# ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION
# ALCOHOLIC BEVERAGE CONTROL BOARD

## NOTICE OF FINAL RULEMAKING

The Alcoholic Beverage Control Board ("Board"), pursuant to the authority set forth in D.C. Official Code §§ 25-211(a), 25-211(b), 25-113(i)(4), 25-402(c), 25-403(d), 25-431(c), 25-502, 25-506(c), and Mayor's Order 2001-96 (June 28, 2001) as revised by Mayor's Order 2001-102 (July 23, 2001), hereby gives notice of the adoption of the following final rules that replace Chapter 1 through Chapter 18 of Title 23 of the District of Columbia Municipal Regulations ("DCMR") with a new Chapter 1 through Chapter 9, and Chapter 11 through Chapter 19. Final action to adopt these rules, which are necessary to implement the provisions of D.C. Law 13-298, the Title 25, D.C. Code Enactment and Related Amendments Act of 2001, effective May 3, 2001, was taken by the Board on Wednesday, April 21, 2004.

Notice of the proposed rulemaking was originally published in the D.C. Register on November 29, 2002 at 49 DCR 10827. In response to comments received from the public, the proposed rules were substantively revised and republished in the D.C. Register as a proposed rulemaking on October 10, 2003, at 50 DCR 8495. In response to substantive changes made by the Council of the District of Columbia ("Council"), on December 2, 2003, in adopting Resolution 15-339, the "Revised Alcoholic Beverage Regulations Approval and Disapproval Resolution of 2003" ("Resolution 15-339"), the Board republished Chapter 1 through Chapter 7, Chapter 9, and Chapter 11 through Chapter 19 in the D.C. Register as a proposed rulemaking on March 19, 2004, at 51 DCR 2924. No comments were received and no changes have been made to Chapter 1 through Chapter 7, Chapter 9, and Chapter 11 through Chapter 19 as set forth in the March 19, 2004 rulemaking.

Pursuant to D.C. Official Code § 25-211(a)(2), Chapter 1 through Chapter 7, Chapter 9, and Chapter 11 through Chapter 19 were also resubmitted to the Council on April 1, 2004 for a forty-five (45) day period of review. The Council determined by letter dated April 8, 2004 that further consideration of the March 19, 2004 proposed rulemaking was not necessary since the language is identical to the regulations approved by the Council in adopting Resolution 15-339 on December 2, 2003. Additionally, Chapter 8 of the October 10, 2003 proposed rulemaking, which was approved separately by the Council on December 2, 2003, in its entirety pursuant to Council Resolution 15-340, the "Alcoholic Beverage Regulation Civil Penalty Regulations Approval Resolution of 2003" is also being published in final without any changes as part of this rulemaking. These final rules will become effective five (5) days after being published in the D.C. Register.

Title 23 DCMR is amended by substituting Chapter 1 through Chapter 18 with a new Chapter 1 through Chapter 9 and Chapter 11 through Chapter 19 to read as follows:

# DISTRICT OF COLUMBIA MUNICIPAL REGULATIONS
# TITLE 23 ALCOHOLIC BEVERAGES

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## CHAPTER 1. PROVISIONS OF GENERAL APPLICABILITY

### 100. EXTENSION OF EXPIRATION DATES OF PROTESTED LICENSES

100.1 Licenses that have been made the subject of protest hearings shall be extended as provided by this section.

100.2 If the Board has not issued a decision on the matter, and the license has expired, the license shall continue in effect until such time as the Board has rendered a final decision.

100.3 In the case of protested applications for the renewal of a license and for transfer to a new owner, the license shall continue in effect until the Board has rendered a final decision.

100.4 In the case of protested applications for the renewal of a license and for transfer to a new location, the license shall continue in effect only for purposes of the original location, and operations at the new location shall be prohibited until the Board has rendered a final decision.

### 101. DELINEATION OF GEOGRAPHIC BOUNDARIES

101.1 In establishing a geographic boundary, including the designations of locality, section, or portion set forth in the Act or this title, the Board shall measure the specified distance in an arc from each corner of the building on which the licensed establishment is located, connecting the arcs by tangent lines.

101.2 In establishing the distance between one or more places, (such as the actual distance of one licensed establishment from another or the actual distance of a licensed establishment from a school), the distance shall be measured linearly by the Board and shall be the shortest distance between the property lines of the places.

101.3 If a boundary line measured by the Board touches upon any portion of a parcel or lot, the parcel or lot shall be within the area being identified by the Board.

### 102. COMPUTATION OF TIME

102.1 In computing any period of time specified in this title, the day of the act, event, or default shall not be counted, and the last day of the period shall be counted unless it is a Saturday, Sunday, legal holiday, or day on which ABRA is officially closed, in which event the time period shall continue until the next day that is not a Saturday, Sunday, legal holiday, or day on which ABRA is not closed.

### 199. DEFINITIONS

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

ABRA - the Alcoholic Beverage Regulation Administration.

Act - Title 25, D.C. Code Enactment and Related Amendments Act of 2001.

ANC - an Advisory Neighborhood Commission.

Applicant - a person who has made an application for licensure or for a permit, and who has an application pending before the Board.

Back-up drinks - shall include second drinks served as part of a "two-for-one" promotion, second drinks served just prior to last call and second drinks provided complimentary by the licensee or purchased by other patrons. Except as provided in the preceding sentence, back-up drinks shall not include two different drinks served together such as a beer and a shot or any other industry drink that can be considered a shot and a mixer. The prohibition against back-up drinks shall also not apply to the service of wine with a meal where the patron has not finished a previously served cocktail.

Board - the Alcoholic Beverage Control Board.

Customer - the event host who contracts for catering services.

Entertainment - live music or any other live performance conducted by an actual person or persons, including but not limited to: live bands, karaoke, comedy shows, poetry readings, and disc jockeys. The operation of a jukebox, a television, a radio, or other prerecorded music shall not be considered entertainment.

Fact-finding hearing - a hearing held by the Board to obtain further information from an applicant in response to either (1) a licensing request or (2) an investigation conducted by ABRA.
Letter of information - a written request from the Board for further factual information in response to a request for an advisory opinion.

Licensure period - the period of time between the authorized beginning and expiration dates for each license.

Menu - any presentation, whether written, spoken, or visual, of food offerings regularly available in a restaurant.

OTR - Office of Tax and Revenue

Placards - written notices posted at an establishment for the purpose of notifying the public of action involving a license.

Primary American source - the manufacturer, distiller, rectifier, vintner or importer of the brand of alcoholic beverages at the time that the beverage became a marketable product in the United

States, or its duly authorized agent.

Problem event - disruptive activity or conduct at a catered location that adversely affects one or more of the appropriateness standards set forth in D.C. Official Code § 25-313.

Roll call hearing - the proceeding specified in a placard posted at an applicant's premises. It is at this hearing that the applicant and the protestant(s) are introduced to each other and to the Board and where the grounds for objection to the license application are read to the public.

Safekeeping hearing - proceeding held by the Board to determine whether reasonable cause exists to extend the period that a license is held in safekeeping with the Board or whether the license should be cancelled by the Board.

Stipulated license - a temporary license issued to an applicant who has received a written letter of support from the ANC where the establishment is located that complies with the Board procedures set forth in § 200.1. This type of license shall be issued to the applicant only after the time that placards have been posted by the establishment and shall expire when the applicant receives a permanent license or is protested by an entity with standing under D.C. Official Code § 25-601, whichever comes first.

Status hearing - the proceeding where the parties inform the Board of their progress in attempting to resolve the contested case through informal negotiations. It is at this hearing where the parties can request the Board to schedule the contested case for an official settlement conference or a protest hearing.

Title - Title 23 of the District of Columbia Municipal Regulations.

## CHAPTER 2. LICENSE AND PERMIT CATEGORIES

### 200. STIPULATED LICENSES

200.1 The ABC Board will permit an applicant who has submitted a completed license application involving a Manufacturer's license, Wholesaler's license, or Retailer's license Class C or Class D to apply for a stipulated Manufacturer's license, Wholesaler's license, or Retailer's license Class C or Class D under the following conditions:

(a) The applicant must be applying for or must hold a Manufacturer's license, Wholesaler's license, or Retailer's license Class C or Class D; and

(b) The applicant must submit to the ABC Board written correspondence from an ANC officer where the applicant's premises is located stating that the ANC has voted with a quorum present not to object to the issuance of a stipulated license to the applicant pending completion of the 45-day protest period; and

(c) The applicant must stop serving alcoholic beverages under the stipulated license if a valid protest is filed against the applicant during the 45-day protest period.

200.2 The holder of a Retailer's license Class C or Class D may also apply to the Board for stipulated approval under the procedures of § 200.1 for any amendment to its license that is determined by the Board to be a substantial change, including a stipulated sidewalk café, summer garden, or entertainment endorsement.

**201. AUCTION PERMIT**

201.1 There shall be two types of auction permits under this section. A public auction permit shall authorize either (1) a licensee who is going out of business or had its license not renewed or revoked, or (2) the licensee's successor, to auction alcoholic beverages for sale at the Board approved location that may be taken off the premises by the purchasing party. A personal auction permit shall authorize the holder of the permit to auction off for sale the personal alcoholic beverage stock of an individual or his or her estate at the Board approved location that may be taken off the premises by the purchasing party. A personal auction permit to sell alcoholic beverages at an estate sale may be obtained by either an off-premises retailer or wholesaler licensed to carry the products being sold or an individual or corporate entity without an ABC license. However, a personal auction permit to sell an individual's own private alcoholic beverage stock not related to an estate sale must be obtained by an off-premises retailer or wholesaler licensed to carry the products being sold.

201.2 Any purchased barrel, keg, sealed bottle, or other closed container purchased at auction shall not be opened, or the contents consumed, at the approved location.

201.3 An auction permit shall not be issued for more than two (2) consecutive days.

201.4 An auction permit shall not be issued more than once a year to an individual or corporate entity that does not hold an ABC license.

**202. NONPROFIT CORPORATION AUCTION PERMIT**

202.1 A nonprofit corporation auction permit shall allow the retail sale of wine at auction, provided the auction is held as part of a fundraising event to benefit the organization's tax exempt activities. Each permit shall allow the sale of wine at a single auction only. A maximum of two such permits shall be issued to each non-profit corporation in any calendar year.

202.2 Alcoholic beverages sold at auction must be purchased or donated from or through the holder of a Wholesaler's or Retailer's license.

202.3 A nonprofit corporation auction permit may be issued in conjunction with a Temporary license. However, wine purchased at auction shall not be opened, or the contents consumed, at

the approved location.

**203. WINE AND BEER PURCHASING PERMIT**

203.1 A wine and beer purchasing permit shall allow the holder of a Retailer's license Class A, Class B, or brew pub license to sell wine and/or beer to the public at the premises of a Temporary or a Retailer's Class C or Class D license holder.

203.2 Beer or wine that is purchased at the authorized location from the Class A, Class B, or brew pub licensee under the wine and beer purchasing permit shall not be opened or consumed at the authorized location.

203.3 A District off-premises retailer or brew pub authorized to sell containers of beer or wine at the authorized location may remove closed containers of beer and/or wine from the authorized premises but shall not be permitted to remove opened containers of beer and/or wine from the authorized premises. This subsection also applies to customers who purchase or receive alcoholic beverages at the authorized location.

203.4 A wine and beer purchasing permit shall not be issued for more than four (4) consecutive days.

**204. DISPOSAL PERMIT**

204.1 A disposal permit shall allow the holder of a Retailer's license who (1) has had its license revoked or (2) is going out of business to sell and transport its remaining alcoholic beverages to other District retailers or wholesalers. The permit application shall specify the purchaser(s) and quantity and brand name of the alcoholic beverages sold.

204.2 Alcoholic beverages sold under this permit must be delivered to either the establishment of the purchasing licensee or another location in the District approved by the Board.

204.3 A disposal permit shall expire after thirty (30) days.

**205. STORAGE FACILITY PERMIT AND OFF-PREMISES STORAGE PERMIT**

205.1 A storage facility permit shall allow the holder to establish a bonded warehouse in the District of Columbia for the storage of alcoholic beverages by the holder of a Manufacturer's license, Wholesaler's license, Retailer's license Class A, Class C, Class D, or a Caterer's license who possesses an off-premises storage permit or for the accounts of other persons.

205.2 The holder of a Manufacturer's license, Wholesaler's license, Retailer's license Class A, Class C, Class D, or a Caterer's license shall obtain an off-premises storage permit to store alcoholic beverages at a storage facility approved by the Board.
205.3 The holder of a storage facility permit shall allow for the transportation of

alcoholic beverages into the District of Columbia pursuant to § 1303 by the holder of a Manufacturer's license, Wholesaler's license, Retailer's license Class A, Class C, Class D, or a Caterer's license who possesses an off-premises storage permit or for the accounts of others.

205.4 Delivery of alcoholic beverages to a Board approved storage facility shall create a bailment in favor of the holder of a storage facility permit.

205.5 The sale, service, or consumption of alcoholic beverages at a storage facility permit location shall be prohibited.

205.6 The holder of a storage facility permit shall maintain records that identify the kind and quantity of alcoholic beverages being stored at the facility.

205.7 The ABC Board shall have the right to inspect the warehouse of a storage facility permit holder as it may deem necessary for the proper regulation of the storage of alcoholic beverages.

**206. SPECIAL LICENSING PROVISIONS**

206.1 No holder of a Retailer's license Class C or Class D shall sell or serve alcoholic beverages in closed containers, with the following exceptions:

(a) Class CH and Class DH Hotels may sell and serve alcoholic beverages in closed containers in the private rooms of their registered guests; and

(b) Class CX and DX Clubs may sell and serve alcoholic beverages in closed containers in any room or area available only to bona fide members of the club or their guests.

206.2 A Retailer's license Class DR or DT may be issued to a restaurant or delicatessen that is located within a pavilion, shopping mall, or shopping center. In this case, patrons of the restaurant or delicatessen shall use the same common dining area within the pavilion, shopping mall or shopping center, and the common dining area must be approved by the Board. The restaurant or delicatessen may sell only beer or light wine. Beer or wine in open containers shall be clearly identifiable with the business where purchased.

206.3 The Board shall not grant a Retailer's license Class CN or DN to a hotel, unless the hotel holds a license of a corresponding class, that is, a Retailer's license CH or DH.

206.4 Nothing shall preclude the holder of a Retailer's license Class A or Class B from having tables provided that alcoholic beverages are not opened or consumed on the licensed premises. The holder of a Retailer's license Class A or Class B must state its intention to have tables on the ABC license application.

## 207. LICENSURE PERIODS

207.1 Each license issued by the Board shall be valid for two (2) years, except in the following circumstances:

(a) When suspended or revoked;

(b) In the case of Temporary licenses;

(c) When the license takes effect on a date in between the dates established by the Board for the regular licensure period of each license class, in which case the license shall be valid only until the end of the licensure period; and

(d) In the case of Stipulated licenses.

207.2 The two year period for each license shall begin and end with the end of the license year being an even or odd year as follows:

| License Class | Licensure Period | Ending Year |
|---|---|---|
| Manufacturer A | Apr. 1 to Mar. 31 | Odd |
| Wholesaler A | Apr. 1 to Mar. 31 | Odd |
| Retailer A | Apr. 1 to Mar. 31 | Odd |
| Manufacturer B | Apr. 1 to Mar 31 | Odd |
| Wholesaler B | Oct. 1 to Sept. 30 | Odd |
| Retailer B | Oct. 1 to Sept. 30 | Odd |
| Retailer CR | Apr. 1 to Mar. 31 | Even |
| Retailer CT | Oct. 1 to Sept. 30 | Even |
| Retailer CN | Oct. 1 to Sept. 30 | Even |
| Retailer CH | Apr. 1 to Mar. 31 | Even |
| Multipurpose facility CX | Apr. 1 to Mar. 31 | Even |
| Common Carrier CX | Apr. 1 to Mar 31 | Even |
| Retailer Arena CX | Apr. 1 to Mar 31 | Even |
| Retailer DR | Apr. 1 to Mar. 31 | Even |
| Retailer DT | Oct. 1 to Sept. 30 | Even |
| Retailer DN | Oct. 1 to Sept. 30 | Even |

| | | |
|---|---|---|
| Retailer DH | Apr. 1 to Mar. 31 | Even |
| Multipurpose facility DX | Apr. 1 to Mar. 31 | Even |
| Common carrier DX | Apr. 1 to Mar 31 | Even |
| Caterer | Apr. 1 to Mar 31 | Odd |
| Solicitor | July 1 to June 30 | Odd |
| Club CX | Apr. 1 to Mar 31 | Even |
| Club DX | Apr. 1 to Mar 31 | Even |

**208. LICENSE FEES**

208.1 All license fees shall be paid by credit card, certified check, money order, business check, attorney's check, or personal check payable to ABRA. Applicants and licensees shall pay the annual fees specified by the Board in the following manner:

(a) The fee for the first year shall be paid at the time an application is filed, but shall be returned to an applicant, minus the prescribed processing fee, if the application is denied; and

(b) The fee for the second year shall be paid no later than one (1) year from the date of issuance of the license; however, a licensee may pay the second year fee at the time the first year fee is paid. The payment of the second year license fee shall not require the filing of a clean hands certificate by the applicant.

208.2 The Board may impose a late fee upon a licensee for failure to timely remit the second-year fee or the renewal fee, in the amount of fifty dollars ($50) for each day after the due date of payment. The total amount of the late fee to be paid to ABRA, however, shall not exceed the annual cost of the license. The Board may suspend a license until the licensee pays the second-year fee and any additional fee imposed by the Board for late payment. A licensee who has not renewed timely shall not be permitted to sell or serve alcoholic beverages with an expired license.

208.3 The Board may suspend a license, permit, or endorsement where payment was made by the applicant to ABRA with a check returned unpaid. The applicant, in addition to any late fees imposed by the Board pursuant to § 208.2, shall also be charged by ABRA with a one hundred dollar ($100) returned check fee.

208.4 The annual fees for a Manufacturer's license Class A shall be as follows:

(a) Rectifying Plant $6,000;

(b) Distillery $6,000;

(c) Distillery selling more than fifty percent (50%) of alcohol for non-beverage purposes and $3,000;

(d) Winery $1,500.

