

**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 the District of Columbia Official Code § 25-211(b) (2012 Repl.) and Mayor’s Order 2001-96, dated June 28, 2001, as revised by Mayor’s Order 2001-102, dated July 23, 2001, and in accordance with section 6(c) of the District of Columbia Administrative Procedure Act, approved October 21, 1967 (82 Stat. 1206; D.C. Official Code § 25-381(a)), as amended (DC APA), hereby gives notice of the adoption on an emergency basis of amendments to section 712 (Pub Crawls) of chapter 7 (General Operating Requirements) of title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR). The amendments: (1) revise the pub crawl license requirements; (2) establish a pub crawl licensing fee; (3) give the Board more authority to manage pub crawls; and (4) strengthens the requirements for pub crawl applicants regarding their responsibilities before, during, and after pub crawl events, to include having a litter plan in place.

On January 13, 2016, the Board adopted the Pub Crawls Notice of Emergency and Proposed Rulemaking. The emergency and proposed rules were published in the *D.C. Register* on March 18, 2016, at 63 DCR 4098 [Expired]. On March 2, 2016, the Board held a public hearing to receive comments from the community and interested persons concerning the pub crawl rules. The feedback the Board received was generally supportive.

After thoroughly reviewing the oral and written comments it received, the Board adopted the Pub Crawls Second Notice of Emergency and Proposed Rulemaking (Second Emergency and Proposed Rules) on April 6, 2016. In the Second Notice, the Board made several comprehensive changes to the pre-existing emergency and proposed rules, including:

1. Requiring pub crawl promoters/organizers (Applicants) to submit their pub crawl applications to the Board sixty (60) days before the event;
2. The Department of Public Works (DPW) has ten (10) days to review a pub crawl application as opposed to forty-eight (48) hours; and
3. In addition to notifying the Metropolitan Police Department and DPW, Applicants must notify the D.C. Department of Fire and Emergency Medical Services (FEMS) sixty (60) days before the event.

The Board also revised the definition of “pub crawl” and expounded upon the litter plan requirements and submission timelines. Lastly, the Board amended the Civil Penalty Schedule to include “participating in an unlawful pub crawl,” which it determined will be a second-tier violation.

The Second Emergency and Proposed Rules were published in the *D.C. Register* on July 8, 2016, at 63 DCR 9426. The emergency rules expire on August 4, 2016, and the thirty (30)-day

comment period ends on August 7, 2016. Presently, the Board has not received any comments in response to the Second Notice of Emergency and Proposed Rulemaking and will likely move forward with submitting the rules to the Council for the District of Columbia (Council) for the mandatory ninety (90)-day review period at the close of the comment period. In the interim, emergency action is necessary.

The Board, in accordance with section 6(c) of the DC APA, finds emergency rulemaking action is necessary for the immediate preservation of health, safety, and welfare of District of Columbia (District) residents. Specifically, emergency action is needed (1) to ensure that pub crawls are conducted in a responsible, safe, and orderly manner; and (2) to protect the rights and privileges of affected District residents and businesses.

These emergency rules were adopted by the Board on August 3, 2016, by a five (5) 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 on December 1, 2016, unless superseded. This emergency rulemaking supersedes the emergency and proposed rules adopted by the Board on April 6, 2016.

Chapter 7, GENERAL OPERATING REQUIREMENTS, of Title 23 DCMR, ALCOHOLIC BEVERAGES, is amended as follows:

712 PUB CRAWLS

- 712.1 A promoter/organizer (“Promoter/Organizer” or “Applicant”) of a “pub crawl” shall be required to obtain a pub crawl license. The Promoter/Organizer shall submit an application for a pub crawl license that contains a Pub Crawl Event Form for each pub crawl event at least sixty (60) days prior to the applicant’s first scheduled pub crawl event. The sixty (60)-day in advance filing requirement shall apply to all pub crawl applications filed after July 1, 2016.
- 712.2 A Promoter/Organizer shall obtain the Board’s approval prior to hosting any pub crawl events not included in the Promoter/Organizer’s pub crawl license application. The Promoter/Organizer shall submit a Pub Crawl Event Form to the Board for approval of any subsequent pub crawl event not listed on the Promoter/Organizer pub crawl license application at least sixty (60) days in advance of the event. The Board may conduct a hearing for purposes of considering the Promoter/Organizer’s Pub Crawl Event Form submission.
- 712.3 For purposes of this section, a “pub crawl event” shall be defined as an organized group of establishments within walking distance which participate in the promotion of the event featuring the sale or service of alcoholic beverages during a specified time period.
- 712.4 The application fee for a pub crawl license shall be five hundred dollars (\$500). The pub crawl license fee shall cover all pub crawl events held by the licensee in

a calendar year. A pub crawl license shall expire at the end of the calendar year in which it is issued. The requirement for a pub crawl license and application fee shall apply to applications filed after April 1, 2016.

712.5 No later than sixty (60) days prior to the scheduled date of the pub crawl event, the applicant must provide the Metropolitan Police Department, the D.C. Fire and Emergency Medical Service, and the Board with a Pub Crawl Event Form which shall include the following information:

- (a) The names and addresses of all licensed establishments which are expected to participate;
- (b) The geographic area where the event will take place;
- (c) The anticipated number and maximum number of participants;
- (d) The actual hours of the event;
- (e) The operational plan and security plan; and
- (f) The plan for litter prevention, control and removal; and
- (g) The location of the designated registration area(s).

