

COUNCIL OF THE DISTRICT OF COLUMBIA

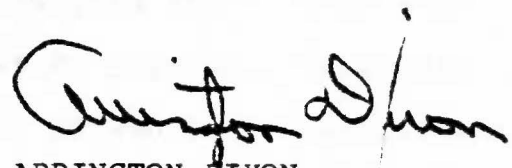
NOTICE

D.C. Law 3-146

"Alcoholic Beverage Control Board Rules of Procedures
Amendments of 1980".

Pursuant to Section 412 of the District of Columbia Self-Government and Governmental Reorganization Act, P. L. 93-198, "the Act", the Council of the District of Columbia adopted Bill No. 3-165 on first, amended first and second readings, July 29, 1980, September 16, 1980 and September 30, 1980, respectively. Following the signature of the Mayor on October 21, 1980, this legislation was assigned Act No. 3-267, published in the October 31, 1980 edition of the D.C. Register, (Vol. 27 page 4753). This act was originally transmitted to Congress on October 24, 1980, and resubmitted on January 14, 1981 for a 30-day review, in accordance with Section 602 (c)(1) of the Act.

The Council of the District of Columbia hereby gives notice that the 30-day Congressional Review Period has expired, and therefore, cites this enactment as D.C. Law 3-146, effective March 5, 1981.


ARRINGTON DIXON
Chairman of the Council

Dates Counted During the 30-day Congressional Review Period:

January 14, 15, 16, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30
February 2, 3, 4, 5, 6, 17, 18, 19, 20, 23, 24, 25, 26, 27,

D.C. LAW 3-146

EFFECTIVE DATE MAR 05 1981

AN ACT

D.C. ACT 3-267

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

OCT 21 1980

To revise the procedural rules of practice to govern hearings before the District of Columbia Alcoholic Beverage Control Board, and for other purposes.

CHAPTER II

PART 20

GENERAL PROVISIONS GOVERNING
HEARINGS BEFORE THE BOARD

- Sec. 20.1 DEFINITIONS
- Sec. 20.2 CONFLICTING PROVISIONS OF LAW
- Sec. 20.3 OTHER PERSONS MAY BE HEARD
- Sec. 20.4 NOTICE
- Sec. 20.5 TIME LIMITATIONS
- Sec. 20.6 SERVICE OF PAPERS
- Sec. 20.7 FAILURE TO APPEAR FOR HEARING
- Sec. 20.8 CONTINUANCES
- Sec. 20.9 APPEARANCE AND REPRESENTATION

Codification
D.C.M.R.

&

Note,
D.C. Code, Sec. 25-107

- Sec. 20.10 INSPECTION OF FILES; EXEMPT INFORMATION
- Sec. 20.11 COMPLETE APPLICATION REQUIRED
- Sec. 20.12 EVIDENCE AND EXAMINATION OF WITNESSES
- Sec. 20.13 BURDEN OF PROOF
- Sec. 20.14 OBJECTIONS TO EVIDENCE; EXCEPTIONS
- Sec. 20.15 OFFERS OF PROOF
- Sec. 20.16 DOCUMENTARY EVIDENCE.
- Sec. 20.17 RECORDS IN OTHER PROCEEDINGS
- Sec. 20.18 STIPULATION
- Sec. 20.19 MOTIONS PRACTICE
- Sec. 20.20 RECEIPT OF INFORMATION AFTER HEARING
- Sec. 20.21 EX PARTE COMMUNICATIONS
- Sec. 20.22 FINDINGS OF FACT AND CONCLUSIONS OF LAW
- Sec. 20.23 TRANSCRIPT OF HEARING
- Sec. 20.24 PETITION FOR RECONSIDERATION
- Sec. 20.25 MAINTENANCE OF DECORUM

