

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF FINAL RULEMAKING

CIVIL INFRACTIONS: SCHEDULE OF FINES AMENDMENTS

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in Section 33 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 Technical and Clarifying Amendments Act of 1990, effective March 8, 1991 (D.C. Law 8-237); Section 104 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (the "Act"), (D.C. Law 6-42; D.C. Official Code § 2-1801.04); and Mayor's Order 99-68, dated April 28, 1999, hereby gives notice of the adoption of the following amendments to Chapter 32 of Title 16 of the District of Columbia Municipal Regulations.

Pursuant to Section 2-1801.04 of the Act, the Director submitted the proposed rules to the Council of the District of Columbia for review and approval. The Council approved the rules on July 13, 2004. Notices of proposed rulemaking to establish the civil fines were published in the D.C. Register on May 23, 2003 (50 DCR 3995) and March 5, 2004 (51 DCR 2407).

This final rulemaking adds a new section of infractions to the Civil Infractions Schedule of Fines (16 DCMR 32) for violations of 16 DCMR, Chapter 4—Towing Service for Motor Vehicles.

Chapter 32 of Title 16 DCMR (Consumers, Commercial Practices & Civil Infractions) (July 1998), is amended as follows to add:

- 3210 DCRA OFFICE OF INVESTIGATION, WEIGHTS AND MEASURES –
TOWING SERVICE FOR MOTOR VEHICLES INFRACTIONS
- 3210.1 [Reserved].
- 3210.2 Violation of any of the following provisions shall be a Class 2 infraction:
- (a) 16 DCMR § 401.2 (failure to permit inspection by an authorized government official, including inspecting and photographing of towing equipment, tow trucks, towing storage lots, logs and documents related to towing services initiated in the District);
 - (b) 16 DCMR § 401.3 (failure to permit inspection of a towing service storage lot by officials of DCRA and other authorized government agencies);
 - (c) 16 DCMR § 401.4 (interfering with an authorized inspection);
 - (d) 16 DCMR § 401.5 (failure to surrender records upon lawful demand by an authorized government official);

- (e) 16 DCMR § 401.6 (submitting towing service records that were created after demand for inspection by an authorized government official; or, creating towing service records after an authorized government official demands an inspection);
- (f) 16 DCMR § 402.1 (owning a towing business without proper licensure);
- (g) 16 DCMR § 402.2 (owning a towing service storage lot without proper licensure);
- (h) 16 DCMR § 402.4(c) (failure to report discontinuance of availability of towing service storage lot to Director at least ten (10) days prior to discontinuance of availability);
- (i) 16 DCMR § 402.6 (failure to update information provided in an application for a license or endorsement to DCRA within fourteen (14) days of change);
- (j) 16 DCMR § 402.7 (failure to identify person with financial interest in towing business or towing service storage lot);
- (k) 16 DCMR § 402.8 (owning or operating a towing business or truck, or towing service storage lot within five (5) years of specified auto related misdemeanor or felony);
- (l) 16 DCMR § 403.1 (operating or using a tow truck without an authorized unique identifier);
- (m) 16 DCMR § 403.2 (unauthorized operation of a tow truck, or operating an unlicensed tow truck);
- (n) 16 DCMR § 403.4 (failure to display license in manner specified by the Director);
- (o) 16 DCMR § 404.1 (failure to maintain at least one fully equipped and licensed tow truck);
- (p) 16 DCMR § 404.2 (failure to mark cab of tow truck with trade name, primary location and primary telephone number, as specified);
- (q) 16 DCMR § 404.3 (failure to mark cab of tow truck with private towing and storage fees, as specified);
- (r) 16 DCMR § 404.4 (failure to mark cab of tow truck with alphanumeric identifier, as specified);

- (s) 16 DCMR § 404.5 (failure to equip tow truck with operable communication system, as specified; or, failure to produce a current permit and license, as required, to operate the communications system);
- (t) 16 DCMR § 404.11 (improper use of equipment while towing; or, towing without manufacturer's minimally specified equipment for a particular vehicle);
- (u) 16 DCMR § 405.1 (failure to locate secured storage lot in the District of Columbia; or, failure to provide descriptive signage on lot; or, failure to comply with other District laws and regulations; or, failure to comply with District zoning rules);
- (v) 16 DCMR § 406.3 (failure to obtain a towing control number before initiating a public tow);
- (w) 16 DCMR § 406.4 (failure to provide information to DPW before initiating a tow from private real property);
- (x) 16 DCMR § 406.7 (towing from private property without consent of the owner and without a citation for the vehicle issued by law enforcement personnel; or, towing from private property without being directed by a police officer in an emergency; or, failure to comply with provisions of D.C. Official Code §§ 50-2651 through 50-2654 (2001));
- (y) 16 DCMR § 408.1 (charging rates for public tows that exceed rates specified in the Director's Schedule of Maximum Rates in § 408.1);
- (z) 16 DCMR § 408.2 (charging rates for private tows that exceed rates specified in the towing business's Basic Business License Endorsement Application);
- (aa) 16 DCMR § 408.3 (failure to submit documentary evidence to Director within seventy-two (72) hours after collecting extra charges under extraordinary circumstances; or, failure to provide a refund of disapproved charges within seventy-two (72) hours of receipt of notice of disapproval);
- (bb) 16 DCMR 408.4 (towing storage lot failure to remain open as required for the reclaiming of vehicles);
- (cc) 16 DCMR § 408.5 (charging for towing service, in response to a dispatch, after authorized official determines that service is not required; or, failure to notify DPW that a public tow has been discontinued);

- (dd) 16 DCMR § 408.6 (failure to discontinue tow and release vehicle upon request by owner/operator and after payment of lawful rate (and concurrence of requesting official, if present; or, failure to notify DPW that a tow has been discontinued);
- (ee) 16 DCMR § 408.8 (failure to accept lawful payment for towing services rendered);
- (ff) 16 DCMR § 408.10 (performing repair work on a public tow vehicle without written consent of the owner or owner's agent);
- (gg) 16 DCMR § 409.3 (charging for services not provided);
- (hh) 16 DCMR § 409.4 (failure to exhibit statements or receipts upon request; or, failure to retain statements and receipts for three (3) years from date of issuance);
- (ii) 16 DCMR § 409.6 (assessing charges for providing unnecessary services; or, assessing charges for the use of unnecessary equipment);
- (jj) 16 DCMR § 409.7 (failure to release vehicle after tender of lawful payment by owner or owner's agent);
- (kk) 16 DCMR § 410.1 (operating or offering to engage in the towing business without valid licensure; or, operating a towing storage lot without valid licensure);
- (ll) 16 DCMR § 410.3 (unauthorized removal of vehicle involved in accident);
- (mm) 16 DCMR § 410.8 (installing or maintaining a receiver capable of tuning to MPD radio frequencies);
- (nn) 16 DCMR § 410.9 (soliciting or providing unauthorized towing service at the scene of an accident);
- (oo) 16 DCMR § 410.10 (depositing a vehicle that is inoperable or in disrepair upon public space, without direction from an authorized official; or, depositing a vehicle that is inoperable or in disrepair upon private property without permission of the owner of the property);
- (pp) 16 DCMR § 410.11 (failure to provide an itemized receipt for charges related to towing or storing of a vehicle);
- (qq) 16 DCMR § 410.14 (failure to surrender suspended, revoked or canceled license or endorsement);

- (rr) 16 DCMR § 410.16 (permitting the unlawful use of a towing license or endorsement; or, the unlawful use of a towing license or endorsement);
- (ss) 16 DCMR § 410.18 (towing vehicles in the District of Columbia without current insurance coverage, as required);
- (tt) 16 DCMR § 411.3 (failure to appear when summoned by the Director);
- (uu) 16 DCMR § 411.8 (performing towing services, including operating a towing service storage lot, without a license or endorsement; or, performing towing services, including operating a towing service storage lot, with a license that has been revoked, cancelled or suspended);
- (vv) 16 DCMR § 411.9 (failure to remove accident debris from roadway before towing a vehicle involved in a collision); and
- (ww) 16 DCMR § 411.11 (failure to provide documentary proof of current insurance coverage, upon the request of any District government official).

3210.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 16 DCMR § 400.8 (failure to provide insurance information, upon request by the owner or operator of a towed vehicle, as requested);
- (b) 16 DCMR § 405.3 (failure to contact DPW with required information prior to releasing a public tow vehicle);
- (c) 16 DCMR § 405.7 (failure to provide "Owner's Bill of Rights for Towed Vehicles" to vehicle owner or operator on the scene before a tow; or, failure to post "Owner's Bill of Rights for Towed Vehicles" at towing service storage lot);
- (d) 16 DCMR § 406.3 (failure to display towing control number as prescribed by DPW; or, failure to use towing control number on documents related to the tow);
- (e) 16 DCMR § 406.5 (failure to obtain towing control number after emergency; or, failure to provide information as required after an emergency);
- (f) 16 DCMR § 406.8 (failure to assume responsibility for loss or damaged sustained as a result of a public tow; or, failure to provide appropriately trained personnel to tow vehicles);

- (g) 16 DCMR § 407.2 (initiating the private tow of a vehicle without obtaining written consent, as specified);
- (h) 16 DCMR § 408.7 (failure to release vehicle to authorized person when presented with proof of personal identification and lawful payment);
- (i) 16 DCMR § 408.9 (failure to provide Owner's Bill of Rights for Towed Vehicles upon release of vehicle; or, failure to provide legal authority for towing of vehicle, including towing control number; or, failure to provide itemized charges; or, failure to provide a receipt);
- (j) 16 DCMR § 409.1 (for private tow: failure to furnish an itemized estimate of charges; or, failure to furnish an itemized estimate of charges on approved form; or, failure to obtain signature of owner or operator before initiating tow);
- (k) 16 DCMR § 409.3 (failure to document actual amount paid; or, failure to sign receipt);
- (l) 16 DCMR § 410.4 (soliciting or requiring repair work as a condition for towing of vehicle);
- (m) 16 DCMR § 410.5 (removing a vehicle from the scene of an accident or event and depositing it upon public space, without direction from a police officer);
- (n) 16 DCMR § 410.6 (charging more than one towing fee for towing to a repair facility owned or operated by person or entity conducting tow);
- (o) 16 DCMR § 410.7 (towing to a repair facility without prior written consent); and
- (p) 16 DCMR § 410.17 (failure to perform tow in accordance with vehicle manufacturer's instructions; or, failure to perform a tow in accordance with the tow crane manufacturer's instructions).

3210.4

Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 16 DCMR § 405.2(b), (c), (d) (failure to maintain a log; or, failure to properly record entries in log; or, failure to retain log for inspection three (3) years after last entry);
- (b) 16 DCMR § 408.11 (using an improper form to obtain consent for repair work on a public tow vehicle);

- (c) 16 DCMR § 409.2 (failure to provide complete information in itemized estimate of charges);
- (d) 16 DCMR § 410.2 (misrepresentation); and
- (e) 16 DCMR § 411.10 (failure to report the presence of alleged hazardous materials, as required).

3210.5 Violation of any of the following provisions shall be a Class 5 infraction:

- (a) 16 DCMR § 404.6 (failure to maintain tie-down devices, chains, or straps, as specified);
- (b) 16 DCMR § 404.7 (engaging in recovery towing without proper equipment, as specified);
- (c) 16 DCMR § 404.8 (operating a crane tow truck without proper equipment, as specified);
- (d) 16 DCMR § 404.9 (operating wheel lift tow truck without proper equipment, as specified);
- (e) 16 DCMR § 404.10(a-h) (failure to maintain equipment in good working order);
- (f) 16 DCMR § 405.4 (failure to clearly designate or identify towing business assigned to each apportioned section);
- (g) 16 DCMR § 405.5 (failure to clearly designate storage spaces; or, failure to clearly identify towing business assigned to each space in an apportioned section); and
- (h) 16 DCMR § 410.13 (failure to allow inspection of vehicle before receiving payment of fees; or, failure to allow inspection before release of vehicle).

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS**

NOTICE OF FINAL RULEMAKING

The District of Columbia Board of Elections and Ethics hereby gives notice of the adoption of the following amendments to 3 DCMR Chapter 7, "Election Procedures," and Chapter 8, "Tabulation and Certification of Election Results." The Board took final rulemaking action with respect to these amendments at a regular meeting on Wednesday, July 21, 2004.

The amendments: 1) reflect that the Board's election, tabulation, and certification procedures have changed as a result of the Board's use of the optical scan and direct recording electronic vote tabulation systems; 2) situate in the Board's regulations the circumstances specified in the Help America Vote Act of 2002 which would require an individual to vote by special ballot, as well as the procedures by which to appeal the Board's special ballot determinations; and 3) outline the procedures to be followed in the event of the inoperability of either the optical scan or direct recording electronic vote tabulation systems on election day.

Notice of Emergency and Proposed Rulemaking with respect to these amendments was published in the D.C. Register on May 14, 2004 at 51 D.C.R. 5038. No comments were received concerning these rules, and the only changes that have been made since publication of the Notice of Emergency and Proposed Rulemaking are corrections of typographical errors. These final rules will be effective upon publication of this notice in the D.C. Register.

CHAPTER 7 ELECTION PROCEDURES

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700 TYPES OF BALLOTS

- 700.1 The Board shall publish a fictitious name sample design and layout of the ballot (also called a "fictitious ballot") to be used in each election in the *D.C. Register* not later than forty-five (45) days before the election.
- 700.2 The Board shall publish a sample copy of the official ballot to be used in each election (except the official ballot to be used in the Advisory Neighborhood Commissions elections) in one or more newspapers of general circulation in the District not more than seven (7) days before each election.
- 700.3 The Board shall permit the preparation and distribution of sample ballots, subject to the following requirements:
- (a) Sample ballots shall be printed or reproduced on a white color of paper; and
 - (b) Sample ballots shall be prominently marked on the front with the word(s) "Sample" or "Sample Ballot."
- 700.4 The Board shall provide test ballots during the testing of the programs and equipment used to count votes before any election.
- 700.5 The Board shall provide official ballots to absentee voters and to voters on election day to be used by the voter for indicating candidate or measure preference in any contest.
- 700.6 The Board shall accept the qualified "Federal Write-In Ballot," as defined under the Uniformed and Overseas Citizens Voting Rights Act of 1986, as an official ballot.

701 FORMS OF BALLOTS

- 701.1 In primary elections, the Board shall provide separate and color-coded ballots for the candidates of each political party qualified to participate in the election (**PRIMARY BALLOTS**).
- 701.2 In city-wide general elections, the Board shall supply ballots listing the offices to be filled and candidates for each office to be filled (**GENERAL ELECTION BALLOTS**).
- 701.3 In special elections, the Board shall furnish ballots listing the following:
- (a) The offices to be filled and candidates for each office to be filled;
 - (b) The short title and summary statement of each proposed referendum or recall measure, if any; and
 - (c) Any proposed Charter amendment.
- 701.4 In any primary, general or special election, in which the office of President of the United States, Vice President of the United States, or Delegate to the House of

Representatives, appears on the ballot, the Board shall provide absentee ballots listing the office or offices to be filled and the candidates for each office (**FEDERAL BALLOTS**). Federal Ballots shall be restricted to qualified federal electors as defined in § 501.2.

701.5 Initiative, Referendum and Recall measures and proposed Charter amendments may appear on a separate ballot in any election.

702 CANDIDATES NAMES ON BALLOTS

702.1 The name of a candidate for election shall appear on the ballot in the form designated on the Declaration of Candidacy and Affidavit of Qualifications executed and filed by the candidate in accordance with the provisions of chapter 6 of this title; Provided, that the name conforms to the following:

- (a) The use of titles, degrees and prefixes on the ballot is prohibited; and
- (b) The candidate shall designate the listing of his or her name on the ballot by specifying the given name or names, or the initial letter of a given name, if any, and surname.

