9550

Phone Conference ID: 377 120 534#

Questions about the meeting may be directed to [bega@dc.gov](mailto:bega@dc.gov).

**AGENDA**

- I. Call to Order
- II. Ascertainment of Quorum
- III. Adoption of the Agenda/Approval of Minutes
- IV. Report by the Director of Open Government
  - A. OMA/FOIA Advice
  - B. Public Meeting Monitoring
  - C. Training/Outreach
  - D. Legislation and Litigation Update
  - E. Administrative Matters
- V. Report by the Director of Government Ethics
  - A. Update on Status of Office of Government Ethics Operations
  - B. Trainings/Outreach
  - C. Advisory Opinions/Advice

- D. Legislative/ Rulemaking Updates
  - E. Administrative Matters
  - F. Financial Disclosure
  - G. Lobbyist Registration and Reporting
  - H. Public Investigations
- VI. Public Comment
- If you would like to submit a public comment for the meeting, please submit your comment to [bega@dc.gov](mailto:bega@dc.gov) by **11:00 a.m. on October 10, 2024**.
- VII. Executive Session (non-public) to discuss ongoing, confidential investigations pursuant to D.C. Official Code § 2-575(b)(14), to consult with an attorney to obtain legal advice and to preserve the attorney-client privilege between an attorney and a public body pursuant to D.C. Official Code § 2-575(b)(4)(A), to discuss personnel matters including the appointment, employment, assignment, promotion, performance evaluation, compensation, discipline, demotion, removal, or resignation of government appointees, employees, or officials pursuant to D.C. Official Code § 2-575(b)(10), and to deliberate on a decision in which the Ethics Board will exercise quasi-judicial functions pursuant to D.C. Official Code § 2-575(b)(13).
- VIII. Resumption of Public Meeting
- IX. Discussion of any remaining public items
- X. Adjournment

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).

**FRIENDSHIP PUBLIC CHARTER SCHOOL**  
**REQUEST FOR PROPOSALS**

**Various Services**

Friendship Public Charter School request for proposals for prospective vendors to provide:

- **Classroom Furniture, Fixtures & Equipment, School and Office Supplies**
- **IT Consultant for projects and tasks at Director of IT/Head of Technology level**

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 October 18, 2024**. 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 SUBMISSION OF A RENEWAL OF THE 1915(i)  
MEDICAID HOME AND COMMUNITY-BASED FOR ADULT DAY HEALTH  
PROGRAM SERVICES**

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 (District) to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 744; D.C. Official Code § 1-307.02), 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.*), hereby gives notice of the intent to submit an application to renew the District Medicaid Program's Home and Community-Based Services (HCBS) Waiver, under Section 1915(i) of the Social Security Act, for Adult Day Health Program (ADHP) services to the Centers for Medicare and Medicaid Services (CMS) for review and approval.

DHCF is seeking CMS approval of 1915(i) ADHP services renewal for an additional five (5) years. The current approval for ADHP services expires on April 1, 2025. This renewal makes no changes to the current operations and policies of the provision of ADHP services in the District. This renewal also continues the participation of Dual-Eligible Special Needs Plans (D-SNPs), which was first implemented on January 1, 2022. Consistent with CMS's preference that renewals for 1915(i) waivers be submitted 180 days prior to the expiration of the current approval period, the District plans to submit this renewal on or before, September 30, 2024.

As a result of this renewal, DHCF projects no fiscal impact in Fiscal Year 2025 or Fiscal Year 2026. The effective date for this State Plan Amendment (SPA) is April 1, 2025.

If you have any questions, please contact Mario Ramsey, Associate Director, Division of Regulation and Policy Management, Health Care Policy and Research Administration, Department of Health Care Finance, at 441 4th Street, Suite 900S, Washington, DC 20001, [mario.ramsey@dc.gov](mailto:mario.ramsey@dc.gov) or 202-899-3652.

## DEPARTMENT OF HEALTH CARE FINANCE

**PUBLIC NOTICE OF PROPOSED AMENDMENT TO THE DISTRICT  
OF COLUMBIA STATE PLAN FOR MEDICAL ASSISTANCE  
GOVERNING COVERAGE OF AT-HOME COVID-19 TESTING KITS**

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) 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.*), 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.

Pursuant to sections 9811 and 9821 of the American Rescue Plan Act of 2021, effective March 11, 2021 (42 U.S.C. §§ 1396d(a)(4)(F) and 1397cc(c)(11)(B); Pub. L. 117-2), and section 1135 of the Social Security Act, an approved State Plan amendment (SPA) authorized DHCF to increase reimbursement rates for coronavirus (COVID-19) treatment, COVID-19 polymerase chain reaction (PCR) tests, COVID-19 vaccination (when the federal government discontinues purchasing the vaccine), and COVID-19 vaccination administration from eighty percent (80%) to one hundred percent (100%) of the Medicare rates, effective on March 11, 2021, until the first day of the last quarter that begins one year after the last day of the federal public health emergency, which is October 1, 2024.

The District previously submitted, and CMS approved, SPA [DC-22-0012](#) to permanently adopt the reimbursement for COVID-19 treatment, tests, vaccination, and vaccination administration at one hundred percent (100%) of the Medicare rate. Effective October 1, 2024, the proposed amendment will ensure continued coverage of COVID-19 testing consistent with the Centers for Disease Control and Prevention (CDC) definitions of diagnostic and screening testing for COVID-19 and its recommendations for who should receive diagnostic and screening tests for COVID-19. Specifically, this SPA will ensure that DHCF has the authority to continue to cover the cost or reimburse Medicaid beneficiaries for Food and Drug Administration (FDA) approved COVID-19 test kits purchased by the Medicaid beneficiary. District of Columbia (DC) Medicaid beneficiaries and those enrolled in the Alliance program are limited to four (4) test kits or eight (8) individual tests per month.

As a result of this change, DHCF projects no fiscal impact in Fiscal Year 2025 or Fiscal Year 2026. The effective date for this SPA is October 1, 2024.

If you have any questions, please contact Mario Ramsey, Associate Director, Division of Regulation and Policy Management, Health Care Policy and Research Administration, Department of Health Care Finance, at 441 4th Street, Suite 900S, Washington, DC 20001, [mario.ramsey@dc.gov](mailto:mario.ramsey@dc.gov) or 202-899-3652.



**DEPARTMENT OF HEALTH CARE FINANCE****PUBLIC NOTICE OF PROPOSED AMENDMENT TO THE DISTRICT  
OF COLUMBIA STATE PLAN FOR MEDICAL ASSISTANCE  
GOVERNING REMOTE PATIENT MONITORING SERVICE**

The Director of the Department of Health Care Finance (DHCF), pursuant to the authority set forth in Section 6(6) of the Department of Health Care Finance Establishment Act of 2007, effective February 27, 2008 (D.C. Law 17-109; D.C. Official Code § 7-771.05(6)), an Act to enable the District of Columbia (District) to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat.744; D.C. Official Code §1-307.02) and Mayor's Order 2024-115, dated July 1, 2024, 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 Amendment (SPA) is authorized by § 440.130 of Title 42 of the Code of Federal Regulations and, upon approval, the SPA would allow the DHCF to cover and reimburse for a new remote patient monitoring (RPM) preventive service for eligible pregnant and postpartum individuals, effective October 1, 2024.

The goal of this new RPM service is to improve access to prenatal and postpartum care for individuals at risk of experiencing pregnancy-related morbidity or mortality issues, as determined by a physician or other licensed practitioner of the healing arts within their scope of practice under District law.

The following will be provided via remote services to eligible beneficiaries enrolled in the District's Medicaid program: (1) medically necessary monitoring devices, (2) initial set-up of and patient education on using these devices, and (3) collection and interpretation of results by a qualified health care professional.

DHCF proposes to reimburse for the RPM service at a unit rate based on at least sixteen (16) device readings each month.

As a result of these changes, DHCF projects aggregate Medicaid expenditures of approximately \$5,121,252.52 in Fiscal Year 2025. DHCF also projects aggregate Medicaid expenditures of approximately \$4,957,588.30 in Fiscal Year 2026. The effective date for this SPA is October 1, 2024.

If you have any questions, please contact Mario Ramsey, Associate Director, Division of Regulation and Policy Management, Health Care Policy and Research Administration, Department of Health Care Finance, at 441 4th Street, Suite 900S, Washington, DC 20001, [mario.ramsey@dc.gov](mailto:mario.ramsey@dc.gov) or 202-899-3652.

**DC DEPARTMENT OF HEALTH**  
**HIV/AIDS, Hepatitis, STD and TB Administration**  
**NOTICE OF FUNDING AVAILABILITY (NOFA)**  
**FY 2025 Ryan White Part A HIV/AIDS Program**  
**FO# HAHSTA\_RWA\_10.11.24**

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

Funding Opportunity Title:	FY 2025 Ryan White Part A HIV/AIDS Program
Funding Opportunity Number:	HAHSTA_RWA_10.11.24
DC Health Administrative Unit:	HIV/AIDS, Hepatitis, STD, & Tuberculosis Administration
DC Health Program Bureau	Care and Treatment Division
Funding Opportunity Contact:	Ebony Fortune, Ryan White Program Manager, HAHSTARFAs@dc.gov
Funding Opportunity Description:	DC Health, HIV/AIDS, Hepatitis, STD and Tuberculosis Administration (HAHSTA) is requesting proposals from qualified applicants to provide a variety of clinical and medical support services to indigent, uninsured, and under-insured persons living with HIV/AIDS in the Washington, DC Eligible Metropolitan Area (EMA).
Eligible Applicants	Not-for-profit organizations, including healthcare entities and institutions of higher education; government-operated health facilities; for-profit health and support service providers demonstrated to be the only entity able to provide the service. All applicants must have service locations within and provide services in the DC EMA.
Anticipated # of Awards:	32
Anticipated Amount Available:	\$26,000,000
Annual Floor Award Amount:	\$75,000

Annual Ceiling Award Amount:	\$3,000,000
Legislative Authorization	Ryan White HIV/AIDS Treatment Extension Act of 2009
Associated CFDA#	93.914
Associated Federal Award ID#	H89HA00012
Cost Sharing/Match Required?	No
RFA Release Date:	October 11, 2024
Letter of Intent Due date:	Strongly Recommended by October 22, 2024
Application Deadline Date:	December 3, 2024
Application Deadline Time:	3:00 p.m.
Links to Additional Information about this Funding Opportunity	<p>DC Grants Clearinghouse <a href="https://communityaffairs.dc.gov/content/community-grant-program#4">https://communityaffairs.dc.gov/content/community-grant-program#4</a></p> <p>DC Health EGMS <a href="https://egrantsdchealth.my.site.com/sitesigninpage">https://egrantsdchealth.my.site.com/sitesigninpage</a></p>

## Notes:

1. DC Health reserves the right to issue addenda and/or amendments subsequent to the issuance of the NOFA or RFA, or to rescind the NOFA or RFA.
2. Awards are contingent upon the availability of funds.
3. Individuals are not eligible for DC Health grant funding.
4. Applicants must have a Tax ID# and be registered in the federal Systems for Award Management (SAM) with an active UEI# to be registered in DC Health's Enterprise Grants Management System.

**DEPARTMENT OF LICENSING AND CONSUMER PROTECTION  
D.C. Board of Funeral Directors**

**Notice of Public Meeting (Virtual)  
October 3, 2024  
1:00 p.m.**

**Meeting Agenda**

1. Call to Order – 1 p.m.
2. Members Present
3. Staff Present
4. Comments from the Public
5. Approval of Minutes
6. Old Business
7. New Business
8. Motion – Executive Session (Closed to the Public) to consult with an attorney pursuant to D.C. Official Code § 2-575(b)(4)(A); D.C. Official Code § 2-575(b)(9) to discuss complaints/legal matters, applications, and legal counsel report.
9. Recommendations
10. Adjourn – Next Scheduled Meeting – November 7, 2024 via WebEx Events (Virtual)

**To Join the Meeting**

Call: 1-650-479-3208

Access code: 2308 789 6590

Attendee Link:

<https://dcnet.webex.com/dcnet/j.php?MTID=m26a69eeb33e07333d21c5baccbd86636>

**This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this meeting to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov).” 3 DCMR § 10409.2**

## DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD

## NOTICE OF REQUEST TO AMEND CHARTER

**SUMMARY:** The District of Columbia Public Charter School Board (DC PCSB) announces an opportunity for the public to submit comment on a request from Breakthrough Montessori Public Charter School (Breakthrough PCS) to amend its charter agreement. The school seeks approval to update its mission statement by specifying the target population and improving syntax. The school submitted its application on September 9, 2024.

In its 8<sup>th</sup> year of operation, Breakthrough PCS enrolls 369 students in grades PK3 – 6. Its current and proposed mission statements are as follows:

Current Mission	Proposed Mission
To provide families in Washington, DC with a fully implemented, public Montessori program that enables children to develop within themselves the power to shape their lives and the world around them.	To provide diverse families in Washington, DC with a fully implemented, public Montessori education that enables children to develop within themselves the power to share their lives and the world around them.

**PUBLIC MEETINGS:** The public hearing will be on October 28, 2024, at 6:00 p.m. The vote will be on November 18, 2024, at 6:00 p.m. Please visit [www.dcpsb.org](http://www.dcpsb.org) to register.

**PUBLIC COMMENT INSTRUCTIONS:** To ensure your comment is processed and reviewed, please use one of the methods below<sup>1</sup>:

1. Testify during the public meeting on October 28, 2024. To register, please visit <https://dcpsb.org/public-comment>. Click “Sign up to Testify at the Meeting,” then complete the form. Please note you must sign up no later than noon on October 28, 2024.
2. Submit a written comment on or before 11:59 pm the day before the public meeting via
  - a. “Submit a Written Comment” at <https://dcpsb.org/public-comment>.
  - b. Postal mail, hand delivery, or courier: Attn: Public Comment, DC Public Charter School Board, 100 M Street, SE, Suite 400, Washington, DC 20003.
3. Submit voicemail testimony by calling (202) 328-2660 and selecting option 2. You will have up to five minutes to record your testimony. All comments will be transcribed and made available to the public upon receipt.

**FOR FURTHER INFORMATION, CONTACT:** Bijon Lane, Specialist, School Performance Department, at [blane@dcpsb.org](mailto:blane@dcpsb.org) or [public.comment@dcpsb.org](mailto:public.comment@dcpsb.org)

<sup>1</sup> DC PCSB reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse or remove any or all your submission that it may deem to be inappropriate for publication, such as obscene language.

**SOJOURNER TRUTH PUBLIC CHARTER SCHOOL  
REQUEST FOR PROPOSALS**

**Travel Agency Services**

Sojourner Truth Public Charter School is looking for an experienced travel agency capable of managing an international trip in the spring of 2024 for 10-20 students and chaperones. The trip should be fully organized and planned by the agency, including the booking of all travel, sleeping accommodations, meals, and educational opportunities coordinated by a local guide. The submission deadline is 5:00 PM Eastern Time on October 11, 2024

To request full scope and/or seek additional information, please email:

Ryan Abel  
Chief Operating Officer  
[rael@truthpcs.org](mailto:rael@truthpcs.org)

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

**BZA Application No. 21140  
Carstensz Loan Holdings, LLC  
1631 G Street, SE, (Square 1092, Lot 48)**

**HEARING DATE:** September 11, 2024

**DECISION DATE:** September 11, 2024

**SUMMARY ORDER**

**RELIEF REQUESTED.** The application requests the following relief in order to construct a front porch roof above the existing uncovered porch, to an existing, semi-detached, two-story with cellar, principal dwelling unit in the RF-1 zone:

- Special Exception from lot occupancy requirements of Subtitle E § 210.1, pursuant to Subtitle E § 5201.1 and Subtitle X § 901.2

The zoning relief requested in this case was self-certified. (Exhibit 21 (Final Revised).)<sup>1</sup>

**PARTIES.** The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 6B, 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 July 9, 2024, at which a quorum was present, the ANC voted to support the application. (Exhibit 19.) The ANC report raised no issues or concerns.

**OFFICE OF PLANNING ("OP") REPORT.** OP submitted a report recommending approval of the application. (Exhibit 20.)

**DISTRICT DEPARTMENT OF TRANSPORTATION ("DDOT") REPORT.** DDOT did not submit a report to the record.

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<sup>1</sup> The self-certification form was revised to correct the affected ANC listed on the form.

### **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:

- Special Exception from lot occupancy requirements of Subtitle E § 210.1, pursuant to Subtitle E § 5201.1 and Subtitle X § 901.2

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibit 6 of the record, as required under Subtitle Y §§ 604.9 and 604.10.

**VOTE: 4-0-1** (Frederick L. Hill, Carl H. Blake, Chrishaun S. Smith, and Robert E. Miller to APPROVE; Lorna L. John 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:** September 16, 2024

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, UNLESS, WITHIN SUCH TWO-YEAR PERIOD, AN APPLICATION FOR A BUILDING PERMIT FOR THE ERECTION OR ALTERATION

**BZA ORDER NO. 21140**

**PAGE NO. 2**



APPROVED IS FILED WITH THE DEPARTMENT OF BUILDINGS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 IS FILED 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. 21154**

**Agraw Suliman**

**735 Harvard Street, NW (Square 2888, Lot 71)**

**HEARING DATE:** September 11, 2024

**DECISION DATE:** September 11, 2024

**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 cellar, principal dwelling unit in the RF-1 zone:

- Special Exception from the rear yard requirements of Subtitle E § 207.1, pursuant to Subtitle E § 5201.1 and Subtitle X § 901.2
- Special Exception from the lot occupancy requirements of Subtitle E § 210.1, pursuant to Subtitle E § 5201.1 and Subtitle X § 901.2

The zoning relief requested in this case was self-certified. (Exhibit 19 – Updated Zoning Self-Certification; Exhibit 6 – Original).<sup>1</sup>

**PARTIES.** The parties to this case were the Applicant and Advisory Neighborhood Commission ("ANC") 1E, 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 July 24, 2024, at which a quorum was present, the ANC voted to support the application. (Exhibit 28.) The ANC report raised no issues or concerns.

**OFFICE OF PLANNING (“OP”) REPORT.** OP submitted a report recommending approval of the application. (Exhibit 31.)

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<sup>1</sup> The self-certification form was corrected to request special exception rather than variance relief.

**DISTRICT DEPARTMENT OF TRANSPORTATION (“DDOT”) REPORT.** DDOT did not submit a report to the record regarding this application.

### **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:

- Special Exception from the rear yard requirements of Subtitle E § 207.1, pursuant to Subtitle E § 5201.1 and Subtitle X § 901.2
- Special Exception from the lot occupancy requirements of Subtitle E § 210.1, pursuant to Subtitle E § 5201.1 and Subtitle X § 901.2

Accordingly, it is **ORDERED** that the application is **GRANTED** consistent with the plans shown in Exhibit 30 of the record, as required under Subtitle Y §§ 604.9 and 604.10.

**VOTE: 4-0-1** (Frederick L. Hill, Carl H. Blake, Chrishaun S. Smith, and Robert E. Miller to APPROVE; Lorna L. John not present, not voting)

### **BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT**

A majority of the Board members approved the issuance of this order.

**FINAL DATE OF ORDER:** September 16, 2024

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. 21154**  
**PAGE NO. 2**

PURSUANT TO 11 DCMR SUBTITLE Y § 702.1, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS, UNLESS, WITHIN SUCH TWO-YEAR PERIOD, AN APPLICATION FOR A BUILDING PERMIT FOR THE ERECTION OR ALTERATION APPROVED IS FILED WITH THE DEPARTMENT OF BUILDINGS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR A REQUEST FOR A TIME EXTENSION PURSUANT TO SUBTITLE Y § 705 IS FILED PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THE REQUEST IS GRANTED. PURSUANT TO SUBTITLE Y § 703.14, NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO SUBTITLE Y §§ 703 OR 704, SHALL TOLL OR EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR SUBTITLE Y § 604, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**BOARD OF ZONING ADJUSTMENT  
NOTICE OF VIRTUAL PUBLIC MEETING**

**TIME AND PLACE:** Wednesday, October 9, 2024, @ 9:30 a.m.  
**Via WebEx & YouTube (Office of Zoning):** <https://dcoz.dc.gov/BZA10-09-2024>

**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.

**WARD TWO**

<b>Application of:</b>	<b>2100M STREET NW OWNER LLC</b>
<b>Case No.:</b>	<b>20291B</b>
<b>Address:</b>	2100 M Street N.W. (Square 72, Lot 75)
<b>ANC:</b>	<b>2A</b>
<b>Relief:</b>	Time Extension to: <ul style="list-style-type: none"><li>Board of Zoning Adjustment Order No. 20291A (pursuant to Subtitle Y § 705)</li></ul>
<b>Project:</b>	To renovate and expand an existing, 11-story office and retail building in the D-5 Zone.

**WARD TWO**

<b>Application of:</b>	<b>2100M STREET NW OWNER LLC</b>
<b>Case No.:</b>	<b>20291C</b>
<b>Address:</b>	2100 M Street N.W. (Square 72, Lot 75)
<b>ANC:</b>	<b>2A</b>
<b>Relief:</b>	Modification without Hearing for: <ul style="list-style-type: none"><li>Board of Zoning Adjustment Order No. 20291 (pursuant to Subtitle Y § 703)</li></ul>
<b>Project:</b>	To convert a proposed office space, to a 400-unit apartment house, in an existing, 11-story office and retail building in the D-5 Zone.