PART 21

SPECIAL PROVISIONS APPLICABLE

TO PROTEST HEARINGS

- Sec. 21.1 ORDER OF APPEARANCE
- Sec. 21.2 DELINEATION OF NEIGHBORHOOD
- Sec. 21.3 RADIUS PLAT-LOCATIONS
- Sec. 21.4 RIGHT TO BE HEARD BY RESIDENTS AND NONRESIDENTS
OF NEIGHBORHOOD

- Sec. 21.5 PETITIONS
- Sec. 21.6 REAL PROPERTY WITHIN 600 FEET RADIUS
- Sec. 21.7 SOLICITOR OF SIGNATURES FOR PETITION
- Sec. 21.8 BOARD'S RECORDS
- Sec. 21.9 FINDINGS OF FACT AND CONCLUSIONS OF LAW.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,
That this act may be cited as the "Alcoholic
Beverage Control Board Rules of Procedure
Amendments of 1980".

Sec. 2. Parts 20 and 21 of Chapter II of the
Alcoholic Beverage Control Regulations, approved
July 1, 1964 (Title 3, DCRR) are amended to read
as follows:

"Section 20.1 Definitions

"For purposes of these Rules, unless the
context indicates otherwise:

"(a) Definitions contained in Chapter I, Part
I of these Rules, and in section 102 of the
District of Columbia Administrative Procedure Act,
approved October 21, 1968 (D.C. Code, sec. 1-1502)
are made a part of this Chapter.

"(b) The term 'Notice to Show Cause Hearing'
means a hearing before the Board regarding the
application of the Act (D.C. Code, sec. 25-101 et

seq.) or of these Rules to a particular licensee or applicant, including charges of alleged violations of the Act (D.C. Code, sec. 25-101 et seq.) or of these Rules. Such hearing shall be considered to be a contested case.

"(c) The term 'Protest Hearing' means a hearing before the Board, under the provisions of section 14(b) of the Act (D.C. Code, sec. 25-115(b)) in opposition to the issuance or transfer of a license under the Act (D.C. Code, sec. 25-101 et seq.) and is a contested case within the meaning of the Act (D.C. Code, sec. 25-101 et seq.).

"(d) The term 'parties' means:

"(1) To a Notice to Show Cause Hearing:

"(A) respondent, licensee,

permittee, or applicant;

"(B) Government;

"(2) To a Protest Hearing:

"(A) applicant;

"(B) protestant or remonstrant.

"Section 20.2 Conflicting Provisions of Law

"These Rules are issued in accordance with the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C.

Code, sec. 1-1501 et seq.) and in the event of any conflict between these Rules and the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code, sec. 1-1501 et seq.) the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Code, sec. 1-1501 et seq.) shall govern.

"In any conflict within these Rules, provisions of specific application shall supersede those of general application.

"Section 20.3 Other Persons May Be Heard

"The Board in its discretion may permit interested persons, other than parties as defined by Section 20.1(d), to intervene in a proceeding for such general or limited purpose as the Board may specify. A person permitted to intervene under this Section shall comply with all conditions fixed by the Board and shall not be considered a party to the proceedings.

"Section 20.4 Notice

"(a) The Board shall provide at least a thirty (30) days notice of the time and place of a hearing to be held before the board. Such notice

shall state the issues involved in the proceeding and shall apprise all parties of their right to be represented by counsel and to present evidence and argument before the Board.

"(b) Before any license under Section 11(1) of the act or a retailer's license (except retailer's license, class E or class F) is granted, the applicant shall cause to be published once a week for at least four (4) weeks in a newspaper of general circulation in the District of Columbia the following information:

"(1) The name of the applicant;

"(2) A description by street and number, or other plain designation, of the premises for which the license is desired;

"(3) The application number;

"(4) The class of license applied for; and

"(5) The delineation of the neighborhood pursuant to Section 21.2 of this Chapter, if applicable.