702.2 The Board may permit a candidate to specify a modified form of his or her given name or names on the ballot if the Board finds that the change shall not confuse or mislead the voters and is legally acceptable.

702.3 The Board shall arrange the names of the candidates on each ballot, and for each office, so that a voter may vote for as many candidates as there are offices to be filled.

702.4 In any election, the order in which the names and slates of the candidates for office appear on the ballot shall be determined by lot, upon a date and in a manner prescribed by the Board.

702.5 If there is a successful petition challenge, the position of the remaining candidates' names shall be advanced accordingly.

702.6 Except where otherwise specified, the names of candidates nominated as a slate shall be listed on the ballot in the same order in which their names appear on the first page of their nominating petition.

703 OPENING AND CLOSING OF POLLS

703.1 Polling places in which elections are to be held shall be opened at 7:00 a.m. on the date required by law for the election and shall remain open for voting until 8:00 p.m., except in instances when the time established for closing the polls is extended pursuant to a Federal or District of Columbia court order or any other order.

703.2 All persons standing in line at a polling place at the close of polls shall be permitted to vote, if otherwise qualified.

703.3 At the close of polls, a member of the Polling Team shall take a position at the end of

any existing line of prospective voters, and only persons standing in front of the official at that time shall be permitted to vote.

704 POLLING PLACE OFFICIALS

704.1 The operations of polling places and ballot counting places shall be conducted by officials designated by the Board.

704.2 The official in charge of each polling place shall be known as the Precinct Captain.

704.3 The duties of the Precinct Captain may be delegated by the Board or by the Precinct Captain to another official, who shall be known as the Alternate Precinct Captain.

705 POLL WATCHERS AND VOTE COUNTING WATCHERS

705.1 Each qualified candidate and the proponents and opponents of proposed initiative, referendum and recall measures, and Charter amendments, may petition the Board for credentials authorizing watchers at one or more polling places or counting places.

705.2 Each petition shall be filed with the Board, not less than two (2) weeks before each election and shall be on a form furnished by the Board.

705.3 At the time of filing, the petition form shall contain the following:

- (a) The name, address, telephone number, and signature of the candidate, proponent, or opponent with the office for which he or she is a candidate, and a short title, if any, of the measure or proposed Charter amendment which he or she supports or opposes;
- (b) The name, address, and telephone number of the watcher supervisor, if a person is designated by the candidate, proponent, or opponent;
- (c) The names, addresses and telephone numbers of at least two (2) and not more than three (3) persons, authorized to represent the candidate, proponent, or opponent on election day and receive the badges from the Board; and
- (d) A certificate that each proposed watcher selected, is a qualified elector, and that he or she shall conform to the regulations of the Board with respect to watchers and the conduct of the election.

705.4 The Board may limit the number of watchers to ensure that the conduct of the election will not be unreasonably obstructed.

705.5 The number of watchers allowed by each qualified candidate, proponent, or opponent at each polling place and at each counting place, shall be determined by the Board not less than two (2) weeks prior to an election.

705.6 In making a determination of the number of watchers allowed, the Board shall consider the following:

- (a) The number of candidates;
 - (b) The candidates running as a slate;
 - (c) The number of proponents and opponents of measures and proposed Charter amendments;
 - (d) The physical limitations of the polling places and counting place; and
 - (e) Any other relevant factors.
- 705.7 The Board shall issue a badge for each authorized watcher, with space for the watcher's name and the name of the candidate or party represented by the watcher. Badges shall also be issued for each authorized watcher representing the proponents or opponents of measures or proposed Charter amendments.
- 705.8 Badges shall be numbered consecutively, and consecutive numbers issued to each candidate, proponent, or opponent.
- 705.9 All badges shall be worn in plain view by the authorized watcher at all times when on duty at the polling place or counting place.
- 705.10 An authorized alternate watcher may, in the discretion of the watcher supervisor, be substituted for a watcher at any time; provided, that notice is first given to the designated representative of the Board at the polling place or counting place.
- 705.11 A watcher shall be allowed to perform the following acts:
- (a) Observe the count;
 - (b) Unofficially ascertain the identity of persons who have voted;
 - (c) Report alleged discrepancies to the Precinct Captain; and
 - (d) Challenge voters in accordance with the procedures specified in § 707.
- 705.12 No watcher shall, at any time, do any of the following:
- (a) Touch any official record, ballot, ballot box, or counting form;
 - (b) Interfere with the progress of the voting or counting;
 - (c) Talk to any voter while the voter is in the process of voting, or to any counter while the count is underway; provided, that a watcher may request that a ballot be referred for ruling on its validity to a representative of the Board; or
 - (d) In any way obstruct the election process.
- 705.13 Any watcher who in the judgment of the Board or its designated representative has failed to comply with any of the rules contained in this section may be requested to

leave the polling place or the Counting Center.

705.14 If a watcher is requested to leave, that watcher's credentials shall be deemed cancelled, and he or she shall leave the polling place or Counting Center forthwith.

705.15 An authorized alternate watcher may be substituted for a watcher who has been removed.

706 ELECTION OFFICIALS LIAISON WITH WATCHERS

706.1 Election officials shall act as liaison with watchers, as provided in this section.

706.2 The Precinct Captain at each polling place shall be the representative of the Board to whom the watchers shall direct all questions and comments.

706.3 Prior to the commencement of counting, the Board shall identify those representatives to whom watchers shall direct all questions and comments.

706.4 If a watcher has any question, or claims any discrepancy or error in the voting or the counting of the vote, the watcher shall direct the question or complaint to the election official in charge.

707 CHALLENGES TO VOTER QUALIFICATIONS

707.1 Any duly registered voter may challenge the qualifications of a prospective voter in a primary, special or general election.

707.2 Any challenge to the qualifications of a prospective voter shall be in writing on a form provided by the Board, and shall indicate the name of the person challenged, the basis for the challenge, and the evidence provided to support the challenge.

707.3 The challenger shall also sign an affidavit declaring under penalty of perjury that the challenge is based upon substantial evidence which he or she believes in good faith shows that the person challenged is not a qualified elector of the District.

707.4 After receiving a challenge or making a challenge on his or her own initiative, the Precinct Captain shall give the challenged voter an opportunity to respond.

707.5 The Precinct Captain shall review the evidence presented and shall:

(a) Affirm the challenge upon a finding that it is based on substantial evidence specific to the voter being challenged and probative of the challenged voter's status as a qualified elector, or;

(b) Deny the challenge upon a finding that it is not based on substantial evidence specific to the voter being challenged and probative of the challenged voter's status as a qualified elector.

707.6 The Precinct Captain shall record the decision and the rationale for the decision on a form provided by the Board.

- 707.7 If the Precinct Captain denies the challenge, he or she shall inform the challenger that the challenger may appeal the decision to the Board and shall give the challenger copies of the regarding challenges and appeals to the Board.
- 707.8 Any appeal of the Precinct Captain's decision to deny the challenge shall be made either before the challenged voter casts a regular ballot, or before either the challenger or the challenged voter leaves the polling place, whichever is earlier.
- 707.9 If the challenger does not appeal the Precinct Captain's decision to deny the challenge, the challenged voter shall cast a regular ballot.
- 707.10 If the challenger appeals the Precinct Captain's decision to deny the challenge, the Precinct Captain shall state, over the telephone, the facts of the case to a Board hearing officer authorized to rule on the appeal for the Board.
- 707.11 Either a Board member, the Board's Executive Director, or the Board's chief voter registration official may serve as the Board's hearing officer for the appeal.
- 707.12 The hearing shall be recorded and transcribed, and the transcript shall serve as the official case record, along with the written documentation, as specified in § 707.6, of the Precinct Captain's initial decision to deny the challenge.
- 707.13 The hearing officer shall take testimony under oath from the challenger, the person challenged, the Precinct Captain, and any witnesses who wish to testify.
- 707.14 Each person who testifies before the hearing officer shall state for the record their name as recorded on the Board's voter registration list, their residence address, mailing address and telephone number, and their role in the challenge.
- 707.15 The hearing officer shall receive evidence and testimony and shall then close the hearing.
- 707.16 After reviewing all evidence pertaining to the challenge and making a decision based upon his or her determination of whether the challenger has presented substantial evidence that is specific to the voter being challenged and probative of the challenged voter's status as a qualified elector, the hearing officer shall either:
- (a) Affirm the Precinct Captain's decision to deny the challenge, in which case the challenged voter shall cast a regular ballot, or;
 - (b) Overturn the Precinct Captain's decision to deny the challenge, in which case the challenged voter shall cast a "challenged" special ballot, pursuant to § 710.4(h).
- 707.17 If the Precinct Captain affirms the challenge made at the polling place, or if the Board's hearing officer overturns the decision of the Precinct Captain to deny a challenge, the Precinct Captain shall allow the challenged voter to cast a "challenged" special ballot, pursuant to § 710.4(h).

708 **CONTROL OF ACTIVITY AT POLLING AND COUNTING PLACES**

- 708.1 The Precinct Captain shall have full authority to maintain order, pursuant to the Election Act and the regulations contained in this section, including full authority to request police officials to enforce lawful orders of the Precinct Captain.
- 708.2 The only activity which shall be permitted in the portion of any building used as a polling or vote counting place shall be the conduct of the election.
- 708.3 The only persons who shall be permitted to be present in polling or counting places are the following:
- (a) Designated representatives of the Board;
 - (b) Police officers;
 - (c) Duly qualified election watchers;
 - (d) Persons actually engaged in voting; and
 - (e) Other persons authorized by the Board.
- 708.4 No partisan or nonpartisan political activity, or any other activity which, in the judgment of the Precinct Captain, may directly or indirectly interfere with the orderly conduct of the election, shall be permitted in, on, or within a reasonable distance outside the building used as a polling or vote counting place.
- 708.5 The distance deemed "reasonable" shall be approximately fifty feet (50 ft.) from any door used to enter the building for voting.
- 708.6 The exact distance shall be determined by the Precinct Captain, depending on the physical features of the building and surrounding area.
- 708.7 Wherever possible, the limits shall be indicated by a chalk line, or by some other physical marker, at the polling place.
- 708.8 For the purposes of this section, the term "political activity" shall include without limitation, any activity intended to persuade a person to vote for or against any candidate or measure or to desist from voting.
- 708.9 A person shall be warned to cease and desist his or her conduct upon any instance of the following:
- (a) Violation of the Election Act or regulations contained in this section;
 - (b) Failure to obey any reasonable order of the Board, or its representative(s); or
 - (c) Acting in a disorderly manner in, or within a reasonable distance outside the building used as a polling or counting place.
- 708.10 If the person committing the violation(s) fails to cease and desist the conduct specified

in § 708.9, a member of the Metropolitan Police Department of the District of Columbia shall be requested to evict the person or take other appropriate action.

709 ASSISTANCE TO VOTERS AT THE POLLS

- 709.1 Any voter who requires assistance in voting may be given assistance by a person of the voter's choice.
- 709.2 The Board shall ensure that capable assistance shall be made available to any requesting voter at the polls.
- 709.3 The Board shall provide in each precinct one (1) or more polling place officials specifically trained to assist voters upon their request.
- 709.4 A polling place official, a person of the voter's choice, or both, shall assist a voter upon the request of the voter and in accordance with the wishes of the voter.
- 709.5 The Precinct Captain shall ensure that a record is made of the provision of such assistance to the voter and the nature of the voter's need for assistance.
- 709.6 Assistance provided to a voter may include, though not necessarily be limited to, the following:
- (a) Marking the ballot in accordance with the voter's expressed wishes;
 - (b) Reading the ballot to a voter whose vision is impaired or who cannot read;
 - (c) Recording a write-in vote as designated by the voter; and
 - (d) Completing a form for the voter who cannot do so because of physical disability, advanced age, handicap, or illiteracy.
- 709.7 No person or official providing voter assistance shall in any way influence or attempt to influence a voter's choice in voting, nor shall the person or official disclose to anyone how the voter voted.
- 709.8 Written instructions on the operation of the voting process shall be available to all voters. A trained polling place official shall also be available to explain the voting process.
- 709.9 All voters shall have the opportunity, if desired, to mark a demonstration ballot prior to entering the voting booth.

710 TYPES OF VOTERS

- 710.1 In any election held in the District of Columbia, there shall be the following types of voters:
- (a) Duly registered voter;

- (b) Absentee voter;
- (c) Special voter; and
- (d) Federal voter.

710.2 A "duly registered voter" is a person who meets the following requirements:

- (a) He or she is a "qualified elector," under § 500.3;
- (b) He or she registers to vote by no later than thirty (30) days prior to the election; and
- (c) He or she resides at the residence address as that address appears on the Board's records.

710.3 An "absentee voter" is a duly registered voter who qualifies to vote absentee under the following conditions:

- (a) He or she has requested an absentee ballot under § 716, 717, 718, or 719, and;
- (b) He or she qualifies to cast an absentee ballot for at least one (1) of the reasons specified in § 715.2.

710.4 A "special voter" is a person who may qualify to vote by special ballot, or provisional ballot, as it is termed in the "Help America Vote Act of 2002," because he or she:

- (a) Is employed by the Board or employed by the District performing election duties which prevent the voter from voting the ballot in the voting precinct serving the voter's current residence address;
- (b) Wishes to vote in a precinct other than that serving the voter's address because of age, handicap, or limitation of health; provided, that where the vote is to be cast outside the voter ward or single member district, written notice from the voter shall be received by the Board prior to election day, so that the person may be provided with a complete ballot;
- (c) Is listed as an absentee voter on the alphabetical list of registered voters in the precinct but claims that he or she has not voted by absentee ballot;
- (d) Is listed on the alphabetical list of registered voters in the precinct but claims, in a primary election, that the party affiliation indicated on the listing is in error;
- (e) Alleges that his or her name has been erroneously omitted from the list of registered voters, or alleges that his or her name or address is erroneously printed on the list of registered voters;
- (f) Has moved from the address as listed on the Board's registration records and presents himself or herself to vote at the precinct serving his or her current residence address;

- (g) Has been deemed "inactive" on the voter roll and presents him or herself to vote at the address serving his or her current residence address;
- (h) Has been challenged under § 707, and that challenge is accepted, in which case the ballot shall be designated as "challenged" on the special ballot envelope;
- (i) Has been challenged under § 710.7, in which case the ballot shall be designated as "administratively challenged" on the special ballot envelope;
- (j) Votes in an election for Federal office as a result of a Federal or District of Columbia court order or any other order extending the time established for closing the polls by a District law in effect 10 days before the date of that election; or
- (k) Has not previously voted in a Federal election in the District and who registers to vote by mail and fails to present, either at the time of registration, at the polling place, or when voting by mail, either a copy of a current and valid photo identification, a copy of a current utility bill, bank statement, government check, paycheck, or other document that shows his or her name and address.

710.5 A "federal voter" is a person who:

- (a) Resided or was domiciled in the District of Columbia who has moved into another state or territory and does not meet the voter registration residence requirements of that state or territory; or resided or was domiciled in the District of Columbia immediately prior to departure from the United States and does not claim voting residence in any other state or territory;
- (b) Is or will be eighteen (18) years old by the date of the next primary or general election in which a federal office appears on the ballot;
- (c) Has not been adjudged mentally incompetent and is not incarcerated for conviction of a felony; and
- (d) Has requested a "federal ballot" under § 720 by not later than the 23rd day preceding the date of the election.

710.6 Except as provided in this section, the vote of a person who is a duly registered voter of the District of Columbia shall be valid only if cast in the voting precinct serving the registrant's current residence address.

