

**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 Adams Morgan Moratorium Zone (AMMZ) for one hundred and twenty (120) days in order to maintain the current limit on the number of retailer's licenses issued in Adams Morgan.

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 AAMZ is set to expire on April 16, 2014. As a result, the Board finds it necessary to extend the existing AMMZ in order to hold a public hearing and make a determination regarding the future of the AMMZ. 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 AMMZ in place until the Board can adopt final rules regarding its renewal.

The Board received two proposals regarding the existing AMMZ. On February 28, 2014, Advisory Neighborhood Commission (ANC) 1C filed a Petition for Renewal of and Modification to the Adams Morgan Moratorium Zone (Petition). The ANC Petition resulted from a series of public meetings that were held by the ANC from September 2013 through December 2013, with the purpose of receiving public input from stakeholders and constituents in order to formulate a recommendation for the Board.

In summary, the ANC seeks renewal of the existing AMMZ for a five (5) year period with certain modifications. Those modifications include maintaining the prohibition on Retailer Class CN/DN; prohibit new or conversions to Retailer Class CT/DT licenses; permit new licenses for Retailer Class CR/DR; prohibit new Entertainment Endorsements of the kind that characterizes nightclub activity, specifically cover charges, and live music; and prohibit pub crawls and the use of promoters.

The second proposal was submitted by the Kalorama Citizens Association (KCA) on March 4, 2014. The DCCA requests that the Board renew the existing Moratorium Zone for another five years.

The Board believes that both of these proposals merit further evaluation. Thus the Board seeks an extension of the existing AMMZ to avoid its expiration and to hold a hearing to receive public comments on the proposals. A public hearing is scheduled for May 7, 2014, at 10:00 am.

These emergency rules were adopted by the Board on March 12, 2014, 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 July 12, 2014, unless earlier superseded by proposed and final rulemakings.

Section 304, ADAMS MORGAN MORATORIUM ZONE, of Chapter 3, LIMITATIONS ON LICENSES, of Title 23, ALCOHOLIC BEVERAGES, of the DCMR, reads as follows:

304. ADAMS MORGAN MORATORIUM ZONE

304.1 No new Retailer's License Class CR, CN, CT, CX, DR, DN, DT, or DX shall be issued for a period of five (5) years from the effective date of this section in the area that extends approximately fourteen (1400) hundred feet in all directions from the intersection of 18th Street and Belmont Road, N.W., Washington D.C. This area shall be known as the Adams Morgan Moratorium Zone.

304.2 The Adams Morgan Moratorium Zone is more specifically described as beginning at 18th Street and Vernon Street, NW ; and proceeding on both sides of all streets, unless otherwise noted; West on Vernon Street to 19th Street; Northwest on 19th Street to Wyoming Avenue; Southwest on Wyoming Avenue to 20th Street; Northwest on 20th Street to Belmont Road; East on Belmont Road to 19th Street; Northwest on 19th Street to Biltmore Street; East on Biltmore Street to Cliffbourne Street; North on Cliffbourne Street to Calvert Street; East on Calvert Street to Lanier Place; Northeast on Lanier Place to Adams Mill Road; Southeast on Adams Mill Road to Columbia Road; Northeast on Columbia Road to Ontario Road; South on Ontario Road to Euclid Street; East on Euclid Street to 17th Street; South on 17th Street to Kalorama Road; Southwest on Kalorama Road to Ontario Road; South on Ontario Road to Florida Avenue; Southwest on Florida Avenue to U Street; West on U Street (North side only); across 18th Street to the South corner of 18th and Vernon Streets, N.W., Washington D.C.

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

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

(b) Retailer's licenses Class A and B

304.4 The number of Retailer's licenses Class CT, CX, DT, or DX located within the Adams Morgan Moratorium Zone shall not exceed ten (10). The number of Retailer's licenses Class CN or DN shall not exceed zero (0). The holder of a Retailer's license Class CR or DR located within the Adams Morgan Moratorium Zone shall be prohibited from changing its license class except when the number of Retailer's licenses Class CT, CX, DT, or DX in the Adams Morgan Moratorium Zone is fewer than ten (10). Nothing in this subsection shall prohibit the Board from approving a change of license class application that was filed with the Board by the holder of a retailer's license Class CR or DR located within the Adams Morgan Moratorium Zone prior to August 2, 2006.

304.5 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a retailer's license Class CN, CT, CX, DN, DT, and DX within the Adams Morgan

Moratorium Zone that was in effect or for which an application was pending prior to the effective date of this section, subject to the requirements of Title 25 of the D.C. Official Code and this title.

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

304.7 A license holder outside the Adams Morgan Moratorium Zone shall not be permitted to transfer its license to a location within the Adams Morgan Moratorium Zone, unless exempt by section 304.3.

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

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

304.10 This section shall expire five (5) years after the date of publication of the notice of final rulemaking (expires April 16, 2014).