



OFFICE OF THE  
SECRETARY

2017 FEB -2 PM 3:57

MURIEL BOWSER  
MAYOR

FEB - 2 2017

The Honorable Phil Mendelson  
Chairman  
Council of the District of Columbia  
1350 Pennsylvania Ave., N.W., Suite 504  
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 "Langdon Park Moratorium Zone Resolution of 2017."

The proposed resolution would approve proposed rules that the District of Columbia Alcoholic Beverage Control Board published at 63 DCR 13905 on November 11, 2016, and adopted on September 7, 2016, on a vote of five (5) to zero (0) to amend Title 23 of the DCMR by adding a new section 311 entitled, "Langdon Park Moratorium Zone."

The proposed rules would place a limit on the number of CN and CX retailer licenses that can be issued in Langdon Park, as well prohibit the approval of new Entertainment Endorsements for CR and CT retailer licenses. The moratorium would cover approximately 600 feet in all direction from 2122 24<sup>th</sup> Place, N.E., and will remain in effect for three years.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Muriel Bowser", written over a printed name.

Muriel Bowser

Enclosures



Chairman Phil Mendelson  
at the request of the Mayor

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

Chairman Mendelson, at the request of the Mayor, introduced the following resolution,  
which was referred to the Committee on \_\_\_\_\_.

To approve proposed rules of the District of Columbia Alcoholic Beverage Control Board  
that would amend Title 23 of the District of Columbia Regulations by adding a  
new section 311, Langdon Park Moratorium Zone.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That  
this resolution may be cited as the “Langdon Park Moratorium Zone Resolution of 2017”.

Sec. 2. Pursuant to D.C. Official Code § 25-211(b)(2), the Council of the District  
of Columbia approves the proposed rulemaking by the District of Columbia Alcoholic  
Beverage Control Board that would create the Langdon Park Moratorium Zone, which  
shall cover approximately 600 ft. in all directions from 2122 24<sup>th</sup> Pl., N.E. The  
moratorium will place a cap on class CN and CX retailer licenses, as well as prohibit the  
approval of new Entertainment Endorsements for class CR and CT retailer licenses. The  
moratorium shall be in place for three years.

Sec. 3. The Secretary to the Council of the District of Columbia shall transmit a  
copy of this resolution, upon its adoption, to both the Mayor and the Chairperson of the  
Alcoholic Beverage Control Board.

Sec. 4. This resolution shall take effect immediately.

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

**NOTICE OF PROPOSED RULEMAKING**

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in D.C. Official Code § 25-351(a)(2012 Repl. & 2015 Supp.) and in accordance with 23 DCMR § 303.1, hereby gives notice of the intent to amend chapter 3 (Limitations on Licenses) of title 23 (Alcoholic Beverages) of the District of Columbia Municipal Regulations (DCMR) by creating a new section 311 entitled, the Langdon Park Moratorium Zone.

The proposed rules would place a three (3) year limit on the number of class CN and CX retailer licenses issued in Langdon Park, as well as prohibit the approval of new Entertainment Endorsements for class CR and CT retailer licenses. The limitation on the aforementioned on-premises retailer licenses and entertainment endorsements shall be known as the Langdon Park Moratorium Zone (LPMZ). The moratorium would extend approximately six hundred feet (600 ft.) in all directions from 2122 24<sup>th</sup> Place, N.E.

**I. Background**

**A. Moratorium Requests**

The Board received several requests for a moratorium on certain liquor licenses in the Langdon Park neighborhood. The Advisory Neighborhood Commission (ANC) 5C submitted a resolution for a moratorium requesting that the Board forgo issuing any new class CT or CN retailer licenses; stop granting new entertainment endorsements to class CR and CX retailer licenses; and prohibit current licensed establishments from expanding onto adjoining spaces, properties, or lots except for purposes of increasing on-site parking. The ANC requested that the moratorium remain in effect for five (5) years and encompass a one thousand eight hundred foot (1,800 ft.) radius from 2266 25<sup>th</sup> Place, N.E.

