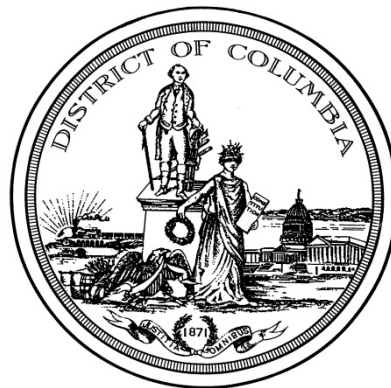


**COUNCIL OF THE DISTRICT OF COLUMBIA  
LEGISLATIVE DRAFTING MANUAL**

Prepared by  
The Office of the General Counsel  
2014 Edition



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## PREFACE TO 2014 EDITION

The purpose of this manual is to provide technical guidance for individuals who draft legislation for consideration by the Council of the District of Columbia. It is a guide to the correct form for bills and resolutions and provides information on style and legal limitations on legislation. This manual is not concerned with the substance of bills or resolutions, although it does offer some general guidance on constitutional and local restrictions on the Council's legislative authority. Attorneys in the Office of the General Counsel are available to provide assistance, on a confidential basis, with substantive issues.

There are many drafting conventions that could achieve the results desired by individual Councilmembers or committees; however, faithful adherence to the drafting methods and style outlined in this document will ensure that Council enactments reflect a uniform and consistent style. This revision reflects the continuing evolution of legislative drafting practices in the Council, and incorporates ideas suggested by users of the Manual.<sup>1</sup>

In this revision, the following significant changes were made to the Council's drafting conventions:

- Eliminated the introductory clause
- Long title changes
- Line numberings are continuous over the course of the measure
- New guidance for establishing special funds
- New guidance for drafting floor amendments
- New guidance for drafting comparative prints
- New drafting standards for ceremonial resolutions

It is impossible in a manual of this kind to address all the issues that may arise in drafting legislation. The manual addresses commonly recurring drafting errors and includes suggestions that hopefully will promote clear and concise legislative writing. The manual will likely be supplemented over time with additional examples and explanations. Adherence to the rules, and reliance on the examples and reference materials included in this manual, will ensure uniform, consistent, and high-quality drafting of Council legislation.

Many thanks to John Hoellen, Benjamin Bryant, Rebecca Katz, and Karen Barbour for their assistance in the revision and preparation of

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<sup>1</sup> Many of the examples, particularly with regard to style, are entirely fictional and are included to illustrate the proper manner of citation.

this manual, and to Barry Kreiswirth and Brian Moore, who gave excellent feedback on proposed drafts.

V. David Zvenyach  
General Counsel  
April 25, 2014

## **1. THE ROLE OF THE OFFICE OF THE GENERAL COUNSEL**

The Rules of Organization and Procedure of the Council of the District of Columbia ("Council Rules") delegate specific legislative drafting responsibilities to the General Counsel, which are outlined in Council Rule 263. Rule 263 provides that:

The General Counsel is responsible for advising the Council on matters of parliamentary procedure, identifying legislative problems, providing members with alternatives in terms of policy options to solve those problems, representing the Council in any legal action to which it is a party or in which the Council has a significant interest, providing legal representation for a Councilmember or employee for actions taken within the scope of their legislative duties, supervising the publication of the District of Columbia Official Code, preparing technical-amendment and enactment bills, providing legislative drafting assistance to all members, engrossing and enrolling measures, making determinations about the legal sufficiency of legislation, and making necessary technical and conforming changes in measures during enrollment. The General Counsel shall serve as Ethics Counselor for the Council.

The attorneys in the Office of the General Counsel ("OGC") perform those functions in addition to legislative drafting functions. These attorneys are available to assist members and staff at every stage of the legislative process, beginning with reviewing legislation drafted for introduction. Assistance in the early stages will ensure that a measure is drafted in a legally and technically accurate fashion and that it reflects the sponsor's intent.

