

## OFFICE OF THE ATTORNEY GENERAL

NOTICE OF FINAL RULEMAKING

The Attorney General of the District of Columbia (Attorney General), pursuant to section 9 of the District of Columbia Poverty Lawyer Loan Assistance Repayment Program Act of 2006 (Act), effective March 2, 2007, D.C. Law 16-203, D.C. Official Code § 1-308.21 *et seq.* (2009 Supp.), and Mayor's Order 2006-161, dated November 8, 2006, hereby gives notice of the final adoption of the following amendment to section 2499.1 of Title 1 of the *District of Columbia Municipal Regulations* (DCMR). This amendment was originally adopted, on an emergency basis, on September 18, 2009, and a Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on September 25, 2009 at 56 DCR 7660. It updates the existing definition of "eligible debt" to clarify that "eligible debt" for the purpose of the District of Columbia Poverty Lawyer Loan Assistance Repayment Program (Program) is limited to debt incurred for reasonable educational expenses associated with attendance at and enrollment in law school for the purpose of obtaining a law degree. This clarification was recommended by the Office of the Inspector General in connection with a recent audit of the Program. Final action to adopt the rules was taken on March 11, 2010, and the final rules shall become effective upon publication in the *D.C. Register*.

**Section 2499.1 of Title 1 DCMR is amended as follows:****The definition of "eligible debt" is amended to read as follows:**

Eligible debt – outstanding principal, interest, and related expenses from loans obtained for reasonable educational expenses associated with attendance at and enrollment in law school for the purpose of obtaining a law degree, made by government and commercial lending institutions or educational institutions, but not loans extended by a private individual or group of individuals, including families.

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

**NOTICE OF FINAL RULEMAKING**

The District of Columbia Board of Elections and Ethics pursuant to the authority set forth in D.C. Official Code § 1-1103.01 (b-1) (1) (2001 Edition), hereby gives notice of final rulemaking action to adopt the following amendments to Chapter 30, "Campaign Finance Operations," of Title 3 of the District of Columbia Municipal Regulations.

These amendments represent updates to the rules of the Board's Office of Campaign Finance (OCF). Specifically, the majority of the rules augments and clarifies the campaign finance procedures and the requirements of financial reports and statements to provide the general public and OCF filers with a better understanding of the agency processes, and to correct technical and typographical errors. The rules also change the contribution and expenditure limits for citizen-service programs in view of the recently enacted "Citizen-Service Programs Amendment Act of 2009," effective September 23, 2009 (D.C. Law 18-52; 56 DCR 5491); and to authorize an electronic certification process for the verification of electronically filed documents, pursuant to the "Campaign Finance Electronic Signature Amendment Act of 2009," effective October 15, 2009 (D.C. Act 18-207).

A Notice of Proposed Rulemaking with respect to these amendments was published in the D.C. Register on January 15, 2010 at 57 D.C. Reg. 589. No comments were received concerning these rules. These amendments will be effective upon publication of this notice in the D.C. Register.

*Section 3000 of Chapter 30 of 3 DCMR, "Organization of Political Committees," shall be amended to read as follows:*

**"3000 ORGANIZATION OF POLITICAL COMMITTEES**

3000.1 Each political committee shall file a Statement of Organization form, prescribed by the Director of the Office of Campaign Finance (the Director) (OCF), within ten (10) days of organization.

3000.2 Each political committee shall be deemed "organized" when any proposer, individual, committee (including a principal campaign committee), club, association, organization, or other group of individuals formally agree, orally or in writing, or decide to promote or oppose a political party, the nomination or election of an individual to office, or any initiative, referendum or recall.

3000.3 In the absence of a decision to organize, as a political committee opposing an initiative or referendum measure, under § 3000.2, a person, who addresses the determination by the Board of Elections and Ethics of the appropriateness of a proposed measure for filing, under Chapter 10 of this Title, shall not be required to file a Statement of Organization, under §

- 3000.1, or a Report of Receipts and Expenditures (R&E Report), under § 3008.
- 3000.4 Agreement to form a political committee by an individual shall also occur upon designation by a candidate on the Statement of Candidacy form, filed under § 3002.2.
- 3000.5 Each political committee shall be either an authorized committee or an unauthorized committee.
- 3000.6 An authorized committee shall be any political committee designated by a candidate on the Statement of Candidacy form, filed under § 3002.2, to receive contributions or make expenditures on behalf of the candidate; and it shall include the name of the candidate for elective office in the District of Columbia in its name.
- 3000.7 An unauthorized committee shall be any political committee which has not been designated by a candidate on the Statement of Candidacy form, filed under § 3002.2, to solicit or receive contributions or make expenditures on behalf of a candidate seeking office; and it shall not include the name of any candidate for elective office in the District of Columbia in its name.
- 3000.8 For purposes of the reporting and recordkeeping requirements, political committees shall include the following:
- (a) Affiliated Committee - all authorized committees of the same candidate for the same election, or all committees established, financed, maintained, or controlled by the same corporation, labor or membership organization, cooperative or trade association, or any similar organization;
  - (b) Delegate Committee - established to support a presidential candidate, which shall include the word "delegate(s)" in its name and may include the name of the presidential candidate whom it supports;
  - (c) Independent or Political Action (PAC) Committee - any unauthorized committee;
  - (d) Initiative, Referendum, Recall or Proposed Charter Amendment Committee - organized for the purpose of, or engaged in promoting or opposing initiative, referendum or recall measures or proposed Charter amendments, respectively;
  - (e) Party Committee - represents a political party of the official party structure at the city-wide or ward level; and
  - (f) Principal Campaign Committee - designated and authorized by a candidate or slate of candidates for election as officials of a political party, as the principal campaign committee, in accordance

with § 3006; provided, that it shall include the name(s) of the candidate(s) who authorized the committee.

- 3000.9 Political committees shall not include the following:
- (a) Connected Organization - a corporation, labor or membership organization, cooperative or trade association, or any similar organization which directly or indirectly establishes, administers or financially supports a political committee; and
  - (b) Exploratory Committees - formed solely for the purpose of determining the feasibility of an individual's candidacy.
- 3000.10 Each political committee shall indicate its intent not to support a candidate in the following manner:
- (a) Declare its intention on the Notification of Non-Support form; and
  - (b) File the Notification of Non-Support form, within ten (10) days of the change by the political committee of its intention to not support a candidate.
- 3000.11 Each political committee shall notify the Director in writing within ten (10) days of its decision to support a candidate, where it has previously filed a Notification of Non-Support, under § 3000.10.
- 3000.12 A political committee shall have the following officers:
- (a) A chairperson; and
  - (b) A treasurer.
- 3000.13 When either the office of chairperson or treasurer of a political committee, under § 3000.12, is vacant, the political committee shall perform the following:
- (a) Designate a successor chairperson or treasurer, within five (5) days of the vacancy; and
  - (b) Amend its Statement of Organization within 10 days of the designation of the successor; provided, that the successor officer agrees to accept the position.
- 3000.14 A political committee shall not accept a contribution or make an expenditure when the office of treasurer is vacant, and no other person has been designated and agreed to perform the functions of a treasurer.
- 3000.15 Each expenditure made for, or on behalf of, a political committee shall be authorized only by the following:

- (a) Chairperson;
- (b) Treasurer; or
- (c) Their designated agent, as listed on the Statement of Organization filed under § 3000.1.

3000.16 A chairperson shall be required to file the following:

- (a) A Statement of Acceptance of Position of Chairperson form, prescribed by the Director, and a copy of written notification sent to the address of record of the treasurer and candidate, if an authorized committee, within five (5) days of assuming the office; and
- (b) A Statement of Withdrawal of Position of Chairperson form, prescribed by the Director, and a copy of written notification sent to the address of record of the treasurer and candidate, if an authorized committee, within five (5) days of vacating the office.

3000.17 A treasurer shall be required to file the following:

- (a) A Statement of Acceptance of Position of Treasurer form, prescribed by the Director, and a copy of written notification sent to the address of record of the chairperson and candidate, if an authorized committee, within forty-eight (48) hours of assuming the office:
- (b) Periodic R&E Reports, under § 3008, signed by the treasurer or, if unavailable, the designated agent as listed on the Statement of Organization filed under § 3000.1; provided, that the treasurer shall be responsible for all R&E Reports and statements due to the Director during the treasurer's tenure; and
- (c) A Statement of Withdrawal of Position of Treasurer form, prescribed by the Director, and a copy of written notification sent to the address of record of the chairperson and candidate, if an authorized committee, within forty-eight (48) hours of vacating the office.

3000.18 A person shall not simultaneously serve as the chairperson and treasurer of a political committee, except the following:

- (a) A candidate; or
- (b) A proposer or opponent of an initiative, referendum or recall measure or charter amendment.

3000.19 Each political committee shall amend its Statement of Organization within ten (10) days of any change in information previously reported on its Statement of Organization.”

*Section 3001 of Chapter 30 of 3 DCMR, “Exploratory Committees,” shall be amended to read as follows:*

“3001 EXPLORATORY COMMITTEES

3001.1 Any individual, or group of individuals, who organizes for the purpose of exploring the feasibility of a person’s candidacy for an elective office in the District of Columbia, shall form an exploratory committee.

3001.2 An exploratory committee shall include, but not be limited to, the following:

- (a) Draft Committees; and
- (b) “Testing the Waters” Committees.

3001.3 Each exploratory committee shall include the name of the potential candidate in the name of the committee.

3001.4 Exploratory committee activity to determine whether an individual should become a candidate may include, but not be limited to, the following:

- (a) Polling;
- (b) Travel;
- (c) Telephone calls;
- (d) Media expenses;
- (e) Office space; and
- (f) Administrative costs.

3001.5 Each exploratory committee shall be required to file an informational report, in accordance with §3008.

3001.6 Informational reports shall be filed in accordance with §3017, except that an informational report shall be filed on the following dates:

- (a) January 31st and July 31st; and
- (b) On the last day of each month within the 12 month period of an election for the office which is under consideration by the exploratory committee.

- 3001.7 Contributions in support of an exploratory committee shall be received or made in accordance with §3011, except that individual and aggregate contributions shall be limited for the following exploratory committees:
- (a) Mayoral - \$2,000 individual and \$200,000 aggregate;
  - (b) Chairman of the Council - \$1,500 individual and \$150,000 aggregate;
  - (c) At-large member of the Council - \$1,000 individual and \$100,000 aggregate;
  - (d) Ward Councilmember or President of the State Board of Education - \$500 individual and \$50,000 aggregate; and
  - (e) Member of the State Board of Education \$200 individual and \$20,000 aggregate.
- 3001.8 The life of an exploratory committee for any office shall not exceed 18 months.
- 3001.9 When an exploratory committee reaches 18 months, one of the following acts shall occur:
- (a) The exploratory committee terminates; or
  - (b) The named individual of the exploratory committee becomes a candidate.
- 3001.10 When the named individual of an exploratory committee becomes a candidate, the individual must perform the following:
- (a) File a declaration of candidacy, pursuant to §3002;
  - (b) Form a principal campaign committee, pursuant to §3005; and
  - (c) Apply all contributions received during the life of the exploratory committee to the campaign contribution limitations for the specific candidate, pursuant to §3011.
- 3001.11 Any remaining funds of an exploratory committee shall be transferred only to the following:
- (a) An established principal campaign or political committee; or
  - (b) A charitable, scientific, literary, or educational organization, or organizations, which meet the requirements of tax laws of the District of Columbia.

- 3001.12 All contributions and fund balances of any exploratory committee shall not be deemed the personal funds of any individual, including the named individual of the exploratory committee.
- 3001.13 Each exploratory committee shall file a final informational report within thirty (30) days of the termination of the committee.”

*Section 3002 of Chapter 30 of 3 DCMR, “Candidate Status,” shall be amended to read as follows:*

“3002 CANDIDATE STATUS

- 3002.1 An individual shall be considered a candidate when the individual performs any of the following acts:
- (a) Receives a campaign contribution;
  - (b) Makes a campaign expenditure;
  - (c) Obtains nominating petitions;
  - (d) Authorizes any person to perform any of the above acts; or
  - (e) Fails to disavow in writing to the Director any of the above acts by any other person within ten (10) days after written notification by the Director.
- 3002.2 With the exception of candidates for Advisory Neighborhood Commission (ANC) member, each candidate shall file, within five (5) days after becoming a candidate, under §3002.1, a Statement of Candidacy form, prescribed by the Director, indicating the following:
- (a) Whether spending is anticipated at less than five hundred dollars (\$500); or
  - (b) Whether a principal campaign committee will be designated.
- 3002.3 Each candidate, pursuant to § 3002.2, who indicates on the Statement of Candidacy that a principal campaign committee will be designated on behalf of the candidate shall complete the form with the following:
- (a) The name of the principal campaign committee, pursuant to § 3005;
  - (b) Any other authorized committees, pursuant to § 3000.6; and
  - (c) One (1) or more national banks located in the District of Columbia as the campaign depository.

- 3002.4 The candidate shall commence filing personal R&E Reports in accordance with this chapter, unless reporting is otherwise exempted, pursuant to § 3003, or waived, pursuant to § 3004.
- 3002.5 The Summary Financial Statement of Candidate for the Office of Advisory Neighborhood Commission form, prescribed by the Director, shall be filed no later than sixty (60) days after the certification by the Board of Elections and Ethics of the election results by the following:
- (a) ANC candidates, pursuant to § 1616, who qualified for the ballot by the write- in process;
  - (b) ANC candidates, pursuant to §§ 1608 and 1609, who qualified for the ballot by the nominating petition process;
  - (c) ANC candidates who accepted contributions or made expenditures; and did not qualify for the ballot, pursuant to §§ 1608, 1609 and 1616; and
  - (d) ANC candidates who qualified as candidates for selection in the ANC vacancy filling process, pursuant to § 1310.
- 3002.6 With the exception of candidates for the Office of Member of an Advisory Neighborhood Commission, each individual who ceases to become a candidate shall immediately file a Statement of Candidate Withdrawal form, prescribed by the Director, upon termination of the candidacy.”

*Section 3005 of Chapter 30 of 3 DCMR, “Principal Campaign Committee,” shall be amended to read as follows:*

“3005 PRINCIPAL CAMPAIGN COMMITTEE

- 3005.1 With the exception of persons who make independent expenditures under the Act, only a candidate’s designated principal campaign committee, and its authorized committees, pursuant to § 3000.6, shall accept contributions or make expenditures on behalf of that candidate.
- 3005.2 An individual who is a candidate for more than one (1) office shall designate a separate principal campaign committee for each office sought, except in accordance with § 3005.3.
- 3005.3 A principal campaign committee supporting the nomination or election of a candidate as an official of a political party may support the nomination or election of more than one (1) candidate as an official of a political party.
- 3005.4 The principal campaign committee shall process contributions in the following manner:

- (a) Contributions received by check, money order or other written instrument shall be consigned directly to the principal campaign committee; and
- (b) The proceeds of any monetary instruments listed in subsection (a), cashed or redeemed by the candidate, pursuant to § 3004.2 shall be disallowed by the principal campaign committee and returned by the candidate to the donor.

3005.5 No contributions shall be commingled with the candidate's personal funds or accounts."

*Section 3008 of Chapter 30 of 3 DCMR, "Financial Reports and Statements," shall be amended to read as follows:*

**"3008 FINANCIAL REPORTS AND STATEMENTS**

- 3008.1 Candidates, political committees, citizen-service programs and Statehood funds and their treasurers shall make best efforts to obtain report and maintain information required under Chapter 34 of this title.
- 3008.2 With the exception of candidates for the office of ANC member, all contributions, expenditures, debts, contracts, and agreements shall be reported on separate schedules in the following manner:
  - (a) On the R&E Report form, prescribed by the Director; or
  - (b) In a format consistent with the form filed under §3008.2(a).
- 3008.3 The R&E Report may be filed in an electronic format at the OCF Website under § 3018; Provided that the original R&E Report, verified by the treasurer, is also filed. The filing of the paper copy may be eliminated where the treasurer submits a signed letter request for a PIN Number.
- 3008.4 Each contribution, rebate, refund, or any other receipt of \$15 or more shall be reported.
- 3008.5 Each contribution, receipt, transfer from other authorized committees, dividend or interest receipt, offset to operating expenditures, including rebates and refunds, and in the case of the citizen-service programs, personal property, shall be itemized and reported on the appropriate sub-schedule of Schedule A in accordance with the instructions for preparing the R&E Report.
- 3008.6 Each receipt for a loan made or guaranteed by the candidate or the committee, or owed by the candidate or the committee, and each loan repayment made by the candidate or the committee, shall be itemized and reported on the appropriate sub-schedule of Schedule E.

