

***District of Columbia***

**REGISTER**

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**HIGHLIGHTS**

- Executive Office of the Mayor establishes the Washington, DC Regional Planning Commission on Health and HIV (Mayor’s Order 2019-073)
- Executive Office of the Mayor extends the terms for the Southwest, Mount Vernon Triangle, and Georgetown Business Improvement Districts (Mayor’s Orders 2019-074, 2019-075 and 2019-076)
- Department of Energy and Environment solicits public comment on the Proposed Regional Haze State Implementation Plan
- Department of Health Care Finance updates the Medicaid Fee Schedule for home health services
- Department of Health announces funding for implementing a program for improving diabetes, hypertension, and blood cholesterol control for Wards 5, 7, and 8 residents
- Office of Lottery and Gaming implements the provisions of the Sports Wagering Lottery Amendment Act of 2018
- Department of Small and Local Business Development announces funding for developing and supporting microbusinesses in Wards 7 and 8
- Office of Victim Services and Justice Grants proposes a program for protecting the confidentiality of a victim’s residential address

The Council of the District of Columbia is not publishing materials in the *District of Columbia Register* this week.

# DISTRICT OF COLUMBIA REGISTER

## Publication Authority and Policy

The District of Columbia Office of Documents and Administrative Issuances publishes the *District of Columbia Register* (ISSN 0419-439X) every Friday under the authority of the *District of Columbia Documents Act*, D.C. Law 2-153, effective March 6, 1979, D.C. Official Code § 611 *et seq.* (2012 Repl.). The policies which govern the publication of the *Register* are set forth in the Rules of the Office of Documents and Administrative Issuances (1 DCMR §§300, *et seq.*). The Rules of the Office of Documents and Administrative Issuances are available online at [dcregs.dc.gov](http://dcregs.dc.gov). Rulemaking documents are also subject to the requirements of the *D.C. Administrative Procedure Act*, D.C. Official Code §§2-501 *et seq.* (2012 Repl.).

All documents published in the *District of Columbia Register* (*Register*) must be submitted in accordance with the applicable provisions of the Rules of the Office of Documents and Administrative Issuances. Documents which are published in the *Register* include (1) Acts and resolutions of the Council of the District of Columbia; (2) Notices of proposed Council legislation, Council hearings, and other Council actions; (3) Notices of public hearings; (4) Notices of final, proposed, and emergency rulemaking; (5) Mayor's Orders and information on changes in the structure of the D.C. government (6) Notices, Opinions, and Orders of D.C. Boards, Commissions and Agencies; (7) Documents having general applicability and notices and information of general public interest.

## Deadlines for Submission of Documents for Publication

The Office of Documents and Administrative Issuances accepts electronic documents for publication using a Web-based portal. To submit documents for publication, agency heads, or their representatives, may obtain a username and password by email at [dcdocuments@dc.gov](mailto:dcdocuments@dc.gov). For guidelines on how to format and submit documents for publication, email [dcdocuments@dc.gov](mailto:dcdocuments@dc.gov).

The deadline for filing documents for publication for District of Columbia Agencies, Boards, Commissions, and Public Charter schools is THURSDAY, NOON of the previous week before publication. The deadline for filing documents for publication for the Council of the District of Columbia is WEDNESDAY, NOON of the week of publication. If an official District of Columbia government holiday falls on Thursday, the deadline for filing documents is Wednesday. Email the Office of Documents and Administrative Issuances at [dcdocuments@dc.gov](mailto:dcdocuments@dc.gov) to request the *District of Columbia Register* publication schedule.

## Viewing the DC Register

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## Legal Effect of Publication - Certification

Except in the case of emergency rules, no rule or document of general applicability and legal effect shall become effective until it is published in the *Register*. Publication creates a rebuttable legal presumption that a document has been duly issued, prescribed, adopted, or enacted and that the document complies with the requirements of the *District of Columbia Documents Act* and the *District of Columbia Administrative Procedure Act*. The Administrator of the Office of Documents and Administrative Issuances hereby certifies that this issue of the *Register* contains all documents required to be published under the provisions of the *District of Columbia Documents Act*.

## DISTRICT OF COLUMBIA OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

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

MURIEL E. BOWSER  
MAYOR

VICTOR L. REID, ESQ.  
ADMINISTRATOR

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ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
8/30/2019

Notice is hereby given that:

License Number: ABRA-095711

License Class/Type: C Tavern

Applicant: Lemma Holdings LLC

Trade Name: Bliss

ANC: 5C02

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

2122 24TH PL NE, WASHINGTON, DC 20018

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
10/15/2019

A HEARING WILL BE  
10/28/2019

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

ENDORSEMENT(S): Cover Charge Dancing Entertainment Summer Garden

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	10 am - 3 am	10 am - 2 am	6 pm - 2:30 am
Monday:	8 am - 3 am	8 am - 2 am	6 pm - 2:30 am
Tuesday:	8 am - 3 am	8 am - 2 am	6 pm - 2:30 am
Wednesday:	8 am - 3 am	8 am - 2 am	6 pm - 2:30 am
Thursday:	8 am - 3 am	8 am - 2 am	6 pm - 2:30 am
Friday:	8 am - 4 am	8 am - 3 am	6 pm - 3:30 am
Saturday:	8 am - 4 am	8 am - 3 am	6 pm - 3:30 am

	Hours of Summer Garden	Hours of Sales Summer Garden
Sunday	10 am - 3 am	10 am - 2 am
Monday:	8 am - 3 am	8 am - 2 am
Tuesday:	8 am - 3 am	8 am - 2 am
Wednesday:	8 am - 3 am	8 am - 2 am
Thursday:	8 am - 3 am	8 am - 2 am
Friday:	8 am - 4 am	8 am - 3 am
Saturday:	8 am - 4 am	8 am - 3 am

FOR FURTHER INFORMATION CALL: (202) 442-4423



ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: August 30, 2019
Protest Petition Deadline: October 15, 2019
Roll Call Hearing Date: October 28, 2019

License No.: ABRA-095711
Licensee: Lemma Holdings, LLC
Trade Name: Bliss
License Class: Retailer's Class "C" Tavern
Address: 2122 24th Place, N.E.
Contact: Henock Andargie, Managing Member: (301) 537-3609

WARD 5

ANC 5C

SMD 5C02

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 October 28, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline.

NATURE OF OPERATION

Licensee is applying to add Sports Wagering to their operations. Establishment will have ten Self-Service Kiosks and two Teller Stations inside the premises.

CURRENT HOURS OF OPERATION INSIDE OF THE PREMISES AND FOR THE OUTDOOR SUMMER GARDEN

Sunday 10am - 3am, Monday through Thursday 8am - 3am, Friday and Saturday 8am - 4am

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

Sunday 10am - 2am, Monday through Thursday 8am - 2am, Friday and Saturday 8am - 3am

CURRENT HOURS OF LIVE ENTERTAINMENT (INSIDE PREMISES)

Sunday through Thursday 6pm - 2:30am, Friday and Saturday 6pm - 3:30am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ON  
8/30/2019

Notice is hereby given that:

License Number: ABRA-015698

License Class/Type: C Multipurpose

Applicant: Eritrean Cultural & Civic Center

Trade Name: Eritrean Cultural Center

ANC: 5C02

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

2154 24TH PL NE, WASHINGTON, DC 20018

PETITIONS/LETTERS OF OPPOSITION OR SUPPORT MUST BE FILED ON OR  
10/15/2019

A HEARING WILL BE  
10/28/2019

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

Days	Hours of Operation	Hours of Sales/Service	Hours of Entertainment
Sunday:	9 am - 2 am	9 am - 2 am	-
Monday:	9 am - 2 am	9 am - 2 am	-
Tuesday:	9 am - 2 am	9 am - 2 am	-
Wednesday:	9 am - 2 am	9 am - 2 am	-
Thursday:	9 am - 2 am	9 am - 2 am	-
Friday:	9 am - 3 am	9 am - 3 am	-
Saturday:	9 am - 3 am	9 am - 3 am	-

FOR FURTHER INFORMATION CALL: (202) 442-4423

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: August 30, 2019
Protest Petition Deadline: October 15, 2019
Roll Call Hearing Date: October 28, 2019

License No.: ABRA-086419
Licensee: Irving Restaurant Group, LLC
Trade Name: Lou's Bar & Grill
License Class: Retailer's Class "C" Tavern
Address: 1400 Irving Street, N.W.
Contact: Christopher Donatelli, Managing Member: (202) 849-2782

WARD 1

ANC 1A

SMD 1A03

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 October 28, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline.

NATURE OF OPERATION

Licensee is applying to add Sports Wagering to their operations. Establishment will have three sports wagering machines on the premises.

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

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

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: August 30, 2019
Protest Petition Deadline: October 15, 2019
Roll Call Hearing Date: October 28, 2019

License No.: ABRA-097794
Licensee: Washington Heights, LLC
Trade Name: Mezcalero Cocina Mexicana
License Class: Retailer's Class "C" Restaurant
Address: 3714 - 3716 14th Street, N.W.
Contact: Ana De Leon: (202) 246-7601

WARD 4 ANC 4C SMD 4C04

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 October 28, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline.

NATURE OF SUBSTANTIAL CHANGE

Applicant requests an expansion to the adjacent premises, occupying 3714 - 3716 14th Street, N.W., increasing the Total Occupancy Load of from 46 to 93. Total seating will be 89.

CURRENT HOURS OF OPERATION INSIDE THE PREMISES

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

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

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

CURRENT HOURS OF LIVE ENTERTAINMENT INSIDE THE PREMISES ONLY

Sunday through Thursday 6pm - 2am, Friday and Saturday 6pm - 3am

CURRENT HOURS OF OPERATION AND ALCOHOLIC BEVERAGE SALES, SERVICE AND CONSUMPTION FOR THE OUTDOOR SIDEWALK CAFÉ

Sunday through Saturday 10am - 12am

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION**

**NOTICE OF PUBLIC HEARING**

Placard Posting Date: August 30, 2019  
 Protest Petition Deadline: October 15, 2019  
 Roll Call Hearing Date: October 28, 2019  
 Protest Hearing Date: December 11, 2019

License No.: ABRA-114842  
 Licensee: PUDDIN' LLC  
 Trade Name: PUDDIN'  
 License Class: Retailer's Class "C" Restaurant  
 Address: 1309 5<sup>th</sup> Street, N.E.  
 Contact: Toyin O. Alli: (202) 725-1030

WARD 5

ANC 5D

SMD 5D01

Notice is hereby given that this licensee has applied for a new license under the D.C. Alcoholic Beverage Control Act and that the objectors are entitled to be heard before the granting of such on the **Roll Call Hearing date on October 28, 2019 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **December 11, 2019 at 1:30 p.m.**

**NATURE OF OPERATION**

A new Retailer's Class C Restaurant with a Total Occupancy Load of 10.

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

Sunday through Wednesday 11am – 8pm, Thursday through Saturday 11am – 10pm

## ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

## NOTICE OF PUBLIC HEARING

**\*\*CORRECTION**

Placard Posting Date: August 23, 2019  
Protest Petition Deadline: October 7, 2019  
Roll Call Hearing Date: October 21, 2019  
Protest Hearing Date: December 11, 2019

License No.: ABRA-114779  
Licensee: RCSH Operations, LLC  
Trade Name: Ruth's Chris Steak House  
License Class: Retailer's Class "C" Restaurant  
Address: \*\*2001 K Street, N.W.  
Contact: Stephen J. O'Brien, Esq.: (202) 625-7700

WARD 2

ANC 2A

SMD 2A06

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 October 21, 2019 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **December 11, 2019 at 4:30 p.m.**

**NATURE OF OPERATION**

New Retailer's Class "C" Restaurant offering upscale, fine dining with selections of steak, seafood, and sides. Total seating inside is 325 with a Total Occupancy Load of 350.

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

Sunday through Saturday 10 am – 2 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

**\*\*RESCIND**

Placard Posting Date: August 23, 2019  
Protest Petition Deadline: October 7, 2019  
Roll Call Hearing Date: October 21, 2019  
Protest Hearing Date: December 11, 2019

License No.: ABRA-114779  
Licensee: RCSH Operations, LLC  
Trade Name: Ruth’s Chris Steak House  
License Class: Retailer’s Class “C” Restaurant  
Address: \*\*2100 L Street, N.W.  
Contact: Stephen J. O’Brien, Esq.: (202) 625-7700

WARD 2

ANC 2A

SMD 2A06

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 October 21, 2019 at 10 a.m., 4th Floor, 2000 14<sup>th</sup> Street, N.W., Washington, DC 20009**. Petitions and/or requests to appear before the ABC Board must be filed on or before the Petition Deadline. The **Protest Hearing date** is scheduled on **December 11, 2019 at 4:30 p.m.**

**NATURE OF OPERATION**

New Retailer’s Class “C” Restaurant offering upscale, fine dining with selections of steak, seafood, and sides. Total seating inside is 325 with a Total Occupancy Load of 350.

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

Sunday through Saturday 10 am – 2 am

ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION

NOTICE OF PUBLIC HEARING

Placard Posting Date: August 30, 2019
Protest Petition Deadline: October 15, 2019
Roll Call Hearing Date: October 28, 2019
Protest Hearing Date: December 11, 2019

License No.: ABRA-113244
Licensee: S & H 9, Inc.
Trade Name: Streets Market
License Class: Retailer's Class "B" Full-Service Grocery
Address: 1864 Columbia Road, N.W.
Contact: Sidon Yohannes: (202) 686-7600

WARD 1 ANC 1C SMD 1C03

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 October 28, 2019 at 10 a.m., 4th Floor, 2000 14th Street, N.W., Washington, DC 20009. Petition and/or request to appear before the Board must be filed on or before the Petition Date. The Protest Hearing date is scheduled on December 11, 2019 at 4:30 p.m.

NATURE OF OPERATION

A market that will serve hot and cold meals, which includes salads, sandwiches, pizza, sushi, and baked goods, along with alcoholic and non-alcoholic beverages. The market is requesting a Tasting Permit.

HOURS OF OPERATION

Sunday through Saturday 7am - 12am

HOURS OF ALCOHOLIC BEVERAGE SALES

Sunday through Saturday 8am - 12am



**DEPARTMENT OF ENERGY AND ENVIRONMENT****NOTICE OF PUBLIC HEARING AND PUBLIC COMMENT PERIOD  
ON AIR QUALITY ISSUES****Proposed Regional Haze State Implementation Plan**

Notice is hereby given that a public hearing will be held on Monday, September 30, 2019 at 5:30 PM in Room 574 at 1200 First Street NE, Washington, DC. This hearing provides interested parties an opportunity to comment on the District's proposed Regional Haze State Implementation Plan ("SIP").

The District is currently required to submit its Regional Haze SIP for the second planning period to the U.S. Environmental Protection Agency ("EPA") by July 31, 2021. The SIP is required under § 169A of the Clean Air Act. The goal of the Regional Haze Program is for Class I Federal Areas designated by the Federal Land Managers ("FLMs") (National Park Service, U.S. Fish and Wildlife Service, and U.S. Forest Service) to achieve natural visibility conditions and for any state that has sources that are reasonably anticipated to contribute to visibility degradation in those Class I Federal Areas to submit a SIP to address those sources.

This proposed SIP was completed pursuant to the requirements of EPA's Regional Haze Rule as updated for the second planning period (82 Fed. Reg. 3078, January 10, 2017). As a member of the Mid-Atlantic/Northeast Visibility Union ("MANE-VU"), the District participated in a regional process to develop a long-term strategy to ensure that reasonable progress is made to eliminate visibility degradation by 2064. The District's SIP describes specific plans to meet the region's goals and implement the Regional Haze Rule.

The District is also required to consult with the FLMs prior to proposing public comment. The District received no substantive comments from the FLMs.

The entire proposed SIP and Appendices are available for public review during normal business hours at the offices of the District Department of Energy and the Environment ("DOEE"), 1200 First Street, NE, 5<sup>th</sup> floor, Washington, D.C. 20002. Due to the size and extent of the Appendices, only the main SIP document is available on-line at <https://doee.dc.gov/service/public-notices-hearings>.

Persons wishing to present testimony at the hearing should furnish their name, address, telephone number, and affiliation, if any, to Joseph Jakuta by 4:00 PM, September 30, 2019. No written comments will be accepted after September 30, 2019. Written comments should be sent to Joseph Jakuta, Monitoring and Assessment Branch, Air Quality Division, 1200 First St, NE, 5<sup>th</sup> floor, Washington, DC 20002. E-mail comments may be sent to [joseph.jakuta@dc.gov](mailto:joseph.jakuta@dc.gov). Please use "Proposed Regional Haze State Implementation Plan" in the subject line. For more information, call Mr. Jakuta at (202) 535-2988.

**DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD  
NOTIFICATION OF CHARTER AMENDMENT**

The District of Columbia Public Charter School Board (DC PCSB) announces an opportunity for the public to submit comment on a request submitted by DC Preparatory Public Charter School (DC Prep PCS) on August 13, 2019 to open its Anacostia Middle School campus at a new location in Ward 8, effective for school year (SY) 2020-21.

DC Prep PCS is currently in its seventeenth year of operation serving students in grades prekindergarten-3 through eighth at five campuses located in Wards 5, 7 and 8: Anacostia Elementary, Benning Elementary, Benning Middle, Edgewood Elementary, and Edgewood Middle. Effective for SY 2020-21, DC PCSB approved DC Prep PCS to open a sixth campus, Anacostia Middle, as a feeder middle school for students attending DC Prep PCS - Anacostia Elementary. Therefore, the school is seeking an amendment to designate the location for its Anacostia Middle campus at 2501 Martin Luther King Jr. Avenue SE in Ward 8. Per its amendment application, DC Prep PCS will sublease from Building Pathways in SY 2020-21 and 2021-22 to locate its Anacostia Middle campus on the ground floor of DC Public School's Birney Elementary School. In year-one, DC Prep PCS – Anacostia Middle will open with fourth grade, and it will add fifth grade the following school year.

A public hearing will be held on October 21, 2019 and a vote will be held on November 18, 2019 at 6:30 p.m.

**How to Submit Public Comment:**

1. Submit written comment one of the following ways:
  - a. E-mail: [public.comment@dcpsb.org](mailto:public.comment@dcpsb.org)
  - b. Postal mail: Attn: Public Comment, \*DC Public Charter School Board, 3333 14<sup>th</sup> ST. NW., Suite 210, Washington, DC 20010
  - c. Hand Delivery/Courier\*: Same as postal address above
2. Sign up to testify in-person at the public hearing on October 21, 2019 by emailing a request to [public.comment@dcpsb.org](mailto:public.comment@dcpsb.org) by no later than 4 p.m. on Friday, October 18.

**DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOL BOARD  
NOTIFICATION OF CHARTER AMENDMENT**

The District of Columbia Public Charter School Board (DC PCSB) announces an opportunity for the public to submit comment on a written request submitted by Roots Public Charter School (Roots PCS) on July 26, 2019 to amend its goals and academic achievement expectations by updating its K-2 literacy assessment.

Roots PCS is currently in its twenty-first year of operation educating students in grades prekindergarten-3 through five. The school seeks to amend its goals and academic achievement expectations by updating its K-2 literacy assessments to implement i-Ready instead of Continuum.

A public hearing will be held on September 16, 2019 and a vote will be held on October 21, 2019 at 6:30 p.m.

**How to Submit Public Comment:**

1. Submit written comment one of the following ways:
  - a. E-mail: [public.comment@dcpcsb.org](mailto:public.comment@dcpcsb.org)
  - b. Postal mail: Attn: Public Comment, \*DC Public Charter School Board, 3333 14<sup>th</sup> ST. NW., Suite 210, Washington, DC 20010
  - c. Hand Delivery/Courier\*: Same as postal address above
2. Sign up to testify in-person at the public hearing on September 16, 2019 by emailing a request to [public.comment@dcpcsb.org](mailto:public.comment@dcpcsb.org) by no later than 4 p.m. on Friday, September 13<sup>th</sup>.

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

**TIME AND PLACE:**            **Thursday, October 17, 2019, @ 6:30 p.m.**  
   **Jerrily R. Kress Memorial Hearing Room**  
   **441 4<sup>th</sup> Street, N.W., Suite 220-South**  
   **Washington, D.C. 20001**

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

**CASE NO. 19-15 (Text Amendment to Subtitles B, H, K, & U to Authorize Short-Term Rentals)**

**THIS CASE IS OF INTEREST TO ALL ANCs**

On July 29, 2019, the Office of Zoning (“OZ”) received a letter that served as a petition from the Council of the District of Columbia (the “Council”) proposing text amendments to Subtitle B §§ 100.2 and 200.2 of Title 11 DCMR (the “Zoning Regulations,” to which all references herein refer except if otherwise specified) to authorize short-term rentals in residential zones as permitted under D.C. Law 22-307.

At its publicly-noticed public meeting held on July 29, 2019, the Zoning Commission for the District of Columbia (the “Commission”) voted to set down the petition for a public hearing, with authority for the Council to revise the proposed text in consultation with the Office of Planning and the Office of the Attorney General. Based on that consultation, the proposed text amendments were revised to authorize short-term rentals as accessory uses in zones where residential uses are permitted with proposed revisions to:

- Subtitle B, §§ 100.2 and 200.2
- Subtitle H, § 1103.1
- Subtitle K, §§ 414.3, 616.2, 712.6, and 911
- Subtitle U, §§ 250.1, 505.2, and 600.1

The proposed text amendment would apply city-wide.

**PROPOSED TEXT AMENDMENT**

The proposed amendments to Title 11 DCMR are as follows (text to be deleted is shown in **bold** and ~~strikethrough~~ text and new text is shown in **bold and underlined** text):

**I. Amendments to Subtitle B, DEFINITIONS, RULES OF MEASUREMENT, AND USE CATEGORIES**

**Subsection 100.2 of § 100, DEFINITIONS, of Chapter 1, DEFINITIONS, is proposed to be amended by adding a definition of “Short-Term Rental” and revising the definition of “Accessory Use” to read as follows:**

100.2 When used in this title, the following terms and phrases shall have the meanings ascribed:

...<sup>1</sup>

Sexually-Oriented Business Establishment: ...

**Short-Term Rental: A use as defined by the Short-Term Rental Regulation Act of 2018 (D.C. Law 22-308), that has a valid Basic Business License from the Department of Consumer and Regulatory Affairs with a “Short-Term Rental” or “Short-Term Rental: Vacation Rental” endorsement.**

Specified Anatomical Areas: ...

...

Use, Accessory: A use customarily incidental and subordinate to the principal use, and located on the same lot with the principal use. **Except for a Short-Term Rental and unless** ~~Unless~~ otherwise specifically permitted, an accessory use ~~in a residential dwelling in a residential zone~~ shall be limited to twenty percent (20%) of the gross floor area.

**Subsection 200.2 of § 200, INTRODUCTION, of Chapter 2, USE CATEGORIES, is proposed to be amended by revising paragraphs (u) and (bb) to exclude Short Term Rentals from the “Lodging” and “Residential” use categories to read as follows:**

200.2 When used in this title, the following use categories shall have the following meanings:

(a) Agriculture, ...

...

(u) Lodging:

(1) A use providing ...

(2) Examples include ...

<sup>1</sup> The uses of this and other ellipses indicate that other provisions exist in the subsection being amended and that the omission of the provisions does not signify an intent to repeal.

- (3) Exceptions: This use category does not include uses which more typically would fall within the emergency shelter or residential use categories **or Short-Term Rental**;

...

(bb) Residential:

- (1) A use offering ...

...

- (4) Exceptions: This use category does not include uses which more typically would fall within the lodging, education, or community-based institutional facility use categories **or Short-Term Rental**;

...

**II. Amendments to Subtitle H, NEIGHBORHOOD MIXED-USE (NC) ZONES**

**Subsection 1103.1 of § 1103, MATTER-OF-RIGHT USES (NC-USE GROUPS A, B, AND C), of Chapter 11, USE PERMISSIONS FOR NC ZONES, is proposed to be amended by adding a new paragraph (r) and reordering alphabetically to read as follows:**

1103.1 The following uses in this section shall be permitted as a matter of right subject to any applicable conditions:

- (a) NC zone designated uses;

...

- (q) Daytime care; **and**

- (r) Community solar facility ...

- (1) Roof-mounted solar array of any size, or

- (2) Ground-mounted solar array ...

- (A) Measures no greater than ...

...

- (D) Where the panels are sited ... or RA-1 zone; **and**

- (s) Short-Term Rental as an accessory use.**

III. Amendments to Subtitle K, SPECIAL PURPOSE ZONES

Section 414, ACCESSORY USES (HE), of Chapter 4, HILL EAST ZONES – HE-1 THROUGH HE-4, is proposed to be amended by adding a new § 414.3 to read as follows:

414.3 Short-Term Rental shall be permitted as an accessory use.

Section 616, ACCESSORY USES (STE), of Chapter 6, SAINT ELIZABETHS EAST CAMPUS ZONES – STE-1 THROUGH STE-19, is proposed to be amended by adding a new § 616.2 to read as follows:

616.2 Short-Term Rental shall be permitted as an accessory use.

Section 712, MATTER-OF-RIGHT USES (RC), of Chapter 7, REED-COOKE ZONES – RC-1 THROUGH RC-3, is proposed to be amended by adding a new § 712.6 to read as follows:

712.6 Short-Term Rental shall be permitted as an accessory use.

Section 911, USE PERMISSIONS (WR), of Chapter 9, WALTER REED ZONES – WR-1 THROUGH WR-8, is proposed to be amended by adding a new paragraph in alphabetical order to §§ 911.1, 911.2, 911.3, and 911.5 to read as follows:

911.1 The uses in this section shall be permitted as a matter of right in the WR-1 zone, subject to any applicable conditions:

- (a) Agriculture ...
- ...
- (m) Transportation infrastructure; ~~and~~
- (n) Community solar facility ...
  - (3) Roof-mounted solar array of any size, or
  - (4) Ground-mounted solar array ...
    - (B) Measures no greater than ...
    - ...
    - (E) Where the panels are sited ... or RA-1 zone; ~~and~~
- (o) Short-Term Rental as an accessory use.

911.2 The uses in this section shall be permitted as a matter of right in the WR-2, WR-3, WR-4, and WR-5 zones, subject to any applicable conditions:

(a) Agriculture ...

...

(x) Service, general subject to the conditions of Subtitle K § 912.11; ~~and~~

**(y) Short-Term Rental as an accessory use; and**

~~(z)~~**(z)** Transportation infrastructure.

911.4 The uses in this section shall be permitted as a matter of right in the WR-7 zone, subject to any applicable conditions:

(a) Agriculture ...

...

(h) Retail; ~~and~~

**(i) Short-Term Rental as an accessory use; and**

~~(j)~~**(j)** Transportation infrastructure.

...

911.5 The uses in this section shall be permitted as a matter of right in the WR-8 zone, subject to any applicable conditions:

(a) Agriculture ...

...

(n) Retail subject to the conditions of Subtitle K § 912.10; ~~and~~

**(o) Short-Term Rental as an accessory use; and**

~~(p)~~**(p)** Transportation infrastructure.



### III. Amendments to Subtitle U, USE PERMISSIONS

Subsection 250.1 of § 250, ACCESSORY USES (R), of Chapter 2, USE PERMISSIONS RESIDENTIAL (R) ZONES, is proposed to be amended by adding a new paragraph (f) and reordering alphabetically to read as follows:

250.1 The following accessory uses shall be permitted as a matter of right in all R zones subject to the associated conditions:

~~(a)~~**(f)** An accessory apartment subject to the conditions of Subtitle U §253;

~~(a)~~**(b)** Two (2) boarders within the principal dwelling;

~~(b)~~**(c)** No more than two (2) car-sharing ...

~~(e)~~**(d)** Child development home ...

~~(d)~~**(e)** Home Occupation ...

**(f) Short-Term Rental; and**

~~(f)~~**(g)** Other accessory uses, buildings or structures customarily incidental to the uses permitted in R zones under the provisions of this section shall be permitted; including one (1) sale in the nature of a yard sale, garage sale, or home sales party may be held at a dwelling unit during a twelve (12) month period.

Subsection 505.2 of § 505, MATTER-OF-RIGHT USES (MU-USE GROUP B), of Chapter 5, USE PERMISSIONS MIXED USE (MU) ZONES, is proposed to be amended by adding a new paragraph (h) and reordering alphabetically to read as follows:

505.2 The following marine uses shall be permitted as a matter of right:

(a) Boat construction on an occasional basis by a local community organization;

(b) Community garden operated by a local community organization or District government agency;

~~(c)~~**(f)** Floating homes within a permitted marina or yacht club, provided that the maximum density of floating home berths shall not exceed fifty percent (50%) of the total number of berths in the marina or yacht club; ~~and~~

~~(d)~~**(g)** A home occupation within a floating home;

- (e) Seasonal or occasional market for produce, arts, and crafts, with non-permanent structures;
- ~~(f)(e)~~ Publicly accessible park or open space, playground, or athletic field, including pedestrian and bicycle trails, necessary support facilities, and fitness circuits;
- ~~(g)(d)~~ Public nature education or interpretive center including a boat dock; **and**
- (h) Short-Term Rental as an accessory use.**

**Subsection 600.1 of Section 200, MATTER-OF-RIGHT USES ON ALLEY LOTS (R, RF, AND RA), of Chapter 6, USE PERMISSIONS FOR ALLEY LOTS, is proposed to be amended by adding a new paragraph (g) to read as follows:**

600.1 The following uses in this section shall be permitted as a matter of right subject to any applicable conditions:

- (a) Agricultural, both ...
- ...
- (f) Residential dwelling ...
  - (1) The alley lot ...
  - ...
  - (5) If the Zoning Administrator ... shall be referred to the Board of Zoning Adjustment; **and**

**(g) Short-Term Rental as an accessory use.**

Proposed amendments to the Zoning Regulations of the District of Columbia are authorized pursuant to the Zoning Act of June 20, 1938, (52 Stat. 797), as amended, D.C. Official Code § 6-641.01, *et seq.*

This public hearing will be conducted in accordance with the rulemaking case provisions of Subtitle Z, Chapter 5.

**How to participate as a witness.**

Interested persons or representatives of organizations may be heard at the public hearing. The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The applicable time limits for oral testimony are described below. Written

statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record.

All individuals, organizations, or associations wishing to testify in this case are encouraged to inform the Office of Zoning their intent to testify prior to the hearing date. This can be done by mail sent to the address stated below, e-mail ([donna.hanousek@dc.gov](mailto:donna.hanousek@dc.gov)), or by calling (202) 727-0789.

The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

- |    |               |                |
|----|---------------|----------------|
| 1. | Organizations | 5 minutes each |
| 2. | Individuals   | 3 minutes each |

The Commission may increase or decrease the time allowed above, in which case, the presiding officer shall ensure reasonable balance in the allocation of time between proponents and opponents.

Written statements, in lieu of oral testimony, may be submitted for inclusion in the record. The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at <http://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by mail to 441 4<sup>th</sup> Street, N.W., Suite 200-S, Washington, DC 20001; by e-mail to [zcsubmissions@dc.gov](mailto:zcsubmissions@dc.gov); or by fax to (202) 727-6072. Please include the case number on your submission. **FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.**

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

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

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

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

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

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

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

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

## OFFICE OF DOCUMENTS AND ADMINISTRATIVE ISSUANCES

ERRATA NOTICE

The Administrator of the Office of Documents and Administrative Issuances (ODAI), pursuant to the authority set forth in Section 309 of the District of Columbia Administrative Procedure Act, approved October 21, 1968, as amended (82 Stat. 1203; D.C. Official Code § 2-559 (2016 Repl.)), hereby gives notice of a correction to the Notice of Final Rulemaking issued by the District of Columbia Department of Human Resources and published in the *D.C. Register* on May 10, 2019, at 66 DCR 5866.

The rulemaking amended multiple chapters (Chapters 12, 14, and 16), of Title 6 (Personnel), Subtitle B (Government Personnel), of the District of Columbia Municipal Regulations (DCMR).

A correction to a related subsection in Chapter 16 (Corrective and Adverse Actions; Enforced Leave; and Grievances) was inadvertently omitted from the final rules submitted for publication. Specifically, § 1600.3(a) is being corrected to reference (a) and (b) in the subsection as opposed to (a) and (c).

The corrections to the final rulemaking are made below (additions are shown in **bold and underline** text; deletions are shown in **~~bold and strikethrough~~** text):

**Section 1600, APPLICABILITY, of Chapter 16, CORRECTIVE AND ADVERSE ACTIONS; ENFORCED LEAVE; AND GRIEVANCES, of Title 6-B DCMR, GOVERNMENT PERSONNEL, is amended to read as follows:**

- 1600.3 The rules established in this chapter shall be relied upon as a guide for Management Supervisory Services (MSS) when a disciplinary action is taken for cause.
- (a) For purposes of this chapter, employees in MSS are considered “exempt” employees and §§ 1625 (a) and ~~(e)~~ (b) do not apply to these employees.
  - (b) In accordance with D.C. Official Code § 1-609.54(a), MSS positions are at-will appointments. Nothing in this chapter shall be construed as conferring any substantive rights to MSS employees.

## DEPARTMENT OF HEALTH

**NOTICE OF FINAL RULEMAKING**

The Director of the Department of Health, pursuant to the authority set forth in § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 (“the Act”), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14) (2016 Repl.)), and Mayor’s Order 98-140, dated August 20, 1998, hereby gives notice of the adoption of amendments to Chapter 76 (Respiratory Therapy) of Title 17 (Business, Occupations, and Professionals) of the District of Columbia Municipal Regulations (DCMR).

The purpose of this rulemaking is to update the regulations governing the practice of respiratory care, which has not been updated since 1990. The revisions will clarify the scope of the practice, including the use of communication technology to aid in patient care, and require licensees to maintain a national credential, which is the accepted standard throughout the country.

This rulemaking was previously published in the *D.C. Register* as a proposed rulemaking at 65 DCR 11941 (October 26, 2018). No comments were received; however, it was published again as a Second Proposed Rulemaking at 66 DCR 5165 (April 19, 2019) in order to add, in Subsections 7606.4 and 7606.5, the requirements for continuing education in public health priorities as determined and amended from time to time by the Director.

No comments were received and no changes have been made to the rules as last proposed. The rules were adopted as final on June 4, 2019 and will become effective upon publication of this notice in the *D.C. Register*.

**Chapter 76, RESPIRATORY THERAPY, of Title 17 DCMR, BUSINESS, OCCUPATIONS, AND PROFESSIONALS, is amended as follows:**

**Section 7600, GENERAL PROVISIONS, is amended to read as follows:**

**7600 GENERAL PROVISIONS**

7600.1 This chapter applies to persons authorized to practice respiratory therapy in the District including applicants for or holders of a license issued in accordance with this chapter.

7600.2 Chapters 40 (Health Occupations: General Rules) and 41 (Health Occupations: Administrative Procedures) of this title supplement this chapter.

**Section 7601, TERM OF LICENSE, is amended to read as follows:****7601 TERM OF LICENSE**

- 7601.1 Except as provided in § 7601.3, a license issued pursuant to this chapter shall be effective for not more than two years and shall expire at 12:00 Midnight on January 31<sup>st</sup> of each odd-numbered year.
- 7601.2 If the Director changes the renewal system pursuant to § 4006.3 of Chapter 40 of this title, a license issued pursuant to this chapter shall expire at 12:00 midnight of the last day of the month of the birth date of the holder of the license, or other date established by the Director.
- 7601.3 Notwithstanding § 7601.1, a new license issued within the ninety (90) day period prior to the expiration of a licensure term may be issued for a period covering the remainder of the licensure term and the subsequent term.

**Section 7602, EDUCATIONAL REQUIREMENTS, is amended to read as follows:****7602 EDUCATIONAL REQUIREMENTS**

- 7602.1 Except as provided in § 7605, each applicant for a license to practice respiratory therapy shall submit proof, satisfactory to the Board, that the applicant has successfully completed an educational program in the practice of respiratory care that has been accredited by the Commission on Accreditation for Respiratory Care (CoARC) or its successor organization.

**Section 7604, NATIONAL EXAMINATION, is amended to read as follows:****7604 NATIONAL EXAMINATION**

- 7604.1 In addition to satisfying the educational requirement set forth in § 7602, an applicant shall receive a passing score on the Therapist Multiple-Choice Examination for Certified Respiratory Therapist (CRT) or for Registered Respiratory Therapist (RRT), developed and administered by the National Board for Respiratory Care (NBRC). The passing score for the purposes of these rules shall be the passing score determined by the NBRC.
- 7604.2 Each applicant for a license by examination shall submit to the Board a completed application and the applicant's CRT or RRT examination results, which shall be certified or validated by the NBRC.
- 7604.3 An applicant for a license by examination who took and passed an NBRC examination required pursuant to § 7604.1 more than five (5) years prior to the date of the application shall be required to take and pass the examination again unless the applicant has continuously maintained valid credential as a Certified

Respiratory Therapist (CRT) or Registered Respiratory Therapist (RRT) and such credential was obtained after July 1, 2002.

**Section 7605, LICENSURE BY ENDORSEMENT, is amended to read as follows:**

**7605 LICENSURE BY ENDORSEMENT**

- 7605.1 The Board may issue a license to practice respiratory therapy by endorsement to an applicant who:
- (a) Is currently licensed to practice respiratory care in another state according to standards that were the substantial equivalent to the District's at the time of the licensing;
  - (b) Has continually remained in good standing under the laws of another state with standards that the Board determines to be comparable to the requirements of the Act and this chapter;
  - (c) Possesses a valid and current certification as a Certified Respiratory Therapist (CRT) or Registered Respiratory Therapist (RRT), issued by the National Board for Respiratory Care (NBRC); and
  - (d) Meets the other applicable requirements of D.C. Official Code § 3-1205.03.

**Section 7606, RENEWAL, REACTIVATION, OR REINSTATEMENT OF A LICENSE; CONTINUING EDUCATION REQUIREMENTS, is amended to read as follows:**

**7606 RENEWAL, REACTIVATION, OR REINSTATEMENT OF A LICENSE; CONTINUING EDUCATION REQUIREMENTS**

- 7606.1 Except as provided in § 7606.2, all applicants for the renewal, reactivation, or reinstatement of a license to practice respiratory therapy in the District shall demonstrate successful completion of approved continuing education units ("CEUs") in accordance with this section.
- 7606.2 This section does not apply to applicants for an initial license, nor to applicants for the first renewal of a license after the initial grant.
- 7606.3 To qualify for reactivation of a license to practice respiratory therapy, a person in inactive status, as defined in § 511 of the Act (D.C. Official Code § 3-1205.11), shall possess a valid and active credential as a Certified Respiratory Therapist (CRT) or Registered Respiratory Therapist (RRT).
- 7606.4 To qualify for reinstatement of a license, an applicant shall submit proof of the following:



- (a) Having successfully completed eight (8) approved CEUs for each year that the license remains expired and two (2) of the required CEUs shall be in ethics, provided further that ten percent (10%) of the total required continuing education shall be in the subjects determined by the Director as public health priorities of the District, which shall be duly published every five (5) years or as deemed appropriate; and
- (b) A current and valid credential as a Certified Respiratory Therapist (CRT) or Registered Respiratory Therapist (RRT), issued by the National Board for Respiratory Care (NBRC).

7606.5 To qualify for the renewal of a license, an applicant shall have completed sixteen (16) CEUs of approved continuing education programs or activities during the two (2) year period preceding the date the license expires, which shall include:

- (a) Three (3) CEUs of ethics, for an applicant seeking to renew his or her license on or before January 31, 2019; or
- (b) Two (2) CEUs of ethics and two (2) CEUs of LGBTQ continuing education, for an applicant seeking to renew his or her license after January 31, 2019, provided further that ten percent (10%) of the total required continuing education shall be in the subjects determined by the Director as public health priorities of the District, which shall be duly published every five (5) years or as deemed appropriate.

7606.6 A CEU shall be valid only if it is part of a program or activity approved by the Board in accordance with § 7607.

7606.7 The Board may conduct a random audit of active licensees to determine compliance with the continuing education requirements and the requirement for continuously valid credential pursuant to § 7611. A licensee who is selected for audit shall submit satisfactory proof of continuing education compliance and possession of valid and active CRT or RRT credential within thirty (30) days of receiving the notice of the audit.

**Section 7607, APPROVED CONTINUING EDUCATION PROGRAMS AND ACTIVITIES, is amended to read as follows:**

**7607 APPROVED CONTINUING EDUCATION PROGRAMS AND ACTIVITIES**

7607.1 The Board may grant CEU credit for continuing education programs or activities that it deems to contribute to the growth or maintenance of competency in the practice of respiratory therapy and meets other applicable requirements of this section.

7607.2 The Board may grant CEU credit to an instructor or speaker at a seminar, workshop, or program that is approved by one of the organizations listed in § 7607.4 of this chapter for both preparation and presentation time, subject to the following restrictions:

- (a) The maximum CEU credit granted for preparation time is equal to the presentation time;
- (b) The maximum CEU credit that may be granted pursuant to this subsection is fifty percent (50%) of a requestor's CEU requirement;
- (c) If a requestor has previously received CEU credit in connection with a particular presentation, the Board shall not grant CEU credit for a subsequent presentation unless it involves either a different subject or substantial additional research concerning the same subject; and
- (d) The presentation shall have been presented during the period for which credit is claimed.

7607.3 The Board may grant CEU credit for authoring and publishing an article in a professional, peer-reviewed journal, a book or a chapter in a book, or a book review in a professional, peer-reviewed journal or bulletin provided that the article, book or chapter was published during the period for which credit is claimed.

7607.4 The Board shall grant CEU credit for a continuing respiratory care education seminar, workshop, or program administered, sponsored, or approved by:

- (a) The American Association of Respiratory Care (AARC);
- (b) The Maryland/District of Columbia Society for Respiratory Care;
- (c) A health care facility accredited by The Joint Commission;
- (d) A college or university approved by an accrediting body recognized by the Council for Higher Education Accreditation or the Secretary of the United States Department of Education; or
- (e) Any of the following organizations provided that the training is related to respiratory care services:
  - (1) American Medical Association;
  - (2) American Thoracic Society;

- (3) American Association of Cardiovascular and Pulmonary Rehabilitation;
- (4) American Heart Association;
- (5) American Nurses Association;
- (6) American College of Chest Physicians;
- (7) American Society of Anesthesiologists;
- (8) American Academy of Sleep Medicine;
- (9) The Accreditation Council for Continuing Medical Education (ACCME);
- (10) The American College of Cardiology; or
- (11) The American Lung Association.

7607.5 The Board shall not grant CEU credit for basic life support courses or training, or for CPR courses or training.

**Section 7608, PRACTICE OF RESPIRATORY CARE BY STUDENTS OR APPLICANTS, is amended to read as follows:**

**7608 PRACTICE OF RESPIRATORY CARE BY STUDENTS OR APPLICANTS**

7608.1 This section applies to:

- (a) A student enrolled in an approved school or college as a candidate for a degree or a certificate in respiratory therapy; or
- (b) An applicant whose first application for a license to practice respiratory therapy in the District has been submitted to the Board and a decision on the application is pending.

7608.2 A student may practice respiratory therapy only in accordance with the following provisions:

- (a) A student may practice only in a hospital, nursing home, health facility, or health education center operated by the District or federal government, or at a health care facility that the student’s school or college determines to be appropriate for this purpose;

- (b) A student shall be supervised at all times by a respiratory therapist licensed in the District who shall be present on site and available to supervise and oversee the student at all times;
- (c) The supervisor shall be fully responsible for the supervised student's practice and may be subject to disciplinary action for any act or omission by the student that constitutes a violation of the Act or this chapter;
- (d) A student may not receive payment or compensation of any nature either directly or indirectly for his or her practice of respiratory therapy; and
- (e) A student shall be subject to each of the applicable provisions of the Act and this chapter.

7608.3 An applicant referenced in § 7608.1(b) may practice respiratory therapy only in accordance with the following provisions:

- (a) An applicant may practice only under general supervision of a respiratory therapist licensed in the District who shall be fully responsible for the supervised applicant's practice and may be subject to disciplinary action for any act or omission by the applicant that constitutes a violation of the Act or this chapter;
- (b) An applicant may not begin practicing respiratory therapy unless he or she has received express, written authorization from the Board, which may not be issued until the Board has satisfactorily reviewed the result of the applicant's criminal background check as provided by the Federal Bureau of Investigation, provided, however, that such temporary authorization to practice shall not limit the Board's authority to take any appropriate action based on the applicant's full criminal background check;
- (c) An applicant's authorization to practice under this section shall not exceed ninety (90) days; provided, however, that the Board may grant an extension of this authorization for good cause;
- (d) An applicant may be paid a salary or compensation for the hours worked; and
- (e) An applicant shall be subject to each of the applicable provisions of the Act and this chapter.

7608.4 If the Board finds that a student or applicant referenced in § 7608.1(b) has violated the Act or this chapter, the Board may, in addition to any other disciplinary action permitted by the Act including denial of application, revoke, suspend, or restrict the authorization for the student or applicant to practice respiratory therapy.

**Section 7609, STANDARDS OF CONDUCT AND ETHICS, is amended to read as follows:**

**7609 STANDARDS OF CONDUCT AND ETHICS**

7609.1 A respiratory therapist shall:

- (a) Practice medically acceptable methods of treatment;
- (b) Present his or her skills, training, scope of practice, certification, professional affiliations, or other qualifications in a manner that is not false or misleading;
- (c) Practice only within the scope of his or her competence, qualifications, and any authority under the law;
- (d) Continually strive to enhance the knowledge and skill set required to render quality respiratory care to each patient;
- (e) Promptly report to the Board any information relating to the incompetent, unsafe, illegal, or unethical practice of respiratory therapy or any violation of the Act or this chapter;
- (f) Uphold the dignity and honor of the profession and abide by its ethical principles;
- (g) Cooperate with other health care professionals;
- (h) Provide all services in a manner that respects the dignity of the patient, regardless of the patient's social or economic status, personal attributes, or health problems;
- (i) Refuse any gift or offer of gift from a patient, or friend or relative of a patient, for respiratory care provided to the patient; and
- (j) Abide by the National Clinical Practice Guidelines published by the American Association of Respiratory Care (AARC) and any subsequent guidelines published by the AARC.

7609.2 A respiratory therapist may utilize communication technology in standard patient care assessment and monitoring provided that the patient has provided written and informed consent specific to this manner of service and that the therapist has determined the following:

- (a) This manner of service does not affect the quality of the service;

- (b) The technology being used is fully secured and has been determined to safeguard the patient's confidentiality and privacy;
- (c) The patient is sufficiently knowledgeable or familiar with the technology such that there would not be any difficulty or barrier to its effective utilization;
- (d) This manner of service promotes continuity of care; and
- (e) The patient is physically in the District at the time of the service.

**A new Section 7610, SCOPE OF PRACTICE, is added to read as follows:**

**7610 SCOPE OF PRACTICE**

- 7610.1 A respiratory therapist may practice only in a collaborative agreement with a licensed physician, a nurse practitioner, or a licensed physician assistant under supervision of a licensed physician.
- 7610.2 The practice of respiratory care includes any of the following:
- (a) Direct and indirect respiratory care services that are safe, aseptic, preventive, and restorative to the patient;
  - (b) The practice of the principles, techniques, and theories derived from cardiopulmonary medicine;
  - (c) Evaluation and treatment of individuals whose cardiopulmonary functions have been threatened or impaired by developmental defects, the aging process, physical injury, disease, or actual or anticipated dysfunction of the cardiopulmonary system;
  - (d) Observation and monitoring of physical signs and symptoms, general behavior, and general physical response to respiratory care procedures, and determination of whether initiation, modification, or discontinuation of the treatment regimen is warranted;
  - (e) The transcription and implementation of a written or oral order, or both, pertaining to the practice of respiratory care;
  - (f) Evaluation techniques including cardiopulmonary functional assessments, gas exchange, the need and effectiveness of therapeutic modalities and procedures, and assessment and evaluation of the need for extended care and home care procedures, therapy, and equipment;

- (g) Professional application of techniques, equipment, and procedures involved in the administration of respiratory care such as:
  - (1) Therapeutic and diagnostic gases (excluding general anesthesia);
  - (2) Prescribed medications for inhalation or direct tracheal instillation;
  - (3) Nonsurgical intubation, maintenance, and extubation of artificial airways;
  - (4) Advanced cardiopulmonary measures;
  - (5) Chest needle decompression;
  - (6) Cardiopulmonary rehabilitation;
  - (7) Mechanical ventilation or physiological life support systems;
  - (8) Collection of body fluids and blood samples for evaluation and analysis, including collection by intraosseous access;
  - (9) Insertion of diagnostic arterial access lines, including large bore intravenous access; or
  - (10) Collection and analysis of exhaled respiratory gases;
- (h) The clinical supervision of licensed respiratory therapists, respiratory care departments, or the provision of any respiratory care services;
- (i) The respiratory care clinical instruction or oversight of respiratory care students, while performing respiratory care procedures as part of their clinical curriculum; or
- (j) The teaching or instructing of others in the discipline of respiratory care and therapy.

**A new Section 7611, MAINTENANCE OF VALID NATIONAL CERTIFICATION, is added to read as follows:**

**7611 MAINTENANCE OF VALID NATIONAL CERTIFICATION**

7611.1 Beginning with the licensure term starting on February 1, 2021, a licensed respiratory therapist shall continuously maintain a valid national certification by the National Board of Respiratory Care (NBRC).

Section 7699, DEFINITIONS, is amended to read as follows:

**7699**            **DEFINITIONS**

7699.1            As used in this chapter, the following terms shall have the meanings ascribed:

**Act** – the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §§ 3-1201.01 *et seq.*)

**Board** – the Board of Respiratory Care, established by § 214 of the Act (D.C. Official Code § 3-1202.14).

**Continuing education unit (CEU)** – at least fifty (50) minutes of education, learning, or presentation time.

**CRT** – credential as a Certified Respiratory Therapist or achieving a passing score on the Therapist Multiple-Choice Examination for Certified Respiratory Therapist, developed and administered by the National Board for Respiratory Care (NBRC).