"Such notice shall state that remonstrants are entitled to be heard before the license will be granted and shall contain the time and place of hearing. At least thirty (30) calendar days

before the hearing, the applicant shall post at least two (2) copies of the notice in conspicuous places on the outside of the premises sought to be licensed.

"The Board shall inspect the premises at least once before the date of the hearing specified on the notice in order to ensure that the notice continues to be prominently and visibly displayed to the public.

"Section 20.5 Time Limitations

"(a) Unless otherwise stated, in computing any period of time under these Rules, the day of the event is not included. If the last day of the period is a Saturday, Sunday or legal holiday, the period shall run until the next day which is not a Saturday, Sunday, or legal holiday. When the time period is five (5) days or less, intermediate Saturdays, Sundays, and legal holidays are excluded.

"(b) Whenever a party to a proceeding under these Rules has the right, or is required to perform some act within a specified time period after the service of notice upon him, and the

notice is served upon him by mail, three (3) days shall be added to the prescribed time period.

"(c) Except as otherwise provided by law, any time period prescribed by these Rules may, for good cause shown, be extended or shortened by the Board with notice to all parties.

"Section 20.6 Service of Papers

"(a) Any papers required to be served upon a party may be served upon him or upon his designated representative. When a party has appeared through a representative, service shall be made upon the representative of record.

"(b) Service upon a party may be made by personal delivery, by registered or certified mail, by telegram, or as otherwise authorized by law.

"(c) Service upon a party is complete:

"(1) Upon handing the paper to the person to be served; or

"(2) Leaving the paper at the licensed premises with an Alcoholic Beverage Control approved manager; or

"(3) Leaving the paper at the person's usual place of residence with some individual of suitable age and discretion residing therein; or

"(4) Upon deposit by registered or certified U.S. Mail, properly stamped and addressed; or

"(5) Upon deposit with a telegraph company, properly addressed and with charges prepaid; or

"(6) By conformity with an order of the board in any proceeding; or

"(7) Upon deposit by first class U.S. Mail, properly stamped and addressed, by an attorney of record.

"(1) Proof of service, stating the name and address of the person served and the manner and date of service shall be shown by:

"(1) Written acknowledgment of the person served or his representatives; or

"(2) The certificate of the person making the service; or

"(3) A return receipt, if served by registered or certified mail; or

"(4) A receipt, if served by telegram.

"Section 20.7 Failure to Appear for Hearing

"If a party to any proceeding under these Rules shall waive hearing or, without sufficient reason therefore, fail to appear at the time and place set for such hearing, the Board may proceed without the participation of such party.

"Section 20.8 Continuances

"(a) A hearing scheduled before the Board will not be delayed by motion for a continuance unless the motion is made prior to five (5) days before the scheduled hearing date and, in the opinion of the Board, sets forth good and sufficient cause for such continuance. Conflicting engagements of counsel will not be deemed good and sufficient cause for continuance unless set forth in a motion filed promptly after notice of the hearing has been given.

"(b) The grant of a continuance pursuant to subsection (a) shall not be deemed a waiver of the requirements of Section 21.5, governing the time in which to file objections, petitions, or other pleadings pursuant to these Rules.

"Section 20.9 Appearance Representation

"(a) Personal Appearance.

"In any proceeding before the Board:

(1) an individual may appear in his own behalf;

(2) a partner of a partnership may represent the partnership if properly authorized; and

(3) an officer of a corporation or association may represent the corporation or association if authorized to do so by the Board of Directors of such corporation or association. A partner or officer appearing pursuant to paragraph (2) or (3) above may be required to establish his authority to act in such capacity.

"(b) Representation by Counsel.

"(1) A person appearing or having the right to appear before the Board in any proceeding shall have the right to representation by an attorney of their choice. These provisions shall not infringe upon the authority granted to the Board in paragraph 2 below.