710.7 In the event that the voter registration notification sent to a new registrant by the Board of Elections is returned by the United States Postal Service during the thirty (30) day period immediately preceding the date of any election indicating that the person does not reside at the address of voter registration, the vote of such person shall be deemed "administratively challenged" and that person shall cast his or her vote by special ballot.

710.8 The Board shall place a list of voters deemed "administratively challenged" in each precinct which includes newly-registered voters whose voter registration notification is returned by the United States Postal Service under § 710.7.

711 VOTING BOOTH

711.1 Except as provided in this chapter, a voter shall enter a voting booth alone to mark his or her ballot.

711.2 A voter may take sample ballots and any other materials as he or she may desire into the voting booth.

711.3 No voter shall go into a booth that is already occupied, nor shall anyone communicate with or disturb the occupant of any booth.

711.4 Each voter shall mark the ballot promptly and shall leave the booth.

711.5 No person may occupy a voting booth except for the purpose of voting or for the purpose of rendering assistance to a voter, pursuant to the D.C. Election Act and the provisions of § 709.

711.6 Voting booths shall provide privacy for the voter while voting.

712 SECRECY OF THE BALLOT

712.1 Before any ballot box is used for deposit of voted ballots, the Precinct Captain shall:

- (a) Inspect the interior of the ballot box to show any voters and/or watchers that all ballot receiving areas are empty;
- (b) Secure and lock the ballot receiving areas of the ballot box;
- (c) Produce a zero-printout and, after ascertaining that vote totals opposite all voting positions are set at zero (0000), sign said printout;
- (d) Inspect ballot box counter display to insure that it reads zero (0000).

712.2 From the time of the procedure specified in § 712.1 until the close of the polls, the polling official attending the box shall ascertain the following:

- (a) Only official ballots are deposited in the box;
- (b) Nothing is removed from the box; and
- (c) Preservation of the secrecy of each voter's ballot.

712.3 Each voter shall deposit his or her official ballot in the ballot box before leaving the polling place.

712.4 Provision shall be made for maintaining the secrecy of the voted ballot while the voter

- carries it from voting booth to ballot box.
- 712.5 The ballot box(es) shall, at all times from the opening of the polls until the ballots and memory packs are returned to the counting center, be attended by a Precinct Captain or other official.
- 713 VOTE CASTING PROCEDURES: REGULAR BALLOT**
- 713.1 Only duly registered voters shall be permitted to cast a regular ballot.
- 713.2 Each duly registered voter shall cast a ballot at the polling place serving the residence address of the registered voter.
- 713.3 During the hours of voting, the Board shall place in each polling place an alphabetical list (Master Index) of all persons registered in that precinct and eligible to vote in the election (Duly Registered Voters).
- 713.4 A listing of the registrants contained in the Master Index shall be available for public inspection.
- 713.5 The information printed on the Master Index in each polling place shall include the name, address, party affiliation (where applicable), and single member district (where applicable) of each duly registered voter residing in the precinct.
- 713.6 When a duly registered voter appears at the polling place to vote, the designated election official shall locate and read aloud the voter's name, address, and party affiliation (where applicable) from the Master Index.
- 713.7 The voter shall confirm the accuracy of the name, address, and party affiliation, where applicable, before signing the Master Index.
- 713.8 The act of signing the Master Index shall be deemed confirmation that the voter's name, address, and party affiliation are correct as shown on the Board's records.
- 713.9 After the voter has signed the Master Index, the polling official shall perform the following duties:
- (a) Issue a Voter Card to the voter;
 - (b) Require that the voter's full name be printed on the Voter Card; and
 - (c) Direct the voter to the appropriate polling place official to obtain a ballot.
- 713.10 The designated polling official shall be responsible for the following:
- (a) Receiving the Voter Card;
 - (b) Twice announcing clearly and publicly the name, and in a primary election, the party on the Voter Card;

- (c) Ascertaining whether the voter will vote using the optical scan voting equipment or the direct recording electronic (DRE) voting equipment;
- (d) Issuing to voters selecting the optical scan voting equipment the ballots to which they are entitled, and issuing to voters selecting the DRE voting equipment the electronic voter cards to which they are entitled; and
- (e) Depositing the Voter Card in a container provided for that purpose.

- 713.11 In the event that a voter chooses to use the Board's optical scan voting machines, the voter will complete his or her ballot and submit such ballot according to instructions which will be provided at the polling place.
- 713.12 In the event that the optical scan machine becomes inoperable for any reason during the election process, voters will place voted ballots into the auxiliary bin ballot slot of the ballot box. All ballots deposited in this auxiliary slot will be tabulated at the close of polls, either at the polling place if the machine regains operability, or at the Board's counting center, if not.
- 713.13 In the event that a voter chooses to use the Board's direct recording electronic (DRE) voting equipment, the voter will be given an electronic voting card for the purpose of voting and will complete his or her ballot according to instructions which will be provided at the polling place.
- 713.14 In the event that the DRE voting equipment becomes inoperable for any reason during the election process voters will be directed to use the optical scan voting equipment and submit their ballots in the manner prescribed in subsection 713.11 or, if applicable, 713.12.
- 713.15 Any repairs conducted on either the optical scan voting equipment or DRE equipment will be performed in the presence and view of:
- (a) an election official who shall note in writing all repair activity, and;
 - (b) designated poll watchers who will be provided with any available information pertaining to system activity.

714 SPOILED BALLOTS

- 714.1 If a voter makes a mistake in marking a ballot or erroneously defaces or tears a ballot, he or she may surrender the spoiled ballot to a polling official, who shall furnish the voter with another ballot.
- 714.2 The polling official shall request the voter to place the spoiled ballots into the spoiled ballot envelope.
- 714.3 The voter shall seal the envelope and shall return it to the polling official before an additional ballot can be issued.

715 VOTING THE ABSENTEE BALLOT: GENERAL REQUIREMENTS

- 715.1 Except as provided in this chapter, a duly registered elector may apply for an absentee ballot by mailing a written request to the Board or by appearing in person to apply in writing at the office of the Board.
- 715.2 A registered voter may cast an absentee ballot, by mail or in person, for any of the following reasons:
- (a) The voter is temporarily outside the territorial limits of the District;
 - (b) The voter is unable to vote at the regular polling place due to a permanent or temporary physical handicap, disability, or illness;
 - (c) The voter is confined in an institution for mental treatment within or outside the District, but not judicially declared incompetent;
 - (d) The voter is incarcerated in an institution, but not for conviction of a felony;
 - (e) The voter is a Board employee who is necessarily absent for the precinct of registration on election day;
 - (f) The voter resides outside the United States, and has registered to vote pursuant to the Uniformed and Overseas Citizens Absentee Voting Act, but only for candidates for federal offices;
 - (g) The voter expects to be absent from the District of Columbia on election day;
 - (h) The voter expects to be hospitalized on election day; or
 - (i) The voter declares personal religious tenets prevent the voter from voting on election day.
- 715.3 Except as provided in § 719, no person shall be permitted to obtain an absentee ballot or execute an application for an absentee ballot for another registered voter.
- 715.4 An absentee ballot may be returned to the Board by any of the following ways:
- (a) Mail;
 - (b) Brought to any polling place for deposit in the ballot box on election day; or
 - (c) Delivered to the Board's office at any time before the close of the polls on election day.
- 715.5 A voter who was mailed or personally handed an absentee ballot is entitled to vote in the election only by that absentee ballot.
- 715.6 The absentee ballot shall be counted as being cast in the ward and precinct where the voter resides; provided, that the voter signs the absentee ballot envelope to certify that the voter has voted the ballot and has not voted in any other jurisdiction or in any other

manner in the election.

715.7 No employee of the Board shall reveal the name(s) of the candidate(s) for whom an individual has voted or whether an individual voted for or against any initiative, referendum or recall measure, or Charter amendment.

716 VOTING THE ABSENTEE BALLOT: BY MAIL

716.1 A written request for a mail absentee ballot shall be received from the registered voter by no later than the seventh (7th) day preceding the day of the election and shall include the following:

- (a) Election(s) for which the absentee ballot is requested;
- (b) Reason for which the absentee ballot is requested;
- (c) Address from which the voter is registered to vote;
- (d) Voter's current residence address, if different from the address listed on the Board's records;
- (e) Address to which the absentee ballot shall be delivered; and
- (f) Voter's original signature.

716.2 If an applicant qualified to vote by absentee mail provides a residence address that is different from the residence address listed on the Board's records, the application to vote absentee shall be considered a request for a change of address to the Board and the voter shall be issued a ballot for the current residence address.

716.3 All mailed absentee ballots shall be postmarked not later than the day of the election; provided, that ballots received from overseas in franked envelopes need not be postmarked.

716.4 All mailed absentee ballots shall be received by the Board not later than ten (10) days after the day of the election in order for the absentee ballot to be counted.

716.5 A registered voter may request absentee ballots, by mail, for all elections in the current calendar year.

717 VOTING THE ABSENTEE BALLOT: BY FAX

717.1 A registered voter may electronically submit (FAX) an application to vote absentee not earlier than three (3) days prior to the deadline for submitting requests for absentee ballots by mail.

717.2 An electronically transmitted (FAXed) application to vote absentee shall contain the same information as required in § 716.1.

717.3 A registered voter who electronically submits (FAXes) an application to vote by

absentee ballot shall return, along with his or her voted ballot, the original absentee ballot application in order for the ballot to be counted.

718 VOTING THE ABSENTEE BALLOT: IN PERSON

718.1 A duly registered elector may request an absentee ballot in person not earlier than fifteen (15) days preceding the election and not later than 4:45 p.m., of the day preceding the election.

718.2 A duly registered elector who requests in absentee ballot in person shall apply to the Board in writing, which application shall include the following:

- (a) Election(s) for which the absentee ballot is requested;
- (b) Reason for which the absentee ballot is requested;
- (c) Voter's current residence address;
- (d) Address to which the absentee ballot shall be delivered; and
- (e) Voter's original signature.

718.3 If an applicant qualified to vote by absentee in person provides a residence address that is different from the residence address listed on the Board's records, the application to vote absentee shall be considered a request for a change of address to the Board and the voter shall be issued a ballot for the current residence address; provided, that the applicant provides identification which establishes identity and current residence address.

718.4 A registered voter who votes by absentee ballot in person shall do the following:

- (a) Cast the absentee ballot in the office of the Board, and;
- (b) Place the voted ballot in an envelope, seal the envelope, and deposit the sealed envelope in the absentee ballot box.

718.5 During the period for absentee voting in person, the Board shall be open Monday through Saturday, except holidays, from 8:30 a.m. until 4:45 p.m.

719 VOTING THE ABSENTEE BALLOT: IN EMERGENCY

719.1 A registered voter may apply for an emergency absentee ballot, through a duly authorized agent at the office of the Board from the sixth (6th) day prior to any election to the time the polls close on election day, under the following circumstances:

- (a) The voter is physically unable to be present at the polls as the result of an illness or accident occurring after the deadline for requesting to vote absentee by mail; or
- (b) The voter, having expected to recover from an illness by election day and voting

at the polls, finds that after the deadline for requesting an absentee ballot by mail, he or she is physically unable to vote at the poll on election day.

719.2 A registered voter shall apply to vote by emergency absentee ballot according to the following procedure:

- (a) The registered voter shall, by signed affidavit on a form provided by the Board, set forth the reason why he or she is unable to be present at the polls on the day of the election and designate a voter registered in the District of Columbia to serve as agent for the purpose of delivering the absentee ballot to the voter;
- (b) Upon receipt of the application, the Executive Director, or his or her designee, if satisfied that the person cannot, in fact, be present at the polling place on the day of the election shall issue to the voter through the voter's duly authorized agent an absentee ballot which shall be marked by the voter, placed in a sealed envelope and returned to the Board before the close of the polls on election day; and
- (c) The person designated as agent shall, by signed affidavit on a form prescribed by the Board, state the following:
 - (1) That the ballot will be delivered by the voter who submitted the application for the ballot; and
 - (2) That the ballot shall be marked by the voter and placed in a sealed envelope in the agent's presence, and returned, under seal to the Board by the agent.

719.3 A registered voter serving on a sequestered jury on election day may vote by absentee ballot.

719.4 An officer of the court in charge of a jury sequestered on election day may act as agent for any registered voter sequestered and shall do the following:

- (a) Deliver an application to vote by absentee ballot to the applicant;
- (b) Deliver the absentee ballot to the applicant; and
- (c) Return the voted ballot to the Board before the close of the polls on election day.

719.5 The Board shall advise all agents, in writing, that pursuant to D.C. Code §§ 1-1001.12 and 1-1001.14 (2001 ed.), it is unlawful to do any of the following:

- (a) Vote or attempt to vote more than once in any election; or
- (b) Purloin or secret any of the votes cast in any election.

720 VOTING THE ABSENTEE BALLOT: FEDERAL VOTER

720.1 In order to vote by absentee ballot, a citizen of the United States who meets the

requirements of § 710.1(d) as a "Federal Voter" shall execute an application which includes the following:

- (a) A statement that the applicant requests a ballot for federal offices;
- (b) The last address in the District at which the applicant resided; and
- (c) The signature of the applicant, which must be an original signature.

720.2 A request for a Federal Ballot shall be received by the Board not later than twenty-three (23) days preceding the date of the election.

720.3 Notwithstanding § 717.1, a registered voter serving on active duty in the armed forces of the United States may apply to have his or her absentee ballot electronically transmitted (FAXed) through the voting system instituted by the Federal Voting Assistance Office of the Department of Defense if an unexpected necessity of military service prevents the applicant from receiving the ballot and returning the voted ballot to the Board within the forty-five (45) day absentee balloting guideline period established by the Federal Voting Assistance Office.

720.4 An application to electronically transmit (FAX) an absentee ballot shall contain, in addition to the information required in § 717.1, the reason that the applicant's military service prevents the applicant for receiving the ballot and returning the voted ballot to the Board within the forty-five (45) day absentee ballot guideline period established by the Federal Voting Assistance Office.

720.5 Upon approval of an application for electronic transmission (FAX) of an absentee ballot, the Board shall assign a FAX authorization number to the registered voter.

720.6 A voter who returns his or her ballot by electronic transmission (FAX) shall provide on the return transmittal cover his or her FAX authorization number and sign the following statement:

**I understand that by faxing my voted ballot I am voluntarily waiving
my right to a secret ballot.**

721 VOTE CASTING PROCEDURES: SPECIAL BALLOT

721.1 An individual whose eligibility to vote in the election cannot be determined at the polls on election day because of one or more of the reasons cited in § 710.4 shall vote by special ballot.

721.2 A registered voter who files an election day change of address at the precinct of current residence shall, by written affirmation, establish identity and current residence within the precinct at the time of voting.

721.3 The outside of the special ballot envelope shall contain a statement warning the voter of the criminal penalties for making a false representation as to his or her qualifications for voting and an affirmation signed by the voter attesting the following:

- (a) That to the best of his or her knowledge and belief, he or she is a registered voter in the District of Columbia;
 - (b) If he or she is not registered to vote, that he or she meets the qualifications for voter registration;
 - (c) That he or she resides in the precinct where voting at the address provided;
 - (d) His or her date of birth; and
 - (e) Any other information as the Board deems necessary for its chief registration official to determine that the individual is qualified to have the ballot counted.
- 721.4 Before being permitted to vote, the voter shall sign the affirmation printed on the Special Ballot Envelope.
- 721.5 The designated polling place official shall witness the voter signing the affirmation printed on the Special Ballot Envelope.
- 721.6 The Special Ballot Envelope shall also provide the following:
- (a) Space for the name and current residence of the voter;
 - (b) Space for the election worker to indicate the reason for voting the Special Ballot;
 - (c) The number of the precinct in which the voter is casting the ballot; and
 - (d) Any other information as may be necessary to determine if the person is qualified to vote.
- 721.7 Designated polling officials shall place the word “**SPECIAL**” upon each ballot card which the voter will receive, and shall issue the following:
- (a) Ballots;
 - (b) An inner envelope to ensure the secrecy of the ballot; and
 - (c) Written notification of appeal rights to the voter if the Board’s chief registration official decides not to count the Special Ballot.
- 721.8 Designated polling officials shall instruct the voter on the following:
- (a) Designating choices on the ballot;
 - (b) Placing the voted ballot in the inner envelope;
 - (c) Placing the inner envelope containing the voted ballot inside the Special Ballot Envelope; and
 - (d) Depositing the sealed envelope in the ballot box.