**PLEASE NOTE:**

This public meeting will be held virtually through WebEx for the Board to deliberate on or decide the items listed on the agenda. Public testimony is not taken at a public meeting session. Information for the public to view or listen to the public meeting will be provided on the Office of

Zoning website and in the case record for each application or appeal by the Friday before the meeting date.

The public meeting 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 may also submit written comments to the Board by uploading submissions via IZIS or by email to [bzsubmissions@dc.gov](mailto:bzsubmissions@dc.gov). Submissions are strongly encouraged to be sent at least 24 hours prior to the start of the meeting.

Expedited Review applications will remain on the public meeting agenda unless a request for party status is filed in opposition, or if a request to remove the application from the agenda is made by: (1) a Board member; (2) OP; (3) an affected ANC or affected Single Member District; (4) the Councilmember representing the area in which the property is located, or representing an area located within two-hundred feet of the property; or (5) an owner or occupant of any property located within 200 feet of the property.

The removal of the application from the Expedited Review Calendar will be announced as a preliminary matter on the scheduled decision date and then rescheduled for a public hearing on a later date. Notice of the rescheduled hearing will be posted on the Office of Zoning website calendar at <https://app.dcoz.dc.gov/Home/Calendar> and on a revised public hearing notice in the OZ office. If an applicant fails to appear at the public hearing, this application may be dismissed.

#### **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

您需要有人帮助参加活动吗?

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

##### French

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

Korean

참여하시는데 도움이 필요하세요?

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

Spanish

¿Necesita ayuda para participar?

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

Vietnamese

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

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

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

**FREDERICK L. HILL, CHAIRPERSON  
LORNA L. JOHN, VICE-CHAIRPERSON  
CARL BLAKE, MEMBER,  
CHRISHAUN SMITH, MEMBER,  
NATIONAL CAPITAL PLANNING COMMISSION  
A PARTICIPATING MEMBER OF THE ZONING COMMISSION  
KEARA M. MEHLERT, SECRETARY TO THE BZA  
SARA A. BARDIN, DIRECTOR, OFFICE OF ZONING**

This meeting is governed by the Open Meetings Act. Please address any questions or complaints arising under this hearing to the Office of Open Government at [opengovoffice@dc.gov](mailto:opengovoffice@dc.gov) .

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA****ZONING COMMISSION ORDER NO. 22-35****Z.C. Case No. 22-35****UM 500 Penn Street NE, LLC****(Consolidated Planned Unit Development and Related Zoning Map Amendment  
and Airspace Development @ Square 3592, Lots 19-23 and 802, Parcel 129/45 and Airspace  
Beneath the Right of Way of the Public Alley Between Such Lots and Parcel)****January 11, 2024**

Pursuant to notice, the Zoning Commission for the District of Columbia (“Commission”) held a public hearing (“Public Hearing”) on December 4, 2023<sup>1</sup> to consider an application (“Application”) from UM 500 Penn Street NE, LLC (“Applicant”) concerning Lots 19-23 and 802, Parcel 129/45 and airspace beneath the right of way of the public alley between such lots and parcel in Square 3592 (“Property”). The Application requested review and approval of the following:

- A consolidated Planned Unit Development (“PUD”) pursuant to Subtitle X § 300 and Subtitle Z § 300 of Title 11 of the District of Columbia Municipal Regulations, Zoning Regulations of 2016 (the “Zoning Regulations” and to which all subsequent section references herein refer unless otherwise specified), to permit construction of two mixed-use buildings containing commercial and residential uses along with a combined below-grade parking garage and related street level improvements (collectively, the “Project”);
- A PUD-related amendment to the Zoning Map pursuant to Subtitle X §§ 300.4 and 303.12 for the Property from PDR-1 to MU-9A;
- An airspace development pursuant to Subtitle X §§ 700 and 701 and Subtitle Z § 303 to permit construction of a portion of the Project’s garage beneath the public alley that bisects the Property;
- Zoning flexibility from the rear yard, court, and penthouse setback dimensional requirements pursuant to Subtitle X § 303.1 as set forth more particularly in the Conditions hereof; and
- Such other design flexibility as is set forth in the Conditions hereof.

The Commission considered the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z of the Zoning Regulations. For the reasons stated below, the Commission hereby **APPROVES** the Application.

**FINDINGS OF FACT****I. BACKGROUND****PARTIES**

1. Pursuant to Subtitle Z § 403.5(a), the Applicant is automatically a party to the Application.
2. Pursuant to Subtitle Z §§ 101.8 and 403.5(b), Advisory Neighborhood Commission (“ANC”) 5D., in which the Property is located, is automatically a party to the Application as the “affected” ANC.

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<sup>1</sup> At the conclusion of the December 4, 2023 public hearing, the Commission took proposed action on the Application.



3. The Commission received no requests for party status.

#### NOTICE AND SETDOWN

4. Pursuant to Subtitle Z §§ 300.7, 300.8, 303.4, and 303.5, on July 22, 2022 the Applicant mailed to ANC 5D and the owners of all lots within 200 feet of the Property a Notice of Intent to file the Application. (Exhibit [“Ex.”] 2D2.)
5. Pursuant to Subtitle Z §§ 300.9 and 303.6 subsequent to the mailing of such Notice of Intent but prior to filing the Application with the Commission, the Applicant presented the Application to ANC 5D at its September 13, 2022 public meeting. (Ex. 2D2.)
6. Pursuant to Subtitle Z §§ 400.9-400.12, on July 27, 2023, at its duly noticed public meeting, the Commission considered the Application and voted to set the case down for a public hearing. (July 27, 2023 Regular Public Meeting Transcript (“Tr.”) at 80-97.)
7. Pursuant to Subtitle Z § 402.1(a), the Office of Zoning (“OZ”) published notice of the December 4, 2023 public hearing, concerning the Application in the October 6, 2023 issue of the *District of Columbia Register* (70 DCR 013174, *et seq.*) as well as on the calendar on OZ’s website. (Ex. 15.)
8. Pursuant to Subtitle Z §§ 402.1-402.2 and 402.6, on September 28, 2023, OZ sent notice of the December 4, 2023, public hearing concerning the Application to:
  - (a) The Applicant;
  - (b) ANC 5D;
  - (c) The ANC Single Member District 5D01<sup>2</sup> Commissioner, whose district includes the Property;
  - (d) Councilmember Zachary Parker, the Ward 5 Councilmember, in whose Ward the Property is located;
  - (e) The Office of ANC;
  - (f) The Office of Planning (“OP”);
  - (g) The District Department of Transportation (“DDOT”);
  - (h) The Department of Buildings (“DOB”);
  - (i) OZ Legal Division (“OZLD”);
  - (j) The District Department of Energy & Environment (“DOEE”);
  - (k) The Chair and At-Large Members of the DC Council; and
  - (l) The owner of all lots within 200 feet of the Property.(Ex. 16, 17.)
9. Pursuant to Subtitle Z §§ 402.3-402.4 and 402.8-402.10, on October 24, 2023, the Applicant submitted evidence that it had posted notices of the public hearing on the

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<sup>2</sup> Subsequent to the filing of the Application, ANC 5D was redistricted as part of the District’s decadal redistricting. As part of that redistricting, the Property remained in SMD 5D01, but the boundaries of the SMD held by Commissioner Sebrena Rhodes for SMD 5D01 were revised such that as of January 2023 (i.e., subsequent to the filing the Application), Commissioner Rhodes became the SMD for SMD 5D02, and Commissioner Arbuckle took the seat for SMD 5D01.

Property and on November 29, 2023, submitted evidence that it had thereafter maintained such notices. (Ex. 19, 26.)

10. Pursuant to Subtitle Z § 603.1 and Subtitle X § 700.2, following the December 4, 2023 public hearing, on December 6, 2023 the Office of Zoning referred the Application to the National Capital Planning Commission (“NCPC”). (Ex. 37.)

#### **THE PROPERTY AND SURROUNDING AREA**

11. The Property is located within Ward 5 and ANC/SMD 5D01 in the Northeast quadrant of the District. The Property consists of two rectangular parcels, which are bounded to the north by Penn Street, N.E., to the west by 4<sup>th</sup> Street, N.E., to the east by 5<sup>th</sup> Street, N.E. and to the south by existing commercial buildings owned by affiliates of the Applicant. The Property consists of approximately 44,585 square feet total (not including the area below the public alley that bisects the Property), a portion of which is to the east of the public alley and a portion to the west, but which area is otherwise contiguous. (Ex. 2A2.)
12. The Property is currently improved west of the alley, at 1329-1341 4<sup>th</sup> Street, N.E. are a series of single-story retail/commercial buildings and at 1345 4<sup>th</sup> Street, N.E. is the existing Motel 6 building which also contains surface parking. The existing buildings will be demolished in order to construct the Project. East of the alley the Property includes only an existing surface parking lot. The Property sits outside of the Union Market Historic District. The eastern portion of the Property is separated from the Historic District by a building at 1323 4<sup>th</sup> Street, N.E. and the western portion of the Property abuts the Historic District immediately to the south (at 1338 5<sup>th</sup> Street, N.E.). (*Id.*)
13. The Property is less than a half mile from the NoMA-Gallaudet University Metrorail station, which is served by WMATA’s Red Line. The D.C. Council has approved enhanced pedestrian access between the Union Market District and the Metrorail station. (*Id.*)
14. The Property is in the Union Market District, which is also known as the “Florida Avenue Market,” an area that has historically been a hub for food services, wholesalers, and retailers. The Union Market District is surrounded by a mix of land uses. Immediately east of the Union Market District is Gallaudet University. To the north and west are New York Avenue, N.E. and the wide rail corridor that leads to Union Station, which is just a few blocks to the southwest of the Union Market District. Florida Avenue, N.E. serves as the southern boundary of the neighborhood, beyond which is the largely residential Atlas District. To the north, bisected by New York Avenue, N.E. is the mixed-use Ivy City, and beyond Gallaudet University to the east is the primarily residential Trinidad neighborhood. Eckington is located to the west across the regional rail corridor. (*Id.*)
15. The Union Market District has convenient vehicular access to the District’s traditional downtown core and the Baltimore/Washington corridor via New York Avenue, N.E., a six-lane arterial that provides immediate access to Route 50 and points east, to the Baltimore-Washington Parkway to Howard County and Baltimore, and to the Capital Beltway. (*Id.*)
16. The NoMA-Gallaudet University Metrorail Station is located at the southern edge of Union Market across Florida Avenue, N.E. from the Union Market District and within easy

walking distance, which will become even easier with the related recently funded capital improvements. The NoMA-Gallaudet Station is one stop (2-3 minutes) from Union Station with connections to MARC, VRE, Amtrak, and intercity bus service on the Red Line and is three stops from Metro Center. In the opposite direction, the Red Line runs to Silver Spring, another major employment center in the region. Multiple local Metrobus lines directly serve Florida Avenue, N.E. and the nearby Brentwood Parkway, N.E., which bus lines also provide intracity vehicular access. The Metropolitan Branch Trail (“MBT”) runs along the eastern side of the rail corridor bounding Union Market. The MBT provides a bicycle connection to other District neighborhoods. The Union Market District itself is increasingly bicycle friendly, and substantial bicycle-related improvements are planned for surrounding neighborhood, including along Florida Avenue, N.E. to the south of the Union Market District, West Virginia Avenue, N.E. east of the Union Market District, and 6<sup>th</sup> Street, N.E. within the District itself. (*Id.*)

17. The Property is within walking distance of the MBT, which serves recreational cycling as well as commuters, and Mt. Olivet Cemetery. The Brentwood Hamilton Park is on the east side of the Union Market District, and the Joseph Cole Community Recreation Center is approximately one-half mile away. (*Id.*)
18. The 45-acre Union Market area is generally in the PDR-1 zone. The Union Market District, and The Market itself, have become hubs of economic activity for entrepreneurial and local DC-based start-up businesses including food-based industries, technology, media, mixed-media, and "maker" uses, all of which have found niches in near Northeast, with the Union Market District a hub for such economic activity. (*Id.*)

#### **CURRENT ZONING**

19. The underlying zoning for the Property is PDR-1. A matter-of-right development in the PDR-1 zone allows a maximum FAR of 3.5 (2.0 for certain non-PDR uses) and a maximum height of 50 feet. (Subtitle J §§ 201.1, 203.1.) The PDR-1 zone does not restrict lot occupancy but does require a rear yard and compliance with Green Area Ratio (“GAR”) requirements. (*Id.* §§ 207.1, 211.1.) The PDR-1 zone does not permit residential use except in limited special circumstances. (Subtitle U § 801.1(w).) A PUD in the PDR-1 zone permits a maximum building height of 60 feet and a maximum penthouse height of 12 feet except 18 feet 6 inches for penthouse mechanical space. (Subtitle X §§ 303.7, 303.18.)

#### **COMPREHENSIVE PLAN (TITLE 10-A DCMR)**

20. The Comprehensive Plan’s (“Plan”) Future Land Use Map (“FLUM”) designates the Property as Mixed Use -Medium-Density Residential, High-Density Commercial, and Production Distribution and Repair (“PDR”).

Mixed Use: The Future Land Use Map indicates areas where the mixing of two or more land uses is especially encouraged. The particular combination of uses desired in a given area is depicted in striped patterns, with stripe colors corresponding to the categories. The general density and intensity of development within a given Mixed-Use area is determined by the specific mix of uses shown. If the desired outcome is to emphasize one use over the other (for example, ground-floor retail with three stories of housing above), the Future

Land Use Map may note the dominant use by showing it at a slightly higher density than the other use in the mix (in this case, Moderate Density Residential/Low Density Commercial). The Comprehensive Plan Area Elements may also provide detail on the specific mix of uses envisioned. (10-A DCMR §§ 227.20, 227.21.)

Medium-Density Residential: This designation is used to define neighborhoods or areas generally, but not exclusively, suited for mid-rise apartment buildings. The Medium Density Residential designation also may apply to taller residential buildings surrounded by large areas of permanent open space. Pockets of low and moderate density housing may exist within these areas. Density typically ranges from 1.8 to 4.0 FAR, although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The RA-3 Zone District is consistent with the Medium Density Residential category, and other zones may also apply. (10-A DCMR § 227.7.)

High-Density Commercial: This designation is used to define the central employment district, other major office centers, and other commercial areas with the greatest scale and intensity of use in the District. Office and mixed office/retail buildings with densities greater than a FAR of 6.0 are the predominant use, although high-rise residential and many lower scale buildings (including historic buildings) are interspersed. (10-A DCMR § 227.13.)

Production Distribution and Repair: The PDR category is used to define areas characterized by manufacturing, warehousing, wholesale and distribution centers, transportation services, food services, printers and publishers, tourism support services, and commercial, municipal, and utility activities which may require substantial buffering from housing and other noise-, air pollution- and light-sensitive uses. This category is also used to denote railroad rights-of-way, switching and maintenance yards, bus garages, and uses related to the movement of freight, such as truck terminals. It is important to ensure that adequate, appropriate land is provided for these PDR uses that are critical to supporting the retail, transportation and service needs of the city. A variety of zone districts apply within PDR areas, recognizing the different intensities of use and impacts generated by various PDR activities. The corresponding zone category is PDR, and the present density and height limits set in these districts are expected to remain for the foreseeable future. Other districts may also apply where the PDR map designation is stripped with other land uses. In an area striped to include PDR, development must include PDR space, and on sites containing existing PDR space the amount of PDR space on-site should be substantially preserved. (10-A DCMR § 227.14.)

21. The Plan's Generalized Policy Map ("GPM") designates the Property as a Multi-Neighborhood Center and identifies part of the site as within the New York Avenue, N.E. Corridor Future Planning Analysis Area.

Multi-Neighborhood Center: Multi-Neighborhood Centers contain many of the same activities as Neighborhood Commercial Centers, but in greater depth and variety. The area served by a Multi-Neighborhood Center is typically one to three miles. These centers are

generally found at major intersections and along key transit routes. These centers might include supermarkets, general merchandise stores, drug stores, restaurants, specialty shops, apparel stores, and a variety of service-oriented businesses. These centers also may include residential and office space for small businesses, although their primary function remains retail trade. (*Id.* § 225.17.)

Future Planning Analysis Area: Future Planning Analysis Areas are described as areas of large tracts or corridors where future analysis is anticipated to ensure adequate planning for equitable development. Boundaries shown are for illustrative purposes. Final boundaries will be determined as part of the future planning analyses process for each area. Planning analyses generally establish guiding documents. Such analyses shall precede any zoning changes in this area. The planning process should evaluate current infrastructure and utility capacity against full build out and projected population and employment growth. Planning should also focus on issues most relevant to the community that can be effectively addressed through a planning process. Individual planning analyses may study smaller areas than the Analysis Area. For the purposes of determining whether a planning analysis is needed before a zoning change, the boundaries of the Future Planning Analysis Areas shall be considered as drawn. The evaluation of current infrastructure and utility capacity should specify the physical or operational capacity both inside the boundaries and any relevant District-wide infrastructure available. (*Id.* § 2503.2.)

22. Finally, the Plan includes the Property within the Upper Northeast Area Element, which recommends the following development priorities:
- (a) Redevelop the Florida Avenue Market into a regional destination that may include residential, dining, entertainment, office, hotel, maker, and wholesale food uses. The wholesale market and the adjacent DC Farmers Market are historic amenities that should be preserved, upgraded, and more effectively marketed; (*Id.* § 2411.7.)
  - (b) Encourage growth while enhancing the neighborhoods of Upper Northeast . . . The residential character of these areas should be preserved while allowing new housing opportunities for all incomes. Places of historic significance, gateways, parks, and important cultural and social places should likewise be preserved and enhanced; (*Id.* § 2408.2.)
  - (c) Recognize the significant potential of the area's commercially and industrially zoned lands, particularly along the New York Avenue corridor . . . and around the Florida Avenue Market, to generate jobs, provide new shopping opportunities, enhance existing businesses, create new business ownership opportunities, and promote the vitality and economic well-being of the Upper Northeast community. The uses, height, and bulk permitted under the existing PDR zones are expected to remain for the foreseeable future; (*Id.* § 2408.9.)
  - (d) Improve linkages between residents and jobs within Upper Northeast so that more of the area's working-age adults fill the jobs located within the Planning Area. Achieve this linkage by developing additional vocational and trade schools within Upper Northeast, such as the streetcar maintenance facility, encouraging apprenticeships and internships, and creating new partnerships between the area's

- major employers, the District, the public and charter schools, local churches, and major institutions; (*Id.* § 2409.4.)
- (e) Create new opportunities for small, local, and minority businesses within the Planning Area, and additional community equity investment opportunities as development takes place along New York Avenue . . . ; (*Id.* § 2409.5.)
  - (f) Retain the concentration of PDR land uses in the New York Avenue corridor. While some industrial land was converted to other uses on select sites, such as the Bladensburg/Montana/New York triangle, these changes should not diminish the area’s ability to function as an industrial district meeting the needs of government and District businesses and residents. Mixed-use redevelopment should complement PDR uses within the building envelope as a primary use when PDR zoned; and (*Id.* § 2413.6.)
  - (g) Improve the appearance of New York Avenue as a gateway to Washington, DC. Support road design changes and streetscape improvements, that improve traffic flow and enhance the road’s operation as a multimodal corridor that meets both regional and local needs. (*Id.* § 2413.5.)

#### **FLORIDA AVENUE MARKET SMALL AREA PLAN AND WARD 5 WORKS INDUSTRIAL LAND STUDY**

- 23. The Property is within the area subject to the Small Area Plan. (Ex. 11C.) The Small Area Plan’s “Zoning and Intensity Plan” designation for the Property is for “medium-high density” development (i.e., 70-130 feet). (*Id.*) The Small Area Plan’s “Illustrative” (i.e., land use) map identifies the Property as appropriate for mixed-use development including potentially wholesale/retail market space. (*Id.*) The Small Area Plan strongly encourages a food-based economy (“There is a unique opportunity to cluster food retail and related uses in the [Union Market District] to highlight its unique character and history. . . . Other enterprises such as catering companies, cooking supply stores, culinary schools and retail stores can also realize this opportunity.” (Small Area Plan at 56-57.)
- 24. The Property is also subject to the Ward 5 Works Industrial Land Study (“W5W Study”). (Ex. 11C.) The W5W Study seeks “a cutting-edge and sustainable production, distribution, and repair industry that diversifies the District’s economy, serves as a hub for low barrier employment, complements and enhances the integrity of neighborhoods, and provides opportunities for arts, recreation and other community amenities.” It identifies eight goals and several actions regarding PDR uses, placemaking, and economic development. (*Id.*)

## **II. THE APPLICATION**

### **Proposed Zoning**

- 25. As part of the Application, the Applicant seeks a PUD-related zoning map amendment to the MU-9A zone, which is considered PUD flexibility. (Subtitle Z § 303.12.) The MU-9 zones are intended to permit high-density mixed-use development. A matter-of-right development in the MU-9A zone allows a maximum FAR of 6.5 (7.8 with IZ) and maximum non-residential FAR of 1.0; a maximum height of 90 feet (100 with IZ); a maximum penthouse height of 20 feet; and a maximum green area ratio of 0.20. (Subtitle G §§ 201.1, 203.2, 205.1, and 211.1.) The MU-9A zone requires a minimum rear and side yard in certain circumstances and does not limit lot occupancy. (Subtitle G §§ 207, 208,

210.1.) A PUD in the MU-9 zones permits a maximum building height of 130 feet. (Subtitle X § 303.7.)