712.6 The operational and security plan required by § 712.5(e) shall be posted at the designated registration area(s) and shall include, at a minimum:

- (a) The name and number of security personnel contracted for the event;
- (b) A plan for controlling underage drinking; and
- (c) The method to be used for checking participants' identification.

712.7 The litter plan required by § 712.5(f) shall:

- (a) Set a timeframe within which the litter removal vendor(s) will remove litter from the geographic area(s) in which the pub crawl occurred. The timeframe shall require that litter be removed by no later than 10 a.m. on the day after the pub crawl; and
- (b) Include the following minimum requirements:
 - (1) Litter will be cleaned from both sides of the street of the entire block where an establishment participating in a pub crawl is

located and on both sides of the street for all blocks between establishments;

- (2) Litter will be removed from tree boxes and planters on both sides of the street for the entire length of the block;
- (3) Litter removal shall include the cleaning of human waste (*e.g.*, vomit);
- (4) The litter removal company or companies shall not place trash and other debris in trash receptacles; and
- (5) The litter removal company or companies shall comply with the District's solid waste and sanitation regulations located in chapters 7 and 8 of title 21 of the District of Columbia Regulations.

712.8 The Applicant shall submit a signed contract and proof of payment for litter removal services within seventy two (72) hours from the conclusion of the pub crawl event.

712.9 The litter plan shall be approved, in writing, by the District Department of Public Works (DPW) within ten (10) days of the Promoter/Organizer filing the litter plan with DPW.

712.10 The Promoter/Organizer or its designee(s) must remain at the pub crawl event to superintend for the duration of the event, and shall neither purchase nor consume alcoholic beverages during the event.

712.11 The Board shall approve the Applicant's list of participating licensed establishments for each pub crawl event. In doing so, the Board shall determine each listed licensed establishment's eligibility to participate in the pub crawl event in accordance with § 712.12 and 712.13.

712.12 No establishment with more than two (2) primary tier violations within two (2) years of the scheduled date of the event may participate in a pub crawl event.

712.13 No licensed establishment may participate in a pub crawl event if it is prohibited from participating by the terms of its Settlement Agreement or Board Order.

712.14 Pub crawl events may not promote excessive drinking and may not include unlimited amounts of drinks for one (1) price (*i.e.*, "all you can drink" specials).

- 712.15 Literature describing “responsible drinking practices” shall be available at all pub crawl event designated registration area(s).
- 712.16 All advertising and promotional materials for pub crawl events shall:
- (a) Include a statement that “You must be twenty-one (21) or older to participate”;
 - (b) Promote the use of public transportation; and
 - (c) Include the plan for a designated driver program for the event.
- 712.17 Establishments that are required by law to serve food shall have food available for purchase during the hours of the pub crawl event.
- 712.18 The issuance of a pub crawl license shall be solely in the Board’s discretion. The Board shall approve or deny a pub crawl application no less than fourteen (14) days prior to the date of the pub crawl event.
- 712.19 The Board may place restrictions upon the hours, participating licensed establishments, and the number, nature or size of pub crawl events held under a pub crawl license in order to protect public safety.
- 712.20 The Board may also fine, suspend, or revoke the pub crawl license if the Promoter/Organizer:
- (a) Fails to control the environment of a pub crawl;
 - (b) Has sustained community complaints or police action;
 - (c) Fails to comply with the terms of its pub crawl license or pub crawl application, including the litter plan and security and/operational plans; or
 - (d) Otherwise violates this Title or D.C. Official Code §§ 25-101, *et seq.*
- 712.21 Any enforcement action taken in accordance with § 712.20 shall be in accordance with D.C. Official Code §§ 25-441 through 25-447 and chapter 16 of this Title.
- 712.22 When reviewing an application for a pub crawl license, the Board may consider the Applicant’s conduct and management of previous pub crawl events.
- 712.23 Licensed establishments shall not participate in an unlicensed pub crawl event. It shall be the licensed establishment’s responsibility to verify whether the pub crawl event is licensed by the Board.

- 712.24 The Board may prohibit a licensed establishment that participated in an unlicensed pub crawl event or has sustained community complaints or police action from participating in future pub crawl events for up to a year from the date of the incident.
- 712.25 Licensed establishments shall post in a conspicuous place for the duration of the pub crawl event a copy of the pub crawl organizer’s license for each pub crawl event in which they participate. The pub crawl license shall list the name and date of the pub crawl event and the name of the Promoter/Organizer.
- 712.26 A licensed establishment shall not be permitted to participate in more than one (1) pub crawl event at one time.
- 712.27 A pub crawl license is not required for a pub crawl containing fewer than two hundred (200) participants.
- 712.28 The Board shall not approve a pub crawl application for July 4, October 31, or December 31.

Chapter 8, ENFORCEMENT, INFRACTIONS, AND PENALTIES, of Title 23, ALCOHOLIC BEVERAGES, is amended as follows:

Section 800, ABRA CIVIL PENALTY SCHEDULE, is amended by adding the following fine to the civil penalty schedule:

23 DCMR 712.23	Participating in an Unlicensed Pub Crawl	Secondary	Y
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