

Regulation No. 74-37



Disapproved \_\_\_\_\_  
Enactment Date \_\_\_\_\_

# Regulation

of the

## District of Columbia

**TITLE** REGULATION GOVERNING THE LICENSURE OF FUNERAL SERVICES ESTABLISHMENTS, FUNERAL DIRECTORS AND EMBALMERS, AND APPRENTICE FUNERAL DIRECTORS AND EMBALMERS  
Councilman Tedson I. Meyers Presents the following regulation:

1 WHEREAS, under Section 2344a of Title 47 of the D. C. Code the Council  
2 is authorized to adopt rules and regulations regarding the licensure and practice  
3 of funeral directing; and  
4

5 WHEREAS, the Board of Funeral Directors and Embalmers has requested the  
6 Council to revise and modernize the existing regulations governing the licensure  
7 and practice of funeral directing; and  
8

9 WHEREAS, District consumer groups, community groups, the D. C. Office  
10 of Consumer Affairs, and representatives of industry have urged the Council to  
11 include in the proposed regulation various consumer protections, including price  
12 disclosures, itemization of charges, and other protections and disclosures; and  
13

14 WHEREAS, the Council finds that the inclusion of such consumer provisions  
15 is necessary to protect the interest and property of District of Columbia customers  
16 for funeral services,  
17

18 NOW, THEREFORE, BE IT ENACTED by the District of Columbia Council that:  
19

20 SECTION 1. The District of Columbia Council hereby adopts the following  
21 regulation, to be known as the Licensure of Funeral Services Establishments,  
22 Funeral Directors and Embalmers, and Apprentice Funeral Directors and Embalmers  
23 Regulation:  
24

| RECORD OF COUNCIL VOTE |     |     |      |      |      |            |     |     |      |      |      |            |     |     |      |      |      |
|------------------------|-----|-----|------|------|------|------------|-----|-----|------|------|------|------------|-----|-----|------|------|------|
| COUNCILMAN             | AYE | NAY | N.V. | A.B. | R.A. | COUNCILMAN | AYE | NAY | N.V. | A.B. | R.A. | COUNCILMAN | AYE | NAY | N.V. | A.B. | R.A. |
| NEVIUS                 |     | X   |      |      |      | FOSTER     |     | X   |      |      |      | PARKER     | X   |     |      |      |      |
| TUCKER                 |     |     |      | X    |      | MEYERS     | X   |     |      |      |      | ROBINSON   | X   |     |      |      |      |
| FORD                   |     |     |      | X    |      | MOORE      |     | X   |      |      |      | SELDEN     | X   |     |      |      |      |

X—Indicates Vote    A. B.—Absent    N. V. Not Voting    R. A.—Readopted

Submitted on first reading at a meeting of the District of Columbia City Council on November 19, 1974

Adopted on second and final reading December 3, 1974

Presented to the Mayor-Commissioner December 4, 1974  
Date

*Edward B. Wohl*  
Secretary of the City Council

Approved \_\_\_\_\_  
Mayor-Commissioner

\_\_\_\_\_  
Date

Enacted W/O signature of the Mayor according to ten day limitation rule:

\_\_\_\_\_  
Date

Disapproved and returned to the City Council

*Tedson I. Meyers*  
Mayor-Commissioner

13 DEC 1974  
Date

Readopted \_\_\_\_\_  
Date

I hereby certify that this regulation is true and adopted (or readopted) as stated therein.

*Edward B. Wohl*  
Secretary of the City Council

## 1 "Title I - SCOPE OF REGULATIONS

2  
3 The scope of the regulations in this chapter extends to (1) the examination,  
4 licensure, registration, and regulation of persons who, in the District of Columbia,  
5 practice as undertakers or apprentice undertakers, and (2) the licensure and regu-  
6 lation of funeral services establishments.  
7

8  
9 Title II - DEFINITIONS

10 As used in this chapter, the following terms shall mean:

11  
12 "Apprentice undertaker": a person licensed by the District to engage in  
13 learning to discharge the duties of an undertaker by performing such duties under  
14 the supervision of an undertaker duly licensed by the District;

15 "Board": the Board of Funeral Directors and Embalmers;

16 "Commissioner": the Commissioner of the District of Columbia;

17 "Customer": a person who makes arrangements with a funeral services estab-  
18 lishment for the care and disposition of the body of a deceased person;

19 "Dead Body": the dead body of a human being or any part thereof;

20 "District": the District of Columbia;

21 "Division": the Occupational and Professional Licensing Division of the  
22 Department of Economic Development;

23 "Funeral Services Establishment", "Funeral Home", "Mortuary", "Funeral  
24 Chapel", means any place or premises devoted to or used in the care and prepara-  
25 tion for funeral, burial, or transportation of dead human bodies, consisting of a  
26 chapel or room in which funeral services, including visiting hours prior to services,  
27 may be conducted, and a preparation room equipped and arranged as required by the  
28 health laws of the District of Columbia.

29 "Full-time employee": a person whose primary occupation is employment in  
30 an undertaking establishment as an undertaker duly licensed by the District;

31 "License": a license which entitles the holder thereof to practice in the  
32 District either as an undertaker or an apprentice undertaker, as the case may be; or  
33 a license which permits a person, partnership, or corporation to own and operate a  
34 funeral services establishment;

35 "Owner": any person, firm, corporation, company, association, or partner-  
36 ship owning an undertaking establishment;

37 "Person": a natural person, firm, corporation, company, association, or  
38 partnership;

39 "Practice of undertaking": engaging in the care and/or the practice of disin-  
40 fecting and preparing by embalming or otherwise the human dead for the funeral  
41 service, transportation, burial or cremation. It shall also mean making arrangements  
42 for funeral services and/or selling funeral supplies including accouterments to the  
43 public and/or making financial arrangements for the rendering of such services and/or  
44 the sale of such supplies whether for present or future need;

45 "Undertaker": a person licensed by the District to perform those services  
46 directly affecting the care and preparation of a dead body for burial or cremation.  
47 As used in these Regulations, the term "Undertaker" includes mortician, funeral  
48 director and an embalmer as they relate to licensure in jurisdictions where these  
49 categories are licensed separately.  
50

51  
52  
53 Title III - LICENSE REQUIREMENTS54 Section 1. License required.

55  
56 (a) No person shall, in the District, perform any of the duties of an under-  
57 taker or apprentice undertaker, unless such person is the holder of a current license  
58 issued in accordance with the Act of Congress approved August 1, 1974 (Section  
59 47-2344a, D. C. Code, 1973 Edition), and these regulations.  
60



1 (b) No funeral services establishment licensee shall permit a person in his  
2 employ or under his supervision to perform, within the District, any of the duties of  
3 an undertaker or an apprentice undertaker unless the person performing such duties  
4 is the holder of a current license issued in accordance with the Act of Congress  
5 approved August 1, 1947, (Section 47-2344a, D. C. Code, 1973 Edition) and these  
6 regulations, or is under the direct supervision, when performing those duties, of  
7 a holder of a current undertaker's license or apprentice undertaker's license. This  
8 prohibition does not extend to employees whose duties are limited to the business  
9 management side of the establishment.

10  
11 (c) No person shall operate a funeral services establishment in the District  
12 of Columbia without obtaining a D. C. Funeral Services Establishment License from  
13 the Board. If the establishment has more than one location, a separate license shall  
14 be required for each location.

15  
16 Section 2. Persons not eligible for licensure. No person shall be eligible  
17 to receive a license to practice as an undertaker or apprentice undertaker in the  
18 District, if he is employed on a part-time or full-time basis as a nursing home atten-  
19 dant, hospital orderly, morgue attendant, or an ambulance driver not employed by an  
20 undertaking establishment.

21  
22 Section 3. Use of license by others. No person holding a license as an  
23 undertaker or an apprentice undertaker, or funeral services establishment licensee,  
24 shall suffer, permit, or allow any other person to use or practice under such license.

25  
26 Section 4. The fee. The fee for a funeral services establishment license  
27 shall be established by the Council upon the recommendation of the Commissioner.

28  
29  
30 Title IV - COMPOSITION AND DUTIES OF THE BOARD OF FUNERAL DIRECTORS AND  
31 EMBALMERS

32  
33 Section 1. Composition of the Board.

34  
35 (a) The Board of Funeral Directors and Embalmers shall consist of five members  
36 and five alternate members. Two members and two alternate members shall be  
37 representatives of District of Columbia consumers and shall have no financial interest  
38 in and no occupational affiliation with the undertaking profession. Two members and  
39 two alternates shall be representatives of the undertaking profession who meet the  
40 selection criteria set forth in Section 2344a (d) (2) of the D. C. Code, 1973 Edition.  
41 The fifth member shall be the Director of the Department of Human Resources or his  
42 designee. Upon effective date of this regulation, all new appointees shall be  
43 appointed by the Commissioner with the advice and consent of the Council, and all  
44 shall be residents of the District of Columbia.

45  
46 (b) Each alternate member of the Board shall serve on the Board and attend  
47 Board meetings in the absence of the Board member for whom he or she is the alter-  
48 nate, and, when serving in such capacity, exercise all the rights and privileges of  
49 the absent member. When serving in such capacity, alternate members shall be  
50 compensated in accordance with the rules and conditions specified by the Commissioner.

51  
52 Section 2. Duties of the Board.

53  
54 The duties of the Board shall be as follows:

55  
56 (a) Licensing. The Board shall serve as the licensing authority to carry out  
57 the licensing of undertakers, apprentice undertakers, and funeral services establish-  
58 ments.

1 (b) Investigations and inspections. The Board shall, at its discretion or  
 2 upon complaint, conduct or authorize investigations of persons holding funeral  
 3 services establishment licenses, undertaker licenses, or apprentice undertaker  
 4 licenses.

5  
 6 (c) Enforcement. The Board shall implement the remedies and enforcement  
 7 powers provided in Section 3 of this Title.

8  
 9 (d) Rulemaking. The Board shall establish, pursuant to the D. C.  
 10 Administrative Procedures Act (Title I, chapter 15 of the D. C. Code) and Title 5 DD  
 11 of the District of Columbia Rules and Regulations, the necessary rules to carry out  
 12 the provisions of this regulation.

13  
 14 Section 3. Remedies and Enforcement.

