



2019 JUL -9 PM 4:08  
OFFICE OF THE  
SECRETARY

MURIEL BOWSER  
MAYOR

JUL - 9 2019

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

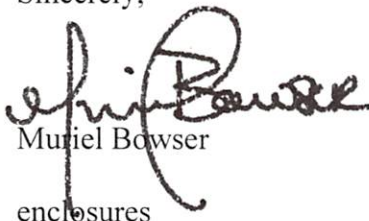
Dear Chairman Mendelson:


I am transmitting to the Council of the District of Columbia, for its review, the "Adams Morgan Moratorium Zone Approval Resolution of 2019," pursuant to D.C. Official Code §25-211(b)(11). The proposed rulemaking would amend 23 DCMR § 304 by renewing the Adams Morgan Moratorium Zone for three years. Specifically, the rulemaking would prohibit the issuance of new CN/DN, CT/DT, and CX/DX licenses.

The rulemaking would set a cap on CT/DT and CX/DX licenses at 10. The Alcoholic Beverage Control Board would be prohibited from issuing new tavern and multipurpose facility licenses unless there are fewer than 10, cumulatively, in the area. Last, the proposed rulemaking would expand the moratorium zone from 1,400 feet in all directions from the intersection at 18<sup>th</sup> Street and Belmont Road, N.W., to 1,800 feet in all directions from 2459 18<sup>th</sup> Street, N.W.

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

Sincerely,

  
Muriel Bowser  
enclosures

  
Chairman Phil Mendelson  
at the request of the Mayor

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4 PROPOSED RESOLUTION

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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

12  
13 To approve proposed rules of the District of Columbia Alcoholic Beverage Control Board  
14 that would amend Title 23 of the District of Columbia Municipal Regulations by  
15 amending section 304, Adams Morgan Moratorium Zone.

16  
17 RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That  
18 this resolution may be cited as the “Adams Morgan Moratorium Zone Approval  
19 Resolution of 2019”.

20 Sec. 2. Pursuant to D.C. Official Code § 25-211(b)(2), the Council of the District  
21 of Columbia approves the proposed rulemaking by the District of Columbia Alcoholic  
22 Beverage Control Board (“Board”) that would renew the Adams Morgan Moratorium for  
23 three years.

24 Sec. 3 The proposed rulemaking would prohibit the issuance of new nightclub,  
25 tavern, and multipurpose facility licenses for a period of three years in the area that  
26 extends 1,800 feet in all directions from 2459 18<sup>th</sup> St., N.W. Restaurants, hotels, and off-  
27 premises retailer’s licenses, class A and B, are exempt from the moratorium.

1           Sec. 4. The proposed rulemaking would also place a cap on tavern and multipurpose  
2 facility licenses at 10. The Board will be prohibited from issuing new tavern or  
3 multipurpose facility licenses unless the total number falls below 10.

4           Sec. 5. Lastly, the proposed rulemaking would expand the moratorium zone from  
5 1,400 feet in all directions from the intersection of 18<sup>th</sup> Street and Belmont Road, N.W.,  
6 to 1,800 feet in all directions from 2459 18<sup>th</sup> Street, N.W.

7           Sec. 6. The Secretary to the Council of the District of Columbia shall transmit a  
8 copy of this resolution, upon its adoption, to both the Mayor and the Chairperson of the  
9 Alcoholic Beverage Control Board.

10          Sec. 7. This resolution shall take effect immediately.

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

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Alcoholic Beverage Control Board (Board), pursuant to the authority set forth in D.C. Official Code § 25-211 (2012 Repl. and 2018 Supp.) and D.C. Official Code § 25-351 *et seq.* (2012 Repl.), as amended, hereby gives notice of the following emergency and proposed rulemaking which would amend Section 304 (ADAMS MORGAN MORATORIUM ZONE) of Chapter 3 (LIMITATIONS ON LICENSES) of Title 23 (ALCOHOLIC BEVERAGES) of the District of Columbia Municipal Regulations (“DCMR”), to: (1) continue the moratorium on on-premises retailer’s licenses, classes CN, DN, CT, DT, CX, and DX, issued in a portion of Adams Morgan; (2) cap the total number of tavern and multipurpose facility licenses in this area at ten (10); (3) extend the moratorium zone to cover eighteen hundred feet (1,800 ft.) in all directions from 2459 18<sup>th</sup> St., N.W., Washington, D.C. 20009; and (4) keep the moratorium in place for three (3) years.

**I. PROCEDURAL BACKGROUND – ADOPTION OF THE NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Adams Morgan Moratorium Zone (AMMZ), promulgated at 23 DCMR § 304, would have expired on August 27, 2018. In order to prevent the rules from expiring, the Board adopted emergency rules on August 15, 2018, which allowed the current moratorium to remain in effect pending a public hearing. The emergency rules, which the Board adopted six (6) to zero (0), expired on December 13, 2018.