When a measure has not been reviewed by the OGC before introduction, the first serious consideration by attorneys occurs when the committee to which the bill or non-ceremonial resolution has been referred indicates that the measure is scheduled for committee action. Attorneys assist committees before and after the "markup" of the measures so that proper clarifying amendments may be incorporated in the committee-reported measure, that is, the "committee print" of a bill or resolution. Technical amendments may be presented for consideration by the Council at the first or second reading of a bill or at the single reading of a resolution. These technical amendments are

recorded on technical amendment sheets that are filed in the official Council legislative records.

After first reading on bills (except emergency bills), the Legislative Counsel prepares engrossed versions of the bills, showing the committee print of a bill as amended at first reading. Any oral and technical or other written substantive amendments passed at the first reading of a bill are reflected on the engrossed version by underlining any new language and by striking over language that was deleted. Following final reading, the Legislative Counsel prepares enrolled versions of all measures, showing the measure as approved by the Council. The original version of each enrollment is signed by the Chairman of the Council and transmitted to the Mayor for a 10-day period of review, excluding weekends, and holidays, and days of Council recess.

On occasion, it may be necessary to make additional style and technical amendments to measures after 2<sup>nd</sup> reading, during the enrollment process. A record is made of these amendments and is filed in the official Council legislative records, hence the name, "record technical amendment." Record technical amendments may include the following:

- Correction of grammar;
- Correction of inaccurate or incomplete citations;
- Reorganization or redesignation of provisions of an act or a resolution to conform with legislative drafting guidelines; and
- Correction of internal inconsistencies following consultation with the committee and review of the legislative record.

## 2. HOW TO APPROACH LEGISLATIVE DRAFTING

Legislative drafting is the process by which concepts and policy objectives of legislators are translated into the words of acts and resolutions. In most respects, it differs little from your daily writing: coherent, tight, concise, and well-organized paragraphs containing sentences that are structured in a logical sequence to convey your thoughts.

### 2.1. Consider the subject matter's complexity

Laws and all legal documents should be written in a manner easily understood by as many people as possible. Although this objective may be a useful one to have in mind while drafting, many laws are necessarily complex and the drafting reflects that reality.

When drafting a new body of law, attempt to make the new law understandable by as many people as possible. Avoid the use of legal jargon. After all, the ultimate objective of legislative drafting is to create a law that will apply to all persons, so it is best to draft it so that it may be understood by as many people as possible.

In drafting a bill to amend a law, choose the style (numbering convention, organizational structure, use of headings, etc.) found in the existing law, but discard legal jargon and use "plain English" where possible. If you are going to amend an existing law codified in an unenacted title of the D.C. Official Code (see § 2.5) you need to know how to find the "organic act." At the bottom of each section in the D.C. Official Code you will find some material in parenthesis: the historical citation line. In the historical citation line, the first citation is the organic act. When citing an organic act, particularly a congressional act, always use the same capitalization as that contained in the organic act, with the exception of older congressional acts that use "AN ACT" in their long title; for those acts, use "An Act".

The historical citation line for D.C. Official Code § 2-603 is as follows:

*(Oct. 8, 1975, D.C. Law 1-19, title II, § 205, 22 DCR 2062; Mar. 6, 1979, D.C. Law 2-153, § 6(c), 25 DCR 6960; Feb. 18, 1988, D.C. Law 7-78, § 2, 34 DCR 7956; Sept. 20, 2012, D.C. Law 19-168, § 1112, 59 DCR 8025.)*

The organic act is D.C. Law 1-19. Title II of D.C. Law 1-19 is cited as the "District of Columbia Codification act of 1975." The historical citation line shows that the section in question, section 205, has been amended 3 times since its adoption, the most recent amendment occurring in 2012. Also, note that the capitalization of the word "act,"



although incorrect under current drafting conventions, is cited *as it is* in the organic act.