15  
 16 (a) Complaint Handling Procedures. Any person or class of persons with a  
 17 complaint against a person licensed as an undertaker, apprentice undertaker, or  
 18 funeral services establishment licensee, may file such a complaint with the Board,  
 19 with the Department of Economic Development, or with the Office of Consumer  
 20 Affairs. Copies of all complaints shall be forwarded to the appropriate division  
 21 of the Department of Economic Development, which shall within five days of receipt  
 22 refer all complaints to the Office of Consumer Affairs for investigation and pre-  
 23 liminary action consistent with Commissioner's Order No. 73-225. Upon completion  
 24 of investigation and appropriate action on each complaint, the Office of Consumer  
 25 Affairs shall file with the Board a report of its findings, action, and recommendations.  
 26 When a complaint remains unresolved, after mediation by the Office of Consumer  
 27 Affairs, or when that Office determines that enforcement action by the Board, as  
 28 provided in paragraph (b) below, is appropriate, or when a pattern of complaints  
 29 arises against a person, the Office of Consumer Affairs shall make specific  
 30 recommendations for action by the Board.

31  
 32 (b) Board action on complaints. Upon recommendation by the staff of the  
 33 Department of Economic Development, or the Office of Consumer Affairs, on Board  
 34 initiative, or in response to a petition filed by a complainant or class of com-  
 35 plainants who failed to obtain relief pursuant to paragraph (a) above, the Board  
 36 may:

- 37  
 38 (1) Deny, suspend, revoke or refuse to renew any license issued  
 39 pursuant to Section 2344a of the D. C. Code or this regulation;  
 40  
 41 (2) Issue a cease and desist order against persons the Board determines  
 42 to be in violation of Section 2344a of the D. C. Code or this  
 43 regulation;  
 44  
 45 (3) Refer the complaint, when the Board determines that immediate legal  
 46 action is necessary, to the Corporation Counsel, who shall seek  
 47 restraining action, including temporary or permanent injunctions, or  
 48 initiate other appropriate legal action.

49  
 50  
 51 Title V - QUALIFICATIONS, APPLICATIONS, AND EXAMINATION FOR LICENSURE

52  
 53 Section 1. Qualifications for licensure.

54  
 55 (a) For an undertaker's license by examination. An applicant for a license  
 56 by examination to practice as an undertaker in the District must furnish satisfactory  
 57 proof to the Board that he has the following qualifications:

- 58  
 59 (1) Is at least twenty-one years of age.  
 60



1 (2) Is a citizen of the United States.

2  
3 (3) Is of good moral character.

4  
5 (4) Is a graduate of a recognized high school or possesses equivalent  
6 education as certified by the D. C. Board of Education.

7  
8 (5) Is a graduate of a school or college of embalming whose course of  
9 instruction is not less than nine months, comprising not less than eight hundred  
10 and forty hours of study.

11  
12 (6) Has had not less than two years of practical experience as an  
13 apprentice undertaker, including the actual embalming of at least twenty-five dead  
14 bodies and the actual conducting or directing of at least twenty-five funerals. Such  
15 experience shall be verified by a sworn affidavit from each undertaker under whose  
16 supervision the undertaking duties were performed, indicating the number of dead  
17 bodies embalmed by the applicant and the number of funerals conducted or directed  
18 by him during the period of apprenticeship served under the supervision of said  
19 undertaker.

20  
21 (7) Has passed such theoretical and practical examination as the Board  
22 may require.

23  
24 (8) Has paid all required fees.

25  
26 (b) For an undertaker's license by reciprocity. An applicant for a license by  
27 reciprocity to practice as an undertaker in the District must furnish satisfactory  
28 proof to the Board that he has the following qualifications:

29  
30 (1) Has been duly licensed as an undertaker in another state or territory  
31 of the United States wherein the requirements for licensure are equal to, or exceed,  
32 those in effect in the District,

33  
34 (2) Is currently holding a license in good standing as an undertaker in  
35 another state or territory of the United States,

36  
37 (3) Meets the qualifications specified in Subsections (1), (2), (3), and  
38 (8) of Title V, Section 1 (a) of these Regulations; provided, however, that the Board  
39 shall not grant an undertaker's license, without examination, unless the state or  
40 territory in which said person is currently licensed as an undertaker, shall, under  
41 like conditions, grant an undertaker's license, without examination, to an undertaker  
42 duly licensed in the District.

43  
44 (c) For an apprentice undertaker's license. An applicant for a license to  
45 practice as an apprentice undertaker in the District must furnish satisfactory proof  
46 to the Board that he has the following qualifications:

47  
48 (1) Is at least eighteen years of age.

49  
50 (2) Is a citizen of the United States.

51  
52 (3) Is of good moral character.

53  
54 (4) Is a graduate of a recognized high school or possesses equivalent  
55 education as certified by the D. C. Board of Education.

56  
57 (5) Has paid all required fees.

58  
59  
60

1 (d) For a funeral services establishment license. An applicant for a funeral  
2 services establishment license shall furnish satisfactory proof to the Commissioner  
3 or his designee that he is fully acquainted with District and Federal law relative  
4 to the practice of funeral directing and embalming.  
5

6 Section 2. Application procedures for undertaker or apprentice undertaker  
7 license.  
8

9 (a) Filing of application. Each applicant for a license as an undertaker or  
10 apprentice undertaker, shall duly file with the Commissioner an application at time  
11 of filing.  
12

13 (b) Photograph of applicant required. Each application for an undertaker's  
14 license or apprentice undertaker's license shall be accompanied by a recent photo-  
15 graph of the applicant's face, measuring approximately 1" x 1 1/2".  
16

17 (c) Application to be notarized. Each application for an undertaker's license  
18 or apprentice undertaker's license shall be sworn to before a notary public.  
19

20 (d) Application not duly made. The Board shall review and take action on all  
21 duly made applications within a reasonable time after filing. However, the applicant  
22 for an undertaker's license or apprentice undertaker's license has upon him the burden  
23 of proving that he meets the qualifications required for obtaining the license desired.  
24 The Board may not presume qualifications not shown on the application. The Board  
25 may refuse to act on an application and may require the applicant to submit additional  
26 information, if the application contains incomplete, evasive, or insufficiently sup-  
27 ported assertions where supporting evidence is required.  
28

29 (e) False statements, disqualification. The Board may, after notice and  
30 opportunity for hearing, disqualify the application of an applicant for an undertaker's  
31 license or an apprentice undertaker's license, (a) if the applicant has knowingly  
32 made or allowed to be made on his behalf, either to the Board or to any officer or  
33 employee of the District of Columbia, any false or misleading statements in connec-  
34 tion with his application; or (b) if the applicant has attempted improperly to influence  
35 any member of the Board or officer or employee of the District of Columbia in the  
36 discharge of his duties relating to the application of the applicant. At the discretion  
37 of the Board, any applicant whose application has been so disqualified may reapply  
38 for the license desired.  
39

40 (f) Application for an undertaker's license by examination. Each applicant  
41 for an undertaker's license by examination shall file his application not later than  
42 thirty days prior to the date of the examination for which he desires to sit. The  
43 Commissioner shall notify each applicant of the Board's action with respect to his  
44 eligibility to take the examination. At least ten days prior to the examination, the  
45 Commissioner shall notify each eligible applicant of the time and place of examination.  
46

47 Section 3. Each applicant for a funeral services establishment license shall  
48 duly file an application as prescribed by the Board.  
49

50 Section 4. Examination for an undertaker's license.  
51

52 (a) Examination, frequency, place. The Board shall conduct in the District  
53 at least one examination each year for license as an undertaker. The Board may,  
54 however, schedule such additional examinations as it determines to be necessary.  
55 The Board shall fix the time and place for each examination.  
56  
57  
58  
59  
60



1 (b) Nature of examination. The examination administered to applicants for  
2 an undertaker's license shall consist of three parts:

- 3  
4 (1) Written examination  
5  
6 (2) Oral examination  
7  
8 (3) Practical demonstration  
9

10 (c) Waiver of written portion of examination. The Board may waive the written  
11 portion of the examination required by Title V. Sec. 1 (a) (7) of these Regulations,  
12 if an applicant for an undertaker's license by examination has previously passed the  
13 written examination of such national funeral service examining board as is accept-  
14 able to the Board.  
15

16 (d) Content of examination.

17  
18 (1) The written portion of the exam ination shall consist of questions  
19 relating to embalming, anatomy, pathology, bacteriology, chemistry, restorative  
20 art, and mortuary administration.  
21

22 (2) The oral portion of the exam ination shall consist of questions relating  
23 to District laws and regulations governing the licensing of undertakers, including,  
24 but not limited to, the following:

- 25  
26 (i) Title 2, Ch. 2, D. C. Code, 1973 Edition.  
27  
28 (ii) Title 6, Sections 102 and 115, D. C. Code, 1973 Edition.  
29  
30 (iii) Title 22, Section 3103, D. C. Code, 1973 Edition.  
31  
32 (iv) Title 27, Ch. 1, D. C. Code, 1973 Edition.  
33  
34 (v) Title 47, Section 2344a D. C. Code, 1973 Edition.  
35  
36 (vi) Title 47, Section 2347, D. C. Code, 1973 Edition.  
37

38 (3) The practical demonstration portion of the examination shall involve  
39 a demonstration by the applicant of his knowledge and skill in preparing, preserving,  
40 and caring for a dead body.  
41

42 (e) Conditions for administering examination. Except as otherwise provided  
43 in Title V, Section 4(c) of these Regulations, the written portion of the examination  
44 for an undertaker's license shall be administered to applicants in the presence of  
45 one or more members of the Board or an employee of the District of Columbia  
46 designated by the Board. The oral portion of the examination and the practical  
47 demonstration portion of the examination shall be administered to applicant in the  
48 presence of two or more members of the Board, at least one of whom shall be a  
49 practicing undertaker.  
50

51 (f) Examination Procedure and Infractions.

52  
53 (1) The examination shall be administered to applicants for an undertaker's  
54 license in accordance with the examination procedures established by the Board.  
55 Each applicant shall be fully advised of the examination procedures prior to the  
56 examination and a copy of the procedures shall be posted where the applicant may  
57 inspect them.  
58  
59  
60

## REGULATION 74-37

8  
of 14

1 (2) At the discretion of the examiner in charge, any applicant may be  
2 excluded from the examination for violating the examination procedures. An appli-  
3 cant who is deemed guilty of dishonesty during an examination may be excluded by  
4 the Board from future examinations. Each applicant shall be fully advised of the  
5 penalties which may be imposed for infractions of the examination procedures and  
6 a copy of the schedule of penalties shall be posted where the applicant may inspect  
7 them.