- 721.9 The Board shall review the information provided on the Special Ballot Envelope, as well as all other available evidence pertaining to the eligibility of each voter casting a special ballot, and shall make a decision about whether to count or reject each special ballot in a manner consistent with the procedures set forth in § 722.
- 721.12 The tabulation of votes recorded on all Special Ballots approved for counting by the chief registration official or the Board shall be conducted on the tenth (10th) day following the election, along with all remaining absentee ballots approved for counting; provided, that those absentee ballots which are received sufficiently in advance of the election may be counted on election day.
- 721.13 As soon as practicable after the election, the Board shall mail each registered voter who filed a change of address at the polls on election day a non-forwardable address confirmation notice to the address provided in the written affirmation on the Special Ballot Envelope.
- 721.14 Where the United States Postal Service returns the address confirmation notification as "undeliverable" or indicating that the registrant does not live at the address provided in the written affirmation on the Special Ballot Envelope, the Board shall notify the Corporation Counsel of the District of Columbia.

722 SPECIAL BALLOT APPEAL RIGHTS

- 722.1 A voter's act of signing a challenged or special ballot envelope shall be deemed the filing of an appeal by the voter of the refusal by the Board's chief voter registration official to permit the voter to vote on election day by regular ballot, and a waiver of personal notice from the Board of any denial or refusal to a later count of the challenged or special ballot.
- 722.2 At the time of voting, the Board shall provide the voter with written notice that indicates the manner by which he or she may learn whether the Board has decided to count or reject the voter's special ballot, and of the dates scheduled for hearings for voters whose special ballots are rejected to contest the Board's preliminary determination if they petition to do so.
- 722.3 Not later than the Tuesday following each election, the Board shall during regular business hours maintain a telephone service by which any voter who has voted a special ballot may learn of the Board's preliminary decision to count or reject his or her ballot along with the reason(s) for each decision.
- 722.4 Not earlier than eight (8) days and not later than ten (10) days after the date of any election, the Board shall, upon petition of the voter, conduct a hearing for the voter to contest the Board's preliminary determination to reject the voter's special ballot.
- 722.5 At the hearing, the voter may appear and give testimony on the question of the decision to reject the special ballot.
- 722.6 The Board shall make a final determination to either count or reject the voter's special ballot within two (2) days after the date of the hearing.

- 722.7 The voter may appeal an adverse decision of the Board to the Superior Court of the District of Columbia within three (3) days after the date of the Board's decision. The decision of the court shall be final and not appealable.
- 723 **CLOSING THE POLLS**
- 723.1 Immediately after the last voter has voted, the Precinct Captain or his or her designee(s) shall in the presence and view of designated poll watchers:
- (a) Remove all voted ballots from the ballot box, and secure them in a transfer case for delivery to the Counting Center;
 - (b) Remove any ballots that have been deposited either in the emergency ballot entry slot in front of the ballot box or in an auxiliary ballot box, enter these ballots into the automatic tabulating system, secure these ballots in the transfer case referred to in § 724.1(a), and seal the transfer case with a signed certificate;
 - (c) Request and confirm the close of polls and produce the total vote count tape for all contests on the ballot in that precinct;
 - (d) Enter the reading from the automatic tabulating system's public counter onto the total vote count tape;
 - (e) Remove and sign the total vote count tape, and seal it for delivery to the counting center;
 - (f) Place the automatic tabulating system's memory pack into a transfer case which shall be sealed with a signed certificate for delivery to the Counting Center.
- 723.2 The Precinct Captain shall then prepare a complete accounting of ballots issued to that polling place, in accordance with and on forms provided by the Board.
- 723.3 The accounting of ballots shall include the following numbers of ballots:
- (a) Voted;
 - (b) Spoiled;
 - (c) Not used; and
 - (d) Received.
- 723.4 In accordance with directives of the Board, the transfer cases containing the voted ballots and the memory packs shall be returned to the Counting Center promptly following the closing of the polls.
- 723.5 Unvoted ballots and other election materials and paraphernalia shall be returned to the custody of the Board as directed.
- 724 **COLLECTION AND TRANSFER OF BALLOTS AND OTHER POLLING**

PLACE MATERIALS

- 724.1 All ballots cast in any election, as well as the automatic tabulating system's memory pack, shall be collected and transferred from precincts to the Counting Center by designated transport teams.
- 724.2 The transport team shall issue a receipt to the Precinct Captain for all items.
- 724.3 The reception team at the Counting Center shall issue to the transport team a receipt for the transfer cases containing voted ballots and memory packs.
- 724.4 Other polling place materials shall be transferred from precincts to a place designated by the Board.
- 724.5 Unused or spoiled ballots, the Roster Index Lists, and all other materials relating to voting and which are required for the official canvass, shall be placed in secured storage.
- 724.6 The official designated to receive the other polling place materials shall issue a receipt for same to the transport team.
- 724.7 The seal of each transfer case shall be inspected and certified as to its condition.
- 724.8 Inspection and certification of the seal shall be performed twice by the following:
- (a) The first time by the transport team upon receipt of transfer cases at the polling place; and
 - (b) The second time by the reception team upon receipt of transfer cases at the Counting Center.
- 724.9 The certification shall include the following:
- (a) Precinct number;
 - (b) Ballot box number;
 - (c) Condition of seal; and
 - (d) Any defects observed.
- 724.10 The certification shall be signed by members of the team making the certification.
- 724.11 At the Counting Center, each transfer case shall be marked as inspected before being delivered to a ballot inspection team or sorting team.
- 724.12 If there is more than one (1) transfer case for a single polling place, all cases shall be delivered to one (1) inspection or sorting team.
- 725 **SPECIAL ELECTION PROCEDURES: ADVISORY NEIGHBORHOOD**

COMMISSION MEMBERS

- 725.1 The Board may exercise its discretion and conduct a special election to fill a vacancy in a Single-Member District of an Advisory Neighborhood Commission by postal ballot, pursuant to D.C. Code §§ 1-309.06(d) and 1-1001.17(h) (2001 ed.)
- 725.2 Procedures for conducting special elections to fill a vacancy in a Single-Member District of an Advisory Neighborhood Commission shall be in accordance with this chapter and chapter 13 of this title.

**CHAPTER 8 TABULATION AND CERTIFICATION OF
ELECTION RESULTS**

Secs.

- 800 Pre-Election Testing of the Voting System
- 801 Public Testing of Programs and Equipment
- 802 Vote Counting by Hand
- 803 Vote Counting by Machine
- 804 Ballot Inspection
- 805 Validity of Ballots and Votes
- 806 Prohibition of Labels, Stickers, and Authorization of Hand Stamps for Casting Write-in Votes
- 807 Marking of Ballots by Election Officials
- 808 Counting Center Operations: Automatic Tabulation
- 809 Discretionary Manual Tabulation
- 810 Manual Tabulation of Write-in Votes
- 811 Consolidated Ballot Report
- 812 Ballot Accounting
- 813 Certification of Election Results
- 814 Petitions for Recount
- 815 Automatic Recount
- 816 Recount Procedures
- 817 Voting System Standards

**800 PRE-ELECTION TESTING OF THE AUTOMATIC VOTE TABULATING
SYSTEM**

- 800.1 Complete testing of the automatic tabulating system shall be conducted before the use of the system in an election.
- 800.2 Not more than ten (10) days before election day, the Board shall have the automatic tabulating programs tested to ascertain that the system will count properly the votes cast for all offices, measures, and proposed Charter amendments.
- 800.3 The test shall be conducted by processing a pre-audited group of ballots (the "certification deck") so as to record a pre-determined number of valid votes for each candidate, measure, and proposed Charter amendment.
- 800.4 The test shall include for each office one or more ballots which have votes in excess of the number allowed by law in order to test the ability of the automatic tabulating programs to reject the votes.
- 800.5 If any error is detected, the cause of the error shall be ascertained and corrected and an errorless count shall be made before the automatic tabulating system is approved for use in the count of actual ballots.
- 800.6 The certification deck used to test the automatic tabulating system shall be for the ballot style for the precinct in which that precinct tabulator will be used on election day.

800.7 Following the pre-election logic and accuracy testing, the certification deck shall be taken into custody by the Board and locked in secure storage until the time, following the assembly of the actual ballots, that the public testing of the system is conducted.

801 PUBLIC TESTING OF PROGRAMS

801.1 A public test of the programs to count votes by machines shall be held within the four (4) days before the election.

801.2 All programs shall be tested with equipment used for counting purposes in the election.

801.3 Notice of the test shall be given to candidates, proponents and opponents of measures, party officials, the news media, and to any other public representatives the Board deems appropriate, at least seven (7) days before the test.

801.4 The test procedure shall demonstrate to the reasonable satisfaction of the Board that the system is operating accurately and in accordance with the programs instituted by the Board.

802 VOTE COUNTING BY HAND

802.1 Whenever votes are counted by hand, the votes on ballots shall be counted and the validity of ballots shall be determined by persons designated by the Board for that purpose.

802.2 The counting shall be conducted by counting teams of two (2) or more officials.

802.3 An official known as the "Counting Team Captain" shall be designated as being in charge of one or more counting teams as determined by the Executive Director, or his or her designee.

803 VOTE COUNTING BY MACHINE

803.1 Whenever votes are counted by machines, such as an automatic vote tabulating system, the Board shall utilize personnel qualified to operate the system.

803.2 Additional personnel may be employed to perform such tasks as may be deemed necessary by the Board.

804 BALLOT INSPECTION

804.1 A ballot inspection team shall perform the following functions for the ballots of each precinct:

- (a) Open a transfer case and remove all ballots;
- (b) Assemble all ballots for a single precinct; and
- (c) Visually review all ballots for tabulating acceptability.

- 804.2 Any ballots which are to be rejected (for such reasons as defacement or revealed identity of voter) shall be set aside in a clearly marked container or envelope.
- 804.3 Any valid ballot which because its physical condition is unreadable by automatic tabulation shall be deemed a "damaged ballot."
- 804.4 All ballots to be counted shall be inspected for automatic tabulating acceptability. Any ballot determined to be unacceptable for machine tabulation shall be set aside as damaged and tabulated in accordance with the provisions of § 808.
- 804.5 All rejections shall be made by the Executive Director, or his or her designee.
- 804.6 Review and inspection of absentee ballots shall be made separately from the review and inspection of ballots from polling places. This review and inspection shall begin at the time designated by the Board and shall be the same as for ballots cast in polling places, insofar as those procedures are appropriate.
- 804.7 Absentee and special ballots shall be tabulated separately from polling place ballots.
- 804.8 All damaged ballots shall be tabulated at the date and time set for the counting of absentee and special ballots.

805 VALIDITY OF BALLOTS AND VOTES

- 805.1 The following procedures shall be used to determine whether or not a ballot is valid:
- (a) If any official who is counting ballot is uncertain whether a ballot is partially or totally invalid, he or she shall refer the ballot to a representative designated by the Board to decide these questions; or
 - (b) Any watcher who is uncertain whether a ballot is partially or totally invalid may refer the ballot to a representative designated by the Board to decide these questions.
- 805.2 If a ballot marked "Challenged" or "Special" is placed in a ballot box and received at the counting place other than in a Special Ballot Envelope, it shall be deemed invalid.
- 805.3 Members of counting teams shall not open Special Ballot Envelopes; but shall deliver them unopened to the Counting Team Captain, who shall deliver them unopened to a representative designated by the Board.
- 805.4 A write-in vote shall not be adjudged valid, and shall not be tallied and recorded, unless the voter has written in the name of the person for whom the write-in vote is cast on a blank line provided for write-in voting and has not marked the voting position on another line for the same office.

806 PROHIBITION OF LABELS, STICKERS, AND AUTHORIZATION OF HAND STAMPS FOR CASTING WRITE-IN VOTES

- 806.1 The use of stickers and adhesive labels as a way of exercising the write-in method of voting is prohibited. Any write-in vote cast in this manner shall be deemed invalid.
- 806.2 The use of a stamp by a voter to imprint the name of a write-in candidate in the appropriate space on the voter's ballot shall be permitted under the following circumstances:
- (a) Where the stamp serves only to print the name of the write-in candidate on the voter's ballot; and
 - (b) Where the stamp does not affix any adhesive or other foreign material on the voter's ballot.
- 806.3 Any voter may bring into the polling place in any election a stamp for the purpose of exercising the write-in vote option, consistent with § 806.2, for the voter's personal use; Provided, that the voter must carry the stamp out of the polling place with him once he or she has voted. Any stamps left in the polling place shall be discarded by election workers.
- 806.4 Any candidate, campaign organization, or individual may provide or distribute a stamp to voters for their use in exercising their write-in option in any election by any means including the distribution of a stamp outside of a polling place on election day; Provided, that the distribution shall occur outside the fifty foot (50 ft.) line, marked by the Precinct Captain, within which no political activity is permitted.
- 806.5 No voter, watcher, or other individual may distribute any stamp device to any voter or any other person within the fifty foot (50 ft.) line from a polling place entrance or inside any polling place on election day.

807 MARKING OF BALLOTS BY ELECTION OFFICIALS

- 807.1 No election official shall make any mark on a ballot, except for the following reason:
- (a) To note whether a ballot is partially or totally invalid; or
 - (b) To facilitate vote counting procedures, when authorized by the Executive Director or his or her designee.
- 807.2 The notations of validity or invalidity shall be made by methods approved by the Board.

808 COUNTING CENTER OPERATIONS: AUTOMATIC TABULATION

- 808.1 The canvass of votes shall be started immediately on election day after the close of polls and shall be conducted under the direct supervision of the Board or its designee.
- 808.2 Special ballots, together with any damaged ballots received from the polling places, shall be tabulated separately at a time designated by the Board or its designee.

- 808.3 The Board or its designee shall appoint the required special teams to perform certain steps in the canvass.
- 808.4 The special teams shall include, but not be limited to, the reception team, ballot inspection team, and ballot sorting team.
- 808.5 The responsibilities of each special team and specific instructions to carry out those responsibilities shall be detailed in writing.
- 808.6 Only those persons authorized by the Board shall be admitted to the Counting Center while the canvass is in progress.
- 808.7 All valid ballots shall be counted by automatic tabulation unless otherwise decided by the Board.
- 808.8 No votes will be counted which have been overvoted or otherwise improperly voted.
- 808.9 Any overvote or misvote in one or more contests shall not invalidate the entire ballot but only the votes cast in that contest. All correctly cast votes on such a ballot shall be counted. The number of votes rejected because of overvote or misvote shall be reported.
- 808.10 The votes recorded on damaged ballots shall be reproduced on duplicate ballots, in the presence of watchers, with the original (damaged) and the reproduced (duplicate) ballots marked for identification with corresponding serial numbers.
- 808.11 The reproduced duplicate ballots, which have converted the votes on the damaged ballots to a machine readable form, shall be tabulated by machine.
- 808.12 Federal write-in ballots shall be reproduced and tabulated in the same manner as damaged ballots, in accordance with §§ 808.10 – 808.11.
- 808.13 A count of the number of ballots tallied for a precinct, ballots tallied by groups of precincts and city-wide, shall be accumulated.
- 808.14 The total of votes cast for each candidate whose name appears pre-printed on the ballot shall be calculated by precinct and city-wide.
- 808.15 The total number of write-in votes marked by voters shall be reported for each contest.
- 808.16 The total of votes cast for each write-in candidate shall be calculated only in contests where there is no candidate printed on the ballot in order to determine a winner, or where the total number of write-ins reported, under § 808.15, is sufficient to elect a write-in candidate.