**Example 1. Example and explanation of a historical citation line**

## **2.2. Determine the legislator's objectives**

Understanding a legislator's objectives is essential when drafting legislation. Legislation can take many forms and there are often multiple ways to accomplish a legislator's objectives. To fully understand the objectives (and accordingly to draft the most effective legislation), a drafter may wish to consider the following questions:

- What are the broad legislative concerns of the legislator? This discussion may be results-oriented, such as "I want to figure a way to avoid having out-of-state tax agents harass persons buying liquor in District stores," or a very general, unspecified concern, such as "I really am concerned about the inability of the Superior Court to end minor crimes by teenagers. Maybe the judges aren't tough enough."
- What specific problem is to be solved by the proposed legislation?
- What sources of information does the legislator have or know of that suggests that a problem exists? (Although this information may not always help the drafter determine the legislator's objective, it will help the drafter during the research process.)
- Are there existing administrative mechanisms related to the proposed legislation? How would those mechanisms interact with the proposed legislation?
- How should the law be enforced?
- Does the legislator want a specific agency to implement and enforce the proposed legislation?
- What types of sanctions for noncompliance (such as fines or imprisonment) does the legislator want to have included in the proposed legislation?
- Is the subject of the proposed legislation proper for a bill, or is it more appropriately addressed through a sense of the Council resolution to the Mayor, Congress, or other entity?
- Are the costs of implementing the proposed legislation a consideration and with what approximate cost is the legislator comfortable?

### **2.3. Research before drafting**

The next step is to begin formulating proposals that not only will accomplish the results desired by the legislator, but also will accomplish them in a manner suitable to the legislator. Your research should be focused in two different directions. One is to explore the options posed by the official and review other alternative approaches to the problem or issues raised. The other is to study the constitutional, statutory, and administrative problems that might be raised in the actual drafting of the measure.

Your research and study of the proposal should answer the following questions:

- What is the current state of the law concerning the subject? Are other bills pending before the Council (or before the Congress) that may have an impact upon the official's interest?
- What is the exact nature of the problem to be addressed as best you can determine? Are the studies or facts that purport to present the problem reliable? Have other critical considerations in assessing the problem been omitted?
- What have other states done with similar problems? Are there model or uniform acts addressing the subject? Has the Council considered the same matter in past years -- and with what types of proposals? Why did they fail?
- Who will administer the new law? Have administrative officers offered any views on the subject?
- How much will the new law cost? Are the cost estimates reliable and from impartial sources?
- How will the law affect regulated persons? Are they likely to endorse the law's objectives, oppose them, or ignore them?

### **2.4. Deciding whether to make a bill freestanding or amendatory**

A freestanding bill creates new subject-matter law. It becomes the organic act for the law it creates. An amendatory bill makes changes to existing law. In general, a drafter should prefer an amendatory bill over a freestanding bill if an existing law is relevant to the subject matter. It is important for the drafter to review the Code to determine whether the subject matter of the proposed legislation already exists and, if it does, to determine whether and how existing laws relevant to the subject matter should be amended.

When 2 different laws address the same topic, courts are obligated to "make 'every effort' to reconcile allegedly conflicting statutes and to give effect to the language and intent of both, as long as doing so does not deprive one of the statutes of its essential meaning." *District of Columbia v. Smith*, 329 A. 2d 128, 130 (D.C. 1974). This can lead to unpredictability in the application of laws. *Cf. Adgerson v. Police & Firefighters' Retirement and Relief Board*, 73 A.3d 985, 995 (D.C. 2013) ("This is a strange result.... But it is not an absurd result"). Amending existing law generally reduces the risk of conflict.

## **2.5. Enacted titles and codification**

An "enacted title" of the D.C. Official Code is a law that itself sets out the text of a specific title of the Code. For example, Title 29 of the D.C. Official Code is an "enacted title" because the Council *passed the entire title as an act*. There are 16 enacted titles (Titles 11 through 21, 23, 25, 28, 29, and 47); they are designated by an asterisk in the listing of all titles of the Code that is included near the front of each volume of the Code.