8  
9 (g) Scoring of examination. A composite score of 70 is required for eligibility  
10 for license as an undertaker in the District of Columbia. Such composite score will  
11 be computed as follows: 40% of the actual score attained on the written examination  
12 plus 40% of the actual score attained on the practical portion of the examination  
13 plus 20% of the actual score attained on the oral portion of the examination. Appli-  
14 cants not subject to taking a written examination conducted by the Board through  
15 waiver under the provisions of Title V, Section 4(c) of these Regulations shall take  
16 only the oral and practical sections of the Board's examination. Licensed apprentice  
17 undertakers who lack only the completion of twenty-four months of supervised appren-  
18 ticeship, take the examination for license as undertaker but such license will not be  
19 issued until completion of the apprenticeship requirements. Nothing contained in  
20 this Section shall be construed as entitling an applicant to apply and sit for second  
21 and subsequent examinations without payment of additional fees for such examinations.

22  
23 (h) Notification of examination results. The Commissioner shall notify each  
24 applicant of the examination results as determined by the Board.

25  
26 (i) Examination material property of Board. All written questions and other  
27 written material used in any examination for an undertaker's license shall remain the  
28 property of the Board and shall be returned at the time each applicant turns in his  
29 answers to the examination questions.

30  
31 (j) Second and subsequent examinations. An applicant for an undertaker's  
32 license who fails to pass his first examination shall be permitted to take two sub-  
33 sequent examinations, upon making application therefor. An applicant who has failed  
34 three examinations shall be permitted to take a fourth examination only after present-  
35 ing satisfactory proof to the Board that he has, since failing his third examination,  
36 taken a refresher course of not less than thirty hours of study, at a recognized school  
37 or college of embalming.

38  
39  
40 Title VI - ISSUANCE AND RENEWAL OF LICENSE FOR UNDERTAKERS AND APPRENTICE  
41 UNDERTAKERS AND FUNERAL SERVICES ESTABLISHMENTS

42  
43 Section 1. License to be issued. A license to practice in the District as either  
44 an undertaker or an apprentice undertaker, or to operate a funeral services establish-  
45 ment in the District of Columbia, shall be issued to each applicant who meets all of  
46 the requirements for such a license. The Board shall certify the name of each such  
47 applicant to the Commissioner.

48  
49 Section 2. Commissioner to prepare and issue license. The Commissioner  
50 shall prepare and issue a license for each duly qualified applicant certified to him  
51 by the Board.

52  
53 Section 3. Annual renewal required. Every license in good standing issued  
54 in accordance with the Act of Congress approved August 1, 1947; (Section 47-2344a,  
55 D. C. Code, 1973 Edition), and this regulation shall expire on the 31st day of  
56 October of each year and must be renewed annually in order to remain in good standing.  
57 On or before the 30th day of September of each year, the Commissioner shall mail  
58 an application for renewal to the last known address of each person holding a license  
59  
60



1 in good standing; Provided, that the Commissioner's failure to mail or the failure of  
2 the licensee to receive the said application shall not obviate the necessity for such  
3 licensee to secure his license for the new license year.

4  
5 Section 4. Filing of renewal application. Each person holding a license in  
6 good standing issued in accordance with the Act of Congress approved August 1,  
7 1947 (Section 47-2344a, D. C. Code, 1967 Edition), and this regulation shall file  
8 with the Commissioner, on or before the 31st day of October of each year, an appli-  
9 cation for renewal of his license, accompanied by the proper fee.

10  
11 Section 5. Issuance of annual renewal. Except as otherwise provided by Title  
12 VII, Section 3 of these Regulations, each year, upon receipt of a renewal application  
13 and the proper fee, and upon verifying the absence of any reason for withholding  
14 renewal, the Commissioner shall issue a renewal of the license concerned, for the  
15 period beginning November 1 of that year and ending October 31 of the following year.

16  
17 Section 6. Lapse of license. If any person holding an undertaker's license,  
18 an apprentice undertaker's license, or a funeral services establishment license,  
19 should fail to file an application for renewal and to pay the proper fee on or before  
20 the 31st day of October of any year, and after November 1 of that year performs, in  
21 the District, the duties of an undertaker or apprentice undertaker or operates a funeral  
22 establishment, as the case may be, such person may be found in violation of Section  
23 1 (a) of Title II of this regulation.

24  
25 Section 7. Restoration of a lapsed license. In the event that a person who  
26 has permitted his undertaker's license, apprentice undertaker's license, or funeral  
27 services establishment license to lapse in the manner specified in Section 6 of this  
28 title subsequently files an application for renewal of such license, the Board shall  
29 fix the terms and conditions, not inconsistent with the law and these regulations,  
30 for restoration of the lapsed license, including, at the discretion of the Board, the  
31 passing of an examination.

#### 32 33 34 Title VII - TERMS AND CONDITIONS FOR APPRENTICESHIP

35  
36 Section 1. Apprenticeship to be served under District licensed undertaker.  
37 No person licensed by the District as an apprentice undertaker shall count toward  
38 his two-year term of apprenticeship required for undertaker licensure any period not  
39 served under the supervision of a District licensed undertaker who is the owner of  
40 or is a full-time employee of the undertaking establishment where such apprentice  
41 undertaker is employed.

42  
43 Section 2. At least one year of apprenticeship to be served in the District.  
44 In order to qualify for an undertaker's license in the District, an apprentice under-  
45 taker must serve at least one of his two years of required apprenticeship within the  
46 District and under the supervision of a District licensed undertaker. Such apprentice  
47 undertaker may, however, serve up to one year of his required apprenticeship outside  
48 of the District, provided that such period of apprenticeship is served under the super-  
49 vision of a District licensed undertaker.

50  
51 Section 3. Renewal of apprentice undertaker's license limited. Every appren-  
52 tice undertaker's license issued on or after the effective date of these Regulations  
53 may be renewed no more than four times. Prior to expiration of the second annual  
54 renewal period following issuance of an apprentice undertaker's license, said  
55 apprentice undertaker shall submit evidence satisfactory to the Board of his plans  
56 for completing the required specialized education specified in Title V, Section 1 (b)  
57 of these Regulations, before the expiration of the fourth annual renewal period  
58 following issuance of his apprentice undertaker's license. If an apprentice undertaker  
59 fails to submit such evidence, the Board may, at its discretion, refuse to issue the  
60 third annual renewal of his apprentice undertaker's license. In any event, each

1 apprenticeship period shall terminate upon expiration of the fourth annual renewal  
 2 period of the apprentice undertaker's original license, and no person shall be  
 3 permitted to serve more than one such apprenticeship period.

4  
 5 Section 4. Exemption from limitation. Nothing contained in Section 3 of this  
 6 title shall be construed as applying to any person holding an apprentice undertaker's  
 7 license in good standing issued prior to January 1, 1965, provided, however, that any  
 8 failure by such a person to renew annually his apprentice undertaker's license in  
 9 accordance with these Regulations shall serve to automatically terminate his exemp-  
 10 tion from the provision of said Section. If deemed useful, the Board may adopt an  
 11 additional title for apprentices licensed prior to January 1, 1965 to distinguish them  
 12 from those subsequently licensed.

13  
 14 Section 5. Apprentice to notify Commissioner of termination of employment.  
 15 Every District licensed apprentice undertaker employed in such capacity within the  
 16 District shall, within five days after severing such employment, notify the Commis-  
 17 sioner of such termination, indicating the date on which the employment ceased.

18  
 19 Section 6. Apprentice to notify Commissioner of change of employment.  
 20 Every District licensed apprentice undertaker whose employment under the super-  
 21 vision of a District licensed undertaker is terminated shall, immediately upon being  
 22 employed to work under the supervision of another District licensed undertaker,  
 23 notify the Commissioner of such change of employment, indicating the name, address,  
 24 and license number of the undertaker under whose supervision he is continuing his  
 25 apprenticeship.

26  
 27 Section 7. Undertaker to notify Commissioner when employing or terminating  
 28 apprentice. A District licensed undertaker shall, upon employing a District licensed  
 29 apprentice undertaker or terminating the employment of a District licensed apprentice  
 30 undertaker, notify the Commissioner accordingly. Such notification shall contain the  
 31 name, address, and license number of the apprentice undertaker, as well as the date  
 32 on which the apprentice undertaker was employed or terminated.

33  
 34  
 35 Title VIII - DISCLOSURE REQUIREMENTS, BUSINESS AND PROFESSIONAL PRACTICES

36  
 37 Section 1. Disclosure Document

38  
 39 Upon initial personal contact with a customer or potential customer, and prior  
 40 to transmittal to and execution by such customer of the contract form required in  
 41 Section 2 herein, the operator of a funeral services establishment or his designated  
 42 agent shall submit and explain to the customer a clear and concise document which  
 43 must contain the following statements:

44  
 45 (a) No person is obliged by law to purchase any goods or services offered by  
 46 a funeral services establishment unless desired by the customer or required by law.  
 47 Some funeral establishments require, as a matter of business policy, purchase of  
 48 certain goods or services as a condition to providing funeral services. The customer,  
 49 of course, is free to accept such packaged services or to consider contracting with  
 50 another funeral establishment.

51  
 52 (b) Except in the case of death from certain diseases, a body may be embalmed,  
 53 cremated, or left in its present state under the law in the District of Columbia.

54  
 55 (c) The price of immediate cremation is \_\_\_\_\_ dollars.

56  
 57 (d) Clothing for the deceased may be provided by the family or the person making  
 58 the arrangements or it may be purchased from the funeral services establishment.

59  
 60 (e) No casket is required by law for a body which is to be cremated.



(f) No burial vault is required; however, most cemetery companies require a concrete grave liner.

(g) You should inform yourself regarding any instructions left by the deceased with regard to disposition of the body.

6  
7 Section 2. Terms and Conditions of Contract.  
8

9 The operator of a funeral services establishment or his designated agent shall  
10 furnish each contracting party or potential contracting party at the time funeral  
11 arrangements are being made a contract form which must contain the following:  
12

13 (a) Name of deceased and place of death.