"(2) If it appears to the Board that the facts or issues in a matter before it are so intricate or involved that in the interest of justice, of conserving time, or of facilitating preparation of

an adequate record, a party ought to be represented by an attorney, the board may urge such party to obtain counsel and shall allow him a reasonable time within which to do so, so long as the rights of other parties at the hearing are not substantially and adversely affected.

"(c) Notice of Appearance.

"No person may appear before the Board in a representative capacity prior to submission of a signed statement containing his name, address, occupation, telephone number, and the nature of representation. The written statement shall be made a part of the record of the proceeding.

"An attorney appearing as counsel in any proceeding shall execute a notice of appearance containing his name, office address, office telephone number, District of Columbia Bar number, and the nature of representation. In the case of law students who appear before the Board under direction of an accredited law school clinical program, the supervising attorney shall register with the Board.

"(d) Signature of Papers.

"Any person authorized to appear pursuant to subsection (a) may sign any paper required or permitted by statute, regulation, or these Rules to be filed with the Board. Any paper other than petitions, protests, or consents filed pursuant to Section 21.5 of these Rules may be signed by counsel of record.

"Section 20.10 Inspection of Files; Exempt Information

"(a) The records of the Board shall be available for inspection and copying during normal business hours at the request of any interested party or member of the public.

"(b) Notwithstanding the requirement of Section 20.11 the Board shall withhold from its files those documents and other information which are exempt from public disclosure under the Freedom of Information Act of 1976, effective March 29, 1977 (D.C. Law 1-95; D.C. Code, sec. 1-1521 et seq.), Provided, however, that all documents and other information which is relied upon to any degree by the Board, or which relates to any issue in a proceeding before it, shall be

made available to all parties and shall be entered into the record of the proceedings.

"Section 20.11 Complete Application Required

"The Board shall not schedule an application for hearing until the applicant has submitted, in writing, to the Board all information and all documents required by the Act (D.C. Code, sec. 25-101 et seq.) and these Rules.

"Section 20.12 Evidence and Examination of Witnesses

"In any proceeding before the Board, every party shall have the right to present in person, or by counsel, his case or defense by oral and documentary evidence, to submit rebuttal evidence, and to cross-examine opposing witnesses. Any member of the Board may question any witness at any time during or after examination or cross-examination subject to objection by a party. Any oral or documentary evidence may be received, but the Board, shall exclude irrelevant, immaterial, or unduly repetitious evidence. The Board may impose such time limitations on oral arguments as it deems appropriate. The Board shall afford all parties an opportunity to present oral arguments.

"Section 20.13 Burden of Proof

"The proponent of a rule or order shall have the burden of proof in any proceeding before the Board.

"Section 20.14 Objections to Evidence; Exceptions

"(a) Any party objecting to the admission of evidence shall state the grounds of the objection(s) relied upon.

"(b) Formal exceptions to the rulings of the Board made during the course of a hearing are unnecessary.

"Section 20.15 Offers of Proof

"Any offer of proof made in connection with an objection to any ruling of the Board which rejects or excludes preferred oral testimony shall consist of a statement for the record of the substance of the evidence which the party contends would be adduced by such testimony. If the excluded evidence is documentary, a copy of such written evidence shall be marked for identification and shall constitute the offer of proof. The document shall be retained by the Board as part of the record for the purposes of appeal.

"Section 20.16 Documentary Evidence

"(a) Documentary evidence offered at any hearing before the Board shall, if received by the Board, be retained by it and may be examined by any interested person pursuant to Section 20.10 of these Rules.

"(b) The Board, in its discretion, may permit the withdrawal of original documents received in evidence and the introduction of certified copies in lieu thereof.

"(c) When relevant and material matters offered in evidence are embraced in a book or other document containing other matters not material or relevant, the person offering the evidence shall plainly designate the matter offered, and the immaterial and irrelevant parts shall be excluded and shall be segregated insofar as practicable.