**Director** – the Director of the Department of Health or his or her designee.

**LGBTQ continuing education** – continuing education focusing on patients or clients who identify as lesbian, gay, bisexual, transgender, gender nonconforming, queer, or question their sexual orientation or gender identity and expression (“LGBTQ”) and meeting the requirements of § 510(b)(5) of the Act (D.C. Official Code § 3-1205.10(b)(5)).

**Licensed respiratory therapist** – a respiratory therapist licensed pursuant to this chapter.

**Licensure term** – a two-year period between February 1<sup>st</sup> of each odd-numbered year and January 31<sup>st</sup> of the next odd-numbered year during which a license issued pursuant to this chapter is valid in accordance with § 7601.

**Nurse Practitioner** – a licensed registered nurse holding a certificate issued in accordance with Chapter 59 of Title 17 of the District of Columbia Municipal Regulations.

**RRT** – credential as a Registered Respiratory Therapist or achieving a passing score on the Therapist Multiple-Choice Examination for Registered Respiratory Therapist, developed and administered by the National Board for Respiratory Care (NBRC).



**The Joint Commission** – the nationally-recognized, independent, not-for-profit organization founded in 1951 that accredits and certifies health care organizations and programs in the United States.

7699.2 The definitions of § 4099 of Chapter 40 of this title are incorporated by reference into and are applicable to this chapter.

**THE OFFICE OF LOTTERY AND GAMING**

**NOTICE OF FINAL RULEMAKING**

**(PRIVATELY OPERATED SPORTS WAGERING)**

The Executive Director of the Office of Lottery and Gaming, pursuant to the authority set forth in Section 4 of the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Official Code §§ 36-601.06(a) and 36-621.02 (2012 Repl.)), and Office of the Chief Financial Officer Management Control Order No. 96-22, effective September 24, 1996, hereby gives notice the repeal Chapters 20 (Lottery Board Procurement), 22 (Procurement By Competitive Sealed Bidding), 23 (Procurement By Competitive Sealed Proposals), 24 (Sole Source and Emergency Procurements), and 25 (Small Purchases) of Title 30 (Lottery and Charitable Games) of the District of Columbia Municipal Regulations (DCMR), and to the adoption of amendments to Chapter 21 (formerly Contract Administration and Management, now Privately Operated Sports Wagering) of Title 30 DCMR.

The purpose of the rulemaking is to implement provisions of the Sports Wagering Lottery Amendment Act of 2018, effective May 3, 2019 (D.C. Law 22-312; 66 DCR 1402 (February 1, 2019)).

A Notice of Proposed Rulemaking was published on June 14, 2019 at 66 DCR 7194. The Office received comments on the proposed rules from Commissioner Robert Vinson Brannum, (ANC 5E08). Comments on the proposed rules were also received from DC United; DraftKings, Inc.; Ian G. Thomas, Offit Kurman LLP; Lincoln Holdings, Inc. dba Monumental Sports and Entertainment; MGM Resorts International; Sports Fan Coalition; Washington Nationals Baseball Club; and William Hill US. The comments are summarized below.

**Commenter: Commissioner Robert Vinson Brannum, (ANC5E08)**

Proposed Rule Section	Comment Summary	Response
§ 2101.3	Commissioner Brannum recommended that the rules include a specified time period and/or an exclusion for certain acts adjudicated as a juvenile, expunged or otherwise vacated by a court of competent jurisdiction.	No change was made to the rule based on the comment. The Sports Wagering Lottery Amendment Act of 2018 includes a list of convictions that will disqualify an Applicant from licensure. The office cannot change that list by rule. The rule adds additional convictions that the Executive Director may consider in determining whether to approve an application for licensure. Under the rules as written, the Executive Director has the discretion to take into consideration all of the facts

		surround the conviction, including whether the convictions occurred with the Applicant was a juvenile, and whether the conviction was expunged or otherwise vacated by a court of competent jurisdiction.
§ 2102.3	Commissioner Brannum recommended that rules include specific language defining tax returns to include all state and/or federal tax return.	No change was made to the rule based on the comment. The rule as drafted provides the Office with the discretion to obtain copies of an Applicant’s District, state and federal tax returns.
General	Commissioner Brannum recommended that the requirements contained in the rules should be the same regardless of the Applicant license for Class A Sports Wagering Operator Licenses, Class B Sports Wagering Operator Licenses and Management Services Provider Licenses.	No change was made to the rules based on the comment. Class A Sports Wagering Operator Licenses, Class B Sports Wagering Operator Licenses and Management Services Provider Licenses all have different statutory requirements that must be addressed in the rule.
General	Commissioner Brannum recommended that language be included in the rules stating the rules shall limit or prohibit in any manner or scope provisions outlined and contained in D.C. Official Code § 1-309.10.	No change was made to the rule based on the comment because the Office cannot, by rule, limit the requirements set forth in D.C. Official Code § 1-309.10.

**Commenter: DraftKings, Inc.**

Proposed Rule Section	Comment Summary	Response
§§ 2101.4, 2102.4, 2103.5, 2104.5 and 2105.6	The rule should clarify that an Applicant notify the Office of any material changes to their application within ten (10) business days of the Applicant being made aware of the change.	The comment was addressed in §§ 2101.5, 2102.4, 2103.5, 2104.5, and 2105.6 of the adopted rule.
§§ 2101.13, 2102.12, 2103.12, 2104.10, 2105.12 and 2107.2	The rule should not establish a fixed standard of review in making a suitability for licensure determination. The suitability determination should be left to the Executive Director’s discretion in reviewing the criteria outlined within the rule. Attaching a fixed standard of review to determining suitability takes a level of discretion away from the Executive Director that	No change to the rule was made based on the comment. It is important to provide the standard of review the Executive Director will use when determining suitability for licensure.

	should be available when reviewing complex applications for gaming licenses.	
§§ 2101.14(h), 2102.13(h) and 2103.13(h)	The rule requires that the Executive Director consider whether an Applicant has a disqualifying offense when determining if an Applicant is suitable for licensure. Amend the rule to remove the term “disqualifying” from the rule and align the language to suggested changes to § 2107.1.	No change to the rule was made based on the comment. The Sports Wagering Lottery Amendment Act of 2018 includes a list of disqualifying offenses. The rule, as written reflects that the Office must review all to determine if the Applicant has been convicted of a disqualifying offense.
§§ 2101.14(k), 2102.13(j) and 2103.13(j)	Amend the rule to remove a review of the Applicant’s affiliates and affiliated companies as part of the suitability review for licensure.	No change to the rule was made based on the comment. A review of the Applicant’s affiliates and affiliated companies is important in determining an Applicant’s overall suitability for licensure.
§§ 2101.14(o), 2102.13(n) and 2103.14(n)	The proposed rule requires a review of all of an Applicant’s pending litigation as a part of the application review process. Amend the rule to require only a review of litigation where the Applicant has been found guilty or has had an adverse ruling rendered against it by a court of competent jurisdiction.	No change to the rule was made based on the comment. The fact a matter has not been fully adjudicated will be appropriately considered by the Executive Director when making a suitability for licensure determination.
§§ 2102.12, 2103.12, and 2104.10	Amend the rule to provide the Executive Director with the discretion, upon a showing of good cause, to grant a waiver of the information that must be provided in conjunction with an application.	The comment was addressed in §§ 2102.3, 2103.3 and 2104.6 of the adopted rule.
§ 2105.2	The rule should be clarified to ensure that only those individuals directly involved with a Sports Wagering Operator’s operation in the District of Columbia are required to obtain an Occupational License.	The comment was addressed in § 2105.2 of the adopted rule.
§ 2105.3	Amend the rule to remove the provision that allows the Office to license different levels of Occupational Licenses.	No change to the rule was made based on the comment. It is important that the Office have the discretion to license different levels of Occupational Licenses to coincide with the duties performed by the license holder.
§ 2106.2	Remove proof of current licensure for sports wagering as a requirement for a Provisional Sports Wagering License.	No change to the rule was made based on the comment. Provisional Sports Wagering License will be issued to

		qualified applicants who have been licensed in other Office approved jurisdictions. Because a Provisional License is issued prior to the full District licensing process being completed, the District must rely on the fact that the Applicant has been fully vetted and licensed in another approved jurisdiction. Accordingly, a Provision Sports Wagering License will only be available for Applicants that have been fully vetted and licensed in another approved jurisdiction.
§ 2106.3	Amend the rule to include a requirement that the Office provide notice to the holder of a Provisional Sports Wagering License if the Office determines that it will rescind the Provisional Sports Wagering License.	The comment was addressed in § 2106.3 of the adopted rule.
§ 2106.4	Amend the rule to make a Provisional Sports Wagering License valid for one (1) year.	No change to the rule was made based on the comment. The rule as drafted allows the Executive Director to extend the term of a Provisional Sports Wagering License beyond six (6) months upon a showing of good cause.
§ 2107.1	Amend the rule to provide the Office with discretion not to deny, suspend, or revoke a license for the violations listed in § 2107.1.	No change to the rule was made based on the comment. The violations contained in § 2107.1 warrant administrative enforcement action being taken against the Licensee. Section 2107.1 provides the range of sanctions that are available to be imposed should the office determine that the license holder violated one of the offenses.
§ 2107.2	Amend the rule to limit when the Office may deny, suspend or revoke a license based on an Applicant’s or Licensee’s change of ownership.	No change to the rule was made based on the comment. The rule, as currently drafted, is in alignment with the statutory requirement. The change proposed by the commenter would create a requirement that is different from the statutory requirement.
§ 2108.1	Amend the rule to require that Operators and Management Services Providers promptly report to the Office facts or circumstances related to the	The comment was addressed in § 2108.1 of the adopted rule.

	operation of a sports wagering Licensee that the Operator or Management Services Provider reasonably believes constitutes a violation of District or federal law, including suspicious sports wagering over any threshold set by the Operator or Management Services Provider.	
§ 2108.3	Amend the rule to require that Operators and Management Service Providers investigate each player complaint and provide a response to the player within ten (10) business days.	The comment was addressed in § 2108.4 of the adopted rule.
§ 2109.1	Amend the rule to require that Operators and Management Services Providers make commercially reasonable efforts to prevent visibly intoxicated or impaired persons from participating in sports wagering or entering the approved designated areas for sports wagering on the licensed premises.	The comment was addressed in § 2109.1 of the adopted rule.
§ 2109.1	Amend the rule to prohibit an employee or agent who is serving alcoholic beverages to customers from taking sports wagers during the same work shift.	The comment was addressed in § 2109.1 of the adopted rule.
§ 2110.1	Amend the rule to remove the requirement that the name of the Sports Wagering Manager on duty be conspicuously posted in the Sports Wagering Facility.	No change to the rule was made based on the comment. Enforcement officials and sports wagering customers should be able to readily ascertain the name of the Sports Wagering Manager on duty.
§ 2112.1	Amend the rule to remove the requirement that a Sports Wagering Manager be present for all hours when Self Service Betting Terminal wagering is available at the Sports Wagering Facility.	No change to the rule was made based on the comment. A Sports Wagering Manager must be on duty at all time when sports wagers are being accepted at the Sports Wagering Facility.
§ 2116.2	Amend the rule to include the circumstances under which the Operator will void a bet and the treatment of errors, late bets and related contingencies in the list of items that must be included in the House Rules.	The comment was addressed in § 2116.2 of the adopted rule.
§ 2117.1	Amend the rule to allow for the use of	The comment was addressed in § 2117

	other types of security, in addition to cash, to meet the reserve requirement.	of the adopted rule.
§ 2117.2	Amend the rule to require that Operators notify the Office within five (5) business days if their reserve is not sufficient to cover the calculated reserve requirement and the Operator must also indicate the steps the Operator has taken to remedy the deficiency.	No change to the rule was made based on the comment. In order to maintain the financial integrity of sports wagering in the District, Operators must notify the Office within twenty-four (24) hours if their cash reserve is not sufficient to cover the calculated requirement and must also indicate the steps the Operator has taken to remedy the deficiency.
§ 2119.6	Amend the rule to make an event number discretionary.	The comment was addressed in § 2119.6 of the adopted rule.
§ 2119.7	Amend the rule to allow for tickets up to \$10,000 be allowed to be redeemed by mail.	The comment was addressed in § 2119.7 of the adopted rule.
§ 2119.11	Amend the rule to limit the requirement that a sports wagering system be configured to prevent the acceptance of wagers from players prohibited from wagering wagers that require the verification of the player’s identification.	The comment was addressed in § 2119.11 of the adopted rule.
§ 2119.13	Amend the rule to require that a sports wagering system shall prevent past posting of wagers and the voiding or cancellation of wagers after the outcome of an event is known unless the voiding or cancellation of wagers is done in accordance with the Office approved House Rules	No change was made to the rule based on the comment because the system must prevent past posting of wagers and the voiding or cancellation of wagers after the outcome of an event is known.
§ 2123.1	Amend the rule to implement a 180-day time period in which to complete the financial audit.	The comment was addressed in § 2123.1 of the adopted rule.
§ 2127.1	Amend the rule to prevent situations where Sports Wagering Operators are restricted from offering wagering on an International Olympic Committee event because one or two participants in an event happen to be under the age of eighteen (18).	The comment was addressed in § 2127.1 of the adopted rule.
§ 2128.2	Amend the rule to allow Operators and Management Services Providers adequate time to properly update the responsible gaming plan and provide	The comment was addressed in § 2128.2 of the adopted rule.

	adequate time to properly submit said plan for approval.	
§ 2130.2	Amend the rule to remove public relations activities from § 2130.2.	No change was made to the rule based on the comment. To the extent public relations are a form of advertising, they are subject to § 2130.
§ 2130.2	Amend the rule to remove advertisements that consist of indecent or offensive graphics or audio, or both from the list of prohibited advertisements.	No change was made to the rule based on the comment because indecent or offensive sports wagering advertisements will not be allowed in the District.
§ 2130.2	Amend the rule to prohibit advertisements that target groups of people that are considered moderate and high-risk groups for gambling addiction.	The comment is addressed in § 2131.2 of the adopted rule.
§ 2130.3	Amend the rule to remove “public relations activities” from this section as it is overly broad and encompasses activities that go beyond the scope of advertising.	No change was made to the rule based on the comment. To the extent public relations are a form of advertising, they are subject to § 2130.
§ 2130.5	DraftKings respectfully requests that this section be removed in its entirety as it creates an environment where Class B Operators are placed at a disadvantage compared to Class A Sports Wagering Facilities. Class A Sports Wagering Facilities are not subject to similar advertising restrictions in and around Class B Operators locations and the restriction of advertising within the exclusivity zone serves no public policy purpose. Further, this restriction could prove to be an impossibility given marketing deals and existing advertising that already exist between entities that will become Class B Operators and Class A Sports Wagering Facilities. DraftKings believes that an advertisement restriction of this kind is inappropriate under any circumstance and should be removed as to foster an environment that recognizes the existing landscape and allows for competition.	No change was made to the rule based on the comment. The advertising restriction coincides with the prohibition of Class B and District Operated sports wagering within the Class A designated zones.
§ 2131.3	Amend the rule to state if a Sports	The comment is addressed in § 2132 of



	Wagering License is revoked, the Licensee is ineligible to apply for a new Sports Wagering License in the District of Columbia for a minimum of three (3) years.	the adopted rule.
§ 2132.1	Amend the rule to state if gross sports wagering revenue for a month is a negative number because the winnings paid to patrons exceeds the total revenue received by the Sports Wagering Operator from sports wagering, the Sports Wagering Operator may carry over the negative amount to returns filed for subsequent months.	No change was made to the rule based on the comment. The requested change would require a statutory change in the calculation of tax on gross sports wagering revenue.
Definitions	DraftKings respectfully requests the above modification to the definition of “gross sports wagering revenue” so that the definition conforms to the definition that was included in the Sports Wagering Lottery Amendment Act of 2018.	The comment is addressed in the definition of gross sports wagering revenue of the adopted rule.
Definitions	DraftKings respectfully requests that the definition of sports wagering manager be amended to state the following: “sports wagering manager” means a key employee of the Sports Wagering Operator, or a qualified employee of a licensed Management Services Provider that is operating under a contract with a Sports Wagering Operator, responsible for the operations of sports wagering conducted pursuant to this chapter.”	The comment is addressed in the definition of gross sports wagering manager of the adopted rule.
Definitions	Amend the definition of “wager or bet” to clarify that the term does not apply to fantasy or simulated games or contests.	No change was made to the rule based on the comment. However, the Sports Wagering Lottery Amendment Act of 2018 specifically excludes fantasy sports from the definition of sports wagering.

**Commenter: Lincoln Holdings LLC dba Monumental Sports & Entertainment**

Proposed Rule Section	Comment Summary	Response
§ 2108.1	Revise proposed Section 2108.1 by	No change was made to the rule based

	adding a subsection (1) to read as follows: "Be permitted to share with Sports League governing bodies and their member teams personal information of individuals who place sports wagers."	on the comment. The provisions relating to the continentality of personal information is statutory and cannot be changed by rule.
General	Information that licensees share with the Office for compliance purposes should not be shared with the Lottery and its vendors	No change to the rule was made based on the comment. However, the Office will not share any of the non-public information it receives for compliance purposes with its lottery or District operated sports wagering vendors.
§ 2120.1	Clarify that Class A licensees may offer online or mobile sports bets within the two-block exclusionary zone.	The comment was addressed in § 2120.1 of the adopted rule.
§ 2126.12	Licensees should be prohibited from knowingly permitting athletes and coaches from wagering on their sports. Licensees cannot reasonably be expected to know the identity of every employee of every team or Sports League, and so the final rules should include a "knew or should have known" element.	No change was made to the rule based on the comment. Section 2126.12 only requires that Operators and Management Services Providers employ reasonable methods to prohibit an athlete, coach, referee, team owner, employee of a sports governing body or its member teams, and player and referee union personnel from wagering on a sporting event overseen by their sports governing body.
§ 2126.10	Licensees, rather than the Office, should be responsible for determining the minimum and maximum limits on the sports wagers that they are willing to accept.	The comment was addressed in § 2126.10 of the adopted rule.
§ 2105.2(b)	Only individuals whose employment duties relate to sports wagering should be required to obtain an occupational license.	The comment was addressed in § 2105.2 of the adopted rule.
§ 2120.4	Require that geofencing be robust enough to identify the player's location within 10 meters of the player's actual location.	No change was made to the rule based on the comment. The rule as drafted provides sufficient geofencing requirements.

**Commenter: Washington Nationals Baseball club**

Proposed Rule Section	Comment Summary	Response
§ 2101	The rule should be expanded to include	No change was made to the rule based

	<p>a provision that requires that the entity managing a designated facility in Section 2102.2 affirms its intention for the specific Class A license applicant to occupy the Sports Wagering Facility on its premises. Section 2101 should also include a provision allowing the aforementioned managers of the designated facilities in Section 2102.2 to terminate the occupancy agreement with the Class A license holder on its premises, such that the Class A license is terminated and a new applicant may seek a Class A license for the premises.</p>	<p>on the comments. In order to maintain its license, an Operator or Management Services Provider must lawfully be in control of the licensed premises and maintain its Basic Business License to operate from the licensed Premises.</p>
§ 2101.2	<p>In order to increase the likelihood of a successful Class A license holder and maximize city tax revenues, we strongly urge that the regulations expressly allow data sharing, including customer specific information, between Class A license holders and the entity managing one of the designated facilities in Section 2101.2. We also feel strongly that there ought to be safeguards whereby data provided to the DC Lottery by Class A license holders for the purpose of ensuring regulatory compliance is not made available to the DC Lottery’s own business partners or used in any way to market and sell DC Lottery or Lottery business partner products or services.</p>	<p>No change was made to the rule based on the comment. The provisions relating to the continentality of personal information is statutory and cannot be changed by rule. The Office will not share any of the non-public information it receives for compliance purposes with its lottery or District operated sports wagering vendors and such information will not be used to market and sell DC Lottery or Lottery business partner products or services.</p>
§§ 2119.10 and 2126.5	<p>In order to ensure the integrity of betting, particularly, on in-play and proposition lines, it’s important that license holders, as well as the Lottery itself and its business partners, be required to use official data that originates from the respective sport leagues.</p>	<p>No change was made to the rule based on the comment, However, under § 2108.3 of the adopted rule, Operators and Management Service Providers are required to report to the Office the sources of data that they use to resolve sports wagers. The Office may disapprove of the sources of data for any reason, including but not limited to, the type of wager and method of data collection.</p>
§ 2108	<p>The regulations should impose certain obligations on operators to report to the Lottery and the relevant sports</p>	<p>No change was made to the rule based on the comment. Section 2108 of the adopted rule requires that Operators and</p>

	governing body, if they choose to receive such notice, any abnormal betting activity or patterns that call into question with the integrity of a sports event, or a breach of a governing body’s rules and codes of conduct relating to sports wagering.	Management Services Providers identify and report sports wagering irregularities to the Office. The Office, in its discretion, may work with sports governing bodies when investigating sports wagering irregularities.
§ 2105.2	Requiring an Occupational License for anyone working in a restricted area is too broad.	The comment was addressed in § 2105.2 of the adopted rule.
§ 2133.1 (c)	The CBE requirements should be clarified such that employee salaries are excluded from thirty-five percent (35%) CBE contracting requirement.	The comment was addressed in § 2134.2.
§ 2102	Sports Wagering Facilities will face difficulties in identifying operators without knowing how the Lottery will define “two blocks.”	The comment was addressed in § 2102.2 of the adopted rule.
§ 2120.4	We think it’s important to require Class A and Class B License holders, as well as the DC Lottery and its partners, to disclose how they plan to limit the reach of their respective mobile betting applications. A technical specifications document should be provided covering topics such as the level of location accuracy required, how applications must handle transitioning from one zone to another, usage reporting and system security. Such information should be conveyed to the DC Lottery and shared with the other parties.	No change to the rule was made based on the comment. The rule as drafted provides sufficient geofencing requirements.

**Commenter: Ian G. Thomas Offit Kurman Attorneys at Law**

Proposed Rule Section	Comment Summary	Response
§ 2106	Requiring an applicant for a provisional Class B License be licensed by another jurisdiction is contrary to the policy behind the Act and should be removed from the regulations.	No change to the rule was made based on the comment. Provisional Sports Wagering License will be issued to qualified applicants who have been licensed in other Office approved jurisdictions. Because a Provisional License is issued prior to the full District licensing process being completed, the District must rely on the fact that the Applicant has been fully vetted and licensed in another approved jurisdiction. Accordingly, a Provisional Sports Wagering License will only be available for Applicants that have been fully vetted and licensed in another approved jurisdiction.

**Commenter: Brian L. Hess, Sports Fans Coalition**

Proposed Rule Section	Comment Summary	Response
General	While many states have legalized sports betting, and many more still considering it, the DC regulations proposed are the most comprehensive consumer protections that Sports Fans Coalition has reviewed.	No change to the rule was made based on the comment. The Office appreciates the comment.

**Commenter: MGM Resorts International**

Proposed Rule Section	Comment Summary	Response
§ 2102	Provide a definition of the two (2) block exclusionary zone for Class A Operators	The comment was addressed in § 2102.2 of the adopted rule.
§ 2108.1(c)	We request that the Office of Lottery and Charitable Games change the word "immediately" to "promptly."	The comment was addressed in § 2108.1(c).
§ 2108.5	We request that the Office of Lottery and Charitable Games establish a standard of "reasonable" rather than	The comment was addressed in § 2108.6 of the adopted rule.

	"optimum security," which generally is the industry standard.	
§ 2109.1(d)	We request that the Office of Lottery and Charitable Games require that operators be required to prevent an intoxicated or impaired person from wagering as the requirement. For consistency, the word "noticeably" should be added each time the phrase "intoxicated or impaired persons" is used.	The comment was addressed in § 2109 of the adopted rule.
§ 2114.9	We request that the Office of Lottery and Charitable Games clarify what happens if the winnings occurred prior to the self-exclusion.	The comment was addressed in § 2114.9.
§ 2116.3	Remove the provision requiring a House Rules provision prohibiting the stacking of bets to avoid federal currency transactional reporting thresholds.	The comment was addressed by removing the provision.
§ 2116.4	Requires that House Rules be conspicuously displayed. The rules may be too voluminous to display. We request clarification and that the language be changed to indicate that the rules be available, but not necessarily displayed.	The comment was addressed in § 2116.4 of the adopted rule.
§ 2117.1	Requires Operators and Management Service Providers to establish a \$25,000 cash reserve requirement. We request that the Office of Lottery and Charitable Games reconsider whether a \$25,000 cash reserve is sufficient. This cash reserve requirement should be increased to ensure that operators with the appropriate financial wherewithal are awarded licenses to protect consumers from nonpayment.	No change to the rule was made based on the comment. Twenty-five thousand dollars (\$25,000) is the minimum reserve. The rule provides the caution that is used to determine the actual amount of the required reserve.
§ 2118.2	Sets forth requirements of Operator or Management Services Provider for obtaining and recording information for payouts not associated with a player account. To comply with Title 31, ID is required for transactions over \$5,000, and this is the threshold where tracking begins. We request more clarification	No change to the rule was made based on the comment. Operators and Management Services Providers are responsible for complying with the Office's administrative rules as well as all applicable federal requirements.

	regarding the \$10,000 threshold.	
§ 2122.3(d)	Requires only the last 4 digits of SSN. We respectfully request that a complete social security number be required to strengthen know-your-customer compliance efforts.	No change to the rule was made based on the comment. The rule allows for a player to enter the last four digits of their Social Security Number (SSN) if the other factors are sufficient to determine the entire nine-digit SSN within four (4) minutes. If that cannot be done, entry of the nine-digit SSN is required.
§ 2126.12(a)	Provides that an employee of the Operator of Management Services Provider "and any relative living in the same household of that employee cannot place a wager." We understand that this is required by the enabling law but respectfully note that it will present enforcement challenges.	No change to the rule was made based on the comment. The requirement is statutory.
§ 2129.31	Requires that any self-excluded person not be permitted to make a wager or enter sports wagering area. This may present challenges to enforce; unless an Operator has a gatekeeper, it will not be able to exclude them from the facility. We respectfully request that the regulation focus on excluding persons from making wagers.	The comment was addressed in § 2129.31(a) of the adopted rule.
§ 2129.31(g)	Requires operators to confiscate winnings from self-excluded individuals. While this requirement is modified by "where reasonably possible," this may prove to be difficult. We suggest that this provision be amended to require Operators to withhold winnings in these circumstances, but "confiscate" connotes more than withholding.	The comment was addressed in § 2131.31(g) of the adopted rule.
§ 2130.2(g)	Prohibits advertising that "Targets moderate and high-risk groups". We suggest that the Office of Lottery and Charitable Games define "moderate and high-risk groups."	The comment is addressed in § 2131.2 (g) of the adopted rule.

**Commenter William Hill US**

<p>§ 2108.1(c)</p>	<p>This section requires that circumstances related to sports wagering operations that may constitute a violation of law be "immediately" reported. The rule should be amended to allow operators and management services providers an opportunity to conduct a preliminary investigation, and gather useful information, before raising the issue with the Office</p>	<p>The comment was addressed in § 2108(c) of the adopted rule.</p>
<p>§ 2109.1(d)</p>	<p>This section requires that Operators and Management Services Providers prevent intoxicated or impaired persons from "entering" the sports wagering area. Unfortunately, it is not always obvious when a person is intoxicated or impaired until after they have entered the sports wagering area. The rule should be amended to required that Operators and Management Services Providers prevent intoxicated or impaired persons from participating in sports wagering and, once aware that such persons are on the premises, immediately remove them from the approved designated areas for sports wagering on the licensed premises.</p>	<p>The comment was addressed in § 2109.1(d) of the adopted rule.</p>
<p>§ 2109.1(f)</p>	<p>This subsection of the Rules requires that the security footage be stored for thirty (30) days. William Hill respectfully requests that this be revised to require storage of security footage for a minimum of seven (7) days, as it is customary in other jurisdictions and would reduce the costs associated with data storage fees.</p>	<p>The comment was addressed in § 2109.1(f) and the adopted rule.</p>
<p>§ 2114.8</p>	<p>Similar to William Hill's comment regarding Section 2109.1(d), this subsection should be revised as, again, it will not always be possible to identify or know when a self-excluded person has entered a Sports Wagering Facility. The subsection should be revised to require that Operators and</p>	<p>The comment was addressed in § 2114.8 of the adopted rule.</p>



	Management Service Providers establish reasonable procedures designed to discourage entry of a self-excluded person into the sportsbook area of a Sports Wagering Facility and, once aware that such persons are on the premises, to remove them from the Sports Wagering Facility."	
§ 2119.2	The Rules make reference to the sports wagering system meeting the minimum testing requirements of the GLI standards, or other standards approved by the Office. When approving sports wagering systems, William Hill respectfully requests that the Office accept testing approvals from other jurisdictions where the system has already been approved to satisfy this requirement.	No change to the rule was made based on the comment. Sports wagering systems will must meet the requirements set forth in § 2119.2 of the amended rule.
§ 2119.13	While this section requires the prevention of past posting of wagers, William Hill suggests that it be revised to also include a provision that allows the Office to use discretion in rescinding wagers where an obvious error has occurred.	No change was made to the rule based on the comment because the system must prevent past posting of wagers and the voiding or cancellation of wagers after the outcome of an event is known.
§§ 2122.10(i) & 2122.13(h)	William Hill would like confirmation that the reference in these subsections to "[a]ny other means approved by the Office" will include those transactions processed via Sightline Play+ and EML prepaid cards.	No change to the rule was made based on the comment. The Office does not have enough information about the referenced products to make a determination at this time. Information about the referenced products will have to be submitted to the Office for review as part of the licensure and approval process.
§ 2126.10	This Rule requires that the Office's Executive Director set the minimum and maximum sports wagers. Licensees are in the best position to determine their own wager limits, if any, as is the case in most jurisdictions where sports wagering has been legalized.	The comment has been addressed in § 2126.10 of the adopted rule.
§ 2126.12(b)	This section of the Rules provides a list of those individuals that are prohibited from placing wagers. As it is very difficult to know and identify all of the	No change was made to the rule based on the comment. Section 2126.12(b) only requires that Operators and Management Services Providers

	<p>individuals referenced in this subsection, the rule should be limited to those persons which an Operator or Management Services Provider either knew, or reasonably should have known, to be a member of such category.</p>	<p>employ reasonable methods to prohibit an athlete, coach, referee, team owner, employee of a sports governing body or its member teams, and player and referee union personnel from wagering on a sporting event overseen by their sports governing body.</p>
§ 2127.1(a)	<p>This section of the proposed Rules provides that no wagers may be placed on collegiate sports or athletic events involving District of Columbia college and university teams. Placing prohibitions on collegiate events makes it very difficult to shift customers from the black market, where they can bet on all events, to the legal market. As such, William Hill respectfully submits that this subsection should be deleted from the Rules.</p>	<p>No change to the rule was made based on the comment. The prohibition on accepting wagers on District college teams is important in maintaining the integrity of local college athletics.</p>
§ 2128.1(m)	<p>Licenses are required to submit a responsible gaming plan that must include certain elements; this subsection requires a procedure to block a patron's bank card from being used at automated tellers or other bank machines on, or adjacent to, the Sports Wagering Facility. Since the Licenses will not have authority or access regarding the use of a patron's bank card, or the automated tellers or bank machines, the requirement is unreasonable and should be stricken as a plan requirement.</p>	<p>The referenced provision was deleted from the adopted rule.</p>
General	<p>Finally, as a general matter, the Rules provide that individuals participating in sports wagering be at least 18 years of age. To date, the age requirement in all other jurisdictions legalizing sports wagering is 21 and over.</p>	<p>No change was made to the rule based on the comment. The minimum age to engage in sports wagering is statutory.</p>

**Commenter: DC United**

General	Remove any written signature on voided tickets as the system already requires authorization to void a ticket will add to ease of operation.	No change was made to the rule based on the comment. Not all systems operate in the same manner.
General	Ensure that reporting required by regulation is an exhaustive list of what is needed to perform a proper audit / reconciliation for both regulatory and GAAP accounting. Schedule a reporting workshop with accounting team with vendor to ensure appropriate assumptions on columns, time ranges, and calculations.	No change was made to the rule based on the comment. Reporting must meet the requirements set forth in GLI 33.
General	Permit mail pays conducted from centralized source (NV or other central partner location is preferable). Allow for 30 day processing of ticket redemption.	No change was made to the rule based on the comment. Whether to conduct mail pays from a central location is at the discretion of the Operator or Management Services Provider.
General	Race and Sports Audit / Accounting done from centralized location. This will lead to subject matter experts across all jurisdictions with extensive system knowledge for DC Lottery support/ questions. Industry standard recommendations allows for centralization in NV. (Similar to NV, MS).	No change was made to the rule based on the comment. Whether to conduct mail pays from a central location is at the discretion of the Operator or Management Services Provider.
General	Standard Ticket Expired timeframe. Recommendation is one year. (Similar to NJ & NV).	The comment was addressed in § 2126.11 of the adopted rule.
General	No re-grading of physical race and sports tickets. Currently a Nevada Minimum Internal Control Standard. If needed to show that the system is working properly, perform process during “field trial”... or probationary period. (Similar to NJ).	No change was made to the rule based on the comment.
General	Adherence to federal reporting requirements (e.g., W-2G standard of \$600 net win at 300-1 or higher odds).	No change was made to the rule based on the comment. Sports wagering operations must comply with applicable federal reporting requirements.
General	No separate Mantrap when entering sportsbook back of house area. (similar to NV & MS).	No change was made to the rule based on the comment. A designated high payout window is not required under the rules; however, a security plan must

		be submitted for approval as a part of the application process.
General	No requirement for designated high limit payout window. Large wagers can be serviced by any window (Similar to NV & MS.)	No change was made to the rule based on the comment. There is no restriction on open sportsbook counters, and counter barriers are not required under the rules; however, a security plan must be submitted for approval as a part of the application process.
General	Permit open sportsbook counters. No requirement for sportsbook counter barriers (Bars / Glass similar to casino cage). (Similar to NV / MS ).	No change was made to the rule based on the comment. Glass barriers around betting desks, tempered glass around the desk and partial height doors to betting counters are not required under the rules; however, a security plan must be submitted for approval as a part of the application process.
General	No special glass barrier around betting desk. Tempered glass around desk and partial height door to betting counters. This is to prevent anyone outside from reaching door pull. (Unlike PA we would like to ensure convenience without sacrificing security).	No change was made to the rule based on the comment. A separate mantrap is not required under the rules; however, a security plan must be submitted for approval as a part of the application process.
General	Temporary Badging for vendors and expedited licensing for sportsbook launch (Similar to NJ) depending on timing and implementation of regulations, we would like to ensure operations can begin as soon as regulators are comfortable.	No change was made to the rule based on the comment. The rules as drafted authorize a provisional licensing process.
General	Recommend DC Lottery to focus on technical standards GLI-33. If there are additional standards, DC Lottery to consider waivers for 180 days to become compliant outside of GLI-33.	No change was made to the rule based on the comment. GLI-33 is incorporated into the rules as drafted.
General	Removal of any "Mandatory" position requirements and "key" positions dedicated to the sportsbook. This allow for multi-department (Casino Ops / Cage / Slot Ops) support and oversight. (Similar to NV & MS.	No change was made to the rule based on the comment. Only sports wagering is authorized under the DC statute.
General	Is GLI-20 the standard Sportsbook operators should use for compliance in Kiosks standards.	No change was made to the rule based on the comment. GLI-33 points to GLI-20. GLI-33 is incorporated into the rules.

General	No Limitations on SSBTs locations and quantities within gaming spaces (Similar to NV, NJ, MS) as well as mobile gaming within radius (with radius measurement to be clarified by regulators).	No change was made to the rule based on the comment. Terminal locations must be submitted as part of the security plan.
General	Race and Sports Writer can comingle tills provided the system can differentiate between a sports vs race wager.	No change was made to the rule based on the comment. This is not an item covered by the rules.
General	Ability to provide risk management services from a different authorized jurisdiction (Similar to NJ, PA, MS) – allows for efficiency, consistency, and integrity monitoring.	No change was made to the rule based on the comment. This is not an item covered by the rules.
General	Supervisors have the ability to cash or approve large wagers, subject to federal and state reporting requirements.	No change was made to the rule based on the comment. This is a business decision for the Operators and Management Services Providers.
General	Flexibility to add temporary locations within properties. Examples would include Satellite Desks for on-premises events (game days and/or concerts) and during Special events (Superbowl, March Madness, etc.).	No change was made to the rule based on the comment. The location of any temporary locations within the properties must be included as a part of the approved security plan.
General	Allow supervisors to service customers at sportsbook with their own designated bank when there is more than one supervisor scheduled. (Similar to NV).	No change was made to the rule based on the comment. This is not an item covered by the rules.
General	Recommend creating a website or other centralized list that will include permitted wagers / events for all operators. This will alleviate burden for multiple same approval. (NV as an example).	No change was made to the rule based on the comment. However, the Office anticipates posting approved wagers and events on its website.
General	Multiple Account Wagering Funding Options (Similar to NJ) and no in-person registration requirements (subject to IRS/FinCEN requirements on this subject) with electronic ID verification.	No change was made to the rule based on the comment. Multiple Account Wagering Funding Options (Similar to NJ) and no in-person registration requirements are not prohibited under the rules.
General	Ability for core wagering servers to reside either on-property or at a central co-location center within the state (Unlike NJ); ideally specific regulation indicating that interstate routing does not impact wager location.	No change was made to the rule based on the comment. The rules do not prohibit having the core wagering services reside at a central co-location within the District.

General	Ensuring that Class-B and Class-A are held to the same surveillance standards.	No change was made to the rule based on the comment. Class-B and Class-A Operators will be held to the same surveillance standards
General	Clarification on whether there is a regulatory preference for live surveillance (and if so, whether regulators will require direct access). versus taped surveillance to make deployment easier while still maintaining responsible gaming standards.	No change was made to the rule based on the comment. The rules do not require live surveillance.
General	Single PTZ camera to cover multiple betting kiosks and/or in-kiosk taped surveillance versus requirement for individual cameras for each kiosk/desk.	No change was made to the rule based on the comment. The location of cameras will be reviewed as a part of the security plan review.
	Clarification on the specific unit of measurement for the two-block radius.	The comment was addressed in § 2120.1 of the adopted rule.
	Confirmation that a Class-B license will not be granted within the two-block radius of a Class-A license holder	The comment was addressed in § 2120.2 of the adopted rule.

Based on the comments received, the Office made clarifying changes to the rules. The Office also made changes to clarify the rules and to correct clerical and grammatical errors.

The rules were adopted as final on August 22, 2019 and will become effective upon publication of this Notice in the *D.C. Register*.

**Title 30 DCMR, LOTTERY AND CHARITABLE GAMES, is amended as follows:**

**CHAPTER 20 [RESERVED]**

**Chapter 21, CONTRACT ADMINISTRATION AND MANAGEMENT, is amended to read as follows:**

**CHAPTER 21 PRIVATELY OPERATED SPORTS WAGERING**

**Secs.**

- 2100 SCOPE OF CHAPTER
- 2101 CLASS A SPORTS WAGERING OPERATOR LICENSE REQUIREMENTS
- 2102 CLASS B SPORTS WAGERING OPERATOR LICENSE REQUIREMENTS
- 2103 MANAGEMENT SERVICES PROVIDER LICENSE REQUIREMENTS
- 2104 SUPPLIER LICENSE REQUIREMENTS
- 2105 OCCUPATIONAL LICENSE REQUIREMENTS
- 2106 PROVISIONAL SPORTS WAGERING LICENSES
- 2107 LICENSE PROHIBITIONS
- 2108 DUTIES OF OPERATORS AND MANAGEMENT SERVICES PROVIDERS

2109	ADDITIONAL DUTIES OF OPERATORS AND MANAGEMENT SERVICES PROVIDERS
2110	POSTING
2111	IDENTIFICATION BADGES
2112	SPORTS WAGERING MANAGER
2113	REPORTING
2114	SELF- LIMITING PROGRAM
2115	INTERNAL CONTROLS
2116	HOUSE RULES
2117	RESERVE REQUIREMENTS
2118	ANONYMOUS WAGERS AND PAYOUTS GREATER THAN \$10,000
2119	SPORTS WAGERING SYSTEM REQUIREMENTS
2120	INTERNET AND MOBILE APPLICATION SPORTS WAGERING
2121	REMOTE SPORTS WAGERING SYSTEMS
2122	SPORTS WAGERING ACCOUNT REQUIREMENTS
2123	FINANCIAL AUDIT REQUIREMENTS
2124	OPERATIONS PROCESS AND PROCEDURE AUDIT REQUIREMENTS
2125	TECHNICAL SECURITY CONTROL AUDIT REQUIREMENTS
2126	PLAYER SPORTS WAGERS
2127	PROHIBITED SPORTS EVENTS
2128	RESPONSIBLE GAMING PLAN
2129	SELF-EXCLUSION PROGRAM
2130	INVOLUNTARY EXCLUSION LIST
2131	ADVERTISING
2132	ENFORCEMENT AND PENALTIES
2133	TAXATION OF SPORTS WAGERING
2134	SPORTS WAGERING CBE REQUIREMENTS AND SMALL BUSINESS DEVELOPMENT PROGRAM
2135	SPORTS WAGERING ADMINISTRATIVE HEARINGS
2136-2198	[RESERVED]
2199	DEFINITIONS

## **2100 SCOPE OF CHAPTER**

2100.1 The purpose of this chapter is to implement the Sports Wagering Lottery Amendment Act of 2018, effective May 3, 2019 (D.C. Law 22-312; 66 DCR 1402 (February 1, 2019)) (Act).

## **2101 CLASS A SPORTS WAGERING OPERATOR LICENSE REQUIREMENTS**

2101.1 An individual, group of individuals or entity may apply to the Office for a Class A Operator License, the application for which shall be on a form or platform provided by the Office. Applications shall be made under oath in a form prescribed by the Office.

- 2101.2 The Office may issue a Class A Operator License to an Applicant whose Sports Wagering Facility will be located within any of the following designated facilities:
- (a) Capital One Arena (601 F Street, N.W., and described as Lot 0047, Square 0455).
  - (b) Audi Field (100 Potomac Avenue, S.W., and described as Lot 0027, Square 0665).
  - (c) Nationals Park (1500 South Capitol Street, S.E., and described as Lot 0016, Square 0705).
  - (d) St. Elizabeths East Entertainment and Sports Arena (St. Elizabeths Campus, 1100 Oak Drive, S.E., and described as Lots 0837 and 0838, Square 5868S).
- 2101.3 A Class A Operator may not apply to operate sports wagering conducted through another physical location outside the physical confines of its approved Sports Wagering facility.
- 2101.4 The Office may require the following information in conjunction with an application for a Class A Operator License:
- (a) The Applicant's legal name and form of business entity;
  - (b) The mailing address of the Applicant and, if a corporation, the name of the state in which it is incorporated and the location of its principal place of business;
  - (c) The names, addresses, employer identification or Social Security numbers and dates of birth of its directors, officers, partners, owners, and key personnel;
  - (d) The names, addresses, employer identification or Social Security numbers and dates of birth, as applicable, of each individual, group of individuals or entity associated with a corporate Applicant, including a corporate holding company, parent company, or subsidiary company of the Applicant that has the ability to control the activities of the corporate Applicant or elect a majority of the board of directors of that corporation, excluding any bank or other licensed lending institution that holds a mortgage or other lien acquired in the ordinary course of business;
  - (e) The names, addresses, employer identification or Social Security numbers and dates of birth, as applicable, of each individual, group of individuals or entity associated with a non-corporate Applicant that directly or



indirectly holds a five percent (5%) or greater beneficial or proprietary interest in the Applicant's business operation, or that the Office otherwise determines has the ability to control the Applicant;

- (f) Information regarding the Applicant or any persons identified in subsections (c) through (e) who are eligible to hold a Sports Wagering Operator's License, including disclosure of the following information:
- (1) Whether the Applicant or any persons identified in subsections (c) through (e) have been convicted of an offense other than a traffic violation;
  - (2) Whether the Applicant or any persons identified in subsections (c) through (e) have been subject to any disciplinary action, past or pending, by any administrative, governmental, or regulatory body;
  - (3) Whether the Applicant or any persons identified in subsections (c) through (e) have been charged with a violation of any statute, rule, regulation, or ordinance of any administrative, regulatory, or other governmental body; or
  - (4) Whether the Applicant or any persons identified in subsections (c) through (e) have been in default of paying any taxes, fees, or other obligations owed to the District of Columbia, any local governmental entity, or the federal government.
- (g) A report of the Applicant's or any person identified in subsections (c) through (e)'s financial activities, including evidence of financial stability, such as bank statements, business and personal income and disbursement schedules, tax returns, or other documentation satisfactory to the Office that demonstrates that the Applicant has sufficient business ability and experience to establish and maintain a successful sports wagering business;
- (h) A certification indicating whether the Applicant or any persons identified in subsections (c) through (e) have been directly employed by an illegal or offshore Sports Wagering Operator that serviced the United States or otherwise accepted black market wagers from individuals located in the United States;
- (i) A description of the proposed information security program to protect the confidentiality, integrity, and availability of personal information of individuals who place sports wagers;

- (j) A description of the proposed internal controls and security systems to be used in conducting sports wagering or processing sports wagering transactions;
- (k) The number of employees expected to be employed at the proposed Sports Wagering Facility;
- (l) The estimated tax revenue to be generated by the Sports Wagering Facility;
- (m) The estimated economic benefit to the District of Columbia of the proposed Sports Wagering Facility. The estimate shall include, but not be limited to, the following:
  - (1) Projected amount of gross revenue on an annual basis;
  - (2) Estimated new capital investment for the project;
  - (3) Scientific or market research performed by the Applicant or its contractors; and
  - (4) Other such information as may be requested by the Office;
- (n) The location of the proposed Sports Wagering Facility;
- (o) Proof that the Applicant has obtained a Basic Business License in the District of Columbia;
- (p) Proof of good standing pursuant to D.C. Official Code § 29-102.08 and a certification that the Citywide Clean Hands Database indicates that the proposed Licensee is current with its District taxes;
- (q) A list of jurisdictions where the Applicant has applied for a sports wagering or gambling license;
- (r) A list of jurisdictions where the Applicant has been issued a sports wagering or gambling license;
- (s) A list of jurisdictions where the Applicant has had any sports wagering or gambling license suspended or revoked;
- (t) Criminal history and background information of the Applicant or any person identified in subsections (c) through (e) as required by the Office;
- (u) Documentation indicating whether the Applicant has entered into a labor peace agreement with each labor organization that is actively engaged in

representing or attempting to represent employees in the gaming, hospitality, or food and beverage industries in the District. If the Applicant has not entered into a labor peace agreement as referenced in this paragraph, the Applicant shall provide information showing that it is engaged in good faith negotiations to enter into a labor peace agreement or information showing why it was unable to enter in a labor peace agreement;

- (v) Information demonstrating whether the Applicant is a Small Business Enterprise; and
- (w) Any other information the Executive Director considers necessary and appropriate to determine the competency, honesty, quality, economic impact and integrity of the proposed operation.

2101.5 The Applicant shall notify the Office of any changes to their application within ten (10) business days of the change.

2101.6 As a condition of licensure, a Class A Operator shall be bonded, in such amounts and in such manner as determined by the Office, and agree, in writing, to indemnify and to save harmless the District of Columbia against any and all actions, claims, and demands of whatever kind or nature that the District of Columbia may incur by reason of or in consequence of issuing an Operator License to the Licensee. The initial bond amount shall be equal to fifty percent (50%) of the amount the Applicant is required to disclose in accordance with D.C. Official Code § 36-621.06(a)(1)(F). The required bond amount may be adjusted, on a semi-annual basis, by the Executive Director, based on actual tax revenue generated by the Sports Wagering Facility.

2101.7 Upon a showing of good cause, the Executive Director may grant a waiver of information that must be provided in conjunction with the application for a Class A Operator License.

2101.8 A Class A Operator License shall be issued for five (5) years and require a non-refundable application fee of five hundred thousand dollars (\$500,000), which shall be submitted with the application; provided, that when an Applicant for a Class A Operator License partners in a joint venture with a Certified Business Enterprise majority interest, it shall submit a non-refundable application fee of one hundred twenty-five thousand dollars (\$125,000) at the time of the initial application.

2101.9 A Class A Operator License may be renewed for five (5)-year periods; provided, that the Licensee has continued to comply with all statutory and regulatory requirements and pays upon submission of a renewal application a two hundred fifty thousand dollar (\$250,000) renewal fee. The application for renewal shall include a report of Certified Business Enterprise participation, including Certified

Business Enterprise joint ventures, which the Office shall assess and consider verified Certified Business Enterprise participation in the decision to approve a renewal.