14  
15 (b) Name and address of the funeral services establishment.  
16

17 (c) An itemized list of the price of services and merchandise to be furnished,  
18 with a separate price for each of the following categories: the casket; use of  
19 facilities for funeral services; use of facilities for viewing; itemized transportation  
20 services including but not limited to transfer of remains, provision for hearse,  
21 passenger transportation, and flower car; other specifically itemized funeral service  
22 merchandise; embalming, restoration or preparation of the body; arrangement and  
23 conduct of the funeral; D. C. sales tax; and all cash advances and expenditures  
24 requested. This subsection shall not apply to any items paid for by units of govern-  
25 ment.  
26

27 (d) A statement, to be signed by the customer, that he or she has read,  
28 understood and requested each category of merchandise or services itemized in  
29 Subsection (c) and that any items subsequently added or deleted from the terms and  
30 conditions described above must be authorized and signed with the appropriate  
31 reduction or increase in the amount of charges as indicated.  
32

33 (e) The total price of the funeral.  
34

35 (f) The signatures of the customer and the funeral services establishment  
36 operator or his agent and the date such signatures were attached.  
37

38 Section 3. Required Records.  
39

40 True copies of all contract forms required in Section 2 herein shall be main-  
41 tained in each funeral services establishment for a period of not less than three  
42 years following date of signature and shall be available for inspection during normal  
43 business hours by the Board and by staff charged with conducting investigations in  
44 behalf of the Board, pursuant to Title IV, Section 3 (a) of this regulation.  
45

46 Section 4. Disclosure of Casket Prices and Composition.  
47

48 Every funeral services establishment operator shall display prominently upon  
49 each casket displayed in his casket selection room the current price and composition  
50 of such casket. In the absence of such a selection room, the establishment shall  
51 display on each photograph of a casket presented for selection by a customer the  
52 current price and composition of such casket.  
53

54 Section 5. Prohibited Conduct.  
55

56 Licensees and their employees shall not:  
57

58 (a) Make or authorize any statement written or oral which is untrue or mis-  
59 leading and which is known, or which by the exercise of reasonable diligence  
60

be known, to be untrue or misleading, or commit any act or engage in any act which is deceptive, misleading, dishonest, fraudulent, or grossly negligent.

(b) Supply any products or services to a prospective customer prior to entering into a written contract for sale of such products or services, with the exception of (i) transportation of the body to the funeral services establishment, provided such transportation was requested by a relative included in one of the classes listed in Section 7 of this title; (ii) embalming of the body, provided:

- (1) written or oral authorization to embalm has been received from a relative included in one of the classes listed in Section 7 of this title; or
- (2) twenty-four hours have elapsed since death and the funeral services establishment operator or his designated agent has made a good faith effort to obtain written or oral authorization to embalm from the highest priority person available in the order of priority provided in Section 7 of this title.

This section shall not apply in any situation in which a prospective customer is located more than sixty miles from the funeral establishment.

(c) Engage, either directly or indirectly, in any planned course of action or enter into or take part in any understanding, agreement, combination or conspiracy with other persons to fix or maintain the price of any industry products or services, restrain the advertisement of prices or otherwise unlawfully restrain trade.

(d) Charge in excess of actual out-of-pocket expenditures paid out by the funeral services establishment for cash advances and expenditures itemized in the contract as required in Section 2 (c) of this title, except that a reasonable interest charge not exceeding a rate of 11.5% per annum on the unpaid balance may be added to any cash advances or expenditures not repaid within thirty days.

(e) Utilize a display casket in a funeral without reasonable discount from the displayed price to allow for soil and evidence of wear.

(f) Require information or inquire about the estate of a deceased person or require information about or assignment of any insurance policy upon his life without first having filled in all provisions of the contract, as provided in Section 2 of this title, and having obtained the signature of the customer on such contract.

(g) Fail in any material respect to comply with applicable provisions of this regulation or the rules and regulations adopted pursuant to it.

(h) Solicit the employment of the licensee's undertaking services or give, or offer to give any gratuity or payment, either in money or property, to any person for information concerning a dead or dying person.

(i) Refuse to answer questions posed over the telephone or personally by a customer or potential customer about the prices charged by the funeral services establishment for various categories of funerals, caskets, or specific merchandise or services.

(j) Fail to inquire about any directions left by the deceased for disposition of the body or parts of the body.

(k) Engage in any annoying or unseemly conduct including:

- (l) Loitering by a licensee or any of his employees or agents in or about a hospital, sanitarium, or other place containing a dead

13 of 14

or dying person, for the purpose of soliciting the employment of the licensee's undertaking services.

- (2) Giving, or offering to give, any gratuity or payment, either in money or property, to any person for information concerning a dead or dying person.
- (3) Making the initial contact with a representative of the deceased regarding use of a firm's services or requesting a representative of the deceased to change undertakers. Referrals by another funeral director who has been contacted by a representative of the deceased are excluded from this section.

#### Section 6. Settlement of Disputed Claims.

The undertaker retained by the person standing highest in the order of priority set forth in Section 7 herein shall be entitled to take possession of a dead body. In the event that two or more undertakers have a difference of opinion concerning their legal right to take possession of a dead body, they shall refer the matter to the Chairman of the Board or a Board member designated by him for a decision.

#### Section 7. Order of Priority.

The oldest adult member of each class shall have a prior claim over the others in the same class, as follows:

Spouse, Adult child, Father, Mother, Adult brother, Adult sister, Adult grandchild, Adult nephew or niece, Paternal grandparent, Maternal grandparent, Paternal uncle or aunt, Maternal uncle or aunt, Adult child or paternal uncle or aunt, Adult child of maternal uncle or aunt, Paternal great-grandparent, Maternal great-grandparent, Brother or sister of paternal grandparent, Brother or sister of maternal grandparent, Kindred of the spouse of the deceased, in accordance with the preceding order of priority, Any adult friend or volunteer, provided that no person shall disregard or deviate from any directions for disposition left by the deceased in the form or manner prescribed by law.

### Title IX - MISCELLANEOUS REGULATIONS

#### Section 1. Services requiring immediate supervision of undertaker.

The handling, preparation, or embalming of the body of a person dying of a contagious or infectious disease must, at all times, be done in the presence and under the immediate supervision of a District licensed undertaker, who will be responsible for full compliance with all laws and regulations of the District relating to such dead bodies.

#### Section 2. Board to act for District in reciprocal agreement.

The Board is hereby delegated the authority to act for the District Government in negotiating and entering into agreements which prescribe the terms and conditions upon which the District and another State or territory of the United States will grant licenses by reciprocity to undertakers duly licensed in the other jurisdiction: Provided, however that the terms and conditions of such reciprocal agreements shall not be inconsistent with the provisions of Section 47-2344a (d) (3) D. C. Code 1973 Edition.



Section 3. Advertising.

No person or owner shall advertise in any manner as practicing undertaking in the District unless such person is the holder of a currently valid and active license issued by the District as an undertaker or such owner holds or employs as a full-time employee a person who holds such currently valid and active license as an undertaker.

Section 4. Board authorized to grant Courtesy Cards.

The authority delegated to the Board by Section 2 of this title shall include authority for the Board to act for the District Government in negotiating and entering into agreements which prescribe the terms and conditions upon which the District and the State of Maryland or the State of Virginia will grant Courtesy Cards to undertakers duly licensed in the other jurisdictions: Provided, however, that any such agreements shall be limited to authorizing an undertaker licensed in another state to enter the District of Columbia for the purpose of transporting a deceased body located in the District of Columbia to the state where the undertaker is licensed in order to perform needed services and then to return the body to the District of Columbia for services; and further provided that no such agreements shall permit an undertaker licensed in Maryland or Virginia but not so licensed in the District of Columbia to maintain an office or agent in the District or to advertise in any manner in the District as practicing undertaking in the District.

Section 5. Notification of change of address required.

Any person holding an undertaker's license or an apprentice undertaker's license shall, within five days after any change of his business or residence address, notify the Commissioner in writing of such change.

Section 6. Severability clause.

If any provision of these Regulations, or the application thereof to any person or circumstances is held invalid, the remainder of the Regulations, and the application of such provision to other persons and circumstances, shall not be affected thereby.

SECTION 2. Status of previous Regulations.

Undertaker's Regulations promulgated by the Board of Commissioners of the District of Columbia March 19, 1958, are hereby repealed.

SECTION 3. Effective date.

These regulations shall become effective ninety (90) days after enactment."

Regulation No. 74-38



December 13, 1974  
Enactment Date

# Regulation

of the

## District of Columbia

TITLE REGULATION CONCERNING THE PRACTICE OF ACUPUNCTURE

Dr. Henry S. Robinson, Jr. Presents the following regulation:

1 WHEREAS, the District of Columbia Council has the authority to establish  
2 minimum standards for practitioners of the healing arts which is stipulated in  
3 Section 402 (34 and 35) Reorganization Plan No. 3 of 1967, Appendix, Title 1,  
4 D.C. Code; and

5  
6 WHEREAS, the District of Columbia Council has recommended the adoption  
7 of a regulation to govern the practice of acupuncture as a result of public  
8 hearings.

9  
10 NOW, THEREFORE, BE IT ENACTED BY the District of Columbia Council  
11 that:

12  
13 Section 1. The practice of acupuncture shall be limited to physicians and  
14 dentists licensed to practice in the District of Columbia for the period not to  
15 exceed one year, during which time regulations are being developed by the  
16 Department of Human Resources for submission to the Council.

17  
18 Section 2. The Director of the Department of Human Resources is directed  
19 to develop an examination and other criteria for licensure of practitioners of  
20 acupuncture who are neither licensed to practice medicine or dentistry in the  
21 District of Columbia. These regulations shall be forwarded to the Council  
22 within one year after enactment of this regulation.