Several large nightclubs, taverns and multipurpose facilities (collectively referred to as “nightlife establishments”) currently exist in Ward 5, including Aqua Restaurant, Karma (formerly called The Scene), Echostage, Stadium, and Bliss. ANC 5C noted that these nightlife establishments, as well as others in the area have had an adverse impact on the community’s residential parking needs, pedestrian safety, real property values, and peace, order, and quiet, including noise. ANC 5C is particularly concerned about persons who frequent these nightlife establishments parking in the nearby residential neighborhoods; thereby, resulting in property owners not being able to park in front of their homes. ANC 5C is also concerned about the criminal activity associated with the existing nightlife establishments (*e.g.*, thefts, assaults, and burglaries) and public intoxication. Lastly, ANC 5C suggests that the nightlife establishments in the area have had an adverse effect on the health and safety of the community stemming from public urination and the accumulation of litter and trash.

The Langdon Park Community Association (LPCA), a non-profit community-based organization comprised of residents of the Langdon Park neighborhood, submitted a resolution to the Board requesting a moratorium on class CT/DT, CN/DN, and CX/DX retailer licenses, and class CR/DR retailer licenses with entertainment endorsements. The LPCA also requested that the Board prohibit existing establishments from expanding onto adjoining spaces, properties, or lots except for the sole purpose of increasing on-site parking. The LPCA requested that the moratorium last for five (5) years and cover six hundred feet (600 ft.) from 2122 24<sup>th</sup> Place, N.E.<sup>1</sup> Like ANC 5C, LPCA is concerned about the adverse impact nightlife establishments are having on real property values, public health and safety, and the peace, order, and quiet of the community.

The Greater Woodridge-Gateway Leaders' Group (Leaders' Group), consisting of the presidents of the (a) North-Woodridge Community Association; (b) Woodridge Civic Association; (c) Woodridge – South Community Association; (d) Langdon Park Community Association; and (e) Gateway Civic Association submitted a joint resolution requesting a moratorium on class CT/DT, CN/DN, CX/DX retailer licenses, and class CR retailer licenses with entertainment endorsements, and a prohibition against using adjacent sites for anything other than parking. The Leaders' Group requested that the moratorium cover a one thousand eight hundred foot (1,800 ft.) radius from 2266 25<sup>th</sup> Place, N.E. The Leaders' Group is concerned about the existing nightlife establishments in the area, which they contend have been an undue burden on the community for several years. They noted numerous instances of club patrons fighting, shootings, stabbings, and other criminal activity, including theft and property damage.

The Leaders' Group also noted that the nightlife establishments have had an adverse impact on the community's peace, order, and quiet, including noise and litter. They also contend that because of the lack of parking, patrons frequenting the nightlife establishments in the area tend to park in the neighborhoods; thereby, preventing residents from parking in front of their homes. The Leaders' Group also expressed concern about the negative effect the existing nightlife establishments have had on real property values. They contend that the nightlife establishments, and the criminal activity associated with them, have caused persons outside of the Langdon Park community to believe that the neighborhood is unsafe and undesirable. This, the Leaders' Group argues, has made it difficult for residents to sell their homes.

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<sup>1</sup> LPCA's initial Petition for a Moratorium requested that the Board impose a moratorium in the area covering one thousand eight hundred feet (1,800 ft.) from 2266 25<sup>th</sup> Place, N.E. The LPCA subsequently amended the moratorium area to comply with D.C. Official Code §§ 25-352(b) and (d).

Lastly, the Board received a signed petition with over fifty signatures from Langdon Park community residents, asking it to enact a moratorium, for not less than five (5) years, and not less than a one thousand eight hundred foot (1,800 ft.) radius from 2135 Queens Chapel Road, N.E. for class CT, CN, CX, and CR retailer licenses with entertainment endorsements. The petitioners also requested that the Board prohibit existing establishments from utilizing adjoining spaces except for purposes of increasing on-site parking. The signatories to the petition expressed their concern regarding criminal activity, noise, parking, and real property values.

**B. Testimony Received at and/or in Response to the Board’s Public Hearing on the Langdon Park Moratorium Zone Request**

The Board received written and oral testimony from numerous individuals and groups concerning the Langdon Park Moratorium Zone request. Below is a summary of the testimony received:

**Walter DeLeon, ANC 5C Commissioner**

Walter DeLeon, ANC 5C Commissioner, testified on behalf of the ANC. Commissioner DeLeon testified that a moratorium is necessary in order to address the overconcentration of “warehouse nightclubs” in the area. According to Commissioner DeLeon, the nightlife establishments have had, and continue to have, an adverse impact on the community’s peace, order, and quiet. Noise from the establishments is a major concern for residents because it can be heard by residents living nearby.