- 2101.10 Each Class A Operator License is limited to a single Sports Wagering Facility.
- 2101.11 A Class A Operator may provide Sports Wagering Equipment, software, systems, data or services for the location which it has obtained a license without having to obtain a separate Suppliers License. If a Class A Operator purchases, leases or otherwise obtains Sports Wagering Equipment from a third party, it must do so from a licensed Supplier.
- 2101.12 A Class A Operator License is non-transferable.
- 2101.13 The Office shall not issue a Class A Operator License unless it is satisfied that the Applicant meets the requirements for a Class A Operator License and is a suitable and qualified individual, group of individuals or entity to be licensed to conduct or participate in conducting all aspects of Class A Sports Wagering.
- 2101.14 An Applicant for a Class A Operator License shall establish their suitability for a license by clear and convincing evidence.
- 2101.15 In determining whether an Applicant is suitable and to approve an application for a Class A Operator License, the Executive Director shall consider the following factors relating to the Applicant:
- (a) Whether the Applicant is proposing a sports wagering operation that will have a positive impact through increased revenues on the District and its residents;
  - (b) Whether the Applicant possesses adequate funds or has secured adequate financing to commence and maintain a sports wagering operation;
  - (c) Whether the Applicant has the financial stability, integrity, and responsibility to conduct a sports wagering operation;
  - (d) Whether the Applicant has sufficient business ability and experience to create and maintain a successful sports wagering operation;
  - (e) Whether the Applicant has proposed adequate measures for internal and external security, including a surveillance system or protocol;
  - (f) Whether the Applicant has proposed an adequate information security program to protect the confidentiality, integrity, and availability of personal information of individuals who place sports wagers;

- (g) Whether the Applicant has satisfied the sports wagering license requirements;
- (h) Whether the Applicant has demonstrated that its proposed sports wagering operation will be conducted in accordance with the Act and all other applicable District and federal laws;
- (i) Whether the Applicant has been convicted of a disqualifying offense, as established by this chapter;
- (j) Whether the Applicant is a Small Business Enterprise;
- (k) Whether the Applicant has entered into a labor peace agreement with each labor organization that is actively engaged in representing or attempting to represent employees in the gaming, hospitality, or food and beverage industries in the District. The labor peace agreement shall be a written agreement between the Applicant and the labor organization that contains, at a minimum, a provision protecting the District's revenues by prohibiting the labor organization or its members from engaging in any picketing, work stoppage, boycott, or other economic interference with the Applicant's sports wagering operations during any effort by the labor organization to organize employees for purposes of collective bargaining representation and apply to a sports wagering operation conducted at a Class A Sports Wagering Facility approved by the Office, whether conducted directly by the Applicant or by a Management Services Provider under a management services agreement with the Applicant;
- (l) The past and present compliance of the Applicant and its affiliates or affiliated companies with gaming-related licensing requirements in the District or any other jurisdiction, including whether the Applicant has a history of non-compliance with the gaming licensing requirements of any jurisdiction;
- (m) If the Applicant has been charged with, convicted, pleaded guilty, or forfeited bail concerning any criminal offense under the laws of any jurisdiction, not including a traffic offense;
- (n) If the Applicant has filed, or had filed against it a proceeding for bankruptcy or has ever been involved in any formal process to adjust, defer, suspend, or otherwise work out the payment of any debt;
- (o) If the Applicant has been served with a complaint or other notice filed with any public body regarding a payment of any tax required under any law in any jurisdiction, where the Applicant has been in breach for one or more years;

- (p) If the Applicant is or has been a defendant in litigation involving its business practices that would call into question its suitability to be licensed;
- (q) If awarding a license would undermine the public's confidence in the gaming industry in the District; and
- (r) If the Applicant meets other prescribed standards for the issuance of a license.

2101.16 An Applicant may apply for up to but no more than two (2) sports wagering licenses unless the Applicant agrees to subcontract with a joint venture or subcontract with a Certified Business Enterprise for any additional licenses.

## **2102 CLASS B SPORTS WAGERING OPERATOR LICENSE REQUIREMENTS**

2102.1 An individual, group of individuals or entity may apply to the Office for a Class B Operator License, the application for which shall be on a form or platform provided by the Office. Applications shall be made under oath in the prescribed form prescribed by the Office.

2102.2 The Office shall not issue a Class B Operator License to an Applicant whose Sports Wagering Facility will be located within a Class A Sports Wagering Facility or within two (2) blocks of any of the designated Class A Sports Wagering Facilities or within any area prohibited by federal or District law. The Office shall publish or cause to be published a map showing the Class A two (2) block zones on a website that is available to the public.

2102.3 The Office may require the following information in conjunction with an application for a Class B Operator License:

- (a) The Applicant's legal name and form of business entity.
- (b) The mailing address of the Applicant and, if a corporation, the name of the state in which it is incorporated and the location of its principal place of business.
- (c) The names, addresses, employer identification or Social Security numbers and dates of birth of its directors, officers, partners, owners and key personnel.
- (d) The names, addresses, employer identification or Social Security numbers and dates of birth, as applicable, of each individual, group of individuals or entity associated with a corporate Applicant, including a corporate holding company, parent company, or subsidiary company of the

Applicant that has the ability to control the activities of the corporate Applicant or elect a majority of the board of directors of that corporation, excluding any bank or other licensed lending institution that holds a mortgage or other lien acquired in the ordinary course of business.

- (e) The names, addresses, employer identification or Social Security numbers and dates of birth, as applicable, of each individual, group of individuals or entity associated with a non-corporate Applicant that directly or indirectly holds a five percent (5%) or greater beneficial or proprietary interest in the Applicant's business operation, or that the Office otherwise determines has the ability to control the Applicant.
- (f) Information regarding the Applicant or any persons identified in subsections (c) through (e) are eligible to hold a Sports Wagering Operator's License, including disclosure of the following information:
  - (1) Whether the Applicant or any persons identified in subsections (c) through (e) have been convicted of an offense other than a traffic violation;
  - (2) Whether the Applicant or any persons identified in subsections (c) through (e) have been subject to any disciplinary action, past or pending, by any administrative, governmental, or regulatory body;
  - (3) Whether the Applicant or any persons identified in subsections (c) through (e) have been charged with a violation of any statute, rule, regulation, or ordinance of any administrative, regulatory, or other governmental body; or
  - (4) Whether the Applicant or any persons identified in subsections (c) through (e) have been in default of paying any taxes, fees, or other obligations owed to the District of Columbia, any local governmental entity, or the federal government;
- (g) A report of the Applicant's or any person identified in subsections (c) through (e)'s financial activities, including evidence of financial stability, such as bank statements, business and personal income and disbursement schedules, tax returns, or other documentation satisfactory to the Office that demonstrates that the Applicant has sufficient business ability and experience to establish and maintain a successful sports wagering business;
- (h) A certification indicating whether the Applicant or any persons identified in subsections (c) through (e) have been directly employed by an illegal or offshore Sports Wagering Operator that serviced the United States or

otherwise accepted black market wagers from individuals located in the United States;

- (i) A description of the proposed information security program to protect the confidentiality, integrity, and availability of personal information of individuals who place sports wagers;
- (j) A description of the proposed internal controls and security systems to be used in conducting sports wagering or processing sports wagering transactions;
- (k) The number of employees expected to be employed at the proposed Sports Wagering Facility;
- (l) The estimated tax revenue to be generated by the Sports Wagering Facility;
- (m) The location of the proposed Sports Wagering Facility;
- (n) Proof that the Applicant has obtained a Basic Business License in the District of Columbia;
- (o) Proof of good standing pursuant to D.C. Official Code § 29-102.08 and a certification that the Citywide Clean Hands Database indicates that the proposed Licensee is current with its District taxes;
- (p) A list of jurisdictions where the Applicant has applied for a sports wagering or gambling license;
- (q) A list of jurisdictions where the Applicant has been issued a sports wagering or gambling license;
- (r) A list of jurisdictions where the Applicant has had any sports wagering or gambling license suspended or revoked;
- (s) Criminal history and background information of the Applicant or any person identified in subsections (c) through (e) as required by the Office;
- (t) Information demonstrating whether the Applicant is a Small Business Enterprise;
- (u) The estimated economic benefit to the District of Columbia of the proposed Class B Sports Wagering Facility. The estimate shall include, but not be limited to the following:
  - (1) Projected gross revenue on an annual basis;



- (2) Estimated new capital investment for the project; and
  - (3) Scientific or market research performed by the Applicant or its contractors; and
  - (v) Any other information the Executive Director considers necessary and appropriate to determine the competency, honesty, quality, economic impact and integrity of the proposed operation.
- 2102.4 The Applicant shall notify the Office of any changes to their application within ten (10) business days of the change.
- 2102.5 As a condition of licensure, a Class B Operator shall be bonded, in such amounts and in such manner as determined by the Office, and agree, in writing, to indemnify and to save harmless the District of Columbia against any and all actions, claims, and demands of whatever kind or nature that the District of Columbia may incur by reason of or in consequence of issuing an Operator License to the Licensee. The initial bond amount shall be equal to fifty percent (50%) of the amount the Applicant is required to disclose in accordance with D.C. Official Code § 36-621.06(a)(1)(F). The required bond amount may be adjusted, on a semi-annual basis, by the Executive Director, based on actual tax revenue generated by the Sports Wagering Facility.
- 2102.6 Upon a showing of good cause, the Executive Director may grant a waiver of information that must be provided in conjunction with the application for a Class B Operator License.
- 2102.7 A Class B Operator License shall be issued for five (5) years and require a non-refundable application fee of one hundred thousand dollars (\$100,000), which shall be submitted with the application; provided, that when an Applicant for a Class B Operator License partners with a joint venture with a Certified Business Enterprise majority interest, it shall submit a non-refundable application fee of twenty-five thousand dollars (\$25,000) at the time of the initial application.
- 2102.8 A Class B Operator License may be renewed for five (5)-year periods; provided, that the Licensee has continued to comply with all statutory and regulatory requirements and pays upon submission of a renewal application a fifty thousand dollar (\$50,000) renewal fee. The application for renewal shall include a report of Certified Business Enterprise participation, including Certified Business Enterprise joint ventures, which the Office shall assess and consider verified Certified Business Enterprise participation in the decision to approve the renewal.
- 2102.9 Each Class B Operator License is limited to a single Sports Wagering Facility.

- 2102.10 A Class B Operator may provide Sports Wagering Equipment, software, systems, data or services for the location which it has obtained a license without having to obtain a separate Suppliers License. If a Class B Operator purchases, leases or otherwise obtains Sports Wagering Equipment from a third party, it must do so from a licensed Supplier.
- 2102.11 A Class B Operator License is non-transferable.
- 2102.12 A Class B Operator License shall be issued to any person to engage in business solely as a Sports Wagering Operator.
- 2102.13 The Office shall not issue a Class B Operator License unless it is satisfied that the Applicant meets the requirements for a Class B Operator License and is a suitable and qualified individual, group of individuals or entity to be licensed to conduct or participate in conducting all aspects of Class B Sports Wagering.
- 2102.14 An Applicant for a Class B Operator License shall establish their suitability for a license by clear and convincing evidence.
- 2102.15 In determining whether an Applicant is suitable and to approve an application for a Class B Operator License, the Executive Director shall consider the following factors relating to the Applicant:
- (a) Whether the Applicant is proposing a sports wagering operation that will have a positive impact on the District and its residents through increased revenues and improving the quality and marketability of sports wagering entertainment within the District;
  - (b) Whether the Applicant possesses adequate funds or has secured adequate financing to commence and maintain a sports wagering operation;
  - (c) Whether the Applicant has the financial stability, integrity, and responsibility to conduct a sports wagering operation;
  - (d) Whether the Applicant has sufficient business ability and experience to create and maintain a successful sports wagering operation;
  - (e) Whether the Applicant has proposed adequate measures for internal and external security, including a surveillance system or protocol;
  - (f) Whether the Applicant has proposed an adequate information security program to protect the confidentiality, integrity, and availability of personal information of individuals who place sports wagers;
  - (g) Whether the Applicant has satisfied the sports wagering license requirements;

- (h) Whether the Applicant has demonstrated that its proposed sports wagering operation will be conducted in accordance with this title and all other applicable District and federal laws;
- (i) Whether the Applicant has been convicted of a disqualifying offense, as established by this chapter;
- (j) Whether the Applicant is a Small Business Enterprise;
- (k) The past and present compliance of the Applicant and its affiliates or affiliated companies with gaming-related licensing requirements in the District or any other jurisdiction, including whether the Applicant has a history of non-compliance with the gaming licensing requirements of any jurisdiction;
- (l) If the Applicant has been charged with, convicted, pleaded guilty, or forfeited bail concerning any criminal offense under the laws of any jurisdiction, not including a traffic offense;
- (m) If the Applicant has filed, or had filed against it a proceeding for bankruptcy or has ever been involved in any formal process to adjust, defer, suspend, or otherwise work out the payment of any debt;
- (n) If the Applicant has been served with a complaint or other notice filed with any public body regarding a payment of any tax required under any law in any jurisdiction, where the Applicant has been in breach for one or more years;
- (o) If the Applicant is or has been a defendant in litigation involving its business practices that would call into question its suitability to be licensed;
- (p) If awarding a license would undermine the public's confidence in the gaming industry in the District; and
- (q) If the Applicant meets other prescribed standards for the issuance of a license.

2102.16 An Applicant may apply for up to but no more than two (2) sports wagering licenses unless the Applicant agrees to subcontract with a joint venture or subcontract with a Certified Business Enterprise for any additional licenses.

**2103 MANAGEMENT SERVICES PROVIDER LICENSE REQUIREMENTS**

- 2103.1 An individual, group of individuals or entity may apply to the Office for a Management Services Provider License, the application for which shall be on a form provided by the Office.
- 2103.2 An Operator may enter into a management services contract that permits an individual, group of individuals or entity other than the licensed Operator to conduct sports wagering on the Premises.
- 2103.3 The management services contract shall be in writing and must be approved by the Office.
- 2103.4 The Office may require the following information in conjunction with an application for a Management Services Provider License:
- (a) The Applicant's legal name and form of business entity;
  - (b) The mailing address of the Applicant and, if a corporation, the name of the state in which it is incorporated and the location of its principal place of business;
  - (c) The names, addresses, employer identification or Social Security numbers and dates of birth of its directors, officers, partners, owners and key personnel;
  - (d) The names, addresses, employer identification or Social Security numbers and dates of birth, as applicable, of each individual, group of individuals or entity associated with a corporate Applicant, including a corporate holding company, parent company, or subsidiary company of the Applicant that has the ability to control the activities of the corporate Applicant or elect a majority of the board of directors of that corporation, excluding any bank or other licensed lending institution that holds a mortgage or other lien acquired in the ordinary course of business;
  - (e) The names, addresses, employer identification or Social Security numbers and dates of birth, as applicable, of each individual, group of individuals or entity associated with a non-corporate Applicant that directly or indirectly holds a five percent (5%) or greater beneficial or proprietary interest in the Applicant's business operation, or that the Office otherwise determines has the ability to control the Applicant.;
  - (f) Information regarding the Applicant or any persons identified in subsections (c) through (e) are eligible to hold a Management Services Provider License, including disclosure of the following information:

- (1) Whether the Applicant or any persons identified in subsections (c) through (e) have been convicted of an offense other than a traffic violation;
  - (2) Whether the Applicant or any persons identified in subsections (c) through (e) have been subject to any disciplinary action, past or pending, by any administrative, governmental, or regulatory body;
  - (3) Whether the Applicant or any persons identified in subsections (c) through (e) have been charged with a violation of any statute, rule, regulation, or ordinance of any administrative, regulatory, or other governmental body; or
  - (4) Whether the Applicant or any persons identified in subsections (c) through (e) have been in default of paying any taxes, fees, or other obligations owed to the District of Columbia, any local governmental entity, or the federal government;
- (g) A report of the Applicant's or any person identified in subsections (c) through (e)'s financial activities, including evidence of financial stability, such as bank statements, business and personal income and disbursement schedules, tax returns, or other documentation satisfactory to the Office that demonstrates that the Applicant has sufficient business ability and experience to establish and maintain a successful sports wagering business;
- (h) A certification indicating whether the Applicant or any persons identified in subsections (c) through (e) have been directly employed by an illegal or offshore Sports Wagering Operator that serviced the United States or otherwise accepted black market wagers from individuals located in the United States;
- (i) A description of the proposed information security program to protect the confidentiality, integrity, and availability of personal information of individuals who place sports wagers;
- (j) A description of the proposed internal controls and security systems to be used in conducting sports wagering or processing sports wagering transactions;
- (k) The number of employees expected to be employed at the proposed Sports Wagering Facility;
- (l) The location of the proposed Sports Wagering Facility;

- (m) Proof that the Applicant has obtained a Basic Business License in the District of Columbia;
- (n) Proof of good standing pursuant to D.C. Official Code § 29-102.08 and a certification that the Citywide Clean Hands Database indicates that the proposed Licensee is current with its District taxes;
- (o) A list of jurisdictions where the Applicant has applied for a sports wagering or gambling license;
- (p) A list of jurisdictions where the Applicant has been issued a sports wagering or gambling license;
- (q) A list of jurisdictions where the Applicant has had any sports wagering or gambling license suspended or revoked;
- (r) Criminal history and background information of the Applicant or any person identified in subsections (c) through (e) as required by the Office;
- (s) A copy of the contract or proposed contract between the Management Services Provider and the Operator;
- (t) Information demonstrating whether the Applicant is a Small Business Enterprise; and
- (u) Any other information the Executive Director considers necessary and appropriate to determine competency, honesty and integrity.

- 2103.5 The Applicant shall notify the Office of any changes to their application within ten (10) business days of the change.
- 2103.6 Upon a showing of good cause, the Executive Director may grant a waiver of information that must be provided in conjunction with the application for a Management Services Provider License.
- 2103.7 A Management Services Provider License shall be issued for a one (1)-year period and require a non-refundable application fee of ten thousand dollars (\$10,000), which shall be submitted with the application.
- 2103.8 A Management Services Provider License may be renewed annually; provided, that the Licensee has continued to comply with all statutory and regulatory requirements and pays upon submission of a renewal application a two thousand dollar (\$2,000) renewal fee.
- 2103.9 Each Management Services Provider License is limited to a single Sports Wagering Facility.

- 2103.10 A Management Services Provider may provide Sports Wagering Equipment, software, systems, data or services for the location which it has obtained a license without having to obtain a separate Suppliers License. If a Management Services Provider purchases, leases or otherwise obtains Sports Wagering Equipment from a third party, it must do so from a licensed Supplier.
- 2103.11 The duties and responsibilities of a Management Services Provider under a management services contract shall not be assigned, delegated, subcontracted, or transferred to a third party without the prior approval of the Office.
- 2103.12 The Office shall not issue a Management Services Provider License unless it is satisfied that the Applicant meets the requirements for a Management Services Provider License and is a suitable and qualified individual, group of individuals or entity to be licensed to conduct or participate in conducting all aspects of Sports Wagering pursuant to its management services contract that has been approved by the Office.
- 2103.13 An Applicant for a Management Services Provider License shall establish their suitability for a license by clear and convincing evidence.
- 2103.14 In determining whether an Applicant is suitable and to approve an application for a Management Services Provider License, the Executive Director shall consider the following factors, when applicable, relating to the Applicant:
- (a) Whether the Applicant is Management Services Provider Licensee is capable of operating a Sports Wagering Facility that will have a positive impact on the District and its residents through increased revenues and improving the quality and marketability of sports wagering entertainment within the District;
  - (b) Whether the Applicant possesses adequate funds or has secured adequate financing to operate a Sports Wagering Facility in conformity with the regulations and standards promulgated by the Office;
  - (c) Whether the Applicant has the financial stability, integrity, and responsibility to conduct a sports wagering operation.
  - (d) Whether the Applicant has sufficient business ability and experience to operate and maintain a successful sports wagering operation;
  - (e) Whether the Applicant has proposed adequate measures for internal and external security, including a surveillance system or protocol;

- (f) Whether the Applicant has proposed an adequate information security program to protect the confidentiality, integrity, and availability of personal information of individuals who place sports wagers;
- (g) Whether the Applicant has satisfied the Management Services Provider License requirements;
- (h) Whether the Applicant has demonstrated that its proposed sports wagering operation will be conducted in accordance with the Act and all other applicable District and federal laws;
- (i) Whether the Applicant has been convicted of a disqualifying offense, as established by regulation by this chapter;
- (j) Whether the Applicant is a Small Business Enterprise;
- (k) The past and present compliance of the Applicant and its affiliates or affiliated companies with gaming-related licensing requirements in the District or any other jurisdiction, including whether the Applicant has a history of non-compliance with the gaming licensing requirements of any jurisdiction;
- (l) If the Applicant has been charged with, convicted, pleaded guilty, or forfeited bail concerning any criminal offense under the laws of any jurisdiction, not including a traffic offense;
- (m) If the Applicant has filed, or had filed against it a proceeding for bankruptcy or has ever been involved in any formal process to adjust, defer, suspend, or otherwise work out the payment of any debt;
- (n) If the Applicant has been served with a complaint or other notice filed with any public body regarding a payment of any tax required under any law in any jurisdiction, where the Applicant has been in breach for one or more years;
- (o) If the Applicant is or has been a defendant in litigation involving its business practices that would call into question its suitability to be licensed;
- (p) If awarding a license would undermine the public's confidence in the gaming industry in the District; and
- (q) If the Applicant meets other prescribed standards for the issuance of a license.



2103.15 An Applicant may apply for up to but no more than two (2) Management Services Provider Licenses, unless, the Applicant enters into a joint venture or other contractual agreement whereby a majority interest is owned by a Certified Business Enterprise for any additional licenses.

2103.16 A Management Services Provider shall prominently display in the Sports Wagering Facility the Management Services Provider License issued by the Office.

## **2104 SUPPLIER LICENSE REQUIREMENTS**

2104.1 An individual, group of individuals or entity may apply to the Office for a Supplier License, the application for which shall be on a form provided by the Office.

2104.2 An individual, group of individuals or entity that seeks to sell or lease sports wagering equipment, software, systems, data or services relating to the conducting of sports wagering, as determined by the Office, shall obtain a Supplier License from the Office.

2104.3 An individual, group of individuals or entity that provides odds on sporting events to Operators or Management Services Providers when such information is not available to the public electronically in real time, must be licensed as a Supplier.

2104.4 The Office may require the following information in conjunction with an application for a Supplier License:

- (a) The Applicant's legal name and form of business entity;
- (b) The mailing address of the Applicant and, if a corporation, the name of the state in which it is incorporated and the location of its principal place of business;
- (c) The names, addresses, employer identification or Social Security numbers and dates of birth of its directors, officers, partners, owners, and key personnel;
- (d) The names, addresses, employer identification or Social Security numbers and dates of birth, as applicable, of each individual, group of individuals or entity associated with a corporate Applicant, including a corporate holding company, parent company, or subsidiary company of the Applicant that has the ability to control the activities of the corporate Applicant or elect a majority of the board of directors of that corporation, excluding any bank or other licensed lending institution that holds a mortgage or other lien acquired in the ordinary course of business;

- (e) The names, addresses, employer identification or Social Security numbers and dates of birth, as applicable, of each individual, group of individuals or entity associated with a non-corporate Applicant that directly or indirectly holds a five percent (5%) or greater beneficial or proprietary interest in the Applicant's business operation, or that the Office otherwise determines has the ability to control the Applicant;
- (f) Information regarding the Applicant or any persons identified in subsections (c) through (e) are eligible to hold a Supplier License, including disclosure of the following information:
  - (1) Whether the Applicant or any persons identified in subsections (c) through (e) have been convicted of an offense other than a traffic violation;
  - (2) Whether the Applicant or any persons identified in subsections (c) through (e) have been subject to any disciplinary action, past or pending, by any administrative, governmental, or regulatory body;
  - (3) Whether the Applicant or any persons identified in subsections (c) through (e) have been charged with a violation of any statute, rule, regulation, or ordinance of any administrative, regulatory, or other governmental body; or
  - (4) Whether the Applicant or any persons identified in subsections (c) through (e) have been in default of paying any taxes, fees, or other obligations owed to the District of Columbia, any local governmental entity, or the federal government;
- (g) A report of the Applicant's or any person identified in subsections (c) through (e)'s financial activities, including evidence of financial stability, such as bank statements, business and personal income and disbursement schedules, tax returns, or other documentation satisfactory to the Office that demonstrates that the Applicant has sufficient business ability and experience to establish and maintain a successful sports wagering business;
- (h) A certification indicating whether the Applicant or any persons identified in sections (c) through (e) have been directly employed by an illegal or offshore Sports Wagering Operator that serviced the United States or otherwise accepted black market wagers from individuals located in the United States;
- (i) Proof that the Applicant has obtained a Basic Business License in the District of Columbia;

- (j) Proof of good standing pursuant to D.C. Official Code § 29-102.08 and a certification that the Citywide Clean Hands Database indicates that the proposed Licensee is current with its District taxes;
- (k) A list of jurisdictions where the Applicant has applied for a sports wagering or gambling license.
- (l) A list of jurisdictions where the Applicant has been issued a sports wagering or gambling license.
- (m) A list of jurisdictions where the Applicant has had any sports wagering or gambling license suspended or revoked.
- (n) Criminal history and background information of the Applicant or any person identified in subsections (c) through (e) as required by the Office;
- (o) A list of sports wagering equipment, systems, or other gaming items necessary to conduct sports wagering that may be offered for sale or lease; and
- (p) Any other information the Executive Director considers necessary and appropriate to determine competency, honesty and integrity.

- 2104.5 The Applicant shall notify the Office of any changes to their application within ten (10) business days of the change.
- 2104.6 Upon a showing of good cause, the Executive Director may grant a waiver of information that must be provided in conjunction with the application for a Supplier License.
- 2104.7 A Supplier License shall be issued for a one (1)-year period and require a non-refundable application fee of ten thousand dollars (\$10,000), which shall be submitted with the application.
- 2104.8 A Supplier License may be renewed annually; provided, that the Licensee has continued to comply with all statutory and regulatory requirements and pays upon submission of a renewal application a two thousand dollar (\$2,000) renewal fee.
- 2104.9 A Supplier License is non-transferable. The duties and responsibilities of a Supplier shall not be assigned, delegated, subcontracted, or transferred to a third party without the prior approval of the Office.
- 2104.10 The Office shall not issue a Supplier License unless it is satisfied that the Applicant meets the requirements for a Supplier License and is a suitable and qualified individual, group of individuals or entity to be licensed as a Supplier.

2104.11 An Applicant for a Supplier License shall establish their suitability for a license by clear and convincing evidence.

## **2105 OCCUPATIONAL LICENSE REQUIREMENTS**

2105.1 All persons employed to be engaged in activities related to sports wagering shall be required to be licensed by the Office and, when employed, shall maintain a valid Occupational License and be employed in the capacity reported to the Office.

2105.2 An Occupational License is required for the following individuals:

- (a) Any employee of a Sports Wagering Operator or Management Services Provider whose work duties are directly related to or involve sports wagering operated under the jurisdiction of the Office; and
- (b) Any individual who is a Sports Wagering Manager, a general manager or department manager having oversight or operational responsibility for operations of a Sports Wagering Facility licensed in the District.

2105.3 The Office may license different levels of Occupational Licenses.

2105.4 An Occupational Licensee may perform any work duties or activities included within the level of Occupational License held by the Licensee and included in any lower level of Occupational License. A license may entitle the person to work at more than one location if such an arrangement has been approved by the Office.

2105.5 The Office shall not process an application for an Occupational License unless the application includes a written statement from a Sports Wagering Operator that the Applicant has been or will be hired by the Sports Wagering Operator, subject to satisfactory completion of any training required by the Office and upon receiving the Occupational License application fee.

2105.6 The Applicant shall notify the Office of any changes to their application within ten (10) business days of the change.

2105.7 The Office may exempt any person from the occupational licensing requirements of this title if the Office determines that the person is regulated by another governmental agency or that licensing is not considered necessary to protect the public interest or accomplish the policies and purposes of the Act.

2105.8 An Applicant for an Occupational License under this section shall submit an application, as required by the Office, and pay a nonrefundable fee of one hundred dollars (\$100), which may be paid on behalf of the Applicant by the prospective employer.

- 2105.9 A holder of an Occupational License shall submit a renewal application by September 30 of each year and pay a renewal fee of one hundred dollars (\$100), which may be paid on behalf of the licensed employee by the employer.
- 2105.10 Each holder of an Occupational License shall wear the license in a visible location, above the waist, when present in a Sports Wagering Facility at all times, in accordance with the rules of the Office.
- 2105.11 The Office shall not issue an Occupational License unless it is satisfied that the Applicant meets the requirements for such license and is a suitable and qualified individual, group of individuals or entity to be licensed for the operational position they are proposing to hold.
- 2105.12 An Applicant for an Occupational License shall establish their suitability for a license by clear and convincing evidence.

## **2106 PROVISIONAL SPORTS WAGERING LICENSES**

- 2106.1 The Office may issue Provisional Sports Wagering Licenses to Operators, Management Service Providers and Suppliers.
- 2106.2 An Applicant for a Provisional Sports Wagering Licenses shall provide the Office with the following documents and information and complete the following steps:
- (a) Provide proof of full current licensure for sports wagering, in the same category or equivalent category of license as being applied for in the District, from an Office approved jurisdiction;
  - (b) Provide a copy of the application, including all amendments and updates, submitted to obtain its sports wagering license from an Office approved jurisdiction;
  - (c) Begin the Office's sports wagering license application process;
  - (d) Complete all forms required by the Office;
  - (e) Provide proof that the Applicant has obtained a Basic Business License in the District of Columbia;
  - (f) Provide proof of good standing pursuant to D.C. Official Code § 29-102.08 and a certification that the Citywide Clean Hands Database indicates that the Applicant is current with its District taxes;
  - (g) Comply with the Certified Business Entity requirements for licensure contained in the Act;

- (h) For a Provisional Class A Operator's License, provide documentation indicating whether the Applicant has entered into a labor peace agreement with each labor organization that is actively engaged in representing or attempting to represent employees in the gaming, hospitality, or food and beverage industries in the District. If the Applicant has not entered into a labor peace agreement as referenced in this paragraph, the Applicant shall provide information showing that it is engaged in good faith negotiations to enter into a labor peace agreement or information showing why it was unable to enter in a labor peace agreement
- (i) Provide any additional information or documentation required by the Office; and
- (j) Pay the non-refundable application fee.

2106.3 An Applicant for a Provisional Sports Wagering License shall agree in writing to the following conditions:

- (a) The Provisional Sports Wagering License does not create a right or privilege to continue sports wagering operations if the Applicant's application for a standard sports wagering license is rejected by the Office.
- (b) The Office may rescind the Applicant's Provisional Sports Wagering License at any time, with notice to the Applicant, if:
  - (1) The Office is informed that the suitability of the Applicant may be at issue; and
  - (2) The Applicant fails to cooperate with the Office in the Office's investigation into the qualifications and suitability of the Applicant for a standard sports wagering license.

2106.4 A Provisional Sports Wagering License shall be valid for a period of up to six (6) months. The Executive Director may extend the Provisional Sports Wagering License period upon a showing of good cause.

2106.5 While operating under a Provisional Sports Wagering License, the licensee shall adhere to all applicable requirements contained in the Act and this chapter.

2106.6 The Applicant must complete the Office's full sports wagering licensing application and meet all requirements prior to being issued a standard sports wagering license.

2106.7 The initial standard license term of the Applicant shall be reduced by the number of days the Applicant held a Provisional Sports Wagering License.

2106.8 A Provisional Sports Wagering License shall expire immediately if the Applicant's application for a standard sports wagering license is denied.

## **2107 LICENSE PROHIBITIONS**

2107.1 The Office shall deny, suspend, or revoke a license if evidence satisfactory to the Office exists that the Applicant or Licensee committed any of the following disqualifying offenses:

- (a) The Applicant or Licensee knowingly made a false statement of a material fact to the Office;
- (b) The Applicant or Licensee has been suspended from operating a gambling game, gaming device, or gaming operation, or had a license revoked by any governmental authority responsible for the regulation of gaming activities;
- (c) The Applicant or Licensee has been convicted of a felony and has not received a pardon or has not been released from parole or probation for at least five (5) years;
- (d) The Applicant or Licensee has been convicted of a gambling-related offense, or a theft or fraud offense; or
- (e) The Applicant or Licensee is a company or individual who has been directly employed by any illegal or offshore book that serviced the United States or otherwise accepted black market wagers from individuals located in the United States.

2107.2 The Office may deny, suspend, or revoke an Applicant's or Licensee's Sports Wagering License under the following circumstances:

- (a) If the Applicant or Licensee has not demonstrated by clear and convincing evidence to the satisfaction of the Office financial responsibility sufficient to adequately meet the requirements of the proposed enterprise;
- (b) If the Applicant or Licensee is not the true owner of the business or is not the sole owner and has not disclosed on the application the existence or identity of other persons who have an ownership interest in the business; or
- (c) If the Applicant or Licensee is a corporation that sells more than five percent (5%) of its voting stock, more than five percent (5%) of the voting stock of a corporation that controls the Applicant or Licensee, sells the Applicant's or Licensee's assets, other than those bought and sold in the ordinary course of business, or an interest in the assets, to an individual,

group of individuals, or entity not already determined by the Office to have met the qualifications of a Licensee, or is a non-corporate entity where an individual, group of individuals, or entity not already determined by the Office to have met the qualifications of a Licensee pursuant to this title holds more than a ten percent (10%) interest in the non-corporate entity.

2107.3 The Office may deny, suspend, or revoke an Applicant's or Licensee's Sports Wagering License if they, or any person required to be qualified under this chapter as a condition of a sports wagering license, has been convicted of any offense in any jurisdiction which equate to the following crimes:

- (a) All crimes of the first degree;
- (b) Attempt to commit an offense which is listed in this subsection;
- (c) Conspiracy to commit an offense which is listed in this subsection;
- (d) Manslaughter;
- (e) Vehicular homicide which constitutes a crime of the second degree;
- (f) Aggravated assault which constitutes a crime of the second or third degree;
- (g) Kidnapping;
- (h) Sexual offenses which constitute crimes of the second or third degree;
- (i) Robberies;
- (j) Crimes involving arson and related offenses;
- (k) Causing or risking widespread injury or damage;
- (l) Burglary which constitutes a crime of the second degree;
- (m) Theft and related offenses which constitute crimes of the second or third degree;
- (n) Forgery and fraudulent practices which constitute crimes of the second or third degree;
- (o) Endangering the welfare of a child;
- (p) Bribery and corrupt influence;



- (q) Perjury and other falsification in official matters which constitute crimes of the second, third or fourth degree;
- (r) Misconduct in office and abuse in office which constitutes a crime of the second degree;
- (s) Manufacturing, distributing or dispensing a controlled dangerous substance or a controlled dangerous substance analog which constitutes a crime of the second or third degree;
- (t) Employing a juvenile in a drug distribution scheme;
- (u) Distributing, dispensing or possessing a controlled dangerous substance or a controlled substance analog on or within one thousand feet (1,000 ft.) of school property or bus;
- (v) Distributing, dispensing or possessing a controlled dangerous substance or a controlled substance analog in proximity to public housing facilities, parks or buildings;
- (w) Distribution, possession or manufacture of imitation controlled dangerous substances;
- (x) Acquisition of controlled dangerous substances by fraud;
- (y) Gambling offenses which constitute crimes of the third or fourth degree;
- (z) Possession of a gambling device;
- (aa) Any second-degree racketeering crime;
- (bb) Swindling and cheating;
- (cc) Use of device to gain an advantage at a sports wagering, lottery or casino game;
- (dd) Unlawful use of bogus chips or gaming billets, marked cards, dice, cheating devices, unlawful coins;
- (ee) Cheating games and devices in a licensed casino;
- (ff) Unlawful possession of device, equipment or other material illegally manufactured, distributed, sold or delivered; or

- (gg) Any other offense under present District or federal law which indicates that licensure of the Applicant would be detrimental to the policy of the Act and to sports wagering operations; provided, however, that the automatic disqualification provisions of this subsection shall not apply with regard to any conviction which did not occur within the ten (10)-year period immediately preceding application for licensure and which the Applicant demonstrates by clear and convincing evidence does not justify automatic disqualification pursuant to this subsection and any conviction which has been the subject of a judicial order of expungement or sealing;
- (hh) Current prosecution or pending charges in any jurisdiction of the Applicant or Licensee or of any person who is required to be qualified under the Act as a condition of a sports wagering license, for any of the offenses enumerated in this chapter; provided, however, that at the request of the Applicant or the person charged, the Office shall defer decision upon such application during the pendency of such charge;
- (ii) The pursuit by the Applicant or Licensee or any person who is required to be qualified under the Act as a condition of a sports wagering license of economic gain in an occupational manner or context which is in violation of the criminal or civil public policies of the District, if such pursuit creates a reasonable belief that the participation of such person in sports wagering operations would be detrimental to the policies of the Act or to legalized gaming in the District of Columbia. For purposes of this section, occupational manner or context shall be defined as the systematic planning, administration, management, or execution of an activity for financial gain;
- (jj) The identification of the Applicant or Licensee or any person who is required to be qualified under the Act as a condition of a Sports Wagering License as a career offender or a member of a career offender cartel or an associate of a career offender or career offender cartel in such a manner which creates a reasonable belief that the association is of such a nature as to be detrimental to the policy of this chapter and to gaming operations. For purposes of this section, career offender shall be defined as any person whose behavior is pursued in an occupational manner or context for the purpose of economic gain, utilizing such methods as are deemed criminal violations of the public policy of the District of Columbia. A career offender cartel shall be defined as any group of persons who operate together as career offenders;
- (kk) The commission by the Applicant or Licensee or any person who is required to be qualified under the Act as a condition of a Sports Wagering License of any act or acts which would constitute any offense under this chapter, even if such conduct has not been or may not be prosecuted under the criminal laws of the District of Columbia or any other jurisdiction or

has been prosecuted under the criminal laws of the District of Columbia or any other jurisdiction and such prosecution has been terminated in a manner other than with a conviction;

- (ll) Willful defiance by the Applicant or Licensee or any person who is required to be qualified under the Act of any legislative investigatory body or other official investigatory body of any state or of the United States when such body is engaged in the investigation of crimes relating to gaming, official corruption, or organized crime activity;
- (mm) Failure by the Applicant or Licensee or any person required to be qualified under the Act as a condition of a Sports Wagering License to make required payments in accordance with a child support order; and
- (nn) Failure by the Applicant or Licensee or any person required to be qualified under the Act as a condition of a sports wagering license to repay any other debt owed to the District of Columbia; unless such Applicant provides proof to the Office's satisfaction of payment of or arrangement to pay any such debts prior to licensure.

## **2108 DUTIES OF OPERATORS AND MANAGEMENT SERVICES PROVIDERS**

2108.1 Operators and Management Services Providers shall, in accordance with Section 307 of the Act:

- (a) Employ a monitoring system utilizing software to identify irregularities in volume or odds and swings that could signal suspicious activities that should require further investigation, and immediately reports such findings to the Office;
- (b) Develop system requirements and specifications for internal controls according to industry standards and implement the requirements and specifications as required by the Office;
- (c) Promptly, but no longer than twenty-four (24) hours, reporting to the Office facts or circumstances related to the operation of a sports wagering Licensee that may constitute a violation of District or federal law, including suspicious sports wagering over any threshold set by the Operator;
- (d) Provide a secure location within the District, or a location approved by the Office in accordance with this title and all other applicable District and federal laws for the placement, operation, and play of sports wagering equipment;

- (e) Employ the use of licensed security officers if required to do so by the Office.
- (f) Implement, maintain, regularly review and revise, and comply with a comprehensive information security program the purpose of which shall be to take reasonable steps to protect the confidentiality, integrity, and availability of personal information of individuals who place a wager with the Operator, and shall contain administrative, technical, and physical safeguards appropriate to the size, complexity, nature, and scope of the operations and the sensitivity of the personal information owned, licensed, maintained, handled, or otherwise in the possession of the Operator;
- (g) Prevent an individual, group of individuals or entity from tampering with or interfering with the operation of sports wagering or sports wagering equipment;
- (h) Ensure that sports wagering occurs only within the specific designated areas in which sports wagering may take place, using Office-approved mobile applications, websites, other digital platforms, or sports wagering devices that utilize communications technology to accept only wagers originating within the District.
- (i) Ensure that sports wagering conducted through the use of a Self-Service Betting Terminal or Sports Wagering Facility booth located in the Sports Wagering Facility or other window locations as approved by the Office, is conducted within the sight and control of designated employees of the licensed Operator or Management Services Provider and under continuous observation by security equipment, as required by the Office;
- (j) Maintain a sufficient cash supply and other supplies within the boundaries of the District;
- (k) Maintain daily records showing the Gross Sports Wagering Receipts and adjusted gross sports wagering receipts of the Operator; and
- (l) Timely file with the Office records or reports required by this chapter;

2108.2

Operators and Management Services Providers shall not knowingly allow, and shall take reasonable steps to prevent, the circumvention of reporting requirements through a player making a structured wager, including multiple wagers or a series of wagers that are designed to accomplish indirectly that which could not be accomplished directly. A wager or wagers need not exceed the dollar thresholds at any single Operator in any single day in order to constitute prohibited structuring. No Operator or Management Services Provider shall encourage or instruct the player to structure or attempt to structure wagers. This section does not prohibit an Operator or Management Services Provider from

informing a player of the regulatory requirements imposed upon the Operator or Management Services Provider, including the definition of structured wagers. An Operator or Management Services Provider shall not knowingly assist a player in structuring or attempting to structure wagers.

- 2108.3 Operators and Management Service Providers shall report to the Office the sources of data that they use to resolve sports wagers. The Office may disapprove of the sources of data for any reason, including but not limited to, the type of wager and method of data collection.
- 2108.4 Operators and Management Service Providers shall investigate each player complaint and provide a response to the player within ten (10) business days. For complaints that cannot be resolved to the satisfaction of the player, related to Sports Wagering Accounts, settlement of wagers or illegal activity, a copy of the complaint and Licensee's response, including all relevant documentation, shall be provided to the Office.
- 2108.5 To conduct sports wagering transactions on Premises, a Sports Wagering Facility shall have a cashier's cage that has been approved for the operation by the Office. Sports wagering transactions shall be conducted from a Sports Wagering Facility booth located in the Sports Wagering Facility or other window locations as approved by the Office, Self-Service Betting Terminals in locations as approved by the Office or through the use of Office approved mobile applications, websites, other digital platforms, or devices within the Sports Wagering Facility.
- 2108.6 The Sports Wagering Facility shall be designed to provide sufficient security of the facility and shall include the installation and maintenance of security and surveillance equipment, including closed-circuit television equipment, according to specifications approved by the Office. The Office shall have direct access to the system and its transmissions. Operators and Management Services Providers shall submit a surveillance plan for Office approval prior to accepting wagers. Any changes to the surveillance plan must be approved by the Office.
- 2108.7 Sports Wagering Facilities and locations with sports wagering equipment are subject to compliance inspections by the Office at all times. Authorized Office employees shall be granted access to all portions of the Sports Wagering Facility or any location where sports wagering equipment is stored at all times for the purposes of conducting compliance inspections or enforcement actions.
- 2108.8 Operators and Management Service Providers shall not accept sports wagers on a prohibited sports event.

**2109 ADDITIONAL DUTIES OF OPERATORS AND MANAGEMENT SERVICES PROVIDERS**

2109.1 In addition to the requirements set forth in § 2108, Operators and Management Services Providers shall:

- (a) Ensure that its employees and agents conduct sports wagering operations in a manner that does not pose a threat to the public health, safety, and welfare of District residents;
- (b) Verify that persons seeking to participate in sports wagering are at least eighteen (18) years of age by requiring that they present a valid government-issued identification document, including a driver's license, passport, or military ID, that includes the person's name and date of birth;
- (c) Prohibit any person under the age of eighteen (18) to collect winnings from sports wagering;
- (d) Prevent intoxicated or impaired persons from participating in sports wagering and, once aware that such persons are on the Premises, immediately remove them from the approved designated areas for sports wagering on the licensed Premises;
- (e) Prohibit an employee or agent who is serving alcoholic beverages to customers from taking sports wagers during the same work shift;
- (f) Ensure that all approved designated areas for sports wagering on the licensed Premises are monitored by designated staff and Office-approved security systems that are operational, regularly maintained, and are capable of storing footage for a minimum of fourteen (14) days unless the footage has been used in the investigation of an incident, in which case the footage shall be stored for a minimum of thirty (30) days. Any security footage shall be made available to the Office, and the Metropolitan Police Department upon request; and
- (g) Immediately notify security if a person who is under the age of eighteen (18) or is intoxicated or impaired knowingly engages in sports wagering on the licensed Premises.

**2110 POSTING**

2110.1 The following shall be conspicuously posted at the Sports Wagering Facility:

- (a) The Sports Wagering Operator License;
- (b) The Management Services Provider License;

- (c) The name of the Sports Wagering Manager on duty;
- (d) A sign that shall include the statement that is similar to “It is unlawful for any individual who is under 18 years of age or is noticeably intoxicated or impaired to engage in sports wagering.”; and
- (e) A sign which shall contain information preventing, treating, and monitoring compulsive gambling, as well as the National Council on Problem Gambling’s 24 hour toll-free confidential National Helpline —1-800-522-4700 (call or text).

2110.2 Online sports wagering websites and mobile applications shall display the following:

- (a) Notice that shall include the statement that is similar to “It is unlawful for any individual who is under 18 years of age or is noticeably intoxicated or impaired to engage in sports wagering.”; and
- (b) Responsible gaming logo or information to direct players to the site's Office-approved responsible gaming page, which shall include, at a minimum:
  - (1) Prominent display of the National Council on Problem Gambling’s 24 hour toll-free confidential National Helpline—1-800-522-4700 (call or text) and helpline chat—[ncpgambling.org/chat](http://ncpgambling.org/chat);
  - (2) A direct link to the National Council on Problem Gambling’s resources dedicated to helping persons with potential gambling problems;
  - (3) A clear statement of the online Operator’s policy and commitment to responsible gaming;
  - (4) Information governing self-imposed responsible gaming limits and the ability for the player to establish those limits; and
  - (5) Any other information about available programs to prevent, treat, or monitor compulsive or problem gambling.

## **2111 IDENTIFICATION BADGES**

2111.1 The Office shall issue identification badges to Licensees and employees, officers and directors of Licensees.

2111.2 The identification badges shall be in the form prescribed by the Office.

2111.3 The identification badge shall be worn by the Licensee or employee, officer or director of the Licensee in a clearly visible location above the waist, while the Licensee or Licensee's employee, officer or director is present within the Sports Wagering Facility or any facility that houses sports wagering equipment.

## **2112 SPORTS WAGERING MANAGER**

2112.1 Each Sports Wagering Facility shall have a Sports Wagering Manager present within the Sports Wagering Facility at all times when sports wagering is taking place.

2112.2 The name of the Sports Wagering Manager on duty shall be prominently displayed within the Sports Wagering Facility.

## **2113 REPORTING**

2113.1 The Sports Wagering Operator shall submit reports to the Office that include the following information:

- (a) The total amount of sports wagers received from Sports Wagering;
- (b) The total amount of prizes awarded for sports betting;
- (c) The total amount of Gross Sports Wagering Revenue (GGR) received by the Operator;
- (d) The total number of authorized sports bettors that requested to exclude themselves from sports wagering; and
- (e) Any additional information the Office considers necessary.

2113.2 Reports shall be submitted on a monthly basis or as otherwise required by the Office.

2113.3 Reports shall be submitted on forms and in a manner required by the Office.

## **2114 SELF-LIMITING PROGRAM**

2114.1 Operators and Management Services Providers shall implement a system to allow individuals to set Sports Wagering Account limits with the Operator or Management Services Provider, including responsible gaming limits set forth below. Any decrease to these limits shall be effective no later than the player's next log in. Any increase to these limits shall become effective only after the time period of the previous limit has expired and the player reaffirms the requested increase.



- (a) A deposit limit, which shall be offered on a daily, weekly and monthly basis and shall specify the maximum amount of money a player may deposit into his or her Sports Wagering Account during a particular period of time;
- (b) A spending limit, which shall be offered on a daily, weekly and monthly basis and shall specify the maximum amount of player funds that may be put at risk during a particular period of time; and
- (c) A time-based limit, which shall be offered on a daily basis and shall specify the maximum amount of time, measured hourly from the player's log in to log off, a player may spend playing on a sports wagering system.

- 2114.2 Operators and Management Services Providers shall take reasonable steps to prevent individuals from overriding their self-imposed limits, including, at the request of the individual, sharing the requested limitations with the Office for the sole purpose of disseminating the request to other Operators.
- 2114.3 Operators and Management Services Providers shall prohibit an individual from wagering over the limit they have set or from sports wagering if they are on a list provided by the Office of the individuals who have requested to be excluded from sports wagering.
- 2114.4 Operators and Management Services Providers shall implement and maintain reasonable security procedures and practices that are appropriate to the nature of the personal information of individuals who place a wager with the Operator from unauthorized access, use, modification or disclosure.
- 2114.5 Operators and Management Services Providers shall establish procedures to evaluate requests made by third parties to exclude an individual from sports wagering, including requests to exclude an individual from placing sports wagers when the requestor provides documentary evidence of sole or joint financial responsibility for the source of funds deposited with an Operator by the individual or a court order requiring the individual to pay unmet child support obligations.
- 2114.6 Operators and Management Services Providers shall establish a system to exclude from sports wagering individuals who are on the Office's Self-Exclusion List.
- 2114.7 Operators shall submit a monthly report to the Office that includes the total number of authorized players that requested to exclude themselves from sports wagering.
- 2114.8 Operators and Management Service Providers shall establish reasonable procedures designed to discourage entry of a self-excluded person into the sportsbook area of a Sports Wagering Facility.

- 2114.9 Any person may request placement on the list of self-excluded persons, and the person during any period of voluntary exclusion may not collect any winnings or recover any losses resulting from any sports wagering or lottery gaming activity, regardless of whether the wager was placed prior to being voluntarily placed on the list of self-excluded persons. All winnings and wagering instruments subject to this section shall be withheld by the Operator or Management Services provider. The monetary value of the withheld winnings and wagering instruments shall be paid to the Office within forty-five (45) days.
- 2114.10 Unless the suspension was a result of a player's self-exclusion, the Operator or Management Services Provider shall notify the Sports Wagering Account holder via email, certified or registered mail, or other method approved by the Office, whenever his or her Account has been closed or placed in a suspended mode. Such notification shall include the restrictions placed on the Account and any further course of action needed to remove the restriction.
- 2114.11 Operators and Management Service Providers shall abide by all requirements issued by the Office pertaining to training employees about compulsive and problem gambling.