208.5 The annual fee for a Manufacturer's license Class B (brewery) shall be five thousand dollars ($5,000).

208.6 The annual fee for a Wholesaler's license Class A shall be five thousand two hundred dollars ($5,200).

208.7 The annual fee for a Wholesaler's license Class B shall be two thousand six hundred dollars ($2,600).

208.8 The annual fee for a Retailer's license Class A shall be two thousand six hundred dollars ($2,600).

208.9 The annual fee for a Retailer's license Class B shall be one thousand three hundred dollars ($1,300).

208.10 The annual license fees for all Class C licenses, except the Washington Convention Center and the DC Arena, shall be based on the certificate of occupancy for the establishment and are as follows:

| **Class** | **Capacity** | **Fee** |
|---|---|---|
| CR restaurant | 99 or fewer | $1,000 |
| CR restaurant | 100 to 199 | $1,300 |
| CR restaurant | 200 to 499 | $1,950 |
| CR restaurant | 500 or more | $2,600 |
| CT tavern | 99 or fewer | $1,300 |
| CT tavern | 100 to 199 | $2,080 |
| CT tavern | 200 or more | $3,120 |
| CN nightclub | 99 or fewer | $1,950 |
| CN nightclub | 100 to 199 | $2,600 |
| CN nightclub | 200 to 499 | $3,250 |

| | | |
|---|---|---|
| CN nightclub | 500 to 999 | $4,550 |
| CN nightclub | 1,000 or more | $5,850 |
| CH hotel | 99 or fewer guest rooms | $2,600 |
| CH hotel | 100 or more guest rooms | $5,200 |
| CX club | | $1,950 |
| CX multipurpose facility | | $1,950 |
| CX marine vessel, single vessel | | $1,950 |
| CX marine vessel line, for 3 or fewer vessels and dockside waiting areas | | $3,250 |
| For each additional vessel or dockside waiting area | | $1,950 |
| CX railroad dining or club car, single car | | $650 |
| CX railroad company, all dining or club cars | | $1,950 |

208.11 The annual license fees for all Class D licenses, except the Washington Convention Center and the DC Arena, shall be based on the certificate of occupancy for the establishment and shall be as follows:

| **Class** | **Capacity** | **Fee** |
|---|---|---|
| DR restaurant | 99 or fewer | $600 |
| DR restaurant | 100 to 199 | $780 |
| DR restaurant | 200 to 499 | $1,170 |
| DR restaurant | 500 or more | $1,560 |
| DT tavern | 99 or fewer | $1,000 |
| DT tavern | 100 to 199 | $1,300 |
| DT tavern | 200 or more | $1,950 |
| DN nightclub | 99 or fewer | $1,300 |
| DN nightclub | 100 to 199 | $1,625 |
| DN nightclub | 200 to 499 | $1,950 |
| DN nightclub | 500 to 999 | $2,600 |
| DN nightclub | 1,000 or more | $4,550 |
| DH hotel | 99 or fewer guest rooms | $1,300 |

| | | |
|---|---|---|
| DH hotel | 100 or more guest rooms | $2,600 |
| DX club | | $650 |
| DX multipurpose facility | | $650 |
| DX marine vessel, single vessel | | $975 |
| DX marine vessel line, for 3 or fewer vessels and dockside waiting areas | | $1,300 |
| For each additional vessel or dockside waiting area | | $650 |
| DX railroad dining or club car, single car | | $325 |
| DX railroad company, all dining or club cars | | $650 |

208.12 The daily fee for a Temporary license Class F shall be one hundred and thirty dollars ($130).

208.13 The daily fee for a Temporary license Class G shall be three hundred dollars ($300).

208.14 The annual fee for each Solicitor's license shall be three hundred and twenty five dollars ($325).

208.15 The annual fee for a Manager's license shall be one hundred and thirty dollars ($130).

208.16 The annual fee for the Retailer's license Class CX (multipurpose facility license) for the Washington Convention Center shall be ten thousand dollars ($10,000).

208.17 The annual fee for the Retailer's license Class Arena CX (multipurpose facility license) shall be ten thousand dollars ($10,000).

208.18 The annual license fee for a Catering License shall be based on the caterer's annual revenue for the previous year as follows:

| **Class** | **Gross Annual Revenue** | **Fee** |
|---|---|---|
| Caterer | More than $1,000,000 per year gross annual revenue | $5,000 |
| Caterer | $1,000,000 or less per year gross annual revenue | $4,000 |
| Caterer | $500,000 or less per year gross annual revenue | $3,000 |
| Caterer | $300,000 or less per year gross annual revenue | $2,000 |

| | | |
|---|---|---|
| Caterer | $200,000 or less per year gross annual revenue | $1,500 |
| Caterer | $100,000 or less per year gross annual revenue | $1,000 |
| Caterer | $50,000 or less per year gross annual revenue | $750 |
| Caterer | $25,000 or less per year gross annual revenue | $500 |

208.19 For purposes of determining the catering fee set forth in § 208.18, the applicant, as part of its submitted application, shall provide the Board with a signed affidavit on a form provided by ABRA, which shall include a statement of the applicant's annual gross revenue from catering for the previous year, as well as any additional supporting documentation necessary to verify the statement of the applicant. The submission of a knowingly false or misleading affidavit shall be grounds for the Board to order the licensee to show cause why the license should not be suspended or revoked, and/or a civil fine imposed based upon the primary tier schedule set forth in D.C. Official Code § 25-830(c).

208.20 The fee for a duplicate license or replacement of a lost license shall be ten dollars ($10).

**209. PERMIT AND ENDORSEMENT FEES**

209.1 The fee for each Importation permit shall be five dollars ($5).

209.2 The annual fee for a Tasting permit for Class A Retailer licensees shall be one hundred and thirty dollars ($130).

209.3 The annual fee for a Brew Pub permit shall be three thousand nine hundred dollars ($3,900).

209.4 The annual fee for a Storage Facility permit shall be three hundred dollars ($300).

209.5 The annual fee for an Off-Premises Storage permit shall be twenty five dollars ($25).

209.6 The fee for an amendment to a license which results in an inspection to the licensed premises shall be fifty dollars ($50).

209.7 The annual fee for a sidewalk café or summer garden endorsement shall be seventy five dollars ($75).

209.8 The annual fee for an entertainment endorsement shall be twenty percent (20%) of the base license fee.

209.9 The annual fee for a certification provider permit shall be one hundred dollars ($100).

209.10 The fee for a personal auction permit or a nonprofit corporation auction permit shall be thirty dollars ($30).

209.11 The fee for a wine and beer purchasing permit shall be thirty five dollars ($35).

**210. APPLICATION FEES**

210.1 The processing fee for the filing of a new license application, excluding manager and solicitor license applications, shall be seventy five dollars ($75).

210.2 The fee for transfer of a license to a new owner shall be two hundred and fifty dollars ($250).

210.3 The fee for transfer of a license to a new location shall be two hundred and fifty dollars ($250).

210.4 The fee for a change of officer, director, stockholder, or general or limited partner in a partnership shall be one hundred dollars ($100).

210.5 The fee for a corporate or trade name change shall be fifty dollars ($50).

210.6 The fee for keg registration shall be six dollars ($6) per keg registration book. A registration book shall be valid for the registration of ten (10) kegs.

**211. ALCOHOL CERTIFICATION PROVIDER PERMIT**

211.1 A person or entity wishing to become an alcohol certification provider shall obtain an alcohol certification provider permit which shall allow the holder to provide an alcohol training and education certification program in the District of Columbia. For purposes of this section, an "alcohol certification provider" shall mean any person or entity approved by the Board to conduct an alcohol and education training program as set forth in § 211.2. An alcohol certification provider permit shall be valid for three years.

211.2 An alcohol certification provider shall include the following subjects in its alcohol and education training program:

(a) Alcohol's effect on the body and behavior, especially as to driving ability;

(b) Recognizing the problem drinker;

(c) Intervention techniques, involving methods of dealing with the problem customer who has had or is approaching the point of having had too much to drink;

(d) Methods of recognizing and dealing with underage customers;

(e) Prevention techniques involving effective identification and carding procedures, and methods to reasonably regulate the service of alcoholic beverages to patrons;

(f) Explanation of the Title 25, D.C. Code Enactment and Related Amendments Act of 2001 and this title;

(g) Advertising, promotion, and marketing of alcoholic beverages; and

(h) Explanation that alcoholism is a chronic, progressive disease and that treatment is available through clinical providers and mutual support groups.

211.3 Independent contractors, private individuals, or educational institutions which seek approval to provide alcoholic beverage server training shall proceed as follows:

(a) Submit a letter of intent to the ABRA Director which must include a copy of all training materials, curriculum, and examinations, along with the annual fee set forth in § 209.9 for the entire three-year permit period.

(b) The ABRA Director will schedule a presentation of the applicant's program for evaluation by the Enforcement Division of ABRA who will prepare a written evaluation report on the program's compliance with the training standards.

(c) Should the ABRA Director find that the applicant meets the requirements of this section, the application will then be placed before the Board for consideration at its next regularly scheduled meeting.

(d) The Board shall make the final determination as to the qualifications of the applicant and compliance of the applicant's program with § 211.2.

(e) Approval of an alcohol training and education program shall expire after three years from the date of the course obtaining approval. The applicant may resubmit a program to the Board for approval as part of its application to renew its certification provider permit.

211.4 A person or entity currently approved by the Board to conduct an alcohol training and education program shall also be required to apply for an alcohol certification provider permit.

**212. MANAGER CERTIFICATION**

212.1 An applicant for a Manager's license shall submit a copy of his or her certificate showing completion of an alcohol training and education program within the previous two years from a

Board approved training provider with his or her Manager's license application.

212.2 An applicant for a Manager's license, who has been selected by a licensee to serve as a licensed manager pursuant to § 707, but who has not completed an alcohol training and education program may be issued a temporary Manager's license pursuant to § 707.10 by the Board for a period not to exceed 30 days upon the submission of a sworn affidavit from the applicant that he or she will complete an alcohol training and education program and submit a copy of his or her certificate within the 30-day period.

**213. EXEMPTION FROM LICENSING REQUIREMENT**

213.1 A license shall not be required for any event, closed to the public, where alcoholic beverages are provided gratuitously for on-premises consumption on the host's own premises. A license shall not be required if the operator of the premises does not provide services for the consumption of alcoholic beverages which are provided, gratuitously, to guests of a private function on the premises. Notwithstanding the foregoing, if the operator of the premises provides entertainment, food, or nonalcoholic beverages or rents out the facility for compensation, a license shall be required.

**214. NOTICE TO ADVISORY NEIGHBORHOOD COMMISSIONS**

214.1 Notice required to be provided by the Board to each ANC office, ANC Chairperson, and ANC single member district Commissioner, shall be sent to the ANC address on file with the Board of Elections and Ethics.

**CHAPTER 3. LIMITATIONS ON LICENSES**

**300. LIMITATION ON THE NUMBER OF CLASS A AND CLASS B RETAILER'S LICENSES**

300.1 The 250 quota limit set forth in D.C. Official Code § 25-331(a) shall not apply to Class A Retailer's license renewal applications.

300.2 The 300 quota limit set forth in D.C. Official Code § 25-331(b) shall not apply to Class B Retailer's license renewal applications.

300.3 Nothing in D.C. Official Code § 25-331 shall prohibit the issuance of a license for any place for which a Retailer's license Class A or Class B has been issued or may be issued, if the license is in effect on the date the application is filed.

300.4 Nothing in D.C. Official Code § 25-331 shall prohibit the issuance of a Retailer's license Class A or Class B to an applicant who was the holder of a license and who was required to close the business for which the license was issued and to surrender the license because the premises on which the business was conducted was acquired by the United States or the District

of Columbia through eminent domain, threat of eminent domain, or rendered unfit for use by action over which the licensee had no effective control during the period of an officially declared emergency, if the application for the new license is made within three (3) years after the expiration date of the then currently valid license surrendered at the time of acquisition or of the closing of the business.

300.5 All holders of Class A and Class B Retailer's licenses covered under § 300.4 shall pay the annual license renewal fees set out in § 208.8 and § 208.9 respectively for each year or any portion of the year.

300.6 The Board may, for good cause shown, extend the three (3) year application period set out in § 300.4.

**301. LIMITATION ON THE DISTANCE BETWEEN RETAILER'S LICENSES, CLASS A AND CLASS B**

301.1 The four hundred foot (400 ft.) distance shall be measured in accordance with the provisions of § 101.2 of this title.

301.2 Nothing in D.C. Official Code § 25-333(a) shall be construed to prohibit the transfer by the same owner of a Retailer's license Class A to a new location that is located four hundred feet (400 ft.) or less from the original location and in an area zoned non-residential.

301.3 Nothing in D.C. Official Code § 25-333(b) shall be construed to prohibit the transfer by the same owner of a Retailer's license Class B to a new location that is located four hundred feet (400 ft.) or less from the original location and in an area zoned non-residential.

**302. LICENSES NEAR SCHOOLS, COLLEGES, UNIVERSITIES, AND RECREATION AREAS**

302.1 The four hundred foot (400 ft.) distance shall be measured in accordance with the provisions of § 101.2 of this title.

302.2 A license may be transferred, in the discretion of the Board, from one (1) place within the prohibited distance to another place within the same prohibited distance by the same establishment.

302.3 A license may be issued, in the discretion of the Board, for a place of business located within four hundred feet (400 ft.) of a college or university if the Board is satisfied that the college or university does not object to the granting of the license, as evidenced by a written statement to the Board from the proper governing body of the college or university. If the college or university is itself the holder of a license, it shall be deemed not to object to the issuance of a license for another place of business.

302.4 A license may be issued for any place within the prohibited distance of a recreation area operated by the D.C. Department of Parks and Recreation if one of the following is satisfied:

(a) At the time the recreation area was established at that location, there was a place of business holding a license of the same class as that applied for within four hundred feet (400 ft.) of the recreation area; or

(b) The Board is furnished a written statement by the Department of Parks and Recreation of the District of Columbia to the effect that it does not object to the granting of the license.

302.5 No alcoholic beverage shall be sold or served by a licensee upon any portion of any premises which fronts upon, abuts, adjoins, or is opposite to the premises of any of the institutions or recreation areas mentioned in this section unless that portion of the premises where alcoholic beverages are served is within a building; provided, that the restriction of service within a building is not applicable to Class C or D licensees on non-school days, weekends, and after 6:00 p.m. on weekdays, allowing alcohol products to be served on licensed outdoor patios which are part of the licensee's premises.

302.6 The provisions of § 302.5 shall not apply to premises designated in a Temporary license Class F or G or catered by the holder of a Caterer's license.

302.7 The provisions of this section shall not apply where the main entrance to the college, university, or recreation area, or the nearest property line of the school, is actually on or occupies ground zoned commercial or industrial according to the official atlases of the Zoning Commission of the District of Columbia.

302.8 The Board may issue a Retailer's license Class CR or DR for a restaurant within four hundred feet (400 ft.) of a public, private, or parochial private, elementary, middle school, junior high school, high school, or charter school if the following conditions are met:

(a) The restaurant is located entirely inside of a hotel, apartment house, club, or office building and no sign or display is visible from the outside of the building unless the Board specifically approves the outside sign or display;

(b) The Board of Education of the District of Columbia in the case of a public school, or the proper governing body of a private or parochial school, has been notified by the Board of the license application pursuant to D.C. Official Code § 25-421 and has submitted a written statement to the Board that it has no objection to the issuance of the license; and

(c) The Board of Education or governing body files no written objection to the license application during the protest period.

## 303. MORATORIUM PROCEDURES

303.1 Any Board decision to implement or not implement a moratorium pursuant to D.C. Official Code § 25-351 shall be accompanied by a statement in writing that sets forth the reasons for the Board's decision in response to a petition for a moratorium.

303.2 In addition to the notice requirements set forth in D.C. Official Code §§ 25-353 and 25-354, the Board shall notify all ABC license holders and Advisory Neighborhood Commissions located within the proposed moratorium area at least ten (10) calendar days prior to the public hearing date.

303.3 In requesting the renewal of an existing moratorium pursuant to D.C. Official Code § 25-352, the proponent(s) of a moratorium must establish to the Board that the present conditions in the moratorium area, based upon the appropriateness standards set forth in D.C. Official Code §§ 25-313 and 25-314, justify an extension of the moratorium.

## 304. ADAMS MORGAN MORATORIUM ZONE

304.1 No new Retailer's license Class A, B, CN, CR, CT, CX, DN, DT, or DX shall be issued from the effective date of this section in the area that extends approximately fourteen hundred (1400) feet in all directions from the intersection of 18th Street and Belmont Road, N.W., Washington D.C. This area shall be known as the Adams Morgan Moratorium Zone.

304.2 The Adams Morgan Moratorium Zone is more specifically described as beginning at 18th Street and Florida Avenue; North on 18th Street to California Street; West on California Street to 19th Street; Northwest on 19th Street to Wyoming Avenue; Southwest on Wyoming Avenue to 20th Street; Northwest on 20th Street to Belmont Road; East on Belmont Road to 19th Street; Northwest on 19th Street to Biltmore Street; East on Biltmore Street to Cliffbourne Street; North on Cliffborne Street to Calvert Street; East on Calvert Street to Adams Mill Road; Southeast on Adams Mill Road to Columbia Road; Northeast on Columbia Road to Ontario Road; South on Ontario Road to Euclid Street; East on Euclid Street to 17th Street, South on 17th Street to Kalorama Road; Southwest on Kalorama Road to Ontario Road; South on Ontario Road to Florida Avenue; Southwest on Florida Avenue to 18th Street and Florida Avenue N.W., Washington D.C.

304.3 The following establishments shall be exempt from the Adams Morgan Moratorium Zone:

(a) All hotels, whether present or future;

(b) Restaurants applying for a new Retailer's license Class DR.

304.4 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a Retailer's license Class A, B, CN, CR, CT, CX, DN, DT, and DX within the Adams Morgan Moratorium Zone that was in effect or for which an application was pending

prior to the effective date of this section, subject to the requirements of the Act and this title.

304.5 Nothing in this section shall prohibit the Board from approving the transfer of a license from a location within the Adams Morgan Moratorium Zone to a new location within the Adams Morgan Moratorium Zone.

304.6 A license holder outside the Adams Morgan Moratorium Zone shall not be permitted to transfer its license to a location within the Adams Morgan Moratorium Zone.

304.7 Nothing in this section shall prohibit a valid protest of any transfer or change of license class.

304.8 The moratorium shall have a prospective effect and shall not apply to any license granted prior to the effective date of this section or to any application for licensure pending on the effective date of this section.

304.9 This section shall expire July 19, 2004.

**305. GEORGETOWN MORATORIUM ZONE**

305.1 No Retailer's licenses Class CN, CR, CT, CX, DN, DR, DT, or DX shall be issued from the effective date of this section in the area that extends approximately 1800 feet in all directions from the intersection of Wisconsin Avenue and N Street, N.W., Washington, D.C. This area shall be known as the Georgetown Moratorium Zone.

305.2 The Georgetown Moratorium Zone is more specifically described as beginning at the intersection of 33rd and Q Streets; East on Q Street to Wisconsin Avenue; Southeast on Wisconsin Avenue to Q Street; East on Q Street to 29th Street; South on 29th Street to P Street; East on P Street to 28th Street; South on 28th Street to O Street; East on O Street to 27th Street; South on 27th Street to the Northwest Boundary of Rock Creek Park; Southwest along the Northwest Boundary of Rock Creek to the North Bulkhead of the Potomac River; West along the North Bulkhead of the Potomac River to the Key Bridge; North on the Key Bridge to M Street; West on M Street to 36th Street; North on 36th Street to O Street; East on O Street to 35th Street; North on 35th Street to P Street; East on P Street to 34th Street; North on 34th Street to Volta Place; East on Volta Place to 33rd Street; North on 33rd Street to Q Street.

305.3 The following establishments shall be exempt from the Georgetown Moratorium Zone:

(a) All hotels, whether present or future; and

(b) Establishments located in or to be located in Georgetown Park, Georgetown Park II, Prospect Place Mall, Georgetown Court, and Washington Harbor.

305.4 Nothing in this section shall prohibit the Board from approving the transfer of ownership

of a Class C or D Retailer's license within the Georgetown Moratorium Zone that was in effect or for which an application was pending prior to November 25, 1992, subject to the requirements of the Act and this title.

305.5 Nothing in this section shall prohibit the Board from approving the transfer of a license from a location within the Georgetown Moratorium Zone to a new location within the Georgetown Moratorium Zone.

