



MURIEL BOWSER
MAYOR

October 24, 2024

The Honorable Phil Mendelson
Chairman
Council of the District of Columbia
1350 Pennsylvania Ave., N.W.
Washington, D.C. 20004

Dear Chairman Mendelson:

Enclosed for consideration and approval by the Council of the District of Columbia is a proposed resolution entitled the “Adams Morgan Moratorium Zone Resolution of 2024.”

The proposed resolution would approve emergency and proposed rules that the District of Columbia Alcoholic Beverage Control Board adopted on April 11, 2024, on a vote of three (3) to zero (0) to amend section 304 of Title 23 of the DCMR. The proposed rules were published in the DC Register on June 14, 2024, for a thirty (30) day comment period and no comments were received. Thus, the rulemaking is ripe for Council review and approval.

Specifically, this Adams Morgan Moratorium Zone emergency and proposed rulemaking renews the moratorium for three (3) years, increases the cap on the number of permitted Retailer Class CT or DT (tavern) licenses to sixteen (16), and maintains the moratorium on Retailer Class CN or DN (nightclub) licenses.

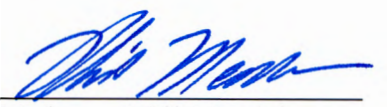
If you have any questions on this matter, please contact Donovan Anderson, Chair, Alcoholic Beverage and Cannabis Board, at (202) 442-4423.

Sincerely,

A handwritten signature in black ink that reads "Muriel Bowser".

Muriel Bowser

Enclosures



Chairman Phil Mendelson
at the request of the Mayor

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A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To approve proposed final rules of the Alcoholic Beverage Control Board to renew the Adams Morgan Moratorium Zone.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Adams Morgan Moratorium Zone Approval Resolution of 2024”.

Sec. 2. Pursuant to section 25-211(b)(2) of the District of Columbia Official Code, the Council approves the proposed final rulemaking of the Alcoholic Beverage Control Board, which was submitted to the Council by the Mayor on October 24, 2024, and a notice of proposed rulemaking for which was published in the D.C. Register on June 14, 2024 at 71 DCR 24, regarding the Adams Morgan Moratorium Zone.

Sec. 3. Transmittal.
The Council shall transmit a copy of this resolution, upon its adoption, to the Mayor, the Chairperson of the Alcoholic Beverage and Cannabis Board, and the Administrator of the Office of Documents and Administrative Issuances.

Sec. 4. Fiscal impact statement.

32 The Council adopts the fiscal impact statement in the committee report as the
33 fiscal impact statement required by section 4a of the General Legislative Procedures Act
34 of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

35 Sec. 5. Effective date.

36 This resolution shall take effect immediately.

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

NOTICE OF FINAL RULEMAKING

*as submitted to the Council for its review and approval pursuant to
D.C. Official Code § 25-211*

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, of the following 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, the final 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 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 *District of Columbia Register* on March 24, 2023, at 70 DCR 003590.

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. The

emergency rulemaking was published in the *District of Columbia Register* on July 14, 2023, at 70 DCR 009780.

On July 13, 2023, the Board held a hearing to receive public comment. Notice of the hearing was published to the *District of Columbia Register* on May 19, 2023, at 70 DCR 007089. At the hearing, representatives from ANC 1C, the Adams Morgan Partnership Business Improvement District (BID), the Kalorama Citizens Association (KCA), as well as several members of the public testified before the Board. Prior to the hearing and until the record closed, the Board also received numerous written comments from members of the public. See the Adams Morgan Moratorium Zone Notice of Fifth Emergency and Proposed Rulemaking at __ DCR ____ (July 2024), for a complete summary of the comments received.

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 *District of Columbia Register* on April 12, 2024, at 71 DCR 004238. 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.

Upon the expiration of the public comment period, 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). The proposed final rulemaking did not include any substantive changes to the text of the emergency rulemaking.

However, because the emergency rules were set to expire during the pendency of the Council review period, 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 final 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.

II. THE BOARD'S DECISION TO ADOPT THE FINAL RULES

In accordance with D.C. Official Code § 25-211(b)(2), these moratorium rules were deemed approved on _____, 2024, absent affirmative disapproval by the Council. As such, the rules are now ripe for the Board to take final action. Therefore, on _____, 2024, the Board voted three (3) to zero (0) to adopt the rules as final.

The rules will take effect five (5) days after the notice of final rulemaking is published in the *District of Columbia Register*.

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*.

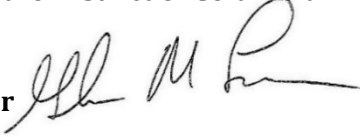
Government of the District of Columbia
Office of the Chief Financial Officer



Glen Lee
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Glen Lee
Chief Financial Officer 

DATE: September 12, 2024

SUBJECT: Fiscal Impact Statement – Adams Morgan Moratorium Zone Approval
Resolution of 2024

REFERENCE: Draft Proposed Resolution as provided to the Office of Revenue
Analysis on September 11, 2024

Conclusion

Funds are sufficient in the fiscal year 2025 through fiscal year 2028 budget and financial plan to implement the resolution.

Background

Since 2001, the District has had a moratorium zone in the Adams Morgan neighborhood for new alcoholic beverage licenses for certain taverns (class CT or DT) and nightclubs (class CN or DN). Since 2015, restaurants, hotels, and class A or B retailers have been exempt from the moratorium zone.¹ The Alcoholic Beverage and Cannabis Administration (ABCA) enforces this moratorium.

The proposed resolution would approve emergency and proposed rules renewing the Adams Morgan Moratorium Zone for an additional three years from the date of the rulemaking.² The rules modify the cap on the number of tavern licenses, which is presently 10. However, there are currently 16 taverns with existing licenses in Adams Morgan. The rules increase the tavern license cap to 16. All other features of the previous moratorium would be retained.

¹ The Adams Morgan Moratorium Zone Approval Resolution of 2015, effective June 16, 2015 (Resolution 21-130, 23 DCMR § 304).

² Fifth Emergency and Proposed Rulemaking, 71 DCR 7113 (June 14, 2024).

The Honorable Phil Mendelson

FIS: "Adams Morgan Moratorium Zone Approval Resolution of 2024", Draft proposed resolution as provided to the Office of Revenue Analysis on September 11, 2024

Financial Plan Impact

Funds are sufficient in the fiscal year 2025 through fiscal year 2028 budget and financial plan to implement the bill. ABCA can absorb the enforcement and oversight costs for the Adams Morgan Moratorium Zone within its current resources.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF THE ATTORNEY GENERAL



BRIAN L. SCHWALB
ATTORNEY GENERAL

LEGAL COUNSEL DIVISION

MEMORANDUM

TO: Tomás Talamante
Director
Office of Policy and Legislative Affairs

FROM: Megan D. Browder
Deputy Attorney General
Legal Counsel Division

DATE: September 11, 2024

SUBJECT: Legal Sufficiency Review – Draft “Adams Morgan Moratorium Zone Approval Resolution of 2024”
(AE-23-159 F)

This is to Certify that this Office has reviewed the above-referenced draft legislation and found it to be legally sufficient. If you have any questions in this regard, please do not hesitate to call me at (202) 724-5524.

A handwritten signature in black ink that reads "Megan D. Browder". The signature is written in a cursive style with a large, looped initial "M".

Megan D. Browder