DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF FINAL RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to D.C. Official Code § 47-2844 (a-1) and Mayor's Order 09-163, dated September 25, 2009; section 105 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.05)(2007 Rpl.) and Mayor's Order 99-68, dated April 28, 1999; and D.C. Official Code § 47-2851.20, hereby gives notice of the adoption of a new Chapter 16 (DCRA Summary Enforcement Actions) of Title 16 of the District of Columbia Municipal Regulations.

This rulemaking establishes regulations for the revocation of a basic business license issued to a massage establishment, a health spa, an overnight accommodation, or other establishment, and for the sealing, pursuant to D.C. Official Code § 2-1801.06, of premises used to operate a massage establishment or health spa without a basic business license or to engage in prostitution-related activity.

Emergency and proposed regulations were published in a Notice of Emergency and Proposed Rulemaking on October 2, 2009, in the *D.C. Register* at 56 DCR 7857. No comments were received and no changes have been made to the rulemaking.

These final rules will be effective upon publication of this notice in the *D.C. Register* and supersede the emergency rulemaking adopted by the Director on September 25, 2009.

A new Chapter 16 is added to DCMR Title 16 to read as follows:

CHAPTER 16 DCRA SUMMARY ENFORCEMENT ACTIONS

Secs.

1600 Revocation of License
1601 Sealing of Premises
1602 Notice and Hearing
1603 Civil Penalties

1600. REVOCATION OF LICENSE

1600.1 The Director of the Department of Consumer and Regulatory Affairs (Director) shall revoke a licensee's basic business license with a Public Health: Public Accommodations license endorsement, a Housing: Transient license endorsement, or a General Business endorsement, if the licensee has knowingly permitted, on the licensed premises, any act that violates a provision of D.C. Official Code §§ 22-2701, 22-2705 through 22-2707, or 22-2710 through 22-2712.

1600.2 A finding that a licensee has knowingly permitted, on the licensee's premises, an act that violates D.C. Official Code § 22-2701, 22-2705 through 22-2707, or 22-2710 through 22-2712, may be based on, among other things:

(a) Furnishings on the premises that are better suited for prostitution than for the lawful activity or activities for which the premises are licensed;

(b) Overnight accommodations at the premises that are commonly used by customers for brief periods not exceeding two (2) hours; or

(c) A past arrest at the premises for:

(1) An act of solicitation for prostitution; or

(2) Any other prostitution-related violation.

1601. SEALING OF PREMISES

1601.1 If any premises are primarily used to operate a massage establishment or health spa without a basic business license or engage in activity that violates any provision of D.C. Official Code §§ 22-2701, 22-2705 through 22-2707, or 22-2710 through 22-2712, the Director may order the sealing of the premises, or portion of the premises, for up to sixty (60) days, in accordance with the provisions of D.C. Official Code § 2-1801.06.

1601.2 An order issued by the Director pursuant to § 1601.1 shall be accompanied by findings of fact and conclusions of law.

1601.3 A finding that the premises are primarily used to engage in activity that violates D.C. Official Code §§ 22-2701, 22-2705 through 22-2707, or 22-2710 through 22-2712 may be based, among other things, on a totality of the circumstances at the premises, including, but not limited to, the presence of furnishings or sexually-oriented items that are more suited for prostitution than for lawful commercial use of the premises.

1601.4 During the period of time that the premises, or portion of the premises, are ordered sealed pursuant to § 1601.1, any unauthorized entry at the premises shall be grounds for the Director to extend the order sealing the premises for up to an additional one hundred eighty (180) days.

1601.5 For a period of one hundred eighty (180) days after the lifting of an order sealing the premises, or portions of the premises, any further use of the premises to operate a massage establishment or health spa without a license or engage in activity that violates any provision of D.C. Official Code §§ 22-2701, 22-2705 through 22-2707, or 22-2710 through 22-2712 shall be grounds for the Director to

order the sealing of the premises for a new period of up to one hundred eighty (180) days.