On October 3, 2018, the Board held a public hearing concerning the moratorium. At the hearing, representatives from Advisory Neighborhood Commission 1C, the Kalorama Citizens Association, and the Reed-Cooke Neighborhood Association, as well as a member of the public testified before the Board. Prior to the hearing and until the record closed on October 12, 2018, the Board also received written comments from members of the public.

The Board reviewed and duly considered all of the comments it received. Below is a summary of those comments:

**A. Adams Morgan Partnership Business Improvement District**

The Adams Morgan Partnership Business Improvement District (BID) submitted a resolution in support of the moratorium. Although acknowledging the potential adverse impact that a moratorium, can have on economic growth and development, the BID acknowledges that the Adams Morgan community still has a few problematic taverns and restaurants. BID, however, does not support a blanket moratorium on all licenses.

As such, the BID requests that the Board (1) continue the moratorium on CN and CX licenses; and (2) not expand the boundary of the moratorium zone. The BID also suggests that the Board carefully review entertainment requests so as not to stifle artistic creativity in the community, but

at the same time set restrictions on such licensees (*e.g.*, not allowing cover charges) in an effort to prevent establishments with entertainment endorsements from becoming *de facto* nightclubs.

### **B. Advisory Neighborhood Commission 1C**

Commissioner Amir Irani, Chair of Advisory Neighborhood Commission (ANC) 1C's ABC and Public Safety Committee, and Commissioner Ted Guthrie, Single Member District (SMD) 1C03, testified at the Board's public hearing. ANC 1C also submitted a resolution as well as a joint petition with the Kalorama Citizens Association and the Reed-Cooke Neighborhood Association, asking the Board to continue the current moratorium for five (5) years and to expand it to eighteen hundred feet (1,800 ft.).

In support of continuing the moratorium, ANC 1C noted that there are still ongoing problems regarding CT license holders and some CR license holders with entertainment endorsements. According to the ANC, these establishments are particularly problematic during the last two hours in which they are open and their kitchens are closed. The ANC suggests that it is during these last few hours of operation that the establishments morph into nightclubs on Fridays and Saturdays. It is these concerns that have prompted the ANC to ask the Board to keep the moratorium in place, especially as it relates to the caps on taverns.

Commissioner Guthrie testified that should the Board remove the moratorium and allow new taverns and nightclubs, "life would be insufferable" for those that live in Adams Morgan. He testified that notwithstanding the improvements that the ANC and other community members have achieved, certain problems are still ongoing. In order to fully address those ongoing problems, Commissioner Guthrie believes the moratorium is necessary.

In addition to continuing the moratorium for five (5) years, ANC 1C recommended that the Board extend the moratorium from its current fourteen hundred feet (1,400 ft.) to eighteen hundred feet (1,800 ft.). In support of the expansion, the ANC points to the continued expansion along the eastern portion of Columbia Rd., N.W. According to ANC 1C, new large residential buildings are planned for Columbia Rd., N.W. As such, the ANC contends that it is essential that the Board expand the moratorium so that residents in that section of Adams Morgan are protected similar to residents in the remaining portions of Adams Morgan.

### **C. Denis James, President, Kalorama Citizens Association**

Denis James, President of the Kalorama Citizens Association (KCA), testified before the Board on behalf of the KCA and also submitted a letter, dated September 27, 2018, as well as a joint petition with the ANC and Reed-Cooke Neighborhood Association, voicing the organization's support of the Board continuing the Adams Morgan Moratorium for five (5) years and expanding the boundary to eighteen hundred feet (1,800 ft.).

Mr. James testified to the ongoing problems in the Adams Morgan community where the proliferation of alcohol-licensed establishments continues to have an adverse effect on the Adams Morgan community. Specifically, Mr. James testified that seventy (70) on-premises licensed establishments exist in the moratorium zone and that notwithstanding the moratorium,

peace, order, and quiet issues still exist. In addition, patrons exiting the alcohol-licensed establishments are frequently observed in the community vomiting on the sidewalk or engaging in public urination.

Mr. James further testified that the alcohol-licensed establishments continue to have an adverse impact on the community's parking needs and pedestrian and vehicular safety. According to Mr. James, many persons frequenting these establishments and the establishments' employees park in nearby neighborhoods; thereby, reducing the number of parking spots available for residents and their guests. Mr. James acknowledged that car-sharing services are being used with greater frequency, but that they present similar traffic challenges as they make frequent stops in the neighborhood and circling the blocks until they can pick up passengers. In order to address this problem, Mr. James testified that residents along 18<sup>th</sup> St., N.W. petitioned the District to change the three (3) streets which intersect 18<sup>th</sup> St., N.W. (*i.e.*, Belmont Rd., N.W., Kalorama Rd., N.W., and Wyoming Rd., N.W.) into one-way streets only for purposes of alleviating the congestion in the area.