- 3008.7 Partnership contributions, under § 3011.15, shall be itemized and reported on Schedule A, in accordance with the instructions for preparing the R&E Report, in the following manner:
- (a) In the name of the partnership; and
  - (b) In the name of each contributing partner.
- 3008.8 Each operating expenditure, transfer to other authorized committees, refund of a contribution, independent expenditure, offset to receipts, and in the case of a citizen-service program, personal property, shall be itemized and reported on the appropriate sub-schedule of Schedule B in accordance with the instructions for preparing the R&E Report.
- 3008.9 Each in-kind contribution, under §§ 3008.5 and 3008.8, shall be assessed at the current local fair market value at the time of the contribution, and shall be itemized and reported on the appropriate sub-schedules of Schedules A and B.
- 3008.10 The net proceeds of each mass sale and collection shall be itemized and reported on Schedule C in accordance with the instructions for preparing the R&E Report, and the supporting documentation for each itemization maintained under § 3401.3 (b).
- 3008.11 Each debt and obligation, excluding loans, shall be itemized and reported on Schedule D in accordance with the instructions for preparing the R&E Report.
- 3008.12 Each loan shall be itemized and reported on the appropriate sub-schedule of Schedule E in accordance with the instructions for preparing the R&E Report.
- 3008.13 The R&E Report shall be complete, as of five (5) days prior to the date of any filing, under § 3017; Provided, that any contribution of two hundred dollars (\$200) or more received after any closing date, under § 3017, for the last R&E Report required to be filed prior to an election, shall be reported within 24 hours after its receipt.
- 3008.14 Financial transactions undertaken by credit card shall be reported on the R&E Report in the following manner:
- (a) Contributions shall be reported for the date upon which the authorized transaction is received;
  - (b) The full amount authorized by the contributor as a contribution shall be reported by the candidate or committee;
  - (c) Each service charge deducted by the credit card issuer shall be reported as an expenditure made by the candidate or the committee on the date when notified of the deduction; and

- (d) Each discount from the normal service charge authorized by the credit card issuer shall constitute an in-kind contribution, under § 3008.5, from the issuer and shall be reported as an in-kind contribution.
- 3008.15 Each person, other than a political committee or candidate, who makes contributions or expenditures exceeding fifty dollars (\$50) or more during a calendar year, other than by contribution to a political committee or candidate, shall file a listing of each expenditure on Schedule B-5 of the R&E Report, at the times specified under § 3017, for the period when the expenditure occurred.
- 3008.16 The Summary Financial Statement of Candidate for the Office of Member of an Advisory Neighborhood Commission (ANC), filed under § 3002.5, shall include the following:
- (a) Total receipts collected and expenditures made by the candidate for the campaign;
  - (b) Certification that the candidate did not receive contributions from any person, other than the candidate, in excess of twenty-five dollars (\$25);
  - (c) Certification that the candidate did not receive any contributions from any person or make any expenditures, including from or by the candidate, to support the candidate's election to office; and
  - (d) The disposal of surplus contributions, if any.
- 3008.17 The Summary Financial Statement of an ANC candidate may be filed in an electronic format at the OCF Website; Provided that the candidate shall submit a signed letter request for a PIN Number to file the report online, under § 3018.”

*Section 3009 of Chapter 30 of 3 DCMR, “Reports of Initiative, Referendum, Recall and Proposed Charter Amendment Committees,” shall be amended to read as follows:*

“3009 REPORTS OF INITIATIVE, REFERENDUM, RECALL AND PROPOSED CHARTER AMENDMENT COMMITTEES

- 3009.1 Each committee supporting or opposing an initiative, referendum, recall, or proposed charter amendment shall file R&E Reports during the consideration of the placement of the measure on an election ballot.
- 3009.2 The Office of Campaign Finance shall prepare the following:
- (a) A schedule of dates based upon the complete period allowed for qualification of a measure for ballot placement by which R&E Reports are due; and

- (b) A revised schedule of dates based upon actual completion of tasks by which R&E Reports are due, when necessary.

3009.3 R&E Reports shall be filed in accordance with the following schedule:

- (a) On or before the commencement of the process for initiative, referendum, recall or proposed charter amendment, or
- (b) In the case of an opponent, ten (10) days after making an expenditure or accepting a contribution in opposition to the measures;
- (c) On the tenth (10th) day of the fourth (4th) month preceding the election;
- (d) On the tenth (10th) day of the second (2nd) month preceding the election; and
- (e) Eight (8) days prior to the election.

3009.4 For any period prior to the year in which an election is scheduled to be conducted on an initiative, referendum, recall or proposed charter amendment, each committee organized in support or opposition to the measure shall file reports of receipts and expenditures on January 31 and July 31 of each year until the measure is presented to the electorate.

3009.5 With the exception of contributions to retire debt and expenditures made to wind down a campaign, under § 3016, contributions shall not receive contributions or make expenditures to support or oppose an initiative, referendum, recall, or proposed charter amendment under the following circumstances:

- (a) After the election at which the measure is presented to the electorate;  
or
- (b) Upon rejection of the petition with signatures as numerically insufficient by the Board of Election and Ethics; and
- (c) Subsequent to the exhaustion of all administrative and judicial remedies.

3009.6 Following the election, or the failure of an initiative, referendum, recall, or proposed charter amendment to qualify for ballot access, pursuant to this title, and the exhaustion of all administrative and judicial remedies, a committee shall continue to file R&E Reports on January 31st and July 31st of each year until all debts and obligations are satisfied.

3009.7 Upon satisfaction of all debts and obligations, each committee shall immediately file a final R&E Report.

- 3009.8 In the absence of any debts and obligations, each committee shall, within sixty (60) days following the election, perform the following acts:
- (a) Disburse any remaining funds, if any, in accordance with § 3016; and
  - (b) File a Termination Report of Receipts and Expenditures.
- 3009.9 A copy of each R&E Report or statement filed with the Director shall be preserved by the person filing the report or statement for a period of not less than three (3) years from the date of filing.”

*Section 3011 of Chapter 30 of 3 DCMR, “Limitations on Contributions,” shall be amended to read as follows:*

“3011 LIMITATIONS ON CONTRIBUTIONS

- 3011.1 No person shall make any contribution which, and no person shall receive any contribution which, when totaled with all other contributions from the same person, pertaining to an individual’s campaign for nomination as a candidate or election to public office, including both the primary and general elections, or special elections, exceeds the limitations enumerated for each office, under § 3011.2.
- 3011.2 Contributions in support of either individual candidates or their authorized committees, or for the recall of an incumbent, under § 3000.6, shall be limited to the following:
- (a) Mayor, U. S. Senator and Representative to Congress - two thousand dollars (\$2,000);
  - (b) Chairman of the Council - one thousand five hundred dollars (\$1,500);
  - (c) Member of the Council at-large - one thousand dollars (\$1,000);
  - (d) Member of the Council elected from a ward and Member of the State Board of Education at-large -- five hundred dollars (\$500);
  - (e) Member of the State Board of Education elected from a ward – two hundred dollars (\$ 200);
  - (f) Official of a Political party – two hundred dollars (\$200); and
  - (g) Member of an Advisory Neighborhood Commission -- twenty-five dollars (\$ 25).
- 3011.3 With the exception of special elections, no person shall make any contribution in any one election (primary and general) that, when totaled,

exceeds five thousand dollars (\$5,000), to any one (1) unauthorized committee, under § 3000.7.

- 3011.4 With the exception of special elections, no person shall make any contribution in any one election (primary and general) per elective office for Mayor, U. S. Senator and Representative to Congress, Chairman of the Council, and each member of the Council and Board of Education which, when totaled with all other contributions made by that person in any one (1) election (primary and general) to candidates and political committees, per elective office, exceeds eight thousand five hundred dollars (\$8,500); Provided, that contributions to individual candidates and political committees shall not exceed those listed under §§ 3011.2 and 3011.3.
- 3011.5 No person shall receive or make any cash contribution of twenty-five dollars (\$25) or more in legal tender.
- 3011.6 For the purposes of § 3011, expenditures for candidates for office shall not be considered contributions or expenditures by or on behalf of a candidate when derived from the following sources:
- (a) Personal funds belonging to candidates; and
  - (b) Funds from any person advocating the election or defeat of any candidate for office; provided, that the person was not requested or suggested to do so by the candidate, any agent of the candidate, or any authorized committee of the candidate.
- 3011.7 Each loan or advance from a candidate or member of the immediate family of a candidate shall be evidenced by a written instruction which fully discloses the following:
- (a) Terms;
  - (b) Conditions; and
  - (c) Parties to the loan or advance; and
  - (d) Documentation of the source of the funds when the loan or advance is from the candidate.
- 3011.8 The amount of each loan or advance from a member of the candidate's immediate family shall be included in computing and applying the limitations on contributions, under § 3011, upon receipt by the authorized committee of the loan or advance from an immediate family members; Provided, that the standards for repayment are consistent with repayment policies of lending institutions in the District of Columbia.
- 3011.9 Contributions to a candidate or political committee shall be attributed to the person actually making the contribution.

- 3011.10 Contributions from minor children (under eighteen (18) years old) shall be attributed to their parents or legal guardians except under the following circumstances:
- (a) The decision to contribute is made knowingly and voluntarily by the minor child; and
  - (b) The funds, goods or services contributed are owned or controlled exclusively by the minor child.
- 3011.11 A connected organization, under § 3000.9(a), and each political committee established, financed, maintained or controlled by the connected organization share a single contribution limitation.
- 3011.12 Corporations may make contributions in the District of Columbia.
- 3011.13 A corporation, its subsidiaries, and each political committee established financed, maintained or controlled by the corporation and its subsidiaries share a single contribution limitation.
- 3011.14 A corporation is deemed to be a separate entity; provided, that a corporation (corporation B) which is established, financed, maintained or controlled (51% or more) by another corporation (corporation A) is considered, for the purposes of the contribution limitations, a subsidiary of the other corporation (corporation A).
- 3011.15 Partnerships may make contributions in the District of Columbia; Provided, that all contributions by a partnership shall be subject to each contributing partner's individual contribution limitations, under § 3011.
- 3011.16 Contributions by a partnership shall be attributed to each partner, only by one (1) of the following methods:
- (a) Instructions from the partnership to the political committee or the candidate; or
  - (b) Agreement of the partners; Provided, that the profits of non-contributing partners are not affected.
- 3011.17 No portion of any contribution, under § 3011.15, shall derive from the profits of a corporation that is a partner.
- 3011.18 Limitations on contributions, under § 3011, apply to a limited liability company depending on whether it is established as a corporation or partnership.
- 3011.19 Limitations on contributions, under § 3011, shall not apply to initiative or referendum measures.

- 3011.20 With the exception of contributions received to retire debt, a political committee or a candidate shall not receive or accept contributions after the election or defeat of the candidate for office, or where the candidate notifies the Office of Campaign Finance of the intent to terminate the candidacy.
- 3011.21 Limitations on contributions, under § 3011, shall not apply to unauthorized political committees during any calendar year in which an election (primary and general) is not scheduled.”

*Section 3014 of Chapter 30 of 3 DCMR, “Citizen-Service Program,” shall be amended to read as follows:*

“3014 CITIZEN-SERVICE PROGRAM

- 3014.1 A citizen-service program shall encompass any activity or program which provides charitable, scientific, educational, medical, recreational or other services to the residents of the District of Columbia, and promotes their general welfare.
- 3014.2 Citizen-service programs shall be prohibited from participating in any of the following:
- (a) Promoting or opposing a political party or committee;
  - (b) Promoting or opposing the nomination or election of an individual to public office;
  - (c) Promoting or opposing any initiative, referendum or recall measure;
  - (d) Distributing campaign literature or paraphernalia;
  - (e) Using any funds for personal purposes of the elected official; and
  - (f) Conducting any other campaign activities covered in this Title.
- 3014.3 A citizen-service program may be maintained only by the following elected public officials:
- (a) The Mayor of the District of Columbia;
  - (b) The Chairman and Members of the Council of the District of Columbia; and
  - (c) The Representative or Senator of the District of Columbia.
- 3014.4 A citizen-service program may be operated in the following locations:
- (a) In the ward represented by the Member of the Council elected by ward; and

- (b) In the ward of the at-large member's choice.
- 3014.5 An elected official shall fund the citizen-service program only through the following methods:
- (a) By transferring any surplus, residue, or unexpended campaign funds to the citizen-service program;
  - (b) By receiving contributions which do not exceed, in the aggregate, eighty thousand dollars (\$80,000) in any one (1) calendar year;
  - (c) By receiving cash contributions from any person which, when aggregated with all other contributions received from the same person, do not exceed five hundred dollars (\$500), in any one (1) calendar year; and
  - (d) By receiving personalty from any person which, when aggregated with all other contributions received from the same person, do not exceed one thousand dollars (\$1,000) in any one (1) calendar year.
- 3014.6 The amount of any transfer of surplus, residue, or unexpended campaign funds by the elected official shall not be subject to the eighty thousand dollars (\$80,000) contribution limitation, under § 3014.5(b).
- 3014.7 The amount of any funds contributed by the elected official to the official's citizen-service program shall not be subject to the five hundred dollars (\$500) contribution limitation, under § 3014.5(c).
- 3014.8 No person shall receive or make any cash contribution of twenty-five dollars (\$25) or more in legal tender to a citizen-service program.
- 3014.9 A connected organization, under § 3000.9(a), and each affiliated committee established, financed, maintained or controlled by the connected organization share a single contribution limitation with respect separately to cash and personalty.
- 3014.10 Corporations may make contributions to citizen-service programs.
- 3014.11 A corporation its subsidiaries, and each political committee established, financed, maintained or controlled by the corporation and its subsidiaries share a single contribution limitation with respect separately to cash and personalty.
- 3014.12 A corporation is deemed to be a separate entity; provided, that a corporation (corporation B) which is established, financed, maintained or controlled (51% or more) by another corporation (corporation A) is considered, for the purposes of the contribution limitations, a subsidiary of the other corporation (corporation A).

- 3014.13 Partnerships may make contributions in the District of Columbia; provided, that each contribution by a partnership shall be subject to each contributing partner's individual contribution limitation, under § 3014.5.
- 3014.14 Contributions by a partnership shall be attributed to each partner, only by one (1) of the following methods:
- (a) Instructions from the partnership to the citizen-service program or the elected official; or
  - (b) Agreement of the partners; provided, that the profits of non-contributing partners are not affected.
- 3014.15 No portion of any contribution, under § 3014.5, shall derive from the profits of a corporation that is a partner.
- 3014.16 Limited liability companies may make contributions in the District of Columbia, under the contribution limitations of § 3014.5, dependent on whether the limited liability company is established as a corporation or partnership.
- 3014.17 The contribution limitations, under § 3014, shall apply only to the elected official's citizen-service program.
- 3014.18 An elected official shall comply with the following:
- (a) Spend no more than eighty thousand (\$80,000) in any one (1) calendar year for the citizen-service program;
  - (b) File the Statement of Organization for a Citizen-Service Program Form, prescribed by the Director, within ten (10) days of organization;
  - (c) Amend the Statement of Organization within ten (10) days of any change in information previously reported on the Statement of Organization; and
  - (d) Sign and file all Reports, in accordance with §§ 3008 and 3017.
- 3014.19 A citizen-service program may have a treasurer.
- 3014.20 A treasurer shall be required to file the following:
- (a) The Statement of Acceptance of Position of Treasurer for a Citizen-Service Program form, prescribed by the Director, within forty-eight (48) hours of assuming the office; and
  - (b) The Statement of Withdrawal of Position of Treasurer for a Citizen-Service Program form, prescribed by the Director, and a copy of written notification sent to the address of record of the custodian of

records, if indicated, and the elected official, within forty-eight (48) hours of vacating the office.

- 3014.21 A citizen-service program may establish and maintain a petty cash fund; provided, that records shall be maintained in accordance with § 3010 of this Chapter.”

*Section 3015 of Chapter 30 of 3 DCMR, “Use of Surplus Funds,” shall be amended to read as follows:*

“3015 USE OF SURPLUS FUNDS

- 3015.1 Surplus funds of a citizen-service program or a Statehood fund shall be disbursed within one hundred twenty (120) days of the date that the elected official performs the following:

- (a) Vacates the public office held; or
- (b) Notifies the Director, in writing, of any determination that the citizen-service program or Statehood fund shall no longer receive contributions or make expenditures.

- 3015.2 Surplus funds of a citizen-service program shall be disbursed only for the following:

- (a) To retire the debts of the program; and
- (b) To donate to a not-for-profit organization within the meaning of the federal tax laws.

- 3015.3 Surplus funds of a Statehood fund shall be disbursed by a U.S. Senator or Representative to retire debts and obligations for the following:

- (a) Salaries;
- (b) Office expenses; and
- (c) Other expenses necessary to support the purposes and operations of the public office.

- 3015.4 Upon retirement of debts and obligations, a U.S. Senator or Representative shall donate any remaining funds to a not-for-profit organization within the meaning of the federal tax laws.

- 3015.5 Surplus funds of a candidate or candidate-elect shall be disbursed within six (6) months of the following:

- (a) Defeat in an election;
- (b) Election to office; and

- (c) Withdrawal as a candidate.
- 3015.6 Surplus funds of a candidate or candidate-elect shall be disbursed by one (1) of the following methods:
- (a) Used to retire the debts of the political committee which received the funds;
  - (b) Returned to donors; or
  - (c) Contributed to a political party for political purposes.
- 3015.7 Surplus funds may be transferred to any charitable, scientific, literary, or educational organization or any other organization which meets the requirements of the tax laws of the District of Columbia by the following:
- (a) A candidate or candidate-elect for member of the State Board of Education; or
  - (b) A political committee formed to collect signatures or advocate the ratification or defeat of any initiative, referendum, or recall measure.
- 3015.8 Any candidate-elect, who is authorized to establish a citizen service program, under § 3014, may transfer any surplus funds to the respective citizen-service program.
- 3015.9 A campaign committee shall continue to function after the election for which the committee was organized, as an authorized committee, until all debts and obligations are extinguished.
- 3015.10 A campaign committee, pursuant to § 3015.9, shall comply with the following:
- (a) Dispose of all surplus funds in accordance with § 3015;
  - (b) Refrain from collecting or spending money to support a candidate in a future election;
  - (c) Adhere to contributions limitations, pursuant to § 3011; and
  - (d) File Reports, pursuant to § 3008.
- 3015.11 A citizen-service program or a Statehood fund shall continue to file R&E Reports, pursuant to §§ 3008 and 3017 of this chapter, until all debts are satisfied.”