By contrast, an "unenacted title" of the Code typically contains many different laws (referred to as "organic acts"), which are compiled and organized by the Council's Codification Counsel. For example, Title 45 of the Code is an unenacted title. Title 45 consists of 6 chapters and has 20 sections (one repealed), and is compiled from 8 separate laws. One of those laws, An Act To establish a code of law for the District of Columbia, approved March 3, 1901(31 Stat. 1189; D.C. Official Code *passim*), is codified in 24 separate titles!

From a drafter's perspective, the difference between enacted and unenacted titles is critical; enacted titles are law, unenacted titles are not. The drafting rules are markedly different for enacted and unenacted titles. If, for instance, your objective is to change a provision found in an unenacted title of the Code, you may not amend the Code directly. Instead, you must amend the organic act. On the other hand, if you intend to amend a provision in an enacted title of the Code, you should amend the Code directly.

## **2.6. Legal impediments**

The other phase of the research stage is to consider legal impediments to the enactment of the measure. The following concerns should be explored in roughly the order posed:

- Is the measure constitutional under the federal Constitution?  
Satisfy yourself that it falls broadly within the positive grant of

legislative powers (it usually will), and that no specific constitutional limitation upon the powers will be violated (e.g., equal protection, due process, or First Amendment rights). This latter test is a difficult one, but the exercise may reveal the need and ways to limit the breadth of the proposal to make it pass constitutional muster.

- Pay particular attention to specific limitations in the District of Columbia Home Rule Act and the relationship of the Council to Charter-independent or quasi-independent District agencies.
- Assuming the measure is constitutional and not inconsistent with the Home Rule Act, what is the current state of the statutory law? Will the new measure fit in well? Will it conflict with other provisions which will require amendment?
- In integrating new law into a body of existing substantive law, take care to study unintended consequences of an enactment. Look carefully at your definitions provisions so as not to undo some other body of law.
- How have administrative officers been interpreting and implementing related enactments?
- Are there judicial decisions which have an impact upon your legislative initiatives? What is the nature of the common law relating to your issue?
- Have the terms to be used in the measure already been defined elsewhere in the D.C. Official Code? If so, you can repeat that language or cross-reference that definition in your new legislation.

## **2.7. Finalize the drafting assignment**

Drafting is an iterative process; you should not expect to have a perfect bill or resolution on your first draft. Instead, you should build in time to edit carefully and to review the measure for completeness –including a review by the Office of the General Counsel. It is also helpful to have a colleague review your draft; often a review by someone with an "outside" perspective will identify legislative or policy gaps that need to be addressed or legislative provisions that need to be clarified. You should consult with the OGC whenever you have drafting questions.

### **3. CHOOSING TO LEGISLATE BY ACT OR RESOLUTION**

The only formal methods by which the Council may act are through acts and resolutions. Procedural motions made during legislative or committee meetings are not accorded the formal dignity of an act or resolution. The Council does not use simple, joint, or concurrent resolutions as many other legislative bodies do.

#### **3.1. Acts**

##### *3.1.1. Generally*

The District Charter (Title IV of the District of Columbia Home Rule Act), which is similar to a state constitution, provides that the "Council shall use acts for all legislative purposes." D.C. Official Code § 1-204.12(a).

The act is the basic method of enacting laws by the Council. There are 3 major categories of acts used by the Council: permanent acts (in effect until repealed or superseded); emergency acts (in effect for no more than 90 days); and temporary acts (in effect for no more than 225 days). There are other acts, but the vast majority of acts fall into one of those categories.

As described in section 3.2 below, the Council may use a resolution for certain purposes. Under a longstanding interpretation of the Home Rule Act, however, anything the Council may do by resolution, the Council may also do by act.

##### *3.1.2. Permanent acts*

A permanent act<sup>2</sup> remains in effect until repealed or superseded. After 2 readings by the Council in substantially the same form, with at least 13 days intervening between each reading, permanent legislation is assigned an act number and forwarded to the Mayor for his approval or disapproval. The act number is assigned sequentially and is different from the bill number.