"Section 20.17 Records in Other Proceedings

"When any part of the record in any other proceeding before the Board, or of the record in a criminal or civil action (including proceedings before any administrative agency) is offered in evidence, a certified true copy of such part shall be presented to the Board as an exhibit unless:

"(a) the part is described in such a manner as to be readily identified and the offeror agrees to supply copies at a later time as required by the Board, or

"(b) there is a stipulation on the record that the part may be incorporated by reference and the Board directs such incorporation, or

"(c) the part is described in such a manner as to be readily identified in the files of the Board.

"Section 20.18 Stipulation

"The parties may, by stipulation in writing filed with the Board, or on the record at a hearing, agree upon any facts relevant to a proceeding, or upon the substance of the testimony which would be given by a witness. The Board, in its discretion, may require additional evidence on any matter covered by stipulation.

"Section 20.19 Motion Practice

"Unless otherwise specified, motions shall be typewritten and double-spaced, an original and three (3) legible copies shall be filed with the Board, and a copy shall be served on all other parties. Any party may file a response in

opposition to a motion within seven (7) days after service of the motion. The response shall not include a motion for other affirmative relief against the moving party. Where a party filing an opposition desires to submit such motion, it shall be done by separate pleadings. A reply may be filed within three (3) days after service of a response in opposition to a motion, but such reply shall not reargue propositions presented in the motions, nor present matters which are not strictly in reply to the opposition. No further pleading may be filed except by leave of the Board.

"Section 20.20 Receipt of Information After Hearing

"No document or other information shall be accepted for the record after the close of a hearing (1) unless all parties are afforded due notice and an opportunity to rebut such information, or (2) unless official notice of a material fact not appearing in the evidence in the record is taken in accordance with section 109 of the District of Columbia Administrative Procedure Act (D.C. Code, sec. 1-1509).

"Section 20.21 Ex Parte Communications

"(a) Where a proceeding is a contested case:

(1) A person shall not make or knowingly cause to be made to a member of the Board an ex parte communication relevant to the merits of the proceeding; and (2) no member of the Board shall make or cause to be made to any interested person outside the Board ex parte communication relevant to the merits of the proceeding.

"(b) The prohibitions provided in subsection (a) apply upon the issuance of notice of an application for an original, transfer or renewal license, or a notice to show cause hearing.

"(c) The term 'ex parte communication' includes an oral or written communication not on the record with respect to which reasonable prior notice to all parties is not given. It does not include requests for status reports on matters pending before the Board, a proceeding, or a notice of a meeting or hearing.

"Section 20.22 Findings of Fact and Conclusions of Law

"(a) The Board shall afford parties an opportunity to submit Proposed Findings of Fact

and Conclusions of Law within twenty (20) days after the transcript of the proceedings become available by written notice of the Board to each party. Proposed findings shall be typewritten and double spaced. An original and three (3) legible copies shall be filed with the Board. A copy shall be served on each party.

"(c) Within a reasonable time after the close of a proceeding, the Board shall render its written decision accompanied by findings of fact and conclusions of law. Findings of fact shall consist of a concise statement of the Board's conclusion on each contested issue of fact, and shall be based solely upon evidence contained in the record. Findings of fact and conclusions of law shall be supported by and in accordance with reliable, probative, and substantial evidence.

"Section 20.23 Transcript of Hearing

"(a) Hearings shall be recorded and transcribed under the direction of the Board. Approved transcript shall be supplied to any individual upon request and payment of the reasonable costs thereof.

"(b) Changes in the official transcript may be made only in cases of material error. A motion to correct the transcript shall be filed with the Board within ten (10) days of receipt of the transcript and copies of such motion shall be served on all parties. If no objections to such motion are filed within five (5) days after service thereof, the transcript shall be corrected by the Board. The Board shall have final authority to dispose of all motions for correction of the record.