*Section 3016 of Chapter 30 of 3 DCMR, “Termination of Political Committees, Citizen-Service Programs and Statehood Funds,” shall be amended to read as follows:*

- “3016      TERMINATION OF POLITICAL COMMITTEES, CITIZEN-SERVICE PROGRAMS AND STATEHOOD FUNDS
- 3016.1      A final R&E Report and a verified statement of termination, on a form prescribed by the Director, shall be filed upon termination of any political committee (committee), citizen-service program (program), or Statehood fund (fund).
- 3016.2      An elected official shall terminate a program or fund if the elected official, in the following instances:
- (a)      Fails to win re-election;
  - (b)      Resigns; or
  - (c)      Becomes ineligible to serve, by operation of law.
- 3016.3      An authorized committee shall terminate upon satisfaction of all debts and obligations, when the purpose for which the committee was organized ceases.
- 3016.4      Any committee, program or fund may terminate its reporting requirements by filing a final R&E Report; Provided, that the committee, program or fund meets the following requirements:
- (a)      Ceased to receive contributions or make expenditures;
  - (b)      Extinguished all debts and obligations;
  - (c)      Is not involved in any enforcement, audit or litigation action with the Office; and
  - (d)      Disbursed all surplus funds in accordance with § 3015.
- 3016.5      A committee, program or fund that cannot extinguish its outstanding debts and obligations may qualify to terminate its reporting requirements, by the following:
- (a)      Settling its debts for less than the full amount owed to its creditors; and
  - (b)      Demonstrating that a debt is unpayable.
- 3016.6      The types of debts that are subject to debt settlement shall include the following:
- (a)      Amounts owed to commercial vendors;
  - (b)      Debts arising from advances by individuals;

- (c) Salary owed to committee or program employees; and
  - (d) Loans owed to political committees.
- 3016.7 The types of debts that are not subject to debt settlement include the following:
- (a) Disputed debts; and
  - (b) Bank loans.
- 3016.8 A qualifying committee, program or fund shall be settled under the following conditions:
- (a) Credit was initially extended in the ordinary course of business;
  - (b) Reasonable efforts, for example, fundraising, reducing overhead costs and liquidating assets, were undertaken to satisfy the outstanding debt; and
  - (c) The creditor made the same efforts to collect the debt as those made to collect debts from a nonpolitical debtor in similar circumstances.
- 3016.9 Once a committee, program or fund has reached an agreement with a creditor, the treasurer shall file with the Director, a debt settlement proposal, on a form prescribed by the Director.
- 3016.10 Following receipt of the debt settlement proposal, the Director shall perform the following:
- (a) Review each debt settlement proposal for substantial compliance with the Act; and
  - (b) Notify the committee or program within thirty (30) days of its approval or disapproval.
- 3016.11 A debt may be considered unpayable, under § 3016.5, for the following reasons:
- (a) The debt has been outstanding for at least twenty-four (24) months;
  - (b) The creditor is out of business, and no other entity has the right to collect the amount owed; and
  - (c) The creditor cannot be located after best efforts to do so.

- 3016.12 A committee, program or fund may apply to the Director to determine whether a specific debt may be unpayable upon a showing that best efforts to locate the creditor had been made.
- 3016.13 For purposes of this section, the term "Best efforts" shall include the following:
- (a) Ascertainment of current address and telephone number; and
  - (b) Contacting creditor by registered or certified mail, or in person or by telephone.
- 3016.14 The reporting obligation of a committee, program or fund ends when the Director notifies the committee, program or fund that the final Report has been approved, and the official record closed.”

*Section 3017 of Chapter 30 of 3 DCMR, "Filings and Deadlines," shall be amended to read as follows:*

“3017 FILINGS AND DEADLINES

- 3017.1 All candidates and political committees, except as otherwise noted in this chapter, shall file R&E Reports on the following dates:
- (a) January 31st, March 10th, June 10th, August 10th, October 10th, December 10th, and the eighth (8th) day next preceding the date of any election, in any year in which there is held an election for which the candidate seeks office and the political committee supports a candidate for office;
  - (b) January 31st and July 31st; provided, that a political committee no later than January 31st declares its intention to not support a candidate during an election year, under § 3000.10 of this chapter; and
  - (c) January 31st and July 31st, in a non-election year.
- 3017.2 Citizen-service program R&E Reports shall be filed quarterly each year on the first (1st) day of the following months:
- (a) January;
  - (b) April;
  - (c) July; and
  - (d) October.
- 3017.3 Statehood fund R&E Reports shall be filed quarterly each year on the first (1st) day of the following months:

- (a) January;
  - (b) April;
  - (c) July; and
  - (d) October.
- 3017.4 Except as otherwise provided in this chapter, R&E Reports shall be filed, on January 31st and July 31st of each year until all debts and obligations are satisfied, by the following:
- (a) Authorized committees, pursuant to § 3015.9;
  - (b) Statehood fund when the U.S. Senator or Representative vacates office; and
  - (c) Citizen-service program when an elected official, pursuant to § 3014.3, vacates office.
- 3017.5 All R&E Reports shall contain all financial transactions through and including the fifth (5th) day preceding the filing deadline for each R&E Report; provided, that the reporting period for the next R&E Report shall commence on the day following the closing date of the prior R&E Report.
- 3017.6 All contributions of two hundred dollars (\$200) or more, received after the closing date of the filing deadline for the eighth (8th) day preceding the election Report, shall be reported in writing within twenty-four (24) hours of receipt.
- 3017.7 All reports and statements filed in person or by first class mail shall be deemed timely filed when received by 5:30 p.m. of the prescribed filing date.
- 3017.8 All reports and statements electronically filed shall be deemed timely filed if received by midnight of the prescribed filing deadline; provided, that the original paper report, verified by the treasurer, is also filed within five (5) days of the filing deadline, where a confidential pin number is not used.
- 3017.9 Upon written request submitted by the candidate or committee, on or before the filing deadline, the Director may allow an extension for filing a Report or statement for a reasonable period of time, for good cause shown.”

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

**NOTICE OF FINAL RULEMAKING**

The District of Columbia Board of Elections and Ethics pursuant to the authority set forth in D.C. Official Code § 1-1103.01 (b-1) (1) (2001 Edition), hereby gives notice of final rulemaking action to adopt the following amendments to Chapter 31, "Lobbying," of Title 3 of the District of Columbia Municipal Regulations.

These amendments represent updates to the rules of the Board's Office of Campaign Finance (OCF). Specifically, the majority of the amendments augment and clarify the lobbying procedures to provide the general public and OCF filers with a better understanding of the registration and reporting requirements for lobbyists; authorize an electronic certification process for the verification of electronically filed documents, pursuant to the "Campaign Finance Electronic Signature Amendment Act of 2009," effective October 15, 2009 (D.C. Act 18-207); and correct technical and typographical errors.

A Notice of Proposed Rulemaking with respect to these amendments was published in the D.C. Register on January 15, 2010 at 57 D.C. Reg. 614. No comments were received concerning these rules. These amendments will be effective upon publication of this notice in the D.C. Register.

*Section 3100 of Chapter 31 of 3 DCMR, "Registration Requirements," shall be amended to read as follows;*

**"3100 REGISTRATION REQUIREMENTS**

- 3100.1 A person shall register as a lobbyist with the Director of the Office of Campaign Finance (the Director) (OCF) by filing the Lobbyist Registration Form if that person, under the following circumstances:
- (a) Receives compensation of two hundred fifty dollars (\$250) or more in any three (3) consecutive calendar month period for lobbying;
  - (b) Receives compensation from more than one (1) source which totals two hundred fifty dollars (\$250) or more in any three (3) consecutive month period for lobbying; and
  - (c) Expends funds of two hundred fifty dollars (\$250) or more in any three (3) consecutive calendar month period for lobbying.
- 3100.2 Each law firm, association or business entity employed to lobby on behalf of any person, shall register as a lobbyist; provided, that the partner, member or employee assigned to perform lobbying duties on behalf of the registered entity, shall be listed as a lobbyist on the Lobbyist Registration Form, under § 3100.6.

- 3100.3 Each individual, association or business entity which directly employs a person in-house or retains a law firm, association, or business entity to lobby on its behalf shall register in the name of the respective entity; provided, that the person in-house, law firm, association, or business entity retained to lobby for the registrant shall be listed as a lobbyist working for the registrant on the Lobbyist Registration Form, under § 3100.6.
- 3100.4 Each law firm, association or business entity employed to lobby on behalf of any person shall file a separate Lobbyist Registration Form for each person from whom compensation is received; for example, registration forms shall not be consolidated if the law firm, association or business entity is compensated from more than one (1) source.
- 3100.5 Each person who pays another person to lobby on their behalf is the compensating registrant, and shall register as a lobbyist and file a separate Lobbyist Registration Form, independent of any registration filed under § 3100.6.
- 3100.6 The Lobbyist Registration Form shall include the following information:
- (a) Registrant's name, permanent address and temporary address, if any, while lobbying;
  - (b) Name and address of each person designated to lobby on behalf of the registrant;
  - (c) Name, address, and nature of the business of any person who compensates the registrant and the terms of the compensation;
  - (d) Identification, by formal designation if known, of matters on which the registrant expects to lobby; and
  - (e) Registrant's verification under oath of the required information; provided, that if the registrant is not an individual, an authorized officer or agent of the registrant (other than the lobbyist retained by contract to provide lobbying services) shall sign the form."

*Section 3102 of Chapter 31 of 3 DCMR, "Activity Reports," shall be amended to read as follows:*

"3102 ACTIVITY REPORTS

- 3102.1 Each registrant, under § 3100, shall file an activity report, on a form prescribed by the Director; provided, that a separate activity report shall be filed by each law firm, association or business entity employed to lobby under § 3100, for each person from whom compensation is received during the reporting period.
- 3102.2 Each activity report shall include the following:

- (a) A complete and current statement of information as shown on the registration form;
- (b) A listing of the name of each official in the executive or legislative branch with whom the registrant has communicated in writing or orally during the reporting period relating to lobbying activities, and the date of the communication;
- (c) A pro-rated listing and break down of total lobbying compensation receipts paid to each lobbyist for lobbying, including each in-house employee-lobbyist, based on time spent on influencing any legislative action, administrative decision, or each piece of local legislation on Schedule A;
- (d) A listing and break down of all compensation received and used in payment for lobbying activities, including office, personal, advertising, publication, and travel expenses, compensation to others, and other expenses on Schedule A-1;
- (e) Each loan received by the lobbyist, in-house employee lobbyist, person, and organization related to any lobbying activity on Schedule A-2;
- (f) Each expenditure paid by the compensating registrant for lobbying activities to a lobbyist, an in-house employee-lobbyist, person or organization contracted to provide lobbying activities, on Schedule B;
- (g) Each campaign or political contribution, gift, honoraria, or loan of fifty dollars (\$50) made by the registrant or anyone acting on behalf of the registrant to benefit an official in the legislative or executive branch, a member of the official's staff or household, or a campaign or testimonial committee established for the benefit of the official on Schedule B-1; and
- (h) The name and employment of each official in the executive or legislative branch, and member of the official's personal staff, who was compensated in any manner by the registrant, on Schedule C.

3102.3 Each registrant shall maintain the following:

- (a) A personal detailed account of time spent, expenses incurred, and compensation paid or received for lobbying; and
- (b) All records in accordance with Chapter 34 of this Title.

3102.4 A registrant shall exclude from activity reports any transactions related to the registrant's exempt status, if any, under § 3101."

*Section 3103 of Chapter 31 of 3 DCMR, "Filing Deadlines," shall be amended to read as follows:*

"3103        FILING DEADLINES

- 3103.1        Each registrant shall file a Lobbyist Registration Form at the following times:
- (a)        No later than fifteen (15) days after becoming a lobbyist; and
  - (b)        On or before January 15th of each year.
- 3103.2        Each registrant shall file Lobbyist Activity Reports of the previous six (6) month period each year on the following dates:
- (a)        January 10th, for the period covering July 1st through December 31st; and
  - (b)        July 10th, for the period covering January 1st through June 30th.
- 3103.3        The Lobbyist Activity Report may be filed in an electronic format at the OCF Website; provided, that the registrant verifies the electronically filed Report by submitting a digitized copy of the signed certification as a separate file in the electronic submission."

*Section 3104 of Chapter 31 of 3 DCMR, "Limitations on Lobbying," shall be amended to read as follows:*

"3104        LIMITATIONS ON LOBBYING

- 3104.1        A registrant, or anyone acting on behalf of a registrant, shall be prohibited from offering, giving, or causing to be given a gift, directly or indirectly related to lobbying, to an official in the legislative or executive branch or member of the official's staff, that exceeds one hundred dollars (\$100) in value in the aggregate in any calendar year.
- 3104.2        An official in the legislative or executive branch or any member of the official's staff shall be prohibited from soliciting or accepting anything, directly or indirectly relating to lobbying, that exceeds one hundred dollars (\$100) in value in the aggregate in any calendar year.
- 3104.3        The term, "gift," as used in § 3104, shall exclude any contributions made pursuant to Chapter 30 of this Title.
- 3104.4        A person shall be prohibited from intentionally engaging in the following:
- (a)        Making any false or misleading statement or misrepresentation of the facts relative to any pending administrative decisions or legislative actions to any official in the legislative or executive branch;

- (b) Causing a copy of a document, knowing the document to contain a false statement, under § 3104.4(a), to be transmitted to an official in the legislative or executive branch without notifying the official in writing of the truth; and
- (c) Selling or utilizing any information copied from registration forms and activity reports, under §§ 3100 and 3102, or from lists compiled from registration forms and activity reports, for soliciting campaign contributions or selling tickets to a fundraising affair or for any commercial purpose.

3104.5 Except as provided in § 3101.1, a public official shall be precluded from employment as a lobbyist while acting as a public official.

3104.6 Penalties for any violation of this chapter shall be imposed pursuant to Chapter 37 of this Title.”

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

**NOTICE OF FINAL RULEMAKING**

The District of Columbia Board of Elections and Ethics pursuant to the authority set forth in D.C. Official Code § 1-1103.01 (b-1) (1) (2001 Edition), hereby gives notice of final rulemaking action to adopt the following amendments to Chapter 32, "Financial Disclosure," of Title 3 of the District of Columbia Municipal Regulations.

These amendments represent updates to the rules of the Board's Office of Campaign Finance (OCF). Specifically, the majority of the rules augments and clarifies the financial disclosure procedures to provide the general public and OCF filers with a better understanding of the filing and disclosure requirements of the Financial Disclosure Statement, and to correct technical and typographical errors.

A Notice of Proposed Rulemaking with respect to these amendments was published in the D.C. Register on January 15, 2010 at 57 D.C. Reg. 619. No comments were received concerning these rules. These amendments will be effective upon publication of this notice in the D.C. Register.

*Section 3200 of Chapter 32 of 3 DCMR, "Applicability," shall be amended to read as follows:*

"3200        APPLICABILITY

3200.1      The Financial Disclosure Statement (FDS) form, prescribed by the Director of the Office of Campaign Finance (the Director) (OCF), shall be filed by the following public officials:

- (a)      Any candidate for election to public office, except the office of Advisory Neighborhood Commissioner (ANC), who, at the time of candidacy, does not occupy any such office;
- (b)      All elected officials, except ANC members;
- (c)      Members of specific boards and commissions, pursuant to the Act;
- (d)      Employees within the excepted and legal services, paid at a rate of DS-13 or above;
- (e)      Employees within the management supervisory service, paid at a rate of MS-13, or above;
- (f)      Persons serving as subordinate agency heads pursuant to the Personnel Act; and
- (g)      Any other public official expressly subject to the financial disclosure provisions of the Act.

3200.2 The FDS shall also be filed by members of any board or commission created after April 23, 1980, which makes decisions in the following areas:

- (a) Contracting;
- (b) Procurement;
- (c) Administration of grants or subsidies;
- (d) Planning or developing policies;
- (e) Inspecting;
- (f) Licensing;
- (g) Regulating;
- (h) Auditing; or
- (i) Acting in areas of responsibility involving any potential conflict of interest.

3200.3 The Honoraria and Outside Income Disclosure Statement (HOIDS) form, prescribed by the Director, shall be filed by the following public officials:

- (a) The Mayor;
- (b) Each member of the Council; and
- (c) Each member of the State Board of Education.

3200.4 Any potential filer may request an exemption by the Director on the basis that the activities of the potential filer may be deemed de minimis.”