Permanent acts are transmitted to Congress following the Mayor's approval, or in the event of veto by the Mayor, action by the Council to override the veto, and undergo a mandatory period of congressional

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<sup>2</sup> A "permanent" act is the "regular" or "normal" type of act under the Home Rule Act. The Home Rule Act does not use the term "permanent" act. The term "permanent" act is used to distinguish traditional legislation from emergency and temporary acts.

review (30-day period for all acts except acts involving Titles 22, 23, and 24 of the D.C. Official Code, which must have a 60-day period of congressional review).

Except when there is a Control Board, all acts are transmitted directly to Congress for the mandatory period of review. Upon completion of the congressional review period, permanent acts become laws and are assigned law numbers, unless Congress enacts a joint resolution disapproving the act.

### *3.1.3. Emergency acts*

An emergency act is an act of immediate effect that may remain in effect only for a period of up to 90 days. These emergency measures may be considered by the Council after it adopts an emergency declaration resolution, by a vote of two-thirds of the members of the Council, declaring that an emergency situation exists. Unlike permanent and temporary acts, emergency acts do not require 2 readings; they are adopted by the Council after a single reading, and assigned an act number. An emergency act is subject to the same mayoral review as any other act. Emergency acts are not subject to congressional review and, therefore, are not assigned a law number.

Under the Home Rule Act, the Council is prohibited from adopting identical successive emergency acts, unless an intervening temporary or permanent act has been transmitted to Congress for review. *District of Columbia v. Washington Home Ownership Council, Inc.*, 415 A.2d 1349 (1980). As discussed in section 3.1.4 below, a temporary act can be used in conjunction with an emergency act while the Council considers permanent legislation. Additionally, "congressional review emergencies" are used to fill the gap between the expiration of an emergency act and the effective date of a temporary or permanent act that is pending congressional review.

### *3.1.4. Temporary acts*

A temporary act is legislation of limited duration that follows the same congressional review procedure as permanent legislation but is not referred to a committee for hearings or markups.<sup>3</sup> A temporary act is enacted only in conjunction with an emergency act and is designed to fill the gap between the expiration of an emergency act and the effective date of permanent legislation. Council Rule 413 states that:

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<sup>3</sup> Temporary acts are created by the Council Rules and are not specifically described in the Home Rule Act.

If the Council approves an emergency bill under section 412, the Council may, at the same legislative meeting, consider a temporary bill on first reading without committee referral. The temporary bill must be substantially similar to the emergency bill and may remain effective for no more than 225 days.

The only times that you would not move a temporary bill with an emergency bill is (1) if you are absolutely certain the legal authority provided by the emergency bill is needed only for 90 days, or (2) the permanent bill is ahead of or would be on the same track as the temporary bill.

### *3.1.5. Budget acts*

Until 2014, a budget request act was not a substantive act; it did not have the force and effect of law. A budget request act was merely a request for an appropriation to be made through the congressional appropriation process.

In 2013, the Local Budget Autonomy Amendment Act of 2012 took effect, which authorizes the Council to enact annual and supplemental appropriations subject to passive congressional review.

A budget request act is not to be confused with a budget support act, which is legislation passed by the Council generally amending current law to conform the law to budgetary changes made in the budget request act. See § 4.4.5.

### *3.1.6. Tax revenue anticipation notes acts*

A tax revenue anticipation notes ("TRANs") act is a form of permanent legislation, but it is slightly different from regular permanent legislation. Pursuant to section 472(d)(1) of the Home Rule Act (D.C. Official Code § 1-204.72(d)(1)), a TRANs act is exempted from congressional review so it only has a bill and act number. Although a TRANs act has 2 readings, it never receives a D.C. Law number.

## **3.2. Resolutions**

Under section 412 of the Home Rule Act, resolutions may only be used (1) to express simple determinations, decisions, or directions of the Council of a special or temporary character; and (2) to approve or disapprove proposed actions of a kind historically or traditionally transmitted by the Mayor or independent agency to the Council pursuant to an act. D.C. Official Code § 1-204.12. Resolutions of the latter type must be specifically authorized by that act and must be

designed to implement that act. *Id.* Resolutions are also used to establish Council committees, rules, and appointments and to communicate the sense of the Council.