Additionally, the proliferation of nightlife establishments has posed extreme traffic problems on the community, particularly along Bladensburg Road, N.E., New York Avenue, N.E., and Queens Chapel Road, N.E. Lastly, Commissioner DeLeon testified to the criminal activity stemming from patrons frequenting the nightclubs, taverns and multipurpose facilities, including automobile thefts, burglaries, and robberies.

**Shirley Rivens Smith**

Ms. Rivens Smith, a forty-five (45) year resident of the Woodridge community testified in support of the Langdon Park moratorium. Ms. Rivens Smith’s testimony focused on two significant community concerns: parking and public safety. According to Ms. Rivens Smith, public transportation is limited in Ward 5. Patrons seeking to fraternize at the nightclubs, taverns, or restaurants in the area are forced to drive there; thus, increasing traffic congestion and placing a strain on parking in the neighborhood.

Ms. Rivens Smith testified that the nightlife establishments have very little on-site parking. As a result, patrons are forced to pay twenty dollars (\$20) to forty dollars (\$40) to park on a private lot or park for free in the neighborhoods. Patrons parking in the neighborhoods have posed significant concerns for residents. According to Ms. Rivens Smith, some residents, particularly

seniors, do not leave their homes when the nightlife establishments are operating because they fear that they will not have a parking space when they return.

Ms. Rivens Smith also testified about the potential for criminal activity associated with these nightlife establishments. Unlike other areas in the District (*e.g.*, U Street and Adams Morgan), Ms. Rivens Smith noted that there is very limited police presence in the vicinity where the nightlife establishments are located. This is a concern because altercations that start inside of the nightlife establishments tend to pour out into the community. She believes that this would not occur if there were more police officers detailed to the area when the establishments are operating.

**Kevin Mullone, Langdon Park Community Association, President**

Kevin Mullone, on behalf of the LPCA, testified in support of the moratorium request. Mr. Mullone testified that the area along Queens Chapel and Bladensburg roads has been an area of concern for residents for some time. Prospective owners tend to open their nightlife establishments in that area because the rent is low and the venues are large. Mr. Mullone expressed particular concern regarding the underdeveloped industrial area abutting Langdon Park and Woodridge South, which he argues are ripe for nightclub owners. He and his neighbors do not want to endure any additional large-scale nightclubs.

Regarding the existing nightlife establishments, Mr. Mullone testified that traffic and parking are already concerns for the community. During the weekend, thousands of people flood the area; thereby, adding to the existing strains on traffic and parking. As a result of the increased number of cars frequenting the area when the nightlife establishments are operating, MPD officers are used to direct traffic. Patrons routinely park in the neighborhoods, adversely affecting the peace, order, and quiet of residents in their homes and monopolizing the limited parking spaces that are available.

Lastly, Mr. Mullone testified about the public safety concerns associated with nightlife establishments. He stated that the Langdon Park community is considered to be unsafe because of the criminal activity associated with the nightclubs. Mr. Mullone supports the redevelopment of the area, but he, along with his neighbors, do not support any redevelopment that would include new nightlife establishments.

**Frances Penn**

Frances Penn, a forty (40)-year resident of the Woodridge community serves as the Vice President of the Woodridge South Community Association (WCSA) and Chairperson of the Fifth District Citizens' Advisory Council. Ms. Penn testified in support of a moratorium on any additional liquor licenses with entertainment along Queens Chapel Road, N.E. She testified that the Fifth District has the most industrial land in the District and that this area is popular among nightclub owners. Although Ms. Penn understands why this area would attract club owners, she

and her neighbors are concerned about the problems associated with nightclubs, including loud noise, overcrowding, cars flooding the area, property damage, and public safety.