809 DISCRETIONARY MANUAL TABULATION

- 809.1 If a recount petition is filed, the Board may order that ballots be manually inspected and tabulated when it appears that a disproportionate number of potential undervotes or overvotes have occurred in a particular precinct, or to determine

whether write-in votes have been cast that affect vote totals for candidates whose names are pre-printed on the ballot.

- 809.2 When tabulation is done manually under this section, only the ballots for those precincts and contests designated by the Board shall be manually tabulated.
- 809.3 In all cases where manual tabulation is ordered, the Board shall direct that the tabulation be conducted at a time that is practicable.
- 809.4 In all cases where ballots are manually tabulated, the procedures set forth in this section shall be followed.
- 809.5 A ballot cast without any marks shall not be counted.
- 809.6 When a voter fails to mark only one portion (contest) of his or her ballot, only that portion shall not be counted.
- 809.7 When a voter marks more votes than he or she is entitled to in a particular contest, all his or her votes for that office (contest) only shall be rejected.
- 809.8 If a voter draws an arrow pointing to a candidate's name, circles the broken arrow to the right of the candidate's name, uses a check, asterisk, or any other mark in a manner that clearly indicates his or her intended choice, the ballot shall count as a vote for that candidate; Provided, that the mark is not a distinguishing mark as defined in § 809.10
- 809.9 A ballot properly marked by filling in the broken arrow to the right of the candidate or proposition is valid even though it contains an additional mark; Provided that the additional mark is not a distinguishing mark as defined in § 809.10.
- 809.10 A distinguishing mark is a mark (whether a letter, figure, or character) that serves to separate and distinguish a particular ballot from other ballots cast at the election. The mark itself shall be to furnish evidence of an unlawful intention on the part of the voter to identify the ballot after the vote has been cast, such as the voter's initials, or a mark known to belong to the voter.

810 MANUAL TABULATION OF WRITE-IN VOTES

- 810.1 The following procedures shall govern the manual tabulation of write-in votes when a discretionary manual tabulation is ordered under § 809 or when write-in votes are tallied under § 808.15.
- 810.2 When a voter writes a person's name in the proper space for write-ins for an office, it is a vote for that person, notwithstanding:
- (a) the appearance of that person's name in pre-printed form on the ballot as a candidate for the same office;
 - (b) the voter's failure to fill in the broken arrow which appears to the right of the candidate's pre-printed name, or;

(c) the voter's failure to fill in the broken arrow which appears to the right of the space designated for write-in candidates.

810.3 In the case of a write-in vote, no ballot should be regarded as defective due to unclear writing, misspelling of a candidates name, or by abbreviation, addition, omission or use of a wrong initial in the name.

810.4 Every ballot shall be counted for the candidate for whom it was intended, if the elector's intent can be ascertained from the ballot itself.

811 CONSOLIDATED BALLOT REPORT

811.1 Following tabulation of all ballots, a consolidated report shall be produced showing the total vote cast for all offices.

811.2 Unless otherwise mandated by the Board, the consolidated ballot report shall be made by precinct.

812 BALLOT ACCOUNTING

812.1 Following the tabulation of all votes, a full accounting of official ballots shall be made prior to certification of the official election results.

812.2 The accounting of official ballots shall include the following:

- (a) For each precinct, and for each party in a primary election, the sum of the number of ballots issued to the voters, less the number of spoiled ballots, should equal the total number of ballots cast in the precinct;
- (b) For each precinct, and for each party in a primary election, the sum of the number of cards issued to voters and exchanged for ballots, plus the number of special ballots, should equal the total number of voters;
- (c) For each precinct, and for each party in a primary election, upon completion of the election day count and exclusive of special and absentee ballots, the sum of the number of polling place ballots counted plus the number of special ballots cast should equal the totals from §§ 812.2(a) and (b);
- (d) For each entire selection and for each type of ballot used in it, the sum of the number of absentee ballots issued to voters by mail, in person, by affidavit (emergency), or utilized for any miscellaneous purpose, plus the number of absentee ballots remaining unused, should equal the total number of absentee ballots;
- (e) For each entire election and for each type of ballot used in it, the sum of the number of absentee ballots case, absentee ballots spoiled, and absentee ballots not returned, should equal the total number of absentee ballots issued to voters; and

- (f) For each Single-Member District, the total number of Single-Member District ballots cast should equal the sum of the ballots cast in each precinct servicing that Single-Member District.

812.3 Following tabulation, the ballots for each precinct shall be transferred to a secure and locked storage location where they shall remain secured for twelve (12) months for purely local elections and twenty-two (22) months for elections containing federal contests; thereafter, if no election contest or other proceeding is pending in which the ballots may be needed as evidence, the ballots may be destroyed.

812.4 The Board should also make provision, in writing, for retention and storage of data processing materials related to the vote counting from the time the canvass is completed until the expiration of the period for challenging elections.

813 CERTIFICATION OF ELECTION RESULTS

813.1 The Board shall certify the results of each election.

813.2 The Board shall publish the results of each election and the nominees or winners in the D.C. Register.

814 PETITIONS FOR RECOUNT

814.1 Any qualified candidate in any election may, within seven (7) days after the Board certifies the election results, petition the Board for a recount of the ballots cast in that election. Such petition shall be in writing and shall specify the precincts in which the recount shall be conducted.

814.2 The petition shall be accompanied by a deposit of fifty dollars (\$50.00) for each precinct included in the recount. This deposit shall be refunded if the recount changes the result of the election.

814.3 Deposits shall be paid by check or money order made payable to the order of the "D.C. Treasurer." No cash will be accepted.

814.4 A candidate may, at any time, request in writing that the recount be terminated and the Board shall refund the deposit remaining for any uncounted precincts.

815 AUTOMATIC RECOUNT

815.1 The Board shall conduct an automatic recount:

- (a) If, in any election for President and Vice-President of the United States, Delegate to the House of Representatives, Mayor, Chairman of the Council, member of the Council, President of the Board of Education, or member of the Board of Education, the certified election results show a margin of victory for a candidate that is less than 1% of the total votes cast for that office. The cost of such recount shall not be charged to any candidate;

- (b) If, in any contest involving an initiative, referendum, or recall measure, the difference between the number of votes for and against the measure is less than 1% of the total votes cast in that content, or;
- (c) If so ordered by the D.C. Court of Appeals pursuant to a petition to review an election, whether or not a recount has been previously conducted or requested.

816 RECOUNT PROCEDURES

- 816.1 The Board shall conduct recount proceedings in accordance with provisions of this section.
- 816.2 The validity of ballots recounted shall be determined in accordance with the provisions of this chapter.
- 816.3 Each candidate in a contested election petitioned to be recounted shall be permitted to have watchers in accordance with the provisions of Chapter 7 of this title.
- 816.4 In the event a recount is made of less than all precincts in District, the Board shall, upon the basis of that recount, preliminary determine the total number of votes received by each candidate involved in the recount by adding the votes tallied in the recount to the votes originally tallied in the precinct not recounted.
- 816.5 If all candidates certified by the Board as winners appear to be winners in the recount, the preliminary determination of Board shall become final.
- 816.6 The Board shall determine the number votes received by each candidate as a result of the recount, but shall not make a new certification of the results of the election.

817 VOTING SYSTEM STANDARDS

- 817.1 All voting systems offered to the Board and used in the District of Columbia by the Board shall meet or exceed the minimum requirements of the Federal Election Commission Voting System Standards. Where there is a conflict between those standards and these regulations, such voting systems must test to the higher standard.

**DISTRICT OF COLUMBIA
BOARD OF ELECTIONS AND ETHICS**

NOTICE OF FINAL RULEMAKING

The District of Columbia Board of Elections and Ethics hereby gives notice of the adoption of the following amendments to 3 DCMR Chapter 16, "Candidates: Delegate U.S. House of Representatives, Mayor, Chairman, and Members of the Council of District of Columbia, U.S. Senator, U.S. Representative, Members of the Board of Education and Advisory Neighborhood Commissions." The Board took final rulemaking action with respect to these amendments at a regular meeting on Wednesday, July 21, 2004.

The purpose of the amendments is to bring the Board's regulations with respect to Advisory Neighborhood Commissions into compliance with D.C. Law 14-43, the "Nominating Petitions Signature Amendment Act of 2001," which became effective on October 26, 2001. This law amended the D.C. Code to provide, among other things, that the signatures of non-duly registered electors will be deemed valid provided that the signatories' addresses are within the single member district for an Advisory Neighborhood Commission election and the signatories file change of address forms with the Board during the first 10 days of the petition challenge period.

Notice of Emergency and Proposed Rulemaking with respect to these amendments was published in the D.C. Register on May 14, 2004 at 51 D.C.R. 5072. No comments were received concerning these rules, and the only changes that have been made since publication of the Notice of Emergency and Proposed Rulemaking are corrections of typographical errors. These final rules will be effective upon publication of this notice in the D.C. Register.

Amend Chapter 16, "Candidates: Delegate U.S. House of Representatives, Mayor, Chairman, and Members of the Council of District of Columbia, U.S. Senator, U.S. Representative, Members of the Board of Education and Advisory Neighborhood Commissions," as follows:

1) By amending Subsection 1607.8 to read as follows:

"1607.8 An address on a petition which is different than the address which appears on the Board's records shall be deemed valid if the signer's current address is within the single member district for an Advisory Neighborhood Commission election, within the school district for a district-wide school board election, within the ward for a ward-wide election, or within the District of Columbia for an at-large election, and the signer files a change of address form with the Board during the first 10 days of the period designated for resolving challenges to petitions."

DISTRICT OF COLUMBIA DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in An Act to enable the District of Columbia to receive federal financial assistance under Title XIX of the Social Security Act for a medical assistance program, and for other purposes, approved December 27, 1967 (81 Stat. 774; D.C. Official Code § 1-307.02(b)), Reorganization Plan No. 4 of 1996, and Mayor's Order 97-42, entitled "Establishment of the District of Columbia Department of Health," dated February 18, 1997, hereby gives notice of the adoption of a new Chapter 64 of Title 29 of the District of Columbia Municipal Regulations (DCMR) entitled "Medicaid Section 1115 Health Care Reform Demonstration" (HIV/AIDS Demonstration Project) under Section 1115 of the Social Security Act.

These rules establish program requirements for the HIV/AIDS Demonstration Project to expand access to costly but highly effective anti-retroviral drug therapy for individuals diagnosed with Human Immunodeficiency Virus (HIV) and to increase access to Medicaid benefits for the District's HIV-identified population.

Many citizens in the District of Columbia who are diagnosed as HIV positive need access to Highly Active Anti-Retroviral Therapy. However, a large number of low-income D.C. residents with HIV are uninsured, under-insured, or simply cannot afford Highly Active Anti-Retroviral Therapy, which costs approximately \$12,000 annually. The District, therefore plans to expand Medicaid health benefit access for its low-income residents who have HIV.

A notice of emergency and proposed rulemaking was published in the *D.C. Register* on May 28, 2004 (51 DCR 5605). No comments on the proposed rules were received. No substantive changes have been made. However, the final rules have been changed in section 6412.1 to conform to the grievance procedure previously approved by the federal Centers for Medicare and Medicaid Services (CMS) in the project's Operational Protocol. These rules shall become effective on the date of publication of this notice in the *D.C. Register*.

Title 29 DCMR is be amended by adding the following new Chapter 64 which shall read as follows:

MEDICAID SECTION 1115 HEALTH CARE REFORM DEMONSTRATION PROJECT**CHAPTER 64 MEDICAID SECTION 1115 HEALTH CARE REFORM
DEMONSTRATION PROJECT****6400 GENERAL PROVISIONS**

6400.1 The purpose of this Chapter is to establish standards governing the administration of the Medicaid Section 1115 Health Care Reform Demonstration for individuals with HIV (the "Demonstration Project"), as authorized under §1115 of the Social Security Act.

6400.2 The Demonstration Project term shall be from May 28, 2004 until August 31, 2009

6400.3 The Demonstration Project shall not be construed as an entitlement and may be terminated at any time by the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), or by the District of Columbia.

6401 ELIGIBILITY REQUIREMENTS

6401.1 Each individual eligible to receive services shall meet all of the following requirements:

- (a) Is a District of Columbia resident;
- (b) Has a gross income at or below one hundred percent (100%) of the Federal Poverty Level (FPL);
- (c) Has resource limits of \$2,600 for an individual and \$3,000 for an individual and his/her spouse;
- (d) Owns no property other than the home in which he or she lives and a car;
- (e) Is not eligible for the traditional Medicaid program under Titles XIX and XXI of the Social Security Act;
- (f) Is HIV-infected;
- (g) Does not reside in a long-term care facility, mental health facility, or penal institution; and
- (h) Has completed an informed consent form at the time of application.

6403 INCOME REQUIREMENTS

6403.1 Each applicant shall provide documentation of income that shall include the following:

(a) For a gross income determination, each applicant shall provide evidence of any of the following documentation that is applicable:

(1) Social Security cash benefit verification;

(2) Unemployment compensation;

(3) Veteran's benefits;

(4) Pension check stub;

(5) Any other public assistance documentation; or

(6) Any other award letter for receipt of cash benefits.

6404 ENROLLMENT PROCESS

6404.1 Each applicant shall complete a single application that shall be signed and dated. Application forms shall be made available and submitted to the District's HIV/AIDS Administration (HAA) for review and approval.

6404.2 Each applicant shall obtain and present to HAA one (1) piece of documentation to support proof of residency within the District of Columbia. Documents needed to prove residency include the following:

(a) Copy of a utility bill or a letter from a government agency with the applicant's District of Columbia address listed;

(b) Voter registration card;

(c) District of Columbia driver's license, or non-driver's identification; or

(d) Lease or mortgage agreement.

6404.3 Each applicant shall obtain one (1) of the following signatures on the application form to verify his or her HIV status:

(a) Physician's signature; or

(b) Case manager's signature.

- 6404.4 Each applicant shall provide evidence of receipt of other health insurance coverage from the following sources, if applicable:
- (a) Health insurance card;
 - (b) Letter from the health insurance company;
 - (c) Consolidated Omnibus Budget Reconciliation Act of 1986 (COBRA) coverage;
 - (d) Retirement health benefit coverage;
 - (e) Medicare coverage; or
 - (f) Any other health plan.
- 6404.5 Each applicant shall complete, sign, and date an informed consent form as part of the application process during the initial enrollment. Each applicant shall certify by signing the informed consent form that each applicant understands the following:
- (a) Participation in the Demonstration Project is voluntary; and
 - (b) Enrollment in the Demonstration Project is limited, and if the programs are already full at the time of application, the applicant will be placed on a waiting list;
- 6404.6 The applicant shall complete, sign to acknowledge receipt of a copy of the form, and date the informed consent form in order to be placed on a waiting list.
- 6404.7 Each applicant shall be screened to determine if he or she is eligible for Medicaid benefits under other Medicaid eligibility groups.
- 6404.8 A recipient's eligibility shall be subject to re-determination annually. The re-determination date shall be one (1) calendar year from the date of enrollment.
- 6404.9 A recipient and the case manager, when appropriate, shall receive a notice of re-determination from the District's HIV/AIDS Administration.
- 6404.10 A recipient shall respond to a request for information or to resubmit re-determination forms within thirty (30) days from the date of notice of re-determination. The HIV/AIDS Administration may extend the thirty (30) day requirement in cases involving extraordinary circumstances.