Thus, resolutions serve a more limited purpose than acts of the Council. Resolutions may not be used to amend acts. Also, unlike acts that must satisfy a number of requirements to be effective, resolutions become effective either immediately or upon publication in the D.C. Register.

Resolutions fall into 5 categories: ceremonial resolutions (see Chapter 13 below), emergency declaration resolutions, appointment and confirmation resolutions, resolutions approving or disapproving proposed rules or other executive branch actions (legislative-veto resolutions, see Chapter 10 below), and substantive resolutions. The District of Columbia Court of Appeals enunciated the parameters for the Council's use of legislative-veto resolutions in *Wilson v. Kelly*, 615 A.2d 229 (D.C. 1992). See Chapter 10.

Resolutions require only a single reading by the Council and are not signed by the Mayor. Emergency declaration resolutions are considered in conjunction with the emergency act or resolution to which they relate. Many resolutions, like bills, are referred to a committee for consideration, unless the Council retains the resolution.

### **3.3. Initiatives**

An initiative is a method for registered qualified electors to propose a law (except a law appropriating funds) and present the proposed law to the registered qualified electors for their approval or disapproval. See D.C. Official Code § 1-204.101 *et seq.* An initiative is filed with the Board of Elections. If the Board of Elections determines that the measure is a proper subject for an initiative, and a sufficient number of signatures are obtained to place the measure on the ballot, the initiative is placed on the ballot.

The power of initiative is co-extensive with the power of the Council to enact legislative acts, except that an initiative may not involve a law appropriating funds. This limitation is further clarified in the Initiative Procedures Act, which provides that a proposed initiative is not a proper subject for initiative if "[t]he measure would negate or limit an act of the Council of the District of Columbia pursuant to [section 446 of the Home Rule Act]." D.C. Official Code § 1-1001.16.

If an initiative measure has been ratified by a majority of the registered qualified electors voting on the measure, it takes effect the



same as any permanent act passed by the Council subject to passive congressional review. An initiative measure may be amended or repealed by the Council.

### **3.4. Referendum**

A referendum is a process by which registered qualified electors may suspend acts of the Council (except emergency acts, acts levying taxes, or acts appropriating funds for the general operation budget) until the acts have been presented to the registered qualified electors for their approval or rejection. No act is subject to referendum if it has become law. If a majority of the registered qualified electors voting in a referendum on an act vote to disapprove the act or part of the act, then the act is deemed rejected and the Council cannot reenact it for 365 days following the date of the certification of the referendum.

### **3.5. Charter Referendum**

Section 303 of the Home Rule Act (D.C. Official Code § 1-203.03) authorizes certain portions of the District's Charter to be amended by an act passed by the Council and ratified by a majority of registered qualified electors of the District voting in a referendum held for ratification. Specifically, section 303 authorizes the amendment of any part of the Charter except sections 401(a) and 421(a), which establish the Council and Mayor, respectively, and part C, which concerns the courts. Section 303(d) prohibits the Council from using the charter-amendment process to enact any law that would violate sections 601 through 603 of the Home Rule Act. Once the Council adopts a proposed charter amendment, the Board of Elections must formulate a short title and summary statement and place the measure on the ballot for ratification by the voters. If a charter amendment is ratified, it is subject to a 35-day congressional review period.

## 4. FORM OF BILLS AND RESOLUTIONS

### 4.1. Overview

The essentials of good legislative drafting are accuracy, brevity, clarity, and simplicity. Legislative drafting, for the most part, follows general rules of English grammar and writing. Legislative drafting also requires attention and adherence to certain conventions to promote consistency and avoid ambiguity or confusion among the laws.