## **2115 INTERNAL CONTROLS**

- 2115.1 Operators and Management Services Providers shall file with the Office internal controls for all aspects of sports wagering operations prior to commencing operations.
- 2115.2 As determined by the Office, prior to commencing sports wagering, a Sports Wagering Operator or Management Services Provider shall submit to the Office for approval internal controls for all aspects of sports wagering (*i.e.*, retail sportsbook operations, in venue mobile sportsbook operations and remote sportsbook wagering operations) prior to implementation and any time a change is made thereafter.
- 2115.3 The internal controls shall address the following items regarding the sports wagering system, at a minimum:
- (a) User access controls for all sports wagering personnel;
  - (b) Segregation of duties;
  - (c) Automated and manual risk management procedures;
  - (d) Procedures for identifying and reporting fraud and suspicious conduct;

- (e) Procedures for identifying and preventing persons who are under eighteen (18) years of age from engaging in sports wagering;
- (f) Procedures to prevent wagering by players prohibited from wagering;
- (g) Procedures for identifying and preventing intoxicated and impaired persons from engaging in sports wagering;
- (h) Description of anti-money laundering (AML) compliance standards;
- (i) Description of all types of wagers available to be offered by the system; and
- (j) Description of all integrated third-party systems.

2115.4 The internal controls shall detail the reconciliation of assets and documents contained in a Sports Wagering Facility ticket writer's drawer, Self-Service Betting Terminal, and mobile sports wagering.

## **2116 HOUSE RULES**

2116.1 Operators and Management Services Providers shall adopt comprehensive House Rules which shall be submitted to the Office for approval before the commencement of operations.

2116.2 At a minimum, the House Rules shall address the following items:

- (a) A method for the calculation and payment of winning wagers;
- (b) The effect of schedule changes;
- (c) The method of notifying players of odds or proposition changes;
- (d) Acceptance of wagers at terms other than those posted;
- (e) Expiration of any winning ticket three hundred sixty-five (365) days after the date of the event;
- (f) The method of contacting the Operator or Management Services Provider for questions and complaints;
- (g) A description of prohibited sports participants;
- (h) The method of funding a sports wager;

- (i) The circumstances under which the Operator will void a wager prior to the event outcome.
- (j) The treatment of errors, late bets and related contingencies;
- (k) The minimum and maximum wager amounts accepted; and
- (l) A description of all types of wagers that may be accepted.

2116.3 House Rules shall place players on notice that wagers are subject to Anti-Money Laundering standards, including Currency Transaction Reports and Suspicious Activity Reports.

2116.4 House Rules shall be conspicuously displayed or readily available in the Sports Wagering Facility and posted on the Operator's or Management Services Provider's websites and mobile applications.

2116.5 Copies of the House Rules shall be made readily available, upon request, to players, the Office, and the Metropolitan Police Department.

## **2117 RESERVE REQUIREMENTS**

2117.1 Operators or Management Services Providers shall establish a reserve of not less than the greater of twenty-five thousand dollars (\$25,000) or the sum of the following amounts:

- (a) Amounts held by the Operator for Sports Wagering Accounts;
- (b) Aggregate amounts accepted by the Operator as wagers on sports wagering events whose outcomes have not been determined; and
- (c) Amounts owed but unpaid by the Operator on winning wagers through the period established by the Operator for honoring winning wagers.

2117.2 Operators and Management Services Providers shall calculate their reserve requirements each day. In the event an Operator determines that their reserve is not sufficient to cover the calculated requirement, the Operator must, within twenty-four (24) hours, notify the Office of this fact and must also indicate the steps the Operator has taken to remedy the deficiency.

2117.3 If a reserve is maintained in the form of cash, cash equivalent, or an irrevocable letter of credit, it must be held or issued, as applicable, by a federally-insured financial institution.

2117.4 If the reserve is maintained in the form of a bond, it must be written by a bona fide insurance carrier.

2117.5 The reserve must be established pursuant to a written agreement between the Operator or Management Services Provider and the financial institution or insurance carrier.

2117.6 The Operator or Management Services Provider may engage an intermediary company or agent acceptable to the Executive Director to deal with the financial institution or insurance carrier, in which event the reserve may be established pursuant to written agreements between the licensee and the intermediary and between the intermediary and the financial institution or insurance carrier.

**2118 ANONYMOUS WAGERS AND PAYOUTS GREATER THAN \$10,000**

2118.1 The requirements of this section only apply for wagers and payouts not associated with a player account.

2118.2 Prior to accepting any wager in excess of ten thousand dollars (\$10,000) or making a payout in excess of \$10,000 on a winning wager, an Operator or Management Services Provider shall obtain and record the following information:

- (a) The player's legal name;
- (b) The player's date of birth;
- (c) The player's residential address (a post office box is not acceptable);
- (d) The player's Social Security number or equivalent for a foreign player such as a passport or taxpayer identification number; and
- (e) The document number from one of the following valid identification credentials collected from the player to verify their identity:
  - (1) Driver's license;
  - (2) Passport;
  - (3) Non-resident alien identification card;
  - (4) Other reliable government-issued identification credentials; or
  - (5) Other picture identification credential normally acceptable as a means of identification when cashing checks.

2118.3 Subsequent to accepting a wager in excess of \$10,000 or making a payout in excess of \$10,000 on a winning wager the Operator or Management Services Provider shall record or maintain records that include:

- (a) The time and date of the wager or payout;
- (b) The amount of the wager or payout;
- (c) The player's legal name;
- (d) The Sports Wagering Facility Ticket Writer number or other identification of the location where the wager or payout occurred; and
- (e) The name and signature of the employees accepting or approving the wager and payout on the wager.

2118.4 Operators and Management Services Providers shall monitor all wagers to ensure players are not circumventing the identification requirements above.

## **2119 SPORTS WAGERING SYSTEM REQUIREMENTS**

2119.1 Prior to operating sports wagering or online sports wagering pursuant to the Act, all equipment and software used in conjunction with its operation shall be submitted to an Office approved independent testing laboratory or a testing laboratory operated in an accredited jurisdiction approved by the Office.

2119.2 All equipment and software used in conjunction with operating sports wagering or online sports wagering must meet as a minimum testing requirement, the standards set forth in the latest version of the GLI-33 Standards for Event Wagering Systems or other generally accepted standards approved by the Office.

2119.3 The sports wagering system Supplier shall pay all costs of testing, certification, and approval under this chapter including, but not limited to, all costs associated with:

- (a) Equipment and technical services required by an independent certified testing laboratory to conduct the testing and certification process;
- (b) Operational audits; and
- (c) Implementation testing.

2119.4 A sports wagering system submitted to the Office for approval shall contain a description of the system's risk management framework, including but not limited to, the following items:

- (a) User access controls for all sports wagering personnel;
- (b) Information regarding segregation of duties;

- (c) Information regarding automated risk management procedures;
- (d) Information regarding fraud detection;
- (e) Information regarding controls ensuring regulatory compliance;
- (f) A description of anti-money laundering (AML) compliance standards;
- (g) A description of all software applications that comprise the system;
- (h) A description of all types of wagers available to be offered by the system;
- (i) A description of all integrated third-party systems; and
- (j) A description of the method to prevent past posting.

2119.5 A sports wagering system shall maintain all transactional betting data for a period of five (5) years.

2119.6 A sports wagering system shall record the following information for each wager made:

- (a) Description of event;
- (b) Event number, if applicable;
- (c) Wager selection;
- (d) Type of wager;
- (e) Amount of wager;
- (f) Date and time of wager;
- (g) Unique wager identifier; and
- (h) An indication of when the ticket expires.

2119.7 The following additional requirements are for all tickets generated by a cashier or at a self-service betting terminal:

- (a) Name and address of the Operator issuing the ticket;
- (b) A barcode or similar symbol or marking as approved by the Office, corresponding to the unique wager identifier;

- (c) The method of redeeming winning ticket by mail, any ticket of ten thousand dollars (\$10,000) or more must be redeemed in person; and
- (d) Identification of the cashier or Self-Service Betting Terminal generating the ticket.

2119.8 If the sports wagering system issues and redeems a sports wagering voucher, the system shall be capable of recording the following information for each voucher:

- (a) The amount of the voucher;
- (b) The date, time and location of issuance;
- (c) The unique voucher identifier;
- (d) The expiration date of the voucher; and
- (e) The date, time and location of redemption, if applicable.

2119.9 Sports wagering vouchers issued by a sports wagering system shall contain the following information:

- (a) The date, time and location of issuance;
- (b) The amount of the voucher;
- (c) A unique voucher identifier;
- (d) The expiration date of the voucher;
- (e) The name of the Operator or Management Services Provider.

2119.10 A sports wagering system that offers in-play wagering shall be capable of the following:

- (a) The accurate and timely update of odds for in-play wagers;
- (b) The ability to notify the player of any change in odds after a wager is attempted;
- (c) The ability for the player to confirm the wager after notification of the odds change; and
- (d) The ability to freeze or suspend the offering of wagers when necessary.



- 2119.11 A sports wagering system shall be configured to perform the following functions:
- (a) Creating wagers;
  - (b) Settling wagers;
  - (c) Voiding wagers;
  - (d) Cancelling wagers; and
  - (e) For online wagers or for those wagers placed in person on Premises that require the verification of the player's identification, preventing the acceptance of wagers from players prohibited from wagering.
- 2119.12 When a sports wager is voided or cancelled, the system shall clearly indicate that the ticket is voided or cancelled, render it nonredeemable and make an entry in the system indicating the void or cancellation and identity of the cashier or automated process.
- 2119.13 A sports wagering system shall prevent past posting of wagers and the voiding or cancellation of wagers after the outcome of an event is known.
- 2119.14 In the event a player has a pending wager and then self-excludes, the wager shall be cancelled, and the funds returned to the player according to the Licensee's internal controls.
- 2119.15 A sports wagering system shall, at least once every twenty-four (24) hours, perform a self-authentication process on all software used to offer, record and process wagers to ensure there have been no unauthorized modifications. In the event of an authentication failure, at a minimum, the system shall immediately notify the Operator's or Management Services Provider's Information Systems Officer and the Office within twenty-four (24) hours. The results of all self-authentication attempts shall be recorded by the system and maintained for a period of not less than ninety (90) days.
- 2119.16 Operators and Management Services Providers shall provide the Office access, including remote access, to wagering transaction and related data as deemed necessary by and in a manner approved by the Office.
- 2119.17 A sports wagering system shall be capable of maintaining the following:
- (a) A description of the event;
  - (b) The event number;
  - (c) The wager selection;

- (d) The type of wager;
- (e) The amount of wager;
- (f) The amount of potential payout;
- (g) The date and time of wager;
- (h) The identity of the cashier accepting the wager if applicable;
- (i) The unique ticket identifier;
- (j) The expiration date of the ticket;
- (k) The player name, if known;
- (l) The date, time, amount, and description of the settlement;
- (m) The location where wager was made;
- (n) The location of redemption; and
- (o) The identity of cashier settling the wager if applicable.

2119.18 For all lost tickets that are redeemed, a sports wagering system shall record and maintain the following information:

- (a) The date and time of redemption;
- (b) The employee responsible for redeeming the ticket;
- (c) The name of the player redeeming the wager;
- (d) The unique ticket identifier; and
- (e) The location of the redemption.

2119.19 Sports wagering systems shall provide a mechanism for the Office to query and export, in a format required by the Office, all sports system data.

2119.20 Sports wagering systems shall be designed to ensure the integrity and confidentiality of all communications and ensure the proper identification of the sender and receiver of all communications. If communications are performed across a public or third-party network, the system shall either encrypt the data

packets or utilize a secure communications protocol to ensure the integrity and confidentiality of the transmission.

- 2119.21 Operators and Management Services Providers shall set up test accounts to be used to test each of the various components and operations of the sports wagering system in accordance with internal controls approved by the Office.
- 2119.22 Additional system specifications and sports wagering system logging requirements may be specified by the Office through the issuance of technical bulletins.
- 2119.23 The sports wagering system shall generate those reports necessary to record gross sports wagering revenue (GGR), wagering liability, ticket redemption, and such other information relating to sports betting as deemed necessary by the Office. Such reports shall distinguish by type and status where applicable.
- 2119.24 Reports for Sports Wagering Systems:
- (a) Sports wagering systems shall be designed to generate the reports required by this section or otherwise required by the Office in a format approved by the Office.
  - (b) All required reports shall be generated by the sports wagering system, even if the period specified contains no data to be presented. The report generated shall indicate all required information and contain an indication of “No Activity” or similar message if no data appears for the period specified.
  - (c) All data required by this rule must be available in report image formats as well as database type formats as approved by the Office.
  - (d) Sports wagering systems shall, at a minimum, generate the daily reports for each gaming day in order to calculate the taxable revenue or to ensure the integrity of operations related to operating an online sports wagering.
- 2119.25 Operators and Management Services Providers shall determine the daily win amount by comparing a win report from the sports wagering system to the reconciliation of the sports wagering drawers. Operators and Management Services Providers shall be required to report sports wagering revenue as the higher amount unless otherwise authorized by the Office.

## **2120 INTERNET AND MOBILE APPLICATION SPORTS WAGERING**

- 2120.1 Class A Operators and Management Services Providers associated with Class A Operators may conduct sports wagering over the internet or through the use of

mobile applications or other digital platforms; provided that the sports wagering transaction is initiated and received, or otherwise made as follows:

- (a) Within the physical confines of the approved Sports Wagering Facility; and/or
- (b) Within two (2) blocks of the approved Sports Wagering facility; provided, that the sports wagering conducted by a Class A Operator or Management Services Providers associated with Class A Operator over the internet, through mobile applications, or through other digital forms may not function within the physical confines of a different Class A Operator's designated facility; and
- (c) Operators and Management Services Providers must comply with all applicable District and federal laws and regulations.

2120.2 Class B Operators and Management Services Providers associated with Class B Operators may conduct sports wagering over the internet or through the use of mobile applications or other digital platforms; provided that the sports wagering transaction is initiated and received, or otherwise made, exclusively within the physical confines of the single approved Sports Wagering Facility and must comply with all applicable District and federal laws and regulations.

2120.3 Operators and Management Services Providers shall have in place technical and operational measures to prevent sports wagering by those who are underage.

2120.4 Operators and Management Services Providers shall utilize a Geolocation System to reasonably detect the physical location of a player attempting to access the online sports wagering system; and to monitor and block unauthorized attempts to access the online sports wagering system.

2120.5 The Geolocation System shall, at a minimum:

- (a) The Geolocation System shall ensure that any player is continually located within the permitted boundary and shall be equipped to dynamically monitor the player's location and block unauthorized attempts to access the online sports wagering system;
- (b) The Geolocation System shall trigger periodic geolocation interval checks to ensure the player remains in the area where the Operator or Management Services Provider is licensed to accept wagers;
- (c) Geolocation Systems shall not rely upon IP addresses to determine location when a mobile internet connection is being used to place a wager;

- (d) Geolocation Systems shall detect and block non-secure devices that have been jailbroken and rooted devices; and
  - (e) Shall keep their Geolocation Systems up to date, including integrating the latest solutions in real time that can detect the use of remote desktop software, rootkits, virtualization, or any other programs identified by the Office having the ability to circumvent geolocation measures.
- 2120.6 Operators and Management Services Providers shall provide the Office at least every ninety (90) days, evidence that the Geolocation system is updated to the latest solution.
- 2120.7 The integrity of the Geolocation System shall be reviewed regularly by the Operator or Management Services Provider to ensure it detects and mitigates existing and emerging location fraud risks.
- 2120.8 The Office shall approve technical specifications for Geolocation Systems and any specific requirements related to geolocation and may also issue such requirements in the form of technical bulletins.
- 2120.9 Mobile applications are limited to one skin for each license.

## **2121 REMOTE SPORTS WAGERING SYSTEMS**

- 2121.1 Each Remote Sports Wagering System that provides content to another sports wagering system shall conform to the following requirements:
- (a) Maintain internal controls for all aspects of sports wagering operations prior to implementation and any time a change is made thereafter. The internal controls shall include detailed procedures for system security, operations, and accounting;
  - (b) Maintain internal controls approved by the Office that address compliance with all online sports wagering system requirements;
  - (c) Employ personnel responsible for duties of an Information Technology Department, ensuring the operation and integrity of the sports betting and reviewing all reports of suspicious behavior as determined and approved by the Office;
  - (d) Perform an annual system integrity and security assessment conducted by an independent professional selected by the Licensee, subject to the approval of the Office;
  - (e) The independent professional's report on the assessment shall be submitted to the Office; and

(f) Provide the Office with physical and logical access to the remote sports wagering system to review and collect all data contained therein.

2121.2 A Remote Sports Wagering System shall only offer to an Operator's and Management Services Provider's wagers on sporting events approved by the Office and shall notify the applicable Operators and Management Services Providers and the Office when a game is disabled, regardless of the reason.

2121.3 A Remote Sports Wagering System shall only void wagers via a procedure agreed upon between the Remote Sports Wagering System and affected Operators and Management Services Providers or after being notified by the Operator or the Management Services Provider that a wager must be voided.

2121.4 Each Remote Sports Wagering System shall respond to the Operator and Management Services Provider for any issue received related to a player or other wagering issue with a resolution within three (3) calendar days.

2121.5 Any feature that allows a user to manually input or override any wager transaction shall be submitted to the Office for approval prior to use.

2121.6 Each Remote Sports Wagering System shall monitor for and immediately report to the appropriate Operators and Management Services Providers and the Office, any malfunction or security incident that adversely affects the integrity of critical data or system functionality.

## **2122 SPORTS WAGERING ACCOUNT REQUIREMENTS**

2122.1 Online sports wagering shall only be engaged in by players who have established a Sports Wagering Account.

2122.2 Nothing in this section shall be interpreted to prohibit Operators or Management Services Provider from accepting anonymous wagers at Sports Wagering Facility Ticket Writers or a Self-Service Betting Terminal.

2122.3 The information obtained to initially create a Sports Wagering Account is recorded and maintained. The information includes, but is not limited to:

- (a) The player's legal name;
- (b) The player's date of birth;
- (c) The player's residential address (a post office box is not acceptable); and
- (d) The player's Social Security number (SSN) or equivalent for a foreign player such as a passport or taxpayer identification number. The player

may enter only the last four (4) digits of an SSN if the other factors are sufficient to determine the entire nine-digit SSN within four (4) minutes; if that cannot be done, entry of the nine-digit SSN is required.

- 2122.4 Operators and Management Services Providers shall:
- (a) Verify the player's identity, including that the player is of the legal age of eighteen (18) years of age or older, not self-excluded or otherwise prohibited from participating in Sports Wagering; and
  - (b) Record the document number of the government-issued identification credentials examined, or other methodology for remote, multi-sourced authentication, which may include third-party and governmental databases, as approved by the Office.
- 2122.5 Operators and Management Services Providers shall have an age verification process as a part of its registration process which may include requiring the use of a reputable independent third party that is common in the business of verifying an individual's personal identity information.
- 2122.6 Operators and Management Services Providers shall record the player's acceptance of the terms and conditions and privacy policy and acknowledgment that the information they provided is accurate and that they are prohibited from allowing any other person to access or use their Sports Wagering Account.
- 2122.7 Operators and Management Services Providers shall notify the player of the establishment of the Sports Wagering Account by email or first-class mail.
- 2122.8 Once a Sports Wagering Account is created, a secure personal identification for the player authorized to use the Sports Wagering Account shall be established that is reasonably designed to prevent the unauthorized access to, or use of, the Sports Wagering Account by any individual other than the player for whom the Sports Wagering Account is established.
- 2122.9 A player shall have only one (1) Sports Wagering Account for each License.
- 2122.10 A Sports Wagering Account may be funded using:
- (a) Cash deposits made directly with the Licensee;
  - (b) Personal checks, cashier's checks, wire transfer and money order deposits made directly or mailed to the Licensee;
  - (c) Debits from the player's debit card or credit card;

- (d) Transfers from another account verified to be controlled by the player through the Automated Clearing House (ACH deposit) or another mechanism designed to facilitate electronic commerce transactions;
- (e) Cash complimentary, promotional credit, or bonus credit;
- (f) Winnings;
- (g) Adjustments made by the Licensee with documented notification to the player;
- (h) A transaction at a Self-Service Betting Terminal; or
- (i) Any other means approved by the Office.

2122.11 A failed ACH deposit attempt shall not be considered fraudulent if the player has successfully deposited funds via an ACH transfer on a previous occasion with no outstanding chargebacks. Otherwise, the Operator or Management Services Provider shall:

- (a) Temporarily block the player's Account for investigation of fraud after five (5) consecutive failed ACH deposit attempts within a ten (10) minute time period. If there is no evidence of fraud, the block may be vacated; and
- (b) Suspend the player's Account after five additional consecutive-failed ACH deposit attempts within a ten-minute period.

2122.12 Prior to any withdrawal, if a player used a credit or debit card to fund a Sports Wagering Account, any remaining balance in the Sports Wagering Account up to the amount of the deposit shall be refunded to the player's credit or debit card account used to fund the Sports Wagering Account provided that a credit or debit card issuer permits the return of a withdrawal from a Sports Wagering Account funded by the credit or debit card of the issuer.

2122.13 Funds may be withdrawn from a player's Sports Wagering Account as follows:

- (a) Wagers;
- (b) Cash withdrawal made directly with the Licensee;
- (c) Personal check, cashier's check, wire transfer and money order by the Licensee made payable to the player and issued directly or delivered to the player's address on file in a manner approved by the Office;
- (d) Credits to the player's debit card or credit card;



- (e) Transfers to another account verified to be controlled by the player through the automated clearing house (ACH withdrawal) or another mechanism designed to facilitate electronic commerce transactions;
  - (f) Adjustments made by the Licensee with documented notification to the player;
  - (g) A transaction at a Self-Service Betting Terminal; or
  - (h) Any other means approved by the Office.
- 2122.14 A player's request for withdrawal of funds (*i.e.*, deposited and cleared funds and funds won) is completed within a reasonable timeframe unless there is a pending unresolved player dispute or investigation. Funds for withdrawal may be withheld from withdrawal until the funding transaction clears or the chargeback period ends. Promotional credits or bonus credits with conditions may not be withdrawn unless all conditions are met.
- 2122.15 All adjustments to player Accounts for amounts of five hundred dollars (\$500.00) or under shall be periodically reviewed by supervisory personnel as set forth in the Licensee's internal controls. All other adjustments shall be authorized by supervisory personnel prior to being entered.
- 2122.16 Operators shall not allow the transfer of funds or credits between players.
- 2122.17 Operators shall provide an account statement with details to a player on demand, which shall include account activity for at least the six (6) months preceding twenty-four (24) hours prior to the request. In addition, Operators and Management Services Providers shall, upon request, be capable of providing to a player a summary statement of all player activity during the past year.
- 2122.18 Operators shall maintain a bank account within the District, separate from all other operating accounts to ensure the security of funds held in Sports Wagering Accounts. The balance maintained in this account shall be greater than or equal to the sum of the daily ending cashable balance of all Sports Wagering Accounts, funds on wagers, and pending withdrawals. Operators and Management Services Providers shall have unfettered access to all player Sports Wagering Account and transaction data to ensure the amount held in its independent account is sufficient.
- 2122.19 Operators shall periodically re-verify a player's identification upon reasonable suspicion that the player's identification has been compromised.
- 2122.20 Operators shall offer a readily-accessible method for a player to close his or her account. Any balance remaining in a player's Sports Wagering Account closed by a player shall be refunded pursuant to the Licensee's internal controls.

- 2122.21 Sports wagering systems shall employ a mechanism that can detect and prevent any player-initiated wagering or withdrawal activity that would result in a negative balance of a Sports Wagering Account.
- 2122.22 A player's Sports Wagering Account shall be disabled after three failed log-in attempts and require multi-factor authentication to recover or reset a password or username.
- 2122.23 A mechanism shall be employed that places a Sports Wagering Account in a suspended mode:
- (a) When requested by the player for a specified period of time, which shall not be less than seventy-two (72) hours (self-exclusion);
  - (b) When required by the Office; or
  - (c) Upon a determination that a player is a prohibited Sports Wagering Participant;
  - (d) When initiated by an Operator or Management Services Provider that has evidence that indicates:
    - (1) Illegal activity;
    - (2) A negative account balance;
    - (3) After failed ACH deposit attempts;
    - (4) A violation of the terms and conditions has taken place on a player's Sports Wagering Account.
- 2122.24 When a Sports Wagering Account is in a suspended mode, the player shall be prevented from:
- (a) Wagering;
  - (b) Depositing funds;
  - (c) Withdrawing funds, unless the reason for the suspended mode would not prohibit a withdrawal;
  - (d) Making changes to their Sports Wagering Account; and
  - (e) Removing of the Sports Wagering Account from the system.

- 2122.25 A suspended Sports Wagering Account may be restored;
- (a) Upon expiration of the time period established by the player;
  - (b) When permission is granted by the Office;
  - (c) When the player is no longer a prohibited sports wagering participant; or
  - (d) When the Operator or Management Services Provider has lifted the suspended status.

## **2123 FINANCIAL AUDIT REQUIREMENTS**

- 2123.1 Upon application for an Operator or Management Services Provider License, and annually thereafter, each Operator or Management Services Provider shall submit to the Office, within one hundred eighty (180) days of the Operator or Management Services Provider's fiscal year end, its most recent audit of the financial transactions and condition of the Licensee's total Sports Wagering Operations, prepared by a Certified Public Accountant in accordance with generally accepted accounting principles and applicable District and federal law.
- 2123.2 Operators and Management Services Providers shall establish and maintain books, records, and documents (including electronic storage media) in accordance with generally accepted accounting principles and practices which sufficiently and properly reflect all revenues and expenditures of funds associated with sports wagering.
- 2123.3 Operators and Management Services Providers shall retain all records, financial records, supporting documents, statistical records, and any other documents (including electronic storage media) pertinent to their Sports Wagering Operations for a minimum period of five (5) years.
- 2123.4 Books and records subject to this chapter shall be subject to inspection, review, or audit by the Office or other authorized District of Columbia governmental officials.
- 2123.5 Any non-public record provided to the Office or other District of Columbia authorized official for the purpose of demonstrating compliance with this chapter shall not be accessed by, used, or otherwise disclosed to any contractors with whom the Office engages to provide District operated sports wagering systems or services.

## **2124 OPERATIONS PROCESS AND PROCEDURE AUDIT REQUIREMENTS**

- 2124.1 Operators and Management Services Providers, prior to commencing sports betting operations, and by June 1 each subsequent year, shall have their control

systems audited by an independent licensed audit agent approved by the Office. Sports Wagering Operators and Management Services Providers are responsible for forwarding the results of this audit to the Office.

- 2124.2 In reviewing the operations conducted by the Licensee, the audit shall consider the operational aspects of this chapter, including those set forth in these rules and the appendices of the GLI-33 Standards for Event Wagering Systems or other generally accepted standards approved by the Office, in addition to the following:
- (a) Any changes to the control system and operating environment since the previous review;
  - (b) The effectiveness of the Operator's or Management Services Provider's control systems to ensure compliance with all statutory and Office requirements.
  - (c) The Operator's or Management Services Provider's compliance with its control systems.
  - (d) Any other objectives established by the Office.

## **2125 TECHNICAL SECURITY CONTROL AUDIT REQUIREMENTS**

- 2125.1 By June 1 of each year after being licensed, Operators and Management Services Providers must complete an annual security audit by an independent licensed auditor approved by the Office. Sports Wagering Operators and Management Services Providers are responsible for forwarding the results of this audit to the Office.
- 2125.2 Newly-licensed Operators and Management Services Providers shall submit a security audit within six (6) months of being licensed. This is irrespective of whether they are actively participating in sports wagering or not.
- 2125.3 This audit includes, but is not limited to, an information security system (ISS) assessment:
- (a) Review of the operational processes that are critical to compliance;
  - (b) penetration testing focused on the external and internal infrastructure;
  - (c) The applications transferring, storing or processing player credentials or sensitive information; and
  - (d) Any other objectives established by the Office.

2125.4 Compliance with these standards is to ensure that Operators and Management Services Providers have appropriate security controls in place so that players are not exposed to unnecessary risks when choosing to participate in sports wagering.

**2126 PLAYER SPORTS WAGERS**

2126.1 An Operator or Management Services Provider shall not accept any wager on a sports event unless it has received prior approval from the Office.

2126.2 If an Operator or Management Services Provider would like to offer a new category of wagering event they must submit a request to the Office on a form specified by the Office.

2126.3 The request must be submitted to the Office at least fourteen (14) days in advance of the proposed date of accepting wagers on such category of a wagering event.

2126.4 The Office reserves the right to prohibit the acceptance of wagers and may order the cancellation of wagers and require refunds on any event for which wagering would be contrary to the public policies of the District of Columbia.

2126.5 An Operator or Management Services Provider shall only accept wagers on sports events and other events for which:

- (a) The outcome can be verified;
- (b) The outcome can be generated by a reliable and independent process;
- (c) The outcome is not be affected by any wager placed; and
- (d) The event is conducted in conformity with all applicable laws.

2126.6 Sports wagers shall only be made using:

- (a) Cash;
- (b) Cash equivalent;
- (c) Credit or debit card, online purchases only;
- (d) Promotional funds;
- (e) Sports wagering vouchers; and
- (f) Any other means approved the Office.

- 2126.7 A request for approval to accept wagers on any new category of wagering event shall be made by an Operator or Management Services Provider on such forms approved by the Office, and shall include:
- (a) A full description of the event and the manner in which wagers would be placed and winning wagers would be determined;
  - (b) A full description of any technology which would be utilized to offer the event;
  - (c) Information or documentation which demonstrates that:
    - (1) The event could be adequately supervised;
    - (2) The outcome of the event would be verifiable;
    - (3) The outcome of the event would be generated by a reliable and independent process;
    - (4) The outcome of the event would be unlikely to be affected by any wager placed;
    - (5) The event could be conducted in compliance with any applicable laws; and
    - (6) The granting of the request for approval would be consistent with the public policy of the District.
  - (d) Such additional or supplemental information as the Office may require.
- 2126.8 A Sports Wagering Operator or Management Services Provider may, in its discretion, accept a Layoff Wager from another Sports Wagering Operator or Management Services Provider. A Sports Wagering Operator or Management Services Provider placing a Layoff Wager shall disclose its identity to the other licensed Sports Wagering Operator accepting the wager.
- 2126.9 Players shall not place, nor shall Operators and Management Services Providers accept prohibited sports wagers.
- 2126.10 Each Sports Wagering Operator and Management Services Provider shall establish the minimum and maximum sports wagers that it accepts and provide notice of such minimum and maximum limits and changes thereto to the Office.
- 2126.11 Any winning ticket shall be deemed expired and ineligible for payment three hundred sixty-five (365) days from the date of the last event that forms the basis of such wager.

- 2126.12 An Operator or Management Services Provider shall be prohibited from wagering through its own Sports Wagering Facility and shall employ reasonable methods to prohibit:
- (a) A director, officer, owner, or employee of the Operator or Management Services Provider, and any relative living in the same household as the aforementioned individuals from placing a wager;
  - (b) An athlete, coach, referee, team owner, employee of a sports governing body or its member teams, and player and referee union personnel from wagering on a sporting event overseen by their sports governing body;
  - (c) An individual, group of individuals or entity with access to non-public confidential information held by the Operator from placing wagers; or
  - (d) An individual, group of individuals or entity from placing a wager as an agent or proxy for others.
- 2126.13 In determining which individual, group of individuals or entity is to be excluded from placing a wager, an Operator or Management Services Provider shall use publicly available information and any lists of such individuals, group of individuals or entities that the Sports Governing Body may provide to the Office, and which the Office, or sports governing body, has provided to the Operator or Management Services Provider.

**2127 PROHIBITED SPORTS EVENTS**

- 2127.1 No wagers may be accepted or paid by any Sports Wagering Operator Licensee in any of the following instances:
- (a) Any collegiate sports or athletic event in which any District of Columbia based college or university team participates regardless of where the event takes place;
  - (b) Any collegiate sports or athletic event that takes place in the District.
  - (c) All high school sports events, including high school electronic sports events and high school competitive video game events; and
  - (d) Any amateur sport or athletic event with the exception of:
    - (1) Olympic sporting or athletic events sanctioned by the International Olympic Committee where the majority of participants are age eighteen (18) or older, subject to limitation by the Office;

- (2) International team sports events in which persons under age 18 make up a minority of the participants;
  - (3) Collegiate sporting or athletic events occurring outside the District that do not involve a District of Columbia college or university;
  - (4) The other games of a collegiate sports or athletic tournament in which a District of Columbia college or university team is a participant; and
  - (5) Any games of a collegiate tournament that occur outside the District of Columbia even though some of the individual games or events are held in the District of Columbia.
- (e) Any collegiate sport or athletic event which the Operator Licensee knows or reasonably should know, is being placed by, or on behalf of a coach or participant in that collegiate event; and
  - (f) Any event or athletic sporting event unless approved by the Office.

2127.2 If at any time a collegiate sports or athletic event becomes a prohibited sports event as defined in Subsection 2127.1, the Operator shall cancel any wager on that event and return to each player, at minimum, the full amount of the wager.

## **2128 RESPONSIBLE GAMING PLAN**

2128.1 Operators and Management Services Providers shall submit a Responsible Gaming Plan to the Office at the time of first application. The plan must be approved by the Office prior to the commencement of gaming activity. The Plan shall include, at a minimum, the following:

- (a) The goals of the plan, procedures and deadlines for implementation of the plan;
- (b) The identification of the individual(s) who will be responsible for the implementation and maintenance of the plan;
- (c) Procedures for compliance with the office's self-exclusion program set forth in this chapter;
- (d) Procedures for implementation of a self-limitation program, allowing gamblers to set budgets for time and money expended on gambling activity offered by the licensee; and
- (e) The Applicant's plans for creating and disseminating promotional material to educate patrons about compulsive and problem gambling and to inform



them about treatment services available to compulsive and problem gamblers and their families. The Applicant shall provide examples of the materials to be used as part of its plan, including signs, brochures and other material and a description of how the material will be disseminated. The Licensee shall, at a minimum, implement the following communications:

- (1) Display signage and written materials, in conspicuous places in their Sports Wagering Facility, and on their websites and mobile applications information on the availability of problem gambling treatment or counseling, procedures for self-exclusion, and promotion of the National Council on Problem Gambling's 24 hour toll-free confidential National Helpline—1-800-522-4700 (call or text) ;
  - (2) Provide information on all print, billboard, sign, online, or broadcast advertisements, information about available programs to prevent, treat, or monitor compulsive or problem gambling, procedures for self-exclusion, and promotion of the National Council on Problem Gambling's 24 hour toll-free confidential National Helpline—1-800-522-4700 (call or text);
  - (3) Post in every designated area approved for sports wagering, on their websites and mobile applications, a statement approved by the Office referring customers to the National Council on Problem Gambling's 24 hour toll-free confidential National Helpline—1-800-522-4700 (call or text) and other information as may be required by the Office;
- (f) Procedures to prohibit an Operator, Management Services Provider, or any of their directors, officers, owners, and employees from extending credit to an individual, group of individuals or entity that places wagers with the Operator Management Services Provider or seeks to place wagers with the Operator or Management Services Provider;
  - (g) Procedures to prohibit an individual, group of individuals or entity that places wagers with the Operator or Management Services Provider from establishing more than one active Sports Wagering Account with the Operator;
  - (h) Procedures to permit an individual, group of individuals or entity that places wagers with the Operator or Management Services Provider to terminate their Account at any time and for any reason and without penalty;

- (i) Details of the Applicant's plan for responsible gaming training for its employees;
- (j) The duties and responsibilities of the key employees and gaming employees designated to implement or participate in the plan;
- (k) Procedures to prevent underage gambling;
- (l) Procedures to prevent intoxicated or impaired patrons from gambling;
- (m) An estimation of the cost of development, implementation and administration of the Responsible Gaming Plan; and
- (n) Other policies and procedures as determined by the Office to prevent problem gambling and encourage responsible gambling.

2128.2 Operators and Management Services Providers shall resubmit their Responsible Gaming Plan for approval within ten (10) business days of any changes to the plan and at license renewal.

2128.3 All sports wagering websites and mobile applications must include a description of the possible repercussions for an underage player who circumvents or attempts to circumvent controls to prevent underage play, such as immediate stoppage of play, account closure, and confiscation of winnings.

## **2129 SELF-EXCLUSION PROGRAM**

2129.1 The Self-Exclusion Program is established for the purpose of allowing persons who wish to refrain from sports wagering and other types of gambling offered by the Office, to notify the Office that they will accept responsibility for refraining from engaging in sports wagering and other gambling activities offered by the Office and its Licensees. Each person seeking placement in the Self-Exclusion Program acknowledges that it is his or her responsibility to refrain from engaging in sports wagering and other gambling activities under the jurisdiction of the Office.

2129.2 An individual may request to have their name placed on the Self-Exclusion List by completing the application and following the procedure outlined in the Office's website or printed material available from the Office, at designated locations on and off the Premises of licensed sports wagering establishments as determined by the Office.

2129.3 An application for placement on the Self-Exclusion List may only be accepted, and an intake performed, by a designated agent approved by the Office.

- 2129.4 Failure to provide any information or to execute any forms deemed necessary by the Office may result in a denial of a request for placement in the Self-Exclusion Program.
- 2129.5 Self-Exclusion List application forms may include a request to waive the liability of the Office and its agents, Sports Wagering Licensees and their agents, the District and any person licensed pursuant to the Act, or other such persons as deemed necessary by the Office, for any damages that may arise out of any act or omission related to placement in the Self-Exclusion Program.
- 2129.6 Upon the filing of an application for placement in the Self-Exclusion Program, the Office may file a Notice of Placement in the Self-Exclusion Program and such application and notice may be disclosed to Sports Wagering Operator Licensees, Management Services Providers and their agents and employees, as approved by the Office.
- 2129.7 Upon submission of an application, a designated agent shall review with the applicant the contents and statements contained in the application. If the application is complete, the designated agent shall sign the application indicating that the review has been performed and the application has been accepted.
- 2129.8 A designated agent may not sign an application if (a) any required information is not provided or (b) they are of the belief that the applicant is not capable of understanding the responsibilities and consequences of being placed on the Self-Exclusion List.
- 2129.9 The designated agent shall forward the signed application for Self-Exclusion to the Office within forty-eight (48) hours of completion in a manner directed by the Office.
- 2129.10 Upon receipt of an application, the Office, or its designee, shall review it for completeness. If the application meets all requirements of this chapter, the application shall be approved, and the individual's name shall be added to the Self-Exclusion List. If the application is incomplete, the Office, or its designee, may deny the application and make efforts to contact the applicant advising them of such.
- 2129.11 If the Licensee of the Office utilizes an internal management system to track individuals on the Self-Exclusion List, they shall update that system at least every seventy-two (72) hours with names of individuals being added or removed from the Self-Exclusion List.
- 2129.12 The Office, or its designee, shall add to the Self Exclusion List the name of any individual provided from a gaming jurisdiction outside of the District, with which the Office has entered into an intergovernmental agreement, upon a determination that the individual voluntarily requested that their name be added to the list of the

referring jurisdiction and that they were notified, either directly or by operation of law, that their name may be placed on similar lists in other jurisdictions.

- 2129.13 A person does not have to admit they are a problem gambler when placing themselves in the Self-Exclusion Program.
- 2129.14 If the applicant has elected to seek services available within the District, the Office, or its designee, shall contact the designated coordinating organization for the provision of requested services. The Executive Director shall determine the information and forms to be required of a person seeking placement on the Self-Exclusion List. Such information shall include, but not be limited to, the following:
- (a) Name, home address, email address, telephone number, date of birth, and Social Security number of the applicant;
  - (b) A passport-style photo of the applicant;
  - (c) A statement from the applicant that one or more of the following apply:
    - (1) They identify as a “problem gambler,” meaning an individual who believes their gambling behavior is currently, or may in the future without intervention, cause problems in their life or on the lives of their family, friends, or co-workers;
    - (2) They feel that their gambling behavior is currently causing problems in their life or may, without intervention, cause problems in their life; or
    - (3) There is some other reason why they wish to add their name to the Self-Exclusion List.
  - (d) Election of the duration of the exclusion in accordance with Subsection 2129.16 of this chapter;
  - (e) An acknowledgment by the applicant that the individual will not be participating in sports wagering or any other form of gambling offered by the Office and that it is their sole responsibility to refrain from doing so;
  - (f) An acknowledgment by the applicant that the applicant shall not collect any winnings or recover any losses resulting from any gambling activity under the jurisdiction of the Office for the duration of the exclusion period;
  - (g) An acknowledgment by the applicant that the individual will forfeit all rewards or points earned through any player reward or another

promotional program they engage in sports wagering while on the Self-Exclusion List;

- (h) An offer by the Office or the designated agent completing the self-exclusion application to assist the applicant to access information about gambling disorders, self-guided help or counseling services with a clinician approved by the District of Columbia Department of Behavioral Health;
- (i) An acknowledgment of understanding by the applicant that by placing their name on the Self-Exclusion List, the prohibitions identified in § 2129 apply to all sports wagering or gambling activities offered by the Office or its Licensees or affiliates, whether within the District or another jurisdiction, and that the Office may share the Self-Exclusion List with other domestic or international gaming jurisdictions resulting in placement on those lists;
- (j) An acknowledgment by the applicant that the individual is submitting the application freely, knowingly, and voluntarily;
- (k) A statement that the individual is not under the influence of a substance or suffering from a mental health condition that would impair their ability to make an informed decision;
- (l) An acknowledgment by the applicant that if they knowingly violate their agreement to refrain participating in any gambling activity offered by the Office or its Licensees or affiliates during the exclusion period, the applicant shall notify the Office of such violation within twenty-four (24) hours of such gambling activity; and releasing the District, the Office and all affiliated employees, entities and persons licensed by the Office and their affiliates, from any claims associated with their breach of the agreement;
- (m) An affidavit verifying that the applicant wishes to be placed on the Self-Exclusion List, that the Office is specifically authorized and requested to release all contents of the person's application to persons who, in the sole discretion of the Office, are necessary to implement the policies and procedures contained in this chapter. Such persons shall be subject to terms of confidentiality prescribed by the Office, which shall be contained in the application. Such persons shall include, but not be limited to the following:
  - (1) Employees or contractors of the Office involved in the administration, supervision or activities related to the administration or supervision of this chapter;

- (2) Licensees of the Office or their affiliates, agents and employees;
- (3) Designated agents; and
- (4) Law enforcement personnel involved in the administration, supervision or investigation of activities contained in this chapter.

(n) An acknowledgment by the applicant that once their name is placed on the Self-Exclusion List, they may be refused entry or ejected from areas specifically devoted to sports wagering or other forms of gambling under the jurisdiction of the Office by a person licensed by the Office, an agent of the Office, or law enforcement personnel.

2129.15 The Office may provide procedures permitting online self-exclusion if it determines that the goals, objectives and protections of the in-person self-exclusion process can be accomplished online. The Office may require any Licensee offering mobile or online sports wagering to offer self-exclusion and self-limitation options to customers as a condition of its license. The full cost of such self-exclusion and self-limitation system shall be the responsibility of the Licensee.

2129.16 As part of the request for self-exclusion, the individual must select the duration for which they wish to be excluded. An individual may select any of the following time periods as a minimum length of exclusion:

- (a) One (1) year;
- (b) Eighteen (18) months;
- (c) Three (3) years;
- (d) Five (5) years; or
- (e) Lifetime (an individual may only select the lifetime duration if their name has previously appeared on the Self-Exclusion List for at least six (6) months).

2129.17 An individual on the Self-Exclusion List may not apply to decrease the duration of exclusion. An individual who is on the Self-Exclusion List may submit a request to increase the minimum length of exclusion.

2129.18 Upon expiration of the selected duration of exclusion, individuals may request that their name be removed from the Self-Exclusion List or petition for exclusion for a new duration. Individuals shall remain on the self-Exclusion List after the expiration of the selected duration of exclusion until such time as they submit a petition for removal, and it is approved by the Office or its designee.

- 2129.19 At any time after the expiration of the selected duration of exclusion, an individual may request that their name be removed from the Self-Exclusion List by submitting a petition for removal on a form approved by the Office. The petition shall include confirmation from a designated agent that the individual completed an exit session. Any petition for removal received by the Office prior to the expiration of the duration of the selected exclusion period shall be denied.
- 2129.20 The Office shall approve a completed petition for removal. An individual who has selected a lifetime duration may not submit a petition for the removal of their name from the Self-Exclusion List. An incomplete application, including one that fails to demonstrate completion of an exit session shall be denied until such time as the application is completed.
- 2129.21 To be eligible for removal from the Self-Exclusion List the petitioner shall participate in an exit session with a designated agent. The exit session shall include a review of the risks and responsibilities of gambling, budget setting and a review of problem gambling resources should the petitioner wish to seek them. Upon completion of the exit session, the designated agent shall sign the individual's petition for removal from the Self-Exclusion List attesting to the fact that the exit session was conducted.
- 2129.22 Upon approval of a petition for removal from the Self-Exclusion List, a written notice of removal from the Self-Exclusion List shall be forwarded by the Office, or its designee, to each gaming Licensee and to the petitioner. Notice may be forwarded to the petitioner by email or first-class mail to the email address or home address provided by the petitioner in the petition. The petitioner shall be deemed to be removed from the Self-Exclusion List when the notice is sent by the Office or its designee.
- 2129.23 If a petitioner does not meet the eligibility requirements for removal from the Self-Exclusion List, the petition shall be denied. The petitioner shall be notified of the denial by email or first-class mail to the email address or home address provided by the petitioner in the petition. In the event of a denial of a petition, the individual shall remain on the Self-Exclusion List until such time as the eligibility requirements have been satisfied.
- 2129.24 An individual whose name has been removed from the Self-Exclusion List may reapply for placement on the Self-Exclusion List at any time by submitting an application in accordance with this chapter;
- 2129.25 An individual whose name was added to the Self-Exclusion List in the District in accordance with this chapter shall be removed from the Self-Exclusion List upon receipt of written notice from the referring jurisdiction that the individual's name has been removed from that jurisdiction's list.

- 2129.26 The Office shall maintain an up-to-date database of the Self-Exclusion List. Licensees designated by the Office shall be afforded access to the Self-Exclusion List. The Self-Exclusion List may only be accessed by individuals authorized in accordance with the Licensee's approved system of internal controls. All information contained in approved applications for exclusion may be disclosed to a designated Licensee.
- 2129.27 Except as authorized by this chapter, the Office's Self-Exclusion List shall be kept confidential. Except as authorized or required by this chapter, Sports Wagering Operators and Management Services Providers shall not disclose the names included in the Self-Exclusion Program.
- 2129.28 The Self-Exclusion List shall not be publicly disclosed by a Licensee, agent, affiliate or other person authorized to access the Self-Exclusion List. However, a Licensee may share the Self-Exclusion List with other designated Licensees in the District or its affiliates in other jurisdictions for the purpose of assisting in the proper administration of responsible gaming programs operated by affiliated sports wagering or lottery retailer establishments.
- 2129.29 The Office may disclose de-identified information from the Self-Exclusion List to one or more research entities selected by the Office for the purpose of evaluating the effectiveness and ensuring the proper administration of the self-exclusion program.
- 2129.30 Any person placed on the Self-Exclusion List pursuant to this chapter is deemed ineligible to place a wager at any Sports Wagering Facility or licensed Lottery retailer under the jurisdiction of the Office. Persons on the Self-Exclusion List shall not be entitled to recover losses resulting from their gambling activity since the wager was void from its beginning.
- 2129.31 Sports Wagering Licensees and Lottery retailers shall have the following responsibilities relative to the administration of the Self-Exclusion Program:
- (a) Once aware that a person who is on the Self-Exclusion List is on Premises, the Licensee or retailers shall refuse such person entry to or eject such person from areas specifically devoted to sports wagering, lottery or other forms of gambling product approved by the Office;
  - (b) To refuse to accept a wager or to allow the purchase of any gambling product approved by the Office to any individual that the Licensee or retailer has identified as being on the Self-Exclusion List or a person such Licensee or retailer suspects of being on the Self-Exclusion List;
  - (c) To promptly notify the Office, or its designee, if an individual on the Self-Exclusion List attempts to place or is discovered to have placed a sports wager or purchased or attempted to purchase a lottery ticket;



- (d) Remove self-excluded persons from player loyalty or reward card programs and targeted print, online or other forms of advertising or promotions;
- (e) Refrain from marketing to individuals on the Self-Exclusion List;
- (f) Deny access to complimentary services or items, check cashing privileges, player reward programs, and other similar benefits to persons on the Self-Exclusion List;
- (g) Deny a person identified to be on the Self-Exclusion List from any winnings derived from gambling. Winnings derived from gambling shall include, but not be limited to, such things as proceeds derived from a sports wagering or from the purchase of any gambling product approved by the Office. Where reasonably possible, the Licensee or retailer shall withhold from the individual in a lawful manner, or shall refuse to pay any such winnings derived from gambling or any money or thing of value that the individual has converted or attempted to convert into a gambling instrument whether actually wagered or not. A wagering instrument shall include, but not be limited to, tickets, vouchers, prizes, non-complimentary pay vouchers, electronic credits on a mobile wagering system or any other implement of value representing a prize won from gambling. Upon withholding or refusing to pay an individual on the Self-Exclusion List, the Licensee or retailer shall promptly notify the Office. The monetary value of the withheld winnings and wagering instrument shall be paid to the Office within forty-five (45) days;
- (h) If an individual on the Self-Exclusion List wishes to contest the forfeiture of winnings or things of value, the individual may request a hearing in writing with the Office within fifteen (15) business days of the date of the forfeiture. The request shall identify the reason why the winnings or things of value should not be forfeited. A hearing shall be conducted to determine whether the subject funds were properly forfeited in accordance with this chapter;
- (i) In cooperation with the Office, and where reasonably possible, the Licensee or retailer shall determine the amount wagered and lost by an individual who is prohibited from gambling. The monetary value of the losses shall be paid to the Office within forty-five (45) days; and
- (j) A Sports Wagering Licensee shall submit a written policy for compliance with the Self-Exclusion Program for Office approval with its license application. The Office shall review the plan for compliance with this chapter. If approved, the plan shall be implemented and followed by the Licensee.