*Section 3201 of Chapter 32 of 3 DCMR, “Disclosure Requirements,” shall be amended to read as follows:*

“3201 DISCLOSURE REQUIREMENTS

3201.1 The public official shall list on the FDS the following:

- (a) Business entities transacting any business with the District government in which the public official (or spouse for jointly titled property) has a beneficial interest, including those held in the public officials’ name, in trust, or in the name of a nominee, valued in excess of one thousand dollars (\$1,000);
- (b) Business entities transacting any business with the District government in which the public official (or spouse for jointly titled

property) has a beneficial interest consisting of corporate stock, registered and traded on a national exchange, with a value over five thousand dollars (\$5,000);

- (c) Business entities transacting any business with the District government in which the public official (or spouse for jointly titled property) earns income for services rendered during a calendar year in excess of one thousand dollars (\$1,000);
- (d) Business entities transacting any business with the District government in which the public official (or spouse for jointly titled property) serves as an officer, director, partner, employee, consultant, contractor or in any other formal capacity or affiliation;
- (e) Each outstanding liability borrowed by the individual (or spouse if joint liability) exceeding one thousand dollars (\$1,000) which is not a loan from a federal or state insured or regulated financial institution, immediate family, or revolving credit or installment accounts;
- (f) Each real property located in the District of Columbia (other than the personal residence actually occupied by the public official or spouse) with a fair market value in excess of five thousand dollars (\$5,000) in which the public official or spouse (jointly titled) holds an interest;
- (h) Each professional or occupational license issued by the District government;
- (i) Each gift received in excess of one hundred dollars (\$100) in a calendar year from any business entity transacting any business with the District government; and
- (j) An affidavit stating that the public official has not caused title to property to be placed in the name of another person or entity for purposes of avoiding the requirements of this section.

3201.2 The public official shall list on the HOIDS the following:

- (a) The source and amount of all outside income earned during the calendar year;
- (b) The name of each client who transacted business with the District government from whom the public official received outside income during the calendar year;
- (c) The name of each client who stands to gain a direct financial benefit from legislation that was pending before the Council during the calendar year;

- (d) Each honorarium earned by the public official or any member of the public official's immediate family during the year in which the right to receive the honorarium accrued, including the source and amount;
  - (e) Royalties during the year in which the right to receive the royalty accrues received by the Mayor, Chairman of the Council or any member of their immediate families for the works of the Mayor or of the Chairman of the Council; and
  - (f) Any honoraria or royalties paid to a charitable organization.
- 3201.3 No public official, required to file a HOIDS, pursuant to § 3201.2, shall earn honoraria in excess of ten thousand dollars (\$10,000) during the year in which the right to receive the honorarium accrues, except that any amounts paid to a charitable organization, on behalf of the public official, shall not be calculated as part of the aggregate total.
- 3201.4 Neither the Mayor nor the Chairman of the Council shall earn royalties in excess of ten thousand dollars (\$10,000) during the year in which the right to receive the royalty accrues, except that any amounts paid to a charitable organization, on behalf of the public official, shall not be calculated as part of the aggregate total.
- 3201.5 The limitation on the receipt of royalties in excess of ten thousand dollars (\$10,000) in any calendar year shall apply to the following public officials and their immediate families:
- (a) The Mayor; and
  - (b) The Chairman of the Council.”

*Section 3202 of Chapter 32 of 3 DCMR, "Filing Requirements," shall be amended to read as follows:*

“3202 FILING REQUIREMENTS

- 3202.1 The FDS shall be deemed timely filed in person or by first class mail if received in the Office of Campaign Finance by no later than 5:30 p.m. of May 15th of each year for the prior calendar year in which the public official served.
- 3202.2 The FDS may be filed electronically no later than 12:00 midnight of the filing deadline; Provided that, the paper filing of the FDS, verified by the public official, is filed within five (5) days of the filing deadline.
- 3202.3 The HOIDS shall be filed with the Director of Campaign Finance not later than May 15th of each year for the prior calendar year in which the public official served.

- 3202.4 The HOIDS shall be deemed timely filed in person or by first class mail when received in the Office of Campaign Finance by no later than 5:30 p.m. on May 15th of each year for the prior calendar year in which the public official served.
- 3202.5 A public official shall submit an amended FDS and HOIDS within thirty (30) days after changes in any information represented on the FDS and the HOIDS.
- 3202.6 A public official may make a request of the Director, in writing, for an extension of up to thirty (30) days in which to submit the FDS and the HOIDS.
- 3202.7 The Director may extend the period of time for submission of the FDS and the HOIDS by a public official, for good cause shown.
- 3202.8 The list of public official required to file the FDS shall be published in the DC Register in April of each calendar year, and made available to the public, under Chapter 37 of this Title.”

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

**NOTICE OF FINAL RULEMAKING**

The District of Columbia Board of Elections and Ethics pursuant to the authority set forth in D.C. Official Code § 1-1103.01 (b-1) (1) (2001 Edition), hereby gives notice of final rulemaking action to adopt the following amendments to Chapter 33, "Conflict of Interest and Use of Government Resources for Campaign – Related Purposes," of Title 3 of the District of Columbia Municipal Regulations.

These amendments represent updates to the rules of the Board's Office of Campaign Finance (OCF). Specifically, the majority of the rules augments and clarifies the conflict of interest procedures to provide the general public and OCF filers with a better understanding of the agency processes, and to correct technical and typographical errors.

A Notice of Proposed Rulemaking with respect to these amendments was published in the D.C. Register on January 15, 2010 at 57 D.C. Reg. 624. No comments were received concerning these rules. These amendments will be effective upon publication of this notice in the D.C. Register.

*Section 3300 of Chapter 33 of 3 DCMR, "Applicability," shall be amended to read as follows:*

**"3300        APPLICABILITY**

- 3300.1        A conflict of interest shall occur when a public official exerts any "effort to realize personal gain", as defined in § 9900.1, through official conduct.
- 3300.2        The use of a government resource for a campaign-related purpose occurs when a person draws upon a service of the District of Columbia government for any campaign matter, pursuant to this Title.
- 3300.3        For the purposes of a conflict of interest, this Chapter shall apply to the following public officials:
- (a)        Each candidate for nomination for election, or election, to public office, except the office of Advisory Neighborhood Commissioner (ANC), who, at the time of candidacy, does not occupy the public office;
  - (b)        Each elected official, including ANC members;
  - (c)        Members of specific boards and commissions, pursuant to the Act;
  - (d)        Employees within the excepted and legal services, and paid at a rate of DS-13 or above;

- (e) Employees within the management supervisory service and paid at a rate of MS-13, or above;
  - (f) Persons serving as subordinate agency heads pursuant to the Personnel Act; and
  - (g) Any other public official expressly subject to the financial disclosure provisions of the Act.
- 3300.4 For the purposes of the use of a government resource for a campaign-related purpose, this chapter shall apply to all persons.
- 3300.5 This chapter shall not prohibit a public official from voting on the following matters:
- (a) One which affects a class of persons of fifty (50) or more of which the public official is a member, and the financial gain to be realized is de minimis;
  - (b) Compensation of the public official as authorized by law; and
  - (c) Elections laws.
- 3300.6 This chapter shall not apply to any person who registers as a lobbyist and engages in lobbying, under § 3100.”

*Section 3301 of Chapter 33 of 3 DCMR, “Prohibited Conduct,” shall be amended to read as follows:*

“3301 PROHIBITED CONDUCT

- 3301.1 A public officials shall be prohibited from using their official position to obtain financial gain, other than that compensation provided by law for the public official, for the following:
- (a) The public official;
  - (b) Any member of the public official’s household; or
  - (c) Any business with which the public official or a member of the public official’s household is associated.
- 3301.2 A person shall be prohibited from offering, and a public official, or any member of a public official's household, shall be prohibited from receiving anything of value, based on the following:
- (a) Any understanding that the actions, judgment or vote of the public official would be influenced;

- (b) Any reasonable inference that the thing of value would influence the public official in the discharge of his or her duties; or
  - (c) As a reward, except for political contributions publicly reported under Chapter 30 of this Title or transactions made in the ordinary course of business of the offeror.
- 3301.3 A person shall be prohibited from offering, and a public official shall be prohibited from soliciting or receiving any money for advice or assistance given in the course of or relating to the public official's employment, in addition to those monies lawfully received by the public official in the public official's entrusted position.
- 3301.4 A public official shall be prohibited from disclosing confidential information given in the course of or because of the entrusted position or activities of the public official which could result in financial gain for the public official or for any other person.
- 3301.5 A member or employee of the Council or the State Board of Education shall be prohibited from accepting an assignment to serve on a committee if its jurisdiction consists of matters in which the public official, a member of the public official's family, or any business with which the public official is associated, has any financial interest.
- 3301.6 The Mayor and each member of the Council shall be prohibited from representing another person before any regulatory agency or District of Columbia Court while serving in office, except under the following circumstances:
  - (a) The public official appears before the regulatory agency or District of Columbia Court in their official capacity; or
  - (b) A member of the Council (excluding the Chairman) licensed to practice law, appears before any court or non-District of Columbia regulatory agency in any matter which does not affect their official position.
- 3301.7 Members of boards and commissions are prohibited from appointing the following:
  - (a) A member from their respective board or commission to any paid office or position under the supervision of their respective board or commission; and
  - (b) A former member from their respective board or commission to any paid office or position under the supervision of their respective board or commission; provided, that at least 45 days have elapsed since the termination of service to the board of commission by the former member, and the former member has followed the hiring

procedures required of other applicants for the paid office or position.

3301.8 District of Columbia Government resources shall be prohibited from use to support or oppose any of the following:

- (a) A candidate for elected office, whether partisan or nonpartisan; or
- (b) An initiative, referendum, or recall measure, or a charter amendment referendum.

3301.9 Resources of the District of Columbia Government shall include, but not be limited to, the following:

- (a) The personal services of employees during their hours of work; and
- (b) Nonpersonal services.

3301.10 Nonpersonal services shall include, but not be limited to, the following:

- (a) Supplies;
- (b) Materials;
- (c) Equipment;
- (d) Office space;
- (e) Facilities; and
- (f) Utilities, for example, telephone, gas and electric services.

3301.11 The following public officials may express their views on a District of Columbia election, as part of their official duties:

- (a) The Mayor;
- (b) The Chairman of the Council;
- (c) Each Member of the Council;
- (d) The President of the State Board of Education; and
- (e) Each Member of the State Board of Education.

3301.12 A public official shall not act on, or decide, any matter in which there is conflict or a potential conflict, created by their financial, personal, family, business, or client interest.”

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of publication of this notice in the D.C. Register. Comments should be filed with the Office of the General Counsel, Board of Elections and Ethics, 441 4<sup>th</sup> Street, N.W., Suite 270N, Washington, D.C. 20001. Copies of the proposed rules may be obtained at cost from the above address, Monday through Friday, between the hours of 9:00 a.m. and 4:00 p.m.

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

**NOTICE OF FINAL RULEMAKING**

The District of Columbia Board of Elections and Ethics pursuant to the authority set forth in D.C. Official Code § 1-1103.01 (b-1) (1) (2001 Edition), hereby gives notice of final rulemaking action to adopt the following amendments to Chapter 34, "Campaign Finance Recordkeeping," of Title 3 of the District of Columbia Municipal Regulations.

These amendments represent updates to the rules of the Board's Office of Campaign Finance (OCF). Specifically, the majority of the rules augments and clarifies the record keeping procedures to provide the general public and OCF filers with a better understanding of the agency processes, and to correct technical and typographical errors.

A Notice of Proposed Rulemaking with respect to these amendments was published in the D.C. Register on January 15, 2010 at 57 D.C. Reg. 628. No comments were received concerning these rules. These amendments will be effective upon publication of this notice in the D.C. Register.

*Section 3400 of Chapter 34 of 3 DCMR, "Recordkeeping Procedures," shall be amended to read as follows:*

"3400        RECORDKEEPING PROCEDURES

3400.1      To ensure financial accountability, this Chapter governs the recordkeeping procedures for the following:

- (a)        Candidates, including candidates seeking election to an Advisory Neighborhood Commission (ANC);
- (b)        Political Committees;
- (c)        Lobbyists;
- (d)        Citizen-service programs; and
- (e)        Statehood funds.

3400.2      Each required filer, under § 3400.1, shall obtain and preserve, from the date of registration, detailed records of all contributions and expenditures disclosed in reports and statements filed with the Director, including the following:

- (a)        Check stubs;
- (b)        Bank statements;

- (c) Canceled checks;
- (d) Contributor cards and copies of donor checks;
- (e) Deposit slips;
- (f) Invoices;
- (g) Receipts;
- (h) Contracts;
- (i) Payroll records;
- (j) Tax records;
- (k) Lease agreements;
- (l) Petty cash journals;
- (m) Ledgers;
- (n) Vouchers; and
- (o) Loan documents.

3400.3 Bank statements may be submitted in lieu of canceled checks to show financial transactions, where the bank statements include photocopies of canceled checks, required under § 3400.2.

3400.4 A contribution received after an election cycle (primary and general) shall be earmarked to indicate that the contribution is for the retirement of the debt of a candidate or political committee.

3400.5 Each filer, with the exception of lobbyists, shall maintain the required records, under § 3400.2, for a period of three (3) years from the date of the filing of the final Report of Receipts and Expenditures (R&E Report) and the Statement of Committee Termination under § 3016.

3400.6 Each lobbyist shall maintain the required records, under § 3400.2, for a period of five (5) years from the date of the filing of the Activity Report, under § 3102.”

*Section 3401 of Chapter 34 of 3 DCMR, “Expenditures,” shall be amended to read as follows:*

“3401 EXPENDITURES

3401.1 With the exception of petty cash disbursements, each expenditure shall be made by utilization of the following:

- (a) Serially pre-numbered checks, which identify the required filer on the face of the check; and
  - (b) A commercial-business type of checkbook, which includes spaces for the entry of each check and a brief explanation of the nature of the disbursement.
- 3401.2 Checks shall be issued by the filer in the following manner:
- (a) Consecutive numerical order; and
  - (b) Out of the depository account.
- 3401.3 Checks shall be recorded in the following:
- (a) A cash disbursement journal; and
  - (b) The check stub, as provided.
- 3401.4 Voided or stale-dated checks shall be handled in the following method:
- (a) Stamped "void" or made non-negotiable; and
  - (b) Retained in accordance with § 3400.2.
- 3401.5 Each expenditure from petty cash shall be made in accordance with the following procedures:
- (a) Each disbursement from the petty cash fund shall be supported by a petty cash voucher; and
  - (b) Each reimbursement out of the petty cash fund shall be accompanied by appropriate documentation, for example, receipts or invoices.
- 3401.6 Each expenditure shall be reconciled with the total monthly disbursements, as shown by the following:
- (a) Canceled checks; and
  - (b) Bank statements.”

*Section 3402 of Chapter 34 of 3 DCMR, “Receipt,” shall be amended to read as follows:*

“3402 RECEIPT

- 3402.1 To fully identify the donor of a contribution, each receipt shall contain the following information:

- (a) Full name;
- (b) Mailing address;
- (c) Occupation and principal place of business, if any;
- (d) Date of Contribution; and
- (e) The amount.

3402.2 Each receipt shall be handled in the following manner:

- (a) A pre-numbered receipt shall issue for each contribution received;  
and
- (b) Receipts shall be documented by contributor cards and copies of the donor's check.

3402.3 Records of receipts and contributions shall be maintained to show the following:

- (a) Cumulative totals, with the exception of receipts for sales or collections; and
- (b) For sales or collections, a detailed record of receipts and expenditures.

3402.4 Each filer shall separately identify undesignated receipts from designated receipts.”

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

**NOTICE OF FINAL RULEMAKING**

The District of Columbia Board of Elections and Ethics pursuant to the authority set forth in D.C. Official Code § 1-1103.01 (b-1) (1) (2001 Edition), hereby gives notice of final rulemaking action to adopt the following amendments to Chapter 37, "Investigations and Hearings," of Title 3 of the District of Columbia Municipal Regulations.

These amendments represent updates to the rules of the Board's Office of Campaign Finance (OCF). Specifically, the majority of the rules augments and clarifies the investigative procedures of the Office of Campaign Finance to provide the general public and OCF filers with a better understanding of the agency processes; to establish fines for the failure to maintain required receipts of financial transactions and the failure to provide notice of potential conflicts of interest to the Board and the Office of Campaign Finance; and to correct technical and typographical errors.

A Notice of Proposed Rulemaking with respect to these amendments was published in the D.C. Register on January 15, 2010 at 57 D.C. Reg. 632. No comments were received concerning these rules. These amendments will be effective upon publication of this notice in the D.C. Register.

*Section 3700 of Chapter 37 of 3 DCMR, "Investigations in General," shall be amended to read as follows:*

"3700 INVESTIGATIONS IN GENERAL

3700.1 The provisions of this chapter shall establish the procedures for the conduct of all investigations by the Director of Campaign Finance (the Director) (OCF) of alleged violations of the Campaign Finance Act (Act), and Chapters 30 - 37 of this Title.

3700.2 Investigations shall be conducted in the following manner:

- (a) Fairly and professionally; and
- (b) To protect the rights and reputations of public employees and officials.

3700.3 Investigations shall be identified as one (1) of the following:

- (a) Internal Inquiry;
- (b) Preliminary Investigation; or
- (c) Full Investigation.

- 3700.4 All proceedings and records of the OCF relating to the initiation or conduct of any investigation shall be confidential.
- 3700.5 The disposition of each investigation shall be made part of the public record.”

*Section 3701 of Chapter 37 of 3 DCMR, “Initiation of Investigation,” shall be amended to read as follows:*

“3701 INITIATION OF INVESTIGATION

- 3701.1 An investigation may commence upon referral by the Board of Elections and Ethics (Board) or the filing of a complaint in writing with the Director.
- 3701.2 Each complaint shall include the following:
- (a) Full name and address of the complainant and the respondent;
  - (b) A clear and concise statement of facts which are alleged to constitute a violation of the Act, or of Chapters 30 - 37 of this Title;
  - (c) Complainant’s signature;
  - (d) Verification of the complaint under oath; and
  - (e) Supporting documentation, if any.”