### 4.2. Format of bills and resolutions

#### 4.2.1. *Generally*

Bills and resolutions should follow these formatting standards:

- A signature line for the Councilmember introducing the legislation should appear in the top right-hand corner. If there is one co-introducer, the co-introducer's signature line should appear in the top-left. Additional co-introducers should have signature lines below the top signature lines alternating from right to left.
- All documents should be double-spaced beginning with the first line after the long title.
- Line numbers should be included, and should be continuous throughout the document.
- Page numbers should appear centered at the bottom of all pages, unless the document is only one page.

#### 4.2.2. *Order of arrangement*

The following is the standard order of arrangement of provisions in a freestanding bill. A freestanding bill creates new law rather than amending an existing law. See section 6.8 for the suggested order of a bill that amends existing law.

1. Standard introductory and identifying provisions (§ 4.3).
2. Long title of the bill (§ 4.4).
3. Table of contents if necessary (§ 4.5).
4. Standard enacting or resolving clause (§ 4.5).
5. Short title of the bill (§ 4.7).
6. Definitions (§ 4.8).
7. Substantive provisions (§ 4.9).
8. Administrative and procedural provisions, including rulemaking authority and Council review provisions.
9. Repealers of other laws (§ 7.3).
10. Conforming amendments to other laws (§ 6.6.2).
11. Transmittal provisions (§ 5.5).
12. Transitional, applicability, or sunset provisions, if any (§ 6.6.2).
13. Fiscal impact statement (§ 5.1).

14. Effective date (§ 5.2).

Resolutions are generally much shorter than bills and follow a more stylized order of arrangement.

**4.3. Standard introductory and identifying provisions**

Each bill and proposed resolution should include, in the top right-hand corner, a signature line for the Councilmember introducing the legislation; the Councilmember's title and name should appear below the signature line. If more than one Councilmember is introducing a bill or proposed resolution, the arrangement of the signature blocks should alternate from the right side of the page to the left side of the page.

After the signature block(s), the phrase "A BILL" or "A PROPOSED RESOLUTION" should be inserted on a separate line, followed by a separate line consisting of a series of underscores.

After these lines, a separate line with the phrase "IN THE COUNCIL OF THE DISTRICT OF COLUMBIA" should be inserted, followed by a separate line consisting of a series of underscores.

**4.4. Long titles**

*4.4.1. Generally*

A long title must precede the enacting or resolving clause, and is intended to summarize the subject matter of the proposed legislation. The long title should describe as succinctly as possible what the measure *does*; it should *not* explain why the measure will be beneficial. The long title is single-spaced with a hanging indent. All long titles should begin with the infinitive verb form and should include sufficient detail in the long title to reflect accurately the breadth of the legislation and amendments, if any, which may be adopted by the Council. Do not include detailed technical provisions (e.g., "to provide for definitions") in the long title; these provisions are implicit elements of a bill. If, however, the bill is intended to be non-severable, the long title should reflect that intent.

To establish the Tax Revision Commission.

**Example 2. A long title of a freestanding bill**

To amend An Act For the retirement of public-school teachers in the District of Columbia to allow for involuntary retirement for all excessed permanent status teachers without regard to whether a teacher chose to reject other options available to him or her.

**Example 3. A long title for an amendatory bill**

#### *4.4.2. Amendments to unenacted titles*

If a bill's primary purpose is to amend existing law in an unenacted title, specifically identify each organic law being amended using its official name in full. The other portions of a standard citation to a District or federal law (that is, the effective or approved date, the D.C. Law or Statutes at Large citation, and the D.C. Official Code citation) should not be included in the long title. If more than one act is being amended they should be separated by a semicolon. The order should correspond to the order of the amendments in the text of the bill (see § 6.1). Each major amendment relating to an act should be described and the descriptions should be separated by commas (unless only 2 major amendments are described in which case no comma is used). In addition, each description should generally begin with the word "to" followed by the infinitive form of a verb.

To amend the District of Columbia Child Support Enforcement Amendment Act of 1985 to require that employers report the date of hire to the District of Columbia Directory of New Hires, to establish the date by which payments must be made, and to establish an annual reporting requirement; and to amend the Advisory Commission on Sentencing Establishment Act of 1998 to modify the membership of the District of Columbia Sentencing and Criminal Code Revision Commission.