Ms. Penn further testified that there are currently four clubs within one block of each other – Karma, Stadium, Echostage, and Bliss. According to Ms. Penn, over seven thousand (7,000) people flood the community when all four of these establishments are operating at the same time. She contends that this influx of people has resulted in overcrowding, criminal activity, and persons parking in the residential neighborhoods. These additional people add to the increased noise from cars, fumes, public urination, unpleasant odors, public drinking, and intoxication.

**Carlos Davis, Woodridge South Community Association, President**

Carlos Davis, President of the Woodridge South Community Association (WSCA) echoed his colleague, Frances Penn, in support of a moratorium along the Queens Chapel/Bladensburg Road corridor. Mr. Davis also testified to the adverse impact that the existing nightlife establishments are having on the peace, order, and quiet of residents in the Woodridge community, and how additional nightlife establishments would exacerbate the problem. Specifically, the additional nightclubs and nightlife entertainment would not aid in increasing the overall value of the community, but would further depreciate the value of real estate. According to Mr. Davis, the present nightclubs and marijuana cultivation centers are making it difficult for the community to experience the revitalization that other parts of the District are experiencing, and that additional nightclubs would further impede their ability to revitalize their neighborhood.

**Martha Ward**

Martha Ward is a sixty-seven (67)-year resident of the Woodridge Community where she is a member of the WSCA and serves as Vice Chairperson of the Fifth District Citizens' Advisory Council. Ms. Ward testified in support of the Langdon Park moratorium request. Ms. Ward is particularly concerned about the potential for new nightlife establishments opening in an area that already has four (4) nightclubs in close proximity. She testified that the community has suffered numerous adverse effects from the existing establishments including, but not limited to, loud noise, music blaring, car fumes, and public drinking. According to Ms. Ward, trash and litter are also negative consequences associated with the nightclubs in the area, as well as public urination.

Ms. Ward further testified to the limited parking options in the area; thereby, resulting in persons parking in the neighborhood. She stated residents are frequently disturbed at night when patrons return to the neighborhood to retrieve their vehicles. Ms. Ward indicated that there is loud talking and car doors slamming, all of which disturb residents. Lastly, she testified about criminal activity associated with nightlife establishments including, but not limited to, burglaries and assaults.



### **Anthony Quinn**

Anthony Quinn testified in support of a liquor license moratorium in Langdon Park based upon his personal experience with the existing nightclubs. The existing establishments create a substantial amount of noise which disturbs him and his family. He has observed persons having sex and drinking alcoholic beverages in public.

Mr. Quinn also has concerns about parking. He relayed one incident in particular in which someone blocked his car; preventing him from leaving his home. He contacted the police who subsequently determined that the car was stolen. It took the police five (5) hours to remove the car.

### **Yolanda Odunsi**

Yolanda Odunsi, a thirteen (13)-year resident of the Langdon Park community, testified in support of the moratorium request. Ms. Odunsi testified about the adverse impact on peace, order, and quiet that the existing nightclubs in the area have had on the community. Specifically, she testified regarding the significant amount of litter that she routinely sees during her morning walks, as well as the inappropriate flyers advertising parties at local nightclubs.

Traffic and parking is a significant concern for Ms. Odunsi as well. She has to alter her route home in the evenings in order to avoid traffic. According to Ms. Odunsi, doing so has added ten (10) to fifteen (15) minutes to her commute time, increased her travelling expenses for gas, and reduced the amount of time that she would ordinarily have to spend with her son.

### **Dolores Bushong**

Dolores Bushong, a twenty-four (24)-year resident of the community, had enjoyed the new developments in her neighborhood with the arrival of nearby grocery stores and restaurants. She, however, is not pleased with the number of nightlife establishments in the area. Ms. Bushong frequently hears music and bass thumping from the nightclubs located on Queens Chapel Road, N.E. This noise has prevented her from fully enjoying her home. She argues that there are enough nightlife establishments in the area and that a moratorium needs to be put into place to prevent future ones from opening in the community.

### **Drew Hubbard, Woodridge Civic Association, President**

Drew Hubbard, testifying on behalf of the Woodridge Civic Association, expressed his support for the moratorium on liquor licenses in Langdon Park. Mr. Hubbard testified that the existing nightclubs have had an extreme adverse impact on traffic in the area. The criminal activity associated with the establishments is also of concern to Mr. Hubbard, including but not limited to assaults, public intoxication, vehicle thefts, sexual assaults, and vandalism. He also testified to the amount of trash and litter resulting from persons frequenting these nightlife establishments.