1602. NOTICE AND HEARING

1602.1 Concurrent with an order issued by the Director, pursuant to this chapter, revoking a licensee's license or sealing any premises, the Director shall post at the premises and serve on the licensed or unlicensed establishment, a written notice and order stating:

(a) The specific action or actions being taken;

(b) The factual and legal bases for the action or actions;

(c) The right, within seventy-two (72) hours of service of the notice, to request a hearing with the Office of Administrative Hearings;

(d) The right, within seventy-two (72) hours of a timely request being received by the Office of Administrative Hearings, to a hearing before an administrative law judge; and

(e) If the premises are ordered sealed, that it shall be unlawful for any person to enter the sealed premises for any purpose without written permission of the Director.

1602.2 For purposes of this section, notice shall be deemed to have been served:

(a) On a licensed establishment, if delivered to the registered agent's address of record, during normal business hours; or

(b) On an unlicensed establishment, if delivered to the property owner of record pursuant to the provisions of D.C. Official Code § 42-3131.03.

1603. CIVIL PENALTIES

1603.1 Civil fines, penalties, and fees may be imposed as additional sanctions for any infraction of this chapter pursuant to D.C. Official Code §§ 2-1801.01 *et seq*.

1603.2 Adjudication of any infraction of this chapter shall be pursuant to D.C. Official Code §§ 2-1801.01 *et seq*.

DEPARTMENT OF INSURANCE, SECURITIES AND BANKING

NOTICE OF FINAL RULEMAKING

The Acting Commissioner of the Department of Insurance, Securities and Banking ("Commissioner"), pursuant to the authority set forth in sections 4, 5, 6, 9, and 11 of the Medicare Supplement Insurance Minimum Standards Act of 1992, effective July 22, 1992 (D.C. Law 9-170; D.C. Official Code §§ 31-3703, 31-3704, 31-3705, 31-3708 and 31-3710 (2001)), and section 4 of Department of Insurance and Securities Regulation Establishment Act of 1996, effective May 21, 1997 (D.C. Law 11-268; D.C. Official Code § 31-103 (2009 Supp.)), hereby gives notice of the adoption of amendments to Chapter 22 (Medicare Supplement Insurance Minimum Standards) of Title 26 (Insurance) of the District of Columbia Municipal Regulations ("DCMR").

The amendments implement the National Association of Insurance Commissioners' 2008 revisions to the Medicare Supplement Minimum Standards Model Act.

Emergency rules were adopted on July 1, 2009, and took effect on that date. A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on September 25, 2009 (56 DCR 007661), and the Council approved the Medicare Supplement Insurance Minimum Standards Approval Resolution of 2009, adopting the proposed rules on November 3, 2009, pursuant to section 11(a) of the Medicare Supplement Insurance Minimum Standards Act of 1992 (D.C. Official Code § 31-3710(a).

The Department received comments concerning minor technical changes in the proposed rulemaking. No substantive changes were made. The amendments may be viewed in the *D.C. Register* at 56 DCR 007661. These rules are final upon publication of this notice.

DEPARTMENT OF INSURANCE, SECURITIES AND BANKING

NOTICE OF FINAL RULEMAKING

The Commissioner of the Department of Insurance, Securities and Banking, pursuant to the authority set forth in section 4 of the Department of Insurance, Securities Regulation Establishment Act of 1996, effective May 21, 1997 (D.C. Law 11-268; D.C. Official Code § 31-103(a)(1) (2001), and section 21 of the Hospital and Medical Services Corporation Regulatory Act of 1996, effective April 9, 1997 (D.C. Law11-245; D.C. Official Code § 31-3520 (2001), and section 2(j) of the Medical Insurance Empowerment Amendment Act of 2008 (MIEAA), effective March 25, 2009 (D.C. Law 17-0369, 56 DCR 1346; D.C. Official Code § 31-3524), hereby gives notice of the adoption of a new Chapter 46 (Procedures For The Determination Of Excess Surplus) of Title 26 (Insurance), of the District of Columbia Municipal Regulations. A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on July 10, 2009 at 56 DCR 5665-5669 (2009), effective July 10, 2009.

The new chapter will set forth procedures for the review of the surplus of hospital and medical services corporations and to determine whether the surplus is excessive or unreasonably large.

A new Chapter 46 (Procedures for the Determination of Excess Surplus), Title 26 (Insurance), of the District of Columbia Municipal Regulations, is established to read as follows:

CHAPTER 46 PROCEDURES FOR THE DETERMINATION OF EXCESS SURPLUS

4600 APPLICABILITY

4600.1 These rules apply to any domestic hospital and medical services corporations issued a certificate of authority pursuant to section 6 of the Act.