*Section 3704 of Chapter 37 of 3 DCMR, “Full Investigations,” shall be amended to read as follows:*

“3704 FULL INVESTIGATIONS

- 3704.1 A full investigation regarding any alleged violation of the Act, and Chapters 30 - 37 of this Title, shall commence upon a finding of reasonable cause by the Director.
- 3704.2 Within ten (10) days after initiation of a full investigation, the Director shall notify, in writing, the person (respondent), who is the subject of the full investigation.
- 3704.3 Notification to the respondent shall consist of the following:
- (a) A copy of the complaint;
  - (b) Explanation of the existence of the investigation and the general nature of the alleged violation; and
  - (c) An offer to the subject affording the opportunity to respond to the allegation(s).

- 3704.4 The full investigation shall be conducted by evidence gathered and explored by the following:
- (a) Subpoena;
  - (b) Depositions;
  - (c) Interrogatories;
  - (d) Interviews;
  - (e) Audits;
  - (f) Affidavits;
  - (g) Documents; and
  - (h) Other means deemed appropriate.
- 3704.5 The Director may require any person to submit in writing certain reports and answers to questions, as prescribed by the Director, relating to the administration and enforcement of the Act, and Chapters 30 - 37 of this Title.
- 3704.6 Any person required by the Director to submit in writing certain reports or to answer questions, under § 3704.5, shall submit the reports or answers, within seven (7) calendar days after receipt of the request.
- 3704.7 All submissions of reports or answers, under § 3704.6, shall be made under oath; provided, that the person is not represented by counsel.
- 3704.8 Within ninety (90) days of receipt of any complaint, the Director shall perform one (1) of the following acts:
- (a) Cause evidence to be presented to the Board, if sufficient evidence exists constituting an apparent violation, pursuant to § 3706; or
  - (b) Dismiss the complaint, if insufficient evidence exists to present the matter, pursuant to § 3705.
- 3704.9 The Director may seek, upon a showing of good cause, an extension of time as reasonably necessary to complete an investigation.”

*Section 3709 of Chapter 37 of 3 DCMR, “Informal Hearing for Alleged Violations of Reporting Requirements,” shall be amended to read as follows:*

“3709 INFORMAL HEARING FOR ALLEGED VIOLATIONS OF REPORTING REQUIREMENTS

- 3709.1 The Director may institute or conduct an informal hearing on alleged violations of the reporting and disclosure requirements, prescribed by the Act and Chapters 30 - 37 of this Title.
- 3709.2 The reporting and disclosure requirements shall apply to the following:
- (a) Lobbyist Activity Report;
  - (b) Lobbyist Registration Form;
  - (c) Citizen-Service Activity Report;
  - (d) Financial Disclosure Statement (FDS);
  - (e) Statement of Potential Conflict of Interest;
  - (f) Report of Receipts and Expenditures (R&E Report);
  - (g) Notification required on campaign literature, pursuant to the Act;
  - (h) The responses to Requests for Additional Information (RFAI);
  - (i) Statement of Candidacy;
  - (j) Statement of Organization;
  - (k) Statement of Information;
  - (l) ANC Summary Financial Statement; and
  - (m) Honoraria and Outside Income Disclosure Statement (HOIDS); and
  - (n) Statehood Fund Report.
- 3709.3 Notice of an informal hearing shall be issued in writing at least seven (7) days prior to the hearing.
- 3709.4 In the notice, an alleged violator of the reporting requirements shall be informed of the following:
- (a) Nature of the alleged violation;
  - (b) The authority on which the hearing is based;
  - (c) Time and place of the hearing;
  - (d) The right to be represented by legal counsel; and
  - (e) The alleged violator's failure to appear may be considered an admission of the allegation.

- 3709.6 The Director shall regulate the course of the informal hearing and the conduct of the parties and their counsel.
- 3709.7 The alleged violator, or counsel for the alleged violator, shall present the alleged violator's case and evidence to the Director.
- 3709.8 The Director may wait a reasonable period of time for the alleged violator to appear before beginning the informal hearing.
- 3709.9 If the alleged violator fails to appear after a reasonable period of time, the Director shall perform the following:
- (a) Reschedule the informal hearing;
  - (b) Issue the Notice of Informal Hearing, under §§ 3709.3 and 3709.4; and
  - (c) Serve the alleged violator both by certified and regular mail.
- 3709.10 If the alleged violator fails to appear after an informal hearing has been rescheduled, under § 3709.9, the Director may proceed with the informal hearing; provided, that the alleged violator has received notice.
- 3709.11 Following the conduct of each informal hearing, the Director shall perform the following:
- (a) Determine whether a violation has occurred; and
  - (b) Issue a written order with findings of facts and conclusions of law.
- 3709.12 Any party adversely affected by any order of the Director may obtain review of the order by filing, with the Board of Elections and Ethics, a request for a hearing de novo.
- 3709.13 The request for a hearing de novo, under § 3709.12, shall be filed in the following manner:
- (a) Within fifteen (15) days from the issuance by the Director of an order; and
  - (b) In accordance with Chapter 4 of this Title."

*Section 3711 of Chapter 37 of 3 DCMR, "Schedule of Fines," shall be amended to read as follows:*

"3711 SCHEDULE OF FINES

3711.1 Upon a determination, pursuant to §§ 3705 or 3709, that a violation has occurred, the Director may ministerially impose fines upon the offending party, in the following manner:

- (a) Each allegation shall constitute a separate violation; and
- (b) A fine shall attach for each day of non-compliance for each violation.

3711.2 Fines shall be imposed as follows:

- (a) Contribution or expenditure made while office of treasurer is vacant \$50 per day;
- (b) Failure to designate a principal campaign committee \$30 per day;
- (c) Failure to designate a campaign depository \$30 per day;
- (d) Failure to file a statement of organization for a political committee \$30 per day;
- (e) Failure to file a candidate registration statement \$30 per day;
- (f) Failure to file R&E Reports, including five hundred dollars (\$ 500) Exemption report \$50 per day;
- (g) Accepting legal tender of twenty-five dollars (\$25) or more \$500;
- (h) Failure to file a Statement of Information \$30 per day;
- (i) Use of Statehood funds for political activities \$2,000;
- (j) Failure to file an Honoraria and Outside Income Disclosure Statement \$50 per day;
- (k) Acceptance of honoraria in excess of \$10,000 - \$500;
- (l) Acceptance of royalties in excess of \$10,000 - \$500;
- (m) Deposit contributions in accounts other than campaign depositories \$500;
- (n) Failure to place notices required by the Act on campaign literature \$500;
- (o) Accepting contributions in excess of contribution limitations \$2,000;
- (p) Making contributions in excess of contribution limitations \$1,000;

- (q) Accepting a contribution made by one person in the name of another person \$2,000;
- (r) Making contributions in the name of another person \$2,000;
- (s) Accepting contributions in excess of the citizen-services program contribution limitation \$2,000;
- (t) Making contributions in excess of the citizen-services program contribution limitation \$1,000;
- (u) Conducting campaign activities in citizen-services program \$2,000;
- (v) Use of official position for personal financial gain \$2,000;
- (w) Accepting, soliciting or giving any thing of value to influence official government actions, or where it could be inferred that the thing of value would influence the public official in the discharge of his or her duties \$2,000;
- (x) Accepting or giving money to a public official in addition to the public official's compensation for the performance of official duties \$2,000;
- (y) Use or disclosure of official confidential information by public official for personal financial gain \$2,000;
- (z) Failure to disclose potential conflicts of interest \$2,000;
- (aa) Failure to file Financial Disclosure Statement (FDS) \$50 per day;
- (bb) Failure to timely dispose of surplus campaign funds \$50 per day;
- (cc) Failure to file additional information requested by the Director \$50 per day;
- (dd) Failure to disclose required information on reports and statements \$50 per day;
- (ee) Failure to file ANC Summary Financial Report \$30 per day;
- (ff) Failure to register as a lobbyist \$10 per day; and
- (gg) Failure to file lobbyist activity reports \$10 per day;

- (hh) Failure to file Statement of Acceptance of Position of Chairperson \$30 per day;
  - (ii) Failure to file Statement of Acceptance of Position of Treasurer \$30 per day;
  - (jj) Making expenditures in excess of expenditure limitations \$1000;
  - (kk) Using District government resources for campaign related activities \$2000;
  - (ll) Failure to designate an exploratory committee \$30 per day;
  - (mm) Failure to file Informational Report \$50 per day;
  - (nn) Accepting contributions in excess of aggregate limitations \$2000;
  - (oo) Failure to maintain records required under § 3400.2 \$2000;
  - (pp) Failure to provide notice of potential conflicts of interest to the Board and the Director under § 3303.1 \$2000.
- 3711.3 The aggregate of the penalties imposed under the Director's authority, under § 371 1.2, may not exceed \$2000 for each violation.
- 3711.4 In calculating the time period for delinquencies, Saturdays, Sundays, and holidays shall not be included.
- 3711.5 Any fine imposed by the Director, pursuant to § 3711.2, shall become effective on the sixteenth (16th) day following the issuance of a decision and order; provided, that, the respondent does not request a hearing pursuant to § 3709.12.
- 3711.6 The Director may modify, rescind, dismiss or suspend any fine imposed, pursuant to § 3711, for good cause shown; provided, that fines imposed for failure to file an eight (8) day pre-election report shall be mandatory, unless a written extension for filing the report, pursuant to chapter 30 of this title, has been granted by the Director.
- 3711.7 Fines imposed pursuant to this chapter shall be paid within ten (10) days of the effective date, at the OCF, Frank D. Reeves Municipal Building, 2000 - 14th Street, N.W., Washington, D.C., 20009, by money order or check made payable to the D.C. Treasurer.
- 3711.8 If a party fails to pay the ordered fine, the Director may petition for enforcement of its order, within sixty (60) days of the expiration of the period provided for payment of the fine, under § 3711.7, before the Board

in an adversary proceeding and an open hearing, under Chapter 4 of this Title.”

*Section 3712 of Chapter 37 of 3 DCMR, “Procedures Regarding Excess Contributions,” shall be amended to read as follows:*

“3712 PROCEDURES REGARDING EXCESS CONTRIBUTIONS

- 3712.1 The Director shall determine whether any contribution made to a person was in excess of the aggregate maximum to which the person was entitled.
- 3712.2 Upon a determination of excess contribution, under § 3712.1, the Director shall notify the person in writing of the following:
- (a) The amount of the excess contribution;
  - (b) The expectation of repayment to the contributor of the amount equal to the excess contribution; and
  - (c) Repayment shall be accomplished within fifteen (15) days of the notice.
- 3712.3 Any person required by the Director to pay an excess contribution, under § 3712.1, may apply in writing to the Director for an extension of time in which to repay the excess contribution.
- 3712.4 The Director may grant an extension for a reasonable amount of additional time for good cause to any person who files an application, under § 3712.3.
- 3712.5 If the person disputes the Director’s determination, under § 3712.1, the person shall advise the Director in writing within seven (7) days upon receipt of the notice issued under § 3712.2.
- 3712.6 Within ten (10) days after receipt of the notice disputing the Director’s determination of excess contribution, filed under § 3712.5, the Director shall schedule and conduct an informal hearing, in accordance with § 3709.”

**HISTORIC PRESERVATION REVIEW BOARD AND THE  
DISTRICT OF COLUMBIA OFFICE OF PLANNING**

**NOTICE OF FINAL RULEMAKING**

The D.C. Office of Planning and the Historic Preservation Review Board, pursuant to the authority set forth in section 10 of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979, (D.C. Law 2-144; D.C. Official Code § 6-1109), Mayor's Order 79-50, dated March 21, 1979, section 6 of Mayor's Order 83-119, dated May 6, 1983, section III(B)(8) of Reorganization Plan No. 1 of 1983, effective March 31, 1983, and section 402(b) of the Fiscal Year 2001 Budget Support Act of 2002, effective October 19, 2000 (D.C. Law 12-172; 47 DCR 6308), hereby adopts the following new Chapter 25 "Standards for Signs, Awnings, Canopies, and Marquees" to 10A DCMR, Historic Preservation, upon publication of this notice in the *D.C. Register*. The purpose of the new chapter is to establish standards for the design and placement of signs, awnings, canopies, and marquees on historic properties. An earlier version of this proposed rulemaking was published in the *D.C. Register* on November 23, 2007 at 54 DCR 11257.

**Title 10A DCMR, Historic Preservation, is amended as follows:**

- A. A new Chapter 25, "Standards for Signs, Awnings, Canopies, and Marquees" is added to read as follows:**

**CHAPTER 25 STANDARDS FOR SIGNS, AWNINGS, CANOPIES, AND MARQUEES**

Secs.	
2500	General Provisions
2501	Permit Requirements
2502	Permit Application Procedures
2503	General Principles for Signage
2504	General Standards for Signage
2505	Appropriate Sign Types
2506	Prohibited Sign Types
2507	Design Characteristics of Appropriate Signs
2508	Signs for Historic Residential Properties
2509	Signs for Historic Institutional Properties
2510	Signs for Non-Contributing Buildings and Sites
2511	Master Plans for Signage
2512	Temporary Signs
2513	Vintage and Historic Signs
2514	Awnings: General Principles
2515	Awnings: Specific Criteria
2516	Canopies: General Principles
2517	Canopies: Specific Criteria
2518	Marquees: General Principles
2519	Marquees: Specific Criteria
2599	Definitions

**2500 GENERAL PROVISIONS**

- 2500.1 This chapter addresses historic preservation requirements for signage and related building features, including awnings, canopies, and marquees, which typically serve as locations for signage.

- 2500.2 Signs, awnings, canopies, and marquees on historic property shall comply with the requirements of this chapter and the applicable provisions of the D.C. Building Code.
- 2500.3 Signage and related building features subject to review under the Shipstead-Luce Act or the Old Georgetown Act shall be submitted to the Commission of Fine Arts for review before a permit is issued, and shall comply with applicable sections of the D.C. Building Code, including the specific limitations pertinent to those review areas.
- 2500.4 The Historic Preservation Review Board and Historic Preservation Office may also review signage and related building features subject to the jurisdiction of the Commission of Fine Arts.
- 2500.5 Signage and related building features in the Chinatown Overlay District are subject to review by the Chinatown Steering Committee pursuant to 10 DCMR, Chapter 24.
- 2500.6 Signage and related building features located in or projecting into public space are subject to review by the Public Space Committee of the District Department of Transportation pursuant to 24 DCMR, Chapters 1 and 2.
- 2500.7 As provided in 10A DCMR § 9900, terms specific to this chapter are defined in § 2599. Other terms used throughout Title 10A are defined in Chapter 99.

## **2501 PERMIT REQUIREMENTS**

- 2501.1 Notwithstanding the limitations and exemptions stated in the D.C. Building Code, a permit is required for the erection, painting, repainting, placement, replacement, hanging, rehanging, alteration, repair, or change of a sign larger than one (1) square foot in size on the exterior of a building on historic property or located within the first eighteen (18) inches inside a glazed opening of a building on historic property.
- 2501.2 Signs on historic property that are not subject to regulation under the D.C. Building Code or required to meet the permit requirements stated in the D.C. Building Code shall be issued permits based on their compliance with the requirements of this chapter.
- 2501.3 Notwithstanding the other requirements of this chapter, signs bearing non-commercial statements of fact, belief, or personal or political opinion that are posted on privately owned historic property shall be issued permits if the proposed method of installation would not destroy or irreparably damage the historic property and would not prevent the maintenance of the property in good repair as provided in § 10b of the Act. Such signs shall remain subject to the requirements and prohibitions applicable to dangerous and obstructive signs in 12A DCMR § 3107.13 and 3107.14. .
- 2501.4 A permit is required for the erection, placement, replacement, hanging, rehanging, alteration, refacing, repair, or change of an awning, canopy, or marquee on historic property.
- 2501.5 A permit is required for a permanent sign on historic property relating to the sale, rental,

lease, or management of the premises.

- 2501.6 A permit is not required for a temporary real estate sign on historic property six (6) square feet in area or less, or any sign on historic property that is one (1) square foot in area or less.
- 2501.7 A permit application for a sign, awning, canopy, or marquee on historic property shall comply with the application requirements of the D.C. Building Code and §§ 306 through 313 of this title, and shall include the following:
- (a) A completed D.C. Application for Construction Permit on Private Property and D.C. Application for Public Space (if applicable), signed by the applicant or building owner;
  - (b) Good quality photographs of the building or site, showing the entire façade and close-ups of the area where work is proposed, adequate to document the building or site's existing appearance;
  - (c) A scaled or dimensioned drawing of the proposed sign, awning, canopy, or marquee accurately indicating dimensions, materials, colors, graphics, copy, type of illumination, and method of attachment;
  - (d) Scaled or dimensioned plans, photo illustrations, or elevation drawings as necessary to show the proposed work as it would appear on the building or site;
  - (e) A section drawing, if the application is for an awning, canopy, or marquee; and
  - (f) If requested, a sample of the finish material(s).

## **2502 PERMIT APPLICATION PROCEDURES**

- 2502.1 An applicant shall submit permit application materials to the Permit Processing Division of the Department of Consumer and Regulatory Affairs (DCRA) for transmittal to the Mayor's Agent pursuant to the Act as further described in Chapter 3.
- 2502.2 Upon receipt of the permit application and the results of any required review by the Commission of Fine Arts, the HPO shall review the application under the authority delegated in § 321, and take action as appropriate.
- 2502.3 If the application does not meet the requirements of this chapter, and the HPO is not able to resolve the deficiencies directly with the applicant, the HPO shall prepare the case for review by the Board as provided in Chapter 3.