305.6 A license holder outside the Georgetown Moratorium Zone shall not be permitted to transfer its license to a location within the Georgetown Moratorium Zone.

305.7 Nothing in this section shall prohibit a valid protest of any transfer or change of license class.

305.8 The moratorium shall have a prospective effect and shall not apply to any license granted prior to, nor to any application pending on, November 25, 1992.

305.9 This section shall expire January 21, 2004.

**306. EAST DUPONT CIRCLE MORATORIUM ZONE**

306.1 No Retailer's licenses Class A, B, CN, CR, CT, CX, DN, DR, DT, or DX shall be issued from the effective date of this section in the area that extends approximately six hundred (600) feet in all directions from the intersection of 17th and Q Streets, N.W., Washington, D.C. This area shall be known as the East Dupont Circle Moratorium Zone.

306.2 The East Dupont Circle Moratorium Zone is more specifically described as beginning at New Hampshire Avenue and S Street; East on S Street to 17th Street; South on 17th Street to Riggs Place; East on Riggs Place to 16th Street; South on 16th Street to P Street; West on P Street to 18th Street; North on 18th Street to New Hampshire Avenue; and Northeast on New Hampshire Avenue to S Street, N.W.

306.3 All hotels, whether present or future shall be exempt from the East Dupont Circle Moratorium Zone.

306.4 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a Retailer's license Class A, B, CN, CR, CT, CX, DN, DR, DT, and DX within the East Dupont Circle Moratorium Zone that was in effect or for which an application was pending prior to the effective date of this section, subject to the requirements of the Act and this title.

306.5 Nothing in this section shall prohibit the Board from approving the transfer of a license from a location within the East Dupont Circle Moratorium Zone to a new location within the East Dupont Circle Moratorium Zone.

306.6 A license holder outside the East Dupont Circle Moratorium Zone shall not be permitted to transfer its license to a location within the East Dupont Circle Moratorium Zone.

306.7 Nothing in this section shall prohibit a valid protest of any transfer or change of license class.

306.8 The Moratorium shall have a prospective effect and shall not apply to any license granted prior to the effective date of this section or to any application for licensure pending on the effective date of this section.

306.9 This section shall expire January 20, 2005.

306.10 As of December 19, 2000, and at any time during the pending or renewed effective dates of the East Dupont Moratorium Zone established by this section, current holders of a Retailer's license Class A, B, C, or D within the East Dupont Moratorium Zone shall not be permitted to apply to the Board for expansion of service or sale of alcoholic beverages into any adjoining or adjacent space, property, or lot, the prior owner or occupant of which has not held within the last five (5) years a Retailer's license Class A, B, C, or D, or which has had a certificate of occupancy or building permit held in the name of any person other than the current holder of a Retailer's license Class A, B, C, or D within the East Dupont Moratorium Zone at any time within a period of five (5) years. Nothing in this section shall prohibit the Board from approving any application pending prior to December 19, 2000, subject to the requirements of Title 25 of the District of Columbia Official Code.

**307. WEST DUPONT CIRCLE MORATORIUM ZONE**

307.1 No new Retailer's license Class A, B, CN, CR, CT, CX, DN, DR, DT, or DX shall be issued from the effective date of this section in the area that extends approximately six hundred (600) feet in all directions from the intersection of 21st and P Streets, N.W., Washington, D.C. This area shall be known as the West Dupont Circle Moratorium Zone.

307.2 The West Dupont Circle Moratorium Zone is more specifically described as beginning at 22nd Street and Florida Avenue; North on Florida Avenue to R Street; East on R Street to 21st Street; South on 21st Street to Hillyer Place to 20th Street; South on 20th Street to Q Street; East on Q Street to Connecticut Avenue; Southeast on Connecticut Avenue to Dupont Circle; Southwest around Dupont Circle to New Hampshire Avenue; Southwest on New Hampshire Avenue to N Street; West on N Street to 22nd Street; North on 22nd Street to Florida Avenue.

307.3 The following establishments shall be exempt from the West Dupont Circle Moratorium Zone:

(a) All hotels, whether present or future; and

(b) Establishments located in, or to be located in, the New Hampshire Avenue side of

One Dupont Circle, N.W.

307.4 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a Retailer's license Class A, B, CN, CR, CT, CX, DN, DR, DT, or DX within the West Dupont Circle Moratorium Zone that was in effect or for which an application was pending prior to the effective date of this section, subject to the requirements of the Act and this title.

307.5 Nothing in this section shall prohibit the Board from approving the transfer of a license from one location within the West Dupont Circle Moratorium Zone to a new location within the West Dupont Circle Moratorium Zone.

307.6 A license holder outside the West Dupont Circle Moratorium Zone shall not be permitted to transfer its license to a location within the West Dupont Circle Moratorium Zone.

307.7 Nothing in this section shall prohibit a valid protest of any transfer or change of license class.

307.8 The Moratorium shall have a prospective effect and shall not apply to any license granted prior to the effective date of this section or to any application for licensure pending on the effective date of this section.

307.9 This section shall expire August 3, 2005.

307.10 As of December 19, 2000, and at any time during the pending or renewed effective dates of the West Dupont Moratorium Zone established by this section, current holders of a Retailer's license Class A, B, C, or D within the West Dupont Moratorium Zone shall not be permitted to apply to the Board for expansion of service or sale of alcoholic beverages into any adjoining or adjacent space, property, or lot, the prior owner or occupant of which has not held within the last five (5) years a Retailer's license Class A, B, C, or D, or which has had a certificate of occupancy or building permit held in the name of any person other than the current holder of a Retailer's license Class A, B, C, or D within the West Dupont Moratorium Zone at any time within a period of five (5) years. Nothing in this section shall prohibit the Board from approving any application pending prior to December 19, 2000, subject to the requirements of Title 25 of the District of Columbia Official Code.

**308. GLOVER PARK MORATORIUM ZONE**

308.1 No new Retailer's license Class A, B, CN, CR, CT, CX, DN, DT, or DX shall be issued from the effective date of this section in the area that extends approximately one thousand two hundred feet (1,200 ft.) in all directions from 2436 Wisconsin Avenue, N.W., Washington D.C. This area shall be known as the Glover Park Moratorium Zone.

308.2 The Glover Park Moratorium Zone is more specifically described as beginning at Tunlaw Road and Fulton Street; East on Fulton Street to Wisconsin Avenue; South on Wisconsin Avenue

to Edmunds Street; East on Edmunds Street to Massachusetts Avenue; Southeast on Massachusetts Avenue to Observatory Circle; Southeast around Observatory Circle to Calvert Street; West on Calvert Street to Wisconsin Avenue; Southeast on both sides of Wisconsin Avenue to 35th Street; South on 35th Street to Whitehaven Parkway; West on Whitehaven Parkway to 37th Street; North on 37th Street to U Street; West on U Street to a point of intersection of Huidekoper Place and W Street; West on W Street to 39th Street; North on 39th Street to Davis Place; East on Davis Place to Tunlaw Road; North and Northwest on Tunlaw Road to Fulton Street.

308.3 All hotels, whether present or future, shall be exempt from the Glover Park Moratorium Zone.

308.4 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a Retailer's license Class A, B, CN, CR, CT, CX, DN, DT, and DX within the Glover Park Moratorium Zone that was in effect or for which an application was pending prior to the effective date of this section, subject to the requirements of the Act and this title.

308.5 Nothing in this section shall prohibit the Board from approving the transfer of a license from a location within the Glover Park Moratorium Zone to a new location within the Glover Park Moratorium Zone.

308.6 A license holder outside the Glover Park Moratorium Zone shall not be permitted to transfer its license to a location within the Glover Park Moratorium Zone.

308.7 Nothing in this section shall prohibit a valid protest of any transfer or change of a license class.

308.8 The moratorium shall have a prospective effect and shall not apply to any license granted prior to the effective date of this section or to any application for licensure pending on the effective date of this section.

308.9 This section shall expire July 19, 2004.

**309. NEW RETAILER'S LICENSE CLASS B MORATORIUM**

309.1 Nothing in D.C. Official Code § 25-332 shall prohibit the issuance of a license for any place for which a Retailer's license Class B has been issued or may be issued, if the license is in effect on the date the application is filed.

309.2 Nothing in D.C. Official Code § 25-332 shall prohibit the Board from approving the transfer of ownership of a Retailer's license Class B that was in effect on the date the application is filed.

309.3 Nothing in D.C. Official Code § 25-332 shall prohibit the Board from approving the

transfer of a Retailer's license Class B from one location to another during the period of the moratorium.

## CHAPTER 4. GENERAL LICENSING REQUIREMENTS

### 400. APPROPRIATENESS REQUIREMENTS

400.1 For purposes of establishing the appropriateness of the establishment under D.C. Official Code § 25-313(b)(1) through (3), the applicant shall present to the Board such evidence and argument as would lead a reasonable person to conclude the following:

(a) The establishment will not interfere with the peace, order, and quiet of the relevant area, considering such elements as noise, rowdiness, loitering, litter, and criminal activity;

(b) The establishment will not have an adverse impact on residential parking needs, considering available public and private parking and any arrangements made to secure such parking for the clientele of the establishment; and

(c) The flow of traffic to be generated by the establishment will be of such pattern and volume as to neither increase the likelihood of vehicular accidents nor put pedestrians at an unreasonable risk of harm from vehicles.

400.2 The Board shall not consider objections to the issuance of a Retailer's license Class CN or DN, based upon adverse impact as set forth in D.C. Official Code § 25-314(c), when the establishment for which the license is sought is situated in a hotel and when a Retailer's license Class CN or DN may properly be issued.

400.3 Whenever an applicant has initially presented evidence to show that the establishment is appropriate, any person opposing the license shall present to the Board such evidence and argument as would establish the inappropriateness of the establishment, and as would overcome, to the satisfaction of a reasonable person, the evidence and argument presented by the applicant.

### 401. DENIAL OF LICENSE FOR VIOLATIONS OF LAW

401.1 The Board shall deny a license to an applicant if evidence shows that the applicant has permitted at his or her establishment conduct which is in violation of this title.

### 402. BOARD CHECK SHEET

402.1 The Board check sheet to be made available to the public and considered by the Board in renewing a license shall contain the following information:

(a) a compliance check of the establishment involving ABC laws and

regulations;

(b) verification that the applicant has submitted a police clearance pursuant to § 502 and is eligible to receive a license;

(c) verification of the owner of the license;

(d) a listing of the establishment's permitted hours for sale and delivery of alcoholic beverages and permitted hours of operation; and

(e) a copy of the establishment's cooperative agreement or voluntary agreement, if any.

**403. PROHIBITED BUSINESS INTERESTS**

403.1 The spouse of an ABC license holder may apply for a separate ABC license if he or she can establish that the conflict provisions of D.C. Official Code § 25-303 will not be violated. Specifically, in applying for a license the spouse not holding an ABC license must submit a signed and notarized affidavit which states that:

(a) the applicant has no present or future ownership interest in any other ABC establishment that the applicant is prohibited from owning under D.C. Official Code § 25-303;

(b) the applicant's spouse will have no ownership interest in the license being sought by the applicant;

(c) the applicant or another corporation (in which the spouse is not an officer, shareholder or member) is solely liable for the business rather than the spouse or spouse's business;

(d) the other spouse will not have any operational control over the establishment and will not serve in a management capacity for the ABC establishment or apply for an ABC Manager's license for that establishment; and

(e) the applicant will not transfer any alcoholic beverage inventory to or receive any alcoholic beverage inventory from their spouse's ABC licensed establishment.

403.2 The applicant shall provide documentation, upon request of the Board, necessary to validate the applicant's sworn affidavit. Failure to submit the necessary documentation within ten (10) business days of the Board's request may result in the suspension or revocation of the applicant's license, unless an extension is granted by the Board.

## 404. CERTIFICATE OF OCCUPANCY AND PERMITS

404.1 No license, except a Solicitor's license, Manager's license, or Caterer's license shall be issued to any person unless that person is the holder of a valid certificate of occupancy for the premises in which the business for which the license is sought is located, and is also the holder of all other licenses and permits required by law or regulation for that business.

404.2 If a certificate of occupancy has been obtained, and the applicant for the alcoholic beverage license has duly applied for all other licenses and permits required by law or regulation for that business, the Board may, in its discretion but subject to all other requirements of this chapter, issue the alcoholic beverage license prior to the issuance of those other licenses and permits.

404.3 The provisions of §§ 404.1 and 404.2 shall not apply to applications for Temporary licenses Class F or G, as long as the alcoholic beverages are sold and served in establishments that have a valid certificate of occupancy, and as long as the applicant for the license provides the Board with a statement from the owner of the establishment or the owner's duly authorized representative, consenting to the issuance of the license. A certificate of occupancy shall not be required for outdoor events or private residential homes used for non-commercial purposes. However, if alcoholic beverages are to be sold or served in any outdoor place (including but not limited to public parks, public streets or alleys), the application for the license shall particularly describe the place and the applicant shall provide the Board with a written statement indicating the owner's consent, or applicable public approval, if required.

## 405. LICENSE APPROVAL BEFORE ISSUANCE OF CERTIFICATE OF OCCUPANCY

405.1 The Board is authorized, in its discretion, to approve the granting of a license, subject to all other requirements of this title, to an applicant prior to the issuance of a certificate of occupancy for the building in which the licensed premises shall be located, if the Board finds to its satisfaction the following:

(a) That an applicant for a license has entered into a bona fide agreement with the owner of a building proposed to be constructed or remodeled;

(b) That, under the bona fide agreement, the applicant has agreed to lease, purchase, or otherwise occupy all or a portion of the building for the applicant's use in carrying on the business which would be authorized by the license;

(c) That the agreement provides that so much of the proposed building as is to be occupied for business purposes licensed under this chapter is to be constructed or remodeled in accordance with specifications set forth in the agreement;

(d) That the agreement describes the quarters as reasonably adequate and appropriate for the business to be carried on under the authority of the license;

(e) That the zoning of the premises to be licensed will allow the issuance of the license; and

(f) That the applicant shall not engage in the sale or service of alcoholic beverages until a certificate of occupancy and all other business licenses have been issued for the business.

405.2 An application for a license under § 405.1 shall be made on forms prescribed by the Board and shall include the following information:

(a) The street address of the establishment to be licensed or, in the case of new construction, the lot and square numbers of the ground upon which the establishment will be located; and

(b) The date on which the applicant plans to open the establishment.

405.3 A license approved by the Board under § 405.1 shall not be issued until the premises have been finally inspected by the Board or its staff, or until the applicant provides to the Board the following:

(a) A certificate of occupancy for the licensed premises;

(b) Copies of all necessary business licenses for the premises;

(c) Copies of all tax registration documents for the business; and

(d) Copies of an executed lease or deed for the licensed premises, provided, however, that the business terms of the lease including the rent may be redacted by the applicant.

405.4 Applicants for licensure under § 405.1 shall pay the appropriate license fee, as set forth in § 208 of this title, and approval by the Board shall remain effective until the end of the appropriate licensure period set out in § 207 of this title. If the applicant has not opened his or her business by the time the licensure period ends, the Board may, in its discretion, extend its approval through such further period as it deems proper upon payment by the applicant of all or any portion of the license renewal fee.

## CHAPTER 5. LICENSE APPLICATIONS

### 500. APPLICATION FORMAT AND CONTENTS

500.1 The Board shall not accept as filed, and shall take no action upon, any application that is not complete.

## 501. REQUIRED STATEMENTS

501.1 An applicant for any license, except a Solicitor's license, or Manager's license shall submit two (2) statements, in such form as the Board shall require, as to the following:

(a) The applicant is the true and actual owner of the business for which the license is sought; that he or she intends to carry on the business for himself or herself and not as the agent of any other individual, partnership, association, or corporation not identified in the application; and that the licensed establishment will be managed by the applicant in person or by a manager approved by the Board.

501.2 An applicant for any license shall advise the Board, in the application, as to the source of funds used to acquire or develop the business for which the license is sought, provided, however, that independent documentation concerning the source of such funds shall not be required as part of the application nor shall the applicant be required to file copies of closing documents in connection with the purchase of a licensed business in the absence of a Board order.

501.3 An application for transfer to a new owner filed pursuant to D.C. Official Code § 25-405 must contain both a Bill of Sale and a Purchase and Sales Agreement.

## 502. POLICE CLEARANCE

502.1 Each individual applicant for a license under this title and each manager of a licensed business who sells, gives, furnishes, or distributes any alcoholic beverage shall obtain a police clearance from the Metropolitan Police Department.

502.2 Each individual applicant's police clearance shall become a part of the license application.

502.3 Each individual partner of a partnership, the president, principal vice president, secretary, and treasurer of a corporation, and the managers of a limited liability company shall be required to comply with the provisions of this section.

502.4 Each stockholder, limited partner, or member of a limited liability company holding directly or indirectly over twenty-five percent (25%) of the stock of a corporation, partnership, or limited liability company shall be required to comply with the provisions of this section.

502.5 Any of the persons named under §§ 502.1, 502.3, and 502.4 who are not residents of the District of Columbia shall obtain a police clearance from the Metropolitan Police Department and from a comparable authority from the state in which they reside.

502.6 The failure to provide a police clearance as provided in this subsection shall not be grounds for refusal of the application for processing so long as the applicant provides evidence that the applicant requested clearance from the appropriate authority.

502.7 The requested clearance for all licenses, except for Temporary licenses, shall be filed with the Board within 90 days of the filing of the application. If the requested clearance is not filed with the Board within 90 days the application shall be rejected.

**503. AMENDMENT BEFORE MAKING SUBSTANTIAL CHANGES**

503.1 The Board may fine, revoke, or suspend a license, or deny a pending application for renewal of a license, when a license holder has been found to have made a substantial change in its operations as described in D.C. Official Code § 25-762 without Board approval.

**504. DENIED OR WITHDRAWN APPLICATIONS**

504.1 The service charge fee for processing an application which has been denied or withdrawn shall be one hundred fifty dollars ($150) for a proprietorship, two hundred fifty dollars ($250) for a partnership, and three hundred fifty dollars ($350) for a corporation or an unincorporated entity.

**CHAPTER 6. LICENSE CHANGES**

**600. TRADE NAMES AND CORPORATE NAMES**

600.1 No person licensed under the Act shall use any name other than that of an individual licensee or licensees, including a corporate or trade name, without first obtaining approval from the Board for use of the corporate or trade name.

600.2 A person licensed under this Act may file a written request with the Board to add an additional trade name at a location currently authorized for the sale of alcoholic beverages under its ABC license. The Board in its discretion may approve the use of an additional trade name at an ABC establishment. Any additional trade name approved by the Board shall appear on the establishment's ABC license.

600.3 An additional trade name shall not be used to identify a location separate and apart from the licensed premises. When a licensed establishment uses an additional trade name, its patrons must be able to access the area of the licensed premises identified by the additional trade name from the area of the licensed premises identified by the original trade name.

600.4 Any trade name requested by an applicant shall not be identical or confusingly similar to one currently used under a previously issued license.

**601. CORPORATE AND PARTNERSHIP CHANGES**

601.1 If there is a change in corporate officers, directors, limited or general partners in a partnership, or persons owning or controlling twenty-five percent (25%) or more of the common stock of a corporate licensee, the corporation or partnership shall submit to the Board within

fifteen (15) calendar days the minutes or other instrument giving the names and addresses of any new officer, director, partner or person holding twenty-five percent (25%) or more of the stock.

