**ALCOHOLIC BEVERAGE AND CANNABIS ADMINISTRATION**
**ALCOHOLIC BEVERAGE AND CANNABIS BOARD**

# NOTICE OF SIXTH EMERGENCY RULEMAKING

The Alcoholic Beverage and Cannabis Board ("Board"), pursuant to the authority set forth in D.C. Official Code § 25-351(a), and in accordance with section 6(c) of the District of Columbia Administrative Procedure Act, effective October 21, 1968 (82 Stat. 1206; D.C. Official Code § 2-505(c)), hereby gives notice of the adoption, on an emergency and proposed basis, of amendments to section 304 (Adams Morgan Moratorium Zone) of chapter 3 (Limitations on Licenses) of title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations. Specifically, this sixth emergency rulemaking increases the cap on the number of permitted Retailer Class CT or DT (tavern) licenses to sixteen (16), maintains the moratorium on Retailer Class CN or DN (nightclub) licenses and renews the Adams Morgan Moratorium Zone ("AMMZ") for three (3) years.

## I. PROCEDURAL BACKGROUND

The Adams Morgan moratorium was scheduled to expire on February 6, 2023. On January 7, 2023, the Board received a resolution from Advisory Neighborhood Commission (ANC) 1C requesting a ninety (90) day extension of the expiring moratorium to inform and consult with the residents of Adams Morgan regarding the future of the moratorium. The resolution was adopted by ANC 1C at a duly noticed public meeting held on January 4, 2023, by a vote of seven (7) to zero (0).

On February 1, 2023, the Board adopted the AMMZ Notice of Emergency Rulemaking, to extend the moratorium until June 1, 2023, by a vote of six (6) to zero (0), and it became effective on that date. The emergency rules were published in the *D.C. Register* on March 24, 2023, at 70 DCR 3590.

On May 4, 2023, ANC 1C submitted a resolution requesting that the Board renew the moratorium on Retailer Class CN or DN (Nightclub) licenses, but increase the number of permitted Retailer Class CT or DT (Tavern) licenses to twenty-five (25) to be phased in with no more than four (4) additional Class CT or DT Retailer licenses available per year. The resolution was adopted by ANC 1C at a duly noticed public meeting held on May 3, 2023, by a vote of eight (8) to zero (0).

On May 24, 2023, the Board adopted the Adams Morgan Moratorium Zone Notice of Second Emergency Rulemaking, to further extend the moratorium until September 21, 2023, by a vote of five (5) to zero (0). The Board determined emergency action was necessary to extend the AMMZ. The Board concluded that the appropriateness considerations that justified the prior moratorium, pursuant to D.C. Official Code § 25-351(a), likewise indicate that a temporary extension is in the public interest. The additional time granted under the emergency rules allowed the Board to hold a hearing and take public comment on the ANC 1C resolution.

On August 16, 2023, the Board adopted the Adams Morgan Moratorium Zone Notice of Third Emergency and Proposed Rulemaking to further extend the moratorium by a vote of four (4) to zero (0). The rulemaking (a) renewed the Adams Morgan Moratorium for three (3) years; (b) increased the cap on the number of CT, DT, CX, and DX retailer licenses; and (c) maintained all other restrictions in the existing moratorium. The emergency rules were published in the *D.C. Register* on April 12, 2024, at 71 DCR 15. The emergency rulemaking superseded the emergency rules that the Board adopted on May 24, 2023, and expired on December 14, 2023.

On December 13, 2023, the Board adopted the Adams Morgan Moratorium Zone Notice of Fourth Emergency and Proposed Rulemaking and on April 11, 2024, the Board adopted the Adams Morgan Moratorium Zone Notice of Fifth Emergency and Proposed Rulemaking. The fifth emergency and proposed rules were published in the *D.C. Register* on June 14, 2024, for notice and comment. The comment period ended on July 14, 2024, with the Board receiving no additional comments.

The Board transmitted the proposed rules to the Council of the District of Columbia for the Council's mandatory review period. Unlike the Board's other rules, rulemakings to establish or amend moratoria do not require affirmative approval by the conclusion of the Council review period. *See* D.C. Official Code § 25-211(b). However, the emergency rules expired on August 9, 2024, during the pendency of the Council review period.

Thus, the Board adopted the Adams Morgan Moratorium Zone Sixth Notice of Emergency Rulemaking on August 14, 2024, by a vote of three (3) to zero (0). This action was necessary to allow the emergency rulemaking to remain in effect while the Council reviews the proposed rulemaking. The emergency rules shall remain in effect for one hundred twenty (120) days, expiring on December 12, 2024, unless superseded by an emergency or final rulemaking.

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

**304 ADAMS MORGAN MORATORIUM ZONE**

304.1 No new Retailer's License Class CN, CT, CX, DN, DT, or DX shall be issued for a period of three (3) years from the effective date of final rules, in the area that extends approximately eighteen hundred (1800) feet in all directions from 2459 18th St., N.W., Washington, D.C. 20009. This area shall be known as the Adams Morgan Moratorium Zone.

304.2 The Adams Morgan Moratorium Zone is defined as the area bound by a line beginning at 18th Street and Vernon Street, NW, and proceeding on both sides of all streets unless otherwise noted; west on Vernon Street, NW to 19th Street, NW; northwest on 19th Street, NW to Wyoming Avenue, NW; southwest on Wyoming Avenue, NW to 20th Street, NW; northwest on 20th Street, NW to Belmont Road, NW; west on Belmont Road, NW to Waterside Drive, NW; north on Waterside Drive, NW to Allen Place, NW; east on Allen Place, NW to 20th Street, NW;

north on 20th Street, NW to Biltmore Street, NW; north on Biltmore Street, NW to Calvert Street, NW; east on Calvert Street, NW to Lanier Place, NW; northeast on Lanier Place, NW to Adams Mill Road, NW; northwest on Adams Mill Road, NW and then northeast to Ontario Road, NW; east on Ontario Road, NW to Lanier Place, NW; northeast on Lanier Place, NW to Quarry Road, NW; southeast on Quarry Road, NW to Columbia Road, NW; northeast on Columbia Road, NW to Mozart Place, NW; south on Mozart Place, NW to Euclid Street, NW; east on Euclid Street, NW to 16th Street, NW; south on the west side of 16th Street to Florida Avenue; southwest on Florida Avenue to U Street, and west on U Street, NW to 18th Street, NW, Washington, D.C.

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

(a) All restaurants, whether present or future;

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

(c) 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 sixteen (16). 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 sixteen (16).

304.5 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a retailer's license Class CR, CT, CX, DR, 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 § 304.3.

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

304.9 The limitations imposed by this section shall not apply to any license granted prior to the effective date of this section.

304.10 This section shall expire three (3) years after the date of publication of the notice of final rulemaking in the *District of Columbia Register*.