Mr. Hubbard is concerned that additional nightclubs and taverns would exacerbate the communities' existing problems.

**Ida B. Springfield**

Ida Springfield, a forty (40)-year resident of the Langdon Park/Woodridge community, submitted written comments supporting a liquor license moratorium in Langdon Park. Ms. Springfield expressed concern about the Queens Chapel/Bladensburg roads corridor, and parts of New York Avenue, becoming a haven for nightclubs due to the low rent and inexpensive warehouses. Ms. Springfield stated that the existing nightlife establishments bring in thousands of people on the weekends; creating traffic and parking problems for residents. Ms. Springfield noted that persons frequenting the nightclubs routinely loiter in the neighborhoods; disturbing residents' peace, order, and quiet of their homes. Finally, she expressed concern about the community's tarnished image held by outsiders who believe the neighborhood is unsafe because of the nightclubs.

**Lola Jones, Matthew Goedecke, and Marshall Cusaac**

Lola Jones, Matthew Goedecke, and Marshall Cusaac have lived in the Langdon Park/Woodridge community for thirty (30), twenty-five (25), and eight (8) years, respectively. They each submitted written testimony supporting the moratorium request. They expressed their concerns about the undeveloped areas in the Langdon Park community attracting additional nightclub owners who locate there due to the inexpensive real estate. They are upset about the large number of people who travel to the area to go to these nightlife establishments; creating traffic and parking problems for the community. They also expressed concerns about persons loitering in the neighborhoods and the criminal activity associated with the nightlife establishments. Ms. Jones recalled the five (5) instances her car was struck by intoxicated persons leaving the clubs.

Overall, Ms. Jones, Mr. Goedecke, and Mr. Cusaac stated that the existing nightlife establishments have had an adverse impact on the peace, order, and quiet of their communities and that they believe adding additional nightlife establishments would exacerbate the problem and not bring any additional value to their communities. For these reasons, they support a liquor license moratorium.

**Shaina Ward**

Shaina Ward, a two (2)-year resident of the Langdon Park/Woodridge community submitted written testimony in support of the moratorium. She is concerned about the community being neglected and underdeveloped. She believes the community is being overrun by nightlife establishments, which is burdening the community. Ms. Ward noted a variety of problems associated with the existing nightlife establishments, including loitering, traffic, crime, loud noise, and aggressive behavior. She is worried about additional nightclubs opening in the area,

thereby, further burdening the community. Therefore, she supports the implementation of a moratorium.

**Carole Sneed**

Carole Sneed, a two (2)-year resident of the Langdon Park/Woodridge community submitted written testimony supporting the moratorium request which she believes is a “necessity [for providing the] community with much needed relief from an overconcentration of large-scale nightlife and entertainment establishments.” Similar to others in the community, Ms. Sneed stated that the nightclub owners are attracted to the area because the rental prices are low and the warehouses are inexpensive. She noted that the existing nightlife establishments flood the neighborhoods with patrons going to the clubs; causing traffic and parking problems. Ms. Sneed also expressed concern regarding loitering and criminal activity associated with the nightlife establishments. In particular, she recalled two shootings she personally witnessed from her bedroom window. For all of these reasons, Ms. Sneed supports the implementation of a moratorium in Langdon Park.

**Jonathan Eng**

Jonathan Eng is a five (5)-year resident of the Langdon Park/Woodridge community and a real estate agent. Mr. Eng submitted written testimony supporting the moratorium. Mr. Eng stated that in his experience, the current nightclubs have had an adverse effect on real property values. He provided numerous examples of homes staying on the market for an extended period of time and selling well below the original asking prices.

In addition to the adverse effect on real property values, Mr. Eng noted that the nightlife establishments have created significant traffic and parking problems in the community. He also expressed concern about persons loitering in the neighborhoods and engaging in criminal activities, including but not limited to, doing drugs, having sex in public, and generally disturbing the peace. He recalled having to purchase soundproof windows so that he could drown out the noise. Mr. Eng believes that the community would thrive if a liquor license moratorium were put into place.