## **2503 GENERAL PRINCIPLES FOR SIGNAGE**

- 2503.1 Signs are a prominent visual element of many historic properties, serving an important role in identifying or advertising businesses, institutions, building occupants, or other entities. The location and design of signage also influences the perception of historic

buildings and districts. Well-designed and well-maintained signs add interest and variety to historic building facades and streetscapes and can enhance the image and attractiveness of a historic district. Oversized, poorly designed, or poorly maintained signs can result in visual clutter and detract from the overall appearance of historic property.

- 2503.2 Different historic buildings impose different constraints and may require varied signage solutions. Signage needs also vary by use. For instance, the requirements for a large department store, a small neighborhood retailer, a church, and a home occupation will differ, and signs for each should be tailored to the specific character of each building and entity.
- 2503.3 Different historic districts and neighborhoods have specific characteristics and qualities that may require varied signage solutions. For instance, Chinatown, Downtown, 18<sup>th</sup> Street in Adams Morgan, Georgetown, U Street, and many of the neighborhood commercial strips throughout the city have their own historical traditions and distinctive current characteristics that should be recognized and respected.
- 2503.4 Special considerations apply to residential and institutional signage. Signs are not typically a prominent visual element on historic residential buildings, and commercial signage is strictly limited by the D.C. Building Code within residential and special purpose zoning districts. Commercial signage is also unsuited to historic institutional buildings, which express their function primarily through architectural imagery and symbolism.
- 2503.5 Signs are an incidental element on buildings and in the landscape, and total signage on a property should maintain a deferential balance with historic architecture. Historic buildings were often designed to limit signage to specific areas defined by an architectural frame. Much less commonly, signage was designed as a prominent façade element on some mid-20<sup>th</sup> century commercial buildings, but those signs typically relied on superb graphics and design flair to convey a stylish image.
- 2503.6 Vintage and historic signs contribute to the character and significance of historic buildings and districts. Many were integrally designed with historic facades. Historic signage that has survived for many decades is often the only visual reminder of long-forgotten businesses and modes of commercial advertising.
- 2503.7 Sign types developed for suburban highway-oriented environments are not compatible with urban historic districts. Billboards, rooftop signs, pole-mounted gas station signs, and other overscaled advertising designed to be viewed at high speed or from a great distance are generally not appropriate on historic properties or in historic streetscapes.
- 2503.8 The visual impact of strong color, intense lighting, supergraphics, and other branding elements can be crucial in judging whether signage is appropriate for historic property. Standardized corporate branding, typically developed without regard to local character and context, is often not appropriate for historic buildings and districts and may need to be substantially modified to be compatible with a specific building or district.

2503.9 Signs are an opportunity for stylistic imagination and graphic excellence. High artistic quality is strongly encouraged.

#### **2504 GENERAL STANDARDS FOR SIGNAGE**

2504.1 Signage shall be appropriate to the building, site, or historic district it will affect. Signage shall relate to, take advantage of, and be compatible with the building's particular composition, scale, design features, and architectural character. It shall be designed with sensitivity to adjacent historic properties, the landscape of historic sites, and the streetscape of historic districts, especially when placed in public space.

2504.2 Signage shall be appropriate to the identified or advertised use. Its scale and design character shall be commensurate with the size and nature of the entity and its location.

2504.3 Signs on historic property shall be primarily oriented toward and promote the pedestrian environment.

2504.4 Redundant or repetitive signs which clutter, overwhelm, or visually detract from a building façade, storefront, or site are not permitted.

2504.5 Signs shall be lightweight in feeling and appearance. Signage or signage elements like raceways that are boxy, bulky, or out of scale with historic buildings and districts are not permitted.

2504.6 Signs that graphically or symbolically express a business or institution, or that express creativity, diversity, or individuality are encouraged.

2504.7 Branding, color branding, or overpowering visual effects that detract from or overwhelm the architecture or historic character of a building or district are not permitted.

2504.8 Signs should be well designed and fabricated of high quality materials. Professional design and fabrication are strongly encouraged.

#### **2505 APPROPRIATE SIGN TYPES**

2505.1 Signage shall be of a type appropriate to the affected historic building, site, or district. The specific characteristics of the historic building, site, or district shall determine what sign types are appropriate in each instance.

2505.2 The following sign types, when properly designed and installed, may be appropriate for a historic property, depending on its design, setting, and characteristics:

- (a) Banner signs;
- (b) Blade signs;
- (c) Channel letter signs;
- (d) Halo lit signs;
- (e) Hanging signs;

- (f) Painted signs;
- (g) Panel signs;
- (h) Pin-mounted signs;
- (i) Plaques, markers, and medallions that are commemorative, interpretive, or informational in nature;
- (j) Projecting signs;
- (k) Raceway signs;
- (l) Reverse channel signs;
- (m) Routed signs;
- (n) Signs on the valance of an awning or canopy;
- (o) Three-dimensional signs; and
- (p) Window signs.

2505.3 The following sign types are typically not appropriate for historic buildings and districts:

- (a) Internally-illuminated, plastic-faced box or cabinet signs;
- (b) Electronic signs, flashing signs, and other signs with moving text or images;
- (c) Moving or rotating signs;
- (d) Pole-mounted signs more than ten (10) feet in height; and
- (e) Prohibited signs, as defined in § 2506.

## **2506 PROHIBITED SIGN TYPES**

2506.1 Billboards and special signs as defined in § 2599 are not permitted on historic property.

2506.2 Roof signs and revolving signs are not permitted on historic property, except for vintage, historic, or replica signs as provided in § 2513.

2506.3 Televisions and video monitors are not permitted as signage on historic property.

## **2507 DESIGN CHARACTERISTICS OF APPROPRIATE SIGNS**

2507.1 In reviewing an application for signage, the HPO and Board shall evaluate the architecture and design of the building and site, and determine whether the proposed sign is compatible with respect to type, placement, size, material, copy, illumination, and installation. The HPO shall assist applicants in evaluating historic properties for appropriate signage.

2507.2 Sign placement shall be consistent with the following criteria and considerations:

- (a) A sign may be placed only on a portion of the building occupied by the person, business, or entity to which it relates.
- (b) A sign band, fascia, or other storefront or building area designed to accommodate signage is the preferred location for sign placement.
- (c) In the absence of a sign band or fascia, a flat continuous wall surface, unbroken

by decorative detailing and windows, is an appropriate location for signage.

- (d) A storefront or show window may be an appropriate location for a sign provided it does not visually overwhelm the storefront or obscure its transparency.
- (e) A sign shall not conceal or cover over a character-defining architectural feature, such as a window or door surround, cornice, pilaster, or other decorative or ornamental feature.
- (f) A sign shall not conceal or cover over a window or transom. A window sign within a transom or a channel letter sign on top of a show window may be appropriate provided it does not substantially cover the transom.
- (g) A sign shall not conceal or cover over a significant site or landscape feature. Sign placement shall avoid known or likely archaeological features.
- (h) A sign shall not project more than forty-two (42) inches beyond the building line or building restriction line. A projecting, hanging, blade, or banner sign shall maintain a minimum clearance of eight (8) feet above grade.

2507.3 Sign size shall be consistent with the following criteria and considerations:

- (a) A sign shall be sized appropriately for its location on a building or site. Signage in a historic district should be generally consistent with the prevailing size of comparable signage in the district.
- (b) The maximum size and area limitations established by the D.C. Building Code apply to signs on historic property. Further limitations on size and area may be necessary to achieve compatibility with a historic property or district.
- (c) The appropriate size of a sign on historic property shall be determined by and tailored to the specific characteristics of the building or site, the location of the sign on the building or site, and if applicable, the character of the surrounding historic district.
- (d) A sign installed on a sign band, fascia, or show window shall fit within the area specifically designed for its installation.
- (e) The aggregate area of all window signs within a storefront or show window shall not exceed twenty percent (20%) of the surface area of that element.

2507.4 Sign material shall be consistent with the following criteria and considerations:

- (a) Signage shall be constructed of durable, exterior-grade materials that will retain a high quality appearance.
- (b) Painted wood or metal, and other sign materials and finishes that are consistent in character with materials and finishes on the affected building, district, or site are

encouraged.

- (c) Shiny plastic and other sign materials and finishes that are not found on or are out of character with the affected building, district, or site are prohibited unless unusual circumstances make them clearly acceptable at the specific building or location.

2507.5 Sign copy shall be consistent with the following criteria and considerations:

- (a) Sign copy shall not detract from the visual character of the historic building or district. Generally, copy should be kept simple and the number of words or symbols should be limited to keep the sign easily legible, graphically clear, and free of clutter.
- (b) Sign copy should be legible but not out of scale for the historic building or district. Lettering shall be no more than eighteen (18) inches in height unless a variation is dictated by the specific characteristics of the building and the placement of the sign.
- (c) A sign listing services, goods, websites, phone numbers, or other detailed information shall be no larger than three (3) square feet in size.
- (d) Signage using Chinese characters and design elements is encouraged in the Chinatown Overlay District.

2507.6 Sign illumination shall be consistent with the following criteria and considerations:

- (a) Sign illumination shall not detract from a historic building or district. At a minimum, illumination of a sign on historic property shall comply with the applicable provisions of the D.C. Building Code.
- (b) Low-level illumination for signage is encouraged as a general principle. Intense or overpowering illumination can render an otherwise compatible sign inappropriate for historic property.
- (c) Sign illumination shall be appropriate for the location, setting and character of the specific building and site. Certain types of facilities, such as theaters and public buildings, may warrant greater levels of illumination.
- (d) The large internally illuminated surface areas of box signs are generally not appropriate for signs on historic property. Internally illuminated channel letter signs are more appropriate and are encouraged as an alternative.
- (e) Signs with a diffused source of illumination, such as halo-lit channel letter signs, are encouraged.
- (f) Any exterior source of illumination shall direct the light onto the sign, and shall be appropriately shielded to prevent light and glare from shining in the eyes of

pedestrians.

- (g) Spot lights, hanging lamps, and decorative fixtures may be acceptable methods of external illumination, if the light source is appropriately shielded and of low intensity.
- (h) Sodium vapor, mercury vapor, or other metal halide light sources are generally too bright for illuminating signs on historic property and are not permitted.
- (i) Neon signs may be permitted if appropriate for the building or district. The use of neon or continuous light-emitting diode (LED) strips as decorative trim or as a building outlining element is not permitted except in the Chinatown area of the Downtown Historic District.
- (j) Sign illumination shall be by steady light only. Pulsing, blinking, or flashing lights are not permitted.

2507.7 Sign installation shall be consistent with the following criteria and considerations:

- (a) Signage shall be installed in a manner that minimizes permanent damage to a building. On masonry buildings, signage shall be attached through mortar joints, rather than through masonry units, whenever possible.
- (b) Signage shall be installed in a neat and workmanlike manner.
- (c) Electrical conduit, transformers, and other electrical equipment for lighting of exterior signs shall be concealed. Raceways shall be as compact as practicable and painted or finished to blend with the wall color behind.
- (d) Ground-mounted signs shall be installed to avoid damage to known or likely archaeological features.

## **2508 SIGNS FOR HISTORIC RESIDENTIAL PROPERTIES**

- 2508.1 Signs are not typically a prominent visual element on historic residential buildings. In order to preserve the character and setting of historic residential buildings, signage on these buildings and in historic residential areas shall not be visually intrusive, overwhelming, or incompatible with the significant historic characteristics of the particular building, site, and context.
- 2508.2 Commercial advertising on historic property in residential and special purpose zoning districts shall comply at a minimum with the pertinent limitations in the D.C. Building Code. The Board may impose further limitations in size or other characteristics if necessary to achieve compatibility with a historic landmark or district.
- 2508.3 Signage for a historic apartment building or an apartment building in a portion of a historic district zoned for residential use shall be limited to the name and address of the building.

- 2508.4 The preferred location for apartment building signage is at the building entrance, either on a canopy, marquee, or adjacent flat wall surface. A small ground-mounted building identification sign may be permitted for a historic apartment building, an apartment building within a historic district, or historic property within a special purpose zoning district.
- 2508.5 A permanent sign on historic property relating to the sale, rental, lease, or management of the premises is limited to two (2) square feet in size.
- 2508.6 Illuminated signage is discouraged in portions of a historic district zoned for residential use. Illumination may be permitted if it is determined acceptable for the specific building and setting. Any permitted illumination shall consist of soft, steady white light only.

### **2509 SIGNS FOR HISTORIC INSTITUTIONAL PROPERTIES**

- 2509.1 Historic civic, institutional, religious, and educational properties generally have a very different character from historic commercial properties. Government offices, courts, churches, synagogues, schools, colleges, libraries, and other institutional or quasi-institutional structures like banks and corporate offices were typically designed to express their function primarily through the imagery and symbolism of their architecture. Signage on a historic institutional property shall be consistent with and respectful of the image and architecture of the property.
- 2509.2 The preferred solution for signage on historic institutional properties is to retain any existing historic signs or to add signage of the same or a similar type if needed.
- 2509.3 The preferred design for bulletin sign boards for historic institutional properties is the the traditional style consisting of permanent identification and non-illuminated or front-lit changeable letters set behind glass against a solid background.
- 2509.4 Ground-mounted identification and bulletin signs may also be permitted for historic institutional properties.
- 2509.5 Signs for historic institutional properties shall be subject to the following provisions:
- (a) Traditional institutional building signage shall be placed at an architecturally appropriate location like a frieze or wall surface next to or above an entrance. The determination of an appropriate location is dependent on the architecture of the specific historic building.
  - (b) Ground-mounted institutional signs shall be located where they do not obscure public views of the building, its entrance, or other significant architectural or site features. Ground-mounted signs shall not be raised on masonry piers.
  - (c) Institutional signage shall be sized appropriately to its location on the historic building or site. A bulletin sign should not exceed twenty (20) square feet in

area, calculated to include any architectural supports such as piers, bases, and frames.

- (d) Institutional signs shall be constructed of materials appropriate for the building, site, or district. Signs of metal, wood, stone and other materials compatible with the building or district are encouraged. Signs of synthetic materials, such as shiny plastic, that are not compatible with the building or district are not permitted.
- (e) Institutional signs shall be illuminated in a manner consistent with and appropriate for their setting. Internally illuminated signs are prohibited unless unusual circumstances make them clearly compatible with the specific building or location.

2509.6 Signs on historic institutional properties that are within or adjacent to historic districts shall be designed in a manner that minimizes the impact of institutional signage, such as the level of illumination, on adjacent historic properties.

2509.7 Signs for properties within a historic complex or campus should be coordinated to convey that the properties are or were historically related. Owners of these campuses and complexes are encouraged to develop a master plan for signage, pursuant to § 2511.

## **2510 SIGNS FOR NON-CONTRIBUTING BUILDINGS AND SITES**

2510.1 Signage on non-contributing buildings and sites can materially affect the streetscape of historic districts. These signs should be appropriate for the building or site where they are located and shall not detract from the character of historic districts, landmarks, or sites.

2510.2 Signage on a non-contributing building shall be generally consistent with the character of the historic district, landmark, or site.

2510.3 New pole-mounted signs on gas stations or other facilities are not permitted to exceed ten (10) feet in height. Removal of existing pole-mounted signs and replacement with ground-mounted signs or other appropriate signage is encouraged.

## **2511 MASTER PLANS FOR SIGNAGE**

2511.1 The development of a coordinated master plan for signs is encouraged where a building, complex, or institution houses multiple tenants or activities requiring several signs, or where signs will be installed on multiple properties that were historically or architecturally related.

2511.2 A master plan for signage shall be submitted to the Board for review according to the provisions for concept design review outlined in Chapter 3.

2511.3 If the Board approves a sign master sign to be in effect for a specific period, the HPO shall adhere to the provisions of the plan in delegated approvals for the duration of the

plan.

## **2512 TEMPORARY SIGNS**

- 2512.1 Temporary signage serves a legitimate practical purpose and has little or no lasting impact on the character of historic property. HPO shall apply the criteria in this section when reviewing temporary signs under the authority delegated in § 320 of this title.
- 2512.2 HPO shall routinely approve temporary signage to be installed for less than ninety (90) days or that is less than twenty (20) square feet in size, provided it is installed in a manner that does not cause permanent damage to historic property.
- 2512.3 HPO shall review a temporary sign to be installed for more than ninety (90) days or that is more than twenty (20) square feet in size according to the standards and criteria for permanent signs. HPO may grant greater flexibility in terms of size, placement, type, shape, material, and copy, provided that the sign is installed in a manner that does not cause permanent damage to historic property.
- 2512.4 A temporary sign may be denied if it is plainly and unnecessarily incompatible with the architecture and characteristics of the building, site, or district, or if its installation is likely to cause permanent damage to historic property.
- 2512.5 The permit application for a temporary sign shall indicate the period of time during which the sign is to be displayed. The permit for a temporary sign is not valid beyond its stated duration.