In support of continuing the limits on taverns, Mr. James testified that notwithstanding the improvements in the community since the Board placed a cap on taverns, the community is still plagued by the problem of taverns with entertainment endorsements morphing into nightclubs at night. Given the ongoing concerns the community has regarding these establishments, coupled with the general problems associated with alcohol-licensed establishments, Mr. James asked the Board retain the cap on tavern licenses.

#### **D. William Simpson, President, Reed-Cooke Neighborhood Association**

William Simpson, President of the Reed-Cooke Neighborhood Association (RCNA), testified at the public hearing and also submitted written comments, in support of the ANC's resolution seeking a continuation of the moratorium for five (5) years and its being extended to eighteen hundred feet (1,800 ft.). Additionally, the RCNA filed a joint petition with ANC 1C and the KCA supporting the moratorium and its expansion.

Mr. Simpson testified that in 2013 when he was the chairman of ANC 1C, the commission asked the Board to amend the Adams Morgan Moratorium so as to allow new licensed establishments to open in the area. Those amendments were incorporated in the 2014 moratorium which created an exemption for restaurants. Mr. Simpson testified that, from his perspective, the moratorium has achieved many of the community's goals, including the opening of new quality establishments and the keeping out of rowdier licensed establishments.

Mr. Simpson acknowledged that some members of the community would like for the Board to remove the cap on tavern licenses. He stated that in his experience, however, doing so would be detrimental to the community because it may encourage some restaurants to switch their license class to a tavern license. According to Mr. Simpson, this is problematic where some taverns operate as *de facto* nightclubs.

Lastly, Mr. Simpson discussed with the Board his support for expanding the moratorium boundary to eighteen hundred feet (1,800 ft.). Specifically, Mr. Simpson testified to the

hardships his constituents along Columbia Rd., N.W. experienced when a former tavern was operating there. This establishment, according to Mr. Simpson, operated more like a rowdy nightclub than a tavern. When the establishment closed, Mr. Simpson testified that the community was hopeful that positive changes would result. Instead, the community was faced with a six hundred (600) person nightclub wanting to open in the vacant spot. After tireless community effort, they were able to prevent the nightclub from operating there. Mr. Simpson contends extending the moratorium to eighteen hundred feet (1,800 ft.), and thereby encompassing Columbia Rd., N.W., would provide those that reside in that area with the protection they need to prevent undesired establishments from moving in.

#### **E. Joint Petition : ANC 1C, KCA, and RCNA**

Before the public hearing, ANC 1C, the KCA, and the RCNA (“Petitioners”) filed a joint petition with the Board seeking a continuation of the moratorium for five (5) years and its expansion to an eighteen hundred feet (1,800 ft.) radius from its existing fourteen hundred foot (1,400 ft.) radius.

In support of their petition, the Petitioners argue that the Adams Morgan Moratorium is still necessary for purposes of addressing quality of life issues in the community. They contend that much of Adams Morgan is zoned mixed use; thus, encompassing both commercial establishments, including alcohol-licensed establishments, and residential properties. In the Adams Morgan Moratorium Zone, there are seventy (70) class C licenses, and of those, five (5) are in safekeeping. The density of alcohol-licensed establishments in a small area presents numerous quality of life concerns for the community according to the Petitioners, including litter, rat infestation, noise, traffic, crime and violence.

Additionally, the Petitioners’ joint petition addresses the strain alcohol-licensed establishments are having on the community’s access to parking and pedestrian parking and vehicular safety. Since 2008, the Petitioners contend that once available parking spaces no longer exist in the community; thus, placing an additional strain on the community’s parking needs. Due to the limited amounts of public parking spaces and commercial garages in the area, the Petitioners argue that many persons frequenting the alcohol-licensed establishments park in the neighboring residential areas, which results in less parking spaces being available for residents and their guests.

In addition, the Petitioners are concerned that if the Board did not renew the moratorium, the community would be burdened by an overconcentration of alcohol-licensed establishments which would exacerbate the problems they are presently experiencing. They continue to welcome restaurants in the Adams Morgan community, but are particularly concerned about additional taverns and nightclubs moving in.

Additionally, the Petitioners ask the Board to extend the boundary of the moratorium from the present fourteen hundred feet (1,400 ft.) to eighteen hundred feet (1,800 ft.) from 2459 18t St., N.W., Washington, D.C. 20009. The Petitioners are concerned about the portion of Columbia Rd., N.W. that is uncovered by the moratorium. According to the Petitioners, developers have already started to build in this section of Adams Morgan and that future development (both

residential and commercial) is in the works. One such developer sought to open a large-scale nightclub in the area. The community, including the Petitioners, fought tirelessly to prevent the nightclub from opening. The Petitioners believe extending the moratorium to this area would help to protect the residents in that section of Adams Morgan from being threatened by undesired alcohol-licensed establishments.

