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

# NOTICE OF THIRD EMERGENCY RULEMAKING

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in D.C. Official Code § 25-211 (2012 Repl. & 2019 Supp.)), and D.C. Official Code §§ 25-351, *et seq.* (2012 Repl.), and Mayor's Order 2001-96, dated June 28, 2001, as amended by Mayor's Order 2001-102, dated July 23, 2001, gives notice of its intent to amend, on an emergency basis, Chapter 3 (Limitations on Licenses) of Title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR). Specifically, the emergency rulemaking renews the Langdon Park Moratorium (23 DCMR § 311) with slight modifications, including:

1. Renewing the moratorium for an additional three (3) years; and
2. Amends the moratorium to prohibit ABC-licensed establishments located within the moratorium zone from expanding their licensed premises onto adjoining properties or lots, except for purposes of increasing onsite parking.

On July 15, 2020, the Board adopted the *Langdon Park Moratorium Zone Notice of Emergency Rulemaking*, by a vote of seven (7) to zero (0). *See* 67 DCR 10402 (August 28, 2020). The Board took this action in response to a request from Advisory Neighborhood Commission 5C, asking the Board to extend the moratorium for an additional five (5) years. After holding a public hearing on September 30, 2020, concerning the future of the Langdon Park Moratorium, the Board adopted the *Langdon Park Moratorium Zone Notice Second Emergency and First Proposed Rulemaking*, by a vote of seven (7) to zero (0) on October 21, 2020. *See* 67 DCR 14020 (November 27, 2020). This emergency rulemaking superseded the emergency rules the Board adopted on July 15, 2020, and expired on February 18, 2021.

The thirty (30) day comment period for the proposed rulemaking expired on December 28, 2020. The Board did not receive any public comments during that time; thus, making the proposed rulemaking ripe for Council review.

On January 6, 2021, the Board voted to submit the proposed rules to the Council of the District of Columbia for mandatory ninety (90)-day period of review. See D.C. Official Code § 25-211(b)(1). As previously mentioned, the second emergency rules that the Board adopted on October 21, 2020, expired on February 18, 2021, which is before the expiration of the statutorily required Council review period. In order to ensure that the moratorium does not expire while the proposed rulemaking is undergoing Council review, the Board finds it necessary to take emergency action. More specifically, the Bord finds taking emergency action will preserve the protections afforded by the moratorium, which are necessary to preserve the health, safety, and welfare of the community during the Council review period.

Thus, on February 10, 2021, the Board adopts the Langdon Park Moratorium Zone Notice of Third Emergency Rulemaking, by a vote of seven (7) to zero (0). These emergency rules supersede those adopted by the Board on October 21, 2020, and shall remain in effect for no

longer than one hundred twenty (120) days from its effective date of February 10, 2021; expiring on June 10, 2021, unless superseded.

**Chapter 3, LIMITATIONS ON LICENSES, of Title 23 DCMR, ALCOHOLIC BEVERAGES, is amended as follows:**

**311 LANGDON PARK MORATORIUM ZONE**

311.1 The number of retailer's licenses class CN and CX permitted in the Langdon Park Moratorium Zone, which extends approximately six hundred feet (600 ft.) in all directions from the intersection of Bladensburg Road, N.E. and 24th Place, N.E., Washington, D.C., shall not exceed three (3). No new entertainment endorsements for class CR and CT retailer's licenses shall be issued in the moratorium zone.

311.2 On-premises retailer's licenses, class CR, DR, CT, DT, CN, DN, CX, and DX, shall be prohibited from expanding their licensed premises to adjacent properties or lots, except for purposes of increasing onsite parking.

311.3 The Langdon Park Moratorium Zone is more specifically described as the area bounded by a line beginning at the 2200 block of 24th Place, N.E.; continuing in a northeast direction to the 2200 block of 25th Place, N.E.; continuing east to the 2400 block of Bladensburg Road N.E.; continuing in a southeast direction to the 2800 block of V Street N.E.; continuing southwest along the north side of the 2700 block of New York Avenue, N.E. to the 2000 block of Bladensburg Road, N.E.; continuing in a northwesterly direction to the 2200 block of Adams Place, N.E.; continuing north to the 2100 block of Queens Chapel Road, N.E.

311.4 All hotels, whether present or future, shall be exempt from the Langdon Park Moratorium Zone.

311.5 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a retailer's license class CN or CX within the Langdon Park Moratorium Zone that was in effect or for which an application was pending prior to August 2, 2017, the effective date of this section, subject to the requirements of Title 25 of the D.C. Official Code and this title.

311.6 Nothing in this section shall prohibit the Board from approving the transfer of a license from a location within the Langdon Park Moratorium Zone to a new location within the Langdon Park Moratorium Zone.

311.7 A license holder outside the Langdon Park Moratorium Zone shall not be permitted to transfer its license to a location within the Langdon Park Moratorium Zone.

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

311.9 The moratorium shall have a prospective effect and shall not apply to any license granted prior to August 2, 2017, the effective date of this section, or to any application for licensure pending on the effective date of this section.

311.10 This section shall expire three (3) years after the date of publication of the notice of final rulemaking in the *D.C. Register*.