

**ALCOHOLIC BEVERAGE REGULATION ADMINISTRATION  
ALCOHOLIC BEVERAGE CONTROL BOARD**

**NOTICE OF EMERGENCY RULEMAKING**

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in D.C. Official Code § 25-351(a) (2012 Repl.) and Section 304 of Title 23 of the District of Columbia Municipal Regulations (DCMR), hereby gives notice of the following emergency rules to extend the existing West Dupont Circle Moratorium Zone (WDCM) for one hundred and twenty (120) days in order to maintain the current limit on the number of retailer's licenses issued in the West Dupont Circle Moratorium Zone.

Emergency rulemakings are used only for the immediate preservation of the public peace, health, safety, welfare, or morals, pursuant to 1 DCMR § 311.4(e). The existing WDCM is set to expire on May 17, 2015. As a result, the Board finds it necessary to extend the existing WDCM in order to hold a public hearing and make a determination regarding the future of the WDCM.

This emergency action is necessary for the preservation of the health, safety and welfare of the District residents by: (1) ensuring that the limitations placed on the issuance of new retailer's licenses are maintained; and (2) to keep the existing WDCM in place until the Board can adopt final rules regarding its renewal.

Additionally, on February 23, 2015, the Board received a request from Advisory Neighborhood Commission (ANC) 2B for a one hundred twenty (120) day extension from the expiration of the existing moratorium. The ANC requested the extension in order to analyze the impact of a potential request for renewal of the moratorium on the peace, order and quiet of the neighborhood, residential parking, over-concentration, and property values in the locality. Additionally, the ANC observed that it's recently constituted Commission comprised of new members needed additional time to fully examine and understand the community's concerns. The ANC intends to form a working group tasked with engaging the community in public meetings and will receive verbal and written comments for its consideration. The ANC will then submit a recommendation for the Board to consider the long term future of the moratorium.

The Board supports the request of the ANC for a one hundred twenty (120) day extension of the existing WDCM to avoid its expiration and to hold a future hearing upon receipt of the ANC's recommendation.

These emergency rules were adopted by the Board on May 13, 2015, by a seven (7) to zero (0) vote and became effective on that date. The rules will remain in effect for up to one hundred twenty (120) days, expiring September 13, 2015, unless earlier superseded by proposed and final rulemakings.

### **307. WEST DUPONT CIRCLE MORATORIUM ZONE**

307.1 A limit shall exist on the number of retailer's licenses issued in the area that extends approximately six hundred feet (600 ft.) in all directions from the intersection of 21st and P Streets, N.W., Washington, D.C., as follows: Class A - Two (2); Class B - Three (3); Class CT or Class DT - Six (6); Class CN or DN - Zero (0); and Class CX or Class DX - Three (3). This area shall be known as the West Dupont Circle Moratorium Zone.

307.2 The West Dupont Circle Moratorium Zone is more specifically described as the area bounded by a line beginning at 22nd Street and Florida Avenue, N.W.; continuing north on Florida Avenue, N.W., to R Street, N.W.; continuing east on R Street, N.W., to 21st Street, N.W.; continuing south on 21st Street, N.W., to Hillyer Place, N.W.; continuing east on Hillyer Place, N.W., to 20th Street, N.W.; continuing south on 20th Street, N.W., to Q Street, N.W.; continuing east on Q Street, N.W., to Connecticut Avenue, N.W.; continuing southeast on Connecticut Avenue, N.W., to Dupont Circle; continuing southwest around Dupont Circle to New Hampshire Avenue, N.W.; continuing southwest on New Hampshire Avenue, N.W., to N Street, N.W.; continuing west on N Street, N.W., to 22nd Street, N.W.; and continuing north on 22nd Street, N.W., to Florida Avenue, N.W. (the starting point).

307.3 All hotels, whether present or future, shall be exempt from the West Dupont Circle Moratorium Zone. The 1500 block of Connecticut Avenue, N.W., shall be exempt from the West Dupont Circle Moratorium Zone. Establishments located in, or to be located in, the New Hampshire side of One Dupont Circle, N.W., shall be exempt from the West Dupont Circle Moratorium Zone.

307.4 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a retailer's license Class A, B, CR, CT, CX, DR, DT, or DX located within the West Dupont Circle Moratorium Zone, subject to the requirements of the Act and this title.

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

307.6 A license holder outside the West Dupont Circle Moratorium Zone shall not be permitted to transfer its license to a location within the West Dupont Circle Moratorium Zone unless the transfer will not exceed the number of licenses permitted in the West Dupont Circle Moratorium Zone for that particular class or sub-class, as set forth in subsection 307.1.

307.7 Subject to the limitation set forth in subsection 307.8, nothing in this section shall prohibit the filing of a license application or a valid protest of any transfer or change of license class.

307.8 No Class CR or Class DR licensee in the West Dupont Circle Moratorium Zone shall be permitted to request a change of license class to CT, DT, CN, or DN, unless the class change will not exceed the number of licenses permitted in the West Dupont Circle Moratorium Zone for that particular class or sub-class, as set forth in subsection 307.1.

307.9 A current holder of a retailer's license Class A, B, C, or D within the West Dupont Moratorium Zone shall not be permitted to apply to the Board for expansion of service or sale of alcoholic beverages into any adjoining or adjacent space, property, or lot, unless:

(a) the prior owner or occupant has held within the last five (5) years a retailer's license Class A, B, C, or D; or

(b) the applicant is a Class CR or DR licensee and the prior owner or occupant has held during the last three (3) years, and continues to hold at the time of application, a valid restaurant license from the Department of Consumer and Regulatory Affairs.

307.10 The number of substantial change applications approved by the Board for expansion of service or sale of alcoholic beverages into an adjoining or adjacent space, property, or lot, as allowed under subsection 307.9, shall not exceed three (3) during the three (3) year period of the West Dupont Circle Moratorium Zone.

307.11 Nothing in this section shall prohibit holders of a retailer's license Class C or D from applying for outdoor seating in public space.