2129.32 Programs and policies created by this chapter are intended to prevent problem gambling, treat problem gamblers and promote responsible gaming. The sole remedy for failure to comply with this chapter shall be disciplinary actions imposed by the Office. The Office, its Licensees and retailers, or employees thereof will not be liable for damages in any civil action, which is based on the following:

- (a) Compliance or noncompliance with this chapter or a plan adopted pursuant to this chapter;
- (b) An action or failure to take action under this chapter or a plan adopted under this chapter;
- (c) Failure to withhold gambling privileges from an individual; or
- (d) Permitting an individual to gamble.

## **2130 INVOLUNTARY EXCLUSION LIST**

2130.1 The Office shall maintain an Involuntary Exclusion List that consists of the names of people who the Executive Director determines meet anyone of the following criteria:

- (a) Any person whose presence in a gaming facility would be inimical to sports wagering in the District of Columbia, including the following:
  - (1) Any person who cheats;
  - (2) Any person who poses a threat to the safety of the patrons or employees;
  - (3) Persons who pose a threat to themselves;
  - (4) Persons with a documented history of conduct involving the disruption of a gaming facility;
  - (5) Persons included on another jurisdiction's exclusion list; or
  - (6) Persons subject to a Court order excluding those persons from any gaming facility;
- (b) Any felon or person who has been convicted of any crime or offense involving moral turpitude and whose presence in a Sports Wagering Facility would be inimical to sports wagering in the District of Columbia; or

- (c) Any person who enhances a risk of unfair or illegal practices in the conduct of sports wagering.

2130.2 The Executive Director's determination of inimicality may be based upon any of the following:

- (a) The nature and notoriety of the person to be excluded from Sports Wagering Facilities;
- (b) The history and nature of the involvement of the person with a Sports Wagering Facility in the District of Columbia or any other jurisdiction or with any particular licensee or licensees or any related company of any licensee;
- (c) The nature and frequency of any contacts or associations of the person with any licensee; or
- (d) Any other factor reasonably related to the maintenance of public confidence in the regulatory process or the integrity of sports wagering in the District of Columbia.

2130.3 The Involuntary Exclusion List shall contain the following information, if known, for each excluded person:

- (a) The full name and all known aliases and the date of birth;
- (b) A physical description;
- (c) The date the person's name was placed on the Involuntary Exclusion List;
- (d) A photograph, if available;
- (e) The person's occupation and current home and business addresses; and
- (f) Any other relevant information as deemed necessary by the Office.

2130.4 The Office shall distribute the Involuntary Exclusion List to Operators and Management Services Providers.

2130.5 Operators and Management Service Providers shall establish reasonable procedures designed to prevent entry of an involuntarily excluded person into the sportsbook area of a Sports Wagering Facility.

- 2130.6 Operators and Management Services Providers shall establish a system to exclude from sports wagering individuals who are on the Office's Involuntary Exclusion List.
- 2130.7 The Office shall attempt to provide notice to any person who is placed on the Involuntary Exclusion List.
- 2130.8 Each excluded person who has been listed on the Involuntary Exclusion List and wishes to contest being placed on the Involuntary Exclusion List may request an administrative hearing pursuant to § 2135.
- 2130.9 Each Operator and Management Services Provider shall, by the fifteenth (15<sup>th</sup>) of each month, provide a list of names of persons whom it has excluded from their respective sports wagering facilities including the reasons why the person was excluded from the Sports Wagering Facility. Each Operator and Management Services Provider shall, by the 15th of each month, provide a list of suspended Sports Wagering Accounts, including the reasons why the account is in suspended mode.

## **2131 ADVERTISING**

- 2131.1 Operators and Management Services Providers shall not advertise sports wagering in any area prohibited by District or federal law.
- 2131.2 Operators and Management Services Providers shall ensure that all advertising, public relations activities and marketing campaigns do not:
- (a) Contain false or misleading information;
  - (b) Fail to disclose conditions or limiting factors associated with the advertisement;
  - (c) Use a font, type size, location, lighting, illustration, graphic depiction or color obscuring conditions or limiting factors associated with the advertisement;
  - (d) Consist of indecent or offensive graphics or audio, or both;
  - (e) Target players which have been excluded from play;
  - (f) Target, either via content or placement, those under the age of eighteen (18);
  - (g) Target groups of people that are considered moderate and high-risk groups for gambling addiction;

- (h) Encourage players to chase their losses or re-invest their winnings; or
- (i) Suggest that betting is a means of solving financial problems.

2131.3 Advertisements, public relations activities and marketing campaigns shall meet the following requirements:

- (a) Provide information on compulsive gambling treatment or counseling, procedures for self-exclusion, and promotion of a problem gambling hotline;
- (b) Be socially responsible;
- (c) Give a balanced message with regard to winning and losing;
- (d) Include language demonstrating the Operator is licensed by the Office of Lottery and Gaming.

2131.4 As directed by the Office, Operators and Management Services Providers shall delete or modify any advertisement which does not conform to the requirements of this chapter or is necessary for the immediate preservation of the public peace, health safety, and welfare of District residents.

2131.5 Class B Operators shall not place or caused to be placed, physical advertising within two (2) blocks of any of the designated Class A Sports Wagering Facilities.

## **2132 ENFORCEMENT AND PENALTIES**

2132.1 The Office shall have the authority to revoke Sports Wagering Licenses for any violation of the Act, this chapter or any other applicable District or federal law or regulation.

2132.2 The Office shall have the authority to suspend Sports Wagering Licenses for a period not to exceed three hundred sixty-five (365) days for any violation of the Act, this chapter, or any other applicable District or federal law or regulation.

2132.3 If a Sports Wagering License is revoked, the Licensee is ineligible to apply for a new Sports Wagering License in the District of Columbia for a minimum of three (3) years.

2132.4 The Office shall have the authority to impose a fine of not more than fifty thousand dollars (\$50,000) for any violation of the Act, this chapter, or any other applicable District or federal laws or regulation.

2132.5 Any person, firm, partnership, association, organization, or corporation who has been fined, or whose application has been denied, or whose license has been

revoked, or suspended pursuant to this section shall have a right to a hearing before the Office and, in the event of its affirmation of such fine, denial, revocation or suspension, the right to appeal such fine, denial, revocation or suspension to the Superior Court of the District of Columbia.

### **2133 TAXATION OF SPORTS WAGERING**

2133.1 On or before the twentieth (20<sup>th</sup>) calendar day of each month, each Sports Wagering Operator in the District of Columbia shall:

- (a) File a return, on forms and in the manner prescribed by the Chief Financial Officer, with the Chief Financial Officer indicating the amount of its Gross Sports Wagering Revenue, including revenues remitted by registered sports governing bodies, for the preceding calendar month; and
- (b) Pay to the District of Columbia Treasurer ten percent (10%) of the Gross Sports Wagering Revenue from the preceding calendar month.
- (c) All funds owed to the District under the Act shall be held in trust within the boundaries of the District for the District by an Operator until the funds are paid to the District of Columbia Treasurer. An Operator shall establish a separate bank account into which Gross Sports Wagering Revenue shall be deposited and maintained until such time as the funds are paid to the District of Columbia Treasurer.

2133.2 When the tax imposed on Gross Sports Wagering Revenue has become due and payable and has not been paid, that tax may be collected using any of the provisions set forth in Chapter 44 of Title 47 of the D.C. Official Code.

2133.3 Interest shall be assessed on underpayments of the tax on Gross Sports Wagering Revenue at the rate set forth in D.C. Official Code § 47-4201 and on overpayments under D.C. Official Code § 47-4202. The provisions of D.C. Official Code § 47-4222 shall apply, as applicable.

2133.4 All of the penalties, as applicable, set forth in Chapter 42 of Title 47 shall apply to the tax imposed on Gross Sports Wagering Revenue.

### **2134 SPORTS WAGERING CBE REQUIREMENTS AND SMALL BUSINESS DEVELOPMENT PROGRAM**

2134.1 (a) An Applicant for a Provisional, initial, or renewal Sports Wagering Operator or MSP License shall submit for approval by the Director of the Department of Small and Local Business Development (“DSLBD”), a CBE plan (“CBE Plan”) that demonstrates that at least thirty-five percent (35%) of the expenses included in the Applicant’s operating budget will

be contracted or subcontracted with one (1) or more CBEs (“CBE Minimum Expenditure”) and that such contracts or subcontracts will be for commercially useful functions related to sports wagering.

- (b) The CBE Plan shall include:
- (1) An itemized Operating Budget that includes a detailed breakdown of all estimated revenues and expenses generated from the operations of a Sports Wagering Facility, or where wagering occurs in connection with a Sports Wagering License. The Operating Budget shall include:
    - (A) Detailed line items setting forth the expenditures needed to carry out the desired operating plan;
    - (B) A list of each function associated with the Operating Budget, the dollar amount of the expenditures associated with each function; a designation of whether the function will be self-performed or carried out by a contractor; and, if the function will be carried out by a contractor, a designation of whether the contractor is a CBE; and
    - (C) For each contract that will be carried out by a CBE:
      - (i) The name and address of the CBE contractor;
      - (ii) The certification number of the CBE contractor;
      - (iii) The scope of work to be performed by the CBE contractor, which shall be for a commercially useful function related to sports wagering;
      - (iv) The price to be paid by the Applicant to the CBE contractor; and
      - (v) The length of the contract with the CBE contractor.
  - (2) A CBE capacity building plan that includes:
    - (A) A detailed description of how the Applicant will operate and manage Sports Wagering activities for each year of the licensing period, increase contracting with CBEs for both professional and non-professional services;
    - (B) A detailed description of how the Applicant will develop the capacity of SBEs and SBE-eligible firms to become

Sports Wagering Operators and Management Service Providers;

(C) A detailed description of how the Applicant will develop the capacity of SBEs and SBE-eligible firms to become equity partners in the various Sports Wagering licensed operations;

(3) A written justification for any portion of the Operating Budget the Applicant seeks to exclude from the thirty-five percent (35%) CBE contracting requirement; and

(4) A copy of the auditor's report submitted to the Office pursuant to Section 307(a) of the Act.

(c) When reviewing the Operating Budget, DSLBD may exclude from the thirty-five percent (35%) CBE contracting requirement, expenditures related to internally generated costs such as employee insurance; employee benefits; employee salaries; interest; income taxes; property taxes; lease payments; bank fees; fines, claims, dues, and utilities.

(d) When evaluating a CBE plan, DSLBD shall consider whether the Applicant has demonstrated good faith efforts to increase CBE participation in the areas related to Sports Wagering.

2134.2 Each contract that is utilized to meet the CBE Minimum Expenditure shall include a requirement that the CBE perform at least thirty-five percent (35%) of the contracting effort with its own organization and resources.

2134.3 An Applicant that is a CBE or a certified joint venture shall not be required to comply with the CBE Minimum Expenditure requirement, provided the CBE or certified joint venture performs at least fifty percent (50%) of its contracting effort with its own organization and resources and, if it contracts, thirty-five percent (35%) of the contracted effort shall be with Certified Business Enterprises.

2134.4 (a) Upon receipt of the CBE Plan from the Office, the Director of DSLBD shall conduct a preliminary review of the submission for compliance with the requirements of the Act and this chapter and:

(1) If the CBE Plan submission is complete, accept the CBE Plan for review by DSLBD; or

(2) If the CBE Plan submission is incomplete or additional information is needed by DSLBD, return the CBE Plan to the



Applicant with a notice indicating the need for additional actions or materials in order for the submission to be accepted for review.

- (b) If the Applicant receives a notice from DSLBD under paragraph (a)(2) of this subsection, the Applicant shall submit to DSLBD, no later than five (5) days after receipt of the DSLBD notice, information sufficient to complete the submission for DSLBD's review of the CBE Plan. If the CBE Plan remains incomplete after the five (5)-day submission period, the CBE Plan shall be denied.

2134.5 The Director of DSLBD, or the Director of DSLBD's designee, may hold interviews or discussions with an Applicant or Applicant's representative(s) as part of the CBE Plan review process.

2.134.6 In addition to the information supplied in the Applicant's CBE Plan submission, the Director of DSLBD may require an Applicant to supply or provide access to additional information and documents relevant to DSLBD's review of the Applicant's CBE Plan.

2134.7 Upon completion of DSLBD's review of a CBE Plan, the Director of DSLBD shall provide the Applicant and the Office in writing DSLBD's approval or denial of the CBE Plan, and if the CBE Plan is approved, certify the CBE Minimum Expenditure. DSLBD shall deny the CBE Plan if the Applicant fails to demonstrate compliance with relevant requirements of the Act or this chapter.

2134.8 In accordance with the Act, the CBE Act, and these regulations, an Applicant may seek the Director of DSLBD's approval to waive the CBE Minimum Expenditure requirement, or any portion of the CBE Minimum Expenditure requirement, if the Applicant can demonstrate that there is insufficient market capacity for the goods or services that comprise the Sports Wagering Operation, and such lack of capacity leaves the Applicant commercially incapable of achieving the CBE Minimum Expenditure requirement.

2134.9 An Applicant seeking a waiver of the CBE Minimum Expenditure requirement shall submit, through the Office, a request for approval of a waiver by the Director of DSLBD ("Waiver Application"). The waiver request shall include a written justification ("Waiver Justification") that includes:

- (a) The number of certified business enterprises, if any, qualified to perform the elements of work that comprise the Sports Wagering Operation;
- (b) A summary of the market research or outreach conducted to analyze the relevant market;
- (c) Consideration given to alternate methods for acquiring the work to be contracted to make the work more amenable to be performed by CBE;

- (d) An itemized Operating Budget and operation plan in the same manner prescribed in Subsection 2134.1 of this chapter; and
- (e) A copy of the auditor's report submitted to the Office pursuant to Section 307(a) of the Act.

## 2134.10

- (a) Upon receipt of the Waiver Application, the Director of DSLBD shall conduct a review of the submission for compliance with the requirements of the Act and this chapter and:
  - (1) If the Waiver Application is complete, accept the Waiver Application for review by DSLBD; or
  - (2) If the Waiver Application is incomplete or additional information is needed by DSLBD, return the Waiver Application to the Applicant with a notice indicating the need for additional actions or materials in order for the Waiver Application to be accepted for review.
- (b) If the Applicant receives a notice from DSLBD under paragraph (a)(2) of this subsection, the Applicant shall submit to DSLBD, no later than three (3) days after receipt of the DSLBD notice, information sufficient to complete the Waiver Application for DSLBD review. If the Waiver Application remains incomplete after the three (3)-day submission period, the waiver request shall be denied.

2134.11 The Director of DSLBD, or the Director of DSLBD's designee, may hold interviews or discussions with an Applicant or Applicant's representative(s) as part of the waiver review process.

2134.12 In addition to the information supplied in the Applicant's Waiver Justification, DSLBD may require an Applicant to supply or provide access to additional information and documents relevant to DSLBD's review and determination of the Applicant's waiver request.

2134.13 Upon receipt of a complete Waiver Application, the Director of DSLBD shall post the waiver request on DSLBD's website for ten (10) days to provide the public notice of the waiver request.

2134.14 Upon completion of DSLBD's review of a Waiver Application, the Director of DSLBD shall approve or deny the waiver request in writing, with notices sent to both the Office and the Applicant. If the Director of DSLBD neither approves or denies the waiver request within thirty (30) days after the submission of a complete Waiver Application, the waiver request shall be deemed approved.

2134.15 An Applicant for certification as a joint venture shall:

- (a) Submit an executed copy of the Applicant's joint venture agreement, which must:
  - (1) Specify in reasonable detail the purpose of the joint venture and the location the joint venture will apply for a Sports Wagering Operator or MSP License;
  - (2) Identify the parties to the joint venture and define their respective obligations, rights, and responsibilities, including the management structure, control of the joint venture, financial contributions, service and labor contributions, revenue or fees for services or labor, and distribution of profits;
  - (3) Demonstrate that the majority owner(s) of the joint venture is/are a CBE;
  - (4) Demonstrate that the majority CBE owner and/or managing CBE member of the joint venture maintains the Resident-Owned Business (ROB), Disadvantaged Business Enterprise (DBE), or Small Business Enterprise (SBE) certification category;
  - (5) Provide for the establishment and administration of a separate bank account in the name of the joint venture into which all funds received will be deposited and through which all expenses will be paid, and which requires all withdrawals and deposits to be approved by the CBE member;
  - (6) Contain a provision indicating that the CBE's interest in the joint venture shall not be reduced or diluted;
  - (7) Contain a provision indicating that the CBE's financial risk is commensurate with its percentage interest in the joint venture;
  - (8) Contain a provision indicating that the joint venture agreement is the controlling agreement between the parties regarding interest, ownership, control, responsibilities, duties, and functions of the parties and the joint venture agreement shall prevail if there is any conflict between the joint venture agreement and any other agreement between the parties;
  - (9) Specify the responsibilities of the parties in at least the areas of negotiations with the owners, subcontract negotiation, and contract and subcontract performance; and

- (10) Indicate the level at which the CBE will perform services of the joint venture, receive profits of the joint venture, provide labor hours required of the joint venture, and perform other work for the joint venture (which level must be approved by DSLBD as part of the application process and which level may not be less than the percentage of the CBE's ownership interest in the joint venture).
- (b) Submit all other agreements between the joint venture parties, concerning the joint venture;
- (c) Submit additional information that:
  - (1) Demonstrates that each participant in the joint venture has the competence and expertise necessary to perform the type of work in connection with which the joint venture wishes to be certified;
  - (2) Demonstrates the joint venture has created a separate for-profit entity and registered with the Department of Consumer and Regulatory Affairs (DCRA);
  - (3) Includes any other agreements between the parties regarding the operations of the joint venture; and
  - (4) Includes the most current audited or reviewed financial statement for the non-CBE participant(s); and
- (d) Include certifications that:
  - (1) All agreements between the joint venture parties, concerning the joint venture, have been provided with the application and if any additional such agreement is later entered into by the joint venture parties, the Applicant will provide the agreement to DSLBD within five (5) business days after it is executed by the joint venture parties;
  - (2) The joint venture will permit DSLBD to enter and conduct onsite inspections and re-inspection of the joint venture's business Premises;
  - (3) The joint venture will make its records available to DSLBD at any time deemed appropriate by DSLBD; and
  - (4) The information in the application is true, correct, and complete.

- 2134.16 The joint venture shall permit DSLBD to enter and conduct onsite inspections and re-inspections of the joint venture's business Premises.
- 2134.17 DSLBD shall deny certification of any joint venture whose joint venture agreement lacks any of the provisions in § 2134.15.
- 2134.18 The joint venture shall make its records available to DSLBD at any time deemed appropriate by DSLBD.
- 2134.19 If the application for certification of a joint venture is incomplete or additional information is needed by DSLBD, DSLBD shall notify the Applicant indicating the need for additional actions or materials in order to complete the application, and the joint venture shall complete the additional actions and provide the additional materials within three (3) calendar days of DSLBD's notification.
- 2134.20 The joint venture shall notify DSLBD in writing within five (5) days of the receipt of a Sports Wagering Operator or MSP License.
- 2134.21 The joint venture shall notify DSLBD in writing if its application for a Sports Wagering Operator or MSP License is denied by the Office or if it is no longer pursuing a Sports Wagering Operator or MSP License.
- 2134.22 DSLBD may revoke the certification of a joint venture for failure to comply with the Act and these regulations.
- 2134.23 Each Operator and MSP shall comply with the reporting requirements of the Act and the CBE Act. Pursuant to D.C. Official Code § 2-218.46(i), each Operator and MSP shall provide a quarterly report that includes, for each contract that is part of the Operator or MSP's plan to meet the CBE Minimum Expenditure requirement:
- (a) The price to be paid by the Operator or MSP to the contractor or subcontractor under the contract;
  - (b) A description of the goods procured or the services subcontracted for;
  - (c) The amount paid by the Operator or MSP to the contractor or subcontractor under the contract; and
  - (d) A copy of the fully executed contract or subcontract, if the fully executed contract or subcontract was not provided in a prior quarterly report.
- 2134.24 DSLBD may also require an Operator or MSP to demonstrate compliance with relevant requirements of the Act, the CBE Act, this chapter, and other laws of the District of Columbia. In furtherance of such demonstration, the Operator and/or MSP shall:

- (a) Permit DSLBD to enter onto and conduct an on-site inspection of the Operator's or MSP's business Premises;
- (b) Provide DSLBD, during the on-site inspection, with immediate access to any records or area of the Premises that DSLBD deems necessary to review to determine whether the Operator or MSP is in compliance with relevant requirements of the Act, the CBE Act, this chapter, and other laws of the District of Columbia; and
- (c) Provide any other information DSLBD deems necessary to evidence compliance with relevant requirements of the Act, the CBE Act, this chapter, and other laws of the District of Columbia.

2134.25 Each Operator and MSP shall promptly report to DSLBD any material changes that may affect the CBE Plan, including but not limited to:

- (a) A change in ownership of a CBE included in the CBE Plan;
- (b) A change in the address of a CBE included in the CBE Plan;
- (c) The expiration of CBE certification of a contractor included in the CBE Plan;
- (d) Removal of a CBE contractor from the CBE Plan;
- (e) Addition of a CBE contractor to the CBE Plan;
- (f) A change to the CBE capacity building plan; and
- (g) A change to the Operating Budget.

2134.26 If the Operating Budget of an Operator or MSP increases or decreases by an amount greater than five percent (5%) of the amount of the Operating Budget submitted to DSLBD, the Operator or MSP shall within ten (10) business days submit to DSLBD a copy of the revised Operating Budget. DSLBD shall review the revised Operating Budget and determine if a modification to the CBE Minimum Expenditure is required.

2134.27 Each Operator and MSP shall meet with DSLBD within ten (10) days after receiving a license from the Office.

2134.28 Thereafter, the Operator and/or MSP shall meet on an annual basis with DSLBD to provide an update of the CBE Plan for utilization of Certified Business Enterprises. The Operator and/or MSP will inform DSLBD of any issues that might negatively impact the CBE performance or the CBE goal.

- 2134.29 The Applicant shall use print advertising, internet notices, pre-bid and pre-proposal conferences and the resources of DSLBD, including DSLBD's website (<http://dslbd.dc.gov>) and other resources to identify individuals or businesses that could qualify as CBEs and is encouraged to refer any such individuals or businesses to DSLBD's Certification unit to apply for certification. The Applicant may identify individuals or businesses that could qualify as CBEs and is encouraged to refer any such firms to DSLBD's Certification unit to apply for certification.
- 2134.30 If DSLBD determines that an Operator or MSP has failed to comply with an applicable CBE requirement, the Operator or MSP must develop and implement a corrective action plan, approved by DSLBD, that demonstrates how the Operator or MSP will comply with the CBE requirements in the future.
- 2134.31 If DSLBD determines, in accordance with the procedures set forth in this section that an Operator or MSP has violated Subsection 2134.23 of this chapter, DSLBD may:
- (a) Assess a civil penalty of not more than five thousand dollars (\$5,000) for the first offense;
  - (b) Assess a civil penalty of not more than fifteen thousand dollars (\$15,000) for the second offense;
  - (c) Assess a civil penalty of not more than twenty-five thousand dollars (\$25,000) for the third and each subsequent offense; and
  - (d) Refer the matter to the Office, which may revoke or suspend the Operator's or MSP's License under §§ 314 (a)(2) and (a)(3) of the Act.
- 2134.32 In addition to other penalties assessed, if DSLBD determines that an Operator or MSP has failed to use good faith efforts to meet contracting requirements in accordance with Section 305(g) of the Act and Subsection 2134.1 of this chapter, DSLBD may assess a civil penalty equal to ten (10) percent (10%) of the dollar volume of the Operator or MSP's Operating Budget.

## **2135 SPORTS WAGERING ADMINISTRATIVE HEARINGS**

- 2135.1 An individual, group of individuals or entity that has been fined, whose application has been denied, or whose license has been revoked, or suspended shall have a right to a hearing before the Office and, in the event of its affirmation of the fine, denial, revocation, or suspension, whichever applies, the right to appeal the decision of the Office to the Superior Court of the District of Columbia

- 2135.2 A request for a hearing shall be filed with the Office of the General Counsel within fifteen (15) business days after the receipt of written notice of a fine or written notice denying, suspending, or revoking a Sports Wagering License.
- 2135.3 Each request for a hearing shall contain the following information:
- (a) The name, address and telephone number of the person filing the request;
  - (b) The name, address and telephone number of the Licensees' representatives if any; and
  - (c) A clear and concise statement of facts refuting the allegations of the Office;
- 2135.4 The General Counsel shall designate a Hearing Examiner to conduct the hearing and make proposed findings of fact and conclusions of law.
- 2135.5 Any person filing a request for a hearing may be represented by counsel or any other person as a representative.
- 2135.6 On the first occasion of appearance, persons who appear in a representative capacity shall file a written notice of appearance.
- 2135.7 The notice of appearance shall state the person's name, local address, and local telephone number.
- 2135.8 The written notice of appearance shall be part of the record.
- 2135.9 Where these Rules do not address a procedural issue, the Hearing Examiner may be guided by the District of Columbia Superior Court Rules of Civil Procedure to decide the issue.
- 2135.10 Decorum and good order shall be maintained at all times during any hearing.
- 2135.11 Any person who refuses to comply with a reasonable order may be excluded from the hearing by the person conducting the hearing.
- 2135.12 The Office will provide oral or sign language interpretation services upon request for persons seeking information or participating in a hearing. The Hearing Examiner may order the use of such services at a hearing.
- 2135.13 A person who needs language interpretation services for a hearing shall request them as early as possible to avoid delay.
- 2135.14 Upon request by a party with impaired vision, the Office will provide official documents in Braille or a large print within a reasonable time.



- 2135.15 An interpreter at a hearing shall swear or affirm under penalty of perjury to interpret accurately, completely, and impartially.
- 2135.16 In any action, the parties or their representatives shall appear before the Hearing Examiner on a date set by the Hearing Examiner for a conference to consider the following:
- (a) Whether a hearing is necessary;
  - (b) Simplification of the issues;
  - (c) The possibility of obtaining the admission and stipulation of facts and documents which will avoid unnecessary proof; and
  - (d) Any other matters which may aid in the disposition of the action.
- 2135.17 The Hearing Examiner shall enter an order that recites the action taken at the conference. The order, when entered, shall control the subsequent course of the action.
- 2135.18 In computing any period of time under this title, unless otherwise stated, time shall be computed in calendar days with the following exceptions:
- (a) If the day of the act, event, or default after which the time period ends is a Saturday, Sunday, or legal holiday, the period shall run until the next day which is not a Saturday, Sunday, or legal holiday; and
  - (b) When the time period is five (5) days or less, intermediate Saturdays, Sundays, and legal holidays shall be excluded from the computation of time.
- 2135.19 Where good cause is shown and upon a written request, the Hearing Examiner may order an extension of time if made prior to the expiration of the period prescribed.
- 2135.20 The Hearing Examiner shall have the power to administer oaths, to take testimony under oath, subpoena witnesses and require the production of records, papers, and documents relevant to the inquiry.
- 2135.21 A subpoena for the appearance of witnesses and production of documents at a hearing shall only be issued by the Hearing Examiner.
- 2135.22 A party may request a subpoena in writing, or the Hearing Examiner may issue a subpoena without a party's request.

- 2135.23 Any request that the Hearing Examiner issue a subpoena should include a copy of the proposed subpoena and shall state the relevance of the requested testimony or documents. Subpoenas and forms to request a subpoena are available on the Office's website.
- 2135.24 Unless otherwise provided by law or order of the Hearing Examiner, any request or a subpoena shall be filed no later than five (5) days prior to the hearing.
- 2135.25 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.
- 2135.26 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 the Hearing Examiner, service shall be made at least four (4) days before the hearing.
- 2135.27 A subpoena for the production of documents at a hearing shall be directed to either an individual, a corporation, the Government, or another entity.
- 2135.28 A subpoena for the production of documents at a hearing 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 the Hearing Examiner.
- 2135.29 A person or entity ordered to produce documents at a hearing:
- (a) Need not appear in person at the hearing unless ordered by the Hearing Examiner to do so;

- (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.

2135.30 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.

2135.31 To prove service of a subpoena, a party shall file a written statement or shall provide in-court testimony describing the date and manner of service, and names of the persons served.

2135.32 The Hearing Examiner may quash or modify a subpoena if it:

- (a) Does not meet the requirements of this chapter;
- (b) Was improperly served;
- (c) Fails to allow a 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 a privileged or other protected information; or
- (f) Subjects a person or entity to undue burden or expense.

2135.33 If a person or entity disobeys a subpoena, the Hearing Examiner may order compliance with the subpoena. If a person subject to the order fails to comply, the Hearing Examiner may impose monetary sanctions. In addition, 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.

2135.34 Except upon order of the Hearing Examiner, a hearing scheduled before the Hearing Examiner may not be delayed by motion for a continuance unless the motion is made at least one (1) day prior to the scheduled hearing date and, in the opinion of the Hearing Examiner, sets forth good and sufficient cause for the continuance.

- 2135.35 If a party to any proceeding under this chapter without sufficient reason fails to appear at the time and place set for the hearing, the Hearing Examiner may proceed to hear the matter on the record.
- 2135.36 Hearings shall be recorded and transcribed under the direction of the Hearing Examiner.
- 2135.37 Upon payment of reasonable cost, a transcript of the proceeding shall be supplied to interested parties.
- 2135.38 Within a reasonable time after the close of a proceeding, the Hearing Examiner shall render a proposed written decision, accompanied by findings of fact, conclusions of law, and recommendations to the Executive Director.
- 2135.39 The Executive Director may change a finding of fact or conclusion of law made by the Hearing Examiner or may vacate or modify an order issued by the Hearing Examiner only if the Executive Director determines:
- (a) That the Hearing Examiner did not properly apply or interpret applicable law, office rules, written policies, or prior administrative decisions;
  - (b) That a prior administrative decision on which the Hearing Examiner relied is incorrect or should be changed; or
  - (c) That a technical error in a finding of fact should be changed.
- 2135.40 If the Executive Director makes a change to a finding of fact or conclusion of law or vacates or modifies an order of the Hearing Examiner, the Executive Director must state in writing the specific reason and the legal basis for the change.
- 2135.41 If the recommendation of the Hearing Examiner is adverse to the person who filed the request for a hearing, the person may file exceptions and present arguments to the Executive Director. The Executive Director shall make all final decisions on issuance of fines or the denial, revocation or suspension of licenses.
- 2135.42 The Executive Director shall issue a final order accompanied by findings of fact and conclusions of law.
- 2135.43 Findings of fact shall consist of a concise statement conclusions on each contested issue of fact and shall be based solely upon evidence contained in the record.
- 2135.44 Findings of fact and conclusions of law shall be supported by and in accordance with reliable, probative, and substantial evidence.

- 2135.45 At any time, the Hearing Examiner or the Clerk, in consultation with the Hearing Examiner, may correct clerical, typographical, numerical, or technical mistakes in the record and errors from oversight or omission.
- 2135.46 The Hearing Examiner may order that notice of such corrections be given to the parties.
- 2135.47 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.
- 2135.48 Any person whose license is revoked, suspended, or assessed a penalty by the final decision of the Office following a hearing shall have the right to appeal the decision to the Superior Court of the District of Columbia within the time fixed by rule of the Court.

**2136-2198 [RESERVED]**

**2199 DEFINITIONS**

2199.1 The following definitions shall apply to this chapter:

“**Act**” means the Sports Wagering Lottery Amendment Act of 2018, effective May 3, 2019 (D.C. Law 22-312; 66 DCR 1402 (February 1, 2019)).

“**Applicant**” means an individual, group of individuals or entity who applies for a Sports Wagering license in the District of Columbia.

“**Authentication process**” means a method used to verify the validity of software.

“**Cancelled wager**” means a wager that has been cancelled due to any issue with an event that prevents its completion.

“**CBE Act**” means the Small and Certified Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code §§ 2-218.01, *et seq.*), as amended.

“**CBE Plan**” means the plan required by Applicants for Sports Wagering licenses pursuant to Section 305(g) of the Act.

“**CBE plan application date**” means the date on which an application is received by the Department of Small and Local Business Development (DSLBD).

“**Certified business enterprise**” or “**CBE**” shall have the same meaning as provided in Section 2302(1D) of the CBE act.

“**CFO**” means the Chief Financial Officer of the District of Columbia.

“**Class A Operator**” means a licensed Operator who is authorized to conduct sports wagering in the District of Columbia at one (1) of the following locations: Capital One Arena (601 F Street, N.W., and described as Lot 0047, Square 0455), Audi Field (100 Potomac Avenue, S.W., and described as Lot 0027, Square 0665); Nationals Park (1500 South Capitol Street, S.E., and described as Lot 0016, Square 0705); or St. Elizabeths East Entertainment and Sports Arena (St. Elizabeth’s Campus, 1100 Oak Drive, S.E., and described as Lots 0837 and 0838, Square 5868S).

“**Class B Operator**” means a licensed Operator who is authorized to conduct sports wagering in the District of Columbia and who is prohibited from operating sports wagering within two blocks of the following locations: Capital One Arena (601 F Street, N.W., and described as Lot 0047, Square 0455), Audi Field (100 Potomac Avenue, S.W., and described as Lot 0027, Square 0665); Nationals Park (1500 South Capitol Street, S.E., and described as Lot 0016, Square 0705); or St. Elizabeths East Entertainment and Sports Arena (St. Elizabeth’s Campus, 1100 Oak Drive, S.E., and described as Lots 0837 and 0838, Square 5868S).

“**Commercially Useful Function**” shall have the same meaning as provided in Section 2302(1G) of the CBE act.

“**Days**” means calendar days.

“**Designated Facilities**” means a District establishment where sports wagering Class A Operators may operate a Sports Wagering Facility, including at the following locations: Capital One Arena (601 F Street, NW, and described as Lot 0047, Square 0455), Audi Field (100 Potomac Avenue, SW, and described as Lot 0027, Square 0665), Nationals Park (1500 South Capitol Street, SE, and described as Lot 0016, Square 0705), and St. Elizabeths East Entertainment and Sports Arena (St. Elizabeth Campus, 1100 Oak Drive, SE, and described as Lots 0837 and 0838, Square 5868S).

“**Disadvantaged Business Enterprise**” or “**DBE**” shall have the same meaning as provided in Section 2302(5) of the CBE act.

“**Dormant Account**” means an online sports wagering account which has had no player-initiated activity for a period of one (1) year.

“**DSLBD**” means the Department of Small and Local Business Development.

**“Event Number”** means a set of alpha or numeric characters that correspond to a sports event or an event ancillary to a sports event.

**“Executive Director”** means the Executive Director of the Office of Lottery and Gaming.

**“Fiscal Year”** means October 1 of each year through September 30 of the following year.

**“General Counsel”** means the General Counsel of the Office of the Chief Financial Officer.

**“Good Faith Efforts”** means the fulfillment of the CBE identification, outreach, and awareness requirements set forth in §§ 2133.01, 2133.09, and 2133.29.

**“Gross Sports Wagering Revenue”** means the total of cash or cash equivalents received from sports wagering minus the total of: Cash or cash equivalents paid to players as a result of sports wagering; cash or cash equivalents paid to purchase annuities to fund prizes payable to players over a period of time as a result of sports wagering; the actual cost paid by the license holder for any personal property distributed to a player as a result of sports wagering, excluding travel expenses, food, refreshments, lodging, and services.

**“Holding Company”** means any person, other than an individual, that directly or indirectly owns, has the power or right to vote or control, or holds with the power to vote more than five percent (5%) of the stock, equity interest, or other voting security of a person that holds, or has applied for, a Sports Wagering Operator License, Management Services Provider License or Supplier License or directly or indirectly owns, any power, right, or security through any interest in a subsidiary or successive subsidiaries, regardless of how many subsidiaries may intervene between the holding company and the holder or Applicant for a Sports Wagering Operator License, Management Services Provider License, or a Supplier License.

**“Indirect Interest”** means an interest, claim, right, legal share, or other financial stake in a person that is determined by the Office to exist by virtue of a financial or other interest in another person.”

**“Individual”** means any natural person.

**“Integrity Monitoring System”** means a system of policies and procedures approved by the Office through which an online Sports Wagering Operator receives and sends reports from Sports Wagering Operators to assist in identifying suspicious activity.

**“Intermediary Company”** means any corporation, firm, partnership, trust, limited liability company, or other form of business entity that is a holding company of a person that has applied for or holds the Sports Wagering Operator License or a Supplier License or is a direct-line subsidiary of any holding company of a person that has applied for or holds a Sports Wagering Operator License, Management Services Provider License, or a Supplier License.

**“Involuntary Exclusion List”** means a list of persons who are to be excluded or ejected from licensed Sports Wagering Facilities in the District of Columbia. The Involuntary Exclusion List consists of persons who have violated or conspired to violate laws related to gaming, cheats, willful tax evaders, individuals whose presence in a licensed gaming establishment would adversely affect public confidence and trust in the gaming industry, and persons whose presence in a licensed gaming establishment poses the potential of injurious threat to the interests of the District of Columbia.

**“Layoff Wager”** means a wager placed by a Sports Wagering Operator or Management Services Provider with another Sports Wagering Operator or Management Services Provider for the purpose of offsetting player wagers made pursuant to this chapter.

**“Licensee”** means an individual, group of individuals or entity that holds a Sports Wagering License in the District of Columbia.

**“Majority Interest”** means more than fifty percent (50%) of the total combined voting power of all classes of stock of the joint venture business enterprise or more than fifty (50%) of the total value of the joint venture business enterprise, a financial contribution to the enterprise of more than fifty percent (50%), or more than fifty percent (50%) of the total interest in the capital, profits, and loss, or beneficial interest in the joint venture business enterprise.

**“Management Services Provider”** or **“MSP”** means an independent entity affiliated with a licensed Sports Wagering Operator and licensed and approved by the Office to offer sports wagering activities in a Sports Wagering Facility or through online or mobile sports wagering. The Sports Wagering Accounts, of such intermediaries, shall be owned by the licensed Sports Wagering Operator.

**“Mobile Applications and Other Digital Platforms”** mean any mobile application or interactive platform approved by the Office for the operation of online sports wagering.

**“Multi-Factor Authentication”** means a type of strong authentication that uses two (2) of the following to verify a player's identity including, information



known only to the player, such as a password, pattern or answers to challenge questions, an item possessed by a player such as an electronic token, physical token or an identification card, or a player's biometric data, such as fingerprints or facial or voice recognition.

**“Office”** means the Office of Lottery and Gaming.

**“Online Sports Wagering System”** means all hardware, software, and communications that comprise a type of sports wagering system for the purpose of offering online sports wagering.

**“Online Sports Wagering”** means a sports wagering operation in which wagers on sports events are made through computers or mobile application on mobile devices or other approved interactive devices accepted through a sports wagering system approved by the Office to operate online sports wagering.

**“Operating Budget”** means a detailed description of all estimated revenues and expenses generated from the operations of a Sports Wagering facility, or where wagering occurs in connection with a Sports Wagering license.

**“Operator License”** means a Sports Wagering Operator License issued by the Office that authorizes the operation of sports wagering, including sports wagering conducted over the internet or through mobile applications or other digital platforms that are initiated and received, or otherwise made, exclusively within the physical confines of the single approved Sports Wagering Facility or as authorized by law.

**“Operator”** means an individual, group of individuals or entity that holds a Sports Wagering Operator License issued by the Office.

**“Pending Wager Account”** means the account maintained by a server-based gaming system that holds the total balance of all wagers pending disposition and all other funds attributable to future events.

**“Premises”** means the building or a set of buildings, subsection or subdivision of a single building or structure, or a room or set of rooms within a building or structure subject to the direct control of and actual use by a single licensed Sports Wagering Operator. A patio or deck may extend the premises beyond the interior portion of the building.

**“Prohibited Sports Wager”** means any sports wager not approved by the Office or that is otherwise unauthorized under this chapter or by law.

**“Prohibited Sports Wagering Participant”** means any individual under the age of eighteen (18); any individual who is prohibited pursuant to any self-

exclusion; any individual who is listed on the Office's Involuntary Exclusion List; any individual who is listed on any Sports Wagering Facility exclusion list; or any individual whose participation may undermine the integrity of the wagering or the sports event or for other good cause, including but not limited to, any individual placing a wager as an agent or a proxy, and any employee of the Office, a Sports Wagering Operator, Management Services Provider or Supplier.

**“Provisional Sports Wagering License”** means a temporary license issued to an Operator, Management Services Provider or Supplier.

**“Remote Sports Wagering System” or “RGS”** means hardware and software used to provide an online sports wagering or authorized games to players in conjunction with an online sports wagering system. An RGS may be a standalone system or integrated within another part of the online sports wagering system.

**“Resident-Owned Business” or “ROB”** shall have the same meaning as provided in Section 2302(15) of the CBE act.

**“Secure Transaction File”** means a file that contains data, which cannot be “modified without detection.

**“Self-Exclusion List”** means the list of persons who have applied for and been placed in the Self-Exclusion Program.

**Self-Exclusion Program”** means the program established by the Office for the purpose of allowing persons who wish to refrain from sports wagering and other types of gambling offered by the Office, to notify the Office that they will accept responsibility for refraining from engaging in sports wagering and other gambling activities offered by the Office and its Licensees.

**“Skin”** means a graphic file used to change the appearance of the user interface to a program or for a mobile application or digital platform.

**“Small Business Enterprise” or “SBE”** shall have the same meaning as provided in Section 2302(16) of the CBE act.

**“Sports League Governing Body”** means the governing body for a sports league that is registered with the Office, including, but not limited to, if registered, Major League Baseball, Major League Soccer, National Basketball Association, National Football League, National Hockey League, and the Women's National Basketball Association.

**“Sports Wagering Account”** means an account established by a Sports Wagering Operator or Management Services Provider for an individual player to engage in online or mobile sports wagering.

**“Sports Wagering Equipment”** means any mechanical, electronic or other device, mechanism, or equipment, and related supplies used or consumed in the operation of sports wagering at a licensed Sports Wagering Facility including, but not limited to, a Self-Service Betting Terminal or kiosk installed to accept sports wagers.

**“Sports Wagering Event”** means a sporting event as determined by the Office Executive Director as a sporting event on which a wager may be authorized by the Office of Gaming.

**“Sports Wagering Facility”** means the Premises approved under a sports wagering license on which a Sports Wagering Operator may offer sports wagering. A Sports Wagering Facility may be a building or a set of buildings, subsection or subdivision of a single building or structure, or a room or set of rooms within a building or structure.

**“Sports Wagering Manager”** means a key employee of the Sports Wagering Operator, or a qualified employee of a licensed Management Services Provider that is operating under a contract with a Sports Wagering Operator, responsible for the operations of sports wagering conducted pursuant to this chapter.

**“Sports Wagering Operator License”** or **“Operator License”** means the license issued by the Office that authorizes the operation of sports wagering, including sports wagering conducted over the internet or through mobile applications or other digital platforms that is initiated and received, or otherwise made, exclusively within the physical confines of the single approved Sports Wagering Facility or as otherwise authorized by law.

**“Sports Wagering Operator”** or **“Operator”** means an individual, group of individuals or entity that holds a Sports Wagering Operator License issued by the Office.

**“Sports Wagering Supplier License”** or **“Supplier”** means an individual, group of individuals or entity that seeks to sell or lease sports wagering equipment, software, systems, data or services relating to the conducting of sports wagering, by an Operator or Management Services Provider, as determined by the Office. The term does not include a Sports League Governing Body that supplies its data directly to an Operator or Management Services Provider.

**“Sports Wagering System”** means all equipment and software used in conjunction with the operation of a Sports Wagering Facility or online or mobile sports wagering.

**“Sports Wagering Ticket”** means a printed record issued or an electronic record maintained by the sports wagering system that evidences a sports wager.

**“Suspicious Betting Activity”** means any unusual betting activity which cannot be explained and is indicative of match-fixing, the manipulation of an event, misuse of inside information, or other prohibited activity.

**“Unusual Betting Activity”** means abnormal wagering activity exhibited by players and deemed by a Sports Wagering Operator, the Office or another governing body as a potential indicator of suspicious activity. Unusual wagering activity may include the size of a player’s wager or increased wagering volume on a particular event or wager type.

**“Voided Wager”** means a wager voided by a ticket writer with supervisor approval for a specified event.

**“Wager” or “Bet”** means accepting wagers and or bets on sporting events or portions of sporting events, or on the individual performance statistics of athletes in a sport, in a sporting event or combination of sporting events, by any system or method of wagering, including, but not limited to, in-person or over the internet through websites and on mobile devices. The term includes, but is not limited to, single-game bets, teaser bets, parlays, over-under, money line wagering, exchange wagering, in-game wagering, in-play bets, proposition bets, and straight bets. The term wager does not include any activity governed by securities laws of the United States or the District of Columbia, a contract of indemnity or guarantee, a contract for insurance, or participation in any game or contest in which the participants do not stake or risk anything of value other than personal efforts of the participants playing the game or contest or obtaining access to the internet, or points or credits that the sponsor of the game or contest provides to participants free of charge, and that can be used or redeemed only for participation in games or contests offered by the sponsor.

**CHAPTER 22** [RESERVED]

**CHAPTER 23** [RESERVED]

**CHAPTER 24** [RESERVED]

**CHAPTER 25** [RESERVED]

**JUDICIAL NOMINATION COMMISSION****NOTICE OF PROPOSED RULEMAKING**

The Judicial Nomination Commission (Commission), pursuant to the authority set forth in Section 434(c)(2) of the District of Columbia Home Rule Act, effective December 24, 1973 (87 Stat. 796; D.C. Official Code § 1-204.34(c)(2) (2016 Repl.)), hereby gives notice of the intent to promulgate a new Chapter 21 (Judicial Nomination Commission) of Title 28 (Corrections, Courts, and Criminal Justice) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from date of publication of this notice in the *D.C. Register*.

The purposes of this rulemaking include to clarify ambiguities in the procedures relating to the status of applicants on judicial nomination lists. When there is a vacancy in a District of Columbia court, the Commission, following an application and background check process, selects three candidates and recommends those candidates on a list sent to the President, who nominates one of the Commission's recommended candidates. If the President does not nominate a candidate within sixty (60) days of receiving the list, then the Commission nominates a candidate from the list. Candidates must be confirmed by the Senate before being appointed to a judicial office.

The procedures in the Home Rule Act are ambiguous as to what happens when the Senate fails to confirm a nominee or returns a nomination. Accordingly, the Commission is promulgating these rules to clarify the procedure to be followed when the Senate fails to confirm or returns a nomination. The rulemaking specifies that when the Senate rejects, returns, or fails to take action on a nomination by the end of a Senate session, the nomination will be deemed rejected, and the President will have sixty (60) days to make another nomination. If the President does not make another nomination within sixty (60) days, the list of candidates for the vacancy is deemed expired, and the Commission submits another list to the President, starting the application process anew. The rulemaking also clarifies certain application procedures for judicial candidates and codifies what constitutes a quorum for the adoption of an action by the Commission. This rulemaking supersedes any prior rules of the Commission to the extent of any inconsistency.

**Chapter 21, JUDICIAL NOMINATION COMMISSION, is added to Title 28 DCMR, CORRECTIONS, COURTS, AND CRIMINAL JUSTICE, to read as follows:**

**CHAPTER 21            JUDICIAL NOMINATION COMMISSION**Secs.

- 2101 MEETINGS OF THE COMMISSION
- 2102 APPLICATIONS FOR JUDICIAL NOMINATIONS
- 2103 RECOMMENDED NOMINEES LISTS

**2101 MEETINGS OF THE COMMISSION**

2101.1 A majority of the serving members of the Judicial Nomination Commission (Commission) shall constitute a quorum. The vote of a quorum shall be necessary for the adoption of an action by the Commission.

**2102 APPLICATIONS FOR JUDICIAL NOMINATIONS**

2102.1 To be considered for nomination for a vacancy in the position of judge of a District of Columbia court, applicants shall:

- (a) Be United States citizens;
- (b) Be active members of the unified District of Columbia Bar;
- (c) For the five (5) years immediately preceding the application:
  - (1) Have practiced law in the District of Columbia;
  - (2) Been on the faculty of a law school in the District of Columbia; or
  - (3) Been employed as a lawyer by the United States government or the District of Columbia government;
- (d) Be *bona fide* residents of the District of Columbia, and have maintained an actual place of abode in the District for at least ninety (90) days immediately prior to the specified deadline for applications;
- (e) Have not served, within two (2) years prior to the deadline for applications, as a member of the District of Columbia Commission on Judicial Disabilities and Tenure, or as a member of the Commission; and
- (f) Be under the statutory age of mandatory retirement for District of Columbia judges.

**2103 RECOMMENDED NOMINEES LISTS**

2103.1 For each judicial vacancy on a District of Columbia court, the Commission shall transmit a Recommended Nominees List (List) of three recommended nominees to the President of the United States.

2103.2 The Commission shall not include on a List any person who is currently on a List for a vacancy on the same District of Columbia court.

2103.3 When a vacancy will occur due to the expiration of a District of Columbia judge's term of office or a District of Columbia judge reaching the statutory mandatory

retirement age, the Commission shall transmit a List to the President no later than sixty (60) days prior to the last date of the judge's term or retirement date.