601.2 Within fifteen (15) calendar days of the change, the corporation or partnership shall furnish to the Board any data pertaining to the personal and business history of any new officer, director, stockholder, general or limited partner in a partnership, or other person that the Board may require.

601.3 The fee for a change of officer, director, stockholder, or general or limited partner in a partnership shall be one hundred dollars ($100).

601.4 If there is a change in the general partners of a limited partnership or in the limited partnership owning or controlling twenty-five percent (25%) or more of the partnership interest of a limited partnership licensee, the limited partnership shall submit to the Board in a timely manner, but no later than fifteen (15) calendar days after the change has occurred, the instruments reflecting the change in partnership interests.

601.5 When there is any change as described in § 601.1 or § 601.4, the licensee shall, within ten (10) calendar days, submit a sworn affidavit to the Board that no change which could be deemed a "substantial change" to the business, as set out in D.C. Official Code §§ 25-404 and 25-762, will occur within the current licensure period.

601.6 If a change which could be deemed a "substantial change" will occur before the licensure period expires, the licensee shall be governed by all the provisions of D.C. Official Code §§ 25-313 and 25-314, and D.C. Official Code § 25-404.

601.7 If the licensee knowingly makes a false swearing under § 601.5, the Board may, in its discretion, order the licensee to show cause why its license should not be fined, suspended, or revoked pursuant to D.C. Official Code § 25-401(c), or may deny the license application, or treat the licensee as a new applicant, subject to all of the provisions of D.C. Official Code §§ 25-313 and 25-314.

601.8 If the licensee fails to adhere to any filing requirements set out in D.C. Official Code § 25-405, the Board may, in its discretion, order the licensee to show cause why the license should not be suspended or revoked, or impose a civil fine based upon the primary tier schedule set forth in D.C. Official Code § 25-830(c), or deny the application for transfer.

601.9 Nothing in this subsection shall apply to publicly traded companies.

## CHAPTER 7. GENERAL OPERATING REQUIREMENTS

### 700. INSTRUCTIONS TO LICENSEES

700.1 The Board shall develop and furnish to licensees, at the time of issuance of a license,

written information describing the laws and rules applicable to the licensee's day-to-day operations.

700.2 Applications shall also be made available on the ABRA website. To the extent possible, applications shall be posted on the ABRA website in various languages for informational purposes. Applications submitted to the Board must be filled out in English.

**701. POSTING OF LEGAL DRINKING AGE AND IDENTIFICATION REQUIREMENT**

701.1 The notice required to be posted by the applicant pursuant to D.C. Official Code § 25-713, which must state the current legal drinking age and the requirement of patrons to produce a valid identification displaying proof of age, shall be provided to the applicant by the ABC Board at the time the license is delivered to the applicant.

**702. USE OF CLASS CX AND DX CLUBS BY NON-MEMBERS**

702.1 A club may, without losing its character as a club, grant permission to a member of the club to engage the club property and facilities for the use of an organization, association, or committee of which the club member is also a member; provided, that the granting of use by non-members under this section shall not be so frequent as to constitute a commercial or business purpose.

702.2 The members of the organization, association, or committee using the club may share the expenses of such use.

702.3 The use of a club by an organization, association, or committee in accordance with this section shall not be open to the public.

**703. TEMPORARY OPERATING RETAIL PERMIT**

703.1 The purchaser of an ABC licensed establishment awaiting Board approval on a transfer of ownership application where no substantial change will occur may apply to the Board for a permit to temporarily operate under the license pursuant to the following conditions:

(a) the transfer application must be filed with or before the application for temporary authority;

(b) the subject premises must not have been closed nor the sale or service of alcoholic beverages discontinued during the thirty (30) days immediately prior to the filing of the permit application; and

(c) that no substantial changes to the licensed premises will occur.

703.2 An applicant for a permit shall complete an application provided by the Board that shall include, but not be limited to, the name of the applicant, the license number, the name of the current licensee, the address of the licensed premises, and a signed affidavit that no substantial

change to the licensed premises will occur.

703.3 The holder of a permit may purchase alcoholic beverages only by currency, money order, or check on or before delivery of the alcoholic beverages to the premises, unless the permit holder already holds another retail license.

703.4 The permit shall be valid until the applicant's transfer application is either granted or denied by the Board or until the permit is cancelled or suspended by the Board pursuant to § 703.5.

703.5 The permit may, after a hearing, be cancelled or suspended at any time, if the Board determines that good cause exists for the suspension or cancellation of the permit.

**704. SURRENDER OF LICENSE**

704.1 A license required to be in safekeeping pursuant to D.C. Official Code § 25-791 may be placed in safekeeping by either the Board or the licensee. A request by the licensee to place the license in safekeeping shall be in writing and must state: (1) the reason that the license is being placed in safekeeping and (2) the length of time that the licensee is seeking to keep the license in safekeeping.

704.2 An initial safekeeping period granted by the Board may be extended for reasonable cause as set forth in D.C. Official Code § 25-791(b). The Board shall hold a safekeeping hearing for any license in safekeeping longer than 6 months to determine whether the licensee has made sufficient progress toward reopening or whether the license should be cancelled by the Board.

704.3 Notwithstanding § 704.2, a license for premises located in a moratorium area shall be permitted to be kept in safekeeping with the Board for the length of the moratorium subject to the removal requirements set forth in D.C. Official Code § 25-791(f)

704.4 Whenever a license is being kept in safekeeping with the Board, the licensee shall upon requesting the removal of the license from safekeeping, submit for Board approval detailed plans of its operations upon reopening and shall notify the Board of the anticipated reopening date.

**705. HOURS OF SALE AND DELIVERY FOR OFF-PREMISES RETAIL LICENSEES**

705.1 The new hours for Class A and Class B off-premises retail licensees set forth in D.C. Official Code § 25-722 took effect on August 1, 2001.

705.2 The Board may, by written Order, further limit the hours of sale and delivery set forth in D.C. Official Code § 25-722 on a case-by-case basis upon conclusion of a protest hearing or through Board approval of a cooperative/voluntary agreement.

705.3 Any licensee, who held a Retailer's license Class B, as of May 3, 2001, and who was authorized under its license to sell alcoholic beverages on Sundays, may continue such sales unless the Board, after a hearing, finds that such authority should be discontinued. In determining whether to allow the holder of a Retailer's license Class B to sell on Sundays, the Board shall determine whether Sunday sales are appropriate applying the criteria set forth in D.C. Official Code § 25-313.

705.4 The holder of a Retailer's license Class A or Class B shall not sell or deliver alcoholic beverages during any hour or on any day other than during those days and during those hours stated in D.C. Official Code § 25-722 and § 705.2 of this title.

705.5 The holder of a Retailer's license Class A may sell and deliver, during the hours of sale set forth in D.C. Official Code § 25-722 and § 705.2 of this title, no less than six (6) miniatures of spirits or wine per purchase.

705.6 The holder of a Retailer's license Class A or B may not provide "go-cups" to patrons. A "go-cup" means a drinking utensil provided at no charge or a nominal charge to a patron for the purpose of consuming alcoholic beverages off the premises of an establishment.

705.7 A hotel holding a Retailer's license Class CH or Class DH may make available in the room of a registered adult guest, and charge to the registered guest if consumed, closed miniature containers of spirits, wines, and beer at all hours on any day of the week.

705.8 The holder of a Retailer's license Class C, D, F, or G, or a Catering license issued under D.C. Official Code § 25-113, may sell, dispense, serve, or give away any beverages for consumption on the premises during any hour or on any day other than during those hours prohibited by D.C. Official Code § 25-723.

705.9 The holder of a Retailer's license Class C, D, F, or G, or a Caterer's license may sell, serve, or permit the consumption of alcoholic beverages on the licensed premises at any time except between the hours of:

(a) 2:00 a.m. and 8:00 a.m., Monday through Friday;

(b) 3:00 a.m. and 8:00 a.m., on Saturday; and

(c) 3:00 a.m. and 10:00 a.m., on Sunday.

705.10 The hours of operation set forth in § 705.9 for an ABC establishment may be further reduced by hour restrictions that have been approved as conditions of the establishment's ABC license by the Board.

705.11 On each January 1st, service shall be lawful until 4:00 a.m. by the holder of any license listed in § 705.9. Licensee's listed in § 705.9 shall not be required to obtain Board approval to

stay open until 4:00 a.m. on January 1st.

705.12 The holder of a Retailer's license Class C or D, may not serve "back-up" drinks.

**706. LOCKING OF BEVERAGES DURING NON-SALE HOURS**

706.1 No holder of a Retailer's license Class A, B, C, or D who offers for sale on the licensed premises commodities other than alcoholic beverages shall remain open during hours when the sale of alcoholic beverages is prohibited unless the licensee keeps all of the alcoholic beverages upon the premises in a separate beverage department which is securely closed and locked or there is a licensed manager or owner on the premises during all hours when the sale of alcoholic beverages is prohibited.

**707. MANAGER'S LICENSE**

707.1 In the absence of a licensee, a Board approved manager shall be present at the licensed premises during the hours that alcoholic beverages are permitted to be sold, served, or consumed on the licensed premises.

707.2 An applicant for a Manager's license shall submit an application to the Board on the prescribed form and pay the required fee.

707.3 If a licensee has designated a person to manage the licensed business, each manager shall be the holder of a valid Manager's license which shall be renewable every two years.

707.4 A Manager's license shall remain valid until surrendered, expired, suspended, or revoked.

707.5 An applicant for a Manager's license shall be investigated and shall be subject to the approval of the Board.

707.6 Prior to issuance of a Manager's license, an applicant shall certify that he or she has obtained and read a copy of the Act (D.C. Official Code §§ 25-101 *et seq.*) and this title.

707.7 A manager holding a valid license according to the provisions of this section may be employed by one (1) or more licensees without further investigation.

707.8 All licensees shall notify the Board within seven (7) calendar days of discovering any manager's arrest or conviction for other than minor traffic violations.

707.9 Failure by the applicant to comply with § 707.8, may, in the discretion of the Board, cause the applicant's license to be suspended or revoked.

707.10 A licensee may file a written request with the Board that an applicant for a Manager's license who has not completed an alcohol training and education certification program be issued

a temporary Manager's license subject to the requirements of § 212.2. The written request shall set forth the name of the licensed establishment, the trade name, the address of the establishment, the name of the applicant for the Manager's license, and the reason why the issuance of the temporary Manager's license is necessary. Such temporary authority shall cease after thirty (30) days or upon the approval or denial of the Manager's license application.

**708. DISPOSAL OF REMAINING ALCOHOLIC BEVERAGES**

708.1 The holder of a Retailer's license who has had its license not renewed, revoked, or is going out of business may obtain approval from the Board to sell and transport alcoholic beverages back to the holder(s) of a District of Columbia Wholesaler's license.

708.2 The holder of a Retailer's license who has had its license not renewed, revoked, or is going out of business may also obtain an auction permit pursuant to § 201 or a disposal permit pursuant to § 204.

**709. NOTICE OF EMPLOYEE'S CRIMINAL CONVICTION**

709.1 Each licensee shall immediately notify the Board in writing if the licensee discovers that any employee who sells, gives, furnishes, or distributes any alcoholic beverage has at any time prior to or during his or her employment been arrested or convicted for other than minor traffic violations. For purposes of this section, "immediately" shall mean notifying the Board within seven (7) days of discovering the criminal conviction.

**710. MINIMUM CHARGE**

710.1 As used in this section, the phrase "minimum charge" means a price or fee imposed by a licensee on a patron or individual for food and/or beverages, either at the point of entrance to an establishment or at the point of service of food and/or beverages within the establishment.

710.2 The minimum charge must be equal in value to the price the patron would pay for the food and or beverage(s) inside.

710.3 A minimum charge shall not be considered a cover charge and may be charged by an establishment without Board approval or an entertainment endorsement unless restricted by Board order or voluntary agreement.

710.4 Any holder of a Retailer's license Class C or D, who makes a permitted minimum charge for either food or a beverage, shall, during the hours when the minimum charge is made, keep posted in a conspicuous place at each public entrance to the room or place where the minimum charge is made a sign stating that a minimum charge is made, the amount of the minimum charge, and whether the minimum charge shall be applied to food and/or beverage(s).

710.5 The sign required by § 710.4 shall be not less than one square foot in area with lettering not less than one inch (1 in.) in height, and the letters shall be easily legible.

## 711. PERMITS FOR SAMPLING OF ALCOHOLIC BEVERAGES

711.1 The holder of a Retailer's license Class A may utilize a portion of the licensed premises for the sampling of alcoholic beverages during the hours of sale authorized in D.C. Official Code § 25-722(a). Containers of alcoholic beverages used for sampling purposes shall be labeled as such and may not be sold.

711.2 No licensee may use any portion of the licensed premises for the sampling of alcoholic beverages without a permit issued by the Board. A request for a permit shall be in writing and shall:

(a) State in detail the type of beverages to be offered in the sampling;

(b) Include drawings of the premises indicating the areas where the sampling is to take place; and

(c) State the hours and days during which the sampling is to take place.

711.3 A permit issued under this section shall be valid for two years. The permit shall expire on the same date as the applicant's Class A Retailer's license.

711.4 The annual fee for a permit issued under this section shall be one-hundred and thirty dollars ($130). Payment shall be made at the same time that the second year fee or renewal fee for Class A Retailer's licenses is due.

711.5 The holder of a permit issued under this section shall be authorized to provide to one customer in any one day samples that do not exceed the following quantities:

(a) Three ounces (3 oz.) of spirits;

(b) Six ounces (6 oz.) of wines; and

(c) Twelve ounces (12 oz.) of beer.

711.6 The holder of a tasting permit may hold public tastings during the hours it is permitted to sell and serve alcoholic beverages under its Class A Retailer's license unless restricted by Board order or cooperative/voluntary agreement.

## 712. PUB CRAWLS

712.1 A promoter/organizer of a "Pub Crawl" shall be required to obtain Board approval. The promoter/organizer shall submit an application to hold the "Pub Crawl" on a form provided by the Board at least six (6) weeks prior to the scheduled date of the event. For purposes of this section a "Pub Crawl" shall be defined as an organized group of establishments within walking distance which offer discounted alcoholic drinks during a specified time period.

712.2 At least six (6) weeks prior to the scheduled date of the event, the event organizer/promoter must provide the Metropolitan Police Department and the Board with a written description of the event to include but not be limited to:

(1) the names and addresses of all the establishments which are expected to participate;

(2) the geographic area where the event will take place;

(3) the anticipated number and maximum number of participants;

(4) the actual hours of the event;

(5) the operational and security plan; and

(6) the location of the designated registration area(s).

712.3 The operational and security plan shall include but not be limited to the name and number of security personnel contracted for the event; a plan for the control of underage drinking; and the method to be used for checking participant identification.

712.4 The promoter/organizer must post at any designated registration area, the ABC Board approved operations and security plan.

712.5 "Pub Crawls" may not promote excessive drinking and shall not include unlimited amounts of drinks for one price (all you can drink).

712.6 Literature describing "responsible drinking practices" must be available at all designated registration points.

712.7 All advertising/promotional materials for "Pub Crawls" must:

(1) include a statement that "You must be 21 or older to participate";

(2) promote the use of public transportation; and

(3) include the plan for a designated driver program for the event.

712.8 Establishments who are required by law to serve food, must have food available for purchase during the hours of the "Pub Crawl."

712.9 No establishment with more than two primary tier offenses in a two-year period may

participate in a "Pub Crawl."

712.10 The Board shall make a decision whether to approve a completed "Pub Crawl" application within three weeks of its submission. Board approval shall not be required for a "Pub Crawl" containing less than 200 participants.

**713. STREET FESTIVALS**

713.1 The holder of a Retailer's license Class CR or Class DR who is participating in a street festival may apply to the Board for a one-day substantial change on a form provided by the Board to serve alcoholic beverages on public space rented by the licensee if the establishment abuts the closed street.

713.2 For the purposes of this section "street festival" means any event for which a temporary street closing permit has been issued and which meets the following conditions:

(1) The licensee to whom the street closing permit was issued is a nonprofit organization;

(2) The street closed is zoned for primarily retail use; and

(3) The festival uses the street closed primarily to rent to retail vendors.

713.3 Business associations or citizens associations incorporated under the laws of the District of Columbia shall be allowed to obtain approval from the Board on behalf of multiple festival permit participants.

713.4 The holder of a Class CR or Class DR Retailer's license who rents public space shall not permit patrons to take alcoholic beverages off the licensed premises or any public space rented by that establishment.

713.5 The cost of filing a one-day substantial change application shall be the same as the cost of a Temporary license.

**714. OUTDOOR EVENTS ON PUBLIC SPACE**

714.1 The holder of an on-premises Retailer's license may file a one-day substantial change application with the Board to receive permission to serve or sell alcoholic beverages on public space for a specific event that may involve a temporary street closing.

714.2 The one-day substantial change application to sell or serve alcoholic beverages on public space shall be on a form provided by the Board that shall include a copy of all other licenses and permits required for the event under District of Columbia law. The fee for a one-day substantial change shall be the same as the cost of a Temporary license.

714.3 Such a request shall not be granted by the Board more than three (3) times in a calendar year.

**715. OUTDOOR EVENTS ON PRIVATE SPACE**

715.1 The holder of an on-premises Retailer's license may file a one-day substantial change application with the Board to receive permission to serve or sell alcoholic beverages on private space other than the licensed premises.

715.2 The one-day substantial change application to sell or serve alcoholic beverages on private space other than the licensed premises shall be on a form provided by the Board that shall include a letter of permission from the owner of the private space. The fee for a one-day substantial change shall be the same as the cost of a Temporary license.

715.3 Such a request shall not be granted by the Board more than six (6) times in a calendar year.

**716. ONE DAY SUBSTANTIAL CHANGES**

716.1 The holder of an on-premises retailer's license may file a one-day substantial change request with the Board for permission to have entertainment, extended hours of operation, a cover charge, or dancing not permitted by the applicant's license as part of a specific event. The one-day substantial change request may be granted, in the Board's discretion, unless the activities sought by the applicant are otherwise prohibited by the applicant's ABC license.

716.2 Such a request made pursuant to § 716.1 shall not be granted by the Board more than six (6) times in a calendar year.

**717. CORKING FEE**

717.1 The holder of an on-premises retailer's license may permit a patron to bring to and consume on the licensed premises an alcoholic beverage that the licensee is permitted to sell or serve under its on-premises retailer's license; provided that the alcoholic beverage is opened by an employee of the establishment. However, the holder of an on-premises retailer's license shall not permit any alcoholic beverage opened on the licensed premises to be removed from the licensed premises.

717.2 The holder of an on-premises retailer's license shall be permitted to charge a corking fee not to exceed twenty five dollars ($25).