### **THE PROJECT**

26. The Project contains two mixed-use buildings separated by the public alley at grade but with a shared below-grade parking garage that crosses beneath the public alley. The Project contemplates a total floor area of up to approximately 415,242 square feet of gross floor area (“GFA”), resulting in an FAR of up to approximately 9.31 with an overall lot coverage of approximately 87.4% for the building on the west half of the site (“West Building”) and 79% for the building on the east half of the site (“East Building”) (each below the 100% permitted in the MU-9 zone). The maximum height of the Project is 130 feet for the West Building fronting 4<sup>th</sup> Street, N.E., and 90 feet for the East Building fronting 5<sup>th</sup> Street, N.E.
27. The Project ultimately includes the following mix: (a) up to approximately 357,602 square feet of residential GFA consisting of approximately 350 units; (b) approximately 25 lodging units (25,740 square feet) convertible to residential GFA; (c) up to approximately 31,900 square feet of retail, commercial, PDR/Maker use, and service/back-of-house GFA on the ground, mezzanine, and partially below-grade levels; and (d) up to approximately 12,917 square feet of penthouse habitable space to be allocated among a mix of amenity space for the building (including a pool, lounge, grilling areas, work areas, and game rooms), and/or residential units. Below grade, the Project includes up to two and a half levels of parking for up to 162 parking spaces vehicle spaces and approximately 141 long-term bicycle spaces. Loading for each of the Project’s two buildings is integrated at ground level from the alley. (Ex. 2A2 and 40A.)
28. Site Plan: The Project’s site plan organizes the two buildings with frontages on 4<sup>th</sup> Street, N.E. for the West Building, 5<sup>th</sup> Street, N.E. for the East Building and common frontage on Penn Street, N.E. The two buildings each back against the public alley. The public alley is proposed to serve the dual purposes of providing the access point for parking and loading and providing a pedestrian environment, including a pedestrian connection between the two buildings. Below the alley and the adjacent privately-owned portions of the Property is a shared parking garage. At grade, the Project’s site plan intent is to activate the public realm and create a special place for pedestrian activity through the Property. Above the ground plane, the East building steps down to a maximum height of 90 feet in response to its proximity to the Union Market Historic District. The ground floor articulation and orientation of the Project prioritizes pedestrian activity along its three street frontages. The Project places multiple retail entrances as well as the lobby entrances to the residential units along the streets. These entrances animate such portion of the street system and continue the rhythm of retail entrances and generous, transparent storefronts. From 4<sup>th</sup> Street, N.E., the Project creates two corridors into and through the Property, which are intended to contain seating, art, lighting, and other pedestrianized amenities. All of the Project’s parking and loading access is only from the northernmost portion of the alley. Alley operations will be actively managed through on-site personnel and passively managed through design measures, all of which will work together to avoid conflicts between vehicles and pedestrians. The Project does not include any new curb cuts and proposes to close all of the existing curb cuts serving the Property. (Ex. 2A2, 40A.)

29. Program: The Project is vertically segmented, with a commercial ground floor and multifamily residential and lodging uses above. Due to the change in grade from south to north along 4<sup>th</sup> Street, N.E. and 5<sup>th</sup> Street, N.E., portions of the ground floor of the Project have the appearance of a double-height elevation. That double-height volume creates the potential for a mezzanine depending upon the ultimate tenant(s). The retail/commercial areas include large spaces accessible from 4<sup>th</sup> Street, N.E. and will be able to be further divided as necessary to accommodate individual tenants. The residential and lodging lobbies are located along the Project's frontages on 4<sup>th</sup> Street, N.E. and 5<sup>th</sup> Street, N.E. although may be accessed primarily (or exclusively) from the pedestrian paseo. The upper levels of the Project (i.e., levels 2-13) include residential, lodging, and amenity uses. The roof is also designed to accommodate mechanical equipment, solar panels, green roofs, and vegetation. (Ex. 2A2, 40A.)
30. Residential Unit Mix: The Project's residential program contains a mix of studio, 1-bedroom, 2-bedroom, and 3-bedroom units. Significantly, a minimum of approximately 20 units total, will have 3-bedrooms. The Project has dedicated amenity space for resident recreation and events. The Project exceeds the Inclusionary Zoning ("IZ") requirements by dedicating 15% of the residential GFA to affordable units. Of such affordable GFA, 13% is to be set aside for households earning no more than 60% of the Washington DC Median Family Income ("MFI") while two percent are to be set aside for households earning no more than 50% MFI for the life of the Project. These proffered 50% MFI units are in addition to any units that would be required as a result of residential units being located in the penthouse. (Ex. 2A2, 40A.)
31. PDR/Maker Uses: Fifty percent of the non-residential area on the ground floor of the Project will be constructed to "PDR/Maker" use specifications. Moreover, the Applicant will reserve 10% of such space for PDR/Maker uses for a period of five years.
32. Landscape/Streetscape: The Project features landscape improvements at street level, through the middle of the Property, at the second-story canopy level, and on both the "main" rooftop and the upper roof. The street level landscape elements of the Project are meant to expand upon and complement the urban park concepts approved for The Market and the plaza between The Market and the North Building. The setbacks of the building allow for open areas within the private space to be integrated with the public space, creating a unique pedestrian experience through a sequence of dynamic plazas and features. The streetscape elements allow for flexibility to accommodate both sidewalk events and daily use for residents, visitors, and patrons of the Project's retail spaces. The sidewalks surrounding the Property are wide and allow for seating (where permissible by the Union Market Streetscape Guidelines and grade), bicycle parking, circulation, trees, stormwater controls, and other elements. Additionally, the steep grade changes on 4<sup>th</sup> Street, N.E. and 5<sup>th</sup> Street, N.E. are accommodated through strategic aperture into the public and private landscape areas, using both accessible walkways and stairs. The new architecture on 4<sup>th</sup> Street, N.E. and 5<sup>th</sup> Street, N.E. creates a consistent street-wall for pedestrians walking from Penn Street, N.E. to Neal Place, N.E. Two new pedestrian "paseos" along 4<sup>th</sup> Street, N.E. break down the scale of the Project on that block and allow pedestrian circulation in and through the Property at grade. The public alley provides space for both pedestrian and



retail activation as well as access to underground parking and back-of-house service. These elements create new intersections within the Project, allowing retail frontage to occupy multiple new corners, and become their own destinations of activity with outdoor seating, art, lighting, and building entrances. The design of 4<sup>th</sup> Street, N.E., Penn Street, N.E., and 5<sup>th</sup> Street, N.E. adjacent to the Project are in accordance with Union Market Streetscape Guidelines, which the Applicant's affiliates have previously finalized with DDOT. One design feature that emerges from the Streetscape Guidelines is the inclusion of the Project's large canopies.

33. Canopies: The Project's canopies feature green roofs as a sustainability measure. Canopies, rather than street trees, are emphasized as the streetscape level "greening" and shading element, particularly on the exposed south-facing side of the Project. Canopies reflect the mercantile character of the Union Market District, which historically has had few, if any, street trees. However, some street trees are included in order to contribute to the District's wider tree canopy goals. (Ex. 2A2, 40A.)
34. Transportation, Parking, and Loading: Non-automotive modes of transportation are a priority for the Project and the Project includes a focus on bicycle parking spaces. The Project contains approximately 162 vehicle parking spaces on two and a half levels of below-grade parking to serve the residential, lodging, and retail/commercial uses. The residential spaces will be access-controlled, but the retail/commercial spaces will be available to the public generally. The below-grade garage also includes secure bicycle storage rooms with capacity for approximately 141 total long-term bicycle spaces. An additional approximately 36 short-term bicycle parking spaces are provided in public areas around the Property. The Project contains a total of two loading berths and two delivery spaces, along with additional ancillary loading areas. The loading areas are accessible via the alley only. All of the Project's parking and loading access require access only from the existing alley, so all existing curb cuts to the Property will be closed. (Ex. 2A2, 40A.)
35. Sustainable Design: The Project is designed to be certified at the level of LEED for New Construction Gold v4. The Project's level of sustainability is further evidence of its superior design and reflective of the Applicant's commitment to advance the District's sustainable development goals. (Ex. 2A2, 40A.)

#### **APPLICANT'S SUBMISSIONS, REVISIONS, AND TESTIMONY**

36. Initial Application: On November 11, 2022, the Applicant filed its initial application materials that included:
  - (a) A summary of the Application and appropriate application forms;
  - (b) A written statement that provided an overview of the Project and justifications relating to the PUD, the PUD related Zoning Map amendment, and airspace development evaluation criteria of Subtitle X §§ 304 and 701;
  - (c) An initial set of architectural drawings and elevations;
  - (d) A discussion of the Project's consistency with the Comprehensive Plan, including the Comprehensive Plan Maps and Citywide and Upper Northeast Area Elements, and the Small Area Plan, and W5W Study;

- (e) A summary of the Project's potential impacts and public benefits; and
  - (f) Other procedural materials required by the Zoning Regulations.
- (Ex. 1, 1A, 2A1-2D4.)

37. Supplemental Submission: On June 7, 2023, the Applicant filed a supplemental submission and supporting materials responding to issues and comments raised by OP prior to the issuance of its setdown report as follows:

- (a) An updated one-page summary and updated plans and drawings for the Project;
- (b) Balconies. In response to comments from OP, the Applicant increased the number of units with dedicated outdoor space, including balconies and terraces, by adding balconies to the north façade of the East Building;
- (c) Parking Space Count. In response to comments from OP and DDOT, the Applicant reduced the number of parking spaces in the Project's garage from approximately 190 to 162 spaces;
- (d) Updated Comprehensive Plan Analysis. In response to the Zoning Commission's issuance of the Racial Equity Tool<sup>3</sup> in February 2023 subsequent to the initial filing of the application, the Applicant submitted an updated discussion of the Project's consistency with the Comprehensive Plan including an analysis viewed through the lens of racial equity; and
- (e) Community Outreach and Engagement. With respect to community outreach and engagement, the Applicant's Racial Equity Analysis detailed its many meetings with ANC 5D, and the changes made as a result of the interactions, namely:
  - Prior to submitting the PUD application, the Applicant proposed to ANC 5D that the Project would reserve 13% of its residential GFA as affordable. In response to comments from the ANC and OP, the Applicant increased the amount of affordable housing to 15% in the initial application materials to the Commission;
  - The Applicant also increased the number of three-bedroom units in the Project in response to concerns from the ANC;
  - In response to comments from DDOT, the Applicant has revised the garage configuration to limit impacts to the alley near the Property; and
  - In response to OP, the Applicant has added balconies to the Project, incorporated PDR/Maker space to construct 50% of commercial GFA to PDR/Maker specifications and reserve 10% of commercial GFA for PDR/Maker uses for 5 years and enhanced the project's affordable housing component.

(Ex. 11, 11A-11C.)

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<sup>3</sup> The Commission released a revised Racial Equity Tool on February 3, 2023, requiring submissions from applicants and the Office of Planning analyzing the zoning action's consistency with the Citywide and Area Elements of the Comprehensive Plan, and Small Area Plans, if applicable (Part 1); a submission from applicants including information about their community outreach and engagement efforts regarding the zoning action (Part 2); and a submission from the Office of Planning. That includes disaggregated race and ethnicity data for the Planning Area affected by the zoning action (Part 3).

38. First Prehearing Submission. On September 14, 2023, the Applicant filed its first pre-hearing submission and supporting materials responding to issues and comments raised by the Commission at setdown and by OP in its setdown report. Such issues, comments, and responses are summarized as follows:
- (a) An updated one-page summary and updated plans and drawings for the Project;
  - (b) Setback Relief. In response to comments from the Commission at setdown, the Applicant revised the design of both buildings to remove the need for penthouse setback relief for the guardrails and trellis elements that had been on the roof of the buildings;
  - (c) Proposed Uses. In response to comments from OP, the Applicant provided additional drawings regarding the Project's proposed uses and requested use flexibility;
  - (d) Zoning Relief. In response to comments from OP, the Applicant provided additional explanation regarding justification for the Project's requested flexibility from the court, rear yard, and penthouse requirements of the Zoning Regulations;
  - (e) Solar Panels. In response to comments from OP, the Applicant clarified the amount of solar panels proposed for the Project;
  - (f) LEED v4. In response to comments from OP, the Applicant's sustainability consultant, Lorax, clarified that the Project would pursue LEED v4 Gold as projects in the United States are not yet eligible to certify under LEED Residential v.4.1 (Ex. 13C.);
  - (g) PDR Uses. In response to comments from OP, the Applicant explained the rationale for its proffer with respect to PDR/Maker uses and PDR/Maker construction specifications; and
  - (h) Business Owners. In response to comments from OP, the Applicant provided information about the businesses operating on the Property and the Applicant's efforts to mitigate displacement impacts by allowing business tenants to remain on the Property in their existing locations after their originally scheduled end of lease term for approximately two years more to provide them with additional time to relocate to locations central to their customers and suppliers. The Applicant noted that it anticipates that existing business tenants will file letters in support of the Application.  
(Ex. 13, 13A-13D.)
39. Comprehensive Transportation Report. On November 3, 2023, the Applicant filed a Comprehensive Transportation Report ("CTR"), including a Transportation Demand Management ("TDM") Plan prepared by Gorove Slade. The CTR concluded that the Project will have manageable impacts on the surrounding transportation network, assuming the proposed site design elements and TDM measures are implemented as part of the Project. (Ex. 20A.)
40. Applicant's Supplemental Pre-Hearing Submission. On November 14, 2023, the Applicant filed a supplemental submission containing updated plans for the Project and other supporting information (Ex. 21, 21A-21D.), including:

- (a) An updated one-page summary and updated plans and drawings for the Project;
  - (b) Procedural materials required by the Zoning Regulations;
  - (c) Balconies. In response to comments from OP, the Applicant confirmed that approximately 50% of the Project's units have access to a private terrace or balcony (including Juliette balconies);
  - (d) Canopies: In response to comments from OP, the Applicant provided additional information about the Project's canopies, noting they range in height from 13 feet at the north of the Project near 4<sup>th</sup> Street, N.E. to 29 feet at the south of the Project near the southern paseo;
  - (e) Affordable Unit Locations. In response to comments from OP, the Applicant provided proposed locations for the Project's affordable units, consisting of 4 three-bedrooms, 11 two-bedrooms, and 34 one-bedroom and studio units;
  - (f) PDR/Maker Space Specifications. The Applicant provided a visual description of the PDR/Maker space specification and an explanation about such space;
  - (g) Signage. The Applicant provided plans and drawings showing proposed signage specifications for the Project;
  - (h) LEED Program. The Applicant provided information from its LEED consultant clarifying that LEED Multifamily Midrise, which was suggested by DOEE, was not applicable to the Project given the Project's number of stories (Ex. 21C1.);
  - (i) Trellis and Guardrails. The Applicant confirmed that all of the Project's guardrails comply with the requirements of the Zoning Regulations;
  - (j) PUD Standards. The Applicant restated the Application's satisfaction of the PUD evaluation standards; and
  - (k) Proposed Flexibility. The Applicant provided draft design flexibility language. (Ex. 21C2.)
- (Ex. 21, 21A-21D.)
41. Applicant's Direct Presentation. In advance of the December 4, 2023 public hearing, the Applicant filed a presentation and appendix materials. (Ex. 35A1-35A11.) At the public hearing, the Applicant presented the Application and proposed Project and addressed questions raised by the Commission:
- (a) The Applicant provided testimony from eight witnesses:
    - i. Emalia Tamanikwa, as a representative of the Applicant;
    - ii. Michael Marshall of Michael Marshall Design, as the Project's architect, admitted as an expert in architecture and urban design;
    - iii. Navid Tehrani of HKS Architects, as the Project's architect, admitted as an expert in architecture and urban design;
    - iv. David Rubin of Landscape Collective, as the Project's landscape architect, admitted as an expert in landscape architecture;
    - v. Daniel Solomon of Gorove Slade, as the Project's transportation planner, admitted as an expert in transportation planning;
    - vi. Shane Dettman of Goulston & Storrs, as the Project's planner, admitted as an expert in urban planning;
    - vii. Sara Link of Bohler Engineering, who was neither proffered nor accepted as an expert; and

- viii. Hailee Griesmar of Lorax, the Project's sustainability consultant, who was neither proffered nor accepted as an expert;
- (b) The Applicant's presentation included responses to comments from OP, DDOT, DOEE, and the Office of Attorney General ("OAG"); a summary of the Project; the Applicant's outreach and community engagement and communication with ANC 5D; and responses to questions from the Zoning Commission; (Ex. 39; December 4, 2023 Public Hearing Tr. at 7-69.)
- (c) At the hearing the Applicant noted that it had revised the design of the Project to respond to comments from OP's Design Division regarding the Project's balconies; (*Id.* at 14.)
- (d) The Applicant also provided testimony that it was continuing to have robust conversations with the businesses at the Property and the Applicant was working with them to accommodate their businesses, including permitting some to remain in their location past their current lease expirations and assisting with lease negotiations; and (*Id.* at 45 and 65-67.)
- (e) There was no cross examination of the Applicant at the hearing. (*Id.*)
42. Applicant's Rebuttal. At the public hearing, the Applicant also provided rebuttal testimony in response to the presentation and filings from OAG, which rebuttal is summarized below in the Materially Contested Issue discussion below. (Tr. 2 at 105-117.)
43. Post-Hearing Submission. On December 11, 2023, the Applicant filed a post-hearing submission containing a consolidated set of plans for the Project reflecting the plans previously submitted as updated ahead of the public hearing. (Ex. 40, 40A.) The Applicant also provided a written response to OAG's comments, which response is also summarized below in the discussion of Materially Contested Issues. (Ex. 40.)
44. Draft Findings of Fact and Conclusions of Law. On December 11, 2023, the Applicant filed draft proffers and conditions. (Ex. 38.) On December 26, 2023, the Applicant filed final proffers and conditions reflecting comments from OZLD and DDOT. (Ex. 41.) On December 29, 2023, the Applicant filed a cover letter and draft findings of fact and conclusions of law. (Ex. 43, 43A.)

#### **RELIEF REQUESTED**

45. The Application requests that the Commission approve a consolidated PUD, pursuant to Subtitle X § 300, a PUD-related amendment to the Zoning Map from the PDR-1 to the MU-9A, pursuant to Subtitle X § 300.4, which is considered PUD flexibility under Subtitle X § 303.12, and an airspace development, pursuant to Subtitle X §§ 700 and 701.
46. The Application further requests PUD-related zoning flexibility pursuant to Subtitle X § 303.1 with respect to the West Building's rear yard, courts, and penthouse setback dimensional requirements along with other design flexibility set forth in the Conditions hereof. Specifically, the Applicant requests PUD flexibility from the requirements of Subtitle G § 207 to provide a rear yard of approximately 12.5 feet where a 28.75 foot rear yard is required; from the requirements of Subtitle G § 209 to provide open courts at the southern end of the West Building and facing 4<sup>th</sup> Street of approximately 11 feet and 11.5

feet, respectively, where 38.5 foot open courts are required; and from the penthouse setback requirements of Subtitle C § 1504.1 to provide a penthouse that is not setback 1:1 along a portion of the rear of the West Building. (Ex. 13.)

47. For the reasons set forth in the record and summarized in this Order, the Applicant asserted that the development incentives and impacts of the PUD are appropriate and fully justified given the Project's public benefits, project amenities, and positive impacts.

### III. APPLICANT'S JUSTIFICATION FOR RELIEF

#### CONSISTENCY WITH THE COMPREHENSIVE PLAN AND OTHER ADOPTED PUBLIC POLICIES (SUBTITLE X § 304.4(a).)

48. Comprehensive Plan. The Applicant provided evidence that the Project is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the Property for the reasons stated below:

- (a) FLUM. The Application is not inconsistent with the FLUM's Mixed Use PDR/Medium Density Residential/High Density Commercial designation for the Property, as the High-Density Commercial portion of the Property's designation contemplates FAR in excess of 6.0. The mixed-use Project with a FAR of approximately 9.31 is not inconsistent with the Property's high-density designation. The PDR FLUM category does not contemplate a FAR range; and though the Project exceeds the 1.8 to 4.0 FAR range contemplated by the Medium Density Residential FLUM category, greater density is possible when complying with IZ or in a PUD, which both apply to the Project as it exceeds IZ requirements and is a PUD. Notably, the Project accommodates and includes PDR/Maker uses consistent with the PDR designation for the Property;
- (b) GPM. The Application is not inconsistent with the GPM's Multi-Neighborhood Center designation given the proposed upper-story residential and retail, restaurant, and service uses within the Project. Notably, the definition of the Multi-Neighborhood Center does not contemplate any sort of PDR use but does note that the "primary function" of such area is "retail trade". The Project allocates 10% of the ground floor to PDR uses for five years and provides the capability to expand PDR uses if sufficient demand for such PDR space exists;
- (c) Racial Equity (Community Outreach and Engagement and Outcomes). The Applicant's Racial Equity Analysis asserted that the Project advances the Plan's racial equity goals, including by (i) reserving 15% of its residential gross floor area as affordable: 13% for households earning 60% MFI and 2% units for households earning 50% MFI, (ii) increasing housing opportunities generally in an amenity-rich neighborhood without causing any direct displacement of residents as there is no existing residential use on the Property, (iii) providing numerous opportunities for new jobs for a variety of skill sets, ranging from construction jobs to full time hourly and salaried employment, and (iv) pivoting the Property's uses away from PDR-related harms disproportionately experienced by Black and other minority residents of Ward 5. The Applicant evaluated the Project's potential racial equity outcome against more than two dozen indicators and found that it had a potential

positive or neutral impact as to all but one indicator. As to the one potentially negative outcome, the Project does displace existing businesses on the Property, but five business owners provided letters in support of the Project, and the Applicant testified that it has made efforts to work with those businesses to mitigate displacement impacts of the Project and to assist in relocation and/or right of return. The Applicant noted that as a result of the community outreach and engagement it performed pursuant to the racial equity tool, it made the following changes to the Project: (a) in response to comments from the ANC and OP, the Applicant increased the amount of affordable housing in the initial application materials to the Commission and (b) the Applicant also increased the number of three-bedroom units in the Project in response to concerns from the ANC; (Ex. 11C.)