## **2513 VINTAGE AND HISTORIC SIGNS**

- 2513.1 Vintage and historic signs express distinctive characteristics or aesthetics of an earlier period and provide character to historic property. The Board and HPO shall evaluate vintage and historic signage for its significance and for preservation when it may be affected by proposed construction work.
- 2513.2 A vintage sign should be considered for preservation or reuse where feasible.
- 2513.3 A historic sign that is integral to the design of historic property, such as a sign that is carved or etched into masonry or included as part of the design of a parapet or cornice, shall be retained.
- 2513.4 A historic sign that is not integral to the design of historic property, such as the ghost of a painted sign, shall be retained where feasible.
- 2513.5 Replication or installation of a close copy of a documented historic sign is considered an appropriate preservation treatment unless it clearly conflicts with the D.C. Building Code or the Board's design standards. Documentation of the historical appropriateness of a proposed sign may consist of early photographs, original drawings, or similar sources.

**2514 AWNINGS: GENERAL PRINCIPLES**

- 2514.1 Awnings provide weather protection and may also identify or decorate buildings. Awnings shade windows and storefronts and can shelter pedestrians, but as a secondary function, they also provide an area for identifying the name or trade of an occupant.
- 2514.2 Awnings and their associated signage can significantly affect the appearance and architectural character of a historic building or district. Improper awning installation can also cause permanent damage to the materials and ornamentation of historic facades.
- 2514.3 Awnings are not signs and should not be used as substitutes for effective signage or solely as branding elements.
- 2514.4 The appropriateness of a specific awning depends in part upon the historic district, building type, or business type involved. Awning design should reflect the specific character of the affected landmark, building or district.
- 2514.5 Historically, the retractable shed awning was the type used almost exclusively on Washington buildings. Barrel-vaulted awnings were less commonly used for arched openings, and more intricate and fancier quarter-round awnings were infrequently used.
- 2514.6 Replication of a documented historic awning or pattern of awnings is considered an appropriate preservation treatment unless it clearly conflicts with the D.C. Building Code or the Board's design standards. Documentation of the historical appropriateness of a proposed awning or awnings may consist of early photographs, original drawings, or similar sources.

**2515 AWNINGS: SPECIFIC CRITERIA**

- 2515.1 Awning design, placement, and type shall respect, take advantage of, and be compatible with the particular composition, design features, and architectural style of the historic property where it is installed.
- 2515.2 An awning shall be compatible in shape, size, scale, material, illumination, and method of installation with the character of the historic property to which it is attached.
- 2515.3 Any signage characteristics of an awning shall be compatible with the character of the affected historic property and district.
- 2515.4 Awning location and configuration shall be consistent with the following criteria:
- (a) An awning shall be placed only on a portion of the building occupied by the person, business, or entity to which it relates.
  - (b) An awning shall relate to a single architectural feature, whether a storefront, window opening, or door opening. An awning shall not be designed as a continuous element that spans multiple storefronts, window openings, or door

openings.

- (c) An awning shall relate to and fit within the masonry opening or frame of the storefront, window, or door where it is located.
- (d) An awning shall not cover or obscure or cover over an ornamental or character-defining feature of a historic property.
- (e) Excessive use of awnings is inappropriate and can make commercial advertising detract from a historic property. Repetitive awnings used as signage or branding on upper floor windows are not appropriate.

2515.5 Awning type and shape shall be consistent with the following criteria:

- (a) A shed-style awning is generally the most appropriate form for a flat-topped opening. A barrel-vaulted awning is usually appropriate only for an arched opening. A quarter-round awning is typically appropriate only for an architecturally elaborate façade or storefront.
- (b) An awning shall not have a compound shape, such as a shed awning with a barrel-vaulted midsection.
- (c) An awning should not be bulky or boxy in appearance. An open-sided configuration is encouraged in order to make the awning appear lightweight and to increase visibility of the window.
- (d) Operable and retractable awnings are preferred because this reinforces their accessory nature and allows greater visibility of the building when they are raised.
- (e) An awning should be consistent with the prevailing proportions of other awnings in the streetscape. Its angle of slope should be moderate, and neither so steep that the top of the awning looks like a billboard, nor so shallow that the awning looks like a shelf or marquee.
- (f) The underside of an awning shall not be enclosed or boxed in with fabric or other material, unless justified by the specific circumstances of the building or awning installation.

2515.6 Awning dimensions shall be consistent with the following criteria:

- (a) An awning shall be appropriate in size and scale for the historic building to which it is attached.
- (b) An awning shall be sized to fit the opening where it is installed.
- (c) The projection of an awning shall be appropriate for the building to which it is attached. No awning shall project more than sixty (60) inches beyond the building line or building restriction line.

- (d) An awning shall maintain a minimum clearance of eight (8) feet above the ground.

2515.7 Awning materials shall be consistent with the following criteria:

- (a) An awning shall be covered only with canvas, woven acrylic or similar fabric materials. Metal and shiny or glossy materials like vinyl and plastic are not permitted.
- (b) A single solid color material is preferred for awnings. Striped or patterned awnings are discouraged and are not permitted if they would visually detract from the character of the historic building or district.

2515.8 Awning signage characteristics shall be consistent with the following criteria:

- (a) The valance of an awning is an appropriate location for signage. Signage shall generally be limited to lettering no taller than twelve (12) inches.
- (b) A discreet logo may be allowed on the slope of an awning if also permitted by the building code official.
- (c) An awning shall not be used as an oversized sign. An awning or pattern of awnings shall not be used to create supergraphics or branding that is overpowering or detracts from the historic character of the building or district.

2515.9 Awning illumination shall be consistent with the following criteria:

- (a) An awning shall not be lighted except as part of general storefront illumination. Translucent backlit awnings and under-mounted lighting of an awning are not permitted.
- (b) A sign on the valance of an awning shall not be illuminated.
- (c) Unobtrusive storefront lighting fixtures may be attached to the underside of an awning.

2515.10 Awning installation shall be consistent with the following criteria:

- (a) An awning shall be attached to a building in a manner that causes the minimum permanent damage. Typically, an awning should be attached to a window frame or storefront surround.
- (b) Attachment of awning frames through masonry is prohibited except in unusual circumstances where it is unavoidable due to specific characteristics of the building.

## 2516 CANOPIES: GENERAL PRINCIPLES

- 2516.1 Canopies historically provided shelter and weather protection for the entrance to a building. Canopies also shaded show windows and sidewalks in a manner no longer permitted by construction codes.
- 2516.2 A canopy is appropriate where weather protection is a primary consideration. A canopy should not be used primarily as an enlarged sign background or to extend commercial signage across a sidewalk.
- 2516.3 A canopy at the entrance to a large historic apartment or hotel building can enhance the sense of arrival and welcome created by the architectural treatment of the building entrance. A canopy in a historic commercial streetscape can detract from its character by obstructing views of building facades and adding excess clutter and signage.
- 2516.4 The appropriateness of a specific canopy depends in part upon the specific characteristics of the historic district, building type, or business type involved.

#### **2517 CANOPIES: SPECIFIC CRITERIA**

- 2517.1 Canopy design, placement, and type shall respect, take advantage of, and be compatible with the particular composition, design features, and architectural style of the historic property where it is installed.
- 2517.2 A canopy shall be compatible in shape, size, scale, material, illumination, and method of installation with the character of the historic property to which it is attached.
- 2517.3 A canopy shall be consistent with the following criteria:
- (a) An entrance, storefront, or sidewalk café may be an appropriate location for a canopy.
  - (b) A canopy shall relate to and fit within the masonry opening or frame of a door or storefront. A barrel-vaulted canopy is only appropriate for an arched opening.
  - (c) A canopy shall not conceal or cover over a door surround or other significant architectural feature of a building.
  - (d) A shed style canopy should have open sides to increase visibility of the building or its entrance.
  - (e) The projection of a canopy shall be proportional to the building and appropriate to the streetscape where it is located.
  - (f) A canopy shall maintain a minimum clearance of eight (8) feet above grade.
  - (g) A canopy shall be finished with canvas, woven acrylic or a similar fabric material. Vinyl, plastic, and other shiny or glossy finish materials are not permitted.

- (h) Translucent backlit canopies are not permitted. Under-mounted downlighting may be permitted on opaque canopies.
- (i) A canopy shall be attached to a building in a manner that does not cause permanent damage. Typically, a canopy should be attached to a door frame or storefront fascia. Attachment of canopy framing through masonry is prohibited unless justified by the specific characteristics of the building.

2517.4 Signage on a canopy shall be consistent with the following criteria and considerations:

- (a) An entrance canopy is an appropriate location for building or occupant identification and the property's address.
- (b) Commercial signage is not permitted on the side of a canopy facing the direction of pedestrian travel along a sidewalk.
- (c) Signage on a canopy shall not be illuminated.

2517.5 Entrance canopies that extend to the public sidewalk or curb are generally not appropriate unless associated with a large-scale commercial establishment, hotel or apartment building. Entrance canopies in other circumstances may be allowed if justified as appropriate given the specific characteristics of the building.

2517.6 Replication of an original or historic canopy is considered an appropriate preservation treatment. Documentation of the historical appropriateness of a proposed canopy may consist of early photographs, original drawings, or similar sources.

## **2518 MARQUEES: GENERAL PRINCIPLES**

2518.1 Marquees are permanent architectural elements traditionally associated with and only appropriate only for larger buildings of a public or semi-public nature, such as apartment houses, hotels, department stores, theaters, and office buildings. Marquees provide shelter, weather protection, and architectural embellishment, and can also include identifying signage at the building entrance.

2518.2 Unlike an awning or canopy, a marquee is a more permanent architectural element applied to a building. Adding a marquee to a historic building is usually not appropriate if one never existed, but a marquee is often appropriate for large-scale new construction in a historic district. A marquee may be appropriate for a larger building but is generally not appropriate for a smaller building or single-family house.

## **2519 MARQUEES: SPECIFIC CRITERIA**

2519.1 A marquee shall be compatible with the character of the historic property or district where it is installed. A marquee attached to a historic building shall respect, take advantage of, and be compatible with the building's particular composition, design features, and architectural style.

- 2519.2 A marquee shall be compatible in size, scale, shape, type, material, and illumination with the character of the historic property to which it is attached.
- 2519.3 A marquee shall be placed at a height appropriate to its function as shelter. Typically, the suitable location for a marquee is directly above entrance doors and below the level of transoms. A marquee shall not be placed high above a building entrance to create a grandiose effect.
- 2519.4 A marquee is an appropriate location to identify a building, occupant, or address. Signage on a marquee shall be consistent with the following criteria:
- (a) Signage on a marquee shall be commensurate with the nature of the establishment it identifies.
  - (b) Signage for an apartment building or public institution should be restrained and usually not illuminated.
  - (c) Signage for a commercial building or theater may be more prominent and brightly illuminated.
- 2519.5 A marquee shall not conceal or cover over important decorative elements of a door surround or other significant character-defining features of a historic building.
- 2519.6 A marquee shall be attached in a manner that limits permanent alteration to the affected building as much as possible. A marquee shall be designed to fit around, rather than penetrate, decorative door surrounds or other character-defining elements.
- 2519.7 A marquee that is original, architecturally distinctive, or historically significant shall be retained.
- 2519.8 Replication of a missing original or historic marquee is encouraged. Documentation of a historic marquee may consist of early photographs, original drawings, or similar sources.
- 2519.9 A marquee shall be professionally designed and fabricated of durable, high quality materials.

## **2599 DEFINITIONS**

- 2599.1 As used in this chapter, the following terms shall have the meanings ascribed below:

**Advertisement:** The use of any image, text, logo, symbol, color, or other form of public announcement to encourage a commercial transaction or to market a business, entity, or commodity.

**Awning:** An architectural projection that provides weather protection, identity or decoration and is wholly supported by the building to which it is attached. An awning is comprised of a lightweight, rigid skeleton structure over which a covering is attached.

**Banner:** A hanging sign, typically of fabric, which may be hung perpendicular or parallel to the face of a building.

**Billboard:** A permanent signboard or structure on which lettering or images can be attached or posted, as further defined in the D.C. Building Code.

**Blade sign:** A vertically-oriented, double-faced projecting sign that hangs perpendicular to the façade of a building, allowing copy on both sign faces.

**Box sign:** A plastic- or acrylic-faced sign mounted on a box or cabinet that houses a source of internal illumination; also called a “cabinet sign.”

**Branding:** The use of signs, logos, symbols, figures, shapes, colors, or other elements individually or collectively, to market a business or identify it as part of a larger corporate entity.

**Bulletin sign:** A free-standing or wall-mounted sign box, usually constructed of metal with a hinged glass face, housing a letterboard for changeable copy.

**Cabinet sign:** A plastic- or acrylic-faced metal sign mounted on a box or cabinet housing a source of internal illumination; also called a “box sign.”

**Canopy:** An architectural projection that provides weather protection, identity or decoration and is supported by the building to which it is attached and at the outer end by at least one stanchion. A canopy is comprised of a rigid structure over which a covering is attached.

**Channel letter sign:** A sign consisting of individually formed letters, which may include illumination within each letter or many be mounted on a continuous raceway.

**Color branding:** The use of a color or colors associated with a business or entity as a means to convey its identity.

**Copy:** The use, amount, and size of lettering, numbers, or imagery on a sign.

**Fascia:** A plain, flat horizontal band, typically part of a storefront cornice, intended for sign placement; also called a “frieze” or “sign band.”

**Flag sign:** A fabric panel with signage displayed or configured as a flag.

**Frieze:** The portion of the façade that is typically just above or at the top of a storefront which provides an area for signage; also called a “fascia” or “sign band.”

**Ground-mounted sign:** A free-standing sign that is located within the public space, yard, or landscape of a property; also called a “monument sign.”

**Halo lit sign:** A sign of an opaque material illuminated from behind to form a “halo” of light around the silhouetted letters or symbols.

**Hanging sign:** A double-faced sign that projects perpendicular from the face of a building, allowing copy on both sign faces, and which typically hangs from an overhead bracket.

**Historic sign:** A sign that is original to a building, historically significant, or at least fifty (50) years old and which has features, qualities, or associations that may warrant preservation.

**Marquee:** A permanent roofed structure attached to and supported by the building to which it is attached and that projects into the public right-of-way.

**Monument sign:** A free-standing, ground-mounted sign.

**Moving sign:** A sign that displays three-dimensional, moving, rotating, flashing, animated, or changing images or text, and is propelled by wind, solar or electric power.

**Painted sign:** A sign painted directly onto the face or other element of a building.

**Panel sign:** A one-sided sign mounted on a flat wall surface.

**Pin-mounted sign:** A sign composed of individual letters or other components attached to a panel or building by pins or screws.

**Pole-mounted sign:** A free-standing sign mounted on a single tall pole or pylon, typically located within the site or landscape of a property, and frequently used to advertise auto-related businesses.

**Projecting sign:** A double-faced sign that projects perpendicular from the face of a building, allowing copy on both sign faces.

**Raceway sign:** A sign consisting of individual channel letters mounted on a horizontal or vertical structural raceway element that houses electrical conduit for illumination.

**Real estate sign:** A sign announcing the sale, rent, or lease of land or premises.

**Reverse channel sign:** A sign where individual letters or images are cut in to an opaque panel allowing the letters or images to be illuminated when back lit.

**Roof sign:** A sign that is mounted on the roof of a building, as defined further in the D.C. Building Code.

**Routed sign:** A sign, typically of wood, into which letters or images are carved or routed.

**Sign or Signage:** A physical medium or display, including its structure and component parts, used to advertise, identify a person, object, or entity, or to provide information, consisting of words, letters, figures, designs, symbols, numbers, illumination, or projected images.

**Sign band:** A plain, flat horizontal band at the top of a storefront intended for sign placement; also called a “fascia” or “frieze.”

**Special sign:** A sign that is erected, hung, placed, posted, painted, displayed or maintained on an outside, exterior wall or surface of a building pursuant to a Special Sign permit issued pursuant to the D.C. Building Code, and as further defined in the D.C. Building Code.

**Symbol:** A recognizable image, icon, logo or other graphic representation for a business, service, institution or other object or entity.

**Temporary sign:** A sign erected for a limited and defined period of time.

**Three-dimensional sign:** A sign, symbol, icon, object, or logo that is sculptural or three-dimensional in form.

**Vintage sign:** A sign less than fifty (50) years old which may have distinctive characteristics or aesthetic qualities that lend character to a building or district.

**Window sign:** A sign that is hung, etched, painted, or mounted inside a glass storefront, door, window, or transom.

**B. Section 9901 of Chapter 99 is amended by adding the following two new definitions:**

**Building code or D.C. Building Code:** Title 12A of the District of Columbia Municipal Regulations, also known as the Building Code Supplement.

**Building code official or building official:** The person authorized and directed to enforce the provisions of the building code and the construction code.

**Construction code or D.C. Construction Codes:** Titles 12 and 13 of the District of Columbia Municipal Regulations.

## PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF FINAL RULEMAKINGFORMAL CASE NO. 990, IN THE MATTER OF DEVELOPMENT OF LOCAL EXCHANGE CARRIER QUALITY OF SERVICE STANDARDS FOR THE DISTRICT

The Public Service Commission of the District of Columbia, pursuant to its authority under D.C. Code, § 34-401(a), § 34-802, and § 34-2002(g), hereby gives notice of the amendment of Chapter 27 of Title 15 DCMR. Notices of Proposed Rulemaking to amend these rules were published in the *D.C. Register* on September 28, 2007,<sup>1</sup> December 14, 2007,<sup>2</sup> April 11, 2008,<sup>3</sup> August 1, 2008,<sup>4</sup> May 8, 2009,<sup>5</sup> and January 1, 2010.<sup>6</sup> These amendments implement section 34-401(a) of the D.C. Code, requiring telecommunications service providers operating in the District of Columbia to notify the Commission of service outages and incidents involving personal injury or death. The final version of these rules contains no substantive modifications from the January 1, 2010 Notice of Proposed Rulemaking. Final action adopting these rules was taken March 15, 2010 by Commission Order No. 15737. The final rules will become effective upon publication of this notice in the *D.C. Register*. Additional copies of the final rules may be obtained by writing Dorothy Wideman, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, NW, 2<sup>nd</sup> Floor, West Tower, Washington, DC 20005 or by accessing the Commission's website at [www.dcpssc.org](http://www.dcpssc.org).