4601 FILING REQUIREMENTS AND PUBLIC NOTIFICATION

4601.1 All domestic companies licensed under this chapter shall file a financial report with the Commissioner which details the company's surplus and examines whether the company's surplus is considered excessive under the Act. The financial report shall detail the appropriate level of surplus necessary for the company to meet the National Association of Insurance Commissioners' Risk Based Capital Requirements for health insurers pursuant to the Health Organizations RBC Amendment Act of 2002, effective June 18, 2003 (D.C. Law 14-312; D.C. Official Code § 31-3851.01 *et seq.* (2008 Supp.)); and the Blue Cross/Blue Shield Association capital requirements.

4601.2 The report required by section 4601.1 shall be filed with the Commissioner for his review by June 1st of each year, except that the report with the Commissioner by July 24, 2009.

4601.3 All filings are required to be submitted electronically in a format prescribed by the Commissioner.

4601.4 In determining whether the surplus is excessive, the Commissioner shall consider the National Association of Insurance Commissioners' Risk Based Capital Requirements for health insurers pursuant to the Health Organizations RBC Amendment Act of 2002, effective June 18, 2003 (D.C. Law 14-312; D.C. Official Code §§ 31-3851.01 *et seq*. (2008 Supp.)); and the Blue Cross/Blue Shield Association capital requirements.

4601.5 If the preliminary analysis of the Commissioner determines that the company's surplus is excessive, a public hearing shall be scheduled in accordance with section 4602 to determine whether the company's surplus is excessive and unreasonably large, and the company shall provide a report to the Commissioner, at least fifteen (15) days prior to the date of the public hearing, a report with the following information:

(a) The company's actuarially determined risk exposures; and

(b) The company's expected and unanticipated contingencies.

4601.6 The Commissioner shall post on the Department's website, all public documentation used in determining whether a company's surplus is excessive and unreasonably large, and whether surplus is adequate to cover the anticipated and unanticipated losses of the company.

4601.7 The Commissioner shall provide a determination of the amount of surplus attributable to the District of Columbia.

4601.8 In determining whether a company's surplus attributable to the District is unreasonably large, the Commissioner may include provisions for actuarially determined risk exposures as well as the expected and unanticipated contingencies of the company. The anticipated cost of the corporation's contribution to the open enrollment program required by section 15 of the Act should be included in the surplus determination.

4602 PUBLIC HEARINGS

4602.1 The Commissioner shall publish a public notice of hearing in the *D.C. Register* setting forth the hearing date for the surplus determination, including applicable briefing schedule as determined by the Commissioner. The public notice shall be published no later than forty-five (45) days prior to the hearing. A copy of the public notice shall be served on any corporation subject to the public hearing by U.S. mail no less than forty-five (45) days prior to the hearing.

4602.2 The corporation and members of the public may submit a written report for consideration by the Commissioner no later than fifteen (15) days prior to the hearing date. The corporation's report shall not exceed 50 pages in length and interested persons' reports should not exceed fifteen (15) pages. The Commissioner shall publish any report submitted pursuant to this section on the Department's website no later than two (2) days after receipt of a report.

4602.3 The hearing shall be conducted in accordance with the following requirements:

(a) The hearing shall be transcribed at the cost of the corporation;

(b) The corporation may make an oral presentation.

(c) At the discretion of the Commissioner, interested members of the public may make oral presentations.

(d) The Commissioner may directly, or through independent experts, question witnesses presented by the corporation or any interested person making a presentation.

(e) The corporation should be allowed to make a final statement prior to the conclusion of the hearing. The final statement should not exceed thirty (30) minutes.

4602.4 The record in the hearing shall remain open for seven (7) days to allow the corporation or interested persons to file rebuttal statements, not to exceed eight (8) pages, clarifying any issue or responding to questions raised at the hearing.

4602.5 Following the hearing, the Commissioner shall make a final determination regarding the corporation's surplus after review of all relevant submissions and with the assistance of experts, if necessary. The cost of any experts used by the Commissioner shall be borne by the corporation.