23  
24 Section 3. The Director of the Department of Human Resources is further  
directed to recommend minimum standards for clinics specializing in

| RECORD OF COUNCIL VOTE |     |     |      |      |      |            |     |     |      |      |      |            |     |     |      |      |      |
|------------------------|-----|-----|------|------|------|------------|-----|-----|------|------|------|------------|-----|-----|------|------|------|
| COUNCILMAN             | AYE | NAY | N.V. | A.B. | R.A. | COUNCILMAN | AYE | NAY | N.V. | A.B. | R.A. | COUNCILMAN | AYE | NAY | N.V. | A.B. | R.A. |
| NEVIUS                 |     | X   |      |      |      | FOSTER     | X   |     |      |      |      | PARKER     | X   |     |      |      |      |
| TUCKER                 |     |     |      | X    |      | MEYERS     | X   |     |      |      |      | ROBINSON   | X   |     |      |      |      |
| FORD                   |     |     |      | X    |      | MOORE      | X   |     |      |      |      | SELDEN     |     | X   |      |      |      |

X—Indicates Vote    A. B.—Absent    N. V. Not Voting    R. A.—Readopted

Submitted on first reading at a meeting of the District of Columbia City Council on November 19, 1974

Adopted on second and final reading December 3, 1974

Presented to the Mayor-Commissioner December 4, 1974

*Edward B. Webb, Jr.*  
Secretary of the City Council

Approved *Michael A. Murphy*  
Mayor-Commissioner

13 DEC 1974  
Date

Enacted W/O signature of the Mayor according to ten day limitation rule: \_\_\_\_\_  
Date

Disapproved and returned to the City Council \_\_\_\_\_  
Mayor-Commissioner Date

Readopted \_\_\_\_\_  
Date

I hereby certify that this regulation is true and adopted (or readopted) as stated therein.  
*Edward B. Webb, Jr.*  
Secretary of the City Council

REGULATION 74-38

1 acupuncture treatment. These recommendations shall be forwarded to the  
2 Council within six months of enactment of this regulation.

3  
4 Section 4. This regulation shall become effective immediately upon  
5 enactment.

6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60



Regulation No. 74-39



December 13, 1974  
Enactment Date

# Regulation

of the

## District of Columbia

TITLE A REGULATION GOVERNING VENDING BUSINESSES IN PUBLIC SPACE

Councilwoman W. Antoinette Ford Presents the following regulation:

1 WHEREAS, Reorganization Plan No. 3 of 1967, Section 402 (386), transferred to  
2 the District of Columbia Council the authority of "making and modifying regulations  
3 governing the conduct of licensed vendors under the D. C. Code § 47-2336," (1973  
4 ed.) based upon the Act of July 1, 1932; and

5  
6 WHEREAS, Reorganization Plan No. 3 of 1967, Section 402 (391), transferred to  
7 the District of Columbia Council the authority "to modify any provisions of the Act  
8 (of July 1, 1932) under the D. C. Code § 47-2344" (1973 ed.); and

9  
10 WHEREAS, Reorganization Plan No. 3 of 1967, Section 402 (1) transferred to the  
11 District of Columbia Council the authority of "making and modifying police regulations  
12 under D. C. Code § 1-224" (1973 ed.); and

13  
14 WHEREAS, Reorganization Plan No. 3 of 1967, Section 402 (402) transferred to the  
15 District of Columbia Council the authority of "requiring vendors to keep detailed  
16 records, and to furnish information, under D. C. Code § 47-2621 (d)" (1973 ed.); and

17  
18 WHEREAS, Reorganization Plan No. 3 of 1967, Section 402 (403), transferred to  
19 the District of Columbia Council the authority of "requiring vendors to file bond,  
20 determining the sureties necessary, and the duration of the bond, under D. C. Code  
21 § 47-2708 (1973 ed.).

22  
23  
24

| RECORD OF COUNCIL VOTE |     |     |      |      |      |            |     |     |      |      |      |            |     |     |      |      |      |
|------------------------|-----|-----|------|------|------|------------|-----|-----|------|------|------|------------|-----|-----|------|------|------|
| COUNCILMAN             | AYE | NAY | N.V. | A.B. | R.A. | COUNCILMAN | AYE | NAY | N.V. | A.B. | R.A. | COUNCILMAN | AYE | NAY | N.V. | A.B. | R.A. |
| NEVIUS                 | X   |     |      |      |      | FOSTER     | X   |     |      |      |      | PARKER     | X   |     |      |      |      |
| TUCKER                 |     |     |      | X    |      | MEYERS     |     | X   |      |      |      | ROBINSON   | X   |     |      |      |      |
| FORD                   |     |     |      | X    |      | MOORE      | X   |     |      |      |      | SELDEN     |     | X   |      |      |      |

X—Indicates Vote    A. B.—Absent    N. V.—Not Voting    R. A.—Readopted

Submitted on first reading at a meeting of the District of Columbia City Council on November 19, 1974

Adopted on second and final reading December 3, 1974

Presented to the Mayor-Commissioner December 4, 1974

Approved *Maureen H. ...*  
Mayor-Commissioner

*Edward B. Webb*  
Secretary of the City Council  
13 DEC 1974  
Date

Enacted W/O signature of the Mayor according to ten day limitation rule: \_\_\_\_\_  
Date

Disapproved and returned to the City Council \_\_\_\_\_  
Mayor-Commissioner Date

Readopted \_\_\_\_\_  
Date

I hereby certify that this regulation is true and adopted (or readopted) as stated therein.  
*Edward B. Webb*  
Secretary of the City Council



\_2\_of\_11\_

1 NOW, THEREFORE, BE IT ENACTED by the District of Columbia Council that:

2  
3 SECTION 1. Article 2, Sections 1 and 2 of the Police Regulation of the District  
4 of Columbia are hereby repealed.

5  
6 SECTION 2. Article 34 of the Police Regulations of the District of Columbia  
7 shall be amended as follows:

8  
9 All applicants for licenses for massage establishments, bowling, billiard  
10 and pool establishments, vendors selling on foot from house to house,  
11 solicitors, private detectives, and fortune tellers, clairvoyants and  
12 mediums under paragraphs 11, 21, 36, 37, 41, and 43, respectively, of  
13 the Act entitled "An Act to amend Section 7 of an Act entitled 'An Act  
14 making appropriations to provide for the Government of the District of  
15 Columbia for the fiscal year ending June 30, 1903, and for other purposes,'  
16 approved July 1, 1902, and for other purposes," approved July 1, 1932,  
17 shall hereafter submit to the Commissioner, upon application, three sets  
18 of their fingerprints. Fingerprints so furnished shall become a part of the  
19 respective application.

20  
21 SECTION 3. In Part I, Article XIII, Section 79 (b) 3, Title 17, the Highways and  
22 Traffic Regulations of the District of Columbia, all words following "trucks vending  
23 ice cream" are hereby repealed; the following words are hereby amended to the remainder  
24 of this subsection: "shall park curbside when stopping to make a sale, as close as  
25 possible to a pedestrian cross-walk without entering the intersection, and without  
26 unduly interfering with the flow of traffic."

27  
28 SECTION 4. Definitions. For the purposes of this article, the following words  
29 and terms shall have the following meaning:

30  
31 Produce - Any agricultural product raised on a farm or orchard.

32  
33 Food - Any product or substance (including beverages) intended for human consumption.

34  
35 Potentially Hazardous Food - Any perishable food capable of supporting rapid and  
36 progressive growth of infectious and toxicogenic micro-organisms: Provided,  
37 that such food does not include products in hermetically sealed containers  
38 processed by any method approved by the inspection agency which shall  
39 prevent spoilage and does not include dehydrated, dry, or powdered products  
40 which are so low in moisture content as to preclude rapid development of  
41 micro-organisms.

42  
43 Prepared Food - Any food beverage product other than unprepared food, as defined  
44 below.

45  
46 Public Space - All publicly-owned property between the property lines on a street,  
47 as such property lines are shown on the records of the District of Columbia,  
48 and includes any roadway, tree space, sidewalk, or parking between such  
49 property lines.

50  
51 Pushcart - Any wheeled vehicle designed for carrying persons or property and for  
52 being moved or pushed by a person without the assistance of a motor or a  
53 motor vehicle.

54  
55 Roadway Vendor - A vendor who operates a vending business while occupying public  
56 space in that portion of a street or highway, improved, designed, or ordinarily  
57 used for vehicular travel.

58  
59  
60

1 Stand - Any fixed or movable structure, table, or device used by a vendor for the  
2 purpose of displaying or storing any merchandise, article, or food which is  
3 offered for sale.

4  
5 Sidewalk Vendor - A vendor who engages in business while occupying that portion of  
6 the street other than that reserved for vehicular travel.

7  
8 Unprepared Food - Any raw or unprocessed food product including, but not limited to,  
9 fruits, vegetables, produce, meats, fish, poultry, or seafood.

10  
11 Vehicle - Any motor vehicle, trailer, or bicycle.

12  
13 Vending Business - A business operated by a vendor, as defined herein.

14  
15 Vendor - Any person engaged in selling goods and services for immediate delivery  
16 upon purchase and operating exclusively from public space.

17 SECTION 5. Licensing Authority. All vending business licenses shall be applied  
18 for and administered by the Commissioner of the District of Columbia.

19  
20  
21 SECTION 6. License Requirements.

22  
23 (a) No person shall vend any article, merchandise, or food from public  
24 space in the District of Columbia without first having obtained from the  
25 Commissioner a license to do so, except that no license shall be required  
26 for:

27  
28 (1) Persons selling newspapers at large other than from a fixed  
29 location on public space or on the public streets;

30  
31 (2) Persons selling food produce of their own raising at any public  
32 marketplace; or

33  
34 (3) Any person under eighteen (18) years of age if such person is  
35 the holder of a valid work permit or street trade badge issued by  
36 the District of Columbia Board of Education, or if such person is  
37 the holder of a similar permit issued by another jurisdiction.

38  
39 (b) Classes of licenses. There shall be two classes of vending business  
40 licenses:

41  
42 (1) Class "A" licenses which shall authorize persons to vend any food  
43 from public space, but not from door to door;

44  
45 (2) Class "B" licenses which shall authorize persons to vend any article  
46 or merchandise other than food from public space, but not from door to  
47 door.

48  
49 The licensing agency shall indicate on all licenses issued pursuant to these  
50 regulations the class of said license. A Class "B" license shall not be valid  
51 for the vending of food. Any person may apply for and receive both classes  
52 of licenses if the conditions and inspection requirements for each such license  
53 applied for have been satisfied.

54  
55 (c) No person shall vend in the District of Columbia except in conformity  
56 with the privileges granted for the particular class of license issued to him.

57  
58 (d) All licenses issued pursuant to these regulations shall be valid for  
59 one (1) year, unless suspended or revoked.



1 SECTION 7. Application for Vendor's License.

2  
3 (a) Persons seeking issuance of a vendor's license shall file an application  
4 with the Commissioner on forms provided by him and shall render the fee  
5 prescribed therefor.