## CHAPTER 8 – ENFORCEMENT, INFRACTIONS, AND PENALTIES

### 800. ABRA CIVIL PENALTY SCHEDULE

| Section | Description | Violation | Warning |
|---|---|---|---|
| 25-112(e) | Failure to file a statement of expenditures | Secondary | Y |
| 25-113(b) | Failure to file a quarterly report | Secondary | Y |
| 25-405 | Transfer of Ownership without Board approval | Primary | N |
| 25-701 | No ABC Manager on duty | Secondary | Y |
| 25-702 | Owner knows, does not report employee's criminal conviction | Primary | Y |
| 25-711 | Posting and carrying of licenses | Secondary | Y |
| 25-712 | Signs: Warning re: pregnancy | Secondary | Y |
| 25-713 | Signs: legal drinking age/valid ID | Secondary | Y |
| 25-721 | Hours of Sale & Delivery- manufacturer & wholesaler | Primary | N |
| 25-722 | Hours of Sale & Delivery – off premises | Primary | N |
| 25-723 | Hours of Sale & Delivery – on-premises | Primary | N |
| 25-724 | Restriction of hours of operation | Primary | N |
| 25-725 | Noise | Secondary | Y |
| 25-726 | Control of litter, trash, garbage, and proper disposal of refuse, including cooking oils | Secondary | Y |
| 25-731 | Credit and delinquency | Secondary | Y |
| 25-732 | Payment plan for extenuating circumstances | Secondary | Y |
| 25-733 | Delivery and payment records and reports | Secondary | Y |
| 25-734 | Sale by retailer on credit | Primary | Y |
| 25-735 | Gifts and loans from manufacturer | Primary | Y |
| 25-736 | Gifts and loans from wholesaler | Primary | Y |
| 25-741(a) | A & B licensees provide go-cups | Secondary | Y |
| 25-741(b) | Back-up drinks | Secondary | Y |
| 25-742 | Solicitation of drinks by employee | Secondary | Y |
| 25-743 | Tie-in purchases | Primary | Y |
| 25-751 | Limitations on Container Size | Secondary | Y |
| 25-752 | Containers to be labeled | Secondary | Y |
| 25-753 | Keg Registration | Primary | N |
| 25-754 | Restrictions on storage of beverages | Primary | Y |
| 25-761 | Structural requirements | Secondary | Y |
| 25-762 | Substantial change approvals | | |
| 25-762(b)(1) | - increase occupancy or the use of interior space | Secondary | Y |
| 25-762(b)(2) | - expand exterior public or private space including summer gardens or sidewalk cafes | Primary | N |
| 25-762(b)(3) | - expand to another floor, roof, deck | Primary | N |
| 25-762(b)(4) | - Provide for or expand entertainment area | Secondary | Y |

| | | | |
|---|---|---|---|
| 25-762(b)(5) | - Diminish or expand dining or food prep area | Secondary | Y |
| 25-762(b)(6) | - Provide permanent space for dancing | Secondary | Y |
| 25-762(b)(7) | - Change exterior design | Secondary | Y |
| 25-762(b)(8) | - Provide music or entertainment if none previously. | Secondary | Y |
| 25-762(b)(9) | - Change from recorded to live music or live entertainment or change the kind of music or entertainment provided | Secondary | Y |
| 25-762 (b)(10) | - Change entertainment to include nude performance | Primary | N |
| 25-762(b)(11) | - Change from full-menu to snack menu | Secondary | Y |
| 25-762(b)(12) | - Change on premises to carry-out, add carry out | Secondary | Y |
| 25-762(b)(13) | - Extend hours of operation | Primary | Y |
| 25-762(b)(14) | - Provide new mechanical/electronic entertainment | Secondary | Y |
| 25-762(b)(15) | - Change trade name/corp name w/ ownership change | Secondary | Y |
| 25-762(b)(16) | - Change booth size | Secondary | Y |
| 25-762(b)(17) | - Reduce number of toilet facilities | Secondary | Y |
| 25-762(b)(18) | - Increase number of vessels under on-premises | Primary | N |
| 25-763 | Signage | Secondary | Y |
| 25-764 | Advertisements | Secondary | Y |
| 25-765 | Advertisements on windows and doors | Secondary | Y |
| 25-766 | Prohibited statements | Secondary | Y |
| 25-771 | Reporting | Secondary | Y |
| 25-772 | Unlawful importation | Primary | N |
| 25-781 | Sale to minors | Primary | N |
| 25-782(a) | Class A allow under 18 to enter between 8am-3pm | Primary | Y |
| 25-782(d) | Deny admittance to someone of legal drinking age | Secondary | Y |
| 25-783(a) | Sale to someone who fails to produce a valid ID | Primary | N |
| 25-783(b) | Take reasonable steps to ascertain of legal age | Primary | N |
| 25-784(a) | Prohibit any person under 21 from sell, give, furnish or distribute, except as provided in 784b | Secondary | Y |
| 25-784(b) | 18-20 may sell, serve or deliver, but not bartend | Secondary | Y |
| 23 DCMR 208.19 | Knowingly false or misleading affidavit submission | Primary | N |
| 23 DCMR 712 | Participation in a pub crawl without Board approval or in a manner other than as approved by the Board | Primary | N |

| | | | |
|---|---|---|---|
| 23 DCMR 2000.1 | The selling, delivering, or serving of alcoholic beverages at a catered event where snack items are the only food products served by the Caterer | Primary | N |
| 23 DCMR 2102 | Failure to maintain or keep records or invoices | Primary | N |

**801. PRIMARY TIER VIOLATIONS**

801.1 The Board may fine a licensee for a primary tier violation at a show cause hearing scheduled pursuant to the notice requirements set forth in § 1604 as follows:

(A) For the first primary tier violation, the fine shall be $1000-$2000.
(B) For the second primary tier violation within 2 years, the fine shall be $2,000-$4,000.
(C) For the third primary tier violation in three years, the fine shall be $4,000-$6,000.
(D) For the fourth primary tier violation in four years, the ABC license shall be revoked.

**802. SECONDARY TIER VIOLATIONS**

802.1 The Board may fine a licensee for a secondary tier violation at a show cause hearing scheduled pursuant to the notice requirements set forth in § 1604 as follows:

(A) For the first secondary tier violation, $250-$500.
(B) For the second secondary tier violation within two years, $500-$750.
(C) For the third secondary tier violation within three years, $750-$1,000.
(D) A licensee found in violation of a secondary tier violation for the fourth time within 4 years shall be penalized according to a first primary tier violation ($1,000-2,000). Every subsequent secondary tier offense within 5 years of the first violation shall be fined according to the schedule for primary tier violations.

**803. CITATIONS FOR PRIMARY TIER VIOLATIONS**

803.1 ABRA investigators or Metropolitan Police Department Officers ("MPD Officer") shall issue citations, pursuant to D.C. Official Code § 25-801(b), for primary tier violations as follows:

(A) For the first primary tier violation, the fine shall be $1000.
(B) For the second primary tier violation within 2 years, the fine shall be $2,000.
(C) For the third primary tier violation in three years, the fine shall be $4,000.
(D) For the fourth primary tier violation in four years, the violation shall be referred to the Board for a show cause hearing pursuant to § 1604.

**804. CITATIONS FOR SECONDARY TIER VIOLATIONS**

804.1 ABRA investigators or MPD Officers shall issue citations, pursuant to D.C. Official Code § 25-801(b), for secondary tier violations as follows:

(A) For the first secondary tier violation, the fine shall be $250.
(B) For the second secondary tier violation within two years, the fine shall be $500.
(C) For the third secondary tier violation within three years, the fine shall be $750.
(D) For the fourth secondary tier violation within four years, the fine shall be $1,000. Every subsequent secondary tier offense within five years of the first shall be fined according to the schedule for primary tier violation citations set forth in § 803 of this title.

**805. WARNINGS**

805.1 An ABRA investigator or MPD Officer is not precluded from issuing a warning before the issuance of a citation for a first violation as permitted by § 800 of this title.

**806. CITATION APPEALS**

806.1 A licensee may challenge the issuance of a citation issued by an ABRA Investigator or MPD Officer by requesting in writing a show cause hearing before the Board. The written request for a show cause hearing must be received by ABRA within thirty (30) days from the date that the citation was issued to the establishment.

**CHAPTER 9. PROHIBITED AND RESTRICTED ACTIVITIES**

**900. PRIMARY AMERICAN SOURCE OF SUPPLY**

900.1 It shall be unlawful for any wholesaler to purchase any alcoholic beverage for resale unless the alcoholic beverages are purchased from the primary American source of supply for the brand of alcoholic beverages sought to be resold.

900.2 It shall be unlawful for any wholesaler to sell any alcoholic beverages in the District of Columbia if the alcoholic beverages have not been purchased by the wholesaler from the primary American source of supply.

**901. LABELING OF BEER CONTAINERS AND BEER TAPS**

901.1 No licensee shall sell, offer for sale, or import for sale, delivery, or shipment within the District of Columbia any beer unless the original container is correctly marked, branded, and labeled in English.

901.2 The label shall be firmly attached and shall contain the following:

(a) The brand name and address of the brewer, bottler, or wholesaler;

(b) The class of the beverage (including beer, ale, porter, lager, bock, stout, or half and half); and

(c) The net content of the container.

901.3 The label shall not contain any of the following:

(a) Any false or misleading statement, design, or device;

(b) The words "high test," "high proof," "full strength," "prewar strength," or similar words;

(c) Any statement, design, or device implying that the use of the beer has curative or therapeutic effects; or

(d) Any seal, flag, crest, coat of arms, or other insignia likely to mislead the consumer to believe that the product has been endorsed, made, or used by the government, organization, family, or individual with which that seal, flag, crest, coat of arms, or other insignia is associated.

901.4 No licensee shall alter, obliterate, or destroy any label attached to a beer container.

901.5 The holder of a Retailer's license Class C or D, shall not sell any beer on draft from any tap, faucet, spigot, or other dispensing device unless there shall plainly appear on or be attached to such device an inscription, clearly legible for a distance of ten feet (10 ft.) from the dispenser outlet to a person with normal vision, giving the brand or trade name of the beer so sold from the tap.

**902. UNSEALED CONTAINERS IN COMMERCIAL OR PUBLIC VEHICLES**

902.1 No driver of a commercial or public vehicle or common carrier in the District of Columbia shall have in his or her possession, while in or on the vehicle, any opened or unsealed package containing any alcoholic beverage.

**903. GIFTS AND LOANS FROM MANUFACTURER PROHIBITED**

903.1 The five hundred dollar ($500) limitation set forth in D.C. Official Code § 25-735 shall apply to each separate service or article of property for each individual transmittal being promoted by such service or article of property.

903.2 Such application for approval shall include the following information: licensee name, location, date of the event, nature of the promotion, name of the entity contributing the service or article of property, description of each service or article of property, value of each (each not to exceed $500), whether the service or article of property is a purchase, rental, borrowing, or gift.

903.3 Board approval shall not be required for each individual transmittal having a value of less

than fifty dollars ($50).

**904. GIFTS AND LOANS FROM WHOLESALER PROHIBITED**

904.1 The five hundred dollar ($500) limitation set forth in D.C. Official Code § 25-736 shall apply to each separate service or article of property for each individual occurrence.

904.2 Such application for approval shall include the following information: licensee name, location, date of the event, nature of the promotion, name of the entity contributing the service or article of property, description of each service or article of property, value of each (each not to exceed $500), whether the service or article of property is a purchase, rental, borrowing, or gift.

904.3 Board approval shall not be required for each individual transmittal having a value of less than fifty dollars ($50).

**905. RESTRICTIONS ON ENTRANCE INTO LICENSED PREMISES**

905.1 The admittance requirement of those persons displaying a valid identification as set forth in D.C. Official Code § 25-782(d) shall not preclude establishments from enforcing a dress code or an age restriction, provided those establishments do not discriminate on any basis prohibited by Chapter 25 of Title 1 of the D.C. Official Code.

**CHAPTER 10. RESERVED**

**CHAPTER 11. ADVERTISING**

**1100. PROHIBITED STATEMENTS**

1100.1 The use of any picture or illustration depicting a child or immature person, or objects (such as toys), suggestive of the presence of a child, and any statement, design, device, picture, or illustration designed to be especially appealing to children or immature persons, which promotes the sale, service, or consumption of alcoholic beverages shall be prohibited.

1100.2 Any statement, picture, or illustration referring to Easter, Holy Week, Mother's Day, "Santa Claus," including names synonymous with "Santa Claus", or a religious holiday or religious symbol, which promotes the sale, service, or consumption of alcoholic beverages shall be prohibited. Nothing in this section shall prohibit references to Christmas or any other holiday season if the references do not include statements, pictures, or illustrations on strictly religious themes.

1100.3 The words "Wholesale," "Wholesale Department" (except to the extent required by federal law), or any other word or words intended to mislead or deceive the general public into believing that the advertiser is authorized or licensed to sell alcoholic beverages as a wholesaler under the provisions of the Act shall be prohibited.

1100.4 A statement that is known by the retailer to be false or misleading with respect to advertised price charged to the consumer, ingredients of alcoholic beverages, source of manufacturer, or statements as to health benefits, shall be prohibited.

## CHAPTER 12. RECORDS AND REPORTS

### 1200. MANUFACTURER'S BOOKS AND RECORDS

1200.1 Each holder of a Manufacturer's license shall keep and maintain upon the licensed premises adequate books and records showing all sales or other dispositions of beverages, including the following:

(a) The date of each sale;

(b) The name, address, and license number of the purchaser;

(c) The quantity in gallons of each character and brand of beverage in each sale with the total price; and

(d) The character, brand, and quantity in gallons of all beverages disposed of other than by sale.

### 1201. MANUFACTURER'S INVOICES

1201.1 With each sale of beverage the holder of a Manufacturer's license shall cause to be made in duplicate an invoice of the sale showing the following information:

(a) The date of each sale;

(b) The name, addresses, and license numbers of both the vendor and the vendee;

(c) The quantity in gallons of each character and brand of beverage in each sale;

(d) The price of each character and brand of beverage in each sale with the total price; and

(e) A true, accurate, and complete statement of the terms and conditions on which the sale is made.

1201.2 With each sale, the invoice shall be prepared in duplicate, and shall be consecutively numbered.

1201.3 The original of the invoice shall be delivered to the vendee and the duplicate invoice shall be retained by the vendor.

## 1202. WHOLESALER'S BOOKS, RECORDS, AND REPORTS

1202.1 Each holder of a Wholesaler's license shall keep and maintain upon the licensed premises adequate books and records for each purchase showing the following:

(a) The quantity in gallons of each character and brand of beverage purchased by the licensee in each purchase;

(b) The date of each purchase;

(c) The name and business address of the person from whom the purchase was made;

(d) The price of each character and brand of beverage purchased with the total price; and

(e) The license number of the vendor, if licensed under the Act.

1202.2 Each holder of a Wholesaler's license shall keep and maintain upon the licensed premises adequate books and records showing the character, brand, and quantity in gallons of all beverages disposed of other than by sale.

1202.3 Each holder of a Wholesaler's license shall keep and maintain upon the licensed premises adequate books and records showing all sales of beverages, including the following information:

(a) The date of each sale;

(b) The name, address, and license number of the purchaser; and

(c) The quantity in gallons of each brand of beverage in each sale.

1202.4 Each holder of a Wholesaler's license shall twice a year furnish a report to the Board, on forms provided by the Board, as to all of the information required under § 1202.1.

## 1203. WHOLESALER'S INVOICES

1203.1 With each sale of a beverage, the holder of a Wholesaler's license shall cause to be made in duplicate an invoice of each sale showing the following information:

(a) The date of each sale;

(b) The names, addresses, and license numbers of both the vendor and the vendee;

(c) The quantity in gallons of each character and brand of beverage in each sale;

(d) The price of each character and brand of beverage in each sale with the total price; and

(e) A true, accurate, and complete statement of the terms and conditions on which the sale is made.

1203.2 With each sale, the invoice shall be prepared in duplicate, and shall be consecutively numbered.

1203.3 The original of the invoice shall be delivered to the vendee and the duplicate invoice shall be retained by the vendor.

**1204. RETAILER'S BOOKS AND RECORDS**

1204.1 Each holder of a Retailer's license shall keep and maintain upon the licensed premises, records which include invoices and delivery slips and which adequately and fully reflect all purchases, sales, and deliveries of all alcoholic beverages, except beer, made to it.

1204.2 Records shall include and distinctly show the following information:

(a) The quantity in gallons of each kind of beverage purchased in each purchase;

(b) The date of each purchase;

(c) The name and business address of the person from whom purchased with the license number of the vendor, if licensed under the Act;

(d) The price of each kind of beverage purchased with the total price; and

(e) The character and brand and quantity in gallons of all beverages, except beer, acquired other than by purchase.

1204.3 All invoices and delivery slips required by § 1204.1 and all importation permits after cancellation as required by D.C. Official Code § 25-119, shall be systematically filed and maintained for a period of three (3) years from date of delivery and shall show a true, accurate and complete statement of terms and conditions on which each purchase was made.

**1205. LISTING OF BRANDS**

1205.1 Within ten (10) days of offering an alcoholic beverage product for sale, each holder of a Manufacturer's or Wholesaler's license shall furnish to the Board the following information with respect to each item of beverage for sale:

(a) The brand or trade name and character; and

(b) The proof and age of each item, except beer.

1205.2 Written notice shall be given to the Board within ten (10) days after the discontinuance of the offering for sale of any item.

**1206. MANUFACTURER'S REPORTS**

1206.1 This section shall apply to each holder of a Manufacturer's license Class A.

1206.2 Licensees subject to the section shall, on or before the 21st day of each month, furnish to the Board on a form to be prescribed by the Board a statement under oath showing the following information:

(a) The quantity of each kind of alcoholic beverage, except beer, manufactured by the licensee during the preceding calendar month for beverage purposes; and

(b) The quantity of alcoholic beverages manufactured by the licensee during the preceding calendar month for nonbeverage purposes.

**1207. QUARTERLY STATEMENTS AND ANNUAL REPORTS OF RESTAURANTS AND HOTELS**

1207.1 Within thirty (30) days after the end of each quarter, the holder of a Retailer's license Class CR, CH, DR, or DH shall file with the Board a statement of expenditures and receipts by the licensed establishment during that quarter containing the following:

(a) The total amount of receipts for the sale of alcoholic beverages and food;

(b) Of that total, the amount received for the sale of alcoholic beverages and the amount received for the sale of food, and the percentages of the total receipts represented by the respective amounts;

(c) Total expenditures for alcoholic beverages and food;

(d) Of that total, the amount expended for alcoholic beverages and the amount expended for food, and the percentages of the total expenditures represented by the respective amounts;

(e) A statement indicating the method used to compute the amounts and percentages; and

(f) An affidavit executed by an individual licensee, partner of an applicant partnership, or the appropriate officer of an applicant corporation, attesting to the

truth of the quarterly statement.

1207.2 The amounts reported for the sale of alcoholic beverages and food shall represent reasonable prices appropriate to the licensee's establishment.

1207.3 For purposes of this section, each licensee shall report under "alcoholic beverages" any non-alcoholic liquid or solid served as part of the contents of an alcoholic beverage.

1207.4 In computing the amounts received and expended for alcoholic beverages and for food, a licensee shall exclude all amounts received for taxes and gratuities in conjunction with these transactions, and all amounts, including surcharges, related to the obtaining and providing of entertainment or other goods and services at the licensed establishment.

1207.5 Each holder of a Retailer's license Class CR, CH, DR, or DH shall also submit to the Board an annual report attesting to the correctness of the quarterly statements submitted during the preceding year.

1207.6 Each annual report shall be filed within sixty (60) days from the end of the annual period that is the subject of the report.

1207.7 A licensee may submit, together with the first annual report submitted to the Board, adjustments to the quarterly statements filed for the preceding one-year period. Thereafter, no adjustments shall be permitted to the quarterly statements filed with the Board without the prior permission of the Board.