4602.6 The final determination shall be issued in writing and shall be accompanied by findings of fact and conclusions of law.

4602.7 The transcript of a Public Hearing shall be posted for public inspection on the Department's website as soon as practicable.

4603 DETERMINATION OF EXCESSIVE AND UNREASONABLY LARGE SURPLUS

4603.1 If the Commissioner make a final determination that a corporation's surplus which is attributable to the District is excessive and unreasonably large, the Commissioner shall order the corporation to submit a plan for dedication of the excess to community health reinvestment for approval.

4603.2 The Commissioner shall approve the plan if it is fair and equitable as determined by the Commissioner.

4603.3 Should the corporation fail to submit a plan as ordered or fails to execute within a reasonable time period a plan approved by the Commissioner, the Commissioner shall deny all premium rate increases for subscriber policies written in the District until the company complies with the order or the Commissioner may issue any other order as necessary to enforce the purposes of the Act.

4603.4 The Commissioner shall verify compliance with its approved plan with the use of experts and other professionals, the cost of which shall be borne by the corporation.

4699 DEFINITIONS

4699.1 **"Act"** – shall mean the Hospital and Medical Services Corporation Regulatory Act of 1996, effective April 9, 1997 (D.C. Law11-245; D.C. Official Code § 31-3501 *et seq*. (2001)).

4699.2 **"Attributable to the District"-** shall mean the process used by the Commissioner to allocate the portion of the surplus of a hospital and medical services corporation that is derived from the company's operations in the District of Columbia based on the following factors:

(a) The number of policies by geographic area;

(b) The number of health care providers under contract with the company by geographic area; and

(c) Any other factor that the Commissioner deems to be relevant based on the record of a public hearing held pursuant to section 4602.

4699.3 "**Department"** – District of Columbia Department of Insurance, Securities and Banking.

4699.4 "**Unreasonably large surplus**" – shall mean a surplus of a corporation that is greater than the sum of the following:

(a) The appropriate NAIC risk-based capital level requirements determined by the Commissioner and the Blue Cross/Blue Shield Association capital requirements based on the company's surplus from the immediately preceding year; and

(b) The amount of surplus needed by the corporation to meet its expected and unanticipated contingencies.

THE DISTRICT OF COLUMBIA
LOTTERY AND CHARITABLE GAMES CONTROL BOARD
NOTICE OF FINAL RULEMAKING

The Executive Director of the District of Columbia Lottery and Charitable Games Control Board, pursuant to the authority set forth in D.C. Official Code §3-1306, District of Columbia Financial Responsibility and Management Assistance Authority Order issued September 21, 1996, and Office of the Chief Financial Officer Financial Management Control Order No. 96-22 issued November 18, 1996, hereby gives notice of the proposal of amendments to Chapters 5, 9 of Title 30 DCMR, "Lottery and Charitable Games." These amendments are necessary to introduce the District Dollars Raffle Game that will start on November 18, 2009. No substantive changes have been made to the text of these proposed rules published in the D.C. Register on Vol. 56 DCR 8068 October 9, 2009. These final rules will be effective upon publication of this notice in the D.C. Register.

AMEND CHAPTER 5. "LOTTERY TICKET"

Amend subsection 503.4 by substituting the following:

503.4 A ticket for POWERBALL®, Hot Lotto™, DC Daily 6™, Rolling Cash 5™, and all On-Line Raffle Tickets shall not be voided or cancelled.

AMEND CHAPTER 9. "DESCRIPTION OF ON-LINE GAMES"

Amend Chapter 9 by deleting sections 915 and 916 in their entirety and replacing with the following:

915. DESCRIPTION OF ON-LINE RAFFLE GAME

915.1 The Agency may offer On-Line Raffle Games.

915.2 The Agency's raffle game shall be called District Dollars Raffle Game.

915.3 District Dollars Raffle Game rules only apply to the Agency's on-line raffle games and not to the Charitable Gaming Raffle rules referred to in Title 30, Chapter 15 of the D.C. Municipal Rules and Regulations.

915.4 District Dollars Raffle Game is an On-Line Raffle style game played at any agent location that has an on-line terminal. On-Line Raffle tickets are sold in limited quantities, for a specified limited time.