"Section 20.24 Petition for Reconsideration

"(a) A petition for reconsideration, rehearing, or reargument may be filed by a party within ten (10) days after receipt. Neither the filing nor the granting of such petition shall operate as a stay of the final order unless specifically ordered by the Board. Such stay will be granted only upon good cause which shall consist of unusual or exceptional circumstances. Petitions shall be typewritten, and double-spaced. An original and three (3) legible copies of the petition shall be filed with the Board. A copy shall be served on every party and intervenor.

"(b) The petition for reconsideration shall state briefly the matters of record alleged to have been erroneously decided, the ground relied upon, and the relief sought. If the petition is based in whole or in part on a new matter, such matter shall be set forth in an affidavit and accompanied by a statement that the petitioner could not by due diligence have known or discovered such new matter prior to the date the case was presented to the Board for decision.

"(c) The Board, in its discretion, may permit or require oral argument upon a petition for reconsideration.

"Section 20.25 Maintenance of Decorum

"Decorum and good order shall be maintained at all times during hearings, and the Board may exclude or order the removal from the hearing room any person who refuses to comply with a reasonable order of the Board.

"Section 21.1 Order of Appearance

"At all hearings before the board, an applicant, licensee, or permit holder shall be entitled to open and close the case insofar as

presentation of evidence and argument are concerned.

"Section 21.2 Delineation of Neighborhood

"(a) Upon receipt of an application for issuance of an original license or transfer to a new location of an existing license, the Board shall promptly delineate the boundary lines of the "neighborhood" under Section 14(a)(6) of the Act (D.C. Code, sec. 25-115(a)(6)), and the applicant and Board shall in all advertisements and notices published or posted concerning said application, set forth the boundary lines of the neighborhood to the nearest public roadway, natural boundary or thoroughfare. The boundaries of the neighborhood shall be reasonably equidistant from the premises for which an application for license is filed.

"(b) Neighborhood boundary lines shall be not less than six hundred (600) feet from the lot or parcel for which the license is desired.

"(c) Subsections (a) and (b) shall not apply to applications for retailer's license class E or class F.

"Section 21.3 Radius Plat - Location

"(a) If an application for the issuance of an original license or the transfer of an existing license to a new location is protested, the Board may direct the applicant to file with the Board, a plat or survey prepared by the Office of the Surveyor of the District of Columbia, which plat shall show by lot, parcel, or otherwise, the real property located within a radius of six hundred (600) feet of the boundary line of the lot or parcel upon which is situated the establishment for which a license is desired, and said applicant shall also obtain from the Assessment Administrator, District of Columbia Department of Finance and Revenue, a list of the names and addresses of the owners of property within said radius, as shown on the records of the Assessor. Such list shall be prima facie evidence of ownership.

"(c) Subsection (a) shall not apply to an application for a retailer's license class C or class D issued for a hotel or club, a retailer's license class L issued for a club, or a retailer's license class B or class E.

"Section 21.4 Right to be Heard by Residents and Nonresidents of Neighborhood

"At any proceeding before the Board on an application for issuance or reissuance of a license, or transfer of a license to a new person or location, the Board shall hear all persons residing within and without the neighborhood who desire to be heard.

"Section 21.5 Petitions

"(a) Objections or Consents Filed Pursuant to Section 14(a)(5) of the Act (D.C. Code, sec. 25-115(a)(6)). Petitions in support of or in opposition to the issuance of a license or transfer of a license to a new person or location shall be filed with the Board at least five (5) calendar days prior to the date of an original or rescheduled hearing specified in the published or posted notice, and shall set forth the following information:

"(1) the name of the applicant or licensee;

"(2) the address for which the license is desired;

"(3) the class of license requested;

"(4) the applicant number;

"(5) a brief summary of the reasons for support of or opposition to the granting of the license, provided that participation in Board proceedings is not limited by such summary; and

"(5) the name, and address of each petitioner, accompanied by his handwritten signature.