- 2103.4 When a vacancy occurs for any other reason not specified in § 2103.3, the Commission must transmit a List to the President no later than sixty (60) days after the date the vacancy occurs.
- 2103.5 When a person named on a List requests that the recommendation be withdrawn, dies, or in any other way becomes disqualified to serve as a District of Columbia judge, the Commission shall promptly recommend a person to replace the person originally recommended from the list of applicants for the vacancy.
- 2103.6 If the President does not timely nominate a person to fill a District of Columbia judicial vacancy from the existing Lists within sixty (60) days of the Commission transmitting the List for the particular District of Columbia judicial vacancy to the President, the Commission shall nominate one person from the List for that vacancy, and with the advice and consent of the United States Senate, shall appoint the person to the judicial vacancy, in accordance with Section 434(d)(1) of the District of Columbia Home Rule Act, effective December 24, 1973 (87 Stat. 796; D.C. Official Code § 1-204.34(d)(1)).
- 2103.7 When a person is nominated, by either the President or the Commission, and the United States Senate confirms the nomination, thereafter, upon the appointment of the person, either by the President or the Commission, the List for the vacancy filled by the nomination is deemed expired, and the Commission may include any person on the expired List on a subsequent List for a District of Columbia judicial vacancy if that person applies for the relevant vacancy.
- 2103.8
- (a)
- (1) When a nomination for a particular District of Columbia judicial vacancy, whether made by the President or the Commission, is rejected by the Senate, failed confirmation under the Standing Rules of the Senate, or is otherwise returned by the Senate, the nomination shall be deemed rejected.
- (2) The President shall have sixty (60) days to nominate a person to fill the particular District of Columbia judicial vacancy from one of the Lists, unless the President is sworn into office during that sixty (60)-day period, in which case the President shall have sixty (60) days from the date of assuming office to nominate another person to fill the judicial vacancy.
- (b) If the President does not timely nominate a person to fill a particular District of Columbia judicial vacancy within sixty (60) days of the date of

the rejection, the List for that vacancy shall be deemed expired. The Commission shall promptly transmit a new List for the vacancy.

- (c) In submitting a new List for a vacancy under this subsection, the Commission shall comply anew with the procedures specified by this chapter and Section 434 of the District of Columbia Home Rule Act, effective December 24, 1973 (87 Stat. 796; D.C. Official Code § 1-204.34). Persons on the expired list, including the rejected nominee, may reapply for the vacancy, but shall not be considered for the vacancy if they do not reapply.

2103.9 The computation of time for any time period specified in this section shall begin on and include the date of the event that triggers the period. Time periods shall be measured in calendar days, unless the last day is a Saturday, Sunday, or legal holiday, in which case, the period continues to run until the end of the next day that is not a Saturday, Sunday, or legal holiday.

2103.10

- (a) Lists shall be deemed transmitted on the day that they are sent to the President by the Commission, not when received.
- (b) Nominations rejected by Senate vote shall be deemed to have occurred on the date of the vote of rejection.
- (c) Nominations deemed rejected by the operation of these rules shall be deemed to have occurred on the date on which the adjournment, recess, or other event triggers the operation of the rule.

2103.11

As of the effective date of these rules, all Lists from which a nomination has been rejected by the Senate and no subsequent nomination has been made are deemed expired. The Commission shall promptly transmit new Lists to the President for each such expired List consistent with the provisions of Subsection 2103.8(c).

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the *D.C. Register*. Comments should be clearly marked “Public Comments: Judicial Nomination Commission Regulations” and sent to the Judicial Nomination Commission, 515 5th Street N.W., Suite 235, Washington, D.C. 20001, or by email to Bianca Garcia, at [dc.jnc@dc.gov](mailto:dc.jnc@dc.gov). Copies of the proposed rules may be obtained during the hours of 9:00 AM to 5:00 PM, Monday through Friday, excluding holidays by contacting Bianca Garcia, at 202-879-0478 or [dc.jnc@dc.gov](mailto:dc.jnc@dc.gov).



## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FOURTH PROPOSED RULEMAKINGRM16-2019-01, IN THE MATTER OF THE COMMISSION'S INVESTIGATION INTO THE RULES GOVERNING POLE ATTACHMENTS IN THE DISTRICT

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Sections 34-802 (2012 Repl.), 2-505 (2016 Repl.), 34-1102 (2012 Repl.), and 34-1253.03 (2012 Repl.) of the District of Columbia Code, of its intent to repeal and replace Chapter 16 (Pole Attachment Regulation for Cable Television) of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days from the date of publication of this Notice of Proposed Rulemaking (NOPR) in the *D.C. Register*.

2. The Commission proposes to repeal Chapter 16, governing Pole Attachment disputes between public utilities and Cable Operators, to make the procedures in Chapter 16 consistent with both D.C. Official Code §§ 34-1102 and 34-1253.03, which apply to Cable Operators and other entities. The replacement rules govern disputes between public utilities and other entities over the use of public utility facilities and disputes between public utilities and Cable Operators for the use of public utility facilities and rights-of-way. This Notice of Fourth Proposed Rulemaking differs from the NOPR published on February 1, 2019,<sup>1</sup> the Second NOPR published on April 26, 2019,<sup>2</sup> and the Third NOPR published on June 7, 2019,<sup>3</sup> in that specific provisions regarding to Cable Operators' use of utility facilities are added. The rules also add a definition for "Pole Attachment."

**Chapter 16, POLE ATTACHMENT PROVISIONS FOR CABLE TELEVISION, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is amended as follows:**

**The title of Chapter 16 is renamed to read as follows:**

**CHAPTER 16 USE OF PUBLIC UTILITY FACILITIES**

**Sections 1600-1608, 1613, and 1699 are repealed in their entirety.**

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<sup>1</sup> 66 DCR 1505-1507 (February 1, 2019).

<sup>2</sup> 66 DCR 5437-5439 (April 26, 2019).

<sup>3</sup> 66 DCR 6972-6975 (June 7, 2019).

A new Chapter 16 is proposed to read as follows:

**CHAPTER 16            USE OF PUBLIC UTILITY FACILITIES**

**Secs.**

- 1600 PURPOSE
- 1601 APPLICATIONS
- 1602 NOTICE OF REMOVAL AND PETITION FOR TEMPORARY STAY
- 1603 RULES GOVERNING POLE ATTACHMENT DISPUTES BETWEEN PUBLIC UTILITIES AND CABLE OPERATORS
- 1604 REMEDIES
- 1605 WAIVER OF RULES
- 1699 DEFINITIONS

**1600            PURPOSE**

- 1600.1            This chapter shall implement the Commission's regulatory authority over access to a public utility's Facilities by another public utility or by any person, firm, copartnership, association, or corporation interested in the use of a public utility's Facilities. This chapter shall also implement the Commission's regulatory authority over access to a public utility's poles, conduits, and rights-of-way by Cable Operators. This chapter also provides procedures for the processing of Applications regarding the use of such Facilities, and prompt processing of Complaints regarding the use of utility poles, conduits, or rights-of-way by Cable Operators, including the rates, terms, and conditions of such use, or petitions for temporary stay pertaining to removal of equipment or changes in rates.
- 1600.2            The Commission shall ensure that all Pole Attachment rates, terms and conditions prescribed in accordance with this chapter are just and reasonable, and shall regulate the matters described in this chapter in accordance with District of Columbia law, federal law, and to the extent applicable, Federal Communications Commission rules and regulations.

**1601            APPLICATIONS**

- 1601.1            Private negotiation of agreements regarding the use of a public utility's Facilities by another public utility or by any person, firm, copartnership, association, or corporation interested in the use of a public utility's Facilities is encouraged by the Commission. In case of failure to agree upon the use of a public utility's Facilities by another public utility or by any person, firm, copartnership, association, or corporation interested in the use of a public utility's Facilities, or the conditions or compensation for such use, any public utility or any person, firm, copartnership, association, or corporation may file an Application with the Commission.

- 1601.2 Applications filed under this chapter shall be filed in accordance with and shall be governed by the procedures set forth in Chapter 1 (Public Service Commission Rules of Practice and Procedure) of this title, except as otherwise provided by this chapter.
- 1601.3 The Application shall specify the cause of the dispute. The Application shall be accompanied by a copy of the agreement for the use of the Facilities, if any, between the Applicant and the public utility.
- 1601.4 The Commission shall investigate the Application. If the Commission determines that public convenience and necessity require such use of the Facilities and that it would not result in irreparable injury to the owners or other user of the Facilities nor in any substantial detriment to the service to be rendered by the owners or other users of the Facilities, the Commission shall direct that use of the Facilities be permitted and prescribe the conditions and compensation for such joint use. This provision does not alter a Cable Operator's rights to access a utility's poles, conduits or rights-of-way upon just and reasonable rates, terms and conditions.
- 1601.5 With respect to any Application, the Commission shall take final action within three hundred and sixty (360) days after the filing of the Application.

## **1602 NOTICE OF REMOVAL AND PETITION FOR TEMPORARY STAY**

- 1602.1 A public utility shall provide any person, firm, copartnership, association, or corporation using a public utility's Facilities no less than sixty (60) days written notice prior to the following:
- (a) Removal of any person, firm, copartnership, association, or corporation's equipment or termination of services to any person, firm, copartnership, association, or corporation's equipment located on the public utility Facilities; or
  - (b) Changes in rates, terms, or conditions for the use of public utility Facilities.
- 1602.2 Any person, firm, copartnership, association, or corporation affected by the notice in Subsection 1602.1 may file a petition for temporary stay of the action in the notice within fifteen (15) days of the notice.
- 1602.3 A petition for temporary stay shall be governed by the procedures set forth in Chapter 1 of this title, except as otherwise provided by this chapter.

**1603 RULES GOVERNING POLE ATTACHMENT DISPUTES BETWEEN PUBLIC UTILITIES AND CABLE OPERATORS**

- 1603.1 Cable Operators may also file Complaints or petitions for temporary stay regarding the use of existing utility poles, ducts, conduits or rights-of-way located in the District of Columbia. Petitions for temporary stay shall be governed by the provisions of D.C. Official Code § 34-1253.03, and Sections 1601 and 1602. Complaints shall be filed in accordance with Chapter 1 of this title as such procedures pertain to processing of formal complaints, except as otherwise provided by this chapter.
- 1603.2 In a case where it is claimed that either a rate is unjust or unreasonable, or a term or condition is unjust or unreasonable and examination of the term or condition requires review of the associated rate, the Complaint shall provide data and information in support of the claim. The data and information shall include, where applicable, the following information:
- (a) The depreciated installed cost of poles in the District of Columbia;
  - (b) The total number of poles owned and controlled or used by the public utility;
  - (c) The total number of poles which are the subject of the Complaint;
  - (d) The number of poles included in paragraph (c) of this section that are owned by the public utility and that are leased to other users by the public utility, and the annual share of pole costs allocated to the users (including the Complainant), together with the methodology for such allocation; and
  - (e) The annual carrying charges for the poles owned and controlled or used by the public utility.
- 1603.3 With respect to the data required by § 1603.2, this data and information shall be based upon the cost methodology, prescribed by the Commission. Data shall be derived from Form M, ARMIS, FERC 1, or other reports filed with state or federal regulatory agencies (identify source). Calculations made in connection with these figures shall be provided to the Applicant.
- 1603.4 Where the attachments to the data required by § 1603.2 involve ducts, conduits, or rights-of-way, in whole or in part, appropriate and equivalent data and information shall be filed.
- 1603.5 If any of the information required in § 1603.2 is not provided to the Cable Operator by the public utility upon reasonable request, the Cable Operator shall include a statement indicating the steps taken to obtain the information from the public utility, including the dates of all requests. No Complaint filed by a Cable Opera-

tor shall be dismissed where the public utility has failed to provide the information in § 1603.2 after a reasonable request.

1603.6 The Complaint shall include a brief summary of all steps taken to resolve the pole attachment dispute prior to filing.

1603.7 In its consideration of the Complaint, answer, and other filings, the Commission may take notice of any information contained in publicly available documents made by the parties to the dispute and may accept, subject to rebuttal, studies that have been conducted.

1603.8 In making any determination under this Section, the Commission shall consider the interests of both cable service subscribers and public utility consumers.

1603.9 With respect to any Complaint, the Commission shall take final action within three hundred and sixty (360) days after the filing of the Complaint.

#### **1604 REMEDIES**

1604.1 If the Commission determines that the rate, term, or condition complained of is not just and reasonable, it may prescribe a just and reasonable rate, term, or condition and may take any of the following actions:

- (a) Terminate the unjust and unreasonable rate, term, or condition in the Pole Attachment agreement; or
- (b) Direct the substitution of in the Pole Attachment agreement the just and reasonable rate, term, or condition established by the Commission.

#### **1605 WAIVER OF RULES**

1605.1 The Commission may grant exceptions to this chapter, for good cause shown, to promote justice or to prevent hardship.

#### **1699 DEFINITIONS**

1699.1 When used in this chapter, the following terms and phrases shall have the meaning ascribed:

**Applicant** – a public utility or any person, firm, copartnership, association, or corporation who files an Application.

**Application** – a filing by either a public utility or any person, firm, copartnership, association, or corporation interested in the use of a public utility's Facilities.

**Cable Operator** – a person or group of persons: (A) who provides cable service over a cable system or over an open video system and directly or through one or more affiliates owns a significant interest in such cable system or open video system; or (B) who controls or is responsible for, through any arrangement, the management and operation of a cable system or open video system.

**Commission** – the Public Service Commission of the District of Columbia.

**Complaint** – a filing by either a Cable Operator or a public utility alleging that it has been denied access to a public utility’s poles, ducts, conduits or rights-of-way, or that a rate, term, or condition.

**Facilities** – tracks, conduits, subways, poles, wires, switchboards, exchanges, works, or other equipment.

**Pole Attachment** – any attachment by a Cable Operator to a pole, duct, conduit, or right-of-way owned or controlled by a public utility.

3. Any person interested in commenting on the subject matter of this proposed rule-making action may submit written comments not later than thirty (30) days after publication of this notice in the *D.C. Register* to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005 or electronically on the Commission’s website at: [https://edocket.dcpSC.org/public/public\\_comments](https://edocket.dcpSC.org/public/public_comments). Copies of the proposed rules may be obtained by visiting the Commission’s website at [www.dcpSC.org](http://www.dcpSC.org) or at cost, by contacting the Commission Secretary at the address provided above. Persons with questions concerning this NOPR should call (202) 626-5150 or send an email to [psc-commissionsecretary@dc.gov](mailto:psc-commissionsecretary@dc.gov).

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKINGRM19-2019-01-E, ELECTRIC DISTRIBUTION SYSTEM WORKING GROUP AND ANNUAL DISTRIBUTION SYSTEM REPORT

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Sections 34-802 and 2-505 of the District of Columbia Official Code,<sup>1</sup> of its intent to repeal Chapter 5 (Fuel Adjustment Clause Audit and Review Program) and create a new Chapter 19, entitled “Electric Utility Reporting Requirements”, of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations (DCMR), in not less than thirty (30) days after publication of this Notice of Proposed Rulemaking (NOPR) in the *D.C. Register*.

2. Chapter 5 currently contains legacy regulations governing certain reporting requirements for the Potomac Electric Power Company (Pepco). These requirements were adopted prior to Pepco divesting its generation assets as a part of the restructuring of the retail electricity market in the District of Columbia. This restructuring occurred as a result of the enactment of the Retail Electric Competition and Consumer Protection Act of 1999.<sup>2</sup> However, most of the Chapter 5 provisions were promulgated in November 1982, rendering these provisions obsolete. Therefore, this NOPR repeals Chapter 5 and, in Chapter 19, establishes provisions that reflect the requirements for a “distribution-only” electric utility.

3. A new Chapter 19 is proposed to: 1) establish the “Electric Distribution System Working Group” (EDS Working Group) to replace the “Productivity Improvement Working Group” (PIWG) presently prescribed by Section 513 of Chapter 5; and 2) require the Electric Utility to file annually, by June 15th of each year, an “Annual Distribution System Report” (ADSR) to replace the Annual Consolidated Report (ACR) presently being filed by Pepco.

4. The ACR evolved from the Chapter 5 requirement that Pepco file annually a “Productivity Improvement Plan” (PIP) to identify operating factors and practices contributing to generation productivity losses and to propose productivity measures, principally efficiencies in generation fuels, that would yield net benefits for District ratepayers.<sup>3</sup> In 2002, the Commission directed Pepco to file a Comprehensive Plan focused on Pepco’s long-term planning on its underground system, its 10-year construction plans, its distribution load growth forecasts (by substation) and its transmission/substation supply load growth forecasts. Subsequently, the Commission directed Pepco to combine its PIP and its Comprehensive Plan into a single annual filing.<sup>4</sup> Beginning in 2004, Pepco began filing both Plans together, labeling its filing an “Annual

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<sup>1</sup> D.C. Official Code § 34-802 (2012 Repl.); § 2-505 (2016 Repl.).

<sup>2</sup> D.C. Official Code §§ 34-1501, *et seq.* (2016 Repl.).

<sup>3</sup> 15 DCMR § 513 (1982), as amended on March 6, 1987 and further amended on June 26, 1987.

<sup>4</sup> *Formal Case No. 991, In the Matter of an Investigation into Explosions Occurring in or Around the Underground Distribution Systems of the Potomac Electric Power Company*, Order No. 12735, rel. May 16, 2003.

Consolidated Report.”<sup>5</sup> In 2005, Pepco included its annual Manhole Event Report (which Pepco began filing in 2000), as part of the ACR. Other changes in the ACR’s format, organization and content were directed at various times thereafter, by Commission rule or order.

5. The ADSR is intended to be a single, integrated document that facilitates Commission and stakeholder review and comprehension of the Electric Utility’s (Pepco) system planning, system operations, and distribution infrastructure, and to provide related information. Specifically, the ADSR is intended to address the Electric Utility’s system planning, operations and maintenance, capital investment decisions, and related information regarding Pepco’s electric distribution system located in the District of Columbia.<sup>6</sup>

**Chapter 5, FUEL ADJUSTMENT CLAUSE AUDIT AND REVIEW PROGRAM, of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION, is repealed in its entirety.**

**Chapter 19, [REPEALED], of Title 15 DCMR is amended to read as follows:**

**Chapter 19 ELECTRIC UTILITY REPORTING REQUIREMENTS**

**Secs.**

1900 APPLICABILITY AND PURPOSE

1901 ELECTRIC DISTRIBUTION SYSTEM WORKING GROUP

1902 ANNUAL DISTRIBUTION SYSTEM REPORT – FILING PROCEDURES

**1900 APPLICABILITY AND PURPOSE**

1900.1 This chapter shall apply to the Electric Utility providing electric distribution service in the District of Columbia, subject to the jurisdiction of the Commission. For the purposes of this chapter, “Electric Utility” shall have the same meaning as defined under Subsection 3699.1, Chapter 36 (Electricity Quality of Service Standards) of Title 15 DCMR.

1900.2 The purposes of this chapter are to:

- (a) Establish an Electric Distribution System Working Group (EDS Working Group), consisting of representatives of the Electric Utility, the Office of the People’s Counsel of the District of Columbia (OPC), and the staff of the Commission (Commission Staff);
- (b) Set forth the general purposes and functions of the EDS Working Group; and

<sup>5</sup> *Formal Case No. 766, The Commission’s Fuel Adjustment Clause Audit and Review Program*, Pepco’s 2004 Consolidated Report: Productivity Improvement Plan and Comprehensive Plan, filed February 23, 2004.

<sup>6</sup> *See PEPACAR-2015 -01 In the Matter of the Annual Consolidated Report of the Potomac Electric Power Company*; and *PEPACR-2016-01, In the Matter of the Annual Consolidated Report of the Potomac Electric Power Company*, Order No. 19119, ¶ 9, September 21, 2017.



- (c) Establish certain reporting requirements currently applicable to the Electric Utility, as well as any new reporting requirements applicable to the Electric Utility that may be adopted from time-to-time by the Commission. The reporting requirements are intended to provide the Commission, OPC, and other stakeholders with technical and operational information to assist in the review and evaluation of the Electric Utility's provision of electric distribution service in the District of Columbia.

## **1901 ELECTRIC DISTRIBUTION SYSTEM WORKING GROUP**

- 1901.1 The Commission hereby establishes an EDS Working Group.
- 1901.2 The primary purposes of the EDS Working Group shall be to:
  - (a) Provide a mechanism through which the EDS Working Group may expeditiously and informally communicate, among other things, technical and operational information concerning the Electric Utility's provision of electric distribution service in the District of Columbia; and
  - (b) Respond to directives given from time-to-time to the EDS Working Group by the Commission.
- 1901.3 The EDS Working Group shall meet no less than four (4) times per year with at least one representative of each of the entities listed in Subsection 1900.2(a) of Section 1900 of Chapter 19, in attendance.
- 1901.4 The EDS Working Group may adopt internal procedures as it deems necessary and appropriate to achieve the primary purposes set forth in Subsection 1901.2.
- 1901.5 The meetings of the EDS Working Group shall not include any communications involving the Commission Staff that would constitute *ex parte* communications prohibited under Chapter 1 (Public Service Commission Rules of Practice and Procedure) of Title 15 DCMR.
- 1901.6 The Electric Utility shall file meeting minutes with the Commission within a reasonable time following the conclusion of each meeting of the EDS Working Group. These minutes shall disclose the meeting agenda, names of the attendees, any written materials presented, and a summary of matters discussed.

## **1902 ANNUAL DISTRIBUTION SYSTEM REPORT – FILING PROCEDURES**

- 1902.1 **Overview.** By June 15 annually, the Electric Utility shall file an Annual Distribution System Report (ADSR) with the Commission, setting forth a description of the Electric Utility's distribution system planning, system operations, and capital investments in associated infrastructure. This description shall address, but not be limited to, the following topics:

- (a) Service offerings, by customer class, as set forth within the Electric Utility's then currently effective Tariff;
- (b) System operations, including but not limited to, interconnected Distributed Energy Resources and Demand Side Management programs;
- (c) Reliability performance;
- (d) Load forecasts;
- (e) System planning;
- (f) Capital improvements;
- (g) Distribution automation;
- (h) Vegetation management;
- (i) Equipment maintenance practices; and
- (j) Compliance with the Electricity Quality of Service Standards set forth in Chapter 36 of Title 15 DCMR.

1902.2 **Pre-filing review.** No later than April 15 annually, the Electric Utility shall provide a draft copy of its ADSR to Commission Staff and OPC. No later than the subsequent May 15, the EDS Working Group shall meet to review and discuss the draft ADSR, with the goal of informally resolving any potential ambiguities and inconsistencies, and to correct errors (if any) in the draft ADSR.

1902.3 **Post-filing review.** OPC and the public may file comments not later than sixty (60) days from the date the ADSR is filed with the Commission. The Electric Utility may submit reply comments not later than ninety (90) days from the date the ADSR is filed with the Commission. If necessary, the Commission may make take action after reviewing the ADSR and any comments submitted.

1902.4 **Incorporation by reference.** To avoid redundancy and to simplify the reporting process, while retaining transparency, in its ADSR the Electric Utility may elect to incorporate by reference all or any portion of any document previously filed by the Electric Utility with the Commission; provided, however, any document(s) or portion thereof so incorporated must be listed, by case or other identifying number(s), document title, date of filing, relevant page and/or paragraph numbers (if applicable) and Commission eDocket URL link. This listing is to be presented in the form of a table and is to be included as an exhibit or appendix to the ADSR.

6. Any person interested in commenting on the subject matter of this proposed rulemaking action may submit written comments thereon, not later than thirty (30) days after publication of this Notice in the *D.C. Register*. Comments are to be addressed to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of

Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005 or may be submitted electronically through the Commission's website at: [https://edocket.dcpsec.org/public/public\\_comments](https://edocket.dcpsec.org/public/public_comments). Copies of the proposed rules may be obtained by visiting the Commission's website at [www.dcpsec.org](http://www.dcpsec.org) or, at cost, by contacting the Commission Secretary at the address provided above. Persons with questions concerning this Notice should call (202) 626-5150 or send an email to [psc-commissionsecretary@dc.gov](mailto:psc-commissionsecretary@dc.gov).

OFFICE OF VICTIM SERVICES AND JUSTICE GRANTS

NOTICE OF PROPOSED RULEMAKING

The Director of the Office of Victim Services and Justice Grants (OVSJG), pursuant to the authority under Section 112 of the Address Confidentiality Act of 2018, effective July 3, 2018 (D.C. Law 22-118; D.C. Official Code § 4-555.12 (2012 Repl.)) (“Act”), hereby gives notice of the intent to add a new Chapter 43 (Address Confidentiality Program) to Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR).

This rulemaking establishes OVSJG’s Address Confidentiality Program (“Program”). The Program will allow certain victims and employees, as provided in the Act, to maintain the confidentiality of their residential addresses, limit the ability to be located through District government agency records, and, with limited exceptions, withhold participants’ residential addresses from a requesting District government agency. Instead, OVSJG will provide participants with a substitute address that they can provide to agencies and at which mail may be received. District government agencies shall be prohibited from publishing a Program participant’s address in public records, with limited exceptions. The Program seeks to protect the confidentiality of participants’ residential addresses, while providing them with an alternative address that will allow them to engage in critical government activities, such as voting, receiving government benefits, or registering a child in a school.

The Director gives notice of her intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

**A new Chapter 43, ADDRESS CONFIDENTIALITY PROGRAM, is added to Title 24 DCMR, PUBLIC SPACE AND SAFETY, to read as follows:**

**CHAPTER 43 ADDRESS CONFIDENTIALITY PROGRAM**

<b>Sec.</b>	<b>Title</b>
4300	GENERAL PROVISIONS
4301	APPLICATION ASSISTANTS
4302	PROGRAM APPLICATIONS AND CERTIFICATION
4303	ADDRESS USE BY DISTRICT GOVERNMENT AGENCIES
4304	AUTHORIZATION CARDS
4399	DEFINITIONS

**4300 GENERAL PROVISIONS**

4300.1 The Address Confidentiality Act Program (“Program”) shall be administered by the Office of Victim Services and Justice Grants (“Office” or “OVSJG”) pursuant to the Address Confidentiality Act of 2018 (“Act”), and shall be applicable to participants who are victims of a covered offense, or covered employees, and who state that disclosure of their actual address would endanger their actual safety.

4300.2 Participants in the Program shall be provided, by the Office, substitute addresses at which the Office shall receive first-class, certified, and registered mail sent to participants or their representatives. OVSJG shall, at no charge, forward that mail to the participant's actual address.

4300.3 Unless excepted by § 4303 or other applicable law, each District agency shall be required to accept Program participants' substitute addresses, if provided by participants, in lieu of participants' actual addresses for any purpose the agency requires or requests a residential, work, or school address.

4300.4 The provisions of the Act, including any penalties for violations, shall apply only to District government agencies, including District government instrumentalities.

### **4301 APPLICATION ASSISTANTS**

4301.1 OVSJG shall establish a training program for application assistants who, upon designation by OVSJG pursuant to Subsection 4301.2, shall assist applicants or their representatives in submitting applications to the Program.

4301.2 A person may be designated an application assistant if the person:

- (a) Successfully completes the training established pursuant to § 4301.1; and
- (b) Provides counseling, referral, or other services to victims of a covered offense, or services at an organization that focuses on reproductive healthcare; provided, that:
  - (1) The organization where the person provides such services shall submit to OVSJG a letter on agency letterhead certifying that the person provides the requisite services; and
  - (2) If the person ceases to be affiliated with such program or organization, the program or organization shall notify OVSJG in writing and the person shall be removed from OVSJG's roster of application assistants; provided further, that if the person subsequently becomes affiliated with another program or organization that meets the criteria under this subsection, the person may be reinstated as an application assistant.

4301.3 The Director may withdraw, suspend, or terminate a person's designation as an application assistant.

**4302 PROGRAM APPLICATIONS AND CERTIFICATION**

4302.1 To apply for the Program, an applicant or the applicant's representative shall meet with an application assistant and complete the application, which shall include the following:

- (a) The applicant's name and the actual address the applicant seeks to have protected by OVSJG;
- (b) Sufficient evidence, as required under the Act, establishing that the applicant is a victim of a covered offense or is a covered employee;
- (c) A statement by the applicant or the applicant's representative that:
  - (1) Disclosure of the applicant's actual address would endanger the applicant's safety;
  - (2) The applicant has moved to the actual address in the past sixty (60) days or will relocate to the actual address in the next thirty (30) days;
  - (3) Identifies any existing court orders or pending judicial actions involving the applicant and includes a description of those orders or actions;
  - (4) Designates the Director as an agent for purposes of service of process and receiving mail;
  - (5) Provides the name and contact information of the applicant's representative, if applicable; and
  - (6) Swears or affirms, under penalty of perjury, that to the best of the applicant or applicant's representative's knowledge, the information contained in the application is true.

4302.2 OVSJG shall certify an applicant as a Program participant if:

- (a) The applicant meets the requirements in § 4302.1; and
- (b) OVSJG determines the applicant would benefit from participation in the Program.

**4303 ADDRESS USE BY DISTRICT GOVERNMENT AGENCIES**

4303.1 Except as provided in this section or other applicable law, a Program participant shall not be required to provide her or his actual address for any purpose for

which a District government agency requires or requests a residential, work, or school address.

4303.2 Only a participant's actual address shall be used as part of a registration required by the Sex Offender Registration Act of 1999, effective July 11, 2000 (D.C. Law 13-137; D.C. Official Code §§ 22-4001 *et seq.*).

4303.3 For any person who is eligible to vote in the District of Columbia and is certified by OVSJG to participate in the Program:

- (a) OVSJG shall send the participant's actual address and a copy of the authorization card described in § 4304 to the District of Columbia Board of Elections ("Board"), unless the participant opts out on the application form.
- (b) The Board shall maintain this information in its records;
- (c) If the participant decides to vote, the participant shall vote by absentee ballot; and
- (d) If the participant decides to sign a petition to be filed with the Board, the participant may use the substitute address to sign the petition.

4303.4 Office of Tax and Revenue:

- (a) While a participant's actual address shall be used on any document filed with the Office of Tax and Revenue ("OTR"), OTR shall not index by a Program participant's name in any online database of the agency relating to assessment and tax information, or relating to all recorded documents, such that the OTR online databases shall not be searchable by a participant's name, with the exceptions listed in subparagraphs (1) and (2) below:
  - (1) OTR may index by a participant's name the following recorded documents: a court order, a judgment, a lien, or any document related to debt collection that is not a security interest instrument; and
  - (2) OTR may include a participant's name in any notice or index OTR publishes for the collection of debts, including taxes and tax sales.
- (b) This subsection shall not require OTR to redact or otherwise erase a participant's name or address in any document or electronic record in its online database.

- (c) Except as provided in this subsection, OTR shall not disclose a participant's actual address unless OVSJG permits disclosure pursuant to this chapter.
- (d) To request information about and assistance with OTR records to ensure the highest level of confidentiality, a participant shall schedule an appointment with the OTR Customer Service Center or other designated contact.

#### **4304 AUTHORIZATION CARDS**

- 4304.1 After OVSJG has certified that an applicant meets all requirements and would benefit from participation in the Program, OVSJG shall issue a Program authorization card to the participant or the participant's representative, which shall include the participant's:
- (a) Name;
  - (b) Substitute address;
  - (c) Certification number;
  - (d) Signature; and
  - (e) Expiration date.
- 4304.2 An authorization card shall be valid for three (3) years from the date of the initial certification by OVSJG so long as the participant continues to qualify for the Program, unless the participant or the participant's representative cancels the participant's certification before the end of the three (3) year period.
- 4304.3 At least sixty (60) days prior to the authorization card's expiration, OVSJG shall provide notification to the participant or the participant's representative of the pending expiration.
- 4304.4 Participants may apply to OVSJG to renew their certification for an additional two (2) years. OVSJG shall renew a person's certification if OVSJG determines that the person continues to meet all requisite qualifications.
- 4304.5 Upon the Director's approval of a renewal application, OVSJG shall issue a new authorization card to the participant or the participant's representative.
- 4304.6 A District agency, presented with a valid authorization card by a participant, shall accept the substitute address designated by OVSJG as the participant's address, except as provided in § 4303.



- 4304.7 A District agency employee who lawfully requests a residential, work, or school address from a participant may make a photocopy of the participant's authorization card with the substitute address, but shall return the original card to the participant.
- 4304.8 District agency personnel shall not make the agency's compliance with this Act contingent upon:
- (a) Any proof of the participant's participation in the Program other than presentation to agency personnel of the authorization card issued by the Director; or
  - (b) The participant paying a fee.

To the extent an agency employee has questions about participants' participation in the Program, she or he may contact OVSJG.

#### **4399 DEFINITIONS**

4399.1 The following definitions shall apply to terms used in this chapter:

**Covered employee** – an individual, including a volunteer, who provides direct or indirect services at an organization:

- (a) That focuses on reproductive health care; or
- (b) Whose primary purpose is serving victims of a covered offense.

**Covered offense** – domestic violence, a sexual offense, stalking, or human trafficking as specified in Sections 101(8), (9), (15), and (16) of the Act (D.C. Official Code §§ 4-555.01(8), (9), (15) and (16)).

**Director** – the Director of the Office of Victim Services and Justice Grants.

**Office or OVSJG** – the Office of Victim Services and Justice Grants.

**Program** – the Address Confidentiality Program.

All persons wishing to comment on these proposed rules should submit written comments no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*, to Michelle Garcia, Office of Victim Services and Justice Grants, 441 4th Street, N.W., Suite 727N, Washington, D.C. 20001, or via email at [ovsjg@dc.gov](mailto:ovsjg@dc.gov). Copies of the proposed rules may be obtained from the above address.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA****ADMINISTRATIVE ISSUANCE SYSTEM**

Mayor's Order 2019-073  
August 21, 2019

**SUBJECT:** Establishment — Washington, DC Regional Planning Commission on Health and HIV

**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) and (11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, Pub. L. 93-198, D.C. Official Code § 1-204.22(2) and (11) (2016 Repl.), and pursuant to §§ 2602(a) and (b) of the Public Health Service Act, as amended by § 101 of the Ryan White Comprehensive AIDS Resources Emergency Act of 1990 (“Ryan White CARE Act”), approved August 18, 1990, 104 Stat. 576, 42 U.S.C. § 300ff-12(a) and (b), it is hereby **ORDERED** that:

**I. ESTABLISHMENT**

There is hereby established for the Washington, DC Region (“**Region**”) a Washington, DC Regional Planning Commission on Health and HIV (“**Commission**”).

**II. DESIGNATION OF REGION**

- A. For the purposes of this Order, the Region shall be defined as the following jurisdictions, which constitute an eligible metropolitan area under section 2601 of the Ryan White CARE Act (42 U.S.C. § 300ff-11):
1. The District of Columbia;
  2. The following cities in the Commonwealth of Virginia:
    - a. Alexandria;
    - b. Falls Church;
    - c. Fairfax;
    - d. Fredericksburg;

- e. Manassas; and
- f. Manassas Park;

3. The following counties in the Commonwealth of Virginia:

- a. Arlington;
- b. Clarke;
- c. Culpepper;
- d. Fairfax;
- e. Fauquier;
- f. King George;
- g. Loudoun;
- h. Prince William;
- i. Spotsylvania;
- j. Stafford; and
- k. Warren;

4. The following counties in the State of Maryland:

- a. Calvert;
- b. Charles;
- c. Frederick;
- d. Montgomery; and
- e. Prince George's;

5. The following counties in the State of West Virginia:

- a. Berkeley; and
- b. Jefferson.

### III. DUTIES

The Commission shall:

- A. Increase collaboration, efficiency, and innovation with government partners and community stakeholders to achieve a more coordinated response to HIV through a continuum of services;
- B. Conduct community planning activities for the Region, related to the implementation of the Ryan White HIV/AIDS Program (RWHAP), funded by RWHAP Parts A (Grants to Eligible Metropolitan and Transitional Areas) and F (Minority AIDS Initiative) by the U.S. Department of Health and Human Services (HHS), Health Resources and Services Administration (HRSA); and, where feasible, RWHAP Part B (Grants to States and Territories) and Centers for Disease Control and Prevention ("CDC") HIV prevention funds;
- C. Establish priorities for the allocation of funds within the Region, including how best to meet such priorities and additional factors that a recipient should consider in allocating funds under a grant based on the factors set forth in section 2602(b)(4)(C) of the Public Health Service Act (42 U.S.C. § 300ff-12(b)(4)(C));
- D. Develop a comprehensive plan for the organization and delivery of health services that is compatible with existing District, state, and local plans regarding the provision of health services to people living with HIV and that meets the requirements of section 2602(b)(4)(D) of the Public Health Service Act (42 U.S.C. § 300ff-12(b)(4)(D));
- E. Assess the efficiency of the administrative mechanism in rapidly allocating funds to the areas of greatest need within the Region, and, at the discretion of the Commission, assess the effectiveness, either directly or through contractual arrangements, of the services offered in meeting the identified needs;
- F. Inform the development or update of an Integrated HIV Prevention and Care Plan ("Integrated Plan") to be implemented and monitored by the District of Columbia Department of Health, ensuring that activities and funding are aligned with the National HIV AIDS Strategy (NHAS) and the successful execution of High-Impact Prevention (HIP) programs and activities within communities. With regard to prevention, the Integrated Plan will address prevention activities within the District of Columbia but will consider information and activities from across the EMA in integrating multiple HIV community needs and setting priorities for HIV

prevention interventions and strategies for populations at high risk of HIV infection;

- G. Participate in the development of the state-wide coordinated statement of need initiated by the District of Columbia Department of Health (DOH);
- H. Determine the size and demographics of the population of people living with HIV as well as the size and demographics of the estimated population of people living with HIV who are unaware of their HIV status;
- I. Determine the needs of the population of people living with HIV, with particular attention to individuals who know their HIV status and are not receiving HIV-related services, disparities in access and services among affected subpopulations and underserved communities, and people living with HIV who do not know their HIV status;
- J. Establish methods for obtaining input on community needs and priorities;
- K. Coordinate with federal grantees that provide HIV-related services within the Region; and
- L. Issue an annual report of its activities to the Mayor of the District of Columbia.

#### IV. COMPOSITION

The Commission shall consist of community members representing stakeholder groups and non-voting government members representing subject areas as outlined in this section.

- A. A minimum of thirty-seven (37) and maximum forty-seven (47) community members appointed by the Mayor, who shall include representation from the following categories, as required by section 2602 of the Public Health Services Act (42 U.S.C. § 300ff-12(b)(2)):
  - 1. Health care providers, including federally qualified health centers;
  - 2. Community-based organizations serving populations affected by HIV and AIDS service organizations;
  - 3. Social services providers, including providers of housing and homeless services;
  - 4. Mental health providers and substance abuse providers;
  - 5. Local public health agencies;

6. Hospital planning or health care planning agencies;
7. Affected communities, including individuals living with HIV, members of a federally-recognized Indian tribe as represented in the population, individuals co-infected with hepatitis B or C, and historically underserved groups and sub-populations;
8. Non-elected community leaders (especially representatives from communities or populations most impacted by HIV, based on social and geographic distribution);
9. State government including:
  - a. A representative of the Department of Health Care Finance (the state Medicaid agency); and
  - b. A representative of the Department of Health (the agency administering the program under part B);
10. Recipient/grantees under subpart II of Part C of Title XXVI of the Public Health Service Act (42 U.S.C. §§ 300ff-51 *et seq.*);
11. Recipient/grantees under section 2671 (Part D) of the Public Health Service Act (42 U.S.C. § 300ff-71) or, if none are operating in the Region, representatives of organizations with a history of serving children, youth, women, and families living with HIV and operating in the Region;
12. Sub-recipients/grantees of other federally-funded HIV programs, including, but not limited to, providers of HIV prevention services and, if present in the Region, a representative of each of the following:
  - a. A recipient/grantee providing services in the EMA that is funded under Part F's Special Projects of National Significance (SPNS), AIDS Education and Training Centers (AETCs), and/or Ryan White Dental Programs;
  - b. The Housing Opportunities for Persons With AIDS (HOPWA) program of the U.S. Department of Housing and Urban Development (HUD);
  - c. Other Federal programs that provide treatment for HIV, such as the Veterans Health Administration;

13. Individuals or representatives of individuals who formerly were incarcerated in a federal, District, state, or local prison/penal system and released within the last three (3) years and had HIV as of the date of release.
- B. One voting representative of the District of Columbia Department of Health, who shall serve as the Government Co-Chair.
- C. Non-voting government members representing subject areas and services jurisdiction, including:
1. The Director of the District of Columbia Department of Behavioral Health, or his or her designee;
  2. A representative from the District of Columbia Department of Health HIV Prevention Division;
  3. A representative from the State of Maryland HIV and STD Prevention program;
  4. A representative from the State of Maryland Behavioral Health Program;
  5. A representative from the State of Maryland Medicaid Program;
  6. A representative from the Commonwealth of Virginia HIV and STD Prevention Program;
  7. A representative from the Commonwealth of Virginia Behavioral Health Program;
  8. A representative from the Commonwealth of Virginia Medicaid Program; and
  9. A representative from the West Virginia Department of Health Behavioral Health, HIV and STD Prevention, HIV Housing, Medicaid, or Surveillance Program.
- D. The Commission shall include members from the community who reflect the characteristics of the HIV epidemic in the Region and from organizations providing HIV prevention, care, treatment, and other related services in response to the epidemic. The Commission membership shall be inclusive, representative, and achieve parity in conformity with the CDC guidelines for membership and with the HRSA Ryan White requirements.
- E. Unaligned consumer members

1. A minimum of thirty-three percent (33%) of the Commissioners shall be individuals who are unaligned consumers.
2. Consumers are individuals receiving HIV-related services from Ryan White Part A providers. The term consumers shall include persons living with HIV receiving services themselves and the parents and caregivers of minor children who are receiving such services.
3. Definition of "unaligned."
  - a. Unaligned means having no financial or governing interest in Ryan White Part A-funded agencies. To qualify as an "unaligned consumer," neither the individual nor a member of the individual's family may serve as a staff person, consultant, or board member of such an agency ("member of the individual's family" is defined here as a spouse, partner, mother, father, child, or sibling of the individual).
  - b. This limitation does not apply to individuals aligned with entities that receive funds from grants under other sections of the Ryan White legislation but do not receive funds through Part A.
  - c. Consumers who only volunteer with, a Ryan White Part A-funded provider are not considered to "represent" that entity and are eligible for consumer membership on the Commission as unaligned members.
4. The unaligned consumers shall reflect the demographics of the population of persons with HIV in the Region, with particular consideration given to disproportionately affected and historically underserved groups and subpopulations.

## V. CONFLICT OF INTEREST

- A. The Commission shall develop and publish procedures to guard against conflicts of interest for its members. These procedures shall guarantee that no member of the Commission shall participate in any way in consideration of, or making decisions on, grants or contracts to his or her own organization or to any organization offering the same or similar services. This prohibition shall extend to any member of the Commission having a family member who is an officer or employee in an organization being considered for a grant or contract. The conflict of interest procedures of the Commission shall also ensure compliance with section 2602(b)(5)(A) of the Public Health Service Act (42 U.S.C. § 300ff-12(b)(5)(A) and (B)).



- B. Each member of the Commission shall sign a conflict of interest statement delineating his or her economic or other relationships (for example, contracts, employment, grants, etc.) with entities that may be affected or benefit by Commission decisions. If a conflict of interest arises for any Commission member, the Commission member shall immediately disclose the conflict and recuse themselves from deliberation and debate and from making recommendations and from participating in the decision-making process related to any matter related to the conflict of interest.

## VI. TERMS

- A. Each community member of the Commission shall be appointed for a term of two (2) years; provided, the initial appointments to the Commission shall be staggered such that half of the community members shall be appointed for terms of three (3) years and half of the community members shall be appointed for terms of two (2) years; provided further, that the end date of each initial appointment shall be calculated as if the initial term began on June 1, 2018.
- B. Government members shall serve while employed in their official positions, and shall serve at the pleasure of the Mayor.
- C. Members may be appointed to fill unexpired terms as vacancies occur.
- D. The anniversary date for all appointments shall be June 1.

## VII. ORGANIZATION

- A. The following individuals shall serve as co-chairs of the Commission:
  - 1. The voting member representative of the District of Columbia Department of Health, who shall serve as the Government Co-Chair; and
  - 2. A member of the Commission who is not an employee of the District of Columbia or of any other governmental entity, who shall be selected by the members of the Commission to serve for a one (1) year term as the Community Co-Chair.
- B. The Commission may adopt bylaws and rules of procedure for the conduct of its meetings or other activities as it deems necessary to perform its duties.

## VIII. MEMORANDUM OF AGREEMENT

The December 18, 1990, memorandum of agreement between the Mayor of the District of Columbia and the County Executive of Prince George's County, Maryland, designated pursuant to the provisions of Title I of the Ryan White

Comprehensive AIDS Resources Emergency Act of 1990 is incorporated by reference herein.

**IX. ADMINISTRATION**

Administrative support for the Commission will be provided by the Department of Health to the extent that funds are available through appropriation or other public health agencies. Other agencies of the District of Columbia government and jurisdictional governments shall cooperate with the Commission as appropriate.

**X. COMPENSATION**

Members of the Commission shall serve without compensation. However, reasonable expenses of the Commission may be reimbursed, when approved in advance by the Director of the Department of Health, or his or her designee, subject to the availability of appropriations for that purpose, and shall become obligations against funds designated for that purpose.


**XI. RESCISSIONS**


Mayor's Order 2016-001 dated January 8, 2016, is hereby rescinded.

**XII. EFFECT**

This Mayor's Order supersedes all previous Mayor's Orders to the extent of any inconsistency therein.

**XIII. EFFECTIVE DATE:** This Order shall be effective *nunc pro tunc* to April 30, 2018.

  
\_\_\_\_\_  
MURIEL BOWSER  
MAYOR

ATTEST:   
\_\_\_\_\_  
KIMBERLY A. BASSETT  
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

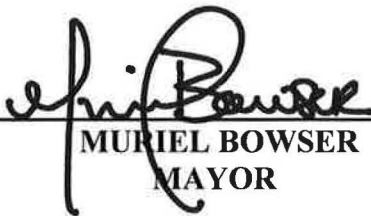
Mayor's Order 2019-074  
August 23, 2019

**SUBJECT:** Extension of the Term of the Southwest Business Improvement District Pursuant to the Business Improvement Districts Act of 1996

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, D.C. Official Code § 1-204.22(11) (2016 Repl.), and pursuant to section 19 of the Business Improvement Districts Act of 1996, effective May 29, 1996, D.C. Law 11-134, D.C. Official Code § 2-1215.18 (2016 Repl.), it is hereby **ORDERED** that:

1. The application submitted by the Southwest Business Improvement District to extend the end of the term of the Southwest Business Improvement District from September 30, 2019, to September 30, 2024, filed with the Department of Small and Local Business Development on March 29, 2019, is approved.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.




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MURIEL BOWSER  
MAYOR

ATTEST:   
 \_\_\_\_\_  
 KIMBERLY A. BASSETT  
 SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2019-075  
August 23, 2019

**SUBJECT:** Extension of the Term of the Mount Vernon Triangle Business Improvement District Pursuant to the Business Improvement Districts Act of 1996

**ORIGINATING AGENCY:** Office of the Mayor

By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, D.C. Official Code § 1-204.22(11) (2016 Repl.), and pursuant to section 19 of the Business Improvement Districts Act of 1996, effective May 29, 1996, D.C. Law 11-134, D.C. Official Code § 2-1215.18 (2016 Repl.), it is hereby **ORDERED** that:

1. The application submitted by the Mount Vernon Triangle Business Improvement District to extend the end of the term of the Mount Vernon Triangle Business Improvement District from September 30, 2019, to September 30, 2024, filed with the Department of Small and Local Business Development on March 29, 2019, is approved.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.



MURIEL BOWSER  
MAYOR

ATTEST:   
KIMBERLY A. BASSETT  
SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

GOVERNMENT OF THE DISTRICT OF COLUMBIA

ADMINISTRATIVE ISSUANCE SYSTEM

Mayor's Order 2019-076  
August 23, 2019

**SUBJECT:** Extension of the Term of the Georgetown Business Improvement District Pursuant to the Business Improvement Districts Act of 1996

**ORIGINATING AGENCY:** Office of the Mayor


By virtue of the authority vested in me as Mayor of the District of Columbia by section 422(11) of the District of Columbia Home Rule Act, approved December 24, 1973, 87 Stat. 790, D.C. Official Code § 1-204.22(11) (2016 Repl.), and pursuant to section 19 of the Business Improvement Districts Act of 1996, effective May 29, 1996, D.C. Law 11-134, D.C. Official Code § 2-1215.18 (2016 Repl.), it is hereby **ORDERED** that:

1. The application submitted by the Georgetown Business Improvement District to extend the end of the term of the Georgetown Business Improvement District from September 30, 2019, to September 30, 2024, filed with the Department of Small and Local Business Development on March 29, 2019, is approved.
2. **EFFECTIVE DATE:** This Order shall become effective immediately.




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MURIEL BOWSER  
MAYOR

ATTEST:   
 KIMBERLY A. BASSETT  
 SECRETARY OF STATE OF THE DISTRICT OF COLUMBIA

**CARLOS ROSARIO INTERNATIONAL PUBLIC CHARTER SCHOOL****REQUEST FOR QUOTES****Konica Minolta Copiers Maintenance Contract**

Carlos Rosario International Public Charter School is seeking submissions for a Request for Quotes (RFQ) for a maintenance contract on Konica Minolta copiers B/W & Color. The content of the RFQ submission will minimally include a 3-year term, and a description of what will be provided to service and maintain 15 copiers across 2 campuses to include parts, labor and all supplies (toner & developer). Response is due by 4:00pm on Friday, September 6, 2019 to Gwen Ellis at [gellis@carlosrosario.org](mailto:gellis@carlosrosario.org).