**Mark Lee, D.C. Nightlife Hospitality Association, Executive Director**

Mark Lee testified on behalf of the D.C. Nightlife Hospitality Association (DCNHA) in opposition of the Langdon Park moratorium request. Mr. Lee presented two primary arguments why the Board should not grant the moratorium request. First, it is DCNHA’s position that barring certain liquor license classes would have a detrimental impact on the hospitality industry. Specifically, Mr. Lee argues that a moratorium on class CT, CN, CX, and CR retailer licenses would be particularly onerous and prevent dining environment enhancements which are popular in other parts of the District. In addition, Mr. Lee suggests prohibiting certain liquor licenses will hinder development in the Langdon Park community.

Secondly, Mr. Lee argues the moratorium proponents' concerns (*i.e.*, crime, noise, traffic, and parking) will not be addressed by implementing a moratorium. Mr. Lee argues that the best way to address these concerns is through the protest hearing process. It is Mr. Lee's position that the Board should address these, and similar appropriateness standard concerns, on a case-by-case basis when new licenses are protested as opposed to issuing a blanket prohibition on liquor licenses.

**C. Board's Decision to Propose the Langdon Park Moratorium Zone Notice of Proposed Rulemaking**

The Board took the views of ANC 5C and all other witnesses into consideration. The Board determined that the ANC's proposal to implement a moratorium on certain liquor licenses in the Langdon Park neighborhood is necessary to address the community's ongoing problems with the existing nightlife establishments and to avoid the exacerbation of existing problems. In reaching its decision, the Board gave great weight to the recommendations of ANC 5C as required by Section 13(d)(3) of the Advisory Neighborhood Commissions Act of 1975, effective October 10, 1975 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d)(3) and D.C. Official Code § 25-609. After evaluating all of the testimony and comments, the Board concluded that ANC 5C's proposal, supported by the LPCA, the Leaders' Group, and the petitioners within the Langdon Park community, is appropriate under at least two appropriateness standards, as required by D.C. Official Code § 25-352(a)(4).

First, with regard to peace, order, and quiet, the testimony presented at the hearing as well as the proposal submitted by ANC 5C revealed that there are significant problems in the Langdon Park/Woodridge communities with regard to peace, order, and quiet, including noise and litter.

The Board noted that residents have the right to the peaceful enjoyment of their homes. For the residents in the Langdon Park and Woodridge communities, their peaceful enjoyment is hindered by the current nightlife establishments in the area, including Karma, Echostage, Bliss, Stadium, and Aqua Restaurant. The close proximity of these establishments to one another creates a cacophony of noise; thereby, encroaching upon residents' peaceful enjoyment of their homes. Noise from the nightlife establishments (*e.g.*, music), coupled with persons making noise leaving and returning to their cars after a night out, negatively impacts residents in the community. The Board received ample evidence of persons blaring music from their cars and opening and closing car doors.

Second, testimony received by the Board raised significant concerns with parking in the neighborhood as well as vehicular and pedestrian safety. Specifically, the Langdon Park and Woodridge communities have a limited number of public transportation options. As a result, patrons visiting these licensed establishments are forced to drive or take shared car services to get to the nightclubs in the area. This results in hundreds of people transgressing in a confined space; thus, creating significant traffic problems. Additionally, testimony received by the Board revealed that patrons of nightlife establishments are parking in the surrounding neighborhoods

due to the limited off-site parking in the area. This, in turn, reduces the availability of parking for nearby residents.

Lastly, the Board was persuaded by the evidence showing that the existing nightlife establishments have had an adverse impact on the real property values in the area in accordance with D.C. Official Code § 25-113(b)(2), and that adding more establishments would further exacerbate the problem. Mr. Eng, a real estate professional, presented ample evidence of how the nightlife establishments have adversely affected home sales. In this regard, the evidence shows that homes in the Langdon Park and Woodridge communities languish on the market for quite some time and then sell below the asking price.