Lastly, the Petitioners ask the Board to continue to cap the number of taverns at ten (10). The Petitioners contend that there are still ongoing concerns about taverns, particularly those with entertainment endorsements, morphing into nightclubs. According to the Petitioners, these establishments present the same challenges and problems as ordinary nightclubs but with fewer statutory protections. Given the community's troubled history with nightclubs and taverns, the Petitioners encourage the Board to maintain the cap on tavern licenses.

**F. John B. Taht, President, The Beverly Court Cooperative, Inc.**

John B. Taht, President of the Beverly House Cooperative (Beverly House), a cooperative apartment building located at 1736 Columbia Rd., N.W., submitted a letter in support of the existing moratorium. Specifically, Beverly House, requested that the Board continue the moratorium and extend the boundary to include Columbia Rd., N.W.

Mr. Taht recounted the numerous occasions members of the Beverly House have gone before the Board protesting ABC licenses or complaining about ABC-licensed establishments located in Adams Morgan. Residents have filed numerous noise complaints with ABRA and the Metropolitan Police Department (MPD).

Since the closing of Chief Ike's Mambo Room (Chief Ike's), Mr. Taht states that there have been improvements in the community as it relates to peace, order, and quiet. New establishments have opened in the area, some of which have entered into settlement agreements with the Beverly House, and the community hopes additional family-friendly establishments will come in the future. Notwithstanding the improvements in the community, Mr. Taht notes that the community's peace and tranquility was challenged when a new establishment sought to open a six hundred (600) person nightclub in the space vacated by Chief Ike's. He states that significant community involvement from Beverly House, the ANC, and neighborhood associations was needed in order to prevent this establishment from opening on Columbia Rd., N.W. It is for this reason that the Beverly House asks the Board to extend the moratorium to include Columbia Rd., N.W., so that it would not have to face similar challenges in the future.

**G. Elizabeth F. Bebber, Executive Director, Christ House**

Elizabeth F. Bebber, Executive Director of Christ House, submitted a letter to the Board encouraging it to continue the moratorium and to extend it to Columbia Rd., N.W. Several Christ House employees also reached out to the Board expressing their support of the moratorium.



Christ House is a residential facility for homeless persons. Their residents suffer from acute medical conditions, including cancer, hypertension, and HIV/AIDS. Some residents also receive drug recovery services.

Ms. Bebber asserts that a change to the moratorium would have an adverse effect on Christ House's residents who are able to thrive in the peaceful neighborhood setting. When a nightclub sought to open on Columbia Rd., N.W., near Christ House, the facility presented its concerns to the ANC at their monthly meeting. Christ House is not opposed to commercial development along Columbia Rd., N.W.; however, it would prefer more restaurants and bakeries, as opposed to alcohol drinking establishments.

#### **H. Matt Wexler, Managing Partner, Foxhall Partners**

Matt Wexler, Managing Partner of Foxhall Partners, wrote to the Board to express his support of ANC 1C's resolution requesting that the Board continue the Adams Morgan Moratorium for five (5) years on the existing licenses and expanding to eighteen hundred feet (1,800 ft.).

Mr. Wexler, a resident of Adams Morgan, owns several commercial properties in Adams Morgan. He serves on the board of directors for two (2) Adams Morgan non-profit boards. Lastly, Mr. Wexler is a former member of the BID's board of directors.

Mr. Wexler states that although he has concerns about the impact that moratoria can have on business development, he asked that the Board defer to the ANC and employ the proposal as set forth in the ANC's resolution. In particular, Mr. Wexler supports the continuation of the moratorium which he contends addresses the community's ongoing concerns regarding the overconcentration of alcohol establishments and the adverse impact that these establishments have on real and commercial property values. Similar to Beverly House and Christ House, Mr. Wexler reminds the Board of the substantial amount of community involvement that was necessary to prevent the six hundred (600) person nightclub from opening on Columbia Rd., N.W. Several residents in properties that he owns asked him to file a protest against the applicant. Mr. Wexler contends that the ANC's position is a balanced approach between the community's needs and concerns and economic development in Adams Morgan, and as such, recommends that the Board continue the moratorium with the amendments as suggested by the ANC.

#### **I. Jessica Petro, Executive Director, Sarah's Circle**

Jessica Petro, Executive Director of Sarah's Circle wrote to the Board in support of the Moratorium. Sarah's Circle provides affordable housing to low-income senior citizens. It is located at 2551 17<sup>th</sup> St., N.W.; steps away from 16<sup>th</sup> St. and Columbia Rd., N.W. Ms. Petro not only supports the continuation of the moratorium, but also the extension of the moratorium boundary to include Columbia Rd., N.W.