- (d) Racial Equity (Past/Present Discrimination and Affected Community). The Applicant's Racial Equity Analysis identified how historical industrial zoning practices along rail corridors in Northeast DC combined with the segregation of the District to create high concentrations of Black residents in the Northeast quadrant with a result of such zoning and segregation being a large number of Black District residents living near and adjacent to industrially-zoned (now PDR-zoned) areas which has had direct and adverse health, wealth, and quality of life impacts on Black and other minority residents primarily. The Applicant also collected feedback from community members regarding potential positive and negative impacts from the Application and used that feedback to shape the Application; (*Id.*)
- (e) Land Use Element. The Application stated that the Project is not inconsistent with the Land Use Element as it is pedestrian-oriented and includes high-quality architecture and public spaces, affordable and family-sized housing to allow District residents to remain in the neighborhood and share in the benefit of the development of the Union Market District and (i) is a high-density development constructed to its Height Act limit in a manner compatible with the surrounding Union Market District and appropriate for the growing, densifying District, particularly the expanded Central Employment Area; (ii) adds density, housing diversity and affordability, and publicly accessible plazas and parklets on currently underutilized land in a manner compatible with the surrounding Multi-Neighborhood Center and the high-density scale of the emerging neighborhood; (iii) achieves and balances multiple objectives; (iv) focuses District resources; (v) mixes uses and mitigates land use conflicts by enhancing activity at an existing node that keeps potential evening and crowd activity away from quieter residential areas; (vi) helps establish the Union Market District multi-neighborhood center; and (vii) avoids items the Land Use Element cautions against including negative impacts to any row house neighborhoods, loss of family-sized units, or intrusion of commercial/PDR uses into other residential areas (instead adding density and commercial/PDR uses away from such neighborhoods to relieve pressure in those areas). Community engagement was a priority in the Project's development, and no residents are displaced as a result of the Project; (Plan at LU-1.2.2, 2.4.4, 2.4.6, 2.1.5, 2.1.1, 1.2.3, 1.3.2, 1.4.3, 1.4.5, 1.4.6, 2.1.2, 2.1.3, 2.3.2, 2.4.7, 2.4.1, 2.4.2,

1.3.6, 2.1.11, 2.3.2, 2.4.5, 2.4.8, 1.1.2, 1.2.8, 1.2.9, 1.3.4, 2.2.5, 2.2.6, 2.1.4, 2.1.6, 2.1.7, 2.1.9, 2.1.19, 2.2.7, 2.3.1, 2.3.3, 3.5.1, 3.5.2, 3.2.13.).

- (f) Land Use Element: PDR Objectives. The Applicant provided evidence that the Application is not inconsistent with any of the applicable PDR-retention related objectives of the Land Use Element or Economic Development Element because the Property is (i) designated for a mix of uses on the FLUM and Small Area Plan and does not include existing PDR uses, (ii) subject to the Small Area Plan, which controls over the policy objective that promotes retention of PDR designated areas on the FLUM based on explicit language relating to the Small Area Plan in the Comprehensive Plan, (iii) obsolete from an industrial use perspective as a two-story hotel building with large expanses of surface parking, (iv) not well-buffered from the existing and approved residential uses immediately opposite the Project along 4<sup>th</sup> Street, N.E. and 5<sup>th</sup> Street, N.E. and therefore is inappropriate for new, intense PDR uses, (v) not viable for future industrial land uses. In addition, the Project adds dedicated space for low impact “PDR/Maker uses” in a way that avoids impacts on adjacent sites and that anticipates future growth of that industry and provides support for PDR uses in buildings with best in class environmentally sustainable design; (Plan at LU-3.2.1-3.2.6, 3.2.10.)
- (g) Transportation Element. The Application stated that the Project furthers the goals and policies of the Transportation Element because it (i) builds and improves pedestrian and cycling infrastructure in a safe manner, (ii) balances off-street parking supply with demand and the multitude of transit and other mobility options serving Union Market today and innovative and future-thinking parking measures (e.g., EV parking) in the Project’s garage, (iii) improves the urban design and streetscape and overall visual quality at the New York Avenue, N.E. gateway entrance to the Union Market District, with buildings of substantial design quality and mass in light of the significance of that entrance, (iv) avoids auto-oriented uses, removes surface parking, and closes all existing curb cuts to rely on the existing alley system serving the west side of 4<sup>th</sup> Street, N.E., (v) constructs significant enhancements to public space to support an active and naturally-landscaped pedestrian environment that includes areas and gathering spaces for a mix of ages and abilities (with an emphasis on innovative accessibility measures) without introducing walking or cycling obstructions and revises 4<sup>th</sup> Street, N.E. and adjacent private space to include parklets and plaza that animate the street, (vi) adds residents and workers who will contribute to the use of CaBi stations and the overall cycling system and expands EV charging capacity, (vii) includes a transportation impact assessment with required mitigation measures, (viii) delivers a robust TDM package, and (ix) adds density and uses in Union Market District that will ultimately help justify adding transit investments and a connection to the NoMA Metrorail station stop in support of the objectives of the Plan’s Transportation Element, especially when viewed through a racial equity lens (e.g., Ward 5 historically not receiving as much focus on transit expansion); (Plan at T-1.1.4, 1.2.4, 2.2.2, 2.3.1-2.3.3, 2.4.1, 2.4.3-2.5.1, 4.1.3, 1.1.8, 3.2.1, 3.2.2, 3.2.3, 1.2.1,



- 1.2.3, 1.4.1, 1.4.2, 2.4.4, 2.3.5., 5.2.1., 5.2.2, 1.1.2, 3.1.1, 3.3.4, 4.2.1, 4.4.2, 1.1.7, 2.1.1, 2.1.2, 2.1.6., 2.6.1, 2.6.2.)
- (h) Housing Element. The Application stated that the Project is not inconsistent with the Housing Element because, among other things, it helps satisfy the District's goal of 6,900 new units in the Upper Northeast planning area. The Project (i) addresses two major housing production civic priorities: includes affordable housing (where none is currently allowed or required) and imposes perpetual affordability restrictions to preserve such housing and includes 3-bedroom ("family-sized") units, including affordable 3-bedroom units and avoids any direct displacement, and (ii) does not displace any existing residents or convert any existing housing and provides a mix of affordable and market-rate units to help mitigate displacement elsewhere in Upper Northeast/Ward 5; (Plan at H-1.2.2, 1.2.3, 1.2.9, 1.1.5, 1.1.9, 2.1.3, 1.1.1-1.1.4, 1.1.8, 1.3.1, 1.2.1, 1.2.7, 1.2.11, 2.1.6, 1.1.5, 2.2.4, 1.6.5, 1.4.6, 1.6.1, 2.1.4, 2.2.1, 3.2.1-3.2.3, 4.1.3, 4.3.3, 4.3.4, 1.3.2, 1.4.2, 3.1.1.)
- (i) Environmental Protection Element. The Project (i) incorporates sustainable features, including a commitment to achieve LEED Gold status, solar panels, as well as the green roof and terrace areas; (ii) advances District climate resilience objectives (located outside of any flood plain, capturing stormwater runoff, providing on-site energy generating capabilities); (iii) adds street trees where none currently exist; (iv) employs water conservation methods to achieve LEED targets; and (v) reduces the likelihood that the Property will be used for the sort of PDR use(s) that have historically had disproportionately negative and environmentally unjust effects on Ward 5 residents; (Plan at E-1.1.1, 1.1.6, 2.1.3, 1.1.2, 2.1.5, 2.1.6, 4.1.1-4.1.3, 4.2.1, 4.2.2, 4.4.1, 6.1.5, 2.1.2, 3.1.1, 3.2.1-3.2.3, 3.2.5-3.2.8, 3.2.13-3.2.15, 5.1.1, 5.1.7, 4.4.2, 4.4.3, 5.1.3, 5.1.5, 6.2.1, 6.2.5, 3.3.2, 6.3.2, 2.3.1-2.3.3, 2.4.1, 6.1.3, 6.5.1, 5.1.3, 6.7.1-6.7.2.)
- (j) Economic Development Element. The Application noted that the Project advances goals and policies of the Economic Development Element by (i) adding approximately 31,900 square feet of floor area to diversify and expand the retail, service, and PDR/Maker use job sectors to capture more regional and District resident discretionary spending and to help anchor the future development of neighborhood shopping options in a neighborhood commercial center outside from the District's commercial core that is developing its own unique identity, (ii) providing dedicated space and construction to specifications suitable for a range of PDR/Maker uses, (iii) continuing the pipeline of development in the Union Market District which has resulted in the creation and success of numerous small businesses, many of which have been and are women- minority- and/or deaf-owned businesses, (iv) adding opportunities for entry-level jobs and jobs that result in upward mobility for District residents and very small start-up and incubator businesses through innovative public space, and (v) adding residents to support the success of a local grocery store, one of a relatively small number of stores in Ward 5 (only Wards 7 and 8 have fewer); (Plan at ED-1.1.3, 2.2.1, 2.2.3, 2.2.5, 2.2.7,

- 2.3.2, 2.3.3, 3.1.1, 3.1.8, 1.3.1, 1.3.2, 1.3.4, 1.1.4, 2.2.4, 3.2.1, 3.2.2, 2.2.8, 4.2.6, 4.2.9, 2.2.6, 3.2.6, 3.2.7, 3.1.7, 3.2.2, 3.2.8, 4.2.12.)
- (k) Parks Recreation and Open Space Element. The Project adds to the diversity of open spaces in the Union Market District by adding a linear interconnected series of parklets and public plaza areas in front of the Project, an alley system that will be more accessible to the public for recreation and cultural events than many others, and improved cycling connections to the nearby Metropolitan Branch Trail. The Project's parklets also represent opportunities for temporary and seasonal public art displays and performances; (Plan at PROS-1.1.3, 3.3.2, 3.4.4, 4.3.3.)
- (l) Urban Design Element. The Application stated that the Project is not inconsistent with the Urban Design Element because it (i) is consistent with the block-scale massing, design, Height Act-limited/horizontal urbanism principles in Washington DC and improves upon the delivery of such principles in the image of the District generally relative to the existing suburban and auto-oriented conditions, (ii) does not propose to close an alley and instead builds underneath a public alley in a way that preserves the alley function and creates a multipurpose space that meets utilitarian needs while also providing recreational and possibly gathering/arts space, (iii) creates a gateway to the Union Market District in a location that does not disturb the "topographic bowl" of the city and that currently expresses with very little Plan-based urban design consideration in the vicinity of the Project, (iv) employs superior and innovative architectural design that advances the Small Area Plan's design goals, improves nearby public spaces, avoids monotony, emphasizes the Property's corners, and will endure for decades, (v) advances the streetscape objectives of the Plan, (vi) provides high-quality, street-activating publicly accessible plazas, parklets, and an activated alley system, (vii) creates strong streetwalls where none currently exists, employs projections (canopies, porches, balconies, and steps), provides high-quality storefronts, and improves the adjacent streetscape with social and pedestrian-oriented features that also add visual interest, (viii) includes canopies that provide protection against sun and rain, and (ix) provides a classic tripartite design with a strong top level that respects the urban design intent of the Height Act and penthouse setback requirements as well as the character of the neighborhood while also leveraging the views available at the Property and creating opportunities for outdoor gathering and resident interactions; (Plan at UD-1.1.1, 2.2.1, 1.1.5, 1.4.4, 1.4.2, 1.4.1, 1.2.2, 4.1.2, 4.1.7, 4.1.8, 4.2.1, 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.5, 2.1.6, 2.1.7, 2.1.8, 2.2.3, 2.3.1 to 2.3.5, 2.4.1 to 2.4.4, 3.1.1, 3.1.3, 3.1.4, 3.1.5, 3.2.2, 3.3.1 to 3.3.4, 3.2.5, 3.3.5, 2.2.7, 4.2.2, 4.2.3, 4.2.6, 4.3.2, 4.3.5, 3.2.1, 4.2.5, 4.3.1, 4.3.3, 4.3.4, 2.3.5, 1.2.4, 2.2.4, 2.2.5, 2.2.2, 4.2.4.)
- (m) Historic Preservation Element. Regarding historic preservation, the Project: (i) respects the Height Act's limits, generally does not adversely affect the nearby historic district (which recognizes a unique history of industrial uses in the District), and does not adversely affect views of the District's skyline; (ii) steps down adjacent to the Historic District along 5<sup>th</sup> Street, N.E. and is buffered from the Historic District by an existing building along 4<sup>th</sup> Street, N.E.; and (iii) reinforces the "tilted grid" endogenous to the Union Market District and in which the historic

- district's fabric is situated; (Plan at HP-1.6.2, 2.1.1, 2.1.3, 2.1.4, 1.4.2, 2.5.3-2.5.4, 1.6.3.)
- (n) Infrastructure Element. The Applicant stated that the Project is not inconsistent with the Infrastructure Element because it (i) is served by adequate infrastructure (all of it currently underground), and the Applicant's team has worked with PEPCO, DC Water, and other service providers on the location, scale, and scheduling/timing of facilities to meet future development and neighborhood demand, fees for which are paid at the time of obtaining a building permit, and (ii) includes solid waste collection from a fully-indoor trash collection facility which reduces adverse effects (noise, odors, truck movements) on neighbors; (Plan at IN-5.1.1, 5.12, 6.1.1, 6.1.3, 6.2.2, 3.1.1, 3.1.2.)
- (o) Upper Northeast Area Element. The Application stated that it furthered the goals of the Area Element by: (i) providing for new affordable and mixed-income housing and growth in Ward 5 away from the predominantly residential Upper Northeast neighborhoods; (ii) improving economic development, business, and linkages to job opportunities and pedestrian-oriented retail near Florida Avenue, N.E. and Metrorail; (iii) providing uses that are environmentally improving relative to more intense PDR uses allowed as a matter-of-right on the Property and street trees where none exist; (iv) improving the appearance from New York Avenue, N.E. which is a gateway to Washington, D.C. with iconic and visually striking new buildings to serve as a gateway into the District and the neighborhood; (v) avoiding adverse effects on Upper Northeast historic resources; (vi) improving pedestrian and bicycle access and safety within the Union Market District as part of a larger Northeast DC connection effort, and (vii) implementing the redevelopment of the Union Market District consistent with the Small Area Plan; and (Plan at UNE-1.1.1, 1.1.6, 1.1.8, 1.2.4, 1.2.5, 2.3.2, 1.2.9, 1.1.11, 2.3.1, 1.2.1, 1.2.2, 1.2.6, 2.6.2, 2.1.2.)
- (p) Implementation Element. The Application underwent a thorough review and evaluation as part of the PUD modification process and the PUD's consistency with the Comprehensive Plan was refreshed. The PUD includes a mix of affordable, market rate, and three-bedroom units as a true mix of residential housing as an amenity. (Plan at IM-1.1.5, 1.3.3, 1.3.4, 1.5.1-1.5.3, 1.5.5, 1.2.1, 1.1.4, 1.1.6-1.1.8, 1.2.3, 1.3.3, 1.1.9; Ex. 11C.)
49. MoveDC (2021 Update). In addition to the Transportation Element, in December 2021 DDOT adopted an update to its District-wide long-range transportation plan called MoveDC. MoveDC identifies seven broad goals of safety, equity, mobility, project delivery, management and operations, sustainability, and enjoyable spaces along with nearly twenty policies and three-dozen "strategies." The Project is not inconsistent with the MoveDC Plan. In particular, the Project, and its proposed improvements to and below the public alley: (a) provide people-focused, accessible placemaking opportunities, (b) permit social, cultural, commercial, and flexible uses of public space without closing a public alley, (c) expand the pedestrian and bicycle network, and (d) "Improve walkability and pedestrian amenities with more car free zones and plazas" and "increase the people-focused use of the right-of-way and public space". (Ex. 11C.)

50. Small Area Plan. The Applicant provided evidence that the Application is not inconsistent with the Small Area Plan, as a whole, by (a) matching the Small Area Plan’s “Function” (i.e., use) recommendation for new residential and retail uses; (b) being consistent with the Plan’s “Character” (i.e., density and height) recommendation of Medium-High Density; (c) addressing the complexity of the urban design environment around the Property; and (d) advancing other recommendations of the Plan regarding housing, public safety, 18-hour-a-day dynamism, environmental sustainability, and pedestrian-friendly streetscapes. (Ex. 11C.)
51. W5W Study. The Applicant also provided evidence that the Application is not inconsistent with the W5W Study because it (a) adds a mix of uses, including PDR/maker uses that diversify the overall District economy, bolster the mix of food-based PDR uses in the Union Market District, and create opportunities for new and emerging businesses; (b) promotes inclusive economic growth with a range of job opportunities; (c) avoids the type of “nuisance” uses experienced in other PDR-zoned areas; (d) improves environmental performance and stewardship (especially compared with existing conditions); (e) serves other (non-PDR) municipal functions through the production of on-site affordable housing to house future employees of on-site and other nearby PDR uses; (f) includes other community amenities (e.g., public space improvements and the paseo and breezeway to the improved public alley); and (g) improves the physical appearance of the Property, helps create a “great place” in the Union Market District, enhances pedestrian and cyclist connectivity, and creates a buffer between the highly-trafficked New York Avenue, N.E. (and the railyards to the north) and the Union Market District. (Ex. 11C.)
52. Mayor’s Housing Order. The Project advances the Mayor’s Order for new housing in the District, particularly new affordable housing in the Upper Northeast Planning Area. (Ex. 11C.)
53. Potential Inconsistencies. The Applicant’s analysis of the Project’s consistency with the Plan identified potential areas of inconsistency with individual Plan policy objectives: (Ex. 11C.)
- (a) The GPM designates the Property as a “Multi-Neighborhood Center” which “contain[s] many of the same activities as Neighborhood Commercial Centers [Typical uses include convenience stores, sundries, small food markets, supermarkets, branch banks, restaurants, and basic services such as dry cleaners, hair cutting, and childcare.... Many buildings have upper-story residential uses], but in greater depth and variety.... These centers might include supermarkets, general merchandise stores, drug stores, restaurants, specialty shops, apparel stores, and a variety of service-oriented businesses. These centers also may include residential and office space for small businesses, although their primary function remains retail trade”) (emphasis added). (Plan at 10-A DCMR §§ 225.15, 225.17.)
- The Applicant responded that the Project is not inconsistent with the Generalized Policy Map’s Multi-Neighborhood Center designation given the proposed amount of upper-story residential and retail, restaurant, and service uses within the Project.

Notably, the definition of the Multi-Neighborhood Center does not contemplate any sort of PDR use but does note that the “primary function” of such area is “retail trade”;

- (b) The Project achieves LEED Gold, a high level of sustainability and water efficiency, but it is short of the net-zero energy target encouraged (but not mandated) by the Plan. (Plan at H-1.6.5.)

The Applicant noted, however, that net-zero (i.e., “net-zero” means that the housing should generate or offset as much energy as it uses) is a lofty goal that is not achievable in light of the other objectives that the Project advances, including through other sustainability measures that address issues like stormwater management and PDR and placemaking objectives;

- (c) The Project does not include any housing specifically for seniors, persons with disabilities, or vulnerable populations. (Plan at H-4.1.3, H-4.3.3, H-4.3.4.)

The Applicant responded that the Project does not preclude housing anyone in such groups and includes 15 percent of units reserved as accessible and includes broad accessibility measures for all units (e.g., elevators, in-unit washer/dryer, etc.) not possible or available in older buildings;

- (d) The Applicant does not anticipate any owner-occupied housing (or any future homeowner assistance program) in the Project. (Plan at H-1.3.2, H-1.4.2, H-3.1.1.)

The Applicant further explained however, it is unusual for a single building to have rental and owner-occupied units together; instead, the Project contributes to a mix of rental and owner-occupied units in the Union Market District overall. In addition, the market for owner-occupied housing in a condominium format is not available in the current circumstances;

The Application includes an evaluation of climate and resiliency measures and consideration of other environmental measures; however, the Project did not undergo a full environmental review at the zoning entitlement stage even though the Plan encourages impact assessments that consider environmental and other impacts before any decision is made. (Plan at E-4.4.2, E-4.4.3, E-5.1.3, IM-1.1.1.)

The Applicant explained that such reviews are not mandatory requirements in the Plan and are not typically included as part of PUDs or at this early stage of project planning and design;

- (e) The Project retains and avoids displacement of the PNC Bank branch on the Property; however, also does not provide any opportunities for direct community equity investment, hiring incentives, CBE requirements, or small business incubator space, or mitigation efforts for potentially rising commercial rents. (Plan at ED-3.2.6, ED-3.2.7, ED-3.1.7, ED-3.2.2, ED-3.2.8, ED-4.2.12.)

The Applicant explained that, as with many policy objectives of the Plan, these items are only ambiguously applicable to private developers (as opposed to District policymaking more generally). On balance, the Project’s other positive attributes—affordable housing, family-sized housing, PDR commitments, and job creation opportunities, chief among them—make the Project overwhelmingly consistent with the Plan and Small Area Plan;

- (f) The Project arguably creates sharp transitions in mass, scale, and character relative to the single-story buildings and existing rooflines in the immediate vicinity of the

Property (without any of the more customary stepping or transitioning that might be expected). (Plan at UD-2.2.4, UD-2.2.5, UD-2.2.2, UD-4.2.4.)

