DEPARTMENT OF HEALTH

NOTICE OF EMERGENCY RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth in Section 1 of An Act To authorize the Commissioners of the District of Columbia to make regulations to prevent and control the spread of communicable and preventable diseases, approved August 11, 1939 (53 Stat. 1408; D.C. Official Code § 7-131 (2018 Repl.)), Mayor's Order 98-141, dated August 20, 1998, and Mayor's Order 2020-045, dated March 11, 2020, hereby gives notice of adoption, on an emergency basis, of the following amendments to Chapter 2 (Communicable and Reportable Diseases) of Title 22 (Health), Subtitle B (Public Health and Medicine), of the District of Columbia Municipal Regulations (DCMR).

The rulemaking prohibits certain "Mass Gatherings" of two hundred and fifty (250) or more persons at the same time in a single room or other single confined or enclosed space to reduce the spread of a new strain of coronavirus called COVID-19 that caused an outbreak of respiratory illness first detected in Wuhan, Hubei Province, China that has rapidly spread to numerous countries and is now present in the District of Columbia.

This emergency rulemaking is necessary to immediately implement efforts to reduce the spread of COVID-19. COVID-19 is easily transmitted, especially in group settings. It is essential that the spread of COVID-19 be slowed to protect the ability of public and private health care providers to handle the influx of new patients and to safeguard public health, safety, and welfare of the persons living or otherwise present in the District of Columbia. The U.S. Centers for Disease Control and Prevention has recommended avoiding crowds to slow the spread of COVID-19. The World Health Organization has declared the COVID-19 outbreak as a pandemic. No specific treatment exists for COVID-19. A vaccination against COVID-19 does not exist. The death rate for COVID-19 is substantially higher than the death rate for influenza (which has a specific treatment and a vaccination). Because of the risk of the rapid spread of the COVID-19, and the need to protect the members of the community, the emergency rulemaking prohibits indoor public and private gatherings and outdoor gatherings within an enclosed space of two hundred and fifty or more persons anywhere in the District of Columbia, subject to the limited exceptions and under the terms and conditions more particularly set forth in the rulemaking.

This emergency rulemaking was adopted on March 13, 2020, and became effective immediately on that date. The emergency rulemaking will expire one hundred twenty (120) days from the date of adoption (*i.e.*, on July 11, 2020). If needed, an appropriate rulemaking will repeal the prohibition on "Mass Gatherings" imposed by this rulemaking if the spread of COVID-19 is contained prior to the expiration of this emergency rulemaking.

Title 22-B DCMR, PUBLIC HEALTH AND MEDICINE, is amended as follows:

Chapter 2, COMMUNICABLE AND REPORTABLE DISEASES, is amended by adding Section 204 as follows:

204 MASS GATHERINGS

204.1 Mass Gatherings (as defined in Subsection 204.2) are prohibited anywhere in the District of Columbia.

204.2 A "Mass Gathering" is any event or convening, subject to the exceptions and clarifications in Subsections 204.4, 204.5 and 204.6, that brings together or is likely to bring together two hundred fifty (250) or more persons at the same time in a single room or other single confined or enclosed space, such as, by way of example and without limitation, an auditorium, theatre, stadium (indoor or outdoor), arena or event center, meeting hall, conference center, large cafeteria, or any other confined indoor or confined outdoor space.

204.3 A "Mass Gathering" includes any event in confined outdoor spaces, which means an outdoor space that (i) is enclosed by a fence, physical barrier, or other structure and (ii) where people are present and they are within arm's length of one another for extended periods.

204.4 A "Mass Gathering" does not include the following:

(a) Gatherings of people in multiple, separate enclosed spaces in a single building such as a multiplex movie theater, so long as two hundred and fifty (250) people are not present in any single space as the same time;

(b) The use of enclosed spaces where two hundred and fifty (250) or more people may be present at different times during the day, so long as two hundred and fifty (250) or more people are not present in the space at the same time; and,

(c) Gatherings on property within the District of Columbia owned by the federal government.

204.5 A "Mass Gathering" does not include the following:

(a) Public or private schools;

(b) Spaces where two-hundred and fifty (250) or more persons may be in transit or waiting for transit such as bus, ferry, or subway stations or terminals (or shopping areas associated with the buildings housing those stations or terminals);

(c) Office space, hotels, or residential buildings;

(d) Grocery stores, shopping malls, or other retail establishments where large numbers of people are present but it is unusual for them to be within arm's length of one another for an extended period; and,

(e) Hospitals, nursing homes, assisted living facilities, and other medical facilities.

204.6 Gatherings of more than ten (10) people organized by an organization not listed in Subsection 204.5(e) that primarily serves, or targets, persons of sixty (60) or more years of age, persons who have serious medical conditions (including heart disease, diabetes, lung disease, asthma, and chronic obstructive pulmonary disease), or persons who are immunocompromised, are prohibited in the District of Columbia.