

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

NOTICE OF FINAL RULEMAKING

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in section 101(a) of the Moratorium Amendment Act of 1999, effective May 3, 2001 (D.C. Law 13-298; D.C. Official Code § 25-351(a))(2012 Repl.), as amended, hereby gives notice of its intent to adopt as final, amendments to section 308 (Glover Park Moratorium Zone) of chapter 3 (Limitations on Licenses) of title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations.

This final rulemaking amends 23 DCMR § 308 by extending the Glover Park Moratorium Zone for an additional five (5) years for on-premises Retailer's Class CT, DT, CN, DN, CX, and DX Licenses. The moratorium will no longer apply to off-premises Retailer's Class A Licenses or on-premises Retailer's Class CR Licenses.

BACKGROUND

On December 4, 2015, the Advisory Neighborhood Commission (ANC) 3B filed a Petition to Extend and Amend the Glover Park Liquor License Moratorium (Petition) with the Board. The Petition asked the Board to extend the Glover Park Moratorium, which was slated to expire on February 22, 2016, for ninety (90) days while the ANC, the community, and stakeholders continued to explore the continuation of the moratorium.

On February 3, 2016, the Board adopted the Glover Park Moratorium Zone Notice of Emergency Rules, five (5) to zero (0) to take effect immediately. The emergency rules were published in the *D.C. Register* at 63 DCR 5303 (April 8, 2016)[EXPIRED]. On March 30, 2016, the Board held a public hearing to receive comments from the community and the alcohol retail industry concerning the moratorium.

After considering the oral and written comments received from interested parties, the Board adopted the Glover Park Moratorium Zone Notice of Emergency and Proposed Rulemaking on April 20, 2016, by a vote of five (5) to zero (0). The emergency and proposed rules went into effect at that time for one hundred twenty (120) days; expiring on August 18, 2016. The rules retained the moratorium for Class CT, DT, CN, DN, CX, and DX licenses, but remove the moratorium for Class CR and A licenses.

The Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on June 24, 2016, at 63 DCR 8890 [EXPIRED]. ABRA did not receive any comments in response to the rules during the comment period.

On August 3, 2016, the Board voted, five (5) to zero (0), to send the rules to the Council for the District of Columbia for the mandatory ninety (90)-day Council review period. The rules were introduced to the Council on September 16, 2016. See <http://lims.dccouncil.us/Legislation/PR21->

[0892?FromSearchResults=true](#). On November 30, 2016, the Board adopted the Glover Park Moratorium Zone Third Notice of Emergency Rulemaking keep the emergency rules in place during the period in which the emergency rules expired (December 1, 2016), the emergency and proposed rules would have been deemed approved (December 21, 2016). See <http://abra.dc.gov/sites/default/files/dc/sites/abra/publication/attachments/ABCBoardDis11302016.pdf>.

The Council review period ended on December 21, 2016, and the Emergency and Proposed Rules were deemed approved as of that date. See PR 21-892, at <http://lims.dccouncil.us/Legislation/PR21-0892?FromSearchResults=true>.

BOARD'S DECISION

On January 11, 2017, the Board voted, six (6) to zero (0), to adopt the rules as final. No changes have been made to the rules since they were published as proposed in the *D.C. Register*. The final rules shall supersede the Third Notice of Emergency Rulemaking.

The final rules shall not take effect until five (5) days after they are published in the D.C. Register in accordance with D.C. Official Code § 25-211(d)(1).

Section 308, GLOVER PARK MORATORIUM ZONE, of Chapter 3, LIMITATIONS ON LICENSES, of Title 23, ALCOHOLIC BEVERAGES, of the DCMR, reads as follows:

308 GLOVER PARK MORATORIUM ZONE

- 308.1 No new retailer's license class CT, CN, CX, 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 one thousand two hundred feet (1,200 ft.) in all directions from 2436 Wisconsin Avenue, N.W., Washington, D.C. 20007.
- 308.2 The Glover Park Moratorium Zone is more specifically described as beginning at Tunlaw Road and Fulton Street; East on Fulton Street to Wisconsin Avenue; South on Wisconsin Avenue to Edmunds Street; East on Edmunds Street to Massachusetts Avenue; Southeast on Massachusetts Avenue to Observatory Circle; Southwest around Observatory Circle to Calvert Street; West on Calvert Street to Wisconsin Avenue; Southeast on both sides of Wisconsin Avenue to 35th Street; South on 35th Street to Whitehaven Parkway; West on Whitehaven Parkway to 37th Street; North on 37th Street to U Street; West on U Street to a point of intersection of Huidekoper Place and W Street; West on W Street to 39th Street; North on 39th Street to Davis Place; East on Davis Place to Tunlaw Road; North and Northwest on Tunlaw Road to Fulton Street.
- 308.3 All hotels, whether present or future, shall be exempt from the Glover Park Moratorium Zone.

- 308.4 Nothing in this section shall prohibit the Board from approving the transfer of ownership of a retailer's license class CT, CN, CR, CX, DN, DT, or DX within the Glover Park 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.
- 308.5 Nothing in this section shall prohibit the Board from approving the transfer of a license from a location within the Glover Park Moratorium Zone to a new location within the Glover Park Moratorium Zone.
- 308.6 A license holder outside the Glover Park Moratorium Zone shall not be permitted to transfer its license to a location within the Glover Park Moratorium Zone.
- 308.7 Nothing in this section shall prohibit a valid protest of any transfer or change of a license class.
- 308.8 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.
- 308.9 This section shall expire five (5) years after the date of publication of the notice of final rulemaking.