The Applicant explained that such transitions are a characteristic of the Union Market District, a unique mix of new and old buildings in Washington, DC, and the Project complements and contributes to rather than detracts from the emerging architectural eclecticism of the Union Market District (in a manner not possible elsewhere); and

- (g) The Project is potentially inconsistent with policy objective Plan policy UNE-1.1.8, which notes that “[t]he uses, height, and bulk permitted under the existing PDR zones are expected to remain for the foreseeable future”.

The Applicant noted that such language (a) does not preclude changes to PDR zones consistent with the Future Land Use Map and Policy Map, which have greater weight than this section, (b) should be understood as subject to and superseded by the effective Small Area Plan recommendations with which it is in conflict, and (c) in any event is couched merely as an “understanding” and not a requirement (e.g., it does not say that uses, height, and bulk under the existing PDR zones shall not change). (Plan at UNE-1.1.6, UNE-1.1.8, UNE-1.2.4, UNE-1.2.5, UNE-2.3.2.)

**NO UNACCEPTABLE PROJECT IMPACTS ON THE SURROUNDING AREA OR THE OPERATION OF CITY SERVICES (SUBTITLE X § 304.4(b).)**

- 54. The Applicant provided evidence that the Application complies with Subtitle X § 304.4(b) because the impacts of the Application, are favorable, capable of being mitigated, or acceptable given the quality of the public benefits of the Project:

- (a) Zoning and Land Use Impacts. The Project has no unacceptable zoning or land use impacts on the surrounding area and any impacts are instead either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the Project. The Project’s mix of uses is appropriate given the Property’s proximity to transit and highway access, the ongoing development in the neighborhood, and the extensive planning and community support for the Small Area Plan. The Project’s height, and mass are appropriate given the planning objectives for Union Market. The Project’s contribution of a critical mass of commercial and multifamily uses to the neighborhood is a favorable land use impact. These proposed uses create economic opportunities and contribute to the emergence of job opportunities in the neighborhood and provide new, high-quality multifamily housing units to Ward 5. Moreover, the Project’s creation of a thoughtfully designed public space also has favorable land use impacts;
- (b) Housing Impacts. The Project’s addition of new housing, affordable housing, and three-bedroom units produces favorable impacts for the District’s housing market. The Project does not displace any existing residents and is unlikely to create any adverse impacts on the surrounding housing market. Instead, the addition of the Project’s new housing units helps buffer increasing housing costs, as increases in supply are widely understood to dampen rent increases;
- (c) Economic Impacts. The Project has favorable economic impacts on the neighborhood by generating revenue for the District from property tax, sales tax,

and income tax from its new residents. The proposed intensification of land use on the Property has positive tax revenue effects for the District. The Project will continue to attract patrons and outside investment to the Union Market District, add transit-accessible job opportunities as well as construction period jobs, and have a stabilizing and positive effect on the economy of Ward 5 and the District as a whole. The contribution of new residences in the Union Market District contributes patrons for the existing businesses and benefits the District's economic situation generally. The additional retail and PDR/Maker space addresses concerns about adverse economic impacts or changes to the neighborhood's retail and service mix in a way that serves long-time businesses and residents. To the extent there are any adverse effects from the Project, such effects are more than offset by the aforementioned mitigating factors and the Project's public benefits;

- (d) Open Space, Urban Design, and Massing Impacts. The Project's urban design impacts are favorable. Those elements of the Project are a grand gesture framing the entrance to the Union Market District and heralding its arrival as a significantly emerging economic hub in the District and the greater region. In addition, the Project creates a strong presence, avoiding blank walls, curb cuts, and surface parking, providing high quality landscaping and streetscaping, and creating pedestrian-first porosity in the street network. Finally, the Project has favorable impacts on the surrounding area as a keystone linking the emerging projects elsewhere in the neighborhood and establishing the context for additional higher-density phases and design in the future. Any massing impacts are capable of being mitigated or acceptable in light of the public benefits, primarily the amount and depth of the proposed affordable housing;
- (e) Transportation and Mobility Impacts. The Project does not have any unacceptable impacts on the public transportation facilities or roadways. The Project reduces the amount of proposed parking and incorporates the TDM Plan. The Project includes EV charging stations and bike storage space. The's Project's CTR thoroughly evaluated the Project's potential transportation impacts and crafted a customized mitigation package. In addition, the Applicant enhanced its mitigation commitment through improvements to pedestrian spaces in the private portion of Neal Place, N.E.;
- (f) Historic Resource Impacts. The Project has no unacceptable impacts on the surrounding historic resources and any impacts are instead either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the Project. The Project's overall height and density are of a different scale than the lower density, existing historic structures. In terms of height and density, the Project is much more akin to the other new buildings in the Union Market District and not imitative of the scale of the contributing structures. On 4<sup>th</sup> Street, N.E. the Project is separated from the Historic District by a large non-contributing structure. On 5<sup>th</sup> Street, N.E. the Project is adjacent to the Historic District and appropriately is stepped down to 90 feet in height on that portion of the Property;
- (g) Cultural and Public Safety Impacts. The Project has favorable impacts on the culture of the surrounding area. The Project provides uses and placemaking features that contribute to the emergence of the Union Market District as an important Ward 5 space beyond a place merely to live or work. The Project's important

contributions to the public realm provide neighborhood gathering and event spaces, celebrations, performance opportunities, and opportunities for social interactions and engagement. The addition of residents to the neighborhood and the Project's balconies and other design elements improves street activity, quality lighting, and other improvements all of which have positive effects on crime deterrence. In addition, the Project replaces underutilized commercial lots with well-designed, more intense uses that support the broader cultural build-out and significance of the Union Market District generally;

- (h) Environmental Impacts. The Project has favorable impacts on the environment. The Project meets stormwater management and GAR requirements and is designed to achieve a LEED Gold level of design. The Project includes green roof and solar panels as well as tree plantings on the nearby streetscape. The Project's construction will include required erosion control measures;
- (i) Public Facilities. The Project is unlikely to have unacceptable impacts on public facilities, such as utility infrastructure, schools, recreation centers, libraries, or parks, given the size of the Project and its mix and type of units as well as the capacity of the nearby facilities;
- (j) Public Health and Safety Impacts. The Project advances public health by incorporating open space for retreat and well-being and high-quality design. The Project's bicycle facilities and proximity to Metro options encourages healthier modes of transportation. The increased activity and visibility improve public safety; and
- (k) Construction Impacts. During the development period for the Project, impacts on the surrounding area are capable of being mitigated. The Applicant has significant experience successfully completing construction projects in infill locations without imposing material and adverse impacts on neighbors. There are no existing residential units on the Property or on any adjacent blocks.

(Ex. 2C2, 35A.)

**THE PROJECT INCLUDES PUBLIC BENEFITS AND PROJECT AMENITIES THAT ARE NOT INCONSISTENT WITH THE COMPREHENSIVE PLAN, SMALL AREA PLAN, OR OTHER ADOPTED PUBLIC POLICIES (SUBTITLE X, § 304.4(c).)**

55. The Applicant provided evidence that the Application complies with the public benefit requirements of Subtitle X § 304.4(c). As amended by the Application, the Project includes the following public benefits and project amenities, which the Applicant stated are not inconsistent with the Comprehensive Plan and other adopted public policies and active programs related to the Property. The Application enumerated the following benefits and amenities, superior to a matter-of-right project, organized under the categories defined by Subtitle X § 305.5:

- (a) Superior Urban Design (Subtitle X § 305.5(a).): The Project's architecture and urban design are superior. Specifically, the Project's urban design emphasizes the pedestrian nature of the Project, provides a large-scale gesture at the entry to Union Market from New York Avenue, N.E., and steps down adjacent to the Historic District. The Project similarly includes elements of superior architectural design. For example, the Project presents a thoughtful ground floor design that integrates



- into the surrounding context. The Project's differentiated massing, balconies, articulation, and design responds to its context on all sides;
- (b) Superior Landscaping or Creation of Open Spaces (Subtitle X § 305.5(b).): The Project's landscape, public alley, and streetscape improvements create a range of vegetation and outdoor spaces that improve the Property while also providing functional services to building residents and visitors and patrons of the area;
  - (c) Site Planning and Efficient Land Utilization (Subtitle X § 305.5(c).): The benefits of the Project's site plan and efficient land utilization are reflected in the Project's overall density, introduction of residential uses on underutilized lots located near transit, the absolute number of new residential units provided, and introduction of affordable housing. The Project's greater heights and density near a transit node represent economical land utilization. Further, the Applicant proposes an efficient, economical land utilization strategy with respect to parking;
  - (d) Housing and Affordable Housing (Subtitle X §§305.5(f), 305.5(g).): The provision of a greater number of residential units than could be developed on the site as a matter-of-right, three-bedroom units, and affordable housing in excess of the IZ requirements are all public benefits. The Project includes a greater number of housing units than could be developed on the site as a matter-of-right, includes a minimum of 20 three-bedroom units, and reserves 15% of its residential GFA for affordable housing units, of which two percent will be set aside for households earning no more than 50% MFI and the remainder for households earning no more than 60% MFI;
  - (e) Environmental and Sustainable Benefits (Subtitle X § 305.5(k).): The Project commits to LEED Gold v4 design under the New Construction rating system, as well as a minimum of 2,300 square feet of rooftop solar panels and EV charging stations;
  - (f) Streetscaping (Subtitle X §305.5(l).): The Applicant commits to performing streetscaping and innovative placemaking improvements along the adjacent portion of 4<sup>th</sup> Street, N.E., 5<sup>th</sup> Street, N.E., and Penn Street, N.E., along with the adjacent portion of "Pascal Way" (i.e., the public alley), subject to DDOT approval, and constructing two "paseos"; and
  - (g) Uses of Special Value (Subtitle X § 305.5(q).): The Applicant commits (i) to building out 50% of the ground floor non-residential space to specifications that accommodate PDR/Maker uses, and (ii) to reserving an area equal to 10% of the non-residential GFA of the ground floor to PDR/Maker uses for five years.
- (Ex. 2C3, 35A, and 41.)

**THE PROJECT SATISFIES THE AIRSPACE DEVELOPMENT CRITERIA (SUBTITLE X, § 701.)**

56. The Applicant provided evidence that the Application complies with the requirements for an airspace development: (a) the Application seeks Zoning Commission approval per Subtitle X § 701.1; (b) the Application seeks to use the airspace for garage purposes pursuant to the requirements of the MU-9A zone, which would be the abutting zone pursuant to the Applicant's PUD-related Map amendment per Subtitle X § 701.2; (c) the airspace does not include any vertical structures above grade so limitations and requirements of Subtitle X § 701.2 respecting the height, off-street parking, other development standards, and easements regarding light and air are inapplicable; (d) per

Subtitle X § 701.3, the airspace development is being process as part of the PUD so it is otherwise subject to the relevant evaluation criteria of Subtitle X, Chapter 3; and (e) per Subtitle X § 701.4, the conditions applicable to the Project generally will also be applicable to the airspace development portion of the Application, so the Project's airspace components are not incompatible with the surrounding private property, remain accessible to the public for traversing the public alley, result in a high quality design, do not affect any viewsheds, and do not otherwise impose adverse impacts on the surrounding area. (Ex. 2A2, 35A.)

57. The Project's below alley connection is designed to provide space below grade but above the garage connection for utilities and other improvements below grade in the alley (i.e., "future proofing" the alley). This provision satisfies the requirements of Subtitle X §§ 701.3 and 701.4.

#### IV. RESPONSES TO THE APPLICATION

##### OFFICE OF PLANNING

58. On July 17, 2023, OP filed a report recommending that the Commission set down the Application for a public hearing (the "OP Setdown Report"). (Ex. 12.). The OP Setdown Report stated the following:

- (a) The Application would be not inconsistent with the maps and policies of the Comprehensive Plan, including when reviewed through a racial equity lens;
- (b) OP made the following comments regarding the Project:
  - i. Clarify and define the Project's uses, including bedroom count for residential units; use of the penthouse; the location of the lodging use proposed; and amounts and locations of retail space and PDR space on the ground floor;
  - ii. Clarify the exact locations where penthouse relief is requested and provide justification for all of the requested relief;
  - iii. Clarify on the drawings the amount and locations of solar panels and commit to a minimum level or area for solar power generation;
  - iv. Consult with DOEE to ascertain whether LEED v4.1 should be used to evaluate the project rather than v4;
  - v. Consider expansion of the commitment to PDR uses; and
  - vi. Provide additional information regarding how existing business owners are being accommodated in the redevelopment;
- (c) The OP Setdown Report analyzed the Project's consistency with the Comprehensive Plan and other adopted public policies, including evaluating it through a racial equity lens, and concluded that the Application is not inconsistent with the Comprehensive Plan's maps or Citywide Elements and that it would further the Area Element's policy objectives;  
With respect to the Property's location within a Future Planning Analysis Area on the GPM, OP noted that the Comprehensive Plan's Implementation Element states "re-zoning proposals received prior to planning studies in these Future Planning Analysis Areas may be considered if the following occur or have occurred: a Small Area Plan, development framework, technical study, design guidelines, Planned

Unit Development, master plan already approved by the National Capital Planning Commission, or the re-zoning proposal would have been consistent with the 2012 Future Land Use Map” (10-A DCMR § 2503.3), as is the case with the Property. OP further stated that it is currently undertaking studies in the New York Avenue corridor, but those efforts are not yet complete;

OP cited policy objectives and goals of the Citywide Elements and Area Element that would be furthered by the Project. (Land Use Element Policies LU-1.41, 1.4.3, 1.4.C, 1.5.1, 2.1.1, 2.2.4, 2.4.1, 2.4.2, 2.4.6, 3.2.3, 3.2.10, 3.2.E, and §§ 315.1, 315.6; Transportation Element Policies T-1.4.1, 2.3.B, 2.4.1; Housing Element Policies H-1.1.1, 1.1.2, 1.1.3, 1.1.4, 1.2.1, 1.2.2, 1.2.7, 1.3.1; Environmental Protection Element Policies E-1.1.2, 3.2.3, 3.2.7, 4.1.2; Economic Development Element Policies ED-2.2.3, 2.2.4, 2.2.5, 2.5.2, 3.1.1, and § 711; Historic Preservation Element Policy HP-2.5.3; Urban Design Element Policies UD-2.1.1, 2.1.6, 3.2.5, 4.2.1, 4.2.2, 4.2.6, 4.3.4; and Upper Northeast Area Element Policies UNE-1.1.6, 1.1.8, 1.1.9, 1.1.B, 1.2.5, 2.1.2, and § 2411.3.) OP noted that among those policies, in addition to providing new market rate and affordable housing opportunities, the Project would further goals aimed at reinforcing Florida Avenue Market as a regional destination and complementing the unique retail environment in the neighborhood. The Project would further Land Use and Transportation goals of maximizing land use efficiency near transportation infrastructure and could further Economic Development goals of supporting small and local businesses;

Disaggregated Race and Ethnicity Data. OP’s Racial Equity Analysis included demographic, housing, and other economic census data disaggregated by race for the Upper Northeast Planning Area, in which the Property is located. OP concluded that, “[t]he available data shows that a number of factors can be distinguished by race. For example, home ownership and home rental rates show a disparity between White and Black populations in the planning area. Similarly, the poverty level for Blacks in the planning area, 18.8%, is significantly higher than for Whites, at 10.9%. Average income shows a high level of disparity between White and Black, although that data might be skewed by the much higher percentage of Blacks that are of retirement age compared to Whites in the planning area. Disability status and educational attainment also show significant differences. The proposed housing development could help to alleviate some degree of inequity, especially regarding housing costs and the number of families that are housing-cost-burdened. Data on the number of households burdened by housing costs is not disaggregated by race but given unemployment and income levels it can be inferred that additional affordable housing provided by the project would help to further equitable outcomes for Black families. Another benefit of the project would be the provision of residential units in close proximity to several transportation modes, which can help populations of any skill or educational level reach employment opportunities.”; and

Displacement. OP noted that the Property site currently contains a small motel, and a number of small retail/wholesale businesses and these existing businesses will be displaced as a result of the Project. However, the Applicant has indicated that it is

- working with the existing business owners to mitigate impacts of the new development and that the current business owners are supportive of the Project.
- (d) The OP Setdown Report also analyzed the Application against the Small Area Plan, W5W Study, and Mayor's Housing Order; and
  - (e) In its prehearing submission, the Applicant responded to the comments and requests for information in the OP Setdown Report. (Ex. 13-13D.)
59. On November 22, 2023, OP submitted a hearing report recommending that the Commission approve the Application, including the associated zoning flexibility and airspace development and generally supports the requested design flexibility with minor refinements (the "OP Hearing Report"): (Ex. 23.)
- (a) The OP Hearing Report reaffirmed that the Application remained not inconsistent with the Comprehensive Plan including when viewed through a racial equity lens;
  - (b) The OP Hearing Report reviewed earlier OP and Zoning Commission comments and noted that all open issues had been clarified except:
    - i. The Applicant proposes to use a LEED system other than that which DOEE recommended (i.e., New Construction rather than Multifamily Midrise, discussed below in the context of the DOEE Report);
    - ii. The Applicant maintains that its level of PDR/Maker use commitment of 50% designed to PDR/Maker specifications and 10% reserved for PDR/Maker uses for five years is appropriate; and
    - iii. The Applicant should provide additional information in the case record about business tenant relocation assistance or ability to return to the site;
  - (c) At the hearing, the Applicant responded to the open items from the OP Hearing Report; (Ex. 35A; Tr. 2 at 12-13.)
  - (d) The OP Hearing Report updated its Racial Equity Analysis, including disaggregated race and ethnicity data for both the Upper Northeast Planning Area and District wide over a longer period (i.e., 10-year period) than in the OP Setdown Report and additional demographic data. OP found that "Research shows that there is a positive relationship between the provision of more housing and the ability of Black residents to remain in a neighborhood. The proposed zoning action would have a positive impact on the quantity of housing and affordable housing and would help to meet housing goals of the Comprehensive Plan as well as housing goals set by the Mayor. The PUD's affordable housing proffer, which exceeds regular IZ and would include some units at a deeper MFI, has the potential to narrow the income disparity between White and Black populations in the planning area.";
  - (e) OP recommended approval of the PUD-related map amendment from the PDR-1 zone to the MU-9A zone. OP noted that the map amendment would allow additional height and density. Specifically, the Project's proposed maximum height of 90 feet (East Building) to 130 feet (West Building) is greater than the maximum 50-foot height permitted for a matter-of-right development under the existing PDR-1 zoning and is a gain of 40 feet (East Building) to 80 feet (West Building). Additionally, the Project's proposed density of approximately 9.31 FAR is a gain of 5.81 FAR when compared to the maximum 3.5 FAR permitted under the existing

- PDR-1 zoning, and a gain of 7.87<sup>4</sup> FAR in residential FAR as no residential use is permitted under the existing PDR-1 zoning;
- (f) OP found that “[a]ny potential negative impacts of added density would be outweighed by the benefits of the project, including housing and affordable housing on a site that currently contains none, an enhanced public realm, improved environmental performance, and greater utilization of underutilized land. In addition, the project would not result in unacceptable impacts on the surrounding area in terms of its built form.”;
  - (g) OP recommended approval of the requested PUD zoning flexibility from court, rear yard, and penthouse setback requirements, finding that the flexibility would not result in significant impacts to light and air;
  - (h) OP also found that “In total, the benefits and amenities could be commensurate with the amount of flexibility sought through the PUD process.”;
  - (i) OP also recommended changes to some of the Applicant’s requested design flexibility regarding the Project’s balconies, residential units in the Project’s penthouse, and permitted ground floor uses; and
  - (j) OP evaluated the Application’s airspace development request and expressed support for that item. (Ex. 23.)

### **DDOT**

60. DDOT submitted a report dated November 22, 2023, expressing no objection to the Application provided that the Applicant implement its revised TDM Plan as proposed in the October 20, 2023 CTR, with the following additions: (Ex. 20A1, 20A2.)
- The Applicant will fund and construct two ADA curb ramps on each of the northeast and southeast corners of the intersection of private Neal Place and the north-south private alley west of 4<sup>th</sup> Street, N.E., and
  - Clarify that the DC Transportation Benefits Equity Amendment Act of 2020 (i.e., the parking cash-out law) is now in effect, and that retail tenants with 20 or more covered employees are in compliance. (Ex. 22.)
61. DDOT found that the Project: (a) will improve pedestrian facilities adjacent to the Property and add pedestrian porosity to the street network; (b) consistent with DDOT standards, the Project’s vehicular access is proposed via a two-way parking garage entrance from the existing rear public alley network with all four (4) existing curb cuts to the site to be closed. These are consistent with DDOT standards; (c) meets the requirements of the Zoning Regulations for vehicle parking, and the parking supply is in line with DDOT’s preferred parking maximums for sites within walking distance to Metrorail stations; (d) is expected to create unacceptable delay and queueing at one study intersection resulting from the addition of site-generated vehicle trips but this traffic impact is offset by the TDM Plan; and (e) implements a robust TDM Plan to encourage walking and discourage driving and supports non-automobile ownership lifestyles and use of non-auto modes. (*Id.*)

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<sup>4</sup> OP stated that the total square footage allowed under the existing PDR-1 zone is 159,548 square feet; the Project would have a total square footage of 415,242 of which 358,618 square feet would be residential use.