Mr. Petro states that had the nightclub which sought to open on Columbia Rd., N.W. been permitted to open, Sarah's Circle's residents would have been adversely affected. She suggests that traffic and congestion along 17<sup>th</sup> St., N.W., is already a problem for residents, and that had

the nightclub been permitted to open, its presence in the community would have exacerbated the problem.

#### **J. Comments from Various Adams Morgan Residents**

The Board received numerous comments from residents within the Adams Morgan community, supporting the current moratorium and asking the Board to not only keep the moratorium in place but to extend it to eighteen hundred feet (1,800 ft.) so that it encompasses Columbia Rd., N.W. They all had concerns about the adverse impact alcohol establishments have had on the community, especially as it relates to noise, traffic, crime, and violence.

Hal Simmons, an Adams Morgan resident, informed the Board that because of the increased criminal activity in the area in the evenings, he avoids leaving his home at night. Leslie Delagran, another Adams Morgan resident, told the Board about her experience of paying thousands of dollars to repair the damage to her vehicle due to alcohol-licensed establishment patrons hitting her car while parking their own.

Ruth Stenstrom, a resident of Beverly House, states that excessive noise, crime, and rowdiness are an ongoing problem for residents. She contends that many residents are seniors or children whose sleep is frequently disturbed by late night revelry at these establishments. In addition, Tshaye Taylor, a Sarah's Circle resident, notes that in addition to the noise disturbances associated with the alcohol-licensed establishments in Adams Morgan, trash and litter is a significant problem.

#### **K. Benedicte Aubrun**

Benedicte Aubrun, a twenty-two (22) year resident of Adams Morgan, testified at the hearing in support of the continuing Adams Morgan Moratorium and, at the same time, extending the boundaries to eighteen hundred feet (1,800 ft.). Ms. Aubrun testified to her observations of the Adams Morgan community over the last ten (10) years. In her opinion, the community has deteriorated over this time period. She testified to an increase in criminal activity and violence, including bar fights that continue outside of the licensed establishments. She stated many patrons arrive at the licensed establishments inebriated and then proceed to become more intoxicated after consuming additional alcoholic beverages.

In addition to increased criminal activity, Ms. Aubrun testified to the vast amount of litter and trash in the community, as well public vomiting and urination. Parking is also an issue for the community according to Ms. Aubrun. She testified that patrons tend to occupy spaces designated for residents and their guests. Noise is also a problem due to the number of patrons at the various alcohol-licensed establishments as well as those congregating on the sidewalks; thereby, disturbing nearby residents.

### **I. Raymond Connolly**

Raymond Connolly, a thirty-six (36) year resident of Adams Morgan submitted a letter to the Board supporting the moratorium. Mr. Connolly contends that the moratorium is essential to safeguarding the peace, tranquility, and safety of the community. Thus, he encourages the Board to continue the moratorium for five (5) years and to extend it to eighteen hundred feet (1,800 ft.).

### **J. David Carollo**

David Carollo, an Adams Morgan resident, submitted a letter to the Board opposing the moratorium and encouraging the Board to discontinue it. Mr. Carollo, who possesses degrees in policy analysis, stated that in his opinion, the moratorium has had a negative impact on development in Adams Morgan. He argues the moratorium has discouraged businesses from coming to Adams Morgan; thereby, leaving behind vacant storefronts. Finally, he further contends that the price of obtaining an alcohol license will rise as long as restrictions are placed on the number of alcohol licenses that are available while demand for such establishments continues to rise. In turn, Mr. Carollo contends this would limit the types of business models in the community which are able to make a profit.

### **K. Arianne Bennett, Owner of Amsterdam Falafelshop**

Arianne Bennett, the owner of the Amsterdam Falafelshop, wrote to the Board in opposition to the moratorium. She encourages the Board to focus less on limiting licenses and more on enforcement action. She recommends that ABRA investigators should increase their inspections with a focus on troubled licensed establishments. When violations are discovered, Ms. Bennett contends the Board should take immediate enforcement action.

Pursuant to D.C. Official Code § 1-309.10(d)(3)(A), the Board is required to give great weight to the Advisory Neighborhood Commission's recommendations during its deliberations on matters that relate to the commission. In accordance with said statutory requirements, the Board notes that great weight has been given to ANC 1C's recommendations concerning the Adams Morgan Moratorium. The Board is adopting ANC 1C's recommendation with one exception as will be discussed in greater detail in Section V (The Board's Decision) below.

## **II. THE BOARD'S DECISION TO ADOPT THE EMERGENCY AND PROPOSED RULEMAKING**

As mentioned, the Board carefully considered the comments and testimony it received from the public concerning the Adams Morgan Moratorium Zone. In adopting the Notice of Emergency and Proposed Rulemaking on November 28, 2018, the Board acknowledged the decision to impose a moratorium is on that it does not take lightly.