915.5 Each raffle ticket contains a unique serial number or numbers from a specified range. A player purchases the raffle ticket for a chance to win prizes through a random drawing of all purchased raffle tickets.

915.6 Agency shall offer 40,000 on-line raffle tickets for the District Dollars Raffle Game.

915.7 Raffle tickets will be sold from Wednesday, November 18, 2009 through Tuesday, November 24, 2009 at 12.59 a.m. Tickets for the next weekly drawing will start on Wednesday at 6:00 a.m.

915.8 The cost of one (1) District Dollars Raffle Game ticket shall be ($1.00) one dollars each or any other price designated by the Executive Director from a price schedule adopted by the Agency.

915.9 The player must inform the agent that they want to play the D.C Weekly Raffle Game. There are no play slips or quick pick selections for the District Dollars Raffle Game.

915.10 Each District Dollars Raffle Game ticket shall contain a five (5) digit number from tickets from 00001 through 40,000 and shall be sold sequentially from the available selection pool. Players purchasing more than one (1) ticket may not receive consecutively numbered tickets because of availability at the time of purchase.

915.11 The winning ticket numbers will be determined through a drawing that will be conducted with the Agency's Computerized Drawing System ("CDS"). Such winning ticket numbers shall be selected in accordance with Lottery draw procedures.

915.12 The order of the ticket numbers drawn by the CDS at the drawing determines the prize level eligibility. The first (1^{st}) ticket number drawn shall be the winner of the first (1^{st}) prize of $10,000 dollars. The next five (5) tickets numbers drawn shall be the winners of the (2^{nd}) prize of $1,000 each. And the next ten (10) ticket numbers drawn shall be the winners of the (3^{rd}) prize of $500 each.

915.13 A player wins if the raffle ticket number drawn matches their raffle ticket number exactly and the ticket validates in the D.C. Lottery system. There shall be no alternates drawn for this game.

915.14 Unless otherwise specified by the Executive Director, the sale of the District Dollars Raffle Game tickets will be suspended when the 40,000 ticket is sold, or on the Wednesday at 12:59 a.m. of the day of the District Dollars Raffle Game weekly drawing.

915.15 The Agency reserves the right to reschedule any dates and times, without advance notice, when circumstances warrant. It is anticipated that raffle tickets will begin being sold on November 18, 2009 and the first drawing will take place on Wednesday, November 25, 2009, and each week there after for a total of six (6) weeks. However the District Dollars Raffle Game may begin or end as directed by the Executive Director.

915.16 The player is solely responsible for ensuring that he or she receives a raffle ticket after purchase. The printed District Dollars Raffle Game ticket is the only valid proof of a player's

purchase and is the only valid receipt for claiming a prize. A ticket subject to the validations requirements of this title shall be the only proof of a wager.

915.17 A player whose ticket does not print as a result of a paper jam or other error cannot receive a reprint of that ticket. The full value of the ticket purchase price must be refunded to the player. The agent must properly document and report the event along with the appropriate paper work to receive credit.

916 DISTRICT DOLLARS RAFFLE GAME PRIZE POOL, PRIZE STRUCTURE AND PROBABILITY OF WINNING

916.1 The District Dollars Raffle Game will offer a total of sixteen (16) prizes.

916.2 The prize pool for all prize categories shall consist of fifty percent (50%) of each drawing period sales based on a sale of 40,000 tickets.

916.3 The District Dollars Raffle Game is a weekly raffle game with fixed payout for the prizes which pays prizes based on a sale of 40,000 tickets at ($1.00) one dollars each are as follows:

Number of Winners Per 40,000 Tickets	Win
1	$10,000
5	$1,000
10	$500

916.4 The following table sets forth the probability of winning and the probable distribution of winners in and among each prize category, based upon selling all 40,000 weekly raffle tickets.