6  
7 (b) The application for a vendor's license shall set forth the following  
8 information:

9  
10 (1) The name and address of the applicant and the name and address  
11 of the owner (if other than the applicant) of the vending business;

12  
13 (2) The class of license applied for, a description of the type of  
14 article, merchandise, or food to be offered for sale, and a description  
15 of the vending vehicle, cart, or stand to be used;

16  
17 (3) Three (3) prints of a full-face photograph (1 x 1-1/2 inches) taken  
18 within not more than three (3) months prior to the date of the application;

19  
20 (4) Proof that the applicant has complied with the provisions of the  
21 D. C. Code, § 47-2623, by obtaining from the District of Columbia  
22 Department of Finance and Revenue a certificate of registration  
23 designating the applicant's sales and use tax number. No such  
24 certificate shall be issued until the applicant has filed with the  
25 Commissioner a bond in such amount not exceeding double the amount  
26 of the applicant's estimated annual sales and use tax liability for a  
27 period not exceeding one (1) year with such surety as the Commissioner  
28 may approve, conditioned upon the payment of the tax due from the  
29 applicant for any period covered by any return required to be filed under  
30 the sales and use tax laws of the District of Columbia; (A) in lieu of  
31 which the applicant may elect to pay in advance the amount of his  
32 estimated annual sales and use tax liability. Such amount shall be  
33 determined by the Commissioner and shall be based on estimated gross  
34 receipts from taxable sales multiplied by the tax rate. Appropriate  
35 adjustment shall be made in the annual return to be filed by the applicant.

36  
37 (5) If the applicant is a non-resident of the District of Columbia, he  
38 shall provide the name and address of a registered agent upon whom  
39 service of process and other legal notices may be made. If there is  
40 no such registered agent, then the Mayor-Commissioner shall be  
41 authorized to accept service of process as well as other legal notices  
42 directed to the applicant.

43  
44 SECTION 8. Additional Requirements for Food Vending License Application.

45 Every applicant for a Class "A" license shall furnish to the Commissioner on a form  
46 prescribed by him additional information required by the Commissioner as well as  
47 that required in Section 7 (b). Every applicant for a Class "A" license shall submit  
48 proof that said applicant has passed the inspection requirement as fully described  
49 in Section 9 herein.

50  
51 SECTION 9. Inspection of Food Vending Vehicles or Stands.

52  
53 (a) Each vehicle or stand from which food products are vended shall first  
54 be inspected by and receive a certificate from the Commissioner indicating  
55 compliance with the provisions of this regulation and all other applicable  
56 regulations then in full force and effect in the District of Columbia.

57  
58 (b) Inspection for food vending vehicles or stands shall be required at  
59 least twice a year on dates scheduled by the Commissioner.  
60

1 (c) For each vehicle or stand which conforms to the requirements of this  
2 regulation, the owner thereof shall be issued a certificate of inspection  
3 which shall expire at a time specified on the certificate and determined  
4 by the date of the next required inspection.

5  
6 (d) The certificate of inspection shall specify the particular food products  
7 authorized to be sold, transported or otherwise distributed, and the  
8 particular vehicle or stand for which the certificate is exclusively issued.  
9 Such certificate shall be recognized as valid only when displayed in the  
10 particular vehicle or stand for which the certificate was issued and only  
11 when the particular food authorized on the certificate is being sold.

12  
13 SECTION 10. Vending Permitted on Receipt of License Fee. Upon payment of a  
14 license fee, the licensing agency shall furnish the applicant for the vending business  
15 a receipt of payment and the vendor may operate a vending business under a temporary  
16 licensing authority designated upon the receipt.

17  
18 SECTION 11. Notification of Issuance of License. Within forty-five (45) days  
19 of the filing of an application for a vending business license, the applicant shall be  
20 notified by the Commissioner of his decision on the application. If the application  
21 is approved, the Commissioner shall provide the applicant a badge and a plate corre-  
22 sponding to the number of the license. If the application is not approved and a license  
23 is denied, the licensing agency shall follow the procedures assuring proper notification  
24 and an opportunity for a hearing as specified in Section 17 of this regulation.

25  
26 SECTION 12. Renewal of License. All licenses issued pursuant to this regulation  
27 shall be valid for one (1) year unless revoked prior thereto. For renewal of a license,  
28 the application shall be filed with the proper renewal fee, forty-five (45) days before  
29 the expiration of the current license. Upon receipt of the renewal fee, the licensing  
30 agency shall issue to the applicant a receipt of payment and the vendor shall be per-  
31 mitted to operate a vending business under a temporary license designated on the  
32 receipt. If renewal is approved, the licensing agency shall furnish the applicant  
33 with a badge and a plate on or before the expiration of the current license. If renewal  
34 is not approved, the licensing agency shall follow the procedures as set forth in  
35 Section 17 of this regulation.

36  
37 SECTION 13. Display of Licenses, Certificates, and Other Required Information.

38  
39 (a) The vending business badge and license plate issued by the Commissioner  
40 shall be displayed conspicuously whenever the vending business is being  
41 transacted. The badge shall be worn by the vendor at all times during the  
42 operation of the business and the plate shall be firmly attached to the vending  
43 vehicle or stand in a conspicuous location during the transaction of business.  
44 All required certificates of inspection for Class "A" licenses shall also be  
45 conspicuously displayed at all times during which the licensee is transacting  
46 business.

47  
48 (b) Every licensee and holder of other certifications issued pursuant to these  
49 regulations shall exhibit the same for closer examination upon demand by any  
50 authorized representative of the District of Columbia Government.

51  
52 SECTION 14. Notification of Change of Address or Name. Whenever any name  
53 or address provided by the licensee on his application for said license or inspection  
54 certificate changes, the licensee shall notify the Commissioner in no less than ten  
55 (10) days of such change.

56  
57 SECTION 15. Bookkeeping Requirements. Every vendor shall keep sufficient records  
58 of sales and receipts of purchases and expenses and shall make such available for inspec-  
59 tion to any duly authorized representative of the District of Columbia Government.

1 SECTION 16. Suspension or Revocation of License.

2  
3 (a) Any license issued pursuant to this regulation may be suspended or  
4 revoked by the Commissioner, after notice, for any of the following causes:

5  
6 (1) Fraud, misrepresentation, or false statements contained in the  
7 application for the license;

8  
9 (2) Fraud, misrepresentation, or false statements made in connection  
10 with the selling of any article, merchandise, or food;

11  
12 (3) Violation of this regulation, or the violation of the provisions of  
13 other regulations applicable to holders of Class "A" licenses; or

14  
15 (4) Conduct of the business licensed under this regulation in an unlawful  
16 manner or in such a way as to constitute a menace to the health or safety  
17 of the public.

18  
19 (b) Notice of the proposed suspension or revocation of a license shall be  
20 given in writing, setting forth specifically the grounds of the complaint.  
21 Such notice shall be mailed by certified mail at least ten (10) days prior  
22 to the date of the proposed action.

23  
24 (c) Any licensee whose license is revoked under this regulation may not  
25 reapply for licensure until after the expiration of one (1) year from the  
26 date of such revocation.

27  
28 SECTION 17. Notice and Hearing. In the event that an application for a vendor's  
29 license or a renewal is denied, or a license is suspended or revoked by the Commissioner,  
30 the applicant or licensee shall be entitled to a hearing thereon before the District of  
31 Columbia Board of Appeals and Review. Notice of the denial or suspension or revoca-  
32 tion shall be given in writing, setting forth specifically the grounds therefor and the  
33 time and place of the hearing. Such notice shall be mailed by certified mail at least  
34 ten (10) days prior to the date set for the hearing.

35  
36 SECTION 18. Duties of Licensee. Every licensee authorized to vend under this  
37 regulation shall:

38  
39 (a) Ascertain and at all times comply with all laws and provisions of this  
40 regulation applicable to the operation of a vending business;

41  
42 (b) Refrain from engaging in vending business after expiration of his license  
43 and during the period his license may have been suspended or revoked; and

44  
45 (c) Surrender his license promptly to the Commissioner upon its revocation  
46 or suspension.

47 SECTION 19. Locations in Which Vending Business is Prohibited.

48  
49 (a) No vendor shall vend within the same square block of the grounds of any  
50 hospital, nursing home, skilled care facility, or related institution or within  
51 the same block of the grounds of any elementary or secondary school while  
52 such school is in session.

53  
54 (b) No sidewalk vending business shall be transacted or located on the median  
55 strip of a divided roadway unless such strip is intended for use as a pedestrian  
56 mall or plaza.

57  
58 (c) No vendor shall vend in, or on, any sidewalk adjacent to the following squares:  
59 LaFayette, McPherson, Franklin, or Farragut.  
60

..7..of11..

1 (d) No vendor shall vend in or upon any highway or public space within the  
2 following described areas, except as specifically provided herein:

3  
4 (1) Beginning at the east curb of Sixth Street, N.W., at K Street;  
5 south along east curb of Sixth Street to south curb of Pennsylvania  
6 Avenue; west along south curb of Pennsylvania Avenue to west curb  
7 of Fifteenth Street; north along west curb of Fifteenth Street to  
8 south curb of Pennsylvania Avenue; west along south curb of  
9 Pennsylvania Avenue to east curb of Seventeenth Street; south along  
10 east curb of Seventeenth Street to north curb of Constitution Avenue;  
11 west along north curb of Constitution Avenue to west curb of Nineteenth  
12 Street; north along the west curb of Nineteenth Street to north curb of  
13 K Street; east along the north curb of K Street to west curb of Sixth  
14 Street. Vending shall be permitted within this area only in the following  
15 designated areas:

16  
17 (i) The sidewalk on the north side of C Street, N.W., between  
18 Sixth and Seventh Streets;

19  
20 (ii) The sidewalk on the west side of Fourteenth Street, N.W.,  
21 between Eye and K Streets;

22  
23 (iii) The sidewalk on the west side of Tenth Street, N.W.,  
24 between D and E Streets;

25  
26 (iv) The sidewalk on both sides of Eighteenth Street, N.W.,  
27 between G Street and Pennsylvania Avenue;

28  
29 (v) The sidewalk on the west side of Fourteenth Street, N.W.,  
30 between F Street and New York Avenue;

31  
32 (vi) The sidewalk on the north side of Pennsylvania Avenue, N.W.,  
33 between Sixth Street and Seventh Street; Eighth Street and Market  
34 Space; Eleventh Street and Twelfth Street; Twelfth Street and Thirteenth  
35 Street; Fourteenth Street and Fifteenth Street;

36  
37 (vii) The sidewalk on the north side of Indiana Avenue, between  
38 Sixth Street and Seventh Street;

39  
40 (viii) The sidewalk on both sides of G Street, N.W., between  
41 Ninth Street and Tenth Street;

42  
43 (ix) The sidewalk on the north side of G Street, N.W., between  
44 Seventh Street and Ninth Street;

45  
46 (x) The sidewalk on the east side of Eighth Street, N.W., between  
47 G Street and H Street;

48  
49 (xi) The F Street Plaza between Twelfth and Thirteenth Streets, provided  
50 that vending shall be limited to flowers and fruit;

51  
52 (xii) The sidewalks on both sides of Eighth Street, N.W., between E  
53 Street and F Street;

54  
55 (xiii) The sidewalk on the south side of F Street, between Seventh  
56 Street and Eighth Street;

57  
58 (xiv) The sidewalk on the west side of Fifteenth Street, N.W., adjacent  
59 to the Treasury Building.  
60



..8.of 11..