1207.8 The annual accounting period, for purposes of the annual report, shall correspond to each of the two (2) years for which a license is issued.

1207.9 The making of a false statement on a quarterly statement or annual report, with the knowledge of the license holder, shall constitute grounds on which the Board may deny the renewal of the license, or subsequently revoke the license, when the renewal of the license is based wholly or in part on the contents of the false statement.

**1208. RETENTION AND INSPECTION OF BOOKS AND RECORDS**

1208.1 The books and records referred to in this chapter, including the original and duplicate invoices, shall be open to inspection by the Board or its designated agent, and the OTR, during the establishment's approved hours of operation.

1208.2 The holders of Manufacturer's and Wholesaler's licenses shall keep and maintain all books and records referred to in this chapter on the licensed premises for a period of four (4) years after the latest transaction recorded in those books and records.

1208.3 The holder of a Retailer's license shall keep and maintain all book and records referred to

in this chapter on the licensed premises for a period of three (3) years after the latest transaction recorded in those books and records.

1208.4 The holder of a Retailer's, Manufacturer's, or Wholesaler's license may maintain its records at a location in the District of Columbia other than the licensed premises with the approval of the Board. Any requested location must: (1) maintain both the original and duplicate invoices; and (2) be available for inspection by ABRA investigators at any time during business hours.

1208.5 The holder of a Retailer's license may maintain its original invoices outside of the District of Columbia upon a determination by the Board that good cause exists. However, duplicate invoices must be maintained in the District of Columbia at either the licensed premises or a location approved by the Board and the applicant is responsible for providing the original invoices to the Board within three (3) days of receiving a written request from the Board. Failure to make the original invoices available to the Board within three (3) days of its written request shall constitute a violation of § 1208.1.

## CHAPTER 13. TRANSPORT OF BEVERAGES

### 1300. TRANSPORT PERMITS FOR ALCOHOLIC BEVERAGES

1300.1 The Board may issue a transport permit to the holder of a Retailer's license to transport, or cause to be transported into the District of Columbia, alcoholic beverages when the Board is satisfied that beverages bearing the same brand or trade name are not obtainable by the retail licensee from a licensed manufacturer or wholesaler in the District of Columbia in sufficient quantity to reasonably satisfy the immediate needs of the retail licensee.

1300.2 A transport permit issued under § 1300.1 shall specifically set forth the quantity, character, and brand or trade name of beverages to be transported and the names and addresses of the seller and of the purchaser.

### 1301. IMPORTATION PERMITS FOR RETAILERS OF ALCOHOLIC BEVERAGES

1301.1 An importation permit issued under D.C. Official Code § 25-119 to the holder of a Retailer's license Class A, B, C, or D, must bear the full brand or trade name of the alcoholic beverage to be imported. If the brand of alcoholic beverage to be imported is listed by a licensed manufacturer or wholesaler under these regulations, then upon application made to the Board, the retailer shall certify that the brand of alcoholic beverage sought to be imported is not available from a licensed manufacturer or wholesaler in sufficient kind or quantity to reasonably satisfy the immediate needs of the licensee.

1301.2 An importation permit issued under D.C. Official Code § 25-119 shall be valid for a period of thirty (30) days from the date of issuance.

## 1302. IMPORTATION OF ALCOHOLIC BEVERAGES FOR PRIVATE USE AND CONSUMPTION

1302.1 Any person who becomes a resident of, or establishes a domicile in, the District of Columbia, may bring into the District of Columbia his or her own personal stock of alcoholic beverages, so long as the beverages are for his or her private use and consumption and so long as the importation of the beverages is in compliance with applicable laws and regulations.

1302.2 The provisions of § 1302.1 shall apply to embassies and diplomatic representatives of foreign countries.

1302.3 Prior to importing under this section any alcoholic beverages into the District of Columbia from outside of the United States, the individual seeking to do so shall submit a written request for an importation permit to the Board which contains the following information:

(a) The type, brand, and quantity of each beverage to be imported;

(b) The individual's out-of-state or foreign address and telephone number;

(c) The individual's permanent address and telephone number in the District of Columbia; and

(d) A statement that the beverages are for personal use and consumption and will not be sold.

1302.4 The fee for an Importation Permit for alcoholic beverages imported pursuant to § 1302 for private use and consumption shall be fifty dollars ($50), paid by credit card, certified check, money order, business check, attorney's check, or personal check payable to ABRA.

## 1303. TRANSPORT OF BEVERAGES WITHIN THE DISTRICT OF COLUMBIA

1303.1 No licensee, or agent, employee, or servant of a licensee, shall transport into the District of Columbia any of the following in a vehicle unless that vehicle bears upon the exterior of both sides of the vehicle the name of the licensee and the kind and number of the licensee's beverage license in letters not less than three and one-half inches (3 1/2 in.) high:

(a) More than twelve (12) bottles of alcohol, spirits, or wine; or

(b) More than forty-eight (48) bottles of beer.

1303.2 If more than twelve (12) containers of alcohol, spirits, or wine, or more than forty-eight (48) containers of beer, are transported in a vehicle not conforming with the requirements of § 1303.1, the person in charge of the transportation shall have in his or her possession a permit from the Board or a bill or memorandum issued by the seller of the alcoholic beverages, showing the following information:

(a) The name and address of the seller;

(b) The date of the sale; and

(c) The quantity and character of each beverage being transported.

1303.3 Upon demand by any police officer or duly authorized investigator of the Board, the person in charge of the transportation shall exhibit to the officer or investigator the permit, bill, or memorandum.

## CHAPTER 14. TAXES ON ALCOHOLIC BEVERAGES

### 1400. MONTHLY TAX RENTS

1400.1 On or before the fifteenth (15th) day of each month, each licensee shall furnish to the OTR on the form prescribed by the OTR, a statement under oath showing the quantity of alcoholic beverages subject to taxation sold by the licensee during the preceding calendar month.

1400.2 As used in this chapter, the word "licensee" means the holder of a Manufacturer's or Wholesaler's license or the holder of a Retailer' license Class CX (Common Carrier license) issued for a passenger-carrying marine vessel operating in and beyond the District of Columbia, or for a club car or dining car on a railroad operating in and beyond the District of Columbia.

1400.3 Except as otherwise provided in this section, for the purpose of filing by the holder of a Manufacturer's or Wholesaler's license of a statement under oath showing the quantity of alcoholic beverages subject to taxation sold by that licensee during the preceding calendar month and payment of the tax thereon, the word "sold" shall apply to the following:

(a) All alcoholic beverages, title to or possession of which is transferred from the licensee to any other persons by any means whatsoever and whether or not for a consideration; and

(b) All alcoholic beverages used or consumed or set aside for use or consumption by the licensee or any other person.

1400.4 For the purposes of filing a statement under oath by the holder of a Retailer's license, Class CX (Common Carrier license), issued for a passenger-carrying marine vessel operated in and beyond the District of Columbia, for a club car or dining car on a railroad operating in and beyond the District of Columbia, the word "sold" shall apply to all alcohol and spirits, title to or possession of which is transferred from the licensee to any other person by any means whatsoever and whether or not for a consideration, and shall also apply to all alcohol and spirits used or consumed or set aside for use or consumption by the licensee or any other person, while the licensee is passing through or is at rest in the District of Columbia.

1400.5 The word "sold" shall not apply to alcoholic beverages transferred by the licensee to any instrumentality of the Government of the United States or the District of Columbia or to a dealer licensed under the laws of any State or territory of the United States and not licensed under the Act.

**1401. RETURNS AND LOSSES**

1401.1 The tax shall not apply to alcoholic beverages returned by a retail licensee to the holder of a manufacturer's or a wholesaler's license.

1401.2 The tax shall not apply to losses of alcoholic beverages occasioned by breakage, spoilage, or theft.

1401.3 Each loss of alcoholic beverage shall be proved by the licensee to the satisfaction of the OTR.

**1402. MONTHLY TAX PAYMENTS**

1402.1 Before the sixteenth (16th) day of each month, each licensee shall pay to the D.C. Treasurer the tax imposed upon the quantity of alcoholic beverages subject to taxation sold by the licensee during the preceding calendar month.

1402.2 The balance to the credit of a licensee of any monies deposited under this section shall be refunded to the licensee by the OTR where the licensee making the deposit shall, for a period of twelve (12) consecutive months subsequent to the month in which the deposit was made, or for the period as the licensee continues to engage in business, whichever is the lesser, have fully complied with the provisions of D.C. Official Code § 25-771, and with the provisions of this chapter.

1402.3 The Mayor or his designee may require retailers and wholesalers and every person liable for tax to keep, maintain, and preserve records, reports, books, returns, etc., and shall make those records available upon request by the Mayor or his designee. Records required to be available pursuant to this section shall be retained on the licensed premises in accordance with the relevant retention period established by § 1208.

**1403. INFORMATION TAX RENTS**

1403.1 Each holder of a Retailer's license desiring to transport or cause to be transported into the District of Columbia alcoholic beverages for which a permit is required under the Act or this title shall furnish to the OTR, on the form prescribed, an original and one (1) copy of a statement showing the quantity of alcoholic beverages to be imported, the name and address of the seller from which the alcoholic beverages are to be acquired, and other information required by the OTR.

1403.2 Reports required by this section shall be executed as follows:

(a) In the case of an individual licensee, by the licensee;

(b) In the case of a partnership licensee, by a general partner; and

(c) In the case of a corporate licensee, by the president, vice president, secretary, or treasurer of the corporation.

(d) In the case of a limited liability company, by the authorized representative of the limited liability company.

1403.3 No permit for the importation of alcoholic beverages shall be issued by the Board until there has been received by the Board from the OTR a copy of the form filed with the OTR, and satisfactory evidence of payment of the tax.

**1404. DETERMINATION OF TAX WHEN REPORT NOT FILED**

1404.1 If any statement required by this chapter is not filed, or if a statement when filed is incorrect or insufficient, the amount of tax due shall be determined by the OTR from such information as may be obtainable.

1404.2 The OTR shall serve notice of the determination of tax due under this section on the taxpayer either by delivering it or causing it to be delivered to the taxpayer personally or by mailing it to the licensee, postage prepaid, addressed to the licensee at the licensed premises.

1404.3 The amount determined and assessed in accordance with this section shall be payable within ten (10) days after the date of assessment.

**1405. FAILURE TO MAKE REPORTS OR PAYMENTS**

1405.1 When any tax imposed by the Act has become due and payable and has not been paid, that tax may be collected by levy and distraint as provided in D.C. Official Code § 47-4471.

1405.2 If the OTR believes that the collection of any tax imposed by the Act will be jeopardized by delay, that tax may be assessed and collected as provided in D.C. Official Code § 47-2013.

1405.3 The failure of a licensee to file any return or report required by this section or any other violation of the provisions of this section shall be punishable by a fine of not more than one thousand dollars ($1,000) or imprisonment for not more than one (1) year, or both.

## 1406. LATE PAYMENT SECURITY DEPOSITS

1406.1 If any licensee shall fail in any calendar month to pay when due the tax owed by the licensee on alcoholic beverages sold by the licensee in the preceding calendar month, the OTR may, in its discretion, as security for the payment of the tax on alcoholic beverages for which the licensee may thereafter be liable, do the following:

(a) Require the licensee to deposit with the D.C. Treasurer, within ten (10) days after the mailing by the OTR of a written demand to the licensee for the deposit, an amount in cash equal to twice the licensee's average liability per month for tax on alcoholic beverages for the twelve (12) calendar months immediately preceding the month in which the default occurs; or

(b) Require the licensee to file statements showing the quantity of alcoholic beverages subject to taxation for the total calendar months immediately preceding the month of default, if the number of months preceding the month of default is less than twelve (12) months.

1406.2 Upon any failure of the licensee making a deposit to pay when due any tax thereafter owed by the licensee on alcoholic beverages, the OTR shall apply the deposit to the payment of the delinquent tax, and the licensee shall, within seventy-two (72) hours after receipt of a written notice from the OTR to the licensee of the application of the deposit to the payment of the tax, again deposit with the D.C. Treasurer, in cash, an amount equal to the amount so applied.

## 1407. SALE TO EMBASSIES

1407.1 Holders of Wholesaler's licenses Class A, shall be authorized to sell and deliver alcoholic beverages within the District of Columbia directly to embassies, diplomatic representatives of foreign countries, and to international organizations designated by Executive Order of the President of the United States as entitled to the privileges outlined by federal law.

1407.2 The provisions of § 1407.1 shall not be construed as waiving the collection of the District of Columbia tax upon alcoholic beverages sold and delivered under this section.

# CHAPTER 15. APPLICATIONS: NOTICE OF HEARINGS INVOLVING LICENSES

## 1500. APPLICABILITY

1500.1 This chapter shall govern all notices to the public, government officials, licensees and applicants for a license, concerning the following:

(a) Applications for new licenses;

(b) Applications to renew licenses or transfer licenses to new locations;

(c) Applications to substantially change the nature of operations at a licensed establishment; and

(d) Applications to transfer licenses to new owners.

**1501. GENERAL PROVISIONS**

1501.1 The provisions of this chapter are intended to be consistent with the District of Columbia Administrative Procedure Act (D.C. Official Code §§ 2-501 *et seq.*). If there is any conflict between this chapter and the District of Columbia Administrative Procedure Act, the District of Columbia Administrative Procedure Act shall govern.

1501.2 If there is any conflict within this chapter, provisions of specific application shall supersede those of general application.

**1502. NOTICE OF AN APPLICATION FOR A NEW LICENSE, RENEWAL OF A LICENSE, OR TRANSFER OF A LICENSE TO A NEW LOCATION**

1502.1 The provisions of this section shall govern notice to the public of all applications for new licenses, renewals, or a transfer to a new location, including Manufacturer, Wholesaler, and Retailer licenses, but shall not apply to Solicitor's licenses, Manager's licenses, Caterer's licenses, or to Temporary licenses.

1502.2 Upon acceptance of an application, the Board shall establish the date for a roll call hearing on the application, which shall be at least forty-five (45) days after the application is accepted.

1502.3 At least forty-five (45) calendar days prior to the roll call hearing, the Board shall give notice of an application to the entities set forth in D.C. Official Code § 25-421(a).

1502.4 All fees associated with the newspaper advertisement required by D.C. Official Code § 25-422 shall be paid for by the applicant. Proof of payment must be submitted to the Board before placards will be provided to the applicant for posting.

1502.5 At least forty-five (45) days before the roll call hearing, the applicant shall post at least two (2) notice placards, provided by the Board, on the main entrance doors to the premises so as to be visible from the street, or on such other place on the premises as designated by the Board.

1502.6 The Board shall inspect the premises at least once before the date of the roll call hearing specified on the notice in order to ensure that the placards continue to be prominently and visibly displayed to the public. If the placards have been removed or are posted in a manner not visible from the street, the establishment shall be re-advertised and replacarded for a further forty-five (45) calendar day period.

1502.7 Notwithstanding the minimum forty-five (45) calendar day protest period, the applicant shall leave the placards posted until the roll call hearing date set out on the placards.

**1503. NOTICE OF A SUBSTANTIAL CHANGE IN THE OPERATION OF A LICENSED ESTABLISHMENT**

1503.1 Before a licensee makes a change in the nature of the operation of a licensed establishment which may be determined to be a substantial change, the licensee shall file with the Board a proposal to amend his or her most recent application to reflect the proposed changes.

1503.2 Upon receipt of an application amendment, the Board shall determine whether the change is substantial, and shall notify the licensee of its decision within thirty (30) calendar days of receipt of the application amendment.

1503.3 A fact-finding hearing may be held in the discretion of the Board to determine whether the change is substantial.

1503.4 Whenever the Board determines that the change is substantial, the Board shall give notice, as required in D.C. Official Code § 25-404.

**1504. NOTICE OF TRANSFER OF A LICENSE TO A NEW OWNER**

1504.1 Notice to the public of any change in the ownership of a licensed establishment shall be in accordance with this section.

1504.2 If a license transfer to a new owner occurs, as set out in D.C. Official Code § 25-405, and the new owner proposes to make substantial changes to the establishment, notice of the change in ownership and the change in operation shall be made in the same manner as set out in D.C. Official Code § 25-404.

**1505. PRESUMPTIONS OF APPROPRIATENESS**

1505.1 There shall be a presumption that a license is appropriate for an establishment if, after public notice is given under this chapter, no objection to the license is filed with the Board.

1505.2 There shall be a presumption that a substantial change in the nature of the operations of a licensed establishment is appropriate, if after public notice is given under this chapter, no objection to the change is filed with the Board.

1505.3 Objections may be made by means of a protest, as set out in § 1605.

## CHAPTER 16. CONTESTED HEARINGS, NON-CONTESTED HEARINGS, PROTEST HEARINGS AND PROCEDURES

### SUBCHAPTER 1.

### 1600. APPLICABILITY

1600.1 The provisions of this chapter shall govern the following items:

(a) Roll call hearings or status hearings regarding the issuance, transfer, or renewal of a license, or the making of substantial changes to a licensee's business operations under authority of the Act;

(b) Protest hearings regarding the issuance, transfer or renewal of a license, or the making of substantial changes to a licensee's business operations under authority of the Act;

(c) Fact-finding hearings on any matter governed by the Act regarding an applicant for a license or a licensee; and

(d) Show cause hearings, summary suspension hearings or summary revocation hearings regarding the revocation or suspension of a license issued under the Act.

### 1601. GENERAL PROVISIONS

1601.1 The Board may, for good cause shown and in the interest of justice or to prevent hardship, waive any provision of this chapter which is not required by the Act in any proceeding after duly advising the parties of its intention to do so.

1601.2 The following hearings held before the Board shall be considered to be contested cases:

(a) Protest hearings;

(b) Show cause hearings;

(c) Summary suspension or summary revocation hearings;

(d) Cease and desist hearings; and

(e) Safekeeping hearings

1601.3 The following hearings held before the Board shall not be considered to be contested cases:

(a) Fact-finding hearings; and

(b) Moratorium hearings and other rulemaking hearings

1601.4 The provisions of this chapter are intended to be consistent with the District of Columbia Administrative Procedure Act (D.C. Official Code §§ 2-501 *et seq.*). If there is any conflict between this chapter and the District of Columbia Administrative Procedure Act, the District of Columbia Administrative Procedure Act shall govern.

1601.5 If there is any conflict within this chapter, provisions of specific application shall supersede those of general application.

**1602. ROLL CALL HEARING**

1602.1 Before any license is issued, renewed, or transferred to a new location, and before any substantial change to the operations of a licensed establishment may be made, the Board shall provide notice to the public pursuant to the notice requirements set forth under §§ 1502, 1503, and 1504. Notice provided to the public shall specify the information required by D.C. Official Code § 25-423(b), including the final day of the protest period and the license application's roll call hearing date. For purposes of this section, the term "roll call hearing" shall have the same meaning as the term "administrative review" defined in D.C. Official Code § 25-431(h).

1602.2 The roll call hearing shall be a non-adversarial proceeding held by the Board at which a list of applications for the licensing actions set out in § 1605.1 and the names of protestants who have filed an objection pursuant to D.C. Official Code § 25-601 shall be read to the public.

1602.3 If no written objection to an application has been received by the Board during the protest period, the Board shall consider the application within ten (10) calendar days after the end of the protest period. An objection must be received by the Board prior to the end of the protest period to be considered timely filed.