The Board recognizes the impact that a moratorium can have on future business development. As the BID and Mr. Carollo indicated, there is the risk that moratoria may hinder future business development. The District of Columbia has a booming economy and the Board wants that to

continue. Commercial development, including alcohol-licensed establishments, is essential to raising funds for a variety of District programs and services.

Notwithstanding the adverse impact that moratoria may have on business development, the Board determined that the adverse impact to the Adams Morgan community should the Board discontinue the moratorium at this time far exceeds any potential hardship on economic development. The Board, like ANC 1C, the KCA, and the RCNA, recognizes that substantial improvements have been made in Adams Morgan since the Board first adopted the moratorium, and acknowledges that progress continued after it renewed the moratorium in 2014. Nevertheless, the Board found that renewing the moratorium for three (3) years is necessary to ensure that progress continues as well as protecting the peace, order, and quiet of the Adams Morgan community, and addressing the community's ongoing concerns regarding parking and traffic.

Many supporters of the moratorium spoke about how eliminating it would adversely affect the peace, order, and quiet of the community, and why extending is essential. Mr. Taht, mentioned that numerous Beverly House residents have complained to ABRA and MPD about the excessive noise originating from neighboring alcohol-licensed establishments. Ms. Robertson, who resides on Columbia Road, N.W., attested to the noise pollution she and neighbors are subjected to because of the alcohol-licensed establishments in the area. She contends additional alcohol-licensed establishments would exacerbate a previously existing problem.

In addition to noise, the Board was persuaded by the public's comments regarding the other adverse effects associated with alcohol-licensed establishments. The Petitioners' joint petition highlights many of these concerns, including rat infestation, litter, patrons driving under the influence and the risk they pose to other drivers and pedestrians, and the destruction of property. Ms. Delagran told the Board that she has spent thousands of dollars on car repairs due to by partygoers hitting her vehicle. Ms. Aubrun testified that violence involving handguns and knives and bar fights that continue outside of the establishments is a problem in Adams Morgan. Additionally, Mr. Simmons said that he is afraid to leave his home because of the increased violence in the community.

Finally, the Board was persuaded by the testimony it received regarding the strain alcohol-licensed establishments place on the residential parking needs of those who reside in Adams Morgan and the implications they have on traffic and congestion in the community. Many residents complained about patrons parking in the neighboring residential communities; occupying parking spaces for residents and their guests. Since 2008, the Petitioners noted that that there are fewer public parking spaces in the area due to the institution of larger loading zones, crosswalks, and crosswalk bump outs. There used to be two public garages in the community, but now there is only one on 18<sup>th</sup> St., N.W. The other is now a condominium.

Likewise, traffic congestion is a problem. Ms. Petro told the Board that several of her residents have complained about the amount of traffic near Sarah's Circle stemming from persons going to or leaving alcohol-licensed establishments. The Petitioners' joint petition notes the significant amount of traffic congestion in the area on Thursdays through Saturdays. According to the Petitioners, the problem is further exacerbated whenever MPD closes a street. Mr. James

testified that notwithstanding the use of shared vehicles, traffic congestion is still a problem. He stated the problem is so bad on 18<sup>th</sup> St., N.W., that residents there sought to change the three streets that intersect 18<sup>th</sup> St., N.W., into one-way only streets.

Not only does the number of persons frequenting licensed establishments pose a problem regarding traffic, they also pose safety concerns. As the Petitioners noted in their joint petition, the amount of the traffic in the area makes it difficult for first responders to attend to emergencies. The Petitioners stated it is not uncommon for first responders to have difficulties finding a place to park because of persons in restricted areas or alleyways. First responders' inability to respond to emergencies poses significant health and public safety risks that are simply unjustifiable.

The Board also agreed with the comments that it received that keeping the current moratorium in place for three (3) years with its previous boundaries does not fully address the peace, order, and quiet concerns within Adams Morgan. Additional protection is necessary. Specifically, the Board agreed that an expansion of the moratorium boundary is necessary in order to protect those residents living on or near Columbia Rd., N.W. ABRA's records reveal that there is an adequate number of licensees within the same license class and those of a combination of license classes to support extending the moratorium to a portion of the community, or up to eighteen hundred feet (1,800 ft.).

The Board recognized that when it amended the moratorium in 2014, it had not considered a moratorium covering Columbia Rd., N.W. At that time, fewer residential properties were being built in that area. Since then, several residential communities have opened on or near Columbia Rd., N.W. and future development projects are planned. For example, Mr. Simpson testified that Scottish Rite Temple intends to build a one hundred (100) unit apartment complex there.

Presently, these residents on or near Columbia Rd., N.W. are not protected by the moratorium. There has been a substantial amount of testimony of how this lack of protection left those residents vulnerable to a new nightclub opening in the location vacated by Chief Ike's. Although the community was successful in preventing the nightclub from opening there, it required a significant amount of time and effort. Had the moratorium covered this section of Adams Morgan, the community would not have been subjected to this burden.