1 No sidewalk vending business operated on the above-designated sites  
2 shall be within ten (10) feet of any other sidewalk vending business.  
3

4 (2) In the area known as "Old Georgetown" which is bounded on the east  
5 by Rock Creek and Potomac Parkway from the Potomac River to the north  
6 boundary of Dumbarton Oaks Park; on the north by the north boundary of  
7 Dumbarton Oaks Park, Whitehaven Street and Whitehaven Parkway to  
8 Thirty-fifth Street, south along the middle of Thirty-fifth Street to Reservoir  
9 Road, west along the middle of Reservoir Road to Archbold Parkway; on the  
10 west by Archbold Parkway from Reservoir Road to the Potomac River; on the  
11 south by the Potomac River to the Rock Creek Parkway. Vending shall be  
12 permitted within the area only on the sidewalks of the streets intersecting  
13 with Wisconsin Avenue, N.W., as follows:  
14

- 15 (i) On the northeast side of P Street, one vendor;  
16  
17 (ii) On the northwest side of P Street, two vendors;  
18  
19 (iii) On the northeast side of O Street, two vendors;  
20  
21 (iv) On the northwest side of O Street, two vendors;  
22  
23 (v) On the northeast side of Dumbarton Street, three vendors;  
24  
25 (vi) On the southeast side of Dumbarton Street, three vendors;  
26  
27 (vii) On the northwest side of N Street, two vendors;  
28  
29 (viii) On the southeast side of N Street, one vendor;  
30  
31 (ix) On the southwest side of N Street, one vendor;  
32  
33 (x) On the northwest side of Prospect Street, two vendors;  
34  
35 (xi) On the southwest side of Prospect Street, two vendors.  
36

37 No sidewalk vending business operated on the above-designated sites  
38 shall be within five (5) feet of any other sidewalk vending business.  
39 However, nothing herein shall prohibit the Commissioner from removing,  
40 modifying, or adding to the list.  
41

42 (e) No vending stands shall be located against display windows of fixed loca-  
43 tion businesses nor shall vending stands be closer than three (3) feet from any  
44 entranceway.  
45

46 (f) No vendor shall vend from a sidewalk so as to restrict the continued main-  
47 tenance of a minimum clear passageway for pedestrians of seven (7) feet  
48 provided that the Commissioner may require a wider or narrower passageway  
49 on sidewalks as to which he determines that such width is required or adequate  
50 for pedestrian traffic. The passageway shall be measured from the closest edge  
51 of the vending stand or other item related to the vending operation to the nearest  
52 building, including any projection thereof, or the closest edge of any other law-  
53 ful use of public space or the closest boundary of any private property.  
54  
55  
56  
57  
58  
59  
60

No sidewalk vending business shall be located or transacted within twenty (20) feet of any bus stop sign, within five (5) feet of the approach to a crosswalk at any intersection, within twenty (20) feet of the driveway entrance to a police or fire station, or within ten (10) feet of any other driveway.

(h) Except as provided in paragraphs (d) and (e) of this section, no sidewalk vending business shall be operated within twenty (20) feet of any other sidewalk vending business.

(i) No vendor shall vend from a sidewalk adjacent to any building used primarily as a residence except for that period of time necessary, after having been approached or stopped for that purpose, to complete a sales transaction.

6 SECTION 20. Roadway Vending.

17  
18 (a) No roadway vending vehicle shall remain in any one place for a period  
19 longer than necessary to make a sale after having been approached or  
20 stopped for that purpose. When stopped, such vehicle shall be properly  
21 parked in a legal parking space. The first sentence of the subsection  
22 shall not apply to the following locations:

23  
24 (1) First Street, N.W., between Maryland Avenue and Pennsylvania  
25 Avenue;

26  
27 (2) The south side of Constitution Avenue, N.W., between Ninth  
28 Street and Fourteenth Street;

29  
30 (3) The north side of Independence Avenue, between Tenth Street  
31 and Twelfth Street.

32  
33 (b) No roadway vending business shall be transacted within one hundred (100)  
34 feet of the roadway of a traffic circle.

35  
36 (c) No roadway vending business shall be located or transacted within forty  
37 (40) feet of any intersection or within any of the distances specified in the  
38 Highways and Traffic Regulations of the District of Columbia, Part I,  
39 Section 79 (Title 17, DCRR) except that vehicles vending ice cream or other  
40 products likely to attract children as customers shall park curbside when  
41 stopping to make a sale as close as possible to a pedestrian crosswalk  
42 without entering the intersection or otherwise unduly interfering with the  
43 flow of traffic.

44  
45 SECTION 21. Special Provisions Applicable to Vendors of Food.

46  
47 (a) No person licensed to vend any food which may be potentially hazardous  
48 shall operate a vending vehicle unless it is equipped with mechanical refrigera-  
49 tion equipment sufficient to maintain such food at a temperature of forty-five  
50 (45) degrees fahrenheit or less.

51  
52 (b) All vending vehicles, carts, and stands used to vend food, and all equip-  
53 ment utilized thereon, shall have smooth, washable surfaces and shall be  
54 maintained in good repair and in a clean and sanitary condition.

10 of 11

All good plates, cups, implements, containers, and other objects used for storing, preparing, or serving food, and the premises where such food is stored or prepared, shall be maintained in a clean and sanitary condition.

(2) Insect and rodent-proof containers of metal or other acceptable substitutes shall be provided for the storage of trimmings, waste, and refuse and shall be emptied and washed daily.

(3) No fish, poultry, or other animal shall be cleaned in a food vending vehicle or on, or at, a stand, nor shall their entrails be there removed. No such meats or meat products shall be cut, processed, or otherwise prepared in a food vending vehicle.

(4) Scales and counters shall be protected from dust, dirt, flies, and other vermin and contaminants.

(c) Every food vendor licensed under this regulation shall agree to have inspected by the Commissioner at reasonable hours any premises used for the storage or preparation of food intended to be used in vending.

(d) All preparation, storage, handling, and service of food vended by licensees approved under this regulation, shall be in conformance with this regulation and the Health Regulations of the District of Columbia, Title 8, DCRR.

(e) Every prepared food vending business shall establish a service room, to be utilized for the preparation of foods and beverages to be sold by the vendor, the address of which shall be submitted to the Commissioner. Said service room shall be subject to inspection by the Commissioner at all reasonable times.

(f) No food vending vehicle or stand shall be used for any purposes other than those permitted by the Commissioner, unless the Commissioner has first approved such other use in writing.

#### SECTION 22. Requirements for Vending Vehicles and Stands.

(a) No sidewalk vending vehicle, stand, or merchandise display shall be of such size as to be wider than four (4) feet, longer than seven (7) feet, or higher than three (3) feet, six (6) inches.

(b) No roadway vending vehicle or stand shall be of such size as to exceed seventeen (17) feet in length and eight (8) feet wide.

(c) All roadway vending vehicles or stands located in the roadway shall rest on either solid rubber or inflated rubber tires.

#### SECTION 23. Restrictions on the Placement of Vending Vehicles, Stands and Other Items Related to Vending Business.

(a) No vehicle shall be placed upon any sidewalk except bicycles when operated in conformance with the laws of the District of Columbia and pushcarts of a size permitted on sidewalks under the provisions of this regulation.

\_11\_of\_11\_

No vending vehicle, stand, or any other item related to the operation of a vending business shall be leaned against, or hung from any building or any other structure including, but not limited to, such structures as lamp posts, parking meters, mail boxes, traffic signal stanchions, fire hydrants, trees, tree boxes, benches, bus shelters, or traffic barriers, which lawfully occupy public space.

(c) All items related to the operation of a vending business shall be kept either on, in, or under a vending vehicle or stand. No such items shall be stored or placed upon any public space adjacent to the vending vehicle or stand.

SECTION 24. Overnight Storage of Vending Vehicle or Stand. No vending vehicle, ashcart or stand, or any item related to the operation of a vending business shall be located on public space within the hours of 1:00 a.m. and 4:00 a.m., except vehicles lawfully parked in conformance with the Highways and Traffic Regulations of the District of Columbia.

SECTION 25. Littering.

(a) Vendors shall keep the sidewalks, roadway, and other public space adjoining and adjacent to their locations of business clean and free from paper, peelings and refuse of any kind generated from the operation of their business.

(b) Food vendors shall affix to their stands or vehicles a container for litter which shall be maintained and emptied regularly and which shall be marked as being for litter.

SECTION 26. Vending License Invalid in Certain Geographical Areas. No vending license issued by the Commissioner shall authorize the licensee to vend within geographical areas under the jurisdiction of the United States Park Police, the Capitol Police, or other agencies of the United States Government.

SECTION 27. Severability Clause. If any provision of this regulation, or any section, sentence, clause, phrase, or word or the application thereof, in any circumstance(s) is held invalid, the validity of the remainder of this regulation, and of the application of any such provision, section, sentence, clause, phrase, or word in any other circumstance(s) shall not be affected thereby and to this end, the provisions of this regulation are declared severable.

SECTION 28. Penalties. Any person violating any of the provisions of this regulation shall, upon conviction thereof, be punished by a fine of not more than three hundred (300) dollars, or imprisonment for not more than ninety (90) days for each such offense.