6405 RECIPIENT PROVIDER ASSISTANCE

- 6405.1 A Demonstration Project recipient shall have the freedom to choose his or her Medicaid providers.
- 6405.2 The HIV/AIDS Administration shall provide, as necessary, to all waiver recipients a list of the following at the time of initial enrollment:
- (a) List of Ryan White case management providers; or
 - (b) List of Ryan White HIV-experienced physician and clinic providers and Board-certified infectious disease specialists.

6406 ENROLLMENT CEILING AND WAITING LIST

- 6406.1 The District's Medical Assistance Administration shall establish a ceiling on the number of participants for each year of the project. If the number of applications exceeds the annual enrollment ceiling prior to the Demonstration Project implementation, then participants in the Demonstration Project shall be selected by the District's HIV/AIDS Administration on a first come, first served basis, in the order in which their applications were received.
- 6406.2 After the initial selection of participants in the Demonstration Project is made and the annual enrollment ceiling is established, all other applicants shall be placed on a waiting list.
- 6406.3 After the initial enrollment ceiling and initial waiting list are established, each subsequent applicant shall be placed on the waiting list in the order in which the application is received by the HIV/AIDS Administration.
- 6406.4 An applicant on a waiting list shall receive quarterly statements from the HIV/AIDS Administration with the following information:
- (a) The applicant's position on the waiting list; and
 - (b) The projected length of time the applicant shall have to wait prior to enrollment into the HIV/AIDS Demonstration Project.
- 6406.5 The applicant shall be eligible to enroll in the Demonstration Project when a Notice of Action (NOA) is received from the HIV/AIDS Administration. The NOA shall be mailed both to the initially chosen applicant and to the case manager (unless the applicant expressly prohibits such communication with the case manager to the HIV/AIDS Administration).

- 6406.6 A selected applicant shall have thirty (30) days from the date of the NOA in which to confirm enrollment in the Demonstration Project to the HIV/AIDS Administration.
- 6406.7 If the confirmation for enrollment is not received by the HIV/AIDS Administration within thirty (30) days from the date of the NOA, another applicant shall be invited to enroll in the Demonstration Project.
- 6406.8 If the HIV/AIDS Administration receives the selected applicant's confirmation after thirty (30) days but before ninety (90) days from the date of the NOA, the applicant shall be moved to the top of the waiting list.
- 6406.9 A selected applicant who has not confirmed enrollment within ninety (90) days from the date of the NOA shall be required to reapply to participate in the Demonstration Project.
- 6406.10 The District of Columbia may extend the NOA time lines for confirmation for applicants in extraordinary circumstances.
- 6406.11 An applicant who has reapplied to participate in the Demonstration Project pursuant to 6406.9 may be allowed to fill a vacancy which becomes available for the following reasons:
- (a) An initial Demonstration Project recipient has disenrolled for reasons such as, relocation, death, or failure to meet program eligibility requirements at re-determination; or
 - (b) An initial Demonstration Project recipient has become eligible, due to re-determinations, for other existing Medicaid coverage through Titles XIX or XXI of the Social Security Act.

6407 PROGRAM SERVICES

- 6407.1 Each applicant determined to be eligible pursuant to the criteria set forth in Section 6401 shall be entitled to full Medicaid benefits, including but not limited to the following services:
- (a) Laboratory and diagnostic services;
 - (b) Pharmacy benefits;
 - (c) Highly active antiretroviral drug therapy (HAART);
 - (d) Hospital care;
 - (e) Physicians' services;

- (f) Mental health and substance abuse services;
- (g) Medical equipment and supplies;
- (h) Transportation; and
- (i) Case management services.

6407.8 Each participant shall receive HIV prescription medications through the DOH's pharmacy network.

6407.9 Medical treatment for waiver recipients shall not include investigational or experimental therapy, drugs, or surgery.

6408 PROVIDER QUALIFICATIONS

6408.1 Each provider shall enter into a provider agreement with the DOH, Medical Assistance Administration, which shall specify the services to be provided, methods of operation, and financial and legal requirements.

6408.2 Each provider shall furnish the necessary personnel, facilities, equipment, material, and supplies to provide comprehensive Medicaid benefit package services as required pursuant to these rules. Each provider shall have a demonstrated ability to comply with all District and federal laws and rules governing participation of providers in the District of Columbia Medicaid Program, including the ability to meet all District and federal requirements for documentation, billing, and audits.

6408.3 Each provider shall comply with the requirements set forth in the District of Columbia Health Occupations Revisions Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code §3-1201 *et. seq.*) or comply with the licensure requirements to provide health or medical services in the jurisdiction where the services are rendered.

6408.4 All providers participating in the Demonstration Project shall be licensed to do business in the District of Columbia.

6408.5 Each provider participating in the Demonstration Project shall ensure that all staff providing services to waiver participants are qualified and properly supervised.

6408.6 Each provider shall establish and adhere to policies and procedures for selection and hiring of staff, including but not limited to requiring:
(a) Evidence of licensure, certification, or registration required by the job

being performed;

- (b) For unlicensed staff, evidence of completion of an appropriate degree, training program, or credentials;
- (c) Appropriate references and criminal background checks; and
- (d) Evidence of completion of communicable disease testing as required by District laws and rules.

6408.7 Each provider shall comply with all applicable provisions of District and Federal law and rules pertaining to Title XIX of the Social Security Act, and all District and federal law and rules applicable to the services or activity provided.

6409 CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

6409.1 The District and all providers shall protect the confidentiality of all information that identifies individual Demonstration Project recipients. The District and all providers shall maintain the same standards of confidentiality for recipient information as it maintains for recipients in the Medicaid program.

6409.2 Identifying individual recipient information shall not be disclosed except for purposes directly connected with the administration of the Demonstration Project or as otherwise provided by applicable District and/or federal law and regulations.

6410 TREATMENT OF RECORDS

6410.1 Each provider shall maintain accurate records reflecting treatment, evaluation, and management services. The record for each recipient shall include, but is not limited to, the following information:

- (a) General information including the patient's name, address, date of birth, demonstration recipient identification number, telephone number, and telephone number of emergency contact person;
- (b) Medical information, including medical and social history, results of the initial physical examination, and any other follow-up exams;
- (c) A description of any tests ordered and their results;
- (d) Initial certification and annual re-certifications;
- (e) Plan of care;

- (f) A description of treatment and follow-up care, including the dates of scheduled revisits;
- (g) Recommendations for and referrals to other sources of care;
- (h) Bill of Rights and Responsibilities;
- (i) Signed and dated progress notes, which identify the services provided;
- (j) Evidence of written consent to treatment or documentation of refusal to consent to any treatment, evaluation, or management services; and
- (k) Documentation of the treatment, evaluation, and management of each determination of an emergency medical condition.

- 6410.2 Each provider shall allow designated personnel of the DOH, HAA, and other authorized agents of the District of Columbia government and the federal government full access to the records for audit purposes.
- 6410.3 All providers shall maintain for a period of six (6) years a complete copy of the recipient's treatment record.
- 6410.4 Each recipient's treatment record shall include written documentation of the recipient's treatment needs and services. The documentation shall be written so that it is easily understood by a lay person.

6411 PATIENT RIGHTS AND RESPONSIBILITIES

- 6411.1 Each provider participating in the Demonstration Project shall develop a written statement of patient rights and responsibilities consistent with the requirements of this section, which shall be given to each recipient in advance of receiving services or during the initial enrollment before the initiation of services.
- 6411.2 The written statement of patient rights and responsibilities shall be available for distribution to the general public.
- 6411.3 Each provider participating in the Demonstration Project shall develop policies that ensure that each recipient receiving services has the following rights:
- (a) To be treated with courtesy, dignity, and respect;
 - (b) To control his or her own household and lifestyle;

- (c) To participate in the planning of his or her care and treatment;
- (d) To receive treatment, care, and services consistent with the plan of care and to have the plan of care modified, as necessary, for achievement of outcomes;
- (e) To receive services by competent personnel who can communicate with the patient;
- (f) To refuse all or part of any treatment, care, or service and be informed of the consequences thereof;
- (g) To be free from mental and physical abuse, neglect, and exploitation from persons providing services;
- (h) To be assured that for purposes of record confidentiality, the disclosure of the contents of the patient's records is subject to all the provisions of applicable District and federal laws and regulations;
- (i) To voice a complaint or grievance regarding treatment or care, lack of respect for personal property by persons providing services without fear of reprisal; and
- (j) To have access to his or her records.

6411.4

Each recipient shall be responsible for the following:

- (a) Treating all provider personnel with respect and dignity;
- (b) Providing accurate information when requested;
- (c) Informing provider personnel when instructions are not understood or cannot be followed;
- (d) Cooperating in making a safe environment for care within the home; and
- (e) Notifying the provider of changes in address, insurance, and other personal information.

6411.5

Each provider shall take appropriate steps to ensure that each recipient, including patients who cannot read or have a language or communication barrier, has received the information required pursuant to this section in a format designed to make the information understandable. Each provider

shall document in the recipient's treatment record the steps taken to ensure that each patient has received the information.

6412 GRIEVANCE AND APPEALS

6412.1 Each Demonstration Project recipient that is aggrieved by a decision of the District affecting that recipient's eligibility to receive a covered service through the Demonstration Project shall be entitled to file a written grievance with the Department of Health, Senior Deputy Director for the Medical Assistance Administration. All other recipients aggrieved by a decision shall be entitled to a hearing before the District of Columbia Office of Administrative Appeals as provided in D.C. Official Code §4-210.01 and 42 CFR Part 431.200.

6499 DEFINITIONS

For the purposes of this Chapter, the following terms shall have the meaning ascribed:

AIDS – acquired immune deficiency syndrome.

COBRA- Consolidated Omnibus Budget Reconciliation Act of 1986. This program administered by the United States Department of Labor and the United States Pension and Welfare Benefits Administration allows an employee who voluntarily resigns from employment or is terminated for any reason other than "gross misconduct" to continue their former employer's group health plan (both for individual and family coverage) coverage for a period up to eighteen (18) months from the effective date of employment termination or resignation.

Demonstration Project - as authorized under Section 1115 of the Social Security Act.

DOH – Department of Health.

DOH HIV Pharmacy Network - group of participating pharmacies that distribute anti-retrovirals and other HIV-related medications for the Demonstration Project, Medicaid, and the ADAP.

Enrollment ceiling – the limit on the number of recipients in the Demonstration Project.

Gross income – total pre-tax income for a household; this amount includes all income that the Income Maintenance Administration and other agencies

may disregard in their eligibility determinations for other programs (including current law Medicaid).

HAART – Highly Active Anti-Retroviral Therapy. A broad category of treatment regimens for individuals with HIV usually comprised of three (3) or more anti-retroviral drugs that, in previously untreated HIV-1-infected patients, are expected to reduce plasma virus levels below the limits of detection. Most HAART regimens include drugs from at least two (2) of the three (3) classes of anti-retroviral therapy (nucleoside analog reverse transcriptase (RT) inhibitors, non-nucleoside analog RT inhibitors, and protease inhibitors).

HIV – human immunodeficiency virus. A retrovirus that causes AIDS, formerly known as HTLV-III.

**HISTORIC PRESERVATION REVIEW BOARD AND THE DISTRICT OF
COLUMBIA OFFICE OF PLANNING****Notice of Final Rulemaking****(Adoption of new Title 10A, Historic Preservation, and Amendment of 10 DCMR,
Planning and Development)**

The D.C. Office of Planning and the Historic Preservation Review Board, pursuant to authority under § 10 of the Historic Protection Act (D.C. Law 2-144, as amended, D.C. Official Code § 6-1101 et seq.) § 2 of Mayor's Order 79-50, effective March 21, 1979, §6 of Mayor's Order 83-119, effective May 6, 1983, 30 DCR 3031 (June 17, 1983) and Mayor's Order, 2002-155, effective September 3, 2002, hereby give notice of the adoption of a new 10A DCMR, Historic Preservation, and amendment of 10DCMR, Planning and Development, in the manner described below. These rules were last published for comment on April 30, 2004. There are no substantial changes in the final version from that previously published. The purpose of this final rulemaking is to incorporate all historic preservation regulations in a new subtitle, DCMR Title 10A, including regulations currently contained in 10 DCMR chapters 25 and 26 as well as window standards recently adopted by the Historic Preservation Review Board. The final rule are promulgated jointly with the Mayor's Agent and State Historic Preservation Officer.

This final rulemaking will take effect upon publication of this notice in the D.C. Register.

The specific proposed rulemaking is as follows:

1. 10DCMR chapter 25-repealed
2. 10 DCMR chapter 26- repealed
3. 10ADCMR, Historic Preservation – new chapters 1-99 as set forth below.

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100 APPLICABILITY AND AUTHORITY

- 100.1 These regulations govern implementation of the historic preservation programs of the District of Columbia, including activities conducted pursuant to both District and Federal law.
- 100.2 These regulations may be cited as the "District of Columbia Historic Preservation Regulations."
- 100.3 These regulations implement the historic preservation provisions of the following statutes:
- (a) The Historic Landmark and Historic District Protection Act of 1978 (D.C. Law 2-144, as amended; D.C. Official Code §6-1101 *et seq.*), also referred to as the "Historic Protection Act" or "the Act";
 - (b) The Old Georgetown Act of 1950 (D.C. Official Code § 6-1201 *et seq.*);
 - (c) The Shipstead-Luce Act of 1930 (D.C. Official Code § 6-611.01);
 - (d) The National Historic Preservation Act of 1966, as amended (80 Stat. 915 *et seq.*; 16 U.S.C. 470 *et seq.*);
 - (e) The Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2000 (D.C. Law 13-281; D.C. Official Code § 6-801 *et seq.* (2002 Supp.)); and
 - (f) The Housing Act of 2002 (D.C. Law 14-114; D.C. Official Code § 6-802 *et seq.* (2002 Supp.)).
- 100.4 The regulations are coordinated and intended to be consistent with the following statutes and regulations:
- (a) The Administrative Procedure Act (D.C. Official Code § 2-501 *et seq.*);

- (b) The Advisory Neighborhood Commission Act, as amended (D.C. Official Code § 1-309), also referred to as the "ANC Act";
 - (c) The Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 (D.C. Official Code § 2-1801 *et seq.*);
 - (d) D.C. Zoning Regulations (DCMR Title 11); and
 - (e) D.C. Construction Codes (DCMR Title 12).
- 100.5 If there is a conflict between these and other D.C. regulations, the more restrictive rule shall apply.
- 100.6 These rules are promulgated jointly by the Director, Office of Planning and the Historic Preservation Review Board.
- 100.7 Unless otherwise noted, the authority for this chapter is § 10 of the Historic Protection Act (D.C. Official Code § 6-1109), §§ 2 and 3 of Mayor's Order 79-50, effective March 21, 1979, § 6 of Mayor's Order 83-119, effective May 6, 1983, 30 DCR 3031 (June 17, 1983), § III(B)(8) of the Reorganization Plan No. 1 of 1983 (effective March 31, 1983), and § 402(b) of the Fiscal Year 2001 Budget Support Act of 2000 (D.C. Law 13-172, effective October 19, 2000).
- 100.8 These rules apply to the activities of the Mayor's Agent, State Historic Preservation Officer, Historic Preservation Review Board, and Historic Preservation Office after [the effective date]. Applications and any other pending actions filed before the effective date of these regulations shall be considered under the rules in effect when the applications were filed.