In light of the Board's decision to significantly expand the size of the moratorium zone from fourteen hundred feet (1,400 ft.) to eighteen hundred feet (1,800 ft.) in all directions, the Board is seeking to impose the moratorium for three (3) years instead of five (5) years. This will allow the Board the opportunity to review in three (3) years the impact of expanding the moratorium zone will have on the Adams Morgan community.

The Board acknowledged that its decision to renew the moratorium for three (3) years as opposed to the requested five (5) years may disappoint some in the Adams Morgan community. The Board appreciated the arguments raised in support of a five (5) year moratorium in the Petitioners' joint petition. However, the Board was aware that progress has been made in the Adams Morgan community with a three (3) year moratorium. Furthermore, with the Board's decision to expand the moratorium zone, it does not want to impose the maximum moratorium

period on this area of the community prior to reviewing the impact of the expansion on the neighborhood. Should amendments need to be made, the Board will be better able to address those changes with a shorter moratorium period than with a longer moratorium period.

Thus, for the reasons discussed above, the Board approved the Adams Morgan Moratorium Zone Notice of Emergency and Proposed Rulemaking, six (6) to zero (0), on November 28, 2018. The emergency and proposed rulemaking was published in the *D.C. Register* for comment on March 22, 2019, at 66 DCR 3502. The emergency rules would have expired on March 28, 2019, but for the Board taking emergency action on March 27, 2019, to re-adopt the rules on an emergency basis.

### III. PUBLIC COMMENTS

The comment period ended on April 22, 2019. The Board received a few comments from the public regarding the emergency and proposed rulemaking. The Board received stylistic changes from the KCA and ANC 1C, with the support of the RCNA, which pertain to the preamble to the rulemaking as opposed to the text of the rulemaking itself. Specifically, the KCA suggested that the Board replace the phrase “joint resolution” with the phrase “joint petition” wherever it appears in the preamble.

ANC 1C agreed with the KCA’s proposed revision and also clarified Mr. James’ testimony concerning residents’ desire for a one-way street along 18<sup>th</sup> St., N.W. More specifically, the ANC clarified that it does not want 18<sup>th</sup> St., N.W. itself, to be converted into a one-way street, but rather that the three (3) streets that intersect with 18<sup>th</sup> St., N.W. be converted into one-way streets. Those three streets are (a) Belmont Rd., N.W.; (b) Kalorama Rd., N.W.; and (c) Wyoming Ave., N.W.

The Board, having considered the ANC’s and the KCA’s comments, made the suggested revisions to the preamble as noted above. Here is a hyperlink to the Notice of Emergency and Proposed Rulemaking as published in the D.C. Register which does not contain the revisions that the KCA and ANC 1C recommended.:

<https://www.dcregs.dc.gov/Common/NoticeDetail.aspx?NoticeId=N0079960>.

### IV. BOARD’S DECISION – SEND TO THE COUNCIL FOR REVIEW

After considering the comments it received during the public comment period, and determining that substantive changes are necessary, the Board voted six (6) to zero (0) on April 24, 2019, to send the Adams Morgan Moratorium Zone Notice of Emergency and Proposed Rulemaking to the Council of the District of Columbia (Council) for a mandatory ninety (90)-day review. The Board notes that these rules will not be adopted as final until the conclusion of the ninety (90)-day review period, unless affirmatively approved by the Council, and that the rules will not take effect until five (5) days after publication in the *D.C. Register*.

**Strike the current Section 304, ADAMS MORGAN MORATORIUM ZONE, of Chapter 3, LIMITATIONS ON LICENSES, of Title 23, ALCOHOLIC BEVERAGES, of the DCMR in its entirety and insert the following in its place, 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 this section in the area that extends approximately eighteen hundred (1800) feet in all directions from 2459 18<sup>th</sup> 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 more specifically described as beginning at 18<sup>th</sup> Street and Vernon Street, NW; and proceeding on both sides of all streets, unless otherwise noted; West on Vernon Street to 19<sup>th</sup> Street; Northwest on 19<sup>th</sup> Street to Wyoming Avenue; Southwest on Wyoming Avenue to 20<sup>th</sup> Street; Northwest on 10<sup>th</sup> Street to Belmont Road; West on Belmont Road to Waterside Drive; North on Waterside Drive to Allen Place; East on Allen Place to 20<sup>th</sup> Street; North on 20<sup>th</sup> Street to Biltmore Street; North on Biltmore Street to Calvert Street; East on Calvert Street to Lanier Place; Northeast on Lanier Place to Adams Mill Road; Northwest on Adams Mill Road, and then Northeast to Ontario Road; East on Ontario Road to Lanier Place; Northeast on Lanier Place to Quarry Road; Southeast on Quarry Road to Columbia Road; Northeast on Columbia Road to Mozart Place; South on Mozart Place to Euclid Street; East on Euclid Street to 16<sup>th</sup> Street; South on the West side of 16<sup>th</sup> Street to Florida Avenue; Southwest on Florida Avenue to U Street, and West on U Street to 18<sup>th</sup> Street, 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 ten (10). 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 ten (10). Nothing in this subsection shall prohibit the Board from approving a change of license class application that was filed with the Board by the holder of a Retailer's license Class CR or DR located within the Adams Morgan Moratorium Zone prior to August 2, 2006.