SECTION 29. Codification. The Mayor-Commissioner is authorized to place these regulations with the D. C. Rules and Regulations as may be appropriate for the purpose of codification.

SECTION 30. Effective Date. This regulation shall take effect immediately upon enactment.





Regulation of the District of Columbia

TITLE BEVERAGE CONTAINER REGULATION

Councilman Rockwood H. Foster Presents the following regulation:

WHEREAS, beverage containers comprise a large, unsightly and dangerous portion of street, alley and playground litter; and
WHEREAS, a minimum five cent deposit and refund on all beverage containers will provide an incentive for consumers to return them to retail stores; and
WHEREAS, returning beverage containers to retail stores will lead to their reuse or proper disposition; and
WHEREAS, the use of one-way disposable containers depletes our Nation's limited resources; and
WHEREAS, pursuant to Section 402 (4) Reorganization Plan No. 3, 1967, the Council is authorized to adopt usual and necessary police regulations for the protection of the health, welfare and safety of the residents of the District of Columbia.
NOW, THEREFORE, BE IT ENACTED by the District of Columbia Council that:
Section 1. The Police Regulations of the District of Columbia are hereby amended by the addition of a new Article 56 entitled "Beverage Containers", as follows:
"Section 1. Definitions
(a) 'Beverage' means beer or other malt beverages and

Table with 15 columns: COUNCILMAN, AYE, NAY, N.V., A.B., R.A. (repeated 3 times). Rows include NEVIUS, TUCKER, FORD, FOSTER, MEYERS, MOORE, PARKER, ROBINSON, SELDEN.

Submitted on first reading at a meeting of the District of Columbia City Council on December 9, 1974

Adopted on second and final reading December 17, 1974

Presented to the Mayor-Commissioner December 17, 1974 Date Secretary of the City Council

Approved Mayor-Commissioner Date

Enacted W/O signature of the Mayor according to ten day limitation rule Date

Disapproved and returned to the City Council 27 DEC 1974 Date Mayor-Commissioner

Readopted Date

I hereby certify that this regulation has not been true and adopted (or readopted) as stated therein.

## REGULATION 74-40

2 of 3

1 mineral waters, soda water and other carbonated soft drinks  
2 in liquid form and intended for human consumption.

3 (b) 'Beverage container' means the individual, separate,  
4 sealed glass, metal or plastic bottle, can, jar or carton  
5 containing a beverage.  
6

7 (c) 'Consumer' means every person who purchases a beverage  
8 in a beverage container for use or consumption, without intent  
9 to resell.

10 (d) 'Dealer' means every person in the District of Columbia  
11 who engages in the sale of beverages in beverage containers  
12 to consumers, whether for on or off-premise use or consumption.  
13

14 (e) 'Distributor' means every person who engages in the  
15 sale of beverages in beverage containers to a dealer in the  
16 District of Columbia including any manufacturer who engages  
17 in such sales.

18 (f) 'Manufacturer' means every person bottling, canning,  
19 or otherwise filling beverage containers for sale to distri-  
20 butors or dealers.  
21

22 (g) 'Non-refillable containers' means any beverage con-  
23 tainer of a type which is not ordinarily collected from consumers  
24 for refilling with a beverage.

25 (h) 'Greater Washington Area' means those jurisdictions  
26 within the exterior limits of the Washington, D.C. Standard  
27 Metropolitan Statistical Area as defined by the U.S. Depart-  
28 ment of Commerce, Bureau of the Census, which have enacted  
29 provisions similar to the provisions of this chapter."  
30

31 "Section 2. Refund Value Required

32 Beginning June 1, 1976, every beverage container in which  
33 beverages are sold or offered for sale in the District of Colum-  
34 bia shall have a cash refund value of not less than five cents."  
35

36 "Section 3. Acceptance For Refund

37 (a) Beginning June 1, 1976, a dealer shall not refuse to  
38 accept from any person any empty beverage container marked  
39 pursuant to Section 5, of the kind, size and brand of beverage  
40 sold by the dealer, or refuse to pay in cash to such person  
41 the refund value of a beverage container established pursuant  
42 to Section 2 of this Chapter, if the empty beverage container  
43 is presented at the location at which the dealer sells or of-  
44 fers for sale such beverages in beverage containers to consu-  
45 mers, provided that for purposes of this section 'dealer' shall  
46 not include persons selling beverages to consumers for on-pre-  
47 mise consumption.

48 (b) Beginning June 1, 1976, a distributor shall not refuse  
49 to accept from a dealer any empty beverage container marked  
50 pursuant to Section 5, of a kind, size and brand of beverage  
51 sold by the distributor, or refuse to pay in cash to the dealer  
52 the refund value of a beverage container as established pur-  
53 suant to Section 2 of this Chapter, if the empty beverage con-  
54 tainers are presented at the time and location of any delivery  
55 of filled beverage containers by the distributor to the dealer."

56 "Section 4. Detachable Beverage Container Openings

57 Beginning on June 1, 1976, no person shall sell or offer  
58 for sale in the District of Columbia any metal beverage con-  
59 tainer so designed and constructed that a part of the container  
60

3 of 3

1 is detachable in opening without the aid of a can opener."

2 "Section 5. Beverage Container Markings

3  
4 Beginning on June 1, 1976, no distributor or dealer shall  
5 sell or offer for sale in the District of Columbia a beverage  
6 in a non-refillable container that does not clearly indicate  
7 in a securely affixed manner the following information: (1)  
8 the beverage container is to be sold in the Greater Washington  
9 Area, and (2) the refund value of the beverage container as  
10 established in Section 2 of this Chapter."

11 "Section 6. Penalties For Violation

12  
13 Any person who violates any provision of this Chapter shall  
14 be deemed guilty of a misdemeanor, and upon conviction thereof  
15 before a court of competent jurisdiction, shall be fined in  
16 an amount not exceeding \$50.00. Each day that such violation  
17 is committed or permitted to continue shall constitute a separ-  
18 ate offense. In addition thereto, the Mayor of the District  
19 of Columbia or his authorized representative, may institute  
20 injunctive or any other appropriate action or proceeding for  
21 the enforcement of this Article or to correct violations of  
22 this Chapter in the Superior Court of the District of Columbia,  
23 which may issue restraining orders, temporary or permanent  
24 injunctions or other appropriate forms of remedy or relief."

25 "Section 7. Severability

26  
27 The provisions of this ordinance are severable, and if any  
28 provision, sentence, clause, section or part thereof is held  
29 illegal, invalid, unconstitutional or inapplicable to any per-  
30 son or circumstances, such illegality, invalidity, unconsti-  
31 tutionality, or inapplicability shall not affect or impair  
32 any of the remaining provisions, sentences, clauses, sections  
33 or parts of this regulation or their application to other per-  
34 sons and circumstances. It is hereby declared to be the leg-  
35 islative intent that this regulation would have been adopted  
36 if such illegal, invalid, or unconstitutional provision, sen-  
37 tence, clause, section or part had not been included therein,  
38 and if the person or circumstance to which the regulation or  
39 any part thereof is inapplicable had been specifically exempted  
40 therefrom."

41 Section 2. This Regulation shall become effective June 1,  
42 1976, provided that the Mayor shall certify and order to be  
43 printed in the D.C. Register, on or before October 1, 1975,  
44 his finding that the governing bodies of Montgomery County,  
45 Maryland; Prince Georges County, Maryland; Arlington County,  
46 Virginia; and the City of Alexandria, Virginia; if legally  
47 empowered to do so, have enacted ordinances or regulations  
48 substantially similar to this Regulaton.  
49  
50  
51  
52  
53  
54  
55  
56  
57  
58  
59  
60





## THE DISTRICT OF COLUMBIA

WALTER E. WASHINGTON  
Mayor-Commissioner

WASHINGTON, D.C. 20004

December 27, 1974

## Memorandum to the District of Columbia City Council

Today, I am returning with my disapproval Regulation 74-40 relating to beverage containers.

My action comes after long deliberation and with reluctance. The government of the District of Columbia is committed to development of practical measures for the recycling of waste products, not only glass bottles, but other waste products as well including waste paper and printing materials. The ultimate answers may be found in full resource recovery programs operating on national and regional bases.

While the regulation enacted by the Council is praiseworthy in its objectives and provides a partial attack on a subject of great importance to the city and the area now and in the future, it is subject to a number of deficiencies.

First, the measure may not provide the metropolitan program intended by Section 2 since some of the area jurisdictions may not have the authority to enact parallel programs contemplated by the regulation. It is conceivable that the District of Columbia could find itself to be the only major jurisdiction with such a law. Such a situation would adversely affect business and employment in the District and possibly result in higher bottled beverage prices for our residents.

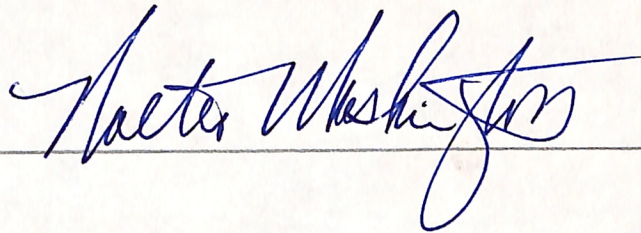
Second, the success of the regulation depends on a commitment to it by all jurisdictions in the metropolitan area. Such a law would have a better chance of reducing litter and avoiding the creation of serious health hazards only if associated with an effective metropolitan-wide consumer education effort.

Third, the regulation would become fully effective on June 1, 1976 without any arrangement for phasing. In testifying on behalf of national legislation before the United States Senate, John Quarles, Deputy Administrator of the Federal Environmental Protection Administration, stressed the importance of phasing with gradual implementation to 1980. Such a phasing arrangement would be appropriate for the metropolitan area as well.

Timing is important from another standpoint. The industry claims that the program would adversely affect employment and incomes of wage earners and raise prices to consumers. Although ultimately the benefits of such a program undoubtedly would offset the additional costs, our present depressed economy should not be subject to such strains.

I believe the measure is also deficient in outlawing all metal cans with pull tops. The implications of this provision added by the Council late in its deliberations should be carefully considered.

It is my hope that the new Council will address the subject matter of this regulation and develop a new proposal which meets environmental needs and is administratively feasible. I would be delighted to sign such a regulation when it is presented.



---