62. DDOT evaluated the CTR's analysis with respect to site access, vehicle parking, bicycle parking, loading, trees, streetscape, mode split/trip generation, pedestrian network, bicycle network, transit service, curbside management, traffic impacts, and TDM. (*Id.*)
63. DDOT reiterated its findings at the public hearing. (Tr. 2 at 94-95.)

### **DOEE**

64. DOEE submitted the following comments on the Application which were included in the OP Hearing Report: (Ex. 23.)
- (a) LEED Rating System: DOEE commented that the Applicant should design the building to be in conformance with "LEED v4 Multifamily Midrise (MMR)" instead of "LEED v4 New Construction (NC)";
  - (b) Electrification: DOEE encouraged the Applicant to design the Project to be fully electric (i.e., eliminate the on-site combustion of fossil fuels), avoid installing any new gas infrastructure, and install EV charging stations for a portion of the residences. At the public hearing, the Applicant confirmed that it was installing capacity for EV charging stations and designing the residential units to be gas free with gas only located within the Project for commercial kitchens, building back-up systems, and possibly amenity areas; (Tr. 2 at 15.)
  - (c) Net-Zero Energy: DOEE encouraged the Applicant to explore net-zero energy construction/certification for the Project. At the public hearing, the Applicant described that it was taking net-zero energy steps such as including on-site energy generation and gas-free residential units; (*Id.*)
  - (d) Solar Energy: DOEE encouraged the Applicant to maximize rooftop solar energy generation and to consider integrating additional solar panels into the green roof. At the public hearing, the Applicant confirmed that it had increased its solar installation commitment by 15% to 2,300 square feet; (Tr. 2 at 15-16.)
  - (e) Climate Resilience: DOEE encouraged the Applicant to assess how climate change will affect the project and to incorporate resilient design strategies. The Applicant included an assessment of the Project against the "Resilient Design Strategies Matrix" published by DOEE in its *Climate Ready DC Resilient Design Guidelines*; and (Ex. 35A.)
  - (f) Deconstruction, Reuse, and Embodied Carbon: Finally, DOEE encouraged the Applicant to explore options for deconstruction and reuse or salvage of materials from the existing structures and to conduct a life-cycle analysis. The Applicant confirmed that it would have a waste-diversion program during demolition of the existing structures on the Property and would evaluate a life-cycle analysis as a possible LEED credit. (Tr. 2 at 15-16.)
- (Ex. 23.)

### **ANC 5D**

65. On December 29, 2022, ANC 5D submitted a resolution, stating that at its December 13, 2022, properly called and duly-noticed meeting, with a quorum present, it voted 5-0-1 to support the Application (the "ANC Report"). (Ex. 10.) The ANC Report commended the Project's affordable housing commitment and meaningful number of three-bedroom units. The ANC also noted its understanding that adding one- and two-bedroom units in

multifamily buildings, such as the Project, can create opportunities for families to live in the rowhouses elsewhere within the ANC. ANC 5D also specifically called out its support for the Project's garage beneath the public alley to minimize potential impacts on the sidewalks and pedestrian environment.

66. The ANC Report noted that the ANC's interests are ensuring that the development of the Property moves forward in an orderly manner with public benefits that primarily benefit the neighborhood and the area of the ANC and concluded that the Project and its benefits are significant and satisfy the foregoing objectives. (Ex. 10.)
67. Commissioner Hector Arbuckle of ANC 5D testified at the public hearing, expressing his personal support for the Project and the Applicant's engagement with the community. (Tr. 2 at 101-103.)

### **OAG**

68. On November 28, 2023, OAG filed written comments along with calculations and citations to the Plan, and on December 3, 2023, OAG submitted updated comments along with presentation materials (collectively, the "OAG Report".) (Ex. 24-25B, 33-34.)
69. The OAG Report argues that the Plan requires the density increases resulting from the PUD process to create affordable housing, that affordable housing is the "only" high priority in the District, and that the Project's 15% affordable housing set aside is deficient and should instead be increased to 24.2%. (*Id.*) Further consideration of the OAG Report is set forth in the Materially Contested Issue section below.
70. On December 29, 2023, OAG submitted a request to re-open the record to respond to the Applicant's post-hearing submission. (Ex. 42.) The Commission Chairman denied OAG's request to re-open the record for several reasons. The request was submitted after the Commission closed the record except for specified items, which did not include a further response from OAG. OAG was participating in the case in an advisory role as a government agency, not as a party, thus was not entitled to respond to the Applicant's post-hearing submission. The Commission asked for the Applicant to address the issues raised by OAG at the hearing in a post-hearing submission to allow the Applicant a reasonable and fair chance to respond to the issues raised by OAG. The Commission therefore believes there was no need for further rebuttal or discussion of those issues, and therefore no good cause to re-open the record. Further, the Commission believes that allowing further submissions would prejudice the Applicant by unnecessarily prolonging a case in which the Applicant had met its burden of proof.

### **ORGANIZATIONS AND INDIVIDUALS IN SUPPORT OR OPPOSITION**

71. Five business owners with businesses currently on the Property filed letters in support of the Application. (Ex. 27-31.) The letter writers noted that the accommodations made by the Applicant avoid any impacts from disruption to the business owners' businesses.
72. Sebreana Rhodes, Commissioner of SMD 5D02 (and prior to the effectiveness of redistricting in January 2023, the SMD Commissioner for 5D01, the SMD where the Property is located) wrote a letter in support of the Application, noting its 15% affordable

housing set aside and 20 three-bedroom units as more than any other development in the area. (Ex. 36.)

73. No individuals in opposition presented testimony at the public hearing on December 4, 2023 (Tr. 2 at 105.), and no other persons, agencies, or organization filed written comments in opposition to the Application in the record.

#### **NCPC**

74. The Commission referred the Application to NCPC on December 6, 2023, for review and comment pursuant to the District of Columbia Home Rule Act of 1973, as amended, 87 Stat. 790, Pub. L. No. 93-198, D.C. Code Section 1-201 et seq. (Ex. 37.) NCPC staff filed a letter dated December 15, 2023<sup>5</sup>, stating that NCPC staff determined that the Project falls under an exception listed in Chapter 8 of NCPC's guidelines and is exempt from NCPC review. (Ex. 44.)

### **V. MATERIALLY CONTESTED ISSUES**

75. The OAG Report raises three arguments against the Application's affordable housing proffer, which OAG asserts is deficient in light of the development incentives proffered and the requirements of the Comprehensive Plan:
- (a) OAG references the Plan at §§ 224.9, 229.3, and 504.15 to assert that the Plan requires that when the District permits a project to obtain additional density via a PUD and/or Zoning Map amendment, the District must leverage that additional density to create affordable housing;
  - (b) OAG cites to census and other data to assert that there is a critical need for affordable housing in the District, especially in light of the Plan's emphasis on racial equity as a component of the Commission's analysis as to whether the Application is not inconsistent with the Plan and especially in light of conditions and trends in the Upper Northeast Planning Area. OAG argued that the Project's other benefits should not be considered as contributing to the justification for the density-related development incentives requested as part of the Application. In part, OAG asserts that the PDR-related benefits in the Project should be discounted because such PDR uses are required under the Plan; and
  - (c) Finally, OAG argues that the IZ-Plus formula in the Zoning Regulations is the appropriate baseline for evaluating affordable housing proffers as part of a PUD. OAG argues that a PUD and a PUD-related Map Amendment should provide no less affordable housing than a Zoning Map amendment that proceeds via the IZ-Plus standards. OAG therefore provides calculations to demonstrate what it argues is the appropriate level of affordable housing for this Application in light of the density received via the Zoning Map amendment to the MU-9 zone and the PUD-related density bonus.
76. In its rebuttal testimony at the public hearing and in its post-hearing submission, the Applicant disputed OAG's analysis:

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<sup>5</sup> The letter was submitted into the record on January 11, 2024.



- (a) The Applicant provided evidence that the Plan sections referenced by OAG do not state that affordable housing is the “only” high priority PUD benefit. Instead, the relevant section of the Plan provides that the provision of affordable housing should be considered as “a high-priority public benefit.” (10-A DCMR § 224.9.) The Applicant also noted that the Framework Element language cited by OAG is non-mandatory and, per the Plan at Section 200.6, is not intended to be interpreted as policy setting. Instead, § 224.9 is intended to set out a development framework where each PUD’s public benefits should be unique to the PUD and should respond to critical issues facing the District, including affordable housing as a high priority. The Applicant also pointed to similar language in the Housing Element at § 504.15 which provides that, “The affordable housing proffered [i.e., by an applicant as part of a PUD] shall be considered a high priority public benefit for the purposes of granting density bonuses, especially when the proposal expands the inclusiveness of high-cost areas by adding affordable housing.” Read in context, the intent of the foregoing language is to instruct the Commission to provide zoning incentives (particularly density bonuses) when a PUD provides affordable housing substantially in excess of what would otherwise be required on a site (which in addition to amount of affordable housing provided can also mean exceeding the depth of affordability). The Applicant also provided evidence that the Application is not inconsistent with § 229.3 regarding leveraging density gained via a PUD and Zoning Map amendment. The Application does leverage for affordable housing the Project’s PUD- and PUD-related Map amendment density;
- (b) In response to OAG’s assertion that the Project’s PDR-related proffers should be discounted because PDR uses are required, the Applicant cited language from the Plan’s Land Use Element demonstrating that PDR uses are non-mandatory as to the Project given its location within the area subject to the Small Area Plan; (*See, e.g.*, 10-A DCMR §§ 316.2, 3016.4.)
- (c) The Applicant did not dispute that affordable housing is a pressing issue in the District, and there is no dispute that the Project leverages an increase in density to provide affordable housing;
- (d) The Applicant asserted the only material dispute is whether the Project is obligated to provide additional affordable housing beyond the 15% proffered by the Applicant, which OAG asserts is required under the IZ-Plus standard in the Zoning Regulations. The Applicant provided conclusive evidence that the IZ-Plus standard is inapplicable to a PUD and related Zoning Map amendment. The text of the Zoning Regulations unambiguously provides that the requirements of the IZ-Plus map amendment subsection of Subtitle X do “not apply to a map amendment that [(a)] is related to a PUD application.” (Subtitle X § 502.2.) The Applicant also provided explanation that OAG’s quantitative analysis is also inapposite, improperly ignores the Project’s proffer of three-bedroom units and ignores whether a 24.2% set aside would render the Project inviable; and (Ex. 40.)
- (e) The Applicant asserted OAG’s interpretation of the IZ-Plus provisions is inconsistent with the Zoning Regulations on its face and is not supported by the legislative history behind the creation of the IZ-Plus regulations. As OP testified to the Commission at the time the Commission voted to adopt the IZ-Plus regulations,

“OP does not propose that Expanded IZ apply to any PUDs. Existing, proposed, or future PUDs would continue to be subject to the Regular IZ requirements and any PUD-related negotiations to provide additional IZ units and other benefits and amenities to the community.” (Public Hearing Transcript of the District of Columbia [Zoning Commission] at 7, Z.C. Case No. 20-02 (November 16, 2020).)

77. At the public hearing, OP provided testimony in response to questions from the Commission about the OAG Report. OP testified that the IZ-Plus “program was created to capture some benefit for the city at a time when we were seeing an increase in the number of map amendments and we wanted to get a benefit out of those zoning actions, and the IZ+ program is a great way to realize a high level of affordable housing when the Zoning Commission changes the zoning on a particular site. The PUD, however, is different in that it’s a specific project. The Commission has the ability to evaluate the design, other benefits that may be present with that particular project. Just to take the current project as an example, you know, the applicant is committing to provide three-bedroom units. That’s not something that we would necessarily be guaranteed through a map amendment. Similarly, we know what the environmental performance of this building is going to be, also something that we would not know when it comes to a map amendment. So, I think there’s a variety of benefits that through the PUD process the Commission can evaluate and weigh in addition to the critical benefit of affordable housing.” (Tr. 2 at 99-100.)
78. The Commission inferred the Project would have the following potential adverse effects/impacts:
- (a) Displacement of the commercial retail tenants currently located on the Property. The Commission notes however that the tenants submitted letters in support of the Project that noted that they had reached an agreement with the Applicant to mitigate the effects of the displacement; and
  - (b) Increased vehicular traffic and parking demand. The Commission notes that the Applicant submitted a thorough analysis of traffic, loading and parking issues, and agreed to a traffic demand management plan and other mitigations to improve the pedestrian experience near the site and mitigate the effects of these potential impacts.

### **CONCLUSIONS OF LAW**

#### **AUTHORITY**

1. Pursuant to the authority granted by the Zoning Act of 1938 (June 20, 1938, 52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2018 Rep1.)), the Commission may approve (a) a consolidated PUD, (b) a PUD related Zoning Map amendment, (c) airspace development, and (d) zoning flexibility and design flexibility, pursuant to Subtitle X §§ 300, 303, and 701.

**STANDARD OF REVIEW FOR A CONSOLIDATED PUD AND PUD RELATED ZONING MAP  
AMENDMENT AND AIRSPACE DEVELOPMENT**

2. Pursuant to Subtitle X § 300.1, the purpose of the PUD process is to provide for higher quality development through flexibility in building controls, including building height and density, provided that a PUD:
  - (a) *Results in a project superior to what would result from the matter-of-right standards;*
  - (b) *Offers a commendable number or quality of meaningful public benefits; and*
  - (c) *Protects and advances the public health, safety, welfare, and convenience, and is not inconsistent with the Comprehensive Plan.*
3. Pursuant to Subtitle X § 303.1:  
*As part of the PUD process, the Commission may grant relief from any building development standard or other standard referenced in the zone reference table with the exception of use regulations.*
4. Pursuant to Subtitle X § 303.12:  
*A PUD-related zoning map amendment shall be considered flexibility against which the Zoning Commission shall weigh the benefits of the PUD.*
5. Pursuant to Subtitle X § 304.3, in evaluating a proposed PUD, the Commission shall:  
*Judge, balance, and reconcile the relative value of the public benefits and project amenities offered, the degree of development incentives requested, and any potential adverse effects according to the specific circumstances of the case.*
6. Pursuant to Subtitle X § 304.4, to approve a proposed PUD, the Commission must determine that the proposed development:
  - (a) *Is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site;*
  - (b) *Does not result in unacceptable project impacts on the surrounding area or on the operation of city services and facilities but instead shall be found to be either favorable, capable of being mitigated, or acceptable given the quality of public benefits in the project; and*
  - (c) *Includes specific public benefits and project amenities of the proposed development that are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the subject site.*
7. A PUD's proposed public benefits must comply with Subtitle X §§ 305.2-305.5, and 305.12, which provide that a PUD's public benefits:  
*[A]re superior features of a proposed PUD that benefit the surrounding neighborhood or the public in general to a significantly greater extent than would likely result from development of the site under the matter-of-right provisions of this title;*  
  
*[Shall] meet the following criteria: (a) Benefits shall be tangible and quantifiable items; (b) Benefits shall be measurable and able to be completed or arranged prior to issuance of a certificate of occupancy; [and] (c) Benefits may primarily benefit a particular neighborhood or area of the city or service a critical city-wide need. A project may*

*qualify for approval by being particularly strong in only one or a few categories of public benefits but must be acceptable in all proffered categories and superior in many;*

*[S]hould relate to the geographic area of the [ANC] in which the application is proposed; and*

*[M]ay be exhibited and documented in any of the following or additional categories: (a) Superior urban design and architecture; (b) Superior landscaping, or creation or preservation of open spaces; (c) Site planning and efficient and economical land utilization; . . . (f) Housing that: (1) Exceeds the amount that would have been required through matter-of-right development under existing zoning; . . . or (3) Provides units with three (3) or more bedrooms; (g) Affordable housing except that: (1) Affordable housing provided in compliance with [IZ] shall not be considered a public benefit except to the extent it exceeds what would have been required through matter-of-right development under existing zoning. . . . and (2) A PUD application proposing Inclusionary Units with deeper affordability than what would be required by IZ for the existing zone, or for the proposed zone if a map amendment is sought, shall propose only a household income level published in the Rent and Price Schedule established by the IZ Act that is in effect as of the date the PUD application was filed . . . (j) Building space for special uses including. . . (k) Environmental and sustainable benefits to the extent they exceed the standards required by zoning or other regulations . . . (q) Uses of special value to the neighborhood or the District of Columbia as a whole; and (r) Other public benefits and project amenities and other ways in which the proposed PUD substantially advances the major themes and other policies and objectives of any of the elements of the Comprehensive Plan. A project may qualify for approval by being particularly strong in only one (1) or a few of the categories in this section, but must be acceptable in all proffered categories and superior in many.*

8. An airspace development application must comply with Subtitle X § 701:
- 701.1 No development of airspace may occur without approval of the Zoning Commission.
  - 701.2 The Zoning Commission shall determine the use to be permitted in the proposed airspace consistent with regulations applicable to the abutting privately owned property, including limitations and requirements respecting the height of any structure to be erected in such airspace, off-street parking and development standards applicable to such structure, and easements of light, air, and access.
  - 701.3 Airspace cases may be processed as a part of a design review, PUD, or project-specific rezoning application and shall be subject to the evaluation criteria and follow the procedures of the relevant chapter, except as provided in this section.
  - 701.4 The Zoning Commission may impose any conditions or restrictions on airspace development that it deems necessary to ensure: (a) Compatibility with surrounding private property; (b) The accessibility of the public to traverse as appropriate the public space; (c) A high quality design of any building, landscape or public realm; (d) Appropriate treatment and protection of viewsheds; and (e) No undue adverse impacts on the surrounding area.

9. The Comprehensive Plan Act of 1984 (D.C. Law 5-75; D.C. Official Code § 1-306.01(b)) established the Plan’s purposes as:
- (1) to define the requirements and aspirations of District residents, and accordingly influence social, economic and physical development; (2) to guide executive and legislative decisions on matters affecting the District and its citizens; (3) to promote economic growth and jobs for District residents; (4) to guide private and public development in order to achieve District and community goals; (5) to maintain and enhance the natural and architectural assets of the District; and (6) to assist in conservation, stabilization, and improvement of each neighborhood and community in the District.*
10. In determining whether a PUD and PUD related Zoning Map amendment are not inconsistent with the Comprehensive Plan, the Commission shall balance the various elements of the Plan. The District of Columbia Court of Appeals discussed this balancing test:
- “The Comprehensive Plan is a broad framework intended to guide the future land use planning decisions for the District.’ *Wisconsin-Newark Neighborhood Coal. v. District of Columbia Zoning Comm’n*, 33 A.3d 382, 394 (D.C. 2011) (internal quotation marks omitted). ‘[E]ven if a proposal conflicts with one or more individual policies associated with the Comprehensive Plan, this does not, in and of itself, preclude the Commission from concluding that the action would be consistent with the Comprehensive Plan as a whole.’ (*Durant v. District of Columbia Zoning Comm’n*, 65 A.3d 1161, 1168 (D.C. 2013).) The Comprehensive Plan reflects numerous ‘occasionally competing policies and goals,’ and, ‘[e]xcept where specifically provided, the Plan is not binding.’ (*Id.* at 1167, 1168 (internal quotation marks omitted).) Thus ‘the Commission may balance competing priorities’ in determining whether a PUD is consistent with the Comprehensive Plan as a whole.’ (*D.C. Library Renaissance Building/West End Library Advisory Grp. v. District of Columbia Zoning Comm’n*, 73 A.3d 107, 126 (D.C. 2013).) ‘[I]f the Commission approves a PUD that is inconsistent with one or more policies reflected in the Comprehensive Plan, the Commission must recognize these policies and explain why they are outweighed by other, competing considerations.’”
- Friends of McMillan Park v. District of Columbia Zoning Comm’n*, 149 A.3d 1027, 1035 (D.C. 2016) (internal quotation marks and references omitted).
11. The Comprehensive Plan also requires the Commission to evaluate all zoning actions through a racial equity lens. 10-A DCMR § 2501.8. Consideration of equity is intended to be based on the policies of the Plan, and part of the Commission’s consideration of whether the PUD and modifications to an approved PUD in this case are “not inconsistent” with the Plan, rather than a separate determination about a zoning action’s equitable impact.
12. The Plan’s Framework Element states that equity is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities, but is not the same as equality. (10-A DCMR § 213.6.) Further, “[e]very development is a participatory approach for meeting the needs of underserved communities through policies, programs and/or practices [and] holistically considers land use, transportation, housing,



environmental, and cultural conditions, and creates access to education, services, healthcare, technology, workforce development, and employment opportunities.” (10-A DCMR § 213.7.) The District applies a racial equity lens by targeting support to communities of color through policies and programs focusing on their needs and eliminating barriers to participate and make informed decisions. (10-A DCMR § 213.9.)

13. The Plan’s Implementation Element provides guidance to help the Commission in applying a racial equity lens to its decision making. Specifically, 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 equity interests and needs of different areas in the District.” (10-A DCMR § 2501.6.) The Commission released a revised Racial Equity Analysis Tool on February 3, 2023, with new components requiring applicants to include information about their community outreach and engagement efforts and OP to include disaggregated race and ethnicity data for the affected Planning Area in their respective Comprehensive Plan consistency submissions regarding racial equity.

#### **COMPLIANCE WITH THE PUD ELIGIBILITY STANDARDS**

14. Pursuant to Subtitle X § 301.1 and 301.5, a PUD in the MU-9 zone must include a minimum land area of not less than 15,000 square feet, and all such area must be contiguous except that it may be separated, among other things, public alleys. The Property includes approximately 44,585 square feet total (not including the area below the public alley that bisects the Property. (FF ¶ 11.) Therefore, the Application satisfies the PUD eligibility requirements.