"(b) Objections or Consents Filed Pursuant to Section 14(c) of the Act (D.C. Code, sec. 25-115(c)). Petitions filed by persons in support of or in opposition to the issuance of a license or the transfer of a license to a new location shall be filed with the Board at least five (5) calendar days prior to the date of an original or rescheduled hearing specified in the published or posted notice, and in addition to the information required by subsection (a), shall contain the following:

"(1) the street address and lot or parcel of property owned by petitioner(s) and claimed to be within a radius of six hundred (500) feet of the boundary lines of the property upon which is located the establishment for which a license is desired; and

"(2) the handwritten signature of each petitioner claiming ownership of the property located within a six hundred (500) feet radius. Each person must sign his name in the manner and form in which the ownership of said property appears in the official records of the District of Columbia.

"(c) Forms for the filing of petitions shall be available at the Office of the Board.

"Section 21.5 Real Property within 600 Feet Radius

"(a) Where a petition is filed pursuant to Section 21.5(b), and the property claimed to be within the six hundred (500) feet radius is held in joint tenancy or tenancy by the entirety, the signatures of all joint tenants are required to bind the property. Where the owners of said property hold as tenants in common, the signature of an owner shall be deemed to bind only that owner's proportionate interest in the property.

"(b) If any signature on a petition filed pursuant to Section 21.5(b) is not in the manner and form in which the ownership of the property appears in the official records of the District of Columbia, the Board shall permit proof that such

signature is in fact the signature of the property owner.

"Section 21.7 Solicitor of signatures for Petition

"If any person has solicited signatures for any petition filed under these Rules, he shall disclose his identity to the Board and shall file, on or before the date of the hearing, a written affidavit stating:

"(1) that he has volunteered to obtain signatures for said petition(s) or that he has been employed for the purpose of obtaining signatures and the identity of his employer;

"(2) that the signatures and addresses appearing on the petition(s) are believed by him to be genuine signatures and correct addresses of the persons claiming to own or reside on the property; and

"(3) whether the signatures were voluntarily given or whether anything of value was offered or given therefore.

"Section 21.8 Board's Records

"(a) All petitions filed under these Rules shall be considered part of the record and shall be available for public inspection.

"(b) Petitions filed pursuant to Section 21.5 shall not be withdrawn after the date of hearing.

"(c) The Board will, upon request, notify any party whether petitions have been received.

"Section 21.9 Findings of Fact and Conclusions of Law

"within a reasonable time after the close of a proceeding, the Board shall issue its written decision as required by the Act (D.C. Code, sec. 25-101 et seq.) and Section 20.22 of these Rules, and the accompanying findings of fact and conclusions of law shall include, but not be limited to, the following:

"(a) the boundaries of the neighborhood;

"(b) the appropriateness of the location for which the license is desired, considering the character of the premises, its surroundings, and the wishes of the persons owning property or residing in the vicinity;

"(c) a finding as to the wishes of neighborhood property owners under Section 14(c)

of the Act (D.C. Code, sec. 25-115(c)) if applicable; and

"(d) a finding as to the applicability of Section 2.2 of these Rules."

Sec. 3. Section 2.2(b) of Part 2 of Chapter I of the Alcoholic Beverage Control Regulations, approved July 14, 1964 (Title 3, DCRR) is amended to read as follows:

"(b) Said distance shall be measured between the nearest street entrance to said place of business and the nearest street main entrance to said college, university, or recreation area, or the nearest property line of said school or church, by the shortest line between such entrances on, over, or across any public traveled way or public park or parking. This subsection shall not apply where the main entrance to said college, university, or recreation area, or the nearest property line of said school or church, itself is actually on or occupies ground zoned commercial or industrial according to the official atlases of the Zoning Commission of the District of Columbia."