**CHILD SUPPORT SERVICES DIVISION  
DISTRICT OF COLUMBIA CHILD SUPPORT GUIDELINE COMMISSION**

**NOTICE OF A PUBLIC MEETING**

**The District of Columbia's Child Support Guideline Commission's meeting**

Thursday, August 29, 2019, at 4:00 P.M. in 11<sup>th</sup> Floor Conference Room 1114  
Office of the Attorney General for the District of Columbia  
441 4<sup>th</sup> Street N.W.  
Washington, D.C. 20001

Conference Call Option: 1 (605) 313-5671  
Access Code: 117839 #

The District of Columbia Child Support Guidelines Commission (Commission) announces meeting in which it will discuss proposed changes to the District's Child Support Guideline (Guideline). The Commission's mission is to review the Guideline annually and to provide the Mayor with recommendations for improving the efficiency and effectiveness of the Guideline. In order to achieve its objective, and to ensure the recommendations the Commission provides to the Mayor take into account the public's concerns, it invites the public to attend its meeting.

**Agenda**

1. Review the Statement of Work for the economist position

**Persons wishing to review** the Child Support Guideline prior to the public meeting, may access it online by visiting the District of Columbia's website at [www.dc.gov](http://www.dc.gov).

**Individuals who wish to attend** should contact: LaShelle Williams-Franklin, Chairperson, at (202) 904-2323, or by e-mail at [lashelle.williams-franklin@dcbc.dc.gov](mailto:lashelle.williams-franklin@dcbc.dc.gov) by Tuesday, May 21, 2019. E-mail submissions should include the full name, title, and affiliation, if applicable, of the person(s) wishing to attend. Persons wishing to comment should send nine (9) copies of their written commentary to the Office of the Attorney General for the District of Columbia at the address below.

**Individuals who wish to submit their comments** as part of the official record should send copies of written statements no later than 4:00 p.m., Wednesday, August 28, 2019 to:

David E Martinez, Assistant Attorney General  
Office of the Attorney General for the District of Columbia  
Child Support Service Division  
441 4<sup>th</sup> Street, N.W.  
Suite 550 North  
Washington, D.C. 20001  
[davide.martinez@dc.gov](mailto:davide.martinez@dc.gov)

## DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

## NOTICE OF SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

Roy H. Rockwell  
21 9<sup>th</sup> Street, NE  
Washington, DC 20002

RE:

Address:	Square:	Lot:
1000 Independence Avenue, SE	0968	0802

Dear Sir/Madam:

The Department of Consumer and Regulatory Affairs (DCRA), has reviewed and **granted** your request for Hardship for the above property for real property tax year for **FY 2019**, for the following reasons: **You provided sufficient evidence to support your extraordinary circumstances and hardship.**

*You provided sufficient evidence to support your extraordinary circumstances and hardship. Pursuant to D.C. Code §42-3131§.06 (b), Paragraph 5, "A vacant building shall be exempted by the Mayor in extraordinary circumstances and upon a showing of substantial undue economic hardship.*

*(B) The exemption may be granted for a period of up to 24 months, subject to renewal on the basis of continuing extraordinary circumstances and substantial undue economic hardship."*

DCRA will immediately notify the Office of Tax and Revenue (OTR) to reclassify the subject property as exempt or Class 1/Class 2.

To learn more about the Vacant Buildings registration process or inspection requirements, please call (202) 442-4332 or visit [www.dkra.dc.gov](http://www.dkra.dc.gov).

If you have questions regarding this decision please contact Theresa Hollins, Support Specialist at (202) 442-4377.

Sincerely,

Donald Sullivan,  
Program Manager  
Vacant Building Enforcement



## DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

## NOTICE OF SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

Walter G. Carlton  
 32434 Gadsden Lane  
 Locust Grove, Va 22508

RE:

Address:	Square:	Lot:
2401 North Capital Street, NE	3504	0029

Dear Sir/Madam:

The Department of Consumer and Regulatory Affairs (DCRA), has reviewed and **granted** your request for Hardship for the above property for real property tax year for **FY 2019**, for the following reasons: **You provided sufficient evidence to support your extraordinary circumstances and hardship.**

*Pursuant to D.C. Code §42-3131§.06 (b), Paragraph 5, “A vacant building shall be exempted by the Mayor in extraordinary circumstances and upon a showing of substantial undue economic hardship.*

*(B) The exemption may be granted for a period of up to 24 months, subject to renewal on the basis of continuing extraordinary circumstances and substantial undue economic hardship.”*

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If you have questions regarding this decision please contact Theresa Hollins, Support Specialist at (202) 442-4377.

Sincerely,  
 Donald Sullivan,  
 Program Manager  
 Vacant Building Enforcement

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

1042 Bladensburg, LLC  
312 E Main Street - #200  
Luray, Va 22835

RE:

Address:	Square:	Suffix:	Lot:
3011 20 <sup>th</sup> Street, NE	4217	N	0008

Dear Sir/Madam:

The Department of Consumer and Regulatory Affairs (DCRA), has reviewed and **granted** your request for Hardship for the above property for real property tax year for **FY 2019**, for the following reasons: **You provided sufficient evidence to support your extraordinary circumstances and hardship**

*Pursuant to D.C. Code §42-3131§.06 (b), Paragraph 5, “A vacant building shall be exempted by the Mayor in extraordinary circumstances and upon a showing of substantial undue economic hardship.*

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Sincerely,  
Donald Sullivan,  
Program Manager  
Vacant Building Enforcement

## DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

## NOTICE OF SUBSTANTIAL UNDUE ECONOMIC HARDSHIP DETERMINATION

Lorraine Wright  
3559 10<sup>th</sup> Street, NW  
Washington, DC 20010

RE:

Address:	Square:	Lot:
3559 10 <sup>th</sup> Street, NW	2831	0085

Dear Sir/Madam:

The Department of Consumer and Regulatory Affairs (DCRA), has reviewed and **granted** your request for Hardship for the above property for real property tax year for **FY 2019**, for the following reasons: **You provided sufficient evidence to support your extraordinary circumstances and hardship**

*Pursuant to D.C. Code §42-3131§.06 (b), Paragraph 5, "A vacant building shall be exempted by the Mayor in extraordinary circumstances and upon a showing of substantial undue economic hardship.*

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Sincerely,  
Donald Sullivan,  
Program Manager  
Vacant Building Enforcement

**OFFICE OF THE DEPUTY MAYOR FOR EDUCATION****NOTICE OF FUNDING AVAILABILITY****2020 Uniform Per Student Funding Formula (UPSFF) Study Grant**

The District of Columbia, by and through the Office of the Deputy Mayor for Education (DME), is soliciting grant applications from organizations to conduct a study of the UPSFF: the 2020 UPSFF Study Grant (“Grant”). The funds were allocated by the Mayor and approved by the Council of the District of Columbia pursuant to section 4032(a) of the Fiscal Year 2020 Budget Support Act of 2019 (B23-209) “for a study of the uniform per student funding formula as recommended by the February 1, 2019 report of the Uniform Per Student Funding Formula Working Group.” This study serves an important public service to the District and must provide forward-thinking, strategic recommendations to help shape the future direction of the UPSFF, while evaluating several key components of the formula as currently implemented.

**Eligibility:** Qualified organizations providing consulting and/or evaluation services related to state-level, local-level, and/or Local Education Agency (LEA)-level education funding formulas are eligible to apply.

**Length of Award:** The Grant award will be made for a period of up to one (1) year, pending funding availability and the recipient’s satisfactory completion of the proposed study.

**Available Funding for Awards:** The amount available for this award period is approximately \$300,000.

**Anticipated Number of Awards:** DME will have funding available for one (1) award.

The Request for Applications (RFA) will be released on Monday, August 12, 2019 and **the deadline for submission is Friday, September 13, 2019 at 5:00 p.m.** The RFA will be available on DME’s website, [www.dme.dc.gov](http://www.dme.dc.gov), and/or by contacting the Office of the Deputy Mayor for Education at (202) 727-3636.

DME will facilitate an optional pre-proposal meeting for grant applicants. The pre-proposal meeting will be held from 1:00 p.m. to 3:00 p.m. on Wednesday, August 28, 2019 at the Office of the Deputy Mayor for Education, 1350 Pennsylvania Avenue NW, Suite 307, Washington, DC 20004. Interested parties must contact Kevin Wenzel ([kevin.wenzel@dc.gov](mailto:kevin.wenzel@dc.gov)) in order to RSVP for this meeting by Monday, August 26, 2019.

For additional information regarding this competition, please contact Kevin Wenzel, Budget and Finance Advisor, via email at [kevin.wenzel@dc.gov](mailto:kevin.wenzel@dc.gov).

**OFFICE OF THE DEPUTY MAYOR FOR EDUCATION****REQUEST FOR APPLICATIONS****2020 Uniform Per Student Funding Formula (UPSFF) Study Grant**

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For additional information regarding this competition, please contact Kevin Wenzel, Budget and Finance Advisor, via email at [kevin.wenzel@dc.gov](mailto:kevin.wenzel@dc.gov).

**D.C. BOARD OF ELECTIONS****PUBLIC NOTICE OF PROPOSED NEW PRECINCT**

The Board of Elections (“the Board”) hereby gives notice of its intent to establish a new precinct within Ward 6 that will accommodate the increased number of residents resulting from new housing and residential developments within the ward. The boundaries currently serving Precinct 83 will be redrawn to establish the new precinct, which shall be designated Precinct 144. The boundaries for the new precinct are as follows:

**Starting at the intersection of 2<sup>nd</sup> Street and G Street, N.E.; thence south on said 2<sup>nd</sup> Street, N.E. to Massachusetts Avenue, N.E.; thence northwesterly on said Massachusetts Avenue, N.E. to North Capitol Street, N.E.; thence north on said North Capitol Street, N.E. to New York Avenue, N.E.; thence northeasterly on said New York Avenue, N.E. to Florida Avenue, N.E.; thence southeasterly on said Florida Avenue, N.E. to 4<sup>th</sup> Street, N.E.; thence south on said 4<sup>th</sup> Street, N.E. to L Street, N.E.; thence west on L Street, N.E. to 3<sup>rd</sup> Street, N.E.; thence south on 3<sup>rd</sup> Street, N.E. to H Street, N.E.; thence west on H Street, N.E. to 2<sup>nd</sup> Street, N.E.; thence south on 2<sup>nd</sup> Street, N.E. to the meeting beginning point of G Street, N.E.**

A map of the new precinct can be found at the Board’s website via this link [[map](https://www.dcboe.org/CMSPages/GetFile.aspx?guid=226f741a-efbf-4da7-a2b6-289e4638d824)]:  
<https://www.dcboe.org/CMSPages/GetFile.aspx?guid=226f741a-efbf-4da7-a2b6-289e4638d824>

The proposal for the new precinct was presented on August 7, 2019 at the Board’s regular monthly meeting. Final action on the proposal will be taken at the Board’s October meeting, which will be held in the Hearing Room at the Board’s offices, located at 1015 Half Street, S.E. Suite 750, Washington, D.C. 20003. Anyone wishing to comment on the proposal may do so in person at the meeting, or by filing written comments at the Board’s offices by the close of business on Friday, September 27, 2019.

**BOARD OF ELECTIONS****CERTIFICATION OF ANC/SMD VACANCY**

The District of Columbia Board of Elections hereby gives notice that there is a vacancy in one (1) Advisory Neighborhood Commission office, certified pursuant to D.C. Official Code § 1-309.06(d)(2); 2001 Ed; 2006 Repl. Vol.

**VACANT: 2A05**

Petition Circulation Period: **Tuesday, September 3, 2019 thru Monday, September 23, 2019**  
Petition Challenge Period: Thursday, September 26, 2019 thru Wednesday, October 2, 2019

Candidates seeking the Office of Advisory Neighborhood Commissioner, or their representatives, may pick up nominating petitions at the following location:

**D.C. Board of Elections  
1015 Half Street, SE, Room 750  
Washington, DC 20003**

For more information, the public may call **727-2525**.

**FRIENDSHIP PUBLIC CHARTER SCHOOL**  
**REQUEST FOR PROPOSALS**

Friendship Public Charter School is seeking bids from prospective vendors to provide;

- Meeting space and catering services for Friendship School activities, events, retreats and meetings.

The competitive Request for Proposal can be found on FPCS website at <http://www.friendshipschools.org/procurement/>. Proposals are due no later than **4:00 P.M., EST, Monday, September 30, 2019**. No proposals will be accepted after the deadline. Questions can be addressed to [ProcurementInquiry@friendshipschools.org](mailto:ProcurementInquiry@friendshipschools.org) .



## DEPARTMENT OF HEALTH CARE FINANCE

## PUBLIC NOTICE

## MEDICAID FEE SCHEDULE UPDATES FOR HOME HEALTH SERVICES

The Department of Health Care Finance (DHCF), in accordance with the requirements set forth in Sections 9903.8, 9904.8, and 9905.9 of Chapter 99 and Section 988 of Chapter 9 of Title 29 of the District of Columbia Municipal Regulations, announces changes to the Medicaid reimbursement rates for home health physical therapy services, home health speech pathology and audiology services, and home health occupational therapy services provided to beneficiaries enrolled in the District Medicaid program. The changes to the rates will become effective on October 1, 2019, or at a later effective date, pending approval of the corresponding State Plan Amendment by the federal Centers for Medicare and Medicaid Services.

Home health agencies provide an array of services for Medicaid beneficiaries in need of long term care services and supports. DHCF is updating the Medicaid fee schedule to ensure reimbursement rates are equitable and reflective of reasonable costs incurred by home health providers in delivering physical therapy, occupational therapy, and speech pathology and audiology services. The Medicaid Fee Schedule is located on the DHCF website at <https://www.dc-medicaid.com/dcwebportal/home>.

DHCF does not anticipate any changes to the aggregate Medicaid expenditures associated with these fee schedule changes in fiscal year (FY) 2020 and FY 2021.

For further information or questions regarding this fee schedule update, please contact Amy Xing, Reimbursement Analyst, Department of Health Care Finance, at [amy.xing2@dc.gov](mailto:amy.xing2@dc.gov), or via telephone at (202) 481-3375.

**DEPARTMENT OF HEALTH (DC HEALTH)  
NOTICE OF FUNDING AVAILABILITY  
COMMUNITY HEALTH ADMINISTRATION (CHA)  
RFA# CHA\_MHQI09.13.19  
Million Hearts Quality Improvement Program**

The District of Columbia, Department of Health (DC Health) is soliciting applications from qualified applicants for services in the program and service areas described in this Notice of Funding Availability (NOFA). This announcement is to provide public notice of the DC Health's intent to make funds available for the purpose described herein. The applicable Request for Applications (RFA) will be released under a separate announcement with guidelines for submitting the application, review criteria and DC Health terms and conditions for applying for and receiving funding.

**General Information:**

Funding Opportunity Title	Million Hearts Quality Improvement Program
Funding Opportunity #	FO-CHA-PG-00004-028
Program RFA ID#	CHA_MHQI09.13.19
Opportunity Category	Competitive
DC Health Administrative Unit	Community Health Administration
DC Health Program Bureau	Cancer and Chronic Disease Prevention Bureau
Program Contact	Riana Buford at 202-442-5910 or <a href="mailto:Riana.Buford@dc.gov">Riana.Buford@dc.gov</a>
Program Description	Funding under this RFA will support the implementation of data-driven clinical quality improvement (CQI) interventions among health systems aiming to improve diabetes, hypertension, and blood cholesterol control among patients diagnosed with these conditions through a Plan-Do-Study-Act (PDSA) cycle approach and to conduct population-level clinical quality data monitoring. A continuous quality improvement (CQI) framework shall serve as the foundation of the project. The target populations are adults, including women of childbearing age at high risk for development of heart disease, diabetes, high blood pressure, and/or high cholesterol; low-income residents; African American residents; and residents of Wards 5, 7 and 8.
Eligible Applicants	Eligible to apply are not- for profit, public, and private primary care clinics, FQHCs, and health systems located and licensed to conduct business within the District of Columbia; and experienced in providing services to adults 18 years old and above.

Anticipated # of Awards	Up to six (6)
Anticipated Amount Available	\$250,000
Floor Award Amount	\$ 25,000
Ceiling Award Amount	\$ 45,000

**Funding Authorization:**

Legislative Authorization	301(a) and 317(k)(2) of the Public Health Service Act, [42 U.S.C. Section 241(a) and 247b(k)(2)] as amended
Associated CFDA#	93.426 Improving the Health of Americans through Prevention and Management of Diabetes and Heart Disease and Stroke
Associated Federal Award	5 NU58DP006555-02-00
Cost Sharing / Match	No
RFA Release Date:	<b>September 13, 2019</b>
Pre-Application Meeting	<b>September 25, 2019 2:00pm-4:00pm</b>
Pre-Application Meeting	To register to attend in person, contact Riana Buford at <a href="mailto:Riana.Buford@dc.gov">Riana.Buford@dc.gov</a>
Location	899 N. Capitol St. NE; Room 348 Washington, DC 20002
Conference Call Access	To register for conference call access, go to: <a href="https://dcnet.webex.com/dcnet/k2/j.php?MTID=t08cc2d4abfb951051c87598355fc279d">https://dcnet.webex.com/dcnet/k2/j.php?MTID=t08cc2d4abfb951051c87598355fc279d</a>
Letter of Intent Due date	Not applicable
Application Deadline Date	<b>October 18, 2019</b>
Application Deadline Time	6:00 pm
Links to Additional Information about this Funding Opportunity	DC Grants Clearinghouse <a href="http://opgs.dc.gov/page/opgs-district-grants-clearinghouse">http://opgs.dc.gov/page/opgs-district-grants-clearinghouse</a> DC Health EGMS <a href="https://dcdoh.force.com/GO_ApplicantLogin2">https://dcdoh.force.com/GO_ApplicantLogin2</a>

## 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 DUNS #, Tax ID#, be registered in the federal Systems for Award Management (SAM) and the DC Health Enterprise Grants Management System (EGMS)
5. Contact the program manager assigned to this funding opportunity for additional information.
6. DC Health is located in a secured building. Government issued identification must be presented for entrance.

**MERIDIAN PUBLIC CHARTER SCHOOL**

**REQUEST FOR PROPOSALS**

**Cultural Competency**

The Board of Trustees of Meridian Public Charter School located in Washington, DC, hereinafter referred to as the “LEA” invites proposals for cultural competency school trainings.

Deadline of submission proposals is September 12<sup>th</sup>, 2019 by 12:00pm Eastern Time.

To request full scope and/or seek any additional information, please email:

Michael L. Russell  
Director of Operations  
Meridian Public Charter School  
[mrussell@meridian-dc.org](mailto:mrussell@meridian-dc.org)

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED TARIFFFORMAL CASE NO. 712, IN THE MATTER OF THE INVESTIGATION OF THE PUBLIC SERVICE COMMISSION'S RULES OF PRACTICE AND PROCEDURE;RM3-2014-01, IN THE MATTER OF 15 DCMR CHAPTER 3-CONSUMER RIGHTS AND RESPONSIBILITIES;FORMAL CASE NO. 1017, IN THE MATTER OF THE DEVELOPMENT AND DESIGNATION OF STANDARD OFFER SERVICE IN THE DISTRICT OF COLUMBIA; andRM41-2017-01, IN THE MATTER OF 15 DCMR CHAPTER 41-DISTRICT OF COLUMBIA STANDARD OFFER SERVICE RULES

1. The Public Service Commission of the District of Columbia (Commission) hereby gives notice, pursuant to Section 34-802 of the District of Columbia Official Code and in accordance with Section 2-505 of the District of Columbia Code,<sup>1</sup> of its intent to act upon the proposed tariff amendments of Potomac Electric Power Company (Pepco, Electric Utility or Electric Company) in not less than 30 days from the date of publication of this Notice of Proposed Tariff (NOPT) in the *D.C. Register*.

2. Pursuant to Commission Orders Nos. 19759<sup>2</sup> and 19761,<sup>3</sup> issued December 5, 2018, the Commission directed Pepco to revise its tariffs to comply with changes to the Consumer Rights and Responsibilities (CBOR) and Standard Offer Service (SOS) Rules governing the transfer period when customers switch from the Electric Utility to a competitive service provider. Specifically, Subsection 327.35 states: “[t]he Electric Utility shall transfer a Customer to a competitive electricity supplier in no later than three (3) business days after receiving the notice of an enrollment transaction from the competitive electricity supplier.<sup>4</sup> Section 4105.9(c) provides that: “[t]he Electric Company shall transfer a Customer to SOS in no later than three (3) business days after

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<sup>1</sup> D.C. Code § 2-505 (2018 Repl.) and D.C. Code § 34-802 (2012 Repl.).

<sup>2</sup> *Formal Case No. 712, In the Matter of the Investigation of the Public Service Commission's Rules of Practice and Procedure* (“*Formal Case No. 712*”), and *RM3-2014-01, Consumer Rights and Responsibilities* (“*RM3-2014-01*”), Order No. 19759, rel. December 5, 2018 (“*Order No. 19759*”).

<sup>3</sup> *RM41-2017-01, District of Columbia Standard Offer Service Rules* (“*RM41-2017-01*”), Order No. 19761, rel. December 5, 2018 (“*Order No. 19761*”).

<sup>4</sup> 15 DCMR § 327.35 (2018).

receiving the customer's request.<sup>5</sup> Pepco was granted until September 10, 2019, to comply with these directives.<sup>6</sup>

3. On April 12, 2019, the Commission issued Order No. 19897 eliminating the minimum stay provision in 15 DCMR §§ 4105.6 and 4105.7.<sup>7</sup> This provision required that a commercial customer who switched from SOS service to service provided by a competitive energy supplier, and subsequently returned, to SOS service, remain on SOS service for a minimum of 12 months.<sup>8</sup>

4. On April 17, 2019, Pepco filed revisions to its General Terms and Conditions, and Supplier Coordination Tariffs consistent with the Commission's directives in Orders Nos. 19759, 19761, and 19897.<sup>9</sup> On May 22, 2019, Pepco revised and refiled its tariffs.<sup>10</sup> Subsequently, on June 18, 2019, Pepco provided additional conforming changes to amend certain pages in its May 22, 2019 filing.<sup>11</sup> Pepco's proposed tariff amendments update its General Terms and Conditions for Furnishing Electric Service and Electric Supplier Coordination Tariffs in compliance with these directives.

5. Pepco proposes to amend the following tariff pages:

**GENERAL TERMS AND CONDITIONS FOR FURNISHING ELECTRIC  
SERVICE  
P.S.C.-D.C. No. 1  
Ninth Revised Page No. 1  
Superseding Eighth Revised Page No. 1**

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<sup>5</sup> 15 DCMR § 4105.9(c) (2018).

<sup>6</sup> Order No. 19759, ¶¶ 1, 17, 23. *See also* Order No. 19761, ¶¶ 1, 12, 14.

<sup>7</sup> *Formal Case No. 1017, In the Matter of the Development and Designation of Standard Offer Service in the District of Columbia ("Formal Case No. 1017")*, Order No. 19897, ¶¶ 1, 11, and 42, rel. April 12, 2019 ("Order No. 19897"). *See also* 15 DCMR §§ 4105.6 and 4105.7 (2015). The Commission will undertake a rulemaking to eliminate this requirement.

<sup>8</sup> Order No. 19897, ¶¶ 9-10.

<sup>9</sup> *Formal Case Nos. 712 and 1017, RM3, and RM41*, Letter from Dennis P. Jamouneau, Assistant General Counsel, Potomac Electric Power Company, to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia ("Commission"), filed April 17, 2019.

<sup>10</sup> *Formal Case Nos. 712 and 1017, RM3, and RM41*, Letter from Dennis P. Jamouneau, Assistant General Counsel, Pepco, to Brinda Westbrook-Sedgwick, Commission Secretary, Commission, filed May 22, 2019.

<sup>11</sup> *Formal Case Nos. 712 and 1017, RM3, and RM41*, Letter from Dennis P. Jamouneau, Assistant General Counsel, Pepco, to Brinda Westbrook-Sedgwick, Commission Secretary, Commission, filed June 18, 2019.

**P.S.C.-D.C. No. 1  
Ninth Revised Page No. 2  
Superseding Eighth Revised Page No. 2**

**P.S.C.-D.C. No. 1  
First Revised Page No. 3  
Superseding Original Page No. 3**

**P.S.C.-D.C. No. 1  
First Revised Page No. 4  
Superseding Original Page No. 4**

**P.S.C.-D.C. No. 1  
First Revised Page No. 5  
Superseding Original Page No. 5**

**P.S.C.-D.C. No. 1  
Second Revised Page No. 12  
Superseding First Revised Page No. 12**

**P.S.C.-D.C. No. 1  
First Revised Page No. 12.1  
Superseding Original Page No. 12.1**

**P.S.C.-D.C. No. 1  
Fourth Revised Page No. 14  
Superseding Third Revised Page No. 14**

**P.S.C.-D.C. No. 1  
Fourth Revised Page No. 24  
Superseding Third Revised Page No. 24**

**P.S.C.-D.C. No. 1  
Third Revised Page No. 27  
Superseding Second Revised Page No. 27**

**P.S.C.-D.C. No. 1  
Third Revised Page No. 31  
Superseding Second Revised Page No. 31**

**P.S.C.-D.C. No. 1  
Second Revised Page No. 46  
Superseding First Revised Page No. 46**

**P.S.C.-D.C. No. 1  
Second Revised Page No. 47  
Superseding First Revised Page No. 47**

**P.S.C.-D.C. No. 1  
Second Revised Page No. 48  
Superseding First Revised Page No. 48**

**P.S.C.-D.C. No. 1  
Second Revised Page No. 49  
Superseding First Revised Page No. 49**

**ELECTRIC SUPPLIER COORDINATION TARIFF, P.S.C.-D.C. No. 1  
Seventh Revised Page No. i  
Superseding Sixth Revised Page No. i**

**P.S.C.-D.C. No. 1  
Seventh Revised Page No. ii  
Superseding Sixth Revised Page No. ii**

**P.S.C.-D.C. No. 1  
Seventh Revised Page No. iii  
Superseding Sixth Revised Page No. iii**

**P.S.C.-D.C. No. 1  
Seventh Revised Page No. iv  
Superseding Sixth Revised Page No. iv**

**P.S.C.-D.C. No. 1  
First Revised Page No. 2  
Original Page No. 2**

**P.S.C.-D.C. No. 1  
First Revised Page No. 15  
Superseding Original Revised Page No. 15**

**P.S.C.-D.C. No. 1  
First Revised Page No. 16  
Superseding Original Page No. 16**

**P.S.C.-D.C. No. 1  
First Revised Page No. 17  
Superseding Original Revised Page No. 17**



**P.S.C.-D.C. No. 1**  
**First Revised Page No. 37**  
**Superseding Original Page No. 37**

**P.S.C.-D.C. No. 1**  
**Fourth Revised Page No. 41**  
**Superseding Third Revised Page No. 41**

**P.S.C.-D.C. No. 1**  
**Fourth Revised Page No. 42**  
**Superseding Third Revised Page No. 42**

6. The filings may be reviewed at the Office of the Commission Secretary, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday as well as on the Commission's web site at [www.dcpSC.org](http://www.dcpSC.org). Once at the website, open the "eDocket" tab, click on the "Searchable database" and input "FC712" as the case number and "1671" and "1672" as the item numbers. A copy of the proposed tariff amendments is available upon request, at a per-page reproduction cost by contacting the Commission Secretary at (202) 626-5150 or [psc-commissionsecretary@dc.gov](mailto:psc-commissionsecretary@dc.gov).

7. All persons interested in commenting on the subject matter of this proposed tariff may submit written comments not later than 30 days after publication of this notice in the *D.C. Register* to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1325 G Street, N.W., Suite 800, Washington, D.C. 20005 or electronically on the Commission's website at [https://edocket.dcpSC.org/public/public\\_comments](https://edocket.dcpSC.org/public/public_comments). Persons with questions concerning this NOPT should call (202) 626-5150 or send an email to [psc-commissionsecretary@dc.gov](mailto:psc-commissionsecretary@dc.gov). Once the comment period expires, the Commission will take final action on Pepco's tariff filings.

**OFFICE OF THE SECRETARY OF THE DISTRICT OF COLUMBIA**  
**RECOMMENDATIONS FOR APPOINTMENTS AS NOTARIES PUBLIC**

Notice is hereby given that the following named persons have been recommended for appointment as Notaries Public in and for the District of Columbia, effective on or after October 1, 2019.

Comments on these potential appointments should be submitted, in writing, to the Office of Notary Commissions and Authentications, 441 4<sup>th</sup> Street, NW, Suite 810 South, Washington, D.C. 20001 within seven (7) days of the publication of this notice in the *D.C. Register* on August 30, 2019. Additional copies of this list are available at the above address or the website of the Office of the Secretary at [www.os.dc.gov](http://www.os.dc.gov).

D.C. Office of the Secretary  
Recommendations for Appointments as DC Notaries PublicEffective: October 1, 2019  
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Alshawkani	Nashwan	Chase Bank 1401 14th Street, NW	20005
Alston	April	Center for Strategic and International Studies 1616 Rhode Island Avenue, NW	20036
Amin	Ra	Self 1007 Hamlin Street, NE	20017
Anderson	Leigh F.	Quinn, Racusin & Gazzola Chartered 888 17th Street, NW, Suite 640	20006
Artemel	Deniz	McEneaney Associates 4315 50th Street, NW	20016
Bateman	Domonique C.	International Research & Exchanges Board 1275 K Street, NW, Suite 600	20005
Bates	Linda Elizabeth	American Federation of State, County and Municipal Employees (AFSCME) 1625 L Street, NW	20036
Bathula	Sruti Reddy	TD Bank 1275A First Street, NE	20002
Batson	Lawana Rene	Vorys Sater Seymour and Pease, LLP 1909 K Street, NW	20006
Betts	Anne K.	The Cypress Group 1028 33rd Street, NW, Suite 200	20007
Blount	Mortisha O.	Self 3109 Martin Luther King Jr. Avenue, SE, #10	20032
Bovell	Kristin Cherise	The UPS Store 611 Pennsylvania Avenue, SE	20003
Brown-Royal	Kendall	Lafayette Federal Credit Union 409 Third Street, SW, #105	20024

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 Recommendations for Appointments as DC Notaries Public

Effective: October 1, 2019

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Burch	Kimberly R.	Federal Mine Safety and Health Review Commission 1331 Pennsylvania Avenue, NW, Suite 520 N	20004
Butler	Yvonne E.	Self 702 Kennedy Street, NE	20011
Carter	Lolita Ann	Department of Behavioral Health 1100 Alabama Avenue, SE	20032
Carter	Margaret Ann	Peaches In Home Tax Service 1635 11th Place, NE	20002
Cerna	Dilvia G.	Joan M. Wilbon & Associates 1120 Connecticut Avenue, NW, Suite 1020	20036
Chellsie	Carter	WCS Construction, LLC 1100 New Jersey Avenue, SE, Suite 700	20003
Cipparone	Abigail	Gupta Wessler, PLLC 1900 L Street, NW, Suite 312	20036
Cohen	Grace	B'nai B'rith International 1120 20th Street, NW, 300N	20036
Compton	Timothy J.	Office of the Attorney General 200 I Street, SE, Suite 4236	20003
Cotton	Kailah	CoStar Group 1331 L Street, NW	20005
Coviello	Meredith	Precision Systems, Inc. 80 M Street, SE, Suite 180	20003
D'Annunzio	Karly	Hilton Grand Vacations 1250 22nd Street, NW	20037
Dager Vancampenhoud	Juan	Capital One Bank  4860 Massachusetts Avenue, NW	20016
Davis	Sharon M.	Crowell & Moring, LLP 1001 Pennsylvania Avenue, NW	20004

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de Hoop Scheffer	Jenna H.	LGI Homes 1629 K Street, NW, Suite 800	20006
Ferguson	Keyron	Navy Federal Credit Union 9th & M Street, SE, Building 218	20374
Fernandez	Lauren Nicole	Laurel Strategies 2101 L Street, NW, Suite 440	20037
Fletcher	Thomas H.	Self 3301 O Street, NW	20007
Foster	Richard S.	Folger Nolan Fleming Douglas Incorporated 725 15th Street, NW	20005
Fountain-Allen	Vanessa	Self (Dual) 4449 C Street, SE	20019
Furnish	Melissa G.	FTI Consulting, Inc. 555 12th Street, NW, #700	20004
Gasaway	Sherece	Building Hope Real Estate 910 17th Street, Suite 1100	20006
George	Isabel	The Young Center for Immigrant Children's Rights 1015 15th Street, NW, Suite 600	20005
Gibney	Kelly Marie	Shearman & Sterling LLP 401 9th Street, NW	20004
Gibson	Darren T.	The Real Estate Experts, LLC 641 S Street, NW, #300	20001
Goldenberg	Frank J.	Classic Settlements, Inc 1020 Connecticut Avenue, NW, Suite 500	20036
Green	Demita	diGenova & Toensing, LLP 1776 K Street, NW, Suite 737	20006
Green	Rosa M	Self (Dual) 3237 Sutton Place, NW, #A	20016

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Hammer	Kady Ray	Latham & Watkins, LLP 555 11th Street, NW, Suite 100	20004
Hansen	Matthew David	Lafayette Federal Credit Union 1300 Pennsylvania Avenue, NW, Room C. 1-80	20523
Harley-Tolson	Lynn Shondell	Federal Mine Safety and Health Review Commission 1331 Pennsylvania Avenue, NW, Suite 520N	20004
Harmel	Barbara L.	Davis Polk & Wardwell, LLP 901 15th Street, NW	20005
Haynes	Chanise C.	Self 5710 5th Street, NW	20011
Holeman	Sheila V	Gilbert, LLP 1100 New York Avenue, NW, Suite 700	20005
Holley	Zanette G.	DC Office of the Inspector General 717 14th Street, NW, Suite 500	20005
Iglesias	Carlos R.	Self (Dual) 936 Madison Street, NW, #201	20011
James	Adrienne	Self (Dual) 930 M Street, NW	20001
Jayasuriya	H. Kumar	USDA Office of General Counsel 1400 Independence Avenue, SW	20520
Jean-Pierre	Marsha	Lowenstein Sandler 2200 Pennsylvania Avenue, NW, Suite 500 East	20037
Johnson	Chyna M.	Butzel Long 1909 K Street, NW, #500	20006
Keane	Hannah	National Endowment for the Arts 400 7th Street, SW	20506
Kennedy	Cathleen Banks	API	

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		200 Massachusetts Avenue, NW	20001
King	David	Distilled Spirits Council of the United States 1250 I Street, NW, Suite 400	20005
Kormienko	Emilie Monika	Harris, Wiltshire & Grannis, LLP 1919 M Street, NW, Suite 800	20036
Larios	Julissa	Citibank 3241 14th Street, NW	20010
Lim-Barrera	Annabelle	Fox Rothschild, LLP 1030 15th Street, NW, Suite 380 East	20005
Lopes	Keith George	Self (Dual) 1422 34th Street, SE	20020
Lopez	Luis Alejandro	Planet Depos 1100 Connecticut Avenue, NW, Suite 950	20036
Marcus	Chiquetala Mack	Three Crowns, LLP 3000 K Street, NW, Suite 101	20007
Martinez	Oswaldo	JP Morgan Chase Company 1401 New York Avenue, NW	20005
Massey	Shirley Theresa	Department of Motor Vehicles 95 M Street, SW	20024
Mckinney	Montre S.	Self 1628 Lang Place, NE	20002
Miller	Melissa	Sudow Kohlhagen, LLP 1000 Maine Avenue, SW, Suite 325	20024
Millett	Shannon	NBL Associates Limited Partnership 800 9th Street, SW	20024
Mimms-Bolden	Jo Anne	American Council of Life Insurers 101 Constitution Avenue, NW	20001
Miro-Chinea	Daniel	Skadden, Arps, Slate, Meagher & Flom, LLP 1440 New York Avenue, NW	20005

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Misajet	Samantha	Iron Point Partners 1133 Connecticut Avenue, NW, Suite 800	20036
Monahan	Cristin J.	The UPS Store DC 1032 15th Street, NW	20005
Montgomery	Yolanda Denise	SEIU Benefit Funds 1800 Massachusetts Avenue, NW, 301	20036
Moyer	Rowena D.	Northfield Construction & Development, LLC 5101 Wisconsin Avenue, NW, Suite 290	20016
Nyarko	Nana	District Rose Properties, LLC 1807 Burke Street, SE	20003
O'Hora	Elaine Auby	Alignment Government Strategies 601 Pennsylvania Avenue, NW, South Building, Suite 430	20004
Older	Andrew J.	Skadden, Arps, Slate, Meagher & Flom, LLP 1440 New York Avenue, NW	20005
Page	Ashley P.	Department of Defense 200 MacDill Boulevard	20340
Pearl	Rosemary	Munger Tolles & Olson 1155 F Street, NW	20004
Pearson	Patricia	Self 3324 6th Street, SE, #102	20032
Phillips	Michael L.	The UPS Store #2092 611 Pennsylvania Avenue, SE	20003
Polite	Susan K.	Miller & Chevalier Chartered 900 16th Street, NW	20006
Prakash	Shivani	Arent Fox 1717 K Street, NW	20006
Proctor	Gaye	Loeb & Loeb, LLP 901 New York Avenue, NW, Suite 300	20001



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Raina	Ashley	Law Offices of Leah V. Durant, PLLC 1717 K Street, NW, Suite 900	20006
Rettberg	Rachel Marie	Intelligent Transportation Society of America (ITS America) 1100 New Jersey Avenue, SE, Suite 850	20003
Ricks	Denise	Deso & Buckley, P.C. 1776 K Street, NW, Suite 830	20006
Rooney	Colleen	Caring Hands Services 430 M Street, SW, N106	20024
Ross	Alan William	Planet Depos 1100 Connecticut Avenue, NW	20036
Russell	Patrick Logan	Self (Dual) 1515 O Street, NW, Apt. #208	20005
Russo	Athena Marie	Chevy Chase Executive Services Inc. 5335 Wisconsin Avenue, NW, Suite 440	20015
Schilling	Sandra K	Danaher Corporation 2200 Pennsylvania Avenue, NW, 800W	20037
Smith	Elzaida	TIAA 601 13th Street, NW, Suite 700	20005
Soltys	Jessica S.	Cushman & Wakefield 2101 L Street, NW	20037
Steplight	Cheryl L.	The Law Office of Cheryl L. Steplight 800 Maine Avenue, SW, Suite 200	20024
Stevenson	Demeka Carlnetta	New Vision Properties, LLC 331 8th Street, NE	20002
Sullivan	Renay D.	National Society Daughters of the American Revolution 1776 D Street, NW	20006
Tejeda-Martinez	Jemmie	Skadden, Arps, Slate, Meagher & Flom, LLP 1440 New York Avenue, NW	20005

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Thornton	Jessica Christine	Self 4708 Blagden Avenue, NW	20011
Tillar	Tressie Roshanda	United Fresh Produce Association 1901 Pennsylvania Avenue, NW, #1100	20006
Trute	Julie L	Liberty Mutual Insurance Company 444 North Capitol Street, NW, Suite 740	20001
Van Vuren	Dina	Fish & Richardson, PC 1000 Maine Avenue, SW	20024
Weatherspoon	Cynthia	State Department Federal Credit Union 441 4th Street, SW	20024
Williams	Lorraine	Cadwalader, Wickersham & Taft 700 Sixth Street, NW	20001
Wilson	Rosemarie N.	Self 2815 North Capitol Street, NE	20002
Wilson	Zenobia D.	Self 3255 Hardin Street, NE	20018
Woody	Cade	Akridge 601 13th Street, NW, Suite 300 North	20005
Wright	Lynette M.	McKinsey and Company 1200 19th Street, NW	20036
Yoc	Rocio Sussett	Self (Dual) 204 44th Street, NE	20019
Zaman	Syed	JP Morgan Chase 1401 14th Street, NW	20005

**DEPARTMENT OF SMALL AND LOCAL BUSINESS DEVELOPMENT****NOTICE OF FUNDING AVAILABILITY****Dream Grants for Ward 7 & 8 Microbusinesses**

The Department of Small and Local Business Development (DSLBD) is excited to announce that we will be soliciting applications for the 2020 **Ward 7 and 8 Microbusiness Dream Grants starting September 1, 2019.**

The grants are to provide business development support to the growth of microbusinesses in Wards 7 and 8. These microbusinesses must have fewer than five (5) employees, the business must be located in Ward 7 or 8, and Ward 7 or 8 residents must have ownership of 50% or more of the business.

DSLBD intends to award between 20 and 25 grants, of up \$10,000 each, from the \$200,000 in total available funding for 2020.

**How do I apply?**

Full guidance and instructions will be available in the Request for Applications (RFA) that will be released on or before September 1, 2019, on the DSLBD website: <https://dslbd.dc.gov>.

**Deadline**

The deadline to apply online is **November 15, 2019 at 2:00 p.m.** Applications will only be accepted through the online application system.

**Who can apply?**

New or existing microbusinesses with fewer than five (5) full-time employees located in Ward 7 or 8 for which residents of the Wards comprise 50% or more of the ownership of the business are eligible. See the Request for Applications for additional eligibility requirements.

**NOTICE OF FUNDING AVAILABILITY (Page 2)**  
***Dream Grants for Ward 7 & 8 Microbusiness***

**How can the funds be used?**

The grant funds can support startup or expansion efforts for expenses made by the business between the dates of January 1, 2020 through August 30, 2020. Additional allowed uses and restrictions will be outlined in the RFA.

**How will awardees be selected?**

Grant recipients will be selected through a competitive application process. All applications from eligible applicants received on or before the deadline will be forwarded to an independent review panel to be evaluated.

A program team will review the recommendations. The Director of DLSBD will make the final determination of grant awards. Grantees will be selected by February 1, 2020. Funds will be available no sooner than spring 2020, on an individual payment schedule per awarded grant.

**Questions?**

We encourage interested applicants to attend a *Dream Grant Information Session* and will offer one or more *Grant Paperwork Bootcamps*. Please refer to the DSLBD Eventbrite at [http://bit.ly/dslbd\\_events](http://bit.ly/dslbd_events) for the most accurate information about the date, time, and location of these meetings.

Questions may be sent to the Innovation & Equitable Development Team at the Department of Small and Local Business Development at [Inno.ED@dc.gov](mailto:Inno.ED@dc.gov).

All questions must be submitted in writing.

***Reservations***

*DSLBD reserves the right to issue addenda and/or amendments subsequent to the issuance of this Notice of Funding Availability (NOFA) or RFA, or to rescind the NOFA or RFA at any time.*

**DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY****BOARD OF DIRECTORS****NOTICE OF PUBLIC MEETING****Environmental Quality and Operations Committee**

The Board of Directors of the District of Columbia Water and Sewer Authority (DC Water) Environmental Quality and Operations Committee will be holding a meeting on Thursday, September 19, 2019 at 9:30 a.m. The meeting will be held in the Board Room (2<sup>nd</sup> floor) at 1385 Canal Street, S.E. (use 125 O Street, S.E. for directions), Washington, D.C. 20003. Below is the draft agenda for this meeting. A final agenda will be posted to DC Water's website at [www.dewater.com](http://www.dewater.com).

For additional information, please contact Linda R. Manley, Board Secretary at (202) 787-2332 or [linda.manley@dewater.com](mailto:linda.manley@dewater.com).

**DRAFT AGENDA**

- |     |                               |   |
|-----|-------------------------------|---|
| 1.  | Call to Order                 | Committee Chairperson   |
| 2.  | AWTP Status Updates           | Vice-President,<br>Wastewater Ops   |
|     | 1. BPAWTP Performance         |   |
| 3.  | Status Updates                | Senior VP Chief Engineer,<br>Engineering  |
| 4.  | Project Status Updates        | Director, Engineering &<br>Technical Services                                     |
| 5.  | Action Items                  | Senior VP Chief Engineer,<br>Engineering  |
|     | - Joint Use                   |   |
|     | - Non-Joint Use               |   |
| 6.  | Water Quality Monitoring      | Senior Director, Water Ops  |
| 7.  | Action Items                  | Senior VP Chief Engineer<br>Senior Director, Water Ops<br>Director, Customer Care |
| 8.  | Emerging Items/Other Business |   |
| 9.  | Executive Session             |   |
| 10. | Adjournment                   | Committee Chairperson   |

**ZONING COMMISSION ORDER NO. 03-12X/03-13X**  
**Z.C. Case No. 03-12X/03-13X**  
**District of Columbia Housing Authority**  
**(Five-Year Time Extension for PUD @ Squares 739, 767, and 768)**  
**January 28, 2019**

Pursuant to notice, at a public meeting of the Zoning Commission for the District of Columbia (the “Commission”) held on January 28, 2019, the Commission approved the request of the District of Columbia Housing Authority (“DCHA”) for a five-year time extension of the December 18, 2018 deadline to file applications for second-stage planned unit development (“PUD”) approval established by Z.C. Order No. 03-12/03-13 (the “Original Order”), as extended by Z.C. Order Nos. 03-12I/03-13I and 03-12R/03-13R, for Lots 800-802 in Square 739, Lots 44-47 in Square 767, and Lots 19-22 in Square 768<sup>1</sup> (collectively, the “Property”), together with a waiver of the time limitations in Subtitle Z §§ 705.3 and 705.5 (the “Application”). The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (the “Zoning Regulations,” to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

**FINDINGS OF FACT**

1. By the Original Order, effective on October 8, 2004, the Commission granted Capper/Carrollsborg Venture, LLC, DCHA, and Square 769, LLC (collectively, the “Applicant”) preliminary PUD approval for the Property, together with other properties located in the southeast quadrant of Washington, D.C. (collectively with the Property, the “PUD Site”).
2. The parties to the Original Order were the Applicant and Advisory Neighborhood Commissions (“ANC”) 6D and 6B. (Original Order, Finding of Fact 5.)
3. The Original Order required the filing of the first second-stage PUD application for those portions of the PUD Site for which the Original Order only granted preliminary PUD approval by April 8, 2006 and all remaining second-stage PUD applications by October 8, 2008. (Condition 27.)
4. The Applicant filed its first second-stage PUD application in Z.C. Case 03-12A/03-13A on April 29, 2005, prior to the April 8, 2006 deadline of the Original Order.
5. On June 26, 2009, in Z.C. Order No. 03-12I/03-13I, the Commission extended the October 8, 2008 deadline to file second-stage PUD applications for Squares 739, 767, and 768 to December 31, 2013.

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<sup>1</sup> Although the Application included Lot 77 in Square 882, this lot is subject to the second-stage PUD approval of Z.C. Order No. 03-12G/03-13G, as extended by Z.C. Order Nos. 03-12L/03-13L and 03-12P/03-13P, and so is not properly part of this approval.

6. On April 24, 2015, in Z.C. Order No. 03-12R/03-13R, the Commission further extended the December 31, 2013 deadline to file second-stage PUD applications for Squares 739, 767, and 768 to December 18, 2018.

### **The Application**

7. On December 18, 2018, prior to the expiration of Z.C. Order No. 03-12R/03-13R, DCHA filed an application for a five-year extension of the December 18, 2018 deadline to file a second-stage PUD application for the Property.
8. The Application also requested a waiver of Subtitle Z § 705.5's limit of two extensions and Subtitle Z § 705.3's maximum two-year term for the first extension and maximum one-year term for the second extension.
9. The Application included a Certificate of Service attesting to service on all parties to the Original Order, including ANCs 6B and 6D, on December 18, 2018. (Exhibit ["Ex."] 2.)
10. The Application asserted that no substantial change had occurred in any of the material facts on which the Commission had relied in approving the preliminary PUD approval for the Property in the Original Order.
11. The Application justified the requested extension due to the inability to obtain project financing, in particular that:
  - a. The HOPE VI funding for the affordable components of the PUD was depleted with the development of the first phase of townhomes in 2008;
  - b. The Property lost the designation as a *Difficult Development Area* for the purposes of Low Income Housing Tax Credit Investment, which eliminated a 30% equity boost previously available to incentivize investment in the Property; and
  - c. DCHA's commitment to restoring all 707 original public housing units that were originally on site, and to returning as many original residents of the Arthur Capper/Carrollsborg public housing to the PUD developed partially on the site of these residents' prior public housing units, creates complications for the financing for the affordable units which, due to operating subsidies and reduced rents, do not support debt.
12. The Application asserted that good cause exists to grant a waiver to allow DCHA additional time to fulfill the housing, economic and social goals sought to be achieved by the PUD approved by the Original Order, including the creation of sorely needed affordable housing.
13. The Office of Planning ("OP") submitted a January 18, 2019 report recommending approval of the Application (the "OP Report"). (Ex. 6.) The OP Report concluded that DCHA satisfied the relevant standards of Subtitle Z § 705.2 and that the granting of the

waiver from Subtitle Z §§ 705.3 and 705.5 was also appropriate (although the OP Report did not specifically refer to Subtitle Z § 705.3, it did refer to its limits on the time periods of extensions). In doing so, OP noted the PUD would create affordable housing, including for the former residents of the Capper-Carrollsborg public housing complex, and that denying the requested extension, or approving an extension less than the requested five years, would likely further delay completion of these public policy goals.

14. Although neither ANC 6B or ANC 6D filed a report in this case, each ANC provided letters of support in a related case (Z.C. Case No. 03-12W/03-13W, and, with respect to ANC 6D, Z.C. Case No. 07-08C), wherein DCHA has sought approval to extend the temporary surface parking lot use for an additional five-year period. (Ex. 1D.)