#### **COMPLIANCE WITH THE PUD REQUIREMENTS**

15. Pursuant to Subtitle X § 300.1, the Application results in a project superior to what would result from matter-of-right standards because it includes a significant amount of affordable housing, superior design, and sustainable design, none of which are required as a matter-of-right in the PDR-1 zone. (FF ¶ 19.) The Project’s public benefits are commendable in number and quality (FF ¶ 55.), and the Project advances public health, safety, and welfare. (Tr. 2 at 87.) As set forth below, the Project is also not inconsistent with the Plan.

#### **CONSISTENCY WITH THE COMPREHENSIVE PLAN (SUBTITLE X §§ 304.3(a).)**

16. The Commission considered whether the Project and its proffered public benefits, are not inconsistent with the Comprehensive Plan and other adopted public policies applicable to the Property, and concludes the Project, as revised, is not inconsistent for the following reasons:

- (a) The FLUM provides that the Property is appropriate Mixed-Use PDR/Medium Density Residential/High Density Commercial designation. The High Density Commercial designated portion of the Property allows FAR in excess of 6.0. (FF ¶ 48(a).) The PDR FLUM category does not contemplate a FAR range. The Medium Density Residential FLUM category contemplates a range of 1.8-4.0 FAR, which the approximately 9.31 FAR Project exceeds, but greater density is allowed when

complying with IZ or in a PUD and the Project is both. The Commission finds the Project is appropriate for these FLUM designations and not inconsistent with the FLUM. The Commission notes that the Project allocates 10% of the ground floor to PDR/Maker uses for five years consistent with the PDR designation for the Property; (FF ¶ 20, 58.)

- (b) The GPM designates the Property as a Multi-Neighborhood Center and within a Future Planning Analysis Area, The Multi-Neighborhood Center designation ` new housing with ground floor commercial uses consistent with this designation. Though the Comprehensive Plan Implementation Element requires planning studies in Future Planning Analysis Areas prior to rezonings, there is an exception if the rezoning proposal would have been consistent with the 2012 FLUM, which is the case with the Property. (FF ¶ 21, 58.) The Commission finds the Project is not inconsistent with the GPM;
- (c) The Commission agrees with OP's conclusions that the Application advances the goals and policies in the Citywide and Area Element of the Plan, including:
- i. Land Use Element policies promoting high-density development among other objectives; (FF ¶ 48(e), 58.)
  - ii. Transportation and Parks Recreation and Open Space Element policies promoting transit-oriented development and high-quality streetscaping as well as the inclusion of EV charging stations in the below-grade garage; (FF ¶¶ 48(g), 48(k), 58.)
  - iii. Housing Element policies promoting new housing in mixed-use developments, including affordable housing (FF ¶ 48(h) and 58);
  - iv. Environmental Protection Element and Infrastructure Element policies promoting green roof and solar panels as well as landscaping and compliance with GAR requirements, waste collection, and utilities objectives; (FF ¶ 48(i), 48(n), 58.)
  - v. Economic Development Element policies to increase retail uses and provide new employment opportunities; (FF ¶ 48(j), 58.)
  - vi. Urban Design and Historic Preservation Element policies regarding massing and streetscape; and (FF ¶ 48(l), 48(m), 58.)
  - vii. Upper Northeast Area Element policies. (FF ¶ 48 (o), 58.)
- (d) Racial Equity. The Commission concludes that the Project is not inconsistent with the CP when evaluated through a racial equity lens. The Commission reaches this conclusion based on the case record and the racial equity analyses provided by the Applicant, inclusive of community outreach and engagement information, and the OP Reports, inclusive of disaggregated race and ethnicity data for the Upper Northeast Planning Area. (FF ¶ 48(c), 58, 59.) The Commission finds that the racial equity analyses provided address the components of the Commission's Racial Equity Tool and that the Project will further CP racial equity goals for the following reasons:
- Community Outreach and Engagement. The Applicant's racial equity analysis included evidence that it conducted community outreach and engagement, including outreach to the ANC which resulted in an increased

- affordable housing proffer, and an increase in the number of three-bedroom units in the Project; (FF ¶¶ 37(d), 48(c).)
- Displacement. The Applicant noted that the action would not result in any direct displacement of residents as there is no existing residential use on the Property. (*Id.*) The Application will/would likely result in the displacement of business/commercial tenants. The Applicant provided evidence that it has made efforts to work with the business/commercial tenants to assist in relocation and/or right to return, and as result, the tenants submitted letters in support of the Application; (FF ¶¶ 38(h), 48, 71.)
  - The Application responds to the District's racial equity goals as the Applicant/Petitioner utilized community outreach and engagement guidance, and the Project will advance many desired Comprehensive Plan policies/themes identified in the Commission's revised Racial Equity Analysis Tool; and (*Id.*)
  - Disaggregated Race and Ethnicity Data. The disaggregated race and ethnicity data for the Upper Northeast Planning Area provided by OP showed several racial disparities, particularly between White and Black populations. (FF ¶ 58, 59.) The Commission is hopeful that the Project's provision of approximately 350 new housing units, including affordable housing and three-bedroom units, will alleviate some inequity in the Planning Area by decreasing housing cost burden and allowing more Black and other minority residents to remain in the neighborhood. (*Id.*)
- (e) The Project is also not inconsistent with the MoveDC update, the Small Area Plan, the W5W Study, and the Mayor's Housing Order; and (FF ¶¶ 49-52.)
- (f) The Applicant identified potential inconsistencies with individual policies and objectives of the Plan, and OAG implied potential Plan inconsistencies related to what it alleged was an insufficient affordable housing proffer: (FF ¶¶ 53, 68-69, 75.)
- i. The Applicant identified several ways in which the Project is potentially inconsistent with Comprehensive Plan policies. (FF ¶ 53.) The Commission agrees with the Applicant that the Project is not actually inconsistent with most of the identified policies, and the potential inconsistencies that do exist are relatively minor and are outweighed by other policies, for the reasons identified by the Applicant. (*Id.*) The Commission further concludes the ways in which the Project advances the policies identified in subsections(a)-(e) immediately above outweigh the identified inconsistent policies;
  - ii. The Commission concludes that the Project is not inconsistent with the Comprehensive Plan affordable housing policies identified by OAG in Sections 224.9, 229.3, and 504.15 because of what OAG characterized as an insufficient proffer of affordable housing in the PUD. (FF ¶¶ 68-69, 75.) The Commission acknowledges that OAG is correct that the Comprehensive Plan policies encourage leveraging discretionary density increases to create affordable housing, and that there is a need for increased affordable housing in the District. (FF ¶ 76.)



However, the Commission concludes that the Comprehensive Plan does not require the Applicant to set aside a minimum of 24.2 percent of the Project's residential square footage as IZ, as OAG claims. OAG's assertion is based on an assumption that the IZ-Plus formula is the appropriate baseline for evaluating the affordable housing proffer. The Commission concludes that this is simply wrong. (*Id.*)

Instead, the Commission concludes that the relevant point of comparison for PUDs is set forth in Subtitle X, § 305.5(g)(1), which provides that to qualify as a public benefit, the Project must provide a greater amount of affordable housing than is required under the existing matter of right zoning. The Zoning Regulations further provide under Subtitle X, § 502.2(a) that the IZ+ map amendment standards shall not apply to a map amendment that is related to a PUD application. (*Id.*)

The Commission concludes that the Project is consistent with the policies cited by OAG because it does leverage the PUD process to produce new affordable housing units well beyond the requirements under the existing matter of right zoning, in accordance with the Zoning Regulations. (FF ¶ 59(e), 76, 77.) The Commission finds the Applicant's affordable housing proffer of 15% adequate. In addition, the Project includes additional affordable units at a deeper level of affordability, which is also a public benefit, as is the proffer of three-bedroom IZ units. *See* Subtitle X § 305.5(f) and (g). (FF ¶ 55, 77.)

The Commission therefore concludes that the Application is not inconsistent with the policies cited by OAG that relate to affordable housing; and

- iii. The Commission rejects OAG's argument that the Project's PDR-related proffers should be discounted because PDR uses are required by the Comprehensive Plan, and instead concludes that the Project's PDR/Maker use and specification proffers are properly categorized as public benefits to be included in the PUD balancing test.

The Commission concludes the PDR uses are uses of special value to the neighborhood, and the Zoning Regulations explicitly provide that uses of special value to the neighborhood qualify as PUD benefits. Subtitle X § 305.5(q). Furthermore, as the Applicant pointed out, the Comprehensive Plan and the small area plan provide conflicting guidance on the issue of whether the PDR uses are required on the Property, so it is not as clear as OAG presents that the PDR uses are required by the Comprehensive Plan and related planning documents. (FF ¶ 76.)

**POTENTIAL ADVERSE IMPACTS – HOW MITIGATED OR OUTWEIGHED (SUBTITLE X § 304.4(b).)**

17. The Commission concludes that any moderate adverse impacts created by the Project are acceptable given the quality of the public benefits of the Project or sufficiently mitigated. (FF ¶ 54, 59-64, 71, 78.) The Project may create potential adverse impacts such as displacing existing businesses. (FF ¶¶ 38, 48(c), 58(c), 78.) However, the Commission concludes that these impacts are capable of being mitigated. (FF ¶ 58(c), 71, 78.) The Project also may create transportation-related impacts, which the Commission also finds

are capable of being mitigated by the Project's TDM Plan, and other mitigations. (FF ¶¶ 37, 60-62, 78.)

**PUD FLEXIBILITY BALANCED AGAINST PUBLIC BENEFITS AND POTENTIAL ADVERSE EFFECTS**  
**(SUBTITLE X §§ 304.4(c), 304.3, 303.12, 305.2-305.5, AND 305.12.)**

18. As discussed in greater detail below, the Commission concludes that the Project's public benefits outweigh any potential adverse effects and are commensurate with the development incentives made possible by the PUD and related Zoning Map amendment. (FF ¶¶ 46, 54, 55, 59, 78.)
19. Pursuant to Subtitle X § 304.4(c), the Project includes specific public benefits including (a) superior architecture and design, (b) superior landscaping and creation of public open spaces, (c) efficient site planning and utilization, (d) housing and affordable housing where none is required, including a minimum of 20 three-bedroom units, a reservation of 15% of the residential GFA as affordable housing (13% at 60% MFI and 2% at 50% MFI), (e) environmental benefits such as solar panels and LEED v4 Gold design, (f) streetscape improvements, and (g) PDR/Maker use commitments and build out requirements. The Commission concludes these public benefits are not inconsistent with the Comprehensive Plan or with other adopted public policies and active programs related to the Property. In addition, the public benefits are superior features of the Project that benefit the Union Market District and ANC 5D to a significantly greater extent than a matter-of-right development of the Property; and each benefit is tangible, quantifiable, measurable, and able to be completed prior to issuance of a certificate of occupancy. The Project's affordable housing and other housing commitments and its design and streetscape design are particularly superior, and all of the Project's benefits are acceptable to the Commission. (FF ¶ 55; *See* Subtitle X § 305.2-.3.) The Commission notes DOEE and OP's recommendation for another LEED system for the Project other than LEED v4 Gold; however, the Commission finds the Applicant's justification for the appropriateness of LEED v4 Gold for the Project adequate. (FF ¶¶ 38, 40, 58, 59, 64.) The Commission also notes OP's recommendation that the Applicant increase its commitment of PDR/Maker uses; however, the Commission finds the Applicant's commitment of 50% ground floor non-residential GFA designed to PDR/Maker specifications and 10% reserved for PDR/Maker uses for five years adequate. (FF ¶¶ 38, 40, 58, 59.)
20. Pursuant to Subtitle X § 304.3, the Commission is obligated to "judge, balance, and reconcile" the relative value of the Project's public benefits against the development incentives and potential adverse effects. Under this criterion the Commission is not obliged to perform a rigid quantitative analysis and declines to adopt the formula that OAG proposes. (FF ¶¶ 68-69, 75.) Rather, the Commission must consider "the specific circumstances of the case," including elements of racial equity and give great weight to OP's recommendations and the interests and concerns of ANC 5D. (FF ¶¶ 59, 65-67.) Both OP and ANC 5D advocate for approval of the Project, which includes a public benefits package that was crafted in consultation with ANC 5D in this case. On the one hand, the Project's affordable housing and commitment to three-bedroom units are unsurpassed by any other primarily market-rate PUD that the Commission has seen in recent years, and the Project includes a superior design and superior streetscape and landscape improvements, a

superior PDR/Maker use and design commitment, among other public benefits. On the other hand, the Applicant seeks a meaningful increase in density and modest zoning and design flexibility as development incentives for the Project which and is likely to have only relatively modest impacts, none of which are incapable of being mitigated.

21. The Commission concludes that the Applicant's proposed PUD-related map amendment from the existing PDR-1 zone to the MU-9A zone is appropriate because:
  - The Property's current PDR-1 zoning is inconsistent with the portions of the Property designated Medium Density Residential and High Density Commercial on the FLUM and does not allow residential use on the Property;
  - The Map Amendment is not inconsistent with the Comprehensive Plan when taken as a whole, as discussed above;
  - The Property is currently underutilized given it is currently improved with a small motel and small retail/wholesale businesses and surface parking, and can be better utilized given its location in the Union Market District in proximity to numerous transit options and economic activity; and
  - The Map Amendment will allow the property to be developed as a mixed-use Project, including residential use, at a density and height that can produce substantial new housing, including affordable housing, and PDR/Maker uses that are more compatible with the surrounding area and appropriate for this location. (FF ¶ 25-35, 48, 58, 59.)
22. The Commission concludes that the Applicant's requested flexibility relief from the strict application of the Zoning Regulations in the MU-9A zone as to the Project's courts, rear yard, and penthouse setback requirements is appropriate. (FF ¶ 46, 59.)
23. OAG urges the Commission to require additional affordable housing. While OAG's advocacy is understandable in light of the District's need for affordable housing, the Commission finds approval of the PUD with a related Map amendment and airspace development appropriate. The IZ-Plus requirements and the PUD process are intentionally separate entitlement pathways. The IZ-Plus requirements by rule do not bear on a Map Amendment related to a PUD and do not apply in this case. (Subtitle § 502.2(a).) Moreover, the Zoning Regulations provide that affordable housing that exceeds what would have been required through matter-of-right development under existing zoning is considered a valid PUD proffer. (Subtitle X § 305.5(g)(1).) The Commission also disagrees with OAG's assertion that affordable housing is the only high priority benefit and that the Project's other benefits should not be considered as contributing to the justification for the density-related development incentives requested as part of the Application. Instead, the Commission finds affordable housing to be a high priority benefit. (*See* 10-A DCMR § 224.9.) The Commission evaluated the Project's entire public benefits and amenities package against the Project's requested development incentives and adverse impacts and found the Project's entire public benefits and amenities package adequate to justify approval of the Application for the reasons explained above. (*See* Subtitle X § 304.3) Further, the Commission finds the additional height and density gained through the proposed MU-9A zone to adequately leverage the production of new affordable housing. The Commission therefore rejects OAG's reasoning and expressly disagrees with OAG that the Project's proffers are insufficient.

As explained in detail above, the Commission also rejects OAG's argument that the Project's PDR-related proffers should be discounted because PDR uses are required by the Comprehensive Plan, and instead concludes that the Project's PDR/Maker use and specification proffers are properly categorized as public benefits to be included in the PUD balancing test.

**AIRSPACE DEVELOPMENT SCOPE OF REVIEW (SUBTITLE X § 701.)**

24. Pursuant to Subtitle X § 701, the Commission concludes that the Project satisfies the requirements for an airspace development. The Applicant has proposed that the airspace development portion of the Project be located beneath the public alley that bisects the Property. The below-grade airspace development would include only spaces for pedestrian and vehicular movement and building mechanical systems. There are no structures above grade in the public alley to which to apply height limits, parking requirements, other development standards, or easements for light and air. The Project's plans show a below-grade area above the below-grade garage for conduits and public utilities within the alley. The Conditions of this Order will ensure (a) compatibility of the airspace development with the surrounding private property (all owned by the Applicant), (b) continued accessibility through the public alley, (c) high quality design of the building and public realm, (d) no impact to viewsheds, and (e) no other adverse impacts on the surrounding area. (FF ¶¶ 56-57.)

**GREAT WEIGHT TO RECOMMENDATIONS OF OP**

25. The Commission is required to give "great weight" to the recommendation of OP pursuant to § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163; D.C. Official Code § 6-623.04 (2018 Repl.)) and Subtitle Z § 405.8. (*Metropole Condo. Ass'n. v. D.C. Bd. of Zoning Adjustment*, 141 A.3d 1079, 1087. (D.C. 2016).)
26. The Commission finds OP's analysis of the Application, its conclusion that the Application satisfies the PUD evaluation requirements and is not inconsistent with the Comprehensive Plan maps and the Citywide Elements and the Area Element, including when viewed through a racial equity lens, and its recommendation to approve the Application persuasive, and concurs with this judgment. (FF ¶¶ 58-59.) The Commission gives OP's recommendation great weight.

**GREAT WEIGHT TO WRITTEN REPORTS OF THE AFFECTED ANC**

27. The Commission must give "great weight" to the issues and concerns raised in the written report of the affected ANC pursuant to § 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2012 Repl.) and Subtitle Z § 406.2. To satisfy the great weight requirement, the Commission must acknowledge the ANC's issues and/or concerns, then articulate with particularity and precision the reasons why the affected ANC does or does not offer persuasive advice under the circumstances. (*Metropole Condo.* at 1087.) If there are no issues or concerns expressed, then there is nothing to which to give "great weight." (*Id.*)

28. The Commission finds persuasive ANC 5D's support for the Application. The ANC articulated that its interests are ensuring the orderly development of the Project, which includes an affordable housing set aside of 15% and 20 three-bedroom units. The Commission concurs with ANC 5D's support and accordingly gives great weight to such interests in the ANC Report. (FF ¶¶ 65-66.)

### **DECISION**

In consideration of the Findings of Fact and Conclusions of Law contained in this Order, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of the Application for a consolidated PUD, PUD related Zoning Map amendment from the PDR-1 to the MU-9A, and airspace development subject to the following conditions and provisions ("Conditions"):

#### **A. PROJECT DEVELOPMENT**

1. The Project shall be constructed in accordance with the plans submitted December 18, 2023, as Ex. 40A1-40A6 and the guidelines, conditions, and standards herein (collectively, the "Approved Plans").
2. In accordance with the Approved Plans, as modified by the guidelines, conditions, standards, and flexibility herein, the Approved PUD shall have:
  - A maximum building height of approximately 130 feet as to the West Building and 90 feet as to the East Building;
  - Approximately 415,242 square feet of GFA cumulatively;
  - Approximately 350 residential units cumulatively (with lodging use) or approximately 375 residential units cumulatively (without lodging use); and
  - Approximately 162 parking spaces cumulatively.
3. The Project shall have the following flexibility from the Approved Plans in the following areas:
  - (a) Interior Components. To vary the location and design of all Project interior components, including partitions, structural slabs, doors, hallways, columns, stairways, atria, and mechanical rooms, provided that the variations do not change the exterior configuration of the Project as shown on the Approved Plans;
  - (b) Exterior Materials – Color. To vary the final selection of the colors of the Project's exterior materials based on availability at the time of construction, provided such colors are within the color ranges shown on the Approved Plans;
  - (c) Exterior Details – Location and Dimension. To make minor refinements to the locations and dimensions of the Project's exterior details that do not substantially alter the exterior configuration of the building or design shown on the Approved Plans. Examples of exterior details include, but are not limited to, doorways, canopies, railings, skylights, rooftop swimming pools and amenity area layouts and features (including resulting changes to the location and design of the related penthouse and rooftop structures provided

such resulting changes are compliant with the Zoning Regulations as affected by the zoning relief granted herein), and changes to the placement, size, and/or number of columns outside of the East Building along 5<sup>th</sup> Street, N.E. and within the paseo areas of the West Building;

- (d) Number of Units. To vary the approved number of residential dwelling units in the Project by plus or minus ten percent (10%), except that (1) the total gross floor area of the Project's residential dwelling units shall not be reduced, and (2) the total number of units reserved for affordable housing shall not be reduced below the numbers set forth in Condition B.1;
- (e) Parking Layout. To make refinements to the approved configuration of the Project's parking garage, including layout of the garage and number of parking spaces plus or minus 10%, so long as the number of vehicle and bicycle parking spaces in the garage is at least the minimum number of spaces required by the Zoning Regulations, all of the foregoing being subject to the approval of the District's Public Space Committee and DDOT's Public Space Division with respect to the portion of such garage in public space;
- (f) Streetscape Design. To vary the location, attributes, dimensions, and general design of the approved streetscape, public alley, and projections into public space to comply with the requirements of, and the approval by, the DDOT Public Space Division;
- (g) Signage. To vary the font, message, logo, and color of the approved signage for the Project, provided that the maximum overall dimensions and signage materials are consistent with the signage on the Approved Plans and are compliant with the DC signage regulations;
- (h) Sustainable Features. To vary the approved sustainable features of the Project, provided (1) the total number of LEED points achievable for the Project does not decrease below the minimum required for the LEED standard specified in the Approved Plans and (2) solar panels may be installed vertically and/or horizontally on the Project as long as the aggregate area of the solar panel installation equals or exceeds 2,300 square feet;
- (i) Commercial Uses and Lodging Use. To vary the uses of the spaces the ground floor and second floor of the Project to be used for any use allowed in the MU-9 zone and to convert any lodging use to multiple dwelling residential use, provided (1) any residential units resulting from any such conversion of use shall be subject to the requirements of Condition B.1 hereof; (2) such any affordable units resulting from such conversion shall be located on the floor(s) of the Project currently designated on the Approved Plans for such converted lodging use; and (3) residential units shall not be installed on the ground floor of the Project;
- (j) Balconies. To install balconies that project over the southern lot line of the Property over Lot 0024 of Square 3592 provided such balconies are not enclosed gross floor area and to provide balconies and/or outdoor terraces (1) for not less than the percentage of units shown in the Approved Plans



- (i.e., approximately 50% of units), and (2) totaling not less than the total square footage of balcony area shown in the Approved Plans;
- (k) Roof structure. To install residential units within the penthouse level of the Project, provided that any such units would be subject to the requirements of Subtitle C § 1507 and any affordable units required thereunder shall be in addition to any affordable units required under Condition B.1;
  - (l) Building Connection. To construct one or more knock out panels to connect the Project to the existing or future improvements on Lot 0024 of Square 3592; and
  - (m) Phasing. To construct the West Building and East Building under separate building permits and on separate schedules, and to seek one or more certificate of occupancy for each such building which shall be issued notwithstanding the status of the other Building's compliance with or completion under this Order, such that, without limitation, either Building may obtain a building permit and/or certificate of occupancy upon completion thereof and compliance of such Building with the requirements of the Zoning Regulations and this Order applicable to such Building alone and notwithstanding that the other Building has not begun or completed construction hereunder (by way of example, the West Building may obtain a building permit and/or certificate of occupancy by complying with the GAR and affordable housing requirements applicable only as to the portion of the Project that is the subject of such permit or certificate even if such requirements are not then fully satisfied as to the East Building). The application for a building permit for either Building and the commencement of construction thereunder within the time periods set forth herein shall act to vest this Order for the respective Building that is the subject of such building permit or commencement of construction, as applicable.