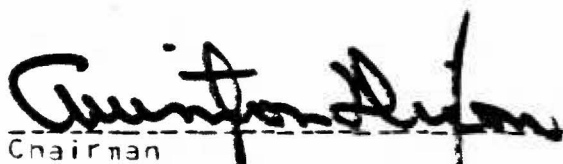
Sec. 4. Section 14(b) of the District of Columbia Alcoholic Beverage Control Act, approved August 25, 1937 (50 Stat. 802; D.C. Code, sec. 25-115(b)) is amended to read as follows:

"(b) Before granting a license under Section 11(1) of this Act (D.C. Code, sec. 25-111(1)) or a retailer's license, except a retailer's license class E or class F, the Board shall give notice by advertisement published once a week and for at least four (4) weeks in some newspaper of general circulation published in the District of Columbia. The fee for such publication shall be paid by the applicant at the time of the filing of such application. The advertisement so published shall contain the name of the applicant and a description by street and number, or other plain designation, of the particular location for which the license is requested and the class of license desired. Such notice shall state that remonstrants are entitled to be heard before the granting of such license and shall name the time and place of such hearing. There shall be posted by the applicant two (2) notices, for four (4) weeks, in a conspicuous place, on the outside of


the premises. These notices shall state that remonstrants are entitled to be heard before the granting of such license and shall name the same time and place for such hearing as set out in the public advertisement; and, if remonstrance against the granting of such license is filed, no final action shall be taken by the Board until the remonstrant shall have had an opportunity to be heard, under rules and regulations prescribed by said Board. Any person willfully removing, obliterating, marring, or defacing said notices shall be deemed guilty of a violation of this Act (D.C. Code, sec. 25-101 et seq.). The provisions of this subsection relating to notice by advertisement in some newspaper of general circulation shall not apply to the issuance of a license to a retailer for any place of business if such retailer is the holder of a license of the same class for the same place and if said last-mentioned license is in effect on the date the application for the new license is filed."

Sec. 5. This act shall take effect sixty (60) days after a thirty (30) day period of Congressional review following approval by the

Mayor (or in the event of veto by the Mayor, action by the Council of the District of Columbia to override the veto) as provided in section 502(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 813; D.C. Code, sec. 1-147(c)(1) and shall apply to all cases.



Chairman
Council of the District of Columbia



Mayor
District of Columbia

APPROVED: October 21, 1980

COUNCIL OF THE DISTRICT OF COLUMBIA

RECORD OF OFFICIAL COUNCIL ACTION

DOCKET NO: B 3-165

ACTION: Adopted First Reading (7-29-80)

VOICE VOTE: Unanimous

Absent: Moore

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.Y.	A.A.	COUNCIL MEMBER	AYE	NAY	N.Y.	A.A.	COUNCIL MEMBER	AYE	NAY	N.Y.	A.A.
DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE					WILSON				
HARDY					RAY									
TARVIS					ROLARK									

CERTIFICATION OF RECORD

John P. Brown
Secretary to the Council

ACTION: Amended First Reading (9-16-80)

VOICE VOTE: Unanimous

Absent: all present

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.Y.	A.A.	COUNCIL MEMBER	AYE	NAY	N.Y.	A.A.	COUNCIL MEMBER	AYE	NAY	N.Y.	A.A.
DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE					WILSON				
HARDY					RAY									
TARVIS					ROLARK									

CERTIFICATION OF RECORD

John P. Brown
Secretary to the Council

ACTION: Adopted Final Reading (9-30-80)

VOICE VOTE: Unanimous

Absent: all present

ROLL CALL VOTE:

COUNCIL MEMBER	AYE	NAY	N.Y.	A.A.	COUNCIL MEMBER	AYE	NAY	N.Y.	A.A.	COUNCIL MEMBER	AYE	NAY	N.Y.	A.A.
DIXON					KANE					SHACKLETON				
WINTER					MASON					SPAULDING				
CLARKE					MOORE					WILSON				
HARDY					RAY									
TARVIS					ROLARK									

CERTIFICATION OF RECORD

John P. Brown
Secretary to the Council