- 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 or change of a license class.
- 304.9 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.
- 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.



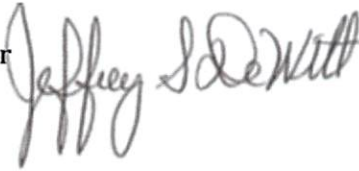
Government of the District of Columbia  
Office of the Chief Financial Officer



Jeffrey S. DeWitt  
Chief Financial Officer

**MEMORANDUM**

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

**FROM:** Jeffrey S. DeWitt  
Chief Financial Officer 

**DATE:** May 14, 2019

**SUBJECT:** Fiscal Impact Statement – Adams Morgan Moratorium Zone Approval  
Resolution of 2019

**REFERENCE:** Draft Proposed Resolution as shared with the Office of Revenue  
Analysis on April 17, 2019

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**Conclusion**

Funds are sufficient in the fiscal year 2019 budget and the proposed fiscal year 2020 through fiscal year 2023 budget and financial plan to implement the proposed resolution.

**Background**

In 2001, the District established a moratorium zone in the Adams Morgan neighborhood that prohibited the issuance of new alcoholic beverage licenses to on-premises retailers,<sup>1</sup> restaurants that serve spirits, off-premises retailers, wholesalers, and manufacturers, extending 1,400 feet in all directions from the intersection of 18<sup>th</sup> Street and Belmont Road, N.W.<sup>2</sup> This moratorium was initially imposed for three years, but it remained in place with some modifications<sup>3</sup> through March 28, 2019.<sup>4</sup> The Alcoholic Beverage Regulation Administration (ABRA) enforces this moratorium.

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<sup>1</sup> This includes class CN, CR, CT, CX, DN, DT, and DX on-premises licenses.

<sup>2</sup> Adams Morgan Liquor License Moratorium Approval Resolution of 2001, effective July 20, 2001 (Resolution 14-28; 23 DCMR § 304).

<sup>3</sup> The Adams Morgan Moratorium Zone Approval Resolution of 2015, effective June 16, 2015, exempted all restaurants and retailer's licenses Class A and B from the moratorium (Resolution 21-0130; 23 DCMR § 304).

<sup>4</sup> An emergency and proposed rulemaking approved by the Alcoholic Beverage Control Board on November 28, 2018 was the most recent extension of the modified moratorium.

The Honorable Phil Mendelson

FIS: "Adams Morgan Moratorium Zone Approval Resolution of 2019," Draft Proposed Resolution as shared with the Office of Revenue Analysis on April 17, 2019

The proposed rulemaking reestablishes the Adams Morgan Moratorium Zone for three years from the effective date of this resolution. The rules expand the Adams Morgan Moratorium Zone's reach to 1,800 feet in all directions from 2459 18<sup>th</sup> Street, N.W. to cover 400 feet more of Columbia Avenue, N.W. directly northeast of the zone.<sup>5</sup> The rules maintain license issuance exemptions for restaurants, hotels, class A and B off-premises retailers, and the existing cap of ten tavern and multipurpose facility licenses.

### **Financial Plan Impact**

Funds are sufficient in the fiscal year 2019 budget and the proposed fiscal year 2020 through fiscal year 2023 budget and financial plan to implement the proposed resolution. ABRA will enforce the reestablished and expanded moratorium on the issuance of new licenses for taverns, multipurpose facilities, and nightclubs. ABRA can absorb the costs of enforcing the Adams Morgan Moratorium Zone within their existing budgeted resources and enforcement workforce.

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<sup>5</sup> A more detailed description of the Adams Morgan Moratorium Zone can be found in 23 DCMR § 304.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE ATTORNEY GENERAL



LEGAL COUNSEL DIVISION

**MEMORANDUM**

**TO:** Alana Intrieri  
Executive Director  
Office of Policy and Legislative Affairs

**FROM:** Arthur J. Parker  
Acting Deputy Attorney General  
Legal Counsel Division

**DATE:** February 12, 2019

**SUBJECT:** Legal Sufficiency Review of Draft "Adams Morgan Moratorium Zone Approval Resolution of 2019".  
(AR-18-658)

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

A handwritten signature in blue ink, appearing to read "A. Parker". The signature is written in a cursive style and is positioned above a horizontal line.

Arthur J. Parker