**B. PUBLIC BENEFITS**

**1. For the life of the Project, the Applicant shall:**

- (a) Dedicate approximately 358,618 square feet of GFA to residential use cumulatively, subject to the flexibility contained herein;
- (b) Reserve the equivalent of no less than 13% of the Project's residential gross floor area for households with incomes not exceeding 60% of MFI;
- (c) Reserve the equivalent of no less than two percent of the Project's residential gross floor area for households with incomes not exceeding 50% of MFI;
- (d) Provide no fewer than 20 three-bedroom units, including four three-bedroom units reserved as affordable units for households up to 60% MFI; and
- (e) Provide affordable units in the Project shall be in accordance with the following chart, subject to the flexibility noted herein (including without limitation Condition A.3(d)):

Residential Unit Type	Residential Units	MFI	Affordability Control Period	Tenure
Total	Approx. 358,618 square feet of GFA	Varies	N/A	N/A
Market Rate	85% of residential GFA	Market Rate	N/A	N/A
IZ – 13% at 60% MFI	13% of residential GFA (= approx. 46,620 sf)	60% MFI	Life of Project	Rental
IZ – 2% at 50% MFI	2% of residential GFA (= approx. 7,120 sf)	50% MFI	Life of Project	Rental
IZ – 8% of GFA of penthouse units <sup>6</sup> at 50% MFI	None planned, but see Condition A.3(k)	50% MFI	Life of Project	Rental

The Applicant shall at the time of building permit and/or certificate of occupancy for each of the East Building and West Building satisfy Condition B.1 only as to the Building that is the subject of such permit or certificate of occupancy. The covenant required by D.C. Official Code §§ 6-1041.05(a)(2)(2012 Repl.) shall include a provision or provisions requiring compliance with this condition.

2. **Prior to the issuance of a final certificate of occupancy for each Building in the Project,** the Applicant shall provide the Zoning Administrator with evidence that such Building has or will achieve the requisite number of prerequisites and points necessary to secure LEED Gold v4 certification or higher from the U.S. Green Building Council (USGBC) Green Building Certification Institute under the New Construction program. Within two (2) years after the date of issuance of the first Certificate of Occupancy for such Building, the Applicant shall provide the Zoning Administrator with documentation showing such certification for such Building.
3. **Prior to the issuance of the final certificate of occupancy for the Project,** the Applicant shall provide the Zoning Administrator with information showing that the Project as a whole includes a minimum of 2,300 square feet of roof area (which may be vertical area) containing solar panels and related equipment and adjacent space.
4. **Prior to the issuance of the final certificate of occupancy for the Project,** the Applicant shall provide the Zoning Administrator with evidence that it has installed within the Project as a whole a minimum of three (3) electric vehicle charging stations and infrastructure for 20 percent of the Project's parking spaces to accommodate electric vehicle charging stations.
5. **Prior to the issuance of building permit for the final Building in the Project,** the Applicant shall demonstrate that the plans contained in the building permit application(s) for the Project as a whole satisfy the PDR/Maker construction specifications as follows for a total area equal to a minimum of 50% of the combined ground-floor non-residential space: (a) A structural slab load (ground floor) live load of 125 pounds per square inch; (b) Clear height of approximately

<sup>6</sup> Only to the extent the penthouse contains habitable space used as residential units. Remainder of penthouse GFA would be market rate, and IZ units need not be located in the penthouse.



16 feet from ground-floor slab to bottom of structure above; (c) An electrical supply of 50 watts per square foot; (d) A loading dock that includes a 48-inch raised loading dock and/or levelers; (e) An open floor plan layout; (f) A sound attenuation for mixed-use that satisfies NC-25 minimum noise criteria and includes seven-inch-thick minimum concrete podium slab; (g) HVAC designed for one ton per 300 square feet; and (h) Ventilation (Fresh Air/Make-Up Air) louvers at façade.

6. **For a minimum of five years after the date of issuance of the first certificate of occupancy for the first Building delivered in the Project,** the Applicant shall reserve a total area equal to a minimum of 10% of the combined ground floor non-residential space of the Project for one or more of the following PDR/Maker uses: (a) Production, sale, and/or distribution of food and beverages (provided that the onsite consumption of food and beverages shall only be permitted when associated with such production, sale, and/or distribution user); (b) Food incubators and food hubs; (c) Robotics and 3-D manufacturing; (d) Small-scale production, distribution, or repair of goods and related accessory sales; (e) Curation and sale of small-scale production goods; (f) New and locally-owned small businesses as certified with the Department of Small and Local Business Development; (g) “Creative economy” uses, including incubators, graphic design, product or industrial design, engineering and design, technology design and production, design and product curation, fashion design, horticultural design, green businesses and sustainable design, specialty sports and recreation uses, media/communications production and distribution; and/or (h) “Arts” uses including arts, design and creation uses, as defined in Subtitle B, Section 200.2(e), and entertainment, assembly and performing arts uses, as defined in Subtitle B § 200.2(n).
7. **Prior to the issuance of the final certificate of occupancy for the Project,** the Applicant shall provide the Zoning Administrator with evidence that it has constructed the paseos on the Property and the streetscape improvements on the adjacent portions of 4<sup>th</sup> Street, N.E., 5<sup>th</sup> Street, N.E., and Penn Street, N.E. and “Pascal Way” (i.e., the alley) as shown on the Approved Plans and in accordance with the Union Market Streetscape Design Guidelines (subject to approval during the public space permitting process).

**C. Transportation Mitigation**

1. **Prior to the issuance of the final certificate of occupancy for the Project,** the Applicant shall provide the Zoning Administrator with evidence that the Applicant has constructed, at the Applicant’s cost:
- (a) Two ADA curb ramps on each of the northeast and southeast corners of the intersection of private Neal Place, N.E. and the north-south private alley west of, and parallel to, 4<sup>th</sup> Street, N.E. as shown in Figure 1 attached to Exhibit 41; and

- (b) The removal of that certain vertical obstacle caused by the concrete bicycle barrier on Lot 819 in Square 3587 within the minimum six-foot-wide pedestrian access route in the southern leg of the intersection as shown in Figure 1 attached to Ex. 41;

Provided, however, such work shall be required only if prior to the application for such certificate of occupancy the Applicant obtains from the owners of Square 3587 Lots 819 and 829 written consent for such work on reasonable terms, which consent the Applicant shall seek in good faith, it being understood that “reasonable terms” shall not include, without limitation, the requirement for a payment of cash or any other in kind contribution by the Applicant to any such owner in exchange for the performance of such work.

- 2. **Following the issuance of the final certificate of occupancy for the Project**, the Project’s Transportation Coordinator(s) (as hereinafter defined) shall submit to OZ for inclusion in the IZIS case record of the case documentation summarizing compliance with the transportation and TDM conditions of this Order.
- 3. **Five years after the issuance of the final certificate of occupancy for the Project (and every five years thereafter)**, the Transportation Coordinator(s) will submit a letter to the Zoning Administrator, DDOT, and goDCgo summarizing continued substantial compliance with the transportation and following TDM conditions in the Order, unless no longer applicable as confirmed by DDOT; provided, that if such letter is not submitted on a timely basis, the Applicant shall have 60 days from date of notice from the Zoning Administrator, DDOT, or goDCgo to prepare and submit such letter.
- 4. **For the life of the Project**, the Applicant shall comply with the following TDM measures with respect to the Project:
  - (a) Identify one or more “Transportation Coordinator(s)” to act as a point of contact with DDOT, goDCgo, and the Department of Buildings;
  - (b) Provide each Transportation Coordinator’s contact information to goDCgo, conduct an annual commuter survey of employees and residents of the Project, and report TDM activities and data collection efforts to goDCgo once per year;
  - (c) Require the Transportation Coordinator(s) to develop, distribute, and market various transportation alternatives and options to residents, employees, and patrons, including promoting transportation events (i.e., Bike to Work Day, National Walking Day, Car Free Day) on the Project’s website and in any internal building newsletters or communications;
  - (d) Require the Transportation Coordinator(s) to receive TDM training (either in-person or webinar) from goDCgo to the extent available to learn about the TDM conditions for this Project and available options for implementing the TDM Plan;

- (e) Require the Transportation Coordinator(s) to subscribe to applicable and available goDCgo newsletters;
  - (f) Require the Transportation Coordinator for the residential use in the Project to provide to all new residents welcome packets which include, at a minimum, the Metrorail pocket guide, brochures of local bus lines (Circulator and Metrobus), carpool and vanpool information, CaBi coupon or rack card, Guaranteed Ride Home brochure (brochures can be ordered from DDOT's goDCgo program by emailing [info@godcgo.com](mailto:info@godcgo.com)), and the most recent DC Bike Map;
  - (g) Provide residents and employees who wish to carpool with detailed carpooling information and will be referred to other carpool matching services sponsored by the Metropolitan Washington Council of Governments ("MWCOG") or another comparable service to the extent MWCOG does not offer carpooling matching services in the future;
  - (h) Post all TDM commitments on the Project's website to publicize availability and allow the public to see what commitments have been promised;
  - (i) Offer a free SmarTrip card and a complimentary Capital Bikeshare coupon good for one ride to every new resident and employee of each non-residential tenant;
  - (j) Unbundle the cost of vehicle parking from the lease or purchase agreement for each residential unit and charge a minimum rate based on the average market rate within a quarter mile of the Property;
  - (k) Install a minimum of three electric vehicle (EV) charging stations and 20% of the proposed parking supply with EV-ready infrastructure (in total for all uses in the Project);
  - (l) Satisfy the Zoning Regulations requirements' short- and long-term bicycle parking requirements by providing at least 30 short-term spaces (in total for all uses in the Project) and at least 141 long-term bicycle spaces (in total for all uses in the Project) and provide all such bicycle spaces free of charge to residents and employees of businesses operating in the Project;
  - (m) Accommodate in the long-term bicycle storage room non-traditional sized bikes including cargo, tandem, and kids' bikes, with a minimum of seven spaces designed for longer cargo/tandem bikes (10 feet by 3 feet), a minimum of 14 spaces designed with electrical outlets for the charging of electric bikes and scooters, and a minimum of the greater of 71 total or 50% of such spaces horizontally on the floor of the storage room, all of which shall be free of charge to residents and employees of businesses operating in the Project; and
  - (n) Permit strollers to be stored in the bicycle storage room free of charge to residents and employees of businesses operating in the Project.
5. **For the life of the Project**, for the commercial and lodging uses in the Project, the Applicant shall provide the following TDM measures:
- (a) Require the Transportation Coordinator to post "getting here" information in a visible and prominent location on the Project's website with a focus on

- non-automotive travel modes including links to goDCgo.com, CommuterConnections.com, transit agencies around the metropolitan area, and instructions for patrons discouraging parking on-street in Residential Permit Parking (RPP) zones (if any) near the Project;
- (b) Provide comprehensive transportation information and directions on any hotel website, including promoting the use of non-automotive modes of transportation and links to website for goDCgo, Capital Bikeshare, DC Circulator, and the Washington Metropolitan Area Transit Authority WMATA;
  - (c) Require any hotel operator to provide guests with goDCgo's "Get Around Guide" by making it available on the property website and in printed format for front office or customer-facing staff;
  - (d) Require any hotel operator's front office or customer-facing staff to receive TDM training (either in-person or webinar) from goDCgo to the extent available to learn about the non-automotive options for traveling to the Project;
  - (e) Require any hotel operator to participate in the Capital Bikeshare Corporate Membership program and offer discounted annual memberships to hotel employees;
  - (f) Unbundle the cost of vehicle parking from the cost to lease any non-residential unit, charge only hourly, daily, or weekly rates, and refrain from offering free parking, validation, or discounted rates;
  - (g) Require the Transportation Coordinator(s) to demonstrate to goDCgo that each non-residential tenant (including any hotel) with 20 or more employees working on-site (1) complies with the DC Commuter Benefits Law, (2) participates in one of the three transportation benefits outlined in such law (employee-paid pre-tax benefit, employer-paid direct benefit, or shuttle service), and (3) complies with DC Transportation Benefits Equity Amendment Act of 2020 (i.e., the Parking Cash-Out Law) now in effect; and
  - (h) Provide at least two showers and two lockers for use by employees of any hotel and/or commercial uses in the Project (which may be shared among all uses in the Project), meeting zoning minimum requirements for at least two showers and two lockers for any hotel and/or other commercial uses requiring such showers and lockers under the Zoning Regulations.
6. The Applicant shall at the time of building permit and/or certificate of occupancy for each of the East Building and West Building satisfy Conditions C.4-C.5 only as to the Building that is the subject of such permit or certificate of occupancy.

**D. MISCELLANEOUS**

1. No building permit shall be issued for the Project until the Applicant has recorded a covenant in the land records of the District of Columbia, between the Applicant and the District of Columbia that is satisfactory to the Office of Zoning Legal Division and the Zoning Division, DCRA (the "PUD Covenant"). The PUD Covenant shall bind the Applicant and all successors in title to construct and use

the Site in accordance with this Order, or amendment thereof by the Commission. The Applicant shall file a certified copy of the covenant with the records of OZ.

2. The PUD shall be valid for a period of two years from the effective date of this Order. Within such time an application shall be filed for a building permit, with construction to commence within three years of the effective date of this Order.
3. In accordance with the 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 also prohibited by the Act. In addition, harassment based on any of the above protected categories is also prohibited by the Act. Discrimination in violation of the Act will not be tolerated. Violators will be subject to disciplinary action.

#### **Final Action**

**VOTE (January 11, 2024):** 4-0-1 (Joseph Imamura, Anthony J. Hood, Robert E. Miller, and Tammy Stidham to approve; 3<sup>rd</sup> Mayoral Appointee seat vacant.)

In accordance with the provisions of Subtitle Z § 604.9, this Order No. 22-35 shall become final and effective upon publication in the *District of Columbia Register*; that is, on September 27, 2024.

#### **BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**District of Columbia REGISTER – September 27, 2024 – Vol. 71 - No. 39 011533 – 011818**

## OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

### DISTRICT OF COLUMBIA REGISTER 2024 AGENCY SUBMISSION DEADLINE SCHEDULE

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 12, 2024 *District of Columbia Register* is Thursday, noon on January 4, 2024.

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 15, 2024 (Martin Luther King Jr. Day) is an official District of Columbia holiday therefore, the deadline for the Friday, January 19, 2024 *District of Columbia Register* is Wednesday, noon on January 10, 2024.

If an official government holiday falls on a Thursday, the deadline for submitting documents is WEDNESDAY. Because Thursday, November 28, 2024 is Thanksgiving Day, the deadline for the December 6, 2024 *District of Columbia Register* is Wednesday, noon on November 27, 2024.

If an official government holiday falls on a Wednesday during a publication week that also has an official government holiday, the deadline for submitting documents is TUESDAY. Because Wednesday, December 25, 2024 is Christmas Day, the deadline for the January 3, 2025 *District of Columbia Register* is Tuesday, noon on December 24, 2024.

**Documents that are uploaded after the noon deadline will be published in the next edition of the Register.**

**The DC Register Submission Deadline Schedule is published at the end of each Register.**

The Office of Documents also publishes the Submission Deadline Schedule on the DCRegs Home page:

Access District of Columbia  
Register Submission Deadline  
Schedule

Go

Below is the 2024 District of Columbia Register Submission Deadline schedule.

**OFFICE OF DOCUMENTS AND ADMINSTRATIVE ISSUANCES**  
**DISTRICT OF COLUMBIA REGISTER**  
**2024 AGENCY SUBMISSION DEADLINE SCHEDULE**

D.C. Register Issue		Submission Deadline	
Vol. 71/1	January 5, 2024*	Wednesday	December 27, 2023
Vol. 71/2	January 12, 2024	Thursday	January 4, 2024
Vol. 71/3	January 19, 2024*	Wednesday	January 10, 2024
Vol. 71/4	January 26, 2024	Thursday	January 18, 2024
Vol. 71/5	February 2, 2024	Thursday	January 25, 2024
Vol. 71/6	February 9, 2024	Thursday	February 1, 2024
Vol. 71/7	February 16, 2024	Thursday	February 8, 2024
Vol. 71/8	February 23, 2024*	Wednesday	February 14, 2024
Vol. 71/9	March 1, 2024	Thursday	February 22, 2024
Vol. 71/10	March 8, 2024	Thursday	February 29, 2024
Vol. 71/11	March 15, 2024	Thursday	March 7, 2024
Vol. 71/12	March 22, 2024	Thursday	March 14, 2024
Vol. 71/13	March 29, 2024	Thursday	March 21, 2024
Vol. 71/14	April 5, 2024	Thursday	March 28, 2024
Vol. 71/15	April 12, 2024	Thursday	April 4, 2024
Vol. 71/16	April 19, 2024*	Wednesday	April 10, 2024
Vol. 71/17	April 26, 2024	Thursday	April 18, 2024
Vol. 71/18	May 3, 2024	Thursday	April 25, 2024
Vol. 71/19	May 10, 2024	Thursday	May 2, 2024
Vol. 71/20	May 17, 2024	Thursday	May 9, 2024
Vol. 71/21	May 24, 2024	Thursday	May 16, 2024
Vol. 71/22	May 31, 2024 *	Wednesday	May 22, 2024
Vol. 71/23	June 7, 2024	Thursday	May 30, 2024
Vol. 71/24	June 14, 2024	Thursday	June 6, 2024
Vol. 71/25	June 21, 2024*	Wednesday	June 12, 2024
Vol. 71/26	June 28, 2024	Thursday	June 20, 2024
Vol. 71/27	July 5, 2024 *	Wednesday	June 26, 2024
Vol. 71/28	July 12, 2024	Wednesday	July 3, 2024
Vol. 71/29	July 19, 2024	Thursday	July 11, 2024
Vol. 71/30	July 26, 2024	Thursday	July 18, 2024
Vol. 71/31	August 2, 2024	Thursday	July 25, 2024
Vol. 71/32	August 9, 2024	Thursday	August 1, 2024
Vol. 71/33	August 16, 2024	Thursday	August 8, 2024
Vol. 71/34	August 23, 2024	Thursday	August 15, 2024
Vol. 71/35	August 30, 2024	Thursday	August 22, 2024
Vol. 71/36	September 6, 2024*	Wednesday	August 28, 2024
Vol. 71/37	September 13, 2024	Thursday	September 5, 2024
Vol. 71/38	September 20, 2024	Thursday	September 12, 2024
Vol. 71/39	September 27, 2024	Thursday	September 19, 2024
Vol. 71/40	October 4, 2024	Thursday	September 26, 2024
Vol. 71/41	October 11, 2024	Thursday	October 3, 2024
Vol. 71/42	October 18, 2024*	Wednesday	October 9, 2024
Vol. 71/43	October 25, 2024	Thursday	October 17, 2024
Vol. 71/44	November 1, 2024	Thursday	October 24, 2024
Vol. 71/45	November 8, 2024	Thursday	October 31, 2024
Vol. 71/46	November 15, 2024*	Wednesday	November 6, 2024
Vol. 71/47	November 22, 2024	Thursday	November 14, 2024
Vol. 71/48	November 29, 2024*	Wednesday	November 20, 2024
Vol. 71/49	December 6, 2024	Wednesday	November 27, 2024
Vol. 71/50	December 13, 2024	Thursday	December 5, 2024
Vol. 71/51	December 20, 2024	Thursday	December 12, 2024
Vol. 71/52	December 27, 2024*	Wednesday	December 18, 2024
Vol. 72/1	January 3, 2025*	Tuesday	December 24, 2024

\*Weeks with District of Columbia Government public holidays.

Last Updated December 6, 2023