1602.4 If an objection, in the form of a protest or by Protest Petitions (as set forth in § 1800.2 of this title), has been received by the Board during the protest period, the person reading the roll at the roll call hearing shall so state and the Board shall set a date for either a status hearing or a protest hearing to receive testimony and evidence regarding the objection. No action on the application shall be taken until the Board issues its final decision on the protest, as set forth in § 1718 of this title.

1602.5 Each applicant, and each person submitting a protest shall attend the roll call hearing in person or appear through a designated representative.

1602.6 Failure to appear in person or through a designated representative may result in denial of the license application or dismissal of a protest, unless, in the discretion of the Board, good cause is shown for the failure to appear. A request for reinstatement with the Board must be filed within ten (10) days of the dismissal or denial date.

1602.7 If the Board determines that the placards posted at an applicant's premises pursuant to D.C. Official Code § 25-423 have not remained visible to the public for a full forty-five (45) calendar days, up to and including the date of the roll call hearing, the Board shall reschedule the roll call hearing for a date at least forty-five (45) calendar days after the originally scheduled hearing.

1602.8 If a rescheduling is ordered, the applicant shall post new placards for a forty-five (45) calendar day period and no action on the application shall be taken until the rescheduled roll call hearing date.

1602.9 Whenever a rescheduling is ordered, further protests may be filed until fifteen (15) business days before the scheduled roll call hearing date.

**1603. STATUS HEARING**

1603.1 The status hearing is a non-adversarial proceeding held by the Board at which the parties inform the Board of their progress in reaching a cooperative/voluntary agreement.

1603.2 The Board in its discretion may set a protest hearing or another status hearing if the Board believes that the parties are close to reaching a cooperative/voluntary agreement or that mediation might be helpful.

1603.3 Failure to appear in person or through a designated representative may result in denial of the license application or dismissal of a protest, unless, in the discretion of the Board, good cause is shown for the failure to appear. A request for reinstatement with the Board must be filed within ten (10) days of the dismissal or denial date.

**SUBCHAPTER II. CONTESTED CASES**

**1604. SHOW CAUSE HEARINGS**

1604.1 Whenever the Board has reasonable cause to believe that any license or permit should be fined, revoked, or suspended pursuant to Chapter 8 of Title 25 of the D.C. Official Code, it shall notify the person to whom the license or permit was issued by personal service or certified mail at the last address recorded by that person with the Board, citing that person to appear before the Board not less than thirty (30) days thereafter. The notice shall state the time and place set by the Board for the hearing.

1604.2 The licensee or permittee shall appear in his or her defense in person and may have representation by counsel or other designated representative, and shall be entitled to offer evidence before the Board with respect to the charges.

1604.3 If the person whose license or permit is sought to be fined, revoked, or suspended waives the hearing or fails to appear at the time and place set for the hearing, the Board may proceed *ex*

*parte*, unless the Board extends the time for the hearing.

1604.4 The Board shall make its findings of fact based upon the evidence which has been presented to it.

1604.5 The Board may, in its discretion, accept from both (1) the licensee or permittee and (2) the Office of the Corporation Counsel or the prosecuting entity an offer in compromise and settlement to resolve the charges brought at the show cause hearing by the District of Columbia against the licensee. An offer in compromise and settlement may be tendered to the Board at any time prior to the issuance of a decision by the Board on the contested matter.

1604.6 An offer submitted by the parties and accepted by the Board shall constitute a waiver of appeal and judicial review.

1604.7 Any fines collected by the Board shall be paid forthwith, unless otherwise ordered by the Board, to the D.C. Treasurer and credited to the General Fund.

1604.8 The issuance of an advisory opinion by the Board pursuant to § 1902 of this title may also result in the issuance of a show cause notice under this section.

**1605. FILING A PROTEST**

1605.1 Only those individuals or entities listed in D.C. Official Code § 25-601 may file a protest against:

(a) The issuance of a new license;

(b) The renewal of an existing license;

(c) The transfer of a license to a new location;

(d) Substantial changes to the nature of the operations of a licensed establishment; and

(e) Changes in license classes.

1605.2 All protests shall be in writing, shall be received by the Board prior to the end of the protest period, and shall state, as grounds for the protest, why the matter being objected to is inappropriate under one (1) or more of the appropriateness standards set out in D.C. Official Code §§ 25-313 and 25-314 and § 400 of this title.

1605.3 All protests shall be signed by the protestant and contain the protestant's full name and mailing address.

1605.4 The Board may require protestants to appear before the Board for the purpose of determining that a sufficient number of individuals exist to have standing pursuant to D.C. Official Code § 25-601.

1605.5 In addition to, or instead of, filing a protest, any person may circulate or sign Protest Petitions in opposition to any of the licensing actions listed in § 1605.1.

**1606. PROTEST HEARINGS**

1606.1 Whenever any objection is filed to any of the licensing actions set out in § 1605.1, whether by protest or by submission of Protest Petitions, the Board shall hold an adjudicatory proceeding, known as a "protest hearing," for the purpose of receiving evidence and testimony regarding the appropriateness of the licensing action.

1606.2 The parties to a protest hearing shall be the applicant or licensee and the protestants. For the purpose of this section, "protestant" shall mean any eligible person, group, ANC, government agency or organization with standing under D.C. Official Code § 25-601 that has submitted a written protest or who has circulated a Protest Petition.

1606.3 At the protest hearing, an applicant or licensee may give a brief opening statement summarizing the evidence and testimony he or she intends to produce regarding the appropriateness of the application or license at issue. Thereafter, the protestant may give a brief opening statement summarizing the evidence he or she intends to present to rebut or overcome the evidence and argument presented by the applicant or licensee.

1606.4 At the conclusion of the opening statements, the Board shall call its own witnesses, if any, who shall testify to the results of their investigation into the appropriateness of the establishment.

1606.5 At the conclusion of testimony by the Board's witnesses, if any, the applicant shall call its witnesses to give testimony and present evidence regarding the appropriateness of the establishment, as set forth in § 400 of this title.

1606.6 At the conclusion of testimony by the applicant's witnesses, the protestant shall call witnesses to give testimony and present evidence.

1606.7 All witnesses shall testify under oath and shall be subject to questioning by the Board and to cross-examination by the opposing party.

1606.8 In any case where there is more than one (1) protestant, the Board, in its discretion, may require the protestants to confer among themselves and designate one (1) person to conduct the protestants' case, to give the opening and closing statements, and to cross-examine the applicant's witnesses.

1605.4 The Board may require protestants to appear before the Board for the purpose of determining that a sufficient number of individuals exist to have standing pursuant to D.C. Official Code § 25-601.

1605.5 In addition to, or instead of, filing a protest, any person may circulate or sign Protest Petitions in opposition to any of the licensing actions listed in § 1605.1.

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1606.3 At the protest hearing, an applicant or licensee may give a brief opening statement summarizing the evidence and testimony he or she intends to produce regarding the appropriateness of the application or license at issue. Thereafter, the protestant may give a brief opening statement summarizing the evidence he or she intends to present to rebut or overcome the evidence and argument presented by the applicant or licensee.

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1606.7 All witnesses shall testify under oath and shall be subject to questioning by the Board and to cross-examination by the opposing party.

1606.8 In any case where there is more than one (1) protestant, the Board, in its discretion, may require the protestants to confer among themselves and designate one (1) person to conduct the protestants' case, to give the opening and closing statements, and to cross-examine the applicant's witnesses.

## 1607. ESTABLISHMENT OF GEOGRAPHIC BOUNDARIES

1607.1 Upon recognition by the Board of a properly filed protest at a roll call hearing, the applicant shall be required to select one of the geographic areas listed below that the applicant proposes be considered in determining the appropriateness of the establishment. The applicant shall submit the proposed boundaries to the Board and the protestants no later than ten (10) calendar days after the roll call hearing.

1607.2 Any protestant may object to the area and boundaries proposed by an applicant by filing a written objection with the Board after receipt of the applicant's proposed boundaries. The objection shall also be served on the applicant by any of the means set out in § 1703 of this title. The objection shall state in detail the following:

(a) The reasons for objecting to the boundaries proposed by the applicant;

(b) The boundaries proposed by the Objector; and

(c) The reasons why the Objector's boundaries should be adopted by the Board.

1607.3 If the applicant wishes to contest the boundaries proposed by the objector, he or she shall submit to the Board in writing the reasons why the boundaries originally proposed should be adopted by the Board.

1607.4 The applicant's submission shall be served on the objector by any of the means set out in § 1703 and received by the Board no later than eight (8) calendar days after receipt of the applicant's submission.

1607.5 Any objector or applicant who makes a submission to the Board pursuant to §§ 1607.1, 1607.2, 1607.3, or 1607.4, may forward written argument or documentary evidence to the Board in support of the boundaries he or she proposes.

1607.6 The Board, pursuant to D.C. Official Code § 25-312(b), shall determine, on a case-by-case basis, the size of the area relevant for the appropriateness review. In making this determination, the Board shall consider the overall characteristics of the area, including population, density, and general commercial and residential activities.

1607.7 For the purpose of determining the appropriateness of a license, the geographic areas to be considered by the Board shall be measured pursuant to § 101.1 and shall be as follows:

(a) A "locality," which shall be the immediate neighborhood of the establishment and whose boundary shall be at a distance of six hundred feet (600 ft.) from the establishment;

(b) A "section," whose boundary shall be at an area larger than the immediate

neighborhood and whose boundary shall be at a distance of twelve hundred feet (1,200 ft.) from the establishment; and

(c) A "portion," whose boundary shall be at an area larger than a "section" and whose boundary shall be at a distance of eighteen hundred feet (1,800 ft.) from the establishment.

1607.8 In determining the area to be considered, the Board shall consider the report of the Board's investigators concerning the overall characteristics of the alternative areas, including the following:

(a) The population and density of the areas surrounding the establishment;

(b) The general commercial and residential activities in the areas surrounding the establishment; and

(c) Geographical factors, such as parks, rail lines, major thoroughfares, bodies of water, cemeteries, and unimproved or unused property, which may tend to define physically an area to be considered.

1607.9 In determining the area to be considered, the Board shall also consider the evidence and testimony of a party proposing a particular area of consideration, when the proposal is based on an assertion of:

(a) Historical patterns of commercial or residential activity leading to an identification of a given area as a distinct, generally-recognized neighborhood, or larger area; or

(b) Any other reason not included in § 1607.2.

1607.10 The Board shall make a final decision on the boundaries without a hearing and based on the submissions received from the applicant and the objector.

1607.11 The Board's final decision shall be made and announced at the first status hearing for the application at issue.

**1608. SETTLEMENT CONFERENCES**

1608.1 Whenever a protest is filed, all parties shall attend a settlement conference among themselves on any mutually convenient date prior to the scheduled status or protest hearing. The date of the settlement conference may be arranged at the roll call hearing or may be arranged at any other time.

1608.2 The parties at a settlement conference may enter into a cooperative/voluntary agreement, as provided for in § 1609, and shall submit, on or before the date of the scheduled status or

protest hearing, the agreement to the Board for approval.

1608.3 If the parties fail to reach a cooperative/voluntary agreement on one or more of the protest issues, they shall so state at the scheduled status or protest hearing and the Board shall thereupon proceed with a protest hearing as to all unresolved issues of fact.

**1609. COOPERATIVE OR VOLUNTARY AGREEMENTS**

1609.1 Cooperative/voluntary agreements reached between an entity with standing under D.C. Official Code § 25-601 and an applicant for a Caterer's license may address activities of the caterer generally within the boundaries of an ANC or activities at a specific event site.

1609.2 The Board may initiate a "Notice to Show Cause Hearing" upon evidence that the holder of a license has violated the material terms of the agreement. Upon a determination that the licensee has materially violated the agreement, the Board may suspend or revoke the license or impose any other penalty authorized by the Act or this title.

1609.3 A request to amend a cooperative/voluntary agreement shall be considered by the Board pursuant to the substantial change and notice procedures set forth in D.C. Official Code §§ 25-404 and 25-762.

1609.4 A request by a party to amend a cooperative/voluntary agreement may be filed with the Board at any time. However, a request to amend a cooperative/voluntary agreement that is denied by the Board or withdrawn by a party shall not be reconsidered by the Board for a period of two years.

1609.5 The phrase "cooperative agreement" often used in agreements reached between applicants and protestants that are submitted to the Board for approval shall be considered synonymous with the phrase "voluntary agreement" and shall have the same meaning in these regulations.

**1610. SUMMARY SUSPENSION AND SUMMARY REVOCATION HEARINGS**

1610.1 In rendering a decision on a summary suspension hearing, the Board may suspend or restrict the license of the licensee. Additionally, the Board may keep the licensee in the summary suspension proceeding to monitor the licensee to make a determination if the conditions placed by the Board on the licensee are effective. The Board shall schedule a show cause hearing to revoke the license if it determines that the operations of the licensee present an imminent danger to the health and safety of the public pursuant to D.C. Official Code §§ 25-826 and 25-827.

1610.2 In rendering a decision on a summary revocation hearing, the Board may revoke, suspend, or restrict an applicant's license.

## SUBCHAPTER III. NON-CONTESTED CASES

### 1611. FACT-FINDING HEARINGS

1611.1 Prior to rendering a final decision on a licensing request or an ABRA Investigative Report, the Board may hold a fact-finding hearing to obtain further information from an applicant or licensee.

1611.2 A licensee shall not be fined, suspended, or revoked at a fact-finding hearing. However, information provided at a fact-finding hearing may result in the issuance of a show cause notice pursuant to § 1604 or other enforcement action permitted under the Act or this title.

### 1612. MORATORIUM HEARINGS

1612.1 The Board shall hold moratorium hearings pursuant to the requirements set forth in D.C. Official Code §§ 25-353 and 25-354.

## CHAPTER 17. PROCEDURAL REQUIREMENTS FOR BOARD HEARINGS

### 1700. APPLICABILITY

1700.1 This chapter shall apply to all hearings held before the Board.

1700.2 The Board may, for good cause shown and in the interests of justice or to prevent hardship, waive any of the provisions of this chapter in any proceeding after duly advising the parties of its intention to do so.

### 1701. PARTIES, INTERVENTION, AND RIGHT TO BE HEARD

1701.1 The parties to a show cause hearing shall be the following:

(a) The respondent, licensee, permittee, or applicant, and

(b) The District of Columbia.

1701.2 The parties to a protest hearing shall be the applicant and the protestants and their designated representatives, if any.

1701.3 The parties to a fact-finding hearing shall be the licensee, permittee, or applicant for a license, and such other persons whose appearance the Board deems necessary and who are designated by the Board as parties.

1701.4 The Board may, in its discretion, permit interested persons other than parties, as defined in this chapter, to intervene in a proceeding for such general or limited purpose as the Board may

specify.

1701.5 A person permitted to intervene under this section shall comply with all conditions fixed by the Board and shall not be considered a party to the proceedings.

1701.6 At any proceeding before the Board on an application for issuance or renewal of a license, or transfer of a license to a new person or location, the Board shall hear as witnesses all persons residing within and without the neighborhood who desire to be heard; provided that such testimony is not irrelevant or duly repetitious.

**1702. COMPUTATION OF TIME**

1702.1 Whenever a party to a proceeding under this chapter has the right or is required to perform some act within a specified time period after the service of notice upon the party, and the notice is served upon that party by mail, three (3) days shall be added to the prescribed period.

1702.2 Except as otherwise provided by law, any time period prescribed by this chapter may, for good cause shown, be extended or shortened by the Board with notice to all parties.

**1703. SERVICE OF PAPERS**

1703.1 Any papers filed with the Board in a contested case shall be served by personal delivery, first class U.S. mail, registered or certified mail, or facsimile. An original and six (6) copies of all papers filed with the Board are required, and proof of service shall be shown as required in § 1703.7.

1703.2 Any papers required to be served upon a party may be served upon the party or the party's designated representative.

1703.3 When a party has appeared through a representative, service shall be made upon the representative of record.

1703.4 Service upon a party may be made in the following manner:

(a) By personal delivery;

(b) By use of a process server;

(c) By registered or certified mail;

(d) By telegram; or

(e) As otherwise authorized by law.

1703.5 Service upon a party shall be completed upon any of the following acts:

(a) Handing the paper to the person to be served;

(b) Leaving the paper at the licensed premises with a Board-approved manager;

(c) Leaving the paper at the party's usual place of residence with some individual of suitable age and discretion residing therein;

(d) Deposit of the paper in the U.S. Mail, by registered or certified mail, properly stamped and addressed;

(e) Deposit of the paper with a telegraph company, properly addressed and with charges prepaid;

(f) Deposit of the paper in the U.S. Mail, by first class mail, properly stamped and addressed, by an attorney of record; or

(g) By an action in conformity with an Order of the Board in any proceeding.

1703.6 Proof of service shall state the name and address of the person served, the manner of service, and the date of service.

1703.7 Proof of service shall be shown by one of the following:

(a) Written acknowledgement of the person served or that person's representative;

(b) The certificate of the person making the service;

(c) A return receipt, if served by registered or certified mail; or

(d) A receipt, if served by telegram.

1703.8 Failure to serve all parties of record, or their designated representatives, may result in the Board delaying action on the matter at issue until such time as service is properly accomplished.

**1704. SUBPOENAS**

1704.1 The Board may upon its own motion, or upon the request of a party, compel witnesses to appear and testify or to produce books, records, papers, or other documents.

1704.2 Subpoenas shall be served by one of the methods set forth in D.C. Official Code § 25-443(a).

1704.3 Subpoenas issued by the Board shall be enforceable in the manner prescribed in D.C. Official Code § 25-443(c).

**1705. CONTINUANCES**

1705.1 A hearing scheduled before the Board shall not be delayed by motion for a continuance unless the motion is received in writing by the Board and the other parties six (6) calendar days before the scheduled hearing date and is served upon all parties on or before the sixth (6th) calendar day before the hearing. To be granted, the motion shall, in the opinion of the Board, set forth good and sufficient cause for the continuance.

1705.2 Conflicting engagements of counsel shall not be considered good and sufficient cause for continuance unless set forth in a motion filed promptly after notice of the hearing has been given.

1705.3 The granting of a continuance by the Board shall not be considered a waiver of requirements of this chapter, governing the time in which to file objections, petitions, or other pleadings.

1705.4 The Board may, on motion of any party or on its own motion, continue a hearing in order to permit an ANC to vote on a material issue in the hearing or upon a determination that the interests of justice will be served by the granting of the continuance to any party.

1705.5 The Board may, on the request of both the ANC and the applicant, extend the ANC's protest petition deadline for the sole purpose of allowing the ANC to vote on whether to support or protest the license application.

**1706. APPEARANCE AND REPRESENTATION**

1706.1 In any proceeding before the Board, an individual may appear on his or her own behalf.

1706.2 In any proceeding before the Board, a general partner of a partnership may represent the partnership, if properly authorized.

1706.3 In any proceeding before the Board, an officer of a corporation or association may represent the corporation or association, if authorized to do so by the Board of Directors of the corporation or association.

1706.4 A partner or officer appearing pursuant to § 1706.2 or 1706.3 may be required to establish his or her authority to act in that capacity;

1706.5 Any party appearing or having the right to appear before the Board in any proceeding shall have the right to representation by an attorney or designated representative of his or her choice. Any party appearing before the Board in any proceeding may also bring an interpreter of his or her choice.