While the Board is sympathetic to the moratorium supporters' desire to prevent all new class CT/DT, CN/DN, CX/DX retailer licensed establishments from opening in the area and for the moratorium to last five (5) years, the Board does not believe doing so would be in the best interest of economic development and the future of the community. Ward 5 is expanding with new businesses and residential properties. The Mayor and the Council for the District of Columbia have phenomenal plans for the District, including Ward 5. The Board does not want to stifle development by barring certain liquor licenses for a substantial length of time. As Mr. Lee stated in his written testimony, the Board is moving away from imposing moratoriums. The District's alcoholic beverage laws and regulations are capable of addressing many of the proponents' concerns while at the same time respecting business development. The law, however, does not address everything. It is for that reason that District law grants the Board the discretion and authorizes it to impose moratoria when necessary.

The Board believes a balancing of the communities' desires, coupled with economic development, is necessary. As such, the Board decided on the following:

1. The number of class CN and CX retailer licenses, collectively, in the Langdon Park Moratorium Zone shall not exceed three (3). The Board acknowledges that more than three (3) CN and CX retailer licenses currently exist in the proposed moratorium zone. Those existing retailer licensed establishments will be exempt;
2. New entertainment endorsements shall not be issued for class CR and CT retailer licenses; and
3. The moratorium shall remain in effect for three (3) years.

## **II. D.C. Register Publication and Public Comment**

The Langdon Park Moratorium Zone Notice of Public Rulemaking was published in the D.C. Register on November 11, 2016, at 63 DCR 13905 for notice and comment. The comment period ended on December 11, 2016. On December 7, 2016, the Board received comments from the LPCA, which the Board reviewed and duly considered.

The LPCA commented that it generally supports the proposed rules but it contends that the moratorium is not long enough to provide the protections the LPCA seeks. According to the LPCA, the planned development for Ward 5 will not come to fruition within the next three (3)

years; the length of the proposed moratorium. As such, the LPCA suggests that the Board lengthen the proposed moratorium from three (3) years to five (5) years.

The Board considered the LPCA's comments at its December 14, 2016 meeting. The Board understands the LPCA's concerns, but for the reasons previously given *infra* at 10, it does not believe a five (5)-year moratorium is warranted at this time.

The Board also notes that the LPCA is not entirely without recourse. Prior to the termination of the proposed moratorium, it may file a request with the Board to continue the moratorium in accordance with D.C. Official Code § 25-352(a). At that time, the Board will consider the request and determine if an extension is warranted.

### **III. Board's Decision to Send the Proposed Rules to the Council for Review**

After reviewing the comments received during the comment period, the Board gives notice that on January 11, 2017, it voted six (6) to zero (0) to send the Langdon Park Moratorium Zone Notice of Proposed Rulemaking to the Council for the District of Columbia for a ninety (90) day period of Council review in accordance with D.C. Official Code § 25-211(c). The Board will not adopt the rules as final prior to the expiration of the ninety (90)-day period of review unless approved by the Council resolution.

**Chapter 3 (Limitations on Licenses) of title 23 (Alcoholic Beverages) of the DCMR is amended by adding a new section 311 to read 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 CN retailer's licenses shall be issued in the moratorium zone.

311.2 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.

- 311.3 All hotels, whether present or future, shall be exempt from the Langdon Park Moratorium Zone.
- 311.4 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 the effective date of this section, subject to the requirements of Title 25 of the D.C. Official Code and this title.
- 311.5 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.
- 311.6 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.
- 311.7 Nothing in this section shall prohibit a valid protest of any transfer or change of license class.
- 311.8 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.
- 311.9 This section shall expire three (3) years after the date of publication of the notice of final rulemaking in *D.C. Register*.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Office of the Attorney General



ATTORNEY GENERAL  
KARL A. RACINE

Legal Counsel Division

**MEMORANDUM**

**TO:** Lolita S. Alston  
Director  
Office of Legislative Support

**FROM:** Janet M. Robins  
Deputy Attorney General  
Legal Counsel Division

**DATE:** January 24, 2017

**SUBJECT:** Legal Sufficiency Review of Resolution, the "Langdon Park Moratorium  
Zone Resolution of 2017"  
(AE-16-557 B)

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**This is to Certify that** this Office has reviewed the above-referenced legislation and has found it to be legally sufficient. If you have any questions regarding this certification, please do not hesitate to contact me at 724-5524.

  
Janet M. Robins

JMR/phg