### CONCLUSIONS OF LAW

1. Subtitle Z §§ 705.2 authorizes the Commission to extend the time period of an order approving a PUD upon determining that the time extension request demonstrated satisfaction of the requirements of Subtitle Z §§ 705.2 and compliance with the limitations of Subtitle Z §§ 705.3, 705.5, and 705.6.
2. The Commission concludes that DCHA timely filed the Application on December 18, 2018, the deadline for filing a second-stage PUD application that the time extension seeks to extend.
3. Subtitle Z § 705.2(a) requires that an Applicant serve the extension request on all parties and that all parties are allowed 30 days to respond.
4. The Commission concludes that DCHA has satisfied Subtitle Z § 705.2(a) by demonstrating that it had served all parties to the Original Order – DCHA, Capper/Carrollsborg Venture, LLC, Square 769 LLC, and ANCs 6B and 6D – and that all were given 30 days to respond from the December 18, 2018 date of service. Although none of the parties filed a response to the record, the Commission notes that both ANC 6B and 6D had filed a letter of support in one or more related cases wherein the Applicant has sought approval to utilize portions of the Property for surface parking for a period of five years.
5. Subtitle Z § 705.2(b) requires that the Commission find that there is no substantial change in any of the material facts upon which the Commission based its original approval of the PUD that would undermine the Commission’s justification for approving the PUD.
6. The Commission concludes that the Application satisfied Subtitle Z § 705.2(b) based on the Application and the OP Report, which stated that no substantial change had occurred to the material facts upon which the Commission had relied in issuing the Original Order.
7. Subtitle Z § 705.2(c) requires that an application demonstrate with substantial evidence one or more of the following criteria:



- (1) *An inability to obtain sufficient project financing for the development, following an applicant's diligent good faith efforts to obtain such financing because of changes in economic and market conditions beyond the applicant's reasonable control;*
  - (2) *An inability to secure all required governmental agency approvals for a development by the expiration date of the PUD order because of delays in the governmental agency approval process that are beyond the applicant's reasonable control; or*
  - (3) *The existence of pending litigation or such other condition, circumstance or factor beyond the applicant's reasonable control that renders the applicant unable to comply with the time limits of the order.*
8. The Commission concludes that the Application met the standard of Subtitle Z § 705.2(c)(1) because DCHA has diligently pursued the financing of the development of the Property and has not been able to move forward due to market conditions outside of its control, including the depletion of HOPE VI funding and removal of the Difficult Development Area designation related to LIHTC funding.
  9. Subtitle Z § 101.9 authorizes the Commission to waive any of the provisions of Subtitle Z if, in the judgment of the Commission, the Applicant demonstrates good cause for the waiver and the waiver will not prejudice the rights of any party and is not otherwise prohibited by law.
  10. The Commission concludes that the Applicant demonstrated good cause to waive (i) Subtitle Z § 705.5's maximum of two extensions and (ii) Subtitle Z § 705.3's maximum one-year extension period for the second extension because DCHA has continued to develop other properties subject to the PUD approved by the Original Order despite the financing setbacks and granting the extension would allow the approved development to occur on the Property and so achieve the housing, economic development, and social goals, including retaining affordable housing and the return of Capper-Carrollsborg's remaining former residents on the Property. The Commission determined that granting the waiver will not prejudice the rights of any party nor is it otherwise prohibited by law.

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

11. D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 405.8 require the Commission to give “great weight” to the recommendations contained in the OP Report. The Commission found OP's recommendations to waive the limits on time periods for extensions and to approve the Application persuasive and concurred in that judgment.

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

12. D.C. Official Code § 1-309.10(d)(3)(A) (2012 Repl.) and Subtitle Z § 406.2 require the Commission to give “great weight” to the issues and concerns contained in the written

report of an affected ANC – in this case, ANCs 6B and 6D. Both ANCs did file written reports supporting DCHA’s related applications for temporary uses of the Property before the Commission and were provided the opportunity to file a response to the Application. However, as neither ANC submitted a written report in this case, the Commission has nothing to which it can give “great weight.”

### **DECISION**

At its public meeting on January 28, 2019, in consideration of the case record and Findings of Fact and Conclusions of Law herein, upon the motion of Commissioner Turnbull, as seconded by Commissioner Shapiro, the Zoning Commission for the District of Columbia took **FINAL ACTION** to waive Subtitle Z §§ 705.3 and 705.5 and to **APPROVE** the Application to extend the deadline for the second-stage PUD applications for Squares 739, 767, and 768, as originally established in Z.C. Order No. 03-12/03-13 and as previously extended by Z.C. Order Nos. 03-12I/03-13I and 03-12R/03-13R, by five years to December 18, 2023, by a vote of **4-0-1** (Anthony J. Hood, Peter G. May, Peter A. Shapiro, and Michael G. Turnbull to approve; Robert E. Miller, not present, not voting).

In accordance with the provisions of Subtitle Z § 604.9 of the Zoning Regulations, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on August 30, 2019.

### **BY ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
ZONING COMMISSION ORDER NO. 14-12C**

**Z.C. Case No. 14-12C  
EAJ 1309 5<sup>th</sup> Street LLC**

**(Modification of Consequence of Consolidated PUD & Related Map Amendment @  
Square 3591, Lots 801-808, 7003-7005, 7011-7014, 7016, 7018, and 7023)**

**April 29, 2019**

Pursuant to notice on April 29, 2019, the Zoning Commission for the District of Columbia (the “Commission”) held a public meeting during which, the Commission approved the application of EAJ 1309 5<sup>th</sup> Street, LLC (the “Applicant”) for a Modification of Consequence (the “Application”) of a planned unit development (a “PUD”) approved by Z.C. Order No. 14-12 (the “Original Order”), as extended by Z.C. Order 14-12A, for Lots 801, 802, 808, 7003-7005, 7011-7014, 7016, 7018, and 7023 in Square 3591, between 5<sup>th</sup> Street, N.E. to the west and 6<sup>th</sup> Street, N.E. to the east (the “Property”). The Commission reviewed the Application pursuant to the Commission’s Rules of Practice and Procedures, which are codified in Subtitle Z of Title 11 of the District of Columbia Municipal Regulations (the “Zoning Regulations,” to which all subsequent citations refer unless otherwise specified). For the reasons stated below, the Commission **APPROVES** the Application.

**FINDINGS OF FACT**

**Background**

1. Pursuant to the Original Order, the Commission granted the Applicant both consolidated and first-stage approval for Lot 800<sup>1</sup> in Square 3591 (the “PUD Site”), together with a map amendment from the CM-1 Zone District to the C-3-C Zone District (the “Approved PUD”).
2. The Property is part of the PUD Site for which the Commission granted consolidated approval under the Approved PUD. The Property includes the existing two-story Union Market building, referred to in the Original Order as the “South Building” (the “South Building”).
3. The Approved PUD authorized the renovation of the South Building with five additional stories up to a height of 120 feet with approximately 216,400 square feet, including 62,400 square feet of retail uses, a 42,000 square foot movie theater, and 112,000 square feet of office or residential uses.
4. The Approved PUD also authorized a 12,500-square-foot Union Market Plaza for community outdoor social and cultural uses and events, including concerts and festivals, with this space and events included as public benefits of the Approved PUD. (Conditions B.4 and B.11 of the Original Order.)

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<sup>1</sup> Subsequently subdivided into Record Lot 5 (Z.C. Order No. 14-12A).

5. The Commission granted a two-year time extension of the Original Order in Z.C. Order No. 14-12A.
6. The Applicant and affiliates filed an application for second-stage approval of a different portion of the PUD Site in Z.C. Case No. 14-12B but withdrew the application prior to Commission approval.

### **Parties**

7. The only party to the Z.C Case No. 14-12 other than the Applicant was Advisory Neighborhood Commission (“ANC”) 5D, the “affected” ANC pursuant to Subtitle Z § 101.8.

### **The Application**

8. On April 10, 2019, the Applicant filed the Application requesting a Modification of Consequence to authorize modifications to the plans approved by the Approved PUD to allow a temporary recreation and entertainment area on the currently empty roof of the South Building, including the installation of a garden, recreation space, open stage, and an enclosed restaurant (the “Interim Conditions”), on an interim basis prior to starting the renovation of the South Building authorized by the Approved PUD.
9. The Application noted that the Interim Conditions would comply with Conditions B.4 and B.11 of the Original Order by providing outdoor community space and events.
10. The Applicant served the Application on April 10, 2019 to ANC 5D, the Office of Planning (“OP”), and the District Department of Transportation (“DDOT”), as attested by the Certificate of Service submitted with the Application. (Exhibit [“Ex.”] 1.)
11. OP submitted a report dated April 19, 2019 stating no objection to the Application being considered as a Modification of Consequence and recommending approval of the Application, provided the Applicant provided a dimensioned roof plan showing the proposed setbacks for all structures (the “OP Report”). (Ex. 4.) The OP Report also proposed language to modify Condition A.1 of the Original Order to authorize the relief requested by the Application.
12. The Applicant submitted a dimensioned plan of the roof in response to the OP Report. (Ex. 5, 5A.)
13. The Applicant submitted a resolution in support of the Application by ANC 5D, adopted at its duly noticed public meeting held on February 9, 2019, with a quorum of six of seven Commissioners present (the “ANC Report”). (Ex. 1D.)

**CONCLUSIONS OF LAW**

1. Subtitle Z § 703.1 authorizes the Commission, in the interest of efficiency, to make Modifications of Consequence to final orders and plans without a public hearing.
2. Subtitle Z § 703.3 defines a Modification of Consequence as “a modification to a contested case order or the approved plans that is neither a minor modification nor a modification of significance.”
3. Subtitle Z § 703.4 includes “a proposed change to a condition in the final order” and “a redesign or relocation of architectural elements” as examples of Modifications of Consequence.
4. The Commission concludes that the Applicant satisfied the requirement of Subtitle Z § 703.13 to serve the Application on all parties to the original proceeding, in this case ANC 5D.
5. The Commission concludes that the Application qualifies as a Modification of Consequence within the meaning of Subtitle Z §§ 703.3 and 703.4, as a request to modify a final condition and redesign of the architectural elements approved by the Original Order, and therefore can be granted without a public hearing pursuant to Subtitle Z § 703.17(c)(2).
6. The Commission concludes that because ANC 5D, the only party other than the Applicant to the Approved PUD, had filed a response to the Application, the requirement of Subtitle Z § 703.17(c)(2) to provide a timeframe for responses by all parties to the original proceeding had been met, and therefore the Commission could consider the merits of the Application at its April 29, 2019 public meeting.
7. The Commission finds that the modification proposed by the Application is consistent with the Approved PUD because the Interim Conditions provide some of the public benefits and uses authorized by the Approved PUD prior to the construction of the South Building.

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

8. D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 405.8 require the Commission to give “great weight” to the recommendations contained in the OP Report.
9. The Commission found OP’s lack of objection to the Application being considered as a Modification of Consequence and recommendation that the Commission approve the Application persuasive and concurred in that judgment.

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

10. D.C. Official Code § 1-309.10(d)(3)(A) (2012 Repl.) and Subtitle Z § 406.2 require the Commission to give “great weight” to the issues and concerns contained in the written report of an affected ANC. To satisfy this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).)
11. The Commission found the ANC Report’s support for the Application persuasive and concurred in that judgment.
12. The Application is subject to compliance with D.C. Law 2-38, the Human Rights Act of 1977.

### DECISION

At its public meeting on April 29, 2019, in consideration of the case record and the Findings of Fact and Conclusions of Law herein, upon the motion of Commissioner Shapiro, as seconded by Vice Chairman Miller, the Zoning Commission for the District of Columbia took **FINAL ACTION** to **APPROVE** a Modification of Consequence to the PUD approved in Z.C. Order 14-12 by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull to approve).

The conditions in Z.C. Order No. 14-12 remain unchanged, except that Condition No. A.1 is hereby amended and restated as follows (additions in **bold and underlined** text):

#### **A. PROJECT DEVELOPMENT**

1. The PUD shall be developed in accordance with the architectural drawings prepared by Shalom Baranes Architects, Bohler Engineering, and Mahan Rykiel, submitted into the record on July 10, 2014 as Exhibit 2A1-2A6, as modified by the architectural drawings and pages submitted on August 29, 2014 as Exhibit 13-13H in the record, as modified by the architectural drawings and pages submitted on December 16, 2014 as Exhibit 19-19H in the record, as modified by the architectural drawings and pages submitted on February 2, 2015, as Exhibit 35A1-35A7B in the record, as modified by the architectural drawings and pages submitted on February 11, 2015, as Exhibit 44A1-44A7 in the record, and as modified by the architectural drawings and pages submitted on March 2, 2015 as Exhibit 51-51B in the record, and as modified by the guidelines, conditions, and standards herein (collectively, the “Plans”). **Prior to the construction of the South Building, the Applicant shall have the right to develop The Market with the Park Improvements and Life Safety Improvements shown in plans**

**submitted into the record in Z.C. Case No. 14-12C as Exhibits 1F and 5A, dated March 30, 2019 and April 18, 2019, respectively.**

In accordance with the provisions of Subtitle Z § 604.9 of the Zoning Regulations, this Order shall become final and effective upon publication in the *D.C. Register*; that is, on August 30, 2019.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

**ZONING COMMISSION OF THE DISTRICT OF COLUMBIA****Z.C. ORDER NO. 19-07****Z.C. Case No. 19-07****Forest City SEFC, LLC on behalf of the United States General Services Administration  
(SEFC Design Review at Square 853, Lot 803)****May 23, 2019**

Pursuant to notice, the Zoning Commission of the District of Columbia (the “Commission”) held a public hearing on May 23, 2019, to consider the application of Forest City SEFC, LLC (the “Applicant”) regarding property owned by the United States General Services Administration (“GSA”) for approval to construct a new building for a private educational use (a trapeze school), two above-grade accessible parking spaces, and related landscaping improvements (the “Project”) in the SEFC-1B zone on the property commonly known as “Parcel E4” in The Yards (Square 853, Lot 803, “Parcel E4”). The Commission’s approval for the Project’s use is required pursuant Title 11 of the District of Columbia Municipal Regulations (“DCMR”) the District of Columbia Zoning Regulations (“Zoning Regulations”, to which all references are made unless otherwise specified). The Commission considered the application for the Project pursuant to Subtitles X and Z of the Zoning Regulations. For the reasons below, the Commission hereby **APPROVES** the application.

**FINDINGS OF FACT****Notice**

1. On December 10, 2018, the Applicant mailed a Notice of Intent to file a design review application to all property owners within 200 feet of the Property and to Advisory Neighborhood Commission (“ANC”) 6D, the ANC within which the Property is located. (Exhibit [“Ex.”] 2D.) The Applicant also thereafter presented the Project to ANC 6D. (*Id.*)
2. On March 18, 2019, the Applicant filed an application on behalf of GSA, as the owner of the Property, for review and approval of the Project pursuant to Subtitle K §§ 237.4, 241, and 242 of the Zoning Regulations. (Ex. 1.)
3. The Office of Zoning referred the application to the National Capital Planning Commission (“NCPC”), gave notice of the public hearing by mail to ANC 6D, the Office of Planning (“OP”), the District Department of Transportation (“DDOT”), the D.C. Council, the Department of Consumer and Regulatory Affairs (“DCRA”), the Office of the Attorney General, the Department of Energy and Environment (“DOEE”), the District of Columbia Housing Authority, and to owners of property within 200 feet of the Property. Notice was also published in the *D.C. Register*. The Applicant provided evidence that notice of the public hearing was posted on the Property on April 10, 2019. (Ex. 3-6, 8, 14.)

**Parties**

4. Apart from the Applicant and the ANC there were no parties to this proceeding.



**The Property**

5. Parcel E4 is located entirely within “The Yards,” which was formerly known as the Southeast Federal Center (“SEFC”). (Ex. 2.)
6. Parcel E4 consists of approximately 46,462 square feet in the northeast corner of The Yards. Parcel E4 is owned by the GSA and is controlled by the Applicant pursuant to a development agreement between the GSA and the Applicant. (*Id.*)
7. Parcel E4 is bounded to the east and south by the Washington Navy Yard; to the west by Parcels E1 and E2, which respectively include historic Buildings 202 and 74; M Street, S.E. is to the north of Parcel E4, with Parcel E3 intervening between such street and the subject parcel. Tingey Street, S.E. ends to the southwest of Parcel E4. (*Id.*)
8. Parcel E4 is currently mostly vacant with only temporary gravel surface parking spaces and utility structures. (*Id.*)
9. All vehicular access to Parcel E4 is from Tingey Street, S.E., which is subject to a Navy-controlled gate immediately to the east. There is no vehicular access from M Street, S.E. because of the historic, brick “Sentry Wall” along the south side of M Street, S.E. The Sentry Wall varies somewhat in height but is generally 12-15 feet tall. The portion of Tingey Street, S.E. immediately south of Parcel E4 is a private way that is within the boundaries of the federally-owned Parcel E. (*Id.*)
10. The Property is located in the SEFC-1B zone. The SEFC zones are intended to “provide for the development of a vibrant, urban, mixed-use, waterfront neighborhood, offering a combination of uses that will attract residents, office workers, and visitors from across the District of Columbia and beyond.” (Subtitle K §§ 200.1, 200.2(c).)
11. The use provisions for the SEFC-1B zone also expressly permit educational uses, subject to Commission approval. (Subtitle K § 237.4(i).)

**The Application**

12. The Applicant seeks to construct a new trapeze school with associated improvements on Parcel E4. The new building will be approximately 40 feet tall and contain approximately 5,644 square feet of educational use floor area. (Ex. 2.)
13. The trapeze school is currently located on Parcel G, which is scheduled to be developed.
14. A trapeze school has been located in The Yards for many years. The school originally opened on Parcel O in The Yards in 2010 before relocating to its current location several years later pursuant to Z.C. Order No. 13-16. (Ex. 2I, p. 5.)
15. The Applicant wishes to retain the use because it believes that the school has been an important element of The Yards and The Yards Park. For nearly a decade, the trapeze school has attracted visitors to The Yards and added variety to the recreational uses available to District residents and visitors.

16. Parcel E4, which is anticipated to be one of the last parcels in The Yards to be developed, is an appropriate location for that interim use until Parcel E is ultimately developed with one or more permanent structures.
17. On April 12, 2019, the Applicant filed a Technical Memorandum, prepared by Gorove/Slade, regarding the Project's transportation aspects. (Ex. 7, 7A.)
18. On May 3, 2019, the Applicant filed a supplemental statement detailing discussions with ANC 6D, the U.S. Navy, NCPC, the Commission of Fine Arts ("CFA"), the Historic Preservation Office, OP, and DDOT. (Ex. 10-10C.) The Applicant also submitted:
  - a. Responses to questions raised by OP; (Ex. 10, p. 2.)
  - b. A request for proposed design flexibility from the final approved plans in nine areas; (Ex. 10A.)
  - c. The resumes, and outlines of testimony for the Applicant's expert witnesses; and (Ex. 10B.)
  - d. Revised Plans. (Ex. 10C.)
19. On May 23, 2019, the Applicant filed a short letter providing written responses to additional questions from OP and pointing out minor changes to the design of the Project in light of questions from OP. (Ex. 15.) These changes include:
  - a. Revising the plans to show pedestrian access and crosswalks/stripping connecting the Project to the existing sidewalk network;
  - b. Expanding the size of the proposed bioretention area; and
  - c. Providing additional details regarding the Project's proposed materials and colors.
20. On May 23, 2019, the Applicant also filed a presentation with updated plans for the Project. (Ex. 15A.)

### **Relief Requested**

21. The Commission's approval for the Project's use is required pursuant to Subtitle K §§ 237.4, 241, and 242 of the SEFC zone provisions, and the design review criteria of Subtitle X, Chapter 6.

### **OP Report**

22. OP filed a report dated May 13, 2019 (the "OP Report") recommending approval of the Project and testified accordingly at the public hearing. (Ex. 12.) The OP Report found that the Project is not inconsistent with the designation for the Property on the Comprehensive Plan's Future Land Use Map and Generalized Policy Map. Similarly, the OP Report concluded that the Project furthers policies in the Comprehensive Plan's Land

Use; Park, Recreation, and Open Space; Urban Design; and Anacostia Waterfront/Near Southwest Area Elements.

23. The OP Report also examined the Project against the design review criteria of Subtitle X, Chapter 6 as well as the SEFC-1B zone specific criteria, and found that the Project satisfied each relevant condition, concluding that the Project advances the goals and objectives of the SEFC zones as set forth in Subtitle K. (Ex. 12.)
24. While OP generally supported the Application's requests for design flexibility from the final approved plans, the OP report did include requests for additional information on two issues:
  - a. The Project's proposed materials and colors; and
  - b. The need for flexibility for the ground-floor frontage of the Project.
25. OP testified at the May 23, 2019 public hearing that the Applicant's responses provided in Exhibits 15 and 15A satisfactorily addressed OP's request for additional information. (Transcript of May 23, 2019 Zoning Commission Public Hearing, Z.C. Case No. 19-07 ["Tr. 1"] at 81.)

#### **DDOT Report**

26. DDOT filed a report dated May 10, 2019 stating that it had no objection to the approval of the Project. (the "DDOT Report") The DDOT Report had no recommended conditions or follow-up items. (Ex. 11.)

#### **ANC Report**

27. At its regularly scheduled and duly noticed public meeting on April 8, 2019 with a quorum present, ANC 6D voted to support the application for the Project, and the ANC filed a report with the Commission on May 16, 2019 (the "ANC Report"). (Ex. 13.) The ANC Report noted no issues or concerns with the Application. (*Id.*)
28. The ANC spoke in support of the Project at the public hearing. (Tr. 1 at 82.)

#### **Other Responses**

29. On May 2, 2019, NCPC issued a memorandum finding that the Project is not inconsistent with the Comprehensive Plan ("Comp Plan") and would not adversely affect any other federal interest. (Ex. 9.) NCPC noted that "the primary federal interest regarding this [P]roject is the adjacency of the Washington Navy Yard. GSA has consulted with the United States Navy on this [P]roject, [because the Navy] controls the property on two sides of the site, and the Navy's concerns and recommendations regarding proximity of the [Project's] outdoor rig have been incorporated into the design of the [P]roject." (*Id.*)
30. The Navy provided an email expressing no objection to the Project as revised. (Ex. 16.)

#### **Public Hearing of May 23, 2019**

31. Expert witnesses appearing on behalf of the Applicant included Will Teass of Teass/Warren, as an expert in architecture, and Erwin Andres of Gorove/Slade Associates, as an expert in transportation planning engineering. Toby Millman and Michael Odum of Brookfield Properties appeared on behalf of the Applicant, and Brett Banks appeared on behalf of GSA. (Ex. 17.)
32. OP testified in support of the Application and noted that the Applicant had responded to the questions regarding the requested design flexibility raised in the OP Report. (Tr. 1 at 81.)
33. The Applicant responded to the Commission's question as to whether the Project would be physically relocated from Parcel G to Parcel E4, noting that a new building would be constructed on Parcel E4 and the existing building recycled. The new building would have some minor differences relative to the existing building. (*Id.* at 77-78.)
34. Mr. Banks responded to the Commission's question as to whether the Project had been presented to the CFA, stating that it had not because it was a temporary structure and outside the scope of the agreement between GSA and CFA but that CFA staff was apprised of the development. (*Id.* at 78.)
35. The Applicant confirmed to the Commission that the Project had been reviewed by the Navy. (Tr. 1 at 75.) The Applicant noted that the Project had received approval from the Navy and referred the Commission to the email response in the record. (Tr. 1 at 74, 76; Ex. 16.)
36. The Commission also asked about the number of times the school had been moved and encouraged the Applicant to identify a permanent location for it in The Yards. (Tr. 1 at 78-80.)
37. Finally, the Commission noted that it agreed with the Applicant's request to limit the duration of the use to five years. (*Id.* at 74, 85-86.)

### CONCLUSIONS OF LAW

**Standard of Review**

1. Section 8 of the Zoning Act of 1938 (D.C. Official Code § 6-641.01 (2018 Repl.)) authorizes the Commission to undertake review and approval of the Project pursuant to Subtitle K § 237.4(i), which permits private education uses in the SEFC-1B zone, subject to the Commission's approval.
2. Section 237.4 requires the Application to comply with the review standards and procedures contained in Subtitle K §§ 241 and 242. Section 241.1 requires that a use within an SEFC zone must meet the general "standards set forth in Subtitle X" as well as the more specific criteria of §§ 241.1 and 241.2.

**Satisfaction of the General Review Criteria****General Design Review Criteria (X § 604)**

3. Section 604 requires that in order for the Commission to approve a design review application it must:
  - a. *Subtitle X § 604.5 - find that the proposed design review development is not inconsistent with the Comprehensive Plan and with other adopted public policies and active programs related to the subject site;*
  - b. *Subtitle X § 604.6 - find that the proposed design review development will not tend to affect adversely the use of neighboring property and meets the general special exception criteria of Subtitle X, Chapter 9;*
  - c. *Subtitle X § 604.7 - review the urban design of the site and the building according to certain enumerated criteria set forth below; and*
  - d. *Subtitle X § 604.8 - find that the criteria of Subtitle X § 604.7 are met in a way that is superior to any matter-of-right development possible on the site.*
4. The Commission concludes that the Application meets the general design review criteria as elaborated below.

**Not Inconsistent with the Comprehensive Plan (X § 604.5)**

5. The Commission concludes that this application is not inconsistent with the Comp Plan, including the relevant objectives of the 2013 Near Southeast Urban Design Framework Plan (the "NSE Plan"), the Generalized Policy Map, the Future Land Use Map, and the District-wide and Area Elements contained therein:
  - a. **Generalized Policy Map.** On the Comp Plan's Generalized Policy Map, Parcel E4 is located within the Central Employment Area ("CEA") and Land Use Change Areas (Federal). The CEA designation indicates that patrons, workers, and visitors are drawn to the area from across the region. (*See 10-A DCMR § 223.21.*) Such broad demand for uses around The Yards justifies the trapeze school to serve and attract such patrons, workers, and visitors. The Land Use Change Area

designation contemplates a change from the Federal control of The Yards at the time the Comp Plan was adopted in 2006 relative to an ultimate commercial use in 2025. (*Id.* § 223.9.) The Project's temporary nature is not inconsistent with this Land Use Change Area (Federal) designation;

- b. Future Land Use Map ("FLUM"). The Comp Plan's FLUM designates Parcel E4 as Mixed-Use High-Density Commercial/High-Density Residential. The Comp Plan also notes that the FLUM has a relatively long horizon and is not intended to be an "existing land use map." (*Id.* § 226(b).) Although the Project does not contain any high density uses, the temporary nature of the proposed use and structure does not impede high density uses in the future. Accordingly, the Project is not inconsistent with the FLUM of the Comp Plan;
- c. Land Use Element. The Project is generally not inconsistent with the numerous policy objectives of the Comp Plan's Land Use Element applicable to the CEA, large-scale infill development, and the creation of robust and sustainable commercial nodes; (*See id.* § 304.8, 307.5, 312.5.)
- d. Other District Elements of the Comp Plan. This application is also not inconsistent with the Comp Plan's other District Elements because the trapeze school serves the economic development interests of The Yards (*see id.* §§ 703.13, 707.6, 709.7, 718.7), and promotes accessibility to a waterfront park (*see id.* § 813.7) without compromising environmental quality (*see id.* § 602.2 *et seq.*) or historic integrity (*see id.* §§ 1008.5, 1011.8.);
- e. Area Elements of the Comp. Plan. The Comp Plan's Lower Anacostia Waterfront/Near Southwest Area Element encourages commercial development in the Waterfront Area, which development the Project supports. (*Id.* § 1908.4.) The temporary nature of the Project's uses is not inconsistent with any of the policy focus areas of the Area Element for The Yards (referred to as the "Near Southeast" in the Comp Plan); and (*Id.* § 1913.)
- f. NSE Plan. This application is not inconsistent with the NSE Plan, because the NSE Plan contemplates temporary uses.

**Satisfaction of the General Special Exception Criteria (X § 604.6)**

6. The Commission concludes that the Project satisfies the two prongs of the general special exception criteria of Subtitle X § 901 for the following reasons:

- a. *The Project satisfies Subtitle X § 901.2(a) because it is in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps for the SEFC-1B zone.*

The purpose and intent of the Zoning Regulations is summarized at Subtitle A § 101.2(a)-(d). The Project helps achieve the goals and objectives applicable in the SEFC-1B zone and advances the character of such zone. (*See* Subtitle A

§ 101.2(a.) The private education use contemplated herein is suitable for the zone as such uses are expressly contemplated in the SEFC-1B zone. (*Id.* § 101.2(b), and Subtitle K § 237.4(i).) The Project encourages and advances the stability of the SEFC-1B zone and the land value of the SEFC-1B zone because the Project puts otherwise vacant and unimproved land to temporary productive use while the multi-year build out of The Yards proceeds. (*Id.* § 101.2(c).) Finally, the Project is not inconsistent with the Comp Plan, as set forth above; and (*Id.* § 101.2(d).)

- b. *The Project satisfies Subtitle X § 901.2(b) because it will not tend to affect adversely the use of neighboring property.*

The Project fits into the surrounding context from a use and impact perspective and will not tend to adversely affect the use of any neighboring property. The trapeze school use does not create any adverse effects on neighboring property relative to the existing condition. Because the Project is merely relocating an existing use from elsewhere in The Yards and is not becoming any more intense of a use, the Project does not create any new traffic or any other net new impact. The Project's landscaping improvements represent a significant gain relative to the existing unimproved conditions. The Applicant has separately discussed the Project with the U.S. Navy, which controls the property on two sides of Parcel E4, and the Navy's concerns and recommendations have been incorporated into the design of the Project.

**Consistency with the Urban Design Criteria (X § 604.7)**

7. Subtitle X § 604.7 enumerates several general urban design criteria by which the Commission must review any SEFC-1B zone application pursuant to Subtitle K, § 237.4. The Commission concludes that the Project is consistent with each of these general criteria:

- a. *Street frontages are designed to be safe, comfortable, and encourage pedestrian activity, including:*
- i. *Multiple pedestrian entrances for large developments;*
  - ii. *Direct driveway or garage access to the street is discouraged;*
  - iii. *Commercial ground floors contain active uses with clear, inviting windows;*
  - iv. *Blank facades are prevented or minimized; and*
  - v. *Wide sidewalks are provided.*

Given the existence of the Sentry Wall, and the existing configuration of Parcel E4 relative to Tingey Street, S.E., these criteria are not as meaningful for the Project as such criteria might be for a lot that is differently situated. Nevertheless, the Project advances certain items of these five criteria. With respect to item *i.*,

the Project has multiple pedestrian entrances. With respect to item *ii.*, although the Project has driveway access to Tingey Street, S.E., such access is the only means available to the Parcel E4 and is mitigated because Tingey Street is not open to public travel beyond to the east of the property, effectively creating a “dead end” condition for the Project, which is unlikely to change given the surrounding properties are under the control and in active use by the U.S. Navy. Items *iii.* and *iv.* above are not applicable to the Project given the nature of the use proposed and the location of Parcel E4, as removed from any public street and screened from public view by the existing historic Sentry Wall. The Project improves Parcel E4 with sidewalks in furtherance of item *v.* above;

- b. Public gathering spaces and open spaces are encouraged, especially in the following situations:*
- i. Where neighborhood open space is lacking;*
  - ii. Near transit stations or hubs; and*
  - iii. When they can enhance existing parks and the waterfront.*

Thoughtful public gathering places and improvements to the public realm are part of the comprehensive master plan for The Yards. Given that Parcel E4 is bounded on three sides by a combination of the Sentry Wall and the Navy Yard, opportunities for public gathering spaces are rare. However, the trapeze school use creates a “third space” where nearby residents and members of the public can gather for a highly specialized and unique form of recreation. Moreover, the Project offers both indoor and outdoor recreation and is walkable to transit. Visitors to the school can also take advantage of the nearby location of The Yards Park;

- c. New development respects the historic character of Washington’s neighborhoods, including:*
- i. Developments near the District’s major boulevards and public spaces should reinforce the existing urban form;*
  - ii. Infill development should respect, though need not imitate, the continuity of neighborhood architectural character; and*
  - iii. Development should respect and protect key landscape vistas and axial views of landmarks and important places.*

Again, these criteria are generally inapplicable to the temporary use in this application. The Project does nothing to adversely affect the District’s major boulevards, public spaces, or urban form. Likewise, the Project does not disturb the urban form of the Sentry Wall along M Street, S.E. and respects the general low-scale, quasi-industrial character of the nearby Building 74 and Building 202.



Finally, the Project also respects and avoids any interference with landscape vistas and axial views along M Street, S.E., Tingley Street, S.E., and Isaac Hull Avenue;

- d. Buildings strive for attractive and inspired façade design, including:*
- i. Reinforce the pedestrian realm with elevated detailing and design of first and second stories; and*
  - ii. Incorporate contextual and quality building materials and fenestration.*

These criteria are also not applicable to this application as the Project contains only a small 5600-square-foot temporary structure that does not represent the final build-out of Parcel E4;

- e. Sites are designed with sustainable landscaping.*

The Project significantly enhances the existing conditions of Parcel E4 with respect to landscaping. Today Parcel E4 is almost entirely devoid of landscaping and is primarily covered in hardscape or gravel. The Project will bring Parcel E4 into compliance with the District's Green Area Ratio and stormwater management requirements, in part through the installation of sustainable landscaping; and

- f. Sites are developed to promote connectivity both internally and with surrounding neighborhoods, including:*
- i. Pedestrian pathways through developments increase mobility and link neighborhoods to transit;*
  - ii. The development incorporates transit and bicycle facilities and amenities;*
  - iii. Streets, easements, and open spaces are designed to be safe and pedestrian friendly;*
  - iv. Large sites are integrated into the surrounding community through street and pedestrian connections; and*
  - v. Waterfront development contains high quality trail and shoreline design as well as ensuring access and view corridors to the waterfront.*

The Project is walkable to transit and will include bicycle facilities and amenities. Tingley Street, S.E. in the vicinity of the Project is very narrow and accordingly pedestrian-friendly. Parcel E4 is accessible from the broader Yards development, and the surrounding neighborhood. However, the Sentry Wall to the North and adjacent Navy Yard to the South and East preclude connectivity through Parcel E.

### **Superior to Matter-of-Right Development**

8. Subtitle X § 604.8 requires that an application reviewed pursuant to this section must satisfy the urban design criteria above in a way that is superior to any matter-of-right development. The Commission concludes that this criterion is generally not applicable to this application, which contains only temporary uses, which are difficult to compare to matter-of-right development uses. Future permanent development of Parcel E4 will undergo Commission review, which will allow for a more complete comparison to matter-of-right development at that time.

**Satisfaction of the SEFC Review Criteria**

9. Subtitle K § 241.1 provides that “[i]n addition to proving that the proposed uses, buildings, or structures meet the standards set forth in Subtitle X, the applicant for Zoning Commission approval of a use or structure within a SEFC zone shall further demonstrate conformance to” SEFC-zone specific criteria.
10. Subtitle K § 241.1(a) requires compliance with “the goals and objectives of the SEFC zone set forth in Subtitle K §§ 200.2, 200.3, and 200.5.” The Project advances each of these goals and objectives:

- a. *Assure development of the area with a mixture of residential and commercial uses and a suitable height, bulk, and design of buildings, as generally identified in the [Comp] Plan, and in recognition of the objectives of the [Anacostia Waterfront Initiative Plan] and the [NSE] Plan. (Subtitle K § 200.2(a).)*

The Project includes only a temporary use that accommodates future development on Parcel E4 consistent with these criteria. As noted above, the Project’s commercial use and form are not inconsistent with the objectives of the Comp Plan and NSE Plan and adds to the mix of uses in The Yards;

- b. *Encourage high-density residential development with a pedestrian-oriented streetscape through flexible zoning parameters. (Id. § 200.2(b).)*

This objective is not applicable given the temporary nature of the Project;

- c. *Encourage a variety of support and visitor-related uses, such as retail, service, entertainment, cultural, and hotel or inn uses. (Id. § 200.2(c).)*

The Project is a visitor-related entertainment use in support of this objective. It supports and encourages other visitor-related uses, including, notably, The Yards Park, and retail and entertainment/eating and drinking establishment uses that are emerging in The Yards. Visitors, patrons, and employees of the Project are likely to also visit other nearby cultural, commercial and entertainment establishments;

- d. *Provide for a reduced height and bulk of buildings along the Anacostia riverfront in the interest of ensuring views over and around waterfront buildings, and provide for continuous publicly-accessible open space along the waterfront. (Id. § 200.2(d).)*

Consistent with this objective, the Project does not interfere with views to the waterfront and does not impede access to open space along the waterfront;

- e. *Require suitable ground-floor level retail and service uses near the Navy Yard Metrorail station, along M Street, S.E., near the SEFC-4 zone, and at other key pedestrian locations. (Id. § 200.2(e).)*

This objective is not applicable to the Project given the nature of Parcel E4;

- f. *Encourage the design and development of properties in a manner that is sensitive to the adjacent Navy Yard and the historically significant buildings within the SEFC zones. (Id. § 200.2(f).)*

Ground-floor retail along M Street, S.E. is not currently feasible on Parcel E4 given the presence of the historic Sentry Wall and is not contemplated along Tingey Street, SE given the private nature of that street in the vicinity of the Project, the temporary nature of the Project's structure, and the current "dead end" condition of Parcel E4 generally. The Project is designed to be sensitive to the adjacent Navy Yard and surrounding historically significant buildings as encouraged by this urban design objective. Namely, the low height and the significant setbacks from each property line of the trapeze school building exemplify such sensitivity;

- g. *Establish zoning incentives and restrictions to provide for the development of a publicly-accessible park along the Anacostia River and encourage uses in that park as permitted in the SEFC-4 zone. (Id. § 200.2(g).)*

The Applicant contributed significantly to the development of The Yards Park, which is publicly-accessible. The Project indirectly helps achieve this objective by attracting visitors from across the District who travel to The Yards to experience and enjoy the Park; and

- h. *Provide for high-density mixed-use development with ground-floor retail. (Id. § 200.3.) Provide for medium-density residential development with limited ground-floor retail. (Id. § 200.5.)*

These two criteria are not applicable to the Project which does not contain any residential or retail uses. The Project's uses do support such uses elsewhere within The Yards.

- 11. Subtitle K § 241.1(b) requires that any "proposed building or structure shall be designed with a height, bulk, and siting that provide for openness of view and vistas to and from the waterfront and, where feasible, shall maintain views of federal monumental buildings, particularly along the New Jersey Avenue, S.E. corridor". As noted above, the Project

does not interfere with open views or vistas to the waterfront or other District monuments because it does not include any vertical elements of any significance.

12. Finally, Subtitle K § 241.1(c) requires that “on or above-grade parking adjacent to, or visible from, the street shall be limited, [and w]here parking cannot be placed underground, other uses such as retail or residential shall separate parking areas from the street, or where this is not possible, green landscaping or architectural treatment of façade shall adequately screen parking from the street and adjacent development.” The Project contains two above-grade surface parking spaces that are screened from any view from a public street or adjacent development. Such parking is entirely invisible from the public realm because of the Sentry Wall, the location of the trapeze school building itself, and the proposed landscaping. Because of the temporary nature of the Project, placing such parking below-grade is not possible. The parking provided by the Project is necessary to satisfy ADA requirements. Below-grade parking is not possible given the size and temporary nature of the Project. The Project’s parking is located to the south of the trapeze school to ensure it is not visible from M Street, S.E. It is similarly not visible from the public portion of Tingey Street, S.E. given its location and the orientation and location of the existing Building 74 to the west of the Property.

13. Subtitle K § 241.2 sets forth additional criteria that the Commission may consider in evaluating this application for design review, some of which criteria are inapplicable to the application. The applicable criteria include considering:

a. *Compatibility with buildings in the surrounding area through overall massing, siting, details, and landscaping:*

The Project is compatible with neighboring properties with respect to overall massing, siting, and landscaping. Because the Project’s only structures are temporary, the Project is not designed with the level of detailing necessary to satisfy these criteria. However, the Project does not contravene the intent of this criterion: the trapeze school’s massing is modest and is unlikely to be visible from the public realm except from the very end of Tingey Street, S.E. Its height and scale are consistent with the existing Building 74 and with nearby buildings in the Navy Yard. The trapeze school is set back from M Street, S.E. by approximately 308 feet so as to minimize visibility from the public realm, consistent with the school’s temporary nature. With respect to landscaping, the Project’s site plan is compatible with the surrounding existing context and will comply with all applicable landscaping and stormwater regulations in the Zoning Regulations and otherwise;

b. *Use of high standards of environmental design that promote the achievement of sustainable development goals:*

Except with respect to landscaping, this item is generally inapplicable given the temporary nature of the trapeze school. The Project’s only structure, the trapeze school, is designed to modern energy codes, but is not designed to achieve any

notable environmental standards given its temporary nature. Significantly, the Project's landscaping improves upon the current vacant and un-vegetated state of the Property. The Project brings the Property into compliance with GAR and stormwater requirements, two of the most significant sustainable development goals in the District;

- c. *Façade articulation that minimizes or eliminates the visibility of unarticulated blank walls from public spaces:*

The Project includes no new walls that are along or public spaces. Tingey Street, S.E. is a private street in the vicinity of Parcel E4 (and becomes entirely inaccessible to the public immediately to the east). The existing historic Sentry Wall obscures any views of the trapeze school from M Street, S.E. Isaac Hull Avenue to the east of Parcel E4 is entirely within the Navy Yard and not open to public travel; and

- d. *Landscaping which complements the building:*

The Project's landscaping complements the existing Building 74 and the new trapeze school building and satisfies applicable zoning-related design and other stormwater requirements.

#### **“Great Weight” to the ANC Report**

14. The Commission must give “great weight” to the issues and concerns raised in the written report of the affected ANC, which in this case is ANC 6D. (§ 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 this great weight requirement, District agencies must articulate with particularity and precision the reasons why an affected ANC does or does not offer persuasive advice under the circumstances. The District of Columbia Court of Appeals has interpreted the phrase “issues and concerns” to “encompass only legally relevant issues and concerns.” (*Wheeler v. District of Columbia Board of Zoning Adjustment*, 395 A.2d 85, 91 n.10 (1978).)
15. The Commission notes that the ANC Report raised no substantive concerns about the design of the Project and at the public hearing spoke in favor of the Project's unique design as an element that attracts activity to The Yards and that benefits the ANC.

#### **“Great Weight” to the Recommendations of OP**

16. The Commission is required to give “great weight” to the recommendation of the Office of Planning. (D.C. Official Code § 6-623.04 (2018 Repl.) and Subtitle Z § 405.8.)
17. The Commission gives OP's recommendation to approve the application great weight, concurs with and incorporates herein OP's findings, and concludes that the Applicant's responses appropriately addressed OP's questions and concerns.

18. Finally, the Commission has considered DDOT's report and has reviewed and considered materials submitted by NCPC and the U.S. Navy. The Commission concludes that the Applicant has appropriately addressed concerns raised by the District and federal agencies.

### DECISION

At the conclusion of its public hearing on May 23, 2019, upon the motion of Commissioner Shapiro, as seconded by Vice Chairman Miller, the Zoning Commission for the District of Columbia took **FINAL ACTION** to **APPROVE** the application by a vote of **5-0-0** (Anthony J. Hood, Robert E. Miller, Peter A. Shapiro, Peter G. May, and Michael G. Turnbull in support).

In consideration of the above Findings of Fact and Conclusions of Law, the Zoning Commission for the District of Columbia **ORDERS APPROVAL** of this application. This approval is subject to the following conditions, standards, and flexibility.

1. **Project Development.** The Project shall be built in accordance with the plans and elevations dated May 23, 2019 and marked as Exhibit 21 of the record (the "Final Plans"), subject to the following areas of design flexibility:
  - a. To vary the location and design of all interior components, including partitions, structural slabs, doors, hallways, columns, stairways, mechanical rooms, and toilet rooms, provided that the variations do not change the exterior configuration or appearance of the structure;
  - b. To vary the colors of the exterior materials based on availability at the time of construction, provided such colors are within the color ranges proposed in the Final Plans;
  - c. To make minor refinements to the locations and dimensions of exterior details that do not substantially alter the exterior design shown on the Final Plans. Examples of exterior details would include, but are not limited to, doorways, canopies, railings, and skylights;
  - d. To make refinements to the approved parking configuration, including layout and number of parking spaces plus or minus one or two spaces;
  - e. To vary the final streetscaping and landscaping materials on private property as shown on the Final Plans based on availability and suitability at the time of construction, to incorporate materials consistent with adjacent public space (including both DDOT standard and DDOT-approved "Yards Standard" materials, furnishings, and fixtures), or otherwise in order to satisfy any permitting requirements of DC Water, DDOT, DOEE, DCRA, or other applicable regulatory bodies;

- f. To vary the amount, location and type of green infrastructure to meet stormwater requirements and sustainability goals or otherwise satisfy permitting requirements, so long as the tax lot on which the Project is located achieves a minimum GAR of 0.2;
  - g. To vary the final design and layout of the mechanical equipment to accommodate changes to comply with Construction Codes or address the structural, mechanical, or operational needs of the building uses or systems;
  - h. To vary the final design and layout of the indoor and outdoor amenity spaces to reflect their final design and programming; and
  - i. To vary the final design of the ground-floor frontage, including the number, size, design, and location of windows and entrances, signage, awnings, canopies, and similar storefront design features, to accommodate the needs of the specific tenants within the parameters set forth in the Final Plans.
2. The application approved by this Commission shall be valid for a period of two years from the effective date of this Order. Within such time, an application for building permit must be filed as specified in Subtitle Z § 702.2. Construction must begin within three years after the effective date of this Order. (Subtitle Z § 702.3.)
  3. **Duration of Use. The approvals granted in this Order shall be valid for a period of five years** from the effective date of this Order.
  4. In accordance with the D.C. Human Rights Act of 1977, as amended, (D.C. Official Code §§ 2-1401.01 et seq. (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 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.

In accordance with the provisions of 11-Z DCMR § 604.9, this Order shall become final and effective upon publication in the *DC Register*; that is on August 30, 2019.

**BY THE ORDER OF THE D.C. ZONING COMMISSION**

A majority of the Commission members approved the issuance of this Order.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**NOTICE OF FILING**  
**Z.C. Case No. 19-17**  
**(Atlas MLK, LLC and 3715 MLK, LLC – Map Amendment @**  
**Square 6070, Lots 48 and 50-52)**  
**August 19, 2019**

**THIS CASE IS OF INTEREST TO ANC 8C**

On August 8, 2019, the Office of Zoning received an application from Atlas MLK, LLC and 3715 MLK, LLC (together, the “Applicant”) for approval of a map amendment for the above-referenced property.

The property that is the subject of this application consists of Lots 48 and 50-52 in Square 6070 in southeast Washington, D.C. (Ward 8), on property located at 3703-3707 and 3715 Martin Luther King, Jr. Avenue, S.E. The property is currently zoned MU-3A. The Applicant is proposing a map amendment to rezone the property to the MU-4 zone.

The MU-3 zones are generally intended to permit low-density mixed-use development and provide convenient retail and personal service establishments for the day-to-day needs of a local neighborhood, as well as residential and limited community facilities with a minimum impact upon the surrounding residential development. The MU-3A zone allows a maximum height of 40 feet; maximum lot occupancy of 60%; and maximum density of 1.0 floor area ratio (“FAR”) (1.2 FAR for Inclusionary Zoning [IZ]).

The MU-4 zone is intended to: permit moderate-density mixed-use development; provide facilities for shopping and business needs, housing, and mixed uses for large segments of the District of Columbia outside of the central core; and be located in low- and moderate-density residential areas with access to main roadways or rapid transit stops, and include office employment centers, shopping centers, and moderate-bulk mixed-use centers. The MU-4 zone allows a maximum height of 50 feet; maximum lot occupancy of 60% (75% for IZ); and maximum density 2.5 FAR (3.0 for IZ and 1.5 for non-residential<sup>1</sup>).

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

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<sup>1</sup> In the MU-4 zone, an existing building on a lot with an area 10,000 sq. ft. or less, may have a maximum density of 2.0 FAR for non-residential uses, provided the uses are located in the ground story and the story directly above the ground story. For new construction, any additional use is limited to 0.5 FAR.



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA**  
**NOTICE OF FILING**  
**Z.C. Case No. 19-18**  
**(Belmont Crossing Partners, LLC – Map Amendment @ Square 6208)**  
**August 15, 2019**

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

On August 14, 2019, the Office of Zoning received an application from Belmont Crossing Partners, LLC (the “Applicant”) for approval of a map amendment for the above-referenced property.

The property that is the subject of this application consists of Lots 59-63, 65-69, 809-811, 817, and 827-829 in Square 6208 in southeast Washington, D.C. (Ward 8), on property located in the Washington Highlands neighborhood at 7<sup>th</sup> Street, S.E. and Barnaby Road, S.E. The property is currently zoned RA-1. The Applicant is proposing a map amendment to rezone the property to the RA-2 zone in order to facilitate the redevelopment of the subject property to replace the existing outdated housing with all new affordable housing.

The RA-1 zone is intended to permit flexibility of design by permitting all types of urban residential development if they conform to the height, density, and area requirements established for these districts; and permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and that are excluded from the more restrictive residential zones. The RA-1 zone allows a maximum height of 40 feet; maximum lot occupancy of 40%; and maximum density of 0.90 floor area ratio (“FAR”).

The RA-2 zone is intended to permit flexibility of design by permitting all types of urban residential development if they conform to the height, density, and area requirements established for these districts; and permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and that are excluded from the more restrictive residential zones. The RA-2 zone allows a maximum height of 50 feet; maximum lot occupancy of 60%; and maximum density of 1.8 FAR.

This case was filed electronically through the Interactive Zoning Information System (“IZIS”), which can be accessed through <http://dcoz.dc.gov>. For additional information, please contact Sharon S. Schellin, Secretary to the Zoning Commission at (202) 727-6311.

**District of Columbia REGISTER – August 30, 2019 – Vol. 66 - No. 36 011564 – 011805**