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<sup>1</sup> 54 *D.C. Reg.* 9404-9408 (September 28, 2007).

<sup>2</sup> 54 *D.C. Reg.* 12060-12062 (December 14, 2007).

<sup>3</sup> 55 *D.C. Reg.* 3961-3963 (April 11, 2008).

<sup>4</sup> 55 *D.C. Reg.* 8347-8352 (August 1, 2008).

<sup>5</sup> 56 *D.C. Reg.* 3699-3703 (May 8, 2009).

<sup>6</sup> 57 *D.C. Reg.* 141-145 (January 1, 2010).

## DEPARTMENT OF PUBLIC WORKS

NOTICE OF FINAL RULEMAKING

The Director of the Department of Public Works, pursuant to the authority set forth in section 2(c) of the District of Columbia Solid Waste Disposal Act of 1989, effective July 15, 1989 (D.C. Law 8-16; 36 DCR 4155), and Mayor's Order 2005-123, dated August 23, 2005, hereby gives notice of the adoption of the following amendments to Chapter 7 (Solid Waste Control), Title 21 (Water and Sanitation), of the District of Columbia Municipal Regulations.

The proposed rules were transmitted to the Council on November 16, 2009. The proposed rules were published with the Notice of Proposed Rulemaking in the *D.C. Register* on January 8, 2010, at 57 DCR 529. No comments were received concerning the proposed rulemaking and the proposed rules were deemed approved by the Council. The final rules are identical to the proposed rules. These final rules will be effective upon publication of this notice in the *D.C. Register*.

Chapter 7 of Title 21 of the DCMR is amended as follows:

Section 719.3 is amended to read as follows:

719.3 The solid waste disposal fee-setting formulas shall be based upon the District government's expenses for solid waste disposal operations. The Mayor shall take into account the costs of operating the disposal facilities, including the following:

- (a) Maintenance and administrative costs;
- (b) Engineering services;
- (c) Debt retirement or debt reserves;
- (d) Landfill replacement costs; and
- (e) Other expenses attributable to operating the District government's solid waste disposal facilities.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF FINAL RULEMAKING**

and

**Z.C. ORDER NO. 08-17**

**Z.C. Case No. 08-17**

**(Text Amendments – 11 DCMR)**

**Prohibition of Certain Accessory Uses in Reed-Cooke Overlay**

**September 14, 2009**

The Zoning Commission for the District of Columbia (the “Commission”), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01), having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641.03), and having referred the proposed amendments to the National Capital Planning Commission for a 30-day period of review pursuant to § 492 of the District of Columbia Charter, hereby gives notice of adoption of amendments to § 1401 of the Zoning Regulations (Title 11 DCMR). That provision lists uses that are prohibited in the Reed-Cooke Overlay. The proposed amendment adds a new § 1401.2 to indicate if a principal use is prohibited by § 1401.1, the accessory form of the use is prohibited as well. Proposed new § 1401.3 would exempt the off-premises wine and beer sales accessory use in the grocery store located in Square 2572, Lot 36 subject to a cap on the amount of floor space that the accessory use could occupy. That grocery store and accessory use were the subject of *Appeal No. 17675 of the Reed-Cooke Neighborhood Association*, 55 DCR 12552 (2008), in which the Board of Zoning Adjustment (“BZA”) found “that the sale of off-premises alcoholic beverages as an accessory use is not prohibited by § 1401.1(b) and is therefore allowed as a matter of right.”

A Notice of Proposed Rulemaking was published in the *D.C. Register* on August 7, 2009 (54 DCR 9445). The Commission took final action to adopt the amendments at a public meeting held on September 14, 2009. The only change to the advertised text was to include an eight percent cap on the amount of floor space that the accessory use could occupy.

This final rulemaking is effective upon publication in the *D.C. Register*.

**Set Down Proceedings**

On May 30, 2008, the Office of Zoning received a report from the Office of Planning (“OP”) on behalf of the Reed-Cooke Neighborhood Association (“RCNA”), petitioning the Commission for a text amendment to § 1401.1 of the Zoning Regulations to clarify that the uses listed in § 1401.1(a) to § 1401.1(y) are prohibited both as principal uses and accessory uses. They believed that the Commission intended to prohibit all forms of a prohibited use when it established the overlay. At the public meeting, OP recommended that their request be amended to add a new § 1401.2 to more explicitly address the intention of the request.

The Commission set down the case for public hearing at its meeting on June 9, 2008. OP’s set down report served as the pre-hearing statement.

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### **Public Hearing and Comment**

The Commission held a public hearing on the proposed text amendments on June 29, 2008. At the public hearing, OP testified that the genesis of the application was a result of the granting of a permit to allow off-premises alcoholic beverage sales as an accessory use to a supermarket in the Reed-Cooke area. The Zoning Administrator found that the use restrictions in the Reed-Cooke Overlay (at § 1401.1) applied only to principal uses and therefore the sale of wine and beer is allowed by-right in the supermarket as an accessory use.

OP stated that the intention of the proposed text amendment is to bring clarity to the issue and have the text explicitly state that the uses listed in § 1401.1 are prohibited both as a principal use and as an accessory use to any other use. Although not explicitly stated in the record, it is OP's understanding that the circumstances of the original overlay proposal was that some uses presented social and environmental problems within the Reed-Cooke area and the overlay intended to prevent these uses, such as liquor stores, restaurants, bars, etc., from being located within the Reed-Cooke neighborhood. This was reflected in one of the general policies of the Reed-Cooke Overlay, which states "*encourage small scale businesses that will not adversely affect the residential community.*" RCNA was concerned that with the BZA and Zoning Administrator's rulings, the area is susceptible to the listed uses being introduced as accessory to other uses.

The Commission also heard testimony from several persons. Wilson Reynolds, representing Advisory Neighborhood Commission ("ANC") 1C, and Maureen Gallagher and Peter Lyden, representing RCNA, all provided testimony in support of the text amendment. Norman Glasgow, representing Harris Teeter, the occupant of the full-service grocery store at 1631 Kalorama Road, N.W., spoke in opposition to the amendment and requested that an exemption be added so that the adoption of the prohibition would not change the nature of the accessory use from conforming to non-conforming. If the non-conforming use is abandoned, any subsequent use must conform to the regulations of the Zone District in which the use is located.

The public hearing was concluded and the Commission requested additional information on the supermarket's ABC license and requested that the ANC provide a letter that included the vote of the ANC in order to be given great weight.

ANC 1C, through its adoption of a resolution dated July 3, 2009, stated its opposition to the exemption but indicated that, in the event the Commission agreed to it, the accessory use should be confined to the location it occupied on July 1, 2009, and only to the extent it occupied that location on that date.

### **Proposed Action**

At its July 13, 2009 public meeting, the Commission agreed to include the exemption within the proposed text as well as a cap, but requested that the public comment on the extent of the cap as

**Z.C. Notice of Final Rulemaking and Order No. 08-17****Z.C. Case No. 08-17****Page 3**

well as the appropriateness of the exemption. The Commission noted that in finding of fact number 6 of Appeal No. 17675, the BZA found that: "According to the plans submitted with the building permit application, the area to be devoted to the sale of beer and wine would comprise approximately 4% of the store's total floor area." With this figure as a baseline, the Commission requested that the Zoning Administrator measure the total floor area currently occupied by the accessory use and report his findings prior to the Commission's scheduled public meeting of September 14, 2009. At the conclusion of the public meeting, the Commission voted to refer the proposed text to the National Capital Planning Commission ("NCPC"), which by report dated August 27, 2009, found that the proposed text amendment would not adversely affect the federal interests or be inconsistent with the Federal Elements of the Comprehensive Plan.

**Final Action**

The Commission took final action to adopt the rulemaking at its regularly scheduled public meeting on September 14, 2009. The only change to the advertised text was to include a cap on the amount of floor space that the accessory use could occupy. According to a letter dated September 14, 2009 from the Zoning Administrator, the grocery store occupies 25,977 square feet of floor area. A four percent cap would limit the use to 1,039 square feet. The Commission considered it appropriate to allow some matter-of-right expansion for this use, but to limit that expansion to eight percent of the existing floor area, which equates to 2,078 square feet.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purpose of the Zoning Regulations and Zoning Act, and not inconsistent with the Comprehensive Plan for the National Capital.

The Zoning Regulations, DCMR Title 11, § 1401 are amended by adding new §§ 1401.2 and 1401.3 to read as follows:

- 1401.2      Except as provided in §1401.3, if any of the principal uses prohibited by § 1401.1 would be permitted as an accessory use in the underlying zone district, that accessory use is also prohibited in the RC Overlay District.
- 1401.3      Notwithstanding § 1401.2, the off-premises beer and wine sales accessory use in the grocery store located in Square 2572, Lot 36 may continue as a matter of right provided that it shall not occupy more than 2,078 square feet of the store's gross floor area.

On July 13, 2009, upon motion of Chairman Hood, as seconded by Commissioner Schlater, the Zoning Commission **APPROVED** the proposed rulemaking at its public meeting by a vote of **4-0-1** (Anthony J. Hood, William W. Keating, III, and Konrad W. Schlater to approve; Peter G, May to approve by absentee ballot; Michael G. Turnbull, not present, not voting).

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On September 14, 2009, upon motion of Commissioner Schlater, as seconded by Chairman Hood, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **5-0-0** (Anthony J. Hood, Konrad W. Schlater, Peter G. May, and Michael G. Turnbull to approve; William W. Keating, III to approve by absentee ballot).

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 March 19, 2010.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF FINAL RULEMAKING**

**AND**

**Z.C. ORDER NO. 08-29**

**Z.C. Case No. 08-29**

**(Text Amendment - 11 DCMR)**

**(Text Amendment to Create an Additional Exception to the Residential Requirement of the  
Uptown Arts Overlay/Commercial Residential (Arts/CR) Zone)**

**July 13, 2009**

The Zoning Commission for the District of Columbia (the "Commission"), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01); and having held a public hearing and thereafter having referred the proposed amendments to the National Capital Planning Commission for a 30-day period of review pursuant to § 492 of the District of Columbia Charter; hereby gives notice of the adoption of an amendment to § 1902.3 of the Zoning Regulations (Title 11 DCMR). The amendment exempts historic buildings located in the CR zoned portion of the Uptown Arts-Mixed Use (ARTS) Overlay District from the minimum residential or hotel use requirement of that provision. An existing building becomes subject to the ARTS Overlay if any addition, alteration, or repair within any 24-month period exceeds 75% of the building's assessed value. (11 DCMR § 1900.4.)

A Notice of Proposed Rulemaking was published in the *D.C. Register* ("DCR") on June 12, 2009, at 56 DCR 4514. The Commission took final action to adopt the amendments at a public meeting on July 13, 2009. This final rulemaking is effective upon publication in the *D.C. Register*.

**Existing Regulations**

In Order No. 632, dated November 13, 1989, the Commission created and mapped the Uptown Arts Overlay. The overlay supplements the regulations of four underlying zoning districts – C-2-A, C-2-B, C-3-A, and CR – in the vicinity of 14<sup>th</sup>, U, and 7<sup>th</sup> Streets and Florida and Georgia Avenues. The purposes of the overlay are to encourage a mix of uses, a high level of pedestrian activity, a safe environment for pedestrian and vehicular movement, and an increased presence of arts, cultural, and related support uses (11 DCMR § 1900.2). Much of the overlay is encompassed by the Greater 14<sup>th</sup> Street and Greater U Street Historic Districts.

Subsection 1902.3 presently requires that each lot or combined lot in the CR portion of the overlay devote not less than 2.5 of its floor area ratio ("FAR") to residential or hotel development, but exempts any lot or combined lot with less than 7,500 square feet of land area and any building constructed before 1958 that becomes subject to the overlay, if the building is being converted to nonresidential uses.

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### **Description of Text Amendment**

The text amendment adds a third exemption to the residential use requirement for existing buildings that become subject to the overlay's provisions. This exemption applies to any such building that contributes to the historic district or is a designated landmark. In addition, at least 0.5 FAR of the building's density must be occupied by or reserved for one or more of the preferred uses set forth in 1908.1 (except 1908.1(m) and (u)). In addition, at least 0.25 FAR of the space occupied or reserved for such uses must have a minimum floor-to-ceiling clear height of at least 20 feet.

### **Relationship to the Comprehensive Plan**

The text amendment is not inconsistent with Comprehensive Plan, and is fully consistent with policies suggesting the reuse and restoration of historic arts facilities, or the reuse of other historic structures such as arts venues. The Arts and Culture Element of the Plan seeks to enhance existing arts facilities for the benefit of nearby neighborhoods: "Preserve and enhance existing District-owned neighborhood arts and cultural spaces. Assist in the improvement of arts organizations' facilities in order to enhance the quality and quantity of arts offerings" (Policy AC-1.1.1.) Policy AC-4.3.3 is even more direct in its call to revitalize historic structures: "Encourage non-profit and private arts organizations to work closely with historic preservation organizations to reuse historical buildings, including historic theaters, as cultural centers."

The Historic Preservation Element also seeks to create special incentives to help preserve buildings like theaters. Policy HP-3.1.2 states, "Develop specialized incentives to support preservation of historic properties like schools, places of worship, theaters, and other prominent historic structures of exceptional communal value. Use a variety of tools to reduce development pressure on these resources and to help with unusually high costs of maintenance." That element also specifically refers to cultural resources and the potential for improving business districts: "Utilize historic preservation programs and incentives to encourage historic preservation as a revitalization strategy for neighborhoods and neighborhood business districts." (Policy HP-3.2.3.)

The DUKE Plan (Development Framework for a Cultural Destination District Within Washington, DC's Greater Shaw/U Street), whose boundaries partially overlap the Arts/ CR Zone District, also generally encourages the re-use of historic structures and the establishment of major arts venues to attract a critical mass of residents and visitors.

### **Set Down Proceeding**

The Office of Planning initiated this rulemaking by filing a report. The Commission set down the case for a public hearing at its November 10, 2008 public meeting.

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### **Public Hearing**

The Commission held a public hearing on April 30, 2009. No members of the public testified at the hearing, but the Commission acknowledged the receipt of a letter from the Cardozo Shaw Neighborhood Association (the "Association"). The letter stated that the Association voted to support the text amendment and the flexibility it would provide to property owners. The letter also stated that the Association has noted an imbalance towards residential development at the expense of office and commercial development.

### **Great Weight Given to ANC Issues and Concerns**

The Commission is required under D.C. Official Code § 1-309.10(d) to give great weight to issues and concerns raised in the affected ANC's written recommendation. No ANC comments were received.

### **Proposed Action**

The Commission took proposed action at the conclusion of the hearing held on April 30, 2009.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on June 12, 2009, at 56 DCR 4514.

The proposed rulemaking was referred to the National Capital Planning Commission ("NCPC") under the terms of § 492 of the District of Columbia Charter. NCPC, through a delegated action dated June 8, 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.

### **Final Action**

At its properly noticed July 13, 2009 public meeting, the Commission took final action to approve the proposed text amendment without making any change to the proposed text.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purpose of the Zoning Regulations and the Zoning Act.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** an amendment to § 1902.3 to make a technical change to how paragraph (a) is codified and to add a new paragraph (b), so that the provision will read as follows:

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1902.3 In the underlying CR District, development of a lot or lots in a combined lot development pursuant to § 1905 shall provide not less than 2.5 Floor Area Ratio (FAR) of residential or hotel development subject to the spacing requirement of § 1901.2, concurrent with any commercial development on the lot or combined lots; provided:

- (a) This requirement shall not apply to:
  - (1) A lot or a combined lot having less than seven thousand five hundred square feet (7,500 ft.<sup>2</sup>) of land area;
  - (2) A conversion of a building constructed before 1958 to nonresidential uses; or
  - (3) A building that contributes to a historic district or is designated a landmark, and that has at least 0.5 FAR occupied by or reserved for one or more of the uses set forth in § 1908.1, other than 1908.1(m) and 1908.1(u), and at least 0.25 FAR of the space so occupied or reserved has a minimum floor-to-ceiling clear height of twenty (20) feet; or
- (b) In developments in which residential development is required by this subsection, a certificate of occupancy for commercial or nonresidential uses shall not be issued prior to the issuance of a certificate of occupancy for a residential or hotel component.

On April 30, 2009, upon the motion of Vice Chairman Jeffries, as seconded by Commissioner Keating, the Zoning Commission **APPROVED** the proposed rulemaking at the conclusion of its public hearing by a vote of **3-0-2** (Gregory N. Jeffries, William W. Keating, III, and Peter G. May to approve; Anthony J. Hood and Michael G. Turnbull, not present, not voting ).

On July 13, 1009, upon the motion of Chairman Hood, as seconded by Vice Chairman Keating, the Zoning Commission **ADOPTED** this Order at its public meeting by a vote of **4-0-1**(Anthony J. Hood and William W. Keating, III to approve; Peter G. May and Michael G. Turnbull to approve by absentee ballot; Konrad W. Schlater, 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 March 19, 2010.