Set Prize Amount	Number of Prizes	Overall Odds	Amount Paid	Percentage Of Sales	Percentage Of Payout
$10,000	1	1:40,0000	$10,000	25%	25%
$1,000	5	1:8,0000	$5,000	10%	12.5%
$500	10	1:4,000	$5,000	15%	12.5%
Total	**16**	**1:2,500**	**$20,000**	**50%**	**50%**

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING
AND
Z.C. ORDER NO. 09-09
Z.C. Case No. 09-09
(Text Amendment – 11 DCMR)
(Forest City SEFC, LLC – Text Amendment – Trapeze School Use in Southeast Federal Center Overlay District, Parcel "O")
November 9, 2009

The Zoning Commission for the District of Columbia (the "Commission"), pursuant to its authority under §§ 3 and 8 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 799; D.C. Official Code §§ 6-641.01 and 641.07); hereby gives notice of adoption of the following text amendments to the Zoning Regulations of the District of Columbia, DCMR Title 11. A Notice of Proposed Rulemaking was published in the *D.C. Register* ("*DCR*") on October 9, 2009, at 56 *DCR* 8070. The amendments shall become effective upon the publication of this notice in the *D.C. Register*.

Description of Amendments

The text amendments allow the establishment of a temporary trapeze school and performing arts facility use within Parcel "O" in the Southeast Federal Center Overlay District, established by Chapter 18 of the Zoning Regulations. Without the amendment, the school, which must relocate from its present site, would have to obtain a special exception from the Board of Zoning Adjustment. Also, because that parcel has yet to be subdivided into lots and squares, the rule exempts the use from § 3202.3, which requires a record lot as a prerequisite for obtaining a building permit. The amendments also exempt the use from minimum parking space requirements, but provide that a continuation of the use after December 31, 2014 must be approved by the Board of Zoning Adjustment, which will then determine whether on-site parking will be required.

Procedures Leading to Adoption of Amendments

A petition requesting the amendments was filed by Forest City SEFC, LLC, on behalf of the United States of America, General Services Administration. The Commission voted to set down a somewhat narrower version of the proposal for hearing at its July 13, 2009 public meeting.

In response to notice given pursuant to § 13 of the Comprehensive Advisory Neighborhood Commissions Reform Act of 2000, effective June 27, 2000 (D.C. Law 13-135, D.C. Official Code § 1-309.10), Advisory Neighborhood Commission ("ANC") 6D, the ANC within which Parcel O is situated, filed a report with the Commission stating that at a regularly-scheduled, properly-noticed meeting with a quorum present, held on September 15, 2009, ANC 6D had voted unanimously to support the petition, noting that the trapeze school use would not have any negative impacts on constituents or businesses in the area. (Exhibit No. 13.) As indicated by its adoption of these amendments, the Commission found this advice to be persuasive.

A public hearing was scheduled for and held on September 21, 2009, after which the Commission authorized the referral of the proposed text to the National Capital Planning Commission ("NCPC") and the publication of a notice of proposed rulemaking in the *DC Register*.

NCPC, through a delegated action dated October 6, 2009, found that the proposed text amendments would not adversely affect the identified federal interests, nor be inconsistent with the Comprehensive Plan for the National Capital. (Exhibit No. 19.)

The Notice of Proposed Rulemaking was published in the *D.C. Register* on October 9, 2009, 56 *DCR* 8070, for a 30-day notice and comment period. No comments were received. However, the Office of Planning ("OP") filed a Supplemental Report, dated October 30, 2009, requesting that the last sentence of § 3202.3 be moved to the definition of "structure" as set forth in § 199.1. The last sentence deems "a combination of commercial occupancies" in single ownership (such as a strip mall) as one structure. This re-codification enhances the readability of the Regulations and has no effect on its substance or on the substance of the text amendments adopted.

At a properly-noticed November 9, 2009 public meeting, the Commission took final action to adopt the text amendments, including the re-codification suggested by OP, as follows:

A. Chapter 1, THE ZONING REGULATIONS, § 199.1, Definitions, is amended by adding a new final sentence to the definition of "Structure", so that the definition will read as follows:

Structure - anything constructed, including a building, the use of which requires permanent location on the ground, or anything attached to something having a permanent location on the ground and including, among other things, radio or television towers, reviewing stands, platforms, flag poles, tanks, bins, gas holders, chimneys, bridges, and retaining walls. The term structure shall not include mechanical equipment, but shall include the supports for mechanical equipment. Any combination of commercial occupancies separated in their entirety, erected, or maintained in a single ownership shall be considered as one (1) structure.