101 INTENT AND PURPOSES

- 101.1 The intent of these regulations is to promote the protection, enhancement, and perpetuation of properties of historical, cultural, and aesthetic merit in the interests of the health, prosperity, and welfare of the people of the District of Columbia.
- 101.2 The intent of the regulations is further to promote the following expressed purposes of the Historic Protection Act:
- (a) Effect and accomplish the protection, enhancement, and perpetuation of historic landmarks and districts which represent distinctive elements of the city's cultural, social, economic, political and architectural history;
 - (b) Safeguard the city's historic, aesthetic and cultural heritage, as embodied and reflected in such landmarks and districts;

- (c) Foster civic pride in the accomplishments of the past;
 - (d) Protect and enhance the city's attraction to visitors and the support and stimulus to the economy thereby provided; and
 - (e) Promote the use of landmarks and historic districts for the education, pleasure, and welfare of the people of the District of Columbia.
- 101.3 The Historic Protection Act promotes an equitable balance between the rights of property owners and the benefits of preservation conveyed to the general public.

102 HISTORIC PRESERVATION AGENCIES, OFFICIALS AND PARTICIPANTS

- 102.1 District of Columbia historic preservation programs are implemented by the Mayor, State Historic Preservation Officer, and Historic Preservation Review Board. Other District and Federal agencies and officials also perform related or incidental historic preservation functions.
- 102.2 These agencies and officials work with the owners of historic property to achieve the purposes and benefits of historic preservation.
- 102.3 These agencies and officials also work with interested members of the public, as individuals or through Advisory Neighborhood Commissions and historic preservation organizations, to achieve the purposes and benefits of historic preservation.
- 102.4 The following terms specifically applicable to this chapter are defined in Chapter 99:
- (a) Mayor;
 - (b) Mayor's Agent;
 - (c) State Historic Preservation Officer;
 - (d) Historic Preservation Review Board;
 - (e) Historic Preservation Office;
 - (f) Department of Consumer and Regulatory Affairs;
 - (g) Commission of Fine Arts;
 - (h) Old Georgetown Board;
 - (i) Advisory Neighborhood Commission; and
 - (j) Historic preservation organization.

103 FUNCTIONS OF THE MAYOR

- 103.1 The Mayor may designate a Mayor's Agent to carry out any or all of the Mayor's responsibilities pursuant to the Historic Protection Act. This authority notwithstanding, some of the Mayor's functions are reserved to the Mayor by statute, or may be delegated to other agencies or officials, as appropriate.
- 103.2 The Mayor appoints a State Historic Preservation Officer to carry out the District of Columbia historic preservation programs established under the National Historic Preservation Act, and any other duties authorized under District or Federal law.
- 103.3 The Mayor may delegate the responsibility for giving notice of applications pursuant to the Act (D.C. Official Code §§ 6-1104 through 6-1108) to the Permit Processing Division of the Department of Consumer and Regulatory Affairs, or another appropriate agency.
- 103.4 The Mayor includes in the budget estimates of the District of Columbia such amounts as may be necessary for the revolving fund established pursuant to the Act.
- 103.5 The Mayor submits to the Council an annual report on implementation of the Act and on the financial condition and uses of the revolving fund.

104 FUNCTIONS OF THE MAYOR'S AGENT

- 104.1 The Mayor's Agent reviews proposed work affecting historic properties, including demolition, alteration, subdivision, and new construction, in accordance with the applicable provisions of the Historic Protection Act (D.C. Official Code §§ 6-1104 through 6-1108).
- (a) This authority may also be exercised by the person designated as a hearing officer for the Mayor's Agent. Although the Mayor's official designee remains the nominal Mayor's Agent, this hearing officer is titled the Mayor's Agent by custom, and exercises the Mayor's authority to decide cases involving a public hearing under D.C. Official Code §§ 6-1104 through 6-1108.
- (b) The remainder of this authority is exercised by the Historic Preservation Office, acting as the administrative staff to the Mayor's Agent.
- 104.2 The Mayor's Agent refers applications for this proposed work to the Historic Preservation Review Board and Commission of Fine Arts, as appropriate, for advice pursuant to the Act.
- (a) This authority may be exercised by the Historic Preservation Office under the supervision of the Mayor's Agent.

- (b) The Mayor's Agent may provide direction to the Permit Processing Division of the Department of Consumer and Regulatory Affairs in the processing of these administrative referrals.
- 104.3 The Mayor's Agent considers this advice and makes preliminary and final findings on the issuance of permits, as provided in the Act.
- (a) This authority may be exercised by the Historic Preservation Office, acting under the supervision of the Mayor's Agent and in accordance with these regulations.
 - (b) If there is a public hearing, this authority may be exercised directly by the Mayor's Agent (Hearing Officer).
- 104.4 The Mayor's Agent holds mandatory public hearings on applications involving demolition of historic landmarks or contributing building in historic districts, subdivision of historic landmarks, a claim of unreasonable economic hardship or special merit, or an applicant's request after a recommendation of denial from the Historic Preservation Review Board or Commission of Fine Arts. The Mayor's Agent also exercises sole discretion to hold optional public hearings on other applications pursuant to the Act.
- (a) This authority may be delegated to the Mayor's Agent (Hearing Officer).
 - (b) The procedural rules for public hearings in Chapters 4, 30 and 32 refer to the functions of the Mayor's Agent (Hearing Officer) under this delegated authority.
- 104.5 The Mayor's Agent determines if historic landmarks or contributing buildings in historic districts are threatened by demolition by neglect, and pursues appropriate remedies pursuant to the Act.
- (a) This authority may be exercised by the Historic Preservation Office under the supervision of the Mayor's Agent.
 - (b) The Historic Preservation Office may pursue enforcement remedies with the assistance of the Office of the Corporation Counsel, the Department of Consumer and Regulatory Affairs, or other agencies as appropriate.
- 104.6 The Mayor's Agent issues regulations to carry out the provisions of the Act. These regulations may be issued jointly with the State Historic Preservation Officer and Historic Preservation Review Board.
- 104.7 The Mayor's Agent may enter into agreements with DCRA to provide for primary or coordinated enforcement of the Historic Protection Act by the HPO staff.

105 **FUNCTIONS OF THE STATE HISTORIC PRESERVATION OFFICER**

- 105.1 The State Historic Preservation Officer performs the functions and duties authorized or required by the National Historic Preservation Act and other Federal laws and regulations. These functions and duties include:
- (a) Implementing a comprehensive preservation planning process;
 - (b) Directing and conducting the comprehensive survey of historic properties;
 - (c) Identifying and nominating properties to the National Register;
 - (d) Administering the Historic Preservation Fund (HPF) Grant-in-Aid program;
 - (e) Advising and assisting Federal and District agencies in carrying out their historic preservation responsibilities;
 - (f) Cooperating with Federal and District agencies to ensure that historic properties are taken into consideration at all levels of planning and development;
 - (g) Reviewing applications for Federal preservation tax credits; and
 - (h) Providing public information, education, training, and technical assistance related to historic preservation programs.
- 105.2 The State Historic Preservation Officer also performs any other functions and duties authorized or required by District of Columbia law and regulations. These functions and duties include:
- (a) Reviewing zoning and other administrative referrals from the Office of Zoning and other agencies;
 - (b) Issuing certifications of eligibility for historic preservation tax credits and other administrative relief; and
 - (c) Implementing other historic preservation programs on behalf of the Mayor.
- 105.3 The State Historic Preservation Officer may delegate any of these functions and authorities to the Deputy State Historic Preservation Officer or to the Historic Preservation Office to the extent allowable under these or other applicable federal regulations.

106 FUNCTIONS OF THE HISTORIC PRESERVATION REVIEW BOARD

- 106.1 The Board designates and maintains a current inventory of historic landmarks and historic districts, and adopts related procedures (contained in Chapter 2).

- 106.2 The Board advises the Mayor on the compatibility with the purposes of the Historic Protection Act (D.C. Official Code § 6-1101) of proposed work affecting historic properties, under D.C. Official Code §§ 6-1104 through 6-1108.
- 106.3 The Board performs the functions and duties of a State Review Board as set forth in regulations issued pursuant to the National Historic Preservation Act, the Historic Protection Act, and other applicable legislation.
- 106.4 The Board acts upon referrals from the Foreign Missions Board of Zoning Adjustment relating to the new construction, demolition and alteration of foreign missions; chanceries, and international organizations located in historic districts or historic landmarks, pursuant to the Foreign Missions Act (22 U.S.C. § 4306).
- 106.5 The Board performs other functions and duties relating to the protection, preservation, enhancement and perpetuation of the historic, architectural, cultural and aesthetic heritage of the District of Columbia as the Mayor may from time to time assign.
- 106.6 The Board may delegate any of these functions or authorities to the Historic Preservation Office to the extent allowed by law and these regulations.

107 FUNCTIONS OF THE HISTORIC PRESERVATION OFFICE

- 107.1 The Historic Preservation Office serves as the professional staff to the Mayor's Agent, State Historic Preservation Officer, and Historic Preservation Review Board.
- 107.2 The HPO performs customary staff functions as well as any functions and duties specifically delegated to it by the Mayor's Agent, SHPO, or HPRB.
- 107.3 The Historic Preservation Office also performs any other functions assigned in its role as a component of the Office of Planning.

108 FUNCTIONS OF THE COMMISSION OF FINE ARTS

- 108.1 The Mayor receives recommendations from the Commission of Fine Arts on referrals for review of proposed demolition, alteration, or new construction pursuant to the Historic Protection Act (D.C. Official Code §§ 6-1104, 6-1105, 6-1107, or 6-1108).
- 108.2 When applicable, recommendations from the Commission may incorporate the advice of the Old Georgetown Board.
- 108.3 The Commission makes recommendations in accordance with the Shipstead-Luce Act, Old Georgetown Act, and any implementing regulations, procedures, or policies that it may adopt.

109 FUNCTIONS OF THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

- 109.1 The Department of Consumer and Regulatory Affairs (DCRA) accepts and transmits applications to the Mayor's Agent and CFA for review pursuant to the Historic Protection Act (D.C. Official Code §§ 6-1104 through 6-1108), and issues permits and subdivisions upon approval by the Mayor's Agent.
- 109.2 DCRA enforces construction codes and other regulations governing work subject to review under the Historic Protection Act, and other health and safety laws and regulations affecting historic property. This function includes condemnation proceedings, civil sanctions, adjudications, and other enforcement action.

110 PUBLIC PARTICIPATION

- 110.1 The views of property owners and the general public are essential to informed decisionmaking in the historic preservation process established under the Act.
- 110.2 Advisory Neighborhood Commissions and historic preservation organizations play a crucial role in seeking recognition and protection of the cultural heritage of the District of Columbia, and in facilitating public involvement in the historic preservation process.
- 110.3 Members of the public as individuals and organizations are encouraged to participate fully and to express their views in the historic preservation process, including as parties in contested case hearings held pursuant to these regulations.
- 110.4 The officially adopted written views of Advisory Neighborhood Commissions shall be accorded great weight in the historic preservation process as provided in the ANC Act.

CHAPTER 2: DESIGNATION OF HISTORIC LANDMARKS AND DISTRICTS

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200 GENERAL PROVISIONS

- 200.1 The Review Board shall maintain the D.C. Inventory of Historic Sites, and shall designate historic landmarks and historic districts for inclusion in the Inventory.
- 200.2 The Act protects historic landmarks and historic districts differently during the designation process. The Act protects a proposed historic landmark temporarily when an application is officially filed, and permanently upon designation, but the Act does not protect properties within a proposed historic district until after the Board designates the district and the State Historic Preservation Officer nominates or issues a written determination to nominate the district to the National Register of Historic Places.
- 200.3 The Review Board and SHPO shall comment on Federal agency nominations to the National Register, and on National Historic Landmark designations made by the Secretary of the Interior (see additional procedures in Chapters 13 and 14).
- 200.4 The following terms specifically applicable to this chapter are defined in Chapter 99:
- (a) D.C. Inventory of Historic Sites;
 - (b) National Register of Historic Places;
 - (c) Historic landmark;
 - (d) Historic district; and

- (e) National Historic Landmark.

201 CRITERIA FOR DESIGNATION IN THE D.C. INVENTORY

201.1 Historic and prehistoric buildings, building interiors, structures, monuments, works of art or other similar objects, areas, places, sites, neighborhoods, and cultural landscapes are eligible for designation as historic landmarks or historic districts if they possess one or more of the following values or qualities:

- (a) *Events*: They are the site of events that contributed significantly to the heritage, culture or development of the District of Columbia or the nation;
- (b) *History*: They are associated with historical periods, social movements, groups, institutions, achievements, or patterns of growth and change that contributed significantly to the heritage, culture or development of the District of Columbia or the nation;
- (c) *Individuals*: They are associated with the lives of persons significant to the history of the District of Columbia or the nation;
- (d) *Architecture and Urbanism*: They embody the distinguishing characteristics of architectural styles, building types, or methods of construction, or are expressions of landscape architecture, engineering, or urban planning, siting, or design significant to the appearance and development of the District of Columbia or the nation;
- (e) *Artistry*: They possess high artistic or aesthetic values that contribute significantly to the heritage and appearance of the District of Columbia or the nation;
- (f) *Creative Masters*: They have been identified as notable works of craftsmen, artists, sculptors, architects, landscape architects, urban planners, engineers, builders, or developers whose works have influenced the evolution of their fields of endeavor, or are significant to the development of the District of Columbia or the nation; or
- (g) *Archaeology*: They have yielded or may be likely to yield information significant to an understanding of historic or prehistoric events, cultures, and standards of living, building, and design.

201.2 To qualify for designation, they shall also possess sufficient integrity to convey, represent or contain the values and qualities for which they are judged significant.

201.3 To qualify for designation, sufficient time shall have passed since they achieved significance or were constructed to permit professional evaluation of them in their historical context.

202 CRITERIA FOR LISTING IN THE NATIONAL REGISTER

202.1 Properties meeting the criteria for designation in the D.C. Inventory are also considered to meet the criteria for listing in the National Register of Historic Places unless the National Register officially determines otherwise.

202.2 The criteria for listing in the National Register (36 CFR § 60.4) are:

The quality of significance in American history, architecture, archaeology, and culture is present in districts, sites, buildings, structures, and objects that possess integrity of location, design, setting, materials, workmanship, feeling, and association, and:

- (a) that are associated with events that have made a significant contribution to the broad patterns of our history; or
- (b) that are associated with the lives of persons significant in our past; or
- (c) that embody the distinctive characteristics of a type, period, or method of construction or that represent the work of a master, or that possess high artistic values, or that represent a significant and distinguishable entity whose components may lack individual distinction; or
- (d) that have yielded, or may be likely to yield, information important in prehistory or history.

202.3 Properties designated by the Secretary of the Interior as National Historic Landmarks are automatically listed in the National Register, and are considered to meet the criteria for listing in the D.C. Inventory.

203 ELIGIBLE APPLICANTS

203.1 Application for designation of a property as a historic landmark or historic district shall be made only by the owner of the property, the Board, a public agency, governmental unit or department, Advisory Neighborhood Commission, or a historic preservation organization.

203.2 The staff may request a copy of an organization's bylaws or other establishment papers if needed to confirm its eligibility as an applicant.

203.3 A historic preservation organization established for membership or purposes within a specific neighborhood or area of the District of Columbia shall be an eligible applicant only with respect to properties within that neighborhood or area.