1706.6 The provisions of § 1706.5 shall not infringe upon the authority of the Board under § 1706.7 to require representation of a party.

1706.7 If it appears to the Board that the facts or issues in a matter before it are so intricate or involved that, in the interests of justice, of conserving time, or of facilitating preparation of an adequate record, a party ought to be represented by an attorney, the Board may urge the party to obtain counsel and shall allow the party a reasonable time in which to do so, as long as the rights of other parties to the hearing are not substantially and adversely affected.

1706.8 Any person authorized to appear pursuant to this section may sign any paper required or permitted by statute, regulation, or this chapter to be filed with the Board.

**1707. NOTICE OF APPEARANCE**

1707.1 No person may appear before the Board in a representative capacity prior to submission of a signed statement containing that person's name, address, occupation, telephone number, and the nature of representation.

1707.2 The written statement required under § 1707.1 shall be made a part of the record of the proceeding.

1707.3 Any attorney appearing as counsel in any proceeding shall execute a notice of appearance containing his or her name, office address, office telephone number, D.C. Bar number, and the nature of representation.

1707.4 In the case of law students who appear before the Board under the direction of an accredited law school clinical program, the supervising attorney shall register with the Board.

**1708. INSPECTION OF BOARD FILES**

1708.1 The records of the Board shall be available for inspection and copying during normal business hours without appointment at the request of any interested party or member of the public, except as otherwise provided in this section.

1708.2 The records of the Board that shall be available for inspection and copying include the following:

(a) Written decisions and orders of the Board;

(b) Regulatory inspection reports;

(c) License applications and related documentation; and

(d) Any other records not specifically excepted from disclosure by the Freedom of Information Act of 1976 (D.C. Official Code §§ 2-531 *et seq.* ).

1708.3 The Board shall withhold from its files those documents and other information which are exempted from public disclosure under the Freedom of Information Act of 1976. However, all documents and other information which is relied upon by the Board in reaching a decision on a contested case shall be made available to all parties and shall be entered into the record of the proceedings.

1708.4 Except as provided in § 1708.3, all petitions filed under this chapter shall be considered part of the record and shall be available for public inspection.

**1709. INVESTIGATOR REPORTS**

1709.1 The Board shall make investigator reports available to the parties of a contested case at least two days prior to the date of the protest hearing or catered site protest hearing.

**1710. SCHEDULING AND CONDUCT OF HEARINGS: GENERAL PROVISIONS**

1710.1 The Board shall not schedule any hearing until the applicant has submitted, in writing to the Board, all information and documents required by the Act and this title.

1710.2 Before a person may be heard to object to approval of an application, the person shall have notified the Board and the applicant or licensee, by any of the means listed in § 1703.4, of his or her intent to object, and of the grounds for the objection, prior to the end of the protest period.

1710.3 Decorum and good order shall be maintained at all times during hearings, and the Board may exclude or order the removal from the hearing room of any person who refuses to comply with a reasonable order of the Board.

1710.4 In all protest hearings before the Board, the applicant shall open and close the case insofar as presentation of evidence and argument are concerned. In all show cause proceedings, the District of Columbia shall open and close the case.

**1711. EVIDENCE: GENERAL RULES**

1711.1 Any party objecting to the admission of evidence shall state the grounds relied upon for the objection.

1711.2 Formal exceptions to the rulings of the Board made during the course of a hearing shall not be required.

1711.3 The parties may, by stipulation in writing filed with the Board, or in the record at a

hearing, agree upon any facts relevant to a proceeding, or upon the substance of the testimony which would be given by a witness.

1711.4 The Board, in its discretion, may require additional evidence on any matter covered by stipulation.

**1712. OFFERS OF PROOF**

1712.1 Any offer of proof made in connection with an objection to any ruling of the Board which rejects or excludes proffered oral testimony shall consist of a statement for the record of the substance of the evidence which the party contends would be established by the testimony.

1712.2 If the excluded evidence is documentary, a copy of the written evidence shall be marked for identification and shall constitute the offer of proof.

1712.3 The document shall be retained by the Board as part of the record for purposes of an appeal.

**1713. DOCUMENTARY EVIDENCE**

1713.1 Documentary evidence offered at any hearing before the Board shall, if received by the Board, be retained by the Board, and may be examined by interested persons pursuant to § 1708.

1713.2 Any party who offers documentary evidence shall, at the hearing, provide copies to each opposing party.

1713.3 The Board may, in its discretion, permit the withdrawal of original documents received into evidence and the substitution of certified copies in lieu of the originals.

1713.4 When relevant and material matters offered into evidence are contained in a book or other document which also contains other matters not material or relevant, the person offering the evidence shall plainly designate the matters offered, and the immaterial and irrelevant parts shall be excluded and segregated insofar as practicable.

**1714. EXAMINATION OF WITNESSES**

1714.1 In any proceeding before the Board, each party shall have the right to present in person, by counsel or by designated representative, the party's case or defense, including oral and documentary evidence, to submit rebuttal evidence, and to cross-examine opposing witnesses, unless the matter at issue has been dismissed by the Board.

1714.2 Any member of the Board may question any witness at any time during or after examination or cross-examination, subject to objection by a party.

1714.3 Any oral or documentary evidence may be received, but the Board shall exclude irrelevant, immaterial, or unduly repetitious evidence.

1714.4 The Board may impose a time limitation on oral arguments and witness testimony as it deems appropriate.

1714.5 The Board shall afford all parties the opportunity to present oral argument.

**1715. RECORDS IN PROCEEDINGS**

1715.1 When any part of the record in any other proceeding before the Board, a criminal or civil action, or a proceeding before any administrative agency is offered in evidence, a certified true copy of that part of that record shall be presented to the Board as an exhibit, except in the following instances:

(a) It is described in a manner which makes it readily identifiable and the offeror agrees to supply copies at a later time as required by the Board;

(b) There is a stipulation on the record that it may be incorporated by reference and the Board directs the incorporation; or

(c) It is described in a manner which makes it readily identifiable in the files of the Board.

**1716. MOTIONS**

1716.1 Unless otherwise specified, motions shall conform to the following requirements:

(a) Motions shall be typewritten on letter-sized (8.5" x 11") paper and double-spaced;

(b) An original and six (6) legible copies shall be filed with the Board; and

(c) A copy shall be served on all other parties and shall include a certificate of service.

1716.2 Any party may file a response in opposition to a motion within seven (7) calendar days after service of the motion. In the case of motions for continuances which have been filed by a party on the sixth (6th) calendar day before a scheduled hearing, pursuant to § 1705.1, responses thereto shall either be made in writing and served by personal delivery on all parties prior to the hearing or shall be made orally on the date of the hearing.

1716.3 A response to a motion shall not include a motion for other affirmative relief against the moving party.

1716.4 If a party filing an opposition desires to submit a motion for other affirmative relief, it

shall be done by separate pleading.

1716.5 Any motion seeking relief from the Board shall be accompanied by a proposed Order of the Board.

1716.6 A reply may be filed within three (3) calendar days after service of a response in opposition to a motion, but the reply shall not re-argue propositions presented in the motion, nor present matters which are not strictly in reply to the opposition.

1716.7 No further pleading shall be filed except by leave of the Board.

**1717. POST-HEARING SUBMISSIONS**

1717.1 No document or other information shall be accepted for the record after the close of a hearing, except as follows:

(a) Until all parties are afforded due notice and an opportunity to rebut the information; or

(b) Upon official notice of a material fact not appearing in the evidence in the record, in accordance with D.C. Official Code § 2-509(b).

1717.2 The Board shall afford parties an opportunity to file Proposed Findings of Fact and Conclusions of Law within thirty (30) calendar days after the conclusion of the hearing. The parties may seek an extension to file Proposed Findings of Fact and Conclusions of Law if the transcript has not become available within twenty (20) calendar days. An extension granted by the Board shall not exceed twenty (20) calendar days after the transcript in the proceeding becomes available, by oral or written notice of the Board to each party.

1717.3 Proposed Findings of Fact and Conclusions of Law shall be typewritten on letter-sized (8.5" x 11") paper and double-spaced.

1717.4 An original and six (6) legible copies of Proposed Findings of Fact and Conclusions of Law shall be filed with the Board.

1717.5 A copy of the Proposed Findings of Fact and Conclusions of Law shall be served on each party.

**1718. DECISIONS OF THE BOARD**

1718.1 Within ninety (90) calendar days after the close of the record, the Board shall render its written decision accompanied by Findings of Fact and Conclusions of Law.

1718.2 Findings of Fact and Conclusions of Law shall consist of a concise statement of the

Board's conclusions on each contested issue of fact, and shall be based solely upon evidence contained in the record and facts of which the Board properly took judicial notice.

1718.3 Findings of Fact and Conclusions of Law shall be supported by and in accordance with reliable, probative, and substantial evidence.

1718.4 In cases where a hearing for an original application or the transfer of an existing license to a new location is sought, the Findings of Fact and Conclusions of Law shall include, but not be limited, to the following:

(a) The boundaries of the neighborhood;

(b) The appropriateness of the location for which the license in sought, in accordance with D.C. Official Code §§ 25-313 and 25-314, and § 400 of this title; and

(c) A finding as to the wishes of the persons voting, owning property or residing in the vicinity.

1718.5 All written decisions of the Board shall be available for public inspection and copying at a reasonable cost.

**1719. RECONSIDERATION, REHEARING, AND REARGUMENT**

1719.1 Petitions for reconsideration, rehearing, reargument, or stay of a decision or order of the Board filed pursuant to D.C. Official Code § 25-433(d) shall be typewritten on letter-sized (8.5" x 11") paper and double-spaced.

1719.2 An original and six (6) legible copies of the Petition shall be filed with the Board, and a copy shall be served on each party and intervenor.

1719.3 A petition for reconsideration shall state briefly the matters of record alleged to have been erroneously decided, the grounds relied upon, and the relief sought.

1719.4 If a petition is based in whole or in part on a new matter, that matter shall be set forth in an affidavit and be accompanied by a statement that the petitioner could not by due diligence have known or discovered the new matter prior to the date the case was presented to the Board for decision.

1719.5 The Board may, in its discretion, permit or require oral argument upon a petition filed under this section.

**1720. EX PARTE COMMUNICATIONS**

1720.1 If a proceeding is a contested case within the meaning of the D.C. Administrative

Procedure Act (D.C. Official Code § 2-502(8)), the following restrictions shall apply:

(a) A person shall not make or knowingly cause to be made to a member of the Board an ex parte communication relevant to the merits of the proceeding; and

(b) No member of the Board shall make or cause to be made to any interested persons outside the Board an ex parte communication relevant to the merits of the proceeding.

1720.2 The prohibitions set forth in § 1720.1 shall apply upon the issuance of notice of an application for an original, transfer, or renewal license or a notice to show cause hearing.

1720.3 "Ex parte communication" does not include a request for a status report on a matter, proceeding, or notice of a meeting or hearing.

**1721. TRANSCRIPTS OF HEARINGS**

1721.1 Hearings shall be recorded and transcribed under the direction of the Board.

1721.2 Whenever a proceeding is transcribed, the Board shall notify all parties (or their representatives) by telephone that the transcript is available for purchase directly from the transcription company.

1721.3 Changes in the official transcript may be made only in cases of material error.

1721.4 A motion to correct the transcript shall be filed with the Board within ten (10) calendar days of the date the transcript is available to the movant. Copies of the motion shall be served on all parties.

1721.5 If no objections to the motion are filed within five (5) days after service of the motion, the Board may correct the transcript.

1721.6 The Board shall have final authority to dispose of all motions for correction of the record.

**CHAPTER 18. PETITION PROCEDURES**

**1800. TYPES OF PETITIONS**

1800.1 Protest Petitions filed pursuant to D.C. Official Code § 25-601 may be received by the Board regarding objections to licenses.

1800.2(a) For purposes of this section, "Protest Petitions" are those which may be signed by any person in support of, or in opposition to a license application for the following:

(1) The issuance of a new license;

(2) The renewal of an existing license;

(3) The transfer of a license to a new location;

(4) Substantial changes to the nature of the operations of a licensed establishment; or

(5) A change in license class.

1800.2(b) Protest Petitions may be filed to indicate whether the signatories believe, or do not believe, that the establishment is appropriate under the provisions of D.C. Official Code §§ 25-313 and 25-314, and § 400 of this title.

**1801. PROTEST PETITIONS**

1801.1 Petitions in support of or in opposition to a license application for the issuance of a new license, the renewal of an existing license, the transfer of a license to a new location, substantial changes to the nature of the operations of a licensed establishment, or a change in license class shall be filed with the Board by the final day of the protest period for the license application.

1801.2 Petitions filed under § 1801.1 shall set forth the following information:

(a) The name of the applicant or licensee;

(b) The address for which the license is sought;

(c) The class of license requested;

(d) The application number or license number, as appropriate;

(e) A brief summary of the reasons for support of or opposition to the granting of the license; provided, that participation in Board proceedings shall not be limited by this summary; and

(f) The printed name and address of each petitioner, accompanied by his or her handwritten signature.

1801.3 Forms for the filing of Protest Petitions shall be available from ABRA.

1801.4 Petitions filed pursuant to this section shall not be withdrawn after the date of the protest hearing.

1801.5 Protest Petitions which are received by the Board after the fifteen (15) calendar day period specified in § 1801.1 shall not be considered by the Board in reaching a decision on any matter and shall be promptly returned to the party or individual submitting the petitions.

1801.6 The Board shall permit any party to a protested case to challenge the validity of signatures on Protest Petitions submitted by the opposing party.

## CHAPTER 19. COMPLAINTS: INQUIRIES TO THE BOARD

### 1900. COMPLAINTS

1900.1 The Board shall receive, at any time during the license period, complaints from any person alleging a violation by a licensee of the Act or this title. Complaints shall be in writing and set forth enough information to allow the Board or its staff to investigate the matter.

1900.2 Any written complaint shall be kept confidential by the Board to the extent permitted by law, unless the writer specifically states that it may be made public.

1900.3 All written complaints which identify the complainant by name and address shall be responded to in writing by the Board or its staff within ninety (90) days of receipt of the complaint, and shall advise the complainant of what action the Board or its staff has taken on the matter.

1900.4 If the complainant has not provided the Board with a telephone number where he or she may be reached for additional information, and the written complaint has set forth insufficient information for the Board to take action, the Board or staff response shall so state.

1900.5 In addition to written complaints identifying the complainant, any person may make an anonymous complaint in writing to the Board, or orally to any Investigator at ABRA. Anonymous complaints shall be investigated to the best of the Board's ability, but may result in no action being taken if the anonymous complainant fails to provide the Board or the Investigator with adequate information.

### 1901. LETTERS OF INFORMATION

1901.1 Any person, group, licensee, or business organization may make a written request to the Board for general information concerning staff procedures, Board procedures, the Act, this title, or any other matter of a general nature affecting the licensing of alcoholic beverages in the District of Columbia.

1901.2 The Board shall respond to all such letters in writing, and may refer the writer directly to a member of the ABRA Staff, to a specific section of the Act or this title, or to other District of Columbia government officials. The response may also suggest that the writer retain the services of an attorney to properly advise him or her as to how to proceed in a particular matter. If the

writer's inquiry is so broad, inexact, or vague that the Board is unable to respond, the Board shall so advise the writer and may request that the writer provide additional information.

1901.3 Any statement contained in the Board's letters of information provides only general guidance to the writer and shall not be binding on the writer or binding on the Board if the Board is later presented with a more particularized factual situation. Further, the Board's responses shall not provide any basis for appeal to any court in the District of Columbia.

**1902. ADVISORY OPINIONS**

1902.1 Any person, group, licensee or business organization may make a written request to the Board for an advisory opinion when:

(a) The requestor is confronted with a situation involving the Act or this title which requires, or may require, him or her to take action; and

(b) The legality or propriety of the action to be taken is not clear from the plain text of the Act or this title.

1902.2 Any request for an advisory opinion shall set forth sufficient information to allow the Board to understand the issues involved and to frame a response. The requestor shall also state which section of the Act or section of this title the requestor wishes the Board to interpret or clarify, with respect to the stated set of facts.

1902.3 If the writer presents insufficient facts in any request for an advisory opinion, the Board may, in its discretion, issue a letter of information; engage in fact-finding through investigation or in a noncontested case hearing; request the writer to provide by letter more facts or details in support of his or her request; or decline to issue an advisory opinion.

1902.4 The decision to issue an advisory opinion shall be solely in the discretion of the Board, and any decision by the Board not to issue such an opinion, shall not be subject to review by the Mayor or any court in the District of Columbia.

1902.5 If issued, an advisory opinion is not binding upon the requestor but shall constitute guidance to the requestor as to how the Board may interpret the Act or this title on a particular matter, the facts of which are consistent with those raised by the requestor. Where the requestor is also a licensee, the Board may issue a show cause notice pursuant to § 1604 of this title in the instance where the facts raised by the requestor provide the Board with reasonable cause to believe that the requestor's license should be fined, suspended, or revoked.

1902.6 If the requestor disagrees with the Board's advisory opinion in any respect, he or she may, within twenty (20) calendar days after issuance of the opinion, petition the Board in writing to reconsider its opinion, setting forth in detail the reasons and legal argument which support the requestor's points of disagreement, or may request the Board to issue a declaratory order,

pursuant to § 1903. Advisory opinions of the Board may not form the basis of an appeal to any court in the District of Columbia.

1902.7 All advisory opinions of the Board determined to be in the public interest in accordance with D.C. Official Code § 2-508, shall be published in the D.C. Register and shall be available for public inspection and copying at a reasonable charge at the offices of the Board.

**1903. DECLARATORY ORDERS**

1903.1 The decision to issue a declaratory order shall be solely in the discretion of the Board, and any decision by the Board not to issue such an order shall not be subject to review by the Mayor or any court in the District of Columbia.

1903.2 Any request for a declaratory order shall:

(a) Set forth a particular and specific set of facts; and

(b) State in detail the reasons for uncertainty as to the applicability of the Act, this title or other statutes enforceable by the Board or state in detail why a controversy exists.

1903.3 Any declaratory order issued by the Board shall state the Board's Findings of Fact and Conclusions of Law. If the circumstances so warrant, the declaratory order may include an order by the Board to the requestor to cease and desist any practice or activity which is violative of applicable statutes or this title.

1903.4 Any declaratory order issued by the Board shall be binding on the requestor as regards to the state of facts established. If the requestor is a licensee, failure to adhere to the decision of the Board, as set out in the declaratory order, shall subject the requestor to the issuance of a notice to show cause why his or her license should not be fined, suspended, or revoked, pursuant to D.C. Official Code § 25-821. If the requestor is an applicant for a license and fails to adhere to the decision of the Board, the Board shall take such steps as are necessary and authorized by law to enforce the provisions of its declaratory order.

1903.5 Any requestor who is aggrieved by a declaratory order or who disagrees with the declaratory order in any respect may appeal the order by:

(a) Petitioning the Board, in writing, within twenty (20) calendar days after issuance of the declaratory order, to reconsider its order, and by setting forth in detail newly discovered facts or by setting forth legal argument which shows one (1) or more errors of law in the Board's order; or

(b) Seeking judicial review of the Board's order as permitted under D.C. Official Code § 2-510.

1903.6 All declaratory orders of the Board determined to be in the public interest in accordance with D.C. Official Code § 2-508, shall be published in the D.C. Register and shall be available for public inspection and copying at a reasonable charge at the offices of the Board.