B. Chapter 18, SOUTHEAST FEDERAL CENTER OVERLAY DISTRICT, § 1804, SEFC/R-5-D and R-5-E Zoning Districts, is amended as follows:

1. By amending § 1804.2 (e) so that the entire subsection will read as follows:

1804.2 Within the SEFC/R-5-D and R-5-E Districts, the following buildings, structures, and uses are permitted only if reviewed and approved by the Zoning Commission, in accordance with the standards specified in § 1808 and procedures specified in § 1809 of this Title:

(a) Arts, cultural, or hotel use, subject to an overall cap of 1.0 FAR;

(b) Hospital;

(c) Place of worship, which may include parsonage, vicarage, rectory, and Sunday school building, as well as any programs associated with the place of worship in accordance with § 216;

(d) Private club, lodge, fraternity house, sorority house, or dormitory;

(e) School, private, public, or trade; except as provided in § 1804.7.

(f) All buildings and structures that abut the Open Space Area, as described in § 1805.4, whether or not a street intervenes but excluding buildings and structures that abut the Development Area, including existing Building 160 and any additions thereto and any building or structure to be constructed immediately to the east of Building 160 (i.e., north of Water Street, S.E., west of 4th Street, S.E. east of Third St., S.E., and south of Tingey Street, S.E.).

(g) Temporary parking lot or garage, for a maximum approval period of five (5) years, which may be renewed by the Zoning Commission, as a principal use, located at or above grade;

(h) Solid, freestanding wall and/or security gate exceeding a height of four (4) feet; and

(i) University or college, subject also to the regulations of § 210.

2. By adding new §§ 1804.07 and 1804.8 to read as follows:

1804.7 Notwithstanding § 1804.2 (e), a trapeze school and aerial performing arts center may be established and continued as a matter of right in Parcel O until December 31, 2014, during which time no parking shall be required.

1804.8 The continuation of the trapeze school and aerial performing arts center use after December 31, 2014 shall require special exception approval by the Zoning Commission in accordance with the standards specified in § 1808 and procedures specified in § 1809 of this Title, and shall include a determination as to whether and what amount of parking should be required.

C. Chapter 32. ADMINISTRATION AND ENFORCEMENT, § 3202.3, is amended by striking the phrase "; except buildings and structures related to a fixed right-of-way mass transit system approved by the Council of the District of Columbia" and deleting the last sentence so that the entire subsection will read as follows:

3202.3 Except as provided in the building lot control regulations for Residence Districts in § 2516 and § 5 of An Act to amend an Act of Congress approved March 2, 1893, entitled "An Act to provide a permanent system of highways in that part of the District of Columbia lying outside of cities," and for other

purposes, approved June 28, 1898 (30 Stat. 519, 520, as amended; D.C. Code, 2001 Ed. §9-101.05 (formerly codified at D.C. Code § 7-114 (1995 Repl.))), a building permit shall not be issued for the proposed erection, construction, or conversion of any principal structure, or for any addition to any principal structure, unless the land for the proposed erection, construction, or conversion has been divided so that each structure will be on a separate lot of record. Notwithstanding the foregoing, a building permit may be issued for:

(a) Buildings and structures related to a fixed right-of-way mass transit system approved by the Council of the District of Columbia;

(b) A boathouse, yacht club, or marina to be constructed on a lot that is not a lot of record, provided that such lot fronts on a public body of water, is otherwise surrounded by public park land, and is zoned W-0; or

(c) The trapeze school and aerial performing arts center to be established pursuant to § 1804.7.

On September 21, 2009, upon motion of Chairman Hood, as seconded by Commissioner Schlater, the Zoning Commission **APPROVED** the petition at the end of the hearing on this case by a vote of **3-0-2** (Anthony J. Hood, Konrad W. Schlater, and Michael G. Turnbull to approve; William W. Keating, III and Peter G. May, not present, not voting).

On November 9, 2009, upon motion of Commissioner Turnbull, as seconded by Commissioner Schlater, the Zoning Commission **ADOPTED** the Order at its public meeting by a vote of **3-0-2** (Anthony J. Hood, Konrad W. Schlater, and Michael G. Turnbull to adopt; William W. Keating, III and Peter G. May, not having participated, not voting).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the *D.C. Register*; that is on November 13, 2009.