203.4 Any eligible applicant may co-sponsor a nomination with any other eligible applicant.

204 APPLICATION FOR DESIGNATION

204.1 A proposed designation for historic landmark or historic district status shall be initiated by the submission of an application to the Board in the format prescribed by the staff.

204.2 The application shall contain a signed official application form and two complete sets of the following minimum information, preferably submitted with an electronic copy;

- (a) The name, address, and telephone number of the applicant;
- (b) The name and street address of the property proposed for designation, or the name and location if there is no street address;
- (c) If a historic landmark application, the name and address of the property owner;
- (d) The official square and lot or parcel number(s) of the property, or if a historic district application, a list of the squares within the proposed boundaries, indicating specific lots, parcels or public reservations where necessary;
- (e) A statement of the prehistoric, historic, architectural and/or cultural significance of the property;
- (f) A narrative statement of the history and historical development of the property and its relevant historic context;
- (g) If a historic landmark application, a description of the present appearance of the property, and where possible its original appearance if different;
- (h) If a historic district application, a description of the general character of the district and the types of buildings it contains, indicating the degree to which characteristic features have been maintained;
- (i) If a historic district application, a statement of the district's period of significance (including a separate period of significance for archaeological sites, if appropriate), a list of buildings and structures considered contributing to the significance of the district, and a list of those considered non-contributing;
- (j) If an application proposed for archaeological significance, a description of the existing condition of the property, indicating what is known about the type and condition of the archaeological deposits;
- (k) A list of bibliographic and other sources used to prepare the application, indicating the repository of any sources not readily available;

- (l) A clear and accurate map showing the exact boundaries of the property proposed for designation, and if a historic district application, a narrative description of the proposed boundaries of the district; and
- (m) Contemporary, good quality black and white photographs of the property (preferably 8 by 10 inches in size), sufficient to provide a clear and accurate visual representation of the property and its setting, and if a historic district application, showing buildings, streetscapes, and other views representative of the district.

- 204.3 The application shall contain sufficient information to consider nomination of the property to the National Register, and the application shall be considered a draft National Register nomination even if not submitted on a National Register nomination form.
- 204.4 A fully completed National Register nomination form shall constitute an acceptable application provided that it includes the minimum information required for filing and is accompanied by any other application form required by the staff.

205 FILING FEES

- 205.1 The Board shall adopt a schedule of fees for the filing of historic landmark and historic district applications, as set forth in Chapter 33. The Board may amend the fee schedule in accordance with applicable laws and regulations.
- 205.2 The applicant shall pay the filing fee before the assignment of a case number. The filing fee is non-refundable.
- 205.3 Federal and District government agencies, including ANCs, are not required to pay a filing fee.

206 MULTIPLE PROPERTY DESIGNATIONS

- 206.1 The Board may consider multiple or discontinuous properties for designation as historic landmarks or historic districts. Multiple property designations shall be for properties that are historically, physically, thematically, or otherwise related.
- 206.2 The staff may determine whether a proposed designation of multiple or discontinuous properties should be filed as a historic landmark or historic district application, or as multiple applications, as appropriate.
- 206.3 The Board may also consider and adopt National Register multiple property registration forms as a framework for the designation of related properties.

- (a) The staff shall assign a case number to a multiple property registration form, and shall process the application in the same manner as other designation applications.
- (b) There is no filing fee for the multiple property registration form itself, but the fee is required for each historic landmark or historic district application filed with the multiple property form.
- (c) If adopted, a multiple property registration form does not by itself constitute the designation of any historic landmark or district. It serves as the Board's acceptance of relevant documentation about a type or group of potential historic properties, and as the Board's endorsement of a basis and methodology for making determinations on the designation of these properties.

207 DESIGNATION INITIATED BY THE BOARD

- 207.1 The Board may initiate a historic landmark or historic district designation by directing the staff to prepare an application, or by adopting an existing National Register nomination, National Historic Landmark nomination, or designation application.
- 207.2 The Board shall file, give notice, and act upon a Board-initiated application according to the procedures required for any other application, except that the filing fee shall be waived.

208 OFFICIAL FILING OF AN APPLICATION

- 208.1 Within ten (10) days of receipt of an application, the staff shall determine whether it is complete. If the application is complete, and the applicant has paid the applicable filing fee, the staff shall assign a case number, date stamp, and officially file the application.
- 208.2 When the staff has completed the official filing, the application is considered a pending application, and if the property is a proposed historic landmark, it is protected by the Act.
- 208.3 The staff may correct errors on an application form at any time during the filing process or before the designation hearing, and shall make a notation of any corrections on the form.

209 NOTICE AND SCHEDULING OF A FILED APPLICATION

- 209.1 Immediately after an application is officially filed, the staff shall provide written notification to the Permit Processing Division of DCRA.
- 209.2 Within ten (10) days of an official filing, the staff shall mail notice of the filed application to the applicant, the owner, the affected Advisory Neighborhood

Commission, and the ANC single member district commissioner(s) for the area within which the property is located, using the address maintained by the Office of Advisory Neighborhood Commissions. If the application is for a historic landmark, the staff shall include a copy of the application with the notice to the owner, unless the owner is the applicant. If the application is for a historic district, the staff shall mail notice to each owner unless there are more than 50 owners, in which case the staff may place notice of the filed application in the *D.C. Register* instead of giving notice to each owner.

- 209.3 Within sixty (60) days of an official filing, the staff shall mail notice of the filed application to the public mailing list described in Chapter 32.
- 209.4 Within ninety (90) days of an official filing, the staff shall schedule a hearing on the application by placing a scheduling or hearing notice in the *D.C. Register*.
- 209.5 If a historic landmark application is filed when a permit application subject to review under the Act is pending at DCRA, the ninety (90) day period for a determination on the designation shall be counted from the date the historic landmark application is filed.
- 209.6 Within five (5) days of receipt of a notice of a filed historic landmark application, the owner of the property shall notify the staff if there is a permit application for the property pending at DCRA.

210 AMENDMENT OR WITHDRAWAL OF A FILED APPLICATION

- 210.1 An applicant may submit a written amendment of a filed application at any time before notice of the public hearing.
- 210.2 An applicant may submit a written request to withdraw a filed application at any time. The filing fee is not refundable and the staff shall not return the application materials upon withdrawal.
- 210.3 Before the staff accepts a withdrawal, the Chairperson of the Board may adopt the application by substituting the Board as the applicant for designation.
- 210.4 Within ten (10) days of accepting an amendment or withdrawal, the staff shall provide notice of the amendment or withdrawal in the same manner as provided for a newly filed application in § 207.2. If an amendment is to change the boundaries of a proposed historic district, the staff is not required to send notice of the amendment to owners of property outside the area of the amendment.
- 210.5 If an application is withdrawn, the staff shall not accept another application to designate the same historic landmark or historic district until twelve (12) months after the date of withdrawal. The staff shall determine whether a new application is the same as a withdrawn application.

- 210.6 Upon receipt of any subsequent request to withdraw the refiled application, the Board shall adopt the application by substituting itself as the applicant, and shall proceed to a hearing as provided in this chapter.

211 NOTICE OF HISTORIC LANDMARK DESIGNATION HEARING

- 211.1 At least forty-five (45) but not more than seventy-five (75) days before a designation hearing, the Board shall send notice via first class mail to the owner of the property, the applicant for designation, and the affected Advisory Neighborhood Commission.
- 211.2 At least thirty (30) but not more than seventy-five (75) days before a designation hearing, the Board shall publish notice in the *D.C. Register*.
- 211.3 The notice shall state the date, time, place, and nature of the hearing, the name of the applicant, and an accurate description of the property proposed for designation.
- 211.4 The notice shall also indicate the Board's intent to consider the nomination of the property to the National Register, and shall solicit the submission of written comments on the property's significance before the hearing date. The format and content of the notice shall be approved by the National Register.

212 NOTICE OF HISTORIC DISTRICT DESIGNATION HEARING

- 212.1 For a proposed designation of a historic district where there are 50 or fewer property owners, the Board shall provide the same notice as for a historic landmark designation hearing. The Board shall obtain the list of owners from current District of Columbia land records or tax records.
- 212.2 For a proposed designation of a historic district where there are more than 50 property owners, the Board shall provide the same notice as for a historic landmark designation hearing, except that instead of notice to each property owner, the Board may require the applicant to publish notice in a local newspaper of general circulation in the area of the proposed designation. The applicant shall publish this notice at least thirty (30) but not more than seventy-five (75) days before the designation hearing.
- 212.3 If the Board has required the applicant to publish newspaper notice of a proposed historic district designation hearing, the applicant shall also post notice in the proposed historic district at least fifteen (15) days in advance of the hearing, as follows:
- (a) A notice shall be posted in a conspicuous location on each side of each block of the proposed historic district. Each notice shall be in plain view of the public.
 - (b) Notices shall be posted on placards supplied by the Board, and shall show the number of the application, the nature of the application, the name of the applicant,

the name of the proposed historic district, the affected ANC, and the location, time, and date of the public hearing.

- 212.4 Not less than five (5) days before the public hearing, the applicant shall file with the Board a sworn affidavit demonstrating compliance with this posting requirement. A form of affidavit supplied by the Board may be used but is not required.
- 212.5 The applicant shall attach to the affidavit a photograph of each sign after posting and as viewed by the public, identifying the location of each sign and the date of each photograph.
- 212.6 The applicant shall make a reasonable effort to maintain the posted notice by checking the signs periodically, and by posting new notices as necessary.

213 PUBLIC COMMENT PERIOD

- 213.1 During the time between public notice and the designation hearing, the Board shall accept written comments from affected property owners and any other interested persons concurring in or objecting to the designation and National Register nomination.
- 213.2 During the public comment period, the staff shall keep the application and National Register nomination on file and open for public inspection at the Historic Preservation Office. The staff shall mail or email a copy of the application to any person upon request, unless the length of the application makes this impractical.

214 PRE-HEARING SUBMISSIONS

- 214.1 Each applicant for designation shall file with the Board, at least ten (10) days before the hearing, a list of persons who will speak on the applicant's behalf.
- 214.2 Each owner of property proposed for historic landmark designation (if not the applicant), shall file with the Board at least seven (7) days before the hearing a list of persons who will speak on the owner's behalf

215 REQUESTS FOR POSTPONEMENT

- 215.1 The applicant for a proposed historic landmark or historic district designation may request postponement of the hearing by submitting a written request to the Board at least 48 hours before a scheduled hearing. The owner of a proposed historic landmark may request postponement of the designation hearing in the same manner.
- 215.2 Any request for postponement shall indicate which scheduled Board meeting is requested for a hearing date. Any request for postponement shall be accompanied by

the owner's written agreement not to object to the timeliness of the Board's action due to this postponement.

- 215.3 The Chairperson of the Board may accept or deny a request for postponement as deemed appropriate. If there is a postponement, the Board may provide a new hearing notice as provided in this chapter, or may give notice of the postponement at the time and place originally scheduled for the hearing, in which case no further notice of the postponement is required.

216 STAFF REPORT ON DESIGNATION APPLICATION

- 216.1 Before the designation hearing, the staff shall prepare a written report and recommendation on the designation application.
- 216.2 The report shall include the staff's determination with respect to the criteria for designation in the D.C. Inventory (§ 201) and the criteria for listing in the National Register (§ 202).
- 216.3 At least five (5) days before the hearing date, the staff shall file copies of the staff report with the Board, and shall make it available to the applicant, owner, and public.

217 DESIGNATION HEARING

- 217.1 The Board shall hold a public hearing to receive information and public comments on each application for historic landmark or historic district designation.
- 217.2 At the designation hearing, the Board shall consider the eligibility of the property for listing in both the D.C. Inventory and the National Register.
- 217.3 The designation hearing shall be conducted in accordance with the Board's procedures in Chapter 31.

218 CLOSURE OF THE HEARING RECORD AND DELIBERATIONS

- 218.1 The record shall be closed at the end of the public hearing except when directed by the Chairperson to stay open for a specified period of time for the receipt of additional information or public comment. If the hearing is to be continued, the Chairperson shall announce the time and place it will be resumed, and no additional public notice shall be required.
- 218.2 The Board may reopen the record at any time before the issuance of a final decision. The Board shall provide notice of a reopening in the same manner as for the initial hearing.

- 218.3 After closure of the hearing record, the Board shall consider the application and shall hold its deliberations immediately or in a continuation of the public hearing. The Board shall give great weight to any written recommendations of the affected ANC that are adopted as required by the ANC Act and that are germane to the issues that fall within the Board's authority.
- 218.4 The Board may vote to designate the property, deny or defer the designation, or designate the property with reduced boundaries. If the Board wishes to expand the boundaries of a designation, a new notice and hearing is required. The Board may base its designation on any of its criteria, including designation criteria that may not be referred to in the application.

219 POST-HEARING PROCEDURES

- 219.1 The Board shall issue a written decision with respect to the proposed historic landmark or historic district designation. Each designation decision shall identify the property, describe its general characteristics and significance, specify its boundaries, state the reasons for designation, and indicate whether it is also recommended for nomination to the National Register.
- 219.2 Each designation of a historic district shall state a period of significance for the historic district pursuant to National Register criteria. Subsequent to each designation of a historic district, the SHPO shall prepare an official list of contributing and non-contributing buildings pursuant to National Register criteria, and shall forward that list with the nomination to the National Register.
- 219.3 In any case in which the affected ANC has submitted a duly adopted written recommendation, the designation decision shall be accompanied by a written statement acknowledging the ANC recommendation and indicating the Board's response.
- 219.4 Within ten (10) days of a designation, the Board shall mail a copy of the official designation order signed by the Chairperson as follows:
- (a) For a historic landmark, to the applicant, property owner, and affected ANC;
 - (b) For a historic district, to the applicant and affected ANC.
- 219.5 Within ninety (90) days of a designation, the Board shall publish notice of the designation in the *D.C. Register*.
- 219.6 If the Board has recommended the nomination of a property to the National Register, the SHPO shall prepare and forward the nomination to the National Register in accordance with the procedures in Chapter 13.

220 EFFECTIVE DATE OF DESIGNATION

- 220.1 The Board's determination whether to list a property as a historic landmark, as provided in D.C. Official Code § 6-1102(6)(B), is made when the Board votes to designate or deny designation of the property. This date is the official designation date. A historic landmark designation is final when the copy of the official designation order is mailed to the property owner. For the purposes of D.C. Official Code § 6-1102(6)(B), the application for designation is considered pending until the designation is final.
- 220.2 A historic district designation shall become effective thirty (30) days after the SHPO publishes in the *D.C. Register* a notice of nomination or determination to nominate the property to the National Register.

221 AMENDMENT OR REVOCATION OF DESIGNATION

- 221.1 Listings in the D.C. Inventory may be amended or revoked.
- 221.2 Any applicant eligible to file a designation application may apply to amend or revoke a designation.
- 221.3 An application to amend a designation shall include the same information required for a new designation, except that description of the property and statement of significance may address only the features and characteristics that are the subject of the amendment.
- 221.4 The procedures for amendment of a designation are the same as the procedures for designation, except that the Board may amend a historic district designation to augment or amend documentation, specify a period of significance, or identify contributing and non-contributing buildings without publishing notice in a newspaper of general circulation or posting notice in the historic district. When an application proposes to amend the boundaries of a historic district, the requirement for notice to owners and affected ANCs applies only to those properties within the area of amended boundaries.
- 221.5 An application to revoke a designation shall include the same information required for a new designation, except that the application shall state the reasons that the property does not possess significance or meet the criteria for designation.
- 221.6 Properties may be removed from the D.C. Inventory only if they no longer meet the criteria for designation. The procedures for removal of a property from the Inventory are the same as the procedures for designation.