**Example 4. A long title of a bill amending laws in unenacted titles**

#### *4.4.3. Amendments to enacted titles*

With enacted titles, you amend the D.C. Official Code directly, not the organic act. When amending an enacted title, if only one section is to be amended, use the section number in the long title. However, if more than one section of an enacted title is being amended refer to the lowest common level of the title of the Code being amended from the subchapter up.

To amend Chapter 5 of Title 16 of the District of Columbia Official Code to eliminate a reference to a repealed law; and to amend section 21-320 of the District of Columbia Official Code to delete a subsection reference.

**Example 5. A long title of a bill amending enacted titles**

#### *4.4.4. Using "for other purposes"*

Although you should avoid the phrase "and for other purposes," you may do so in 2 situations: (1) if it is a part of the official name of an organic act being amended (it is not uncommon for Congress to include the phrase "and for other purposes" as part of an act's official name); or

(2) to account for situations where a bill has more than 3 major purposes, or where the bill amends more than 3 separate laws (whether in unenacted or enacted titles).

*4.4.5. Special rule for Budget Support Acts*

Pursuant to section 603(c) of the Home Rule Act, the Council approves an annual Budget Support Act ("BSA") that includes legislation needed to implement the proposed annual budget. Typically, the BSA is an omnibus measure, amending many laws, in both enacted and unenacted titles. The long title for annual Budget Support Acts shall read as follows: "To enact and amend provisions of law necessary to support the Fiscal Year [fiscal year] budget."

To enact and amend provisions of law necessary to support the Fiscal Year 2015 budget.

**Example 6. The long title for a Budget Support Act**

**4.5. Table of contents**

A table of contents should be used only in a lengthy bill and only when necessary to aid the reader in locating provisions or understanding the structure of the law. The table of contents should be placed before the enacting clause so that it is not part of the law itself.

The table of contents should begin with the phrase "TABLE OF CONTENTS", followed by a blank line, and should then list each section number, followed by the section heading and the page number. If the bill includes titles, the titles (and, where present, subtitles) should also be included in the table of contents. Page numbers should be flush right, preceded by a continuous series of periods.

TABLE OF CONTENTS

TITLE I. RENT STABILIZATION PROGRAM.....	3
Sec. 101. Rental Accommodations Commission.....	3
Sec. 102. Rental Accommodations Office. ....	4
Sec. 103. Duties of the Rent Administrator. ....	5
Sec. 104. Registration and coverage.....	6
* * *	
TITLE II. AFFORDABLE HOUSING INCENTIVES.....	8
* * *	

**Example 7. Table of contents**

**4.6. Enacting and resolving clauses**

Section 3 of the General Legislative Procedures Act of 1975, effective September 23, 1975 (D.C. Law 1-17; D.C. Official Code § 1-301.46),

requires each Council act to have an enacting clause and each Council resolution to have a resolving clause.

For bills, the enacting clause must read: "BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,".

For resolutions, the resolving clause must read: "RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA,".

For initiatives, the standard enacting clause reads: "BE IT ENACTED BY THE ELECTORS OF THE DISTRICT OF COLUMBIA,".

#### 4.7. Short titles

Short titles should generally reflect the subject matter of the proposed legislation and should be included in section 1 of all measures (except ceremonial resolutions, see Chapter 13 below), following the enacting or resolving clause. The short title must appear in quotation marks, followed by a period after the final quotation mark.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Civil Asset Forfeiture Amendment Act of 2013".

**Example 8. An enacting clause and short title for an amendatory bill**

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the "Sense of the Council in Support of Kittens and Puppies Resolution of 2013".

**Example 9. A resolving clause and short title for a resolution**

If the bill amends an existing law, the word "Amendment" must be in the short title.<sup>4</sup> Additionally, if the bill's primary purpose is to establish or amend a municipal regulation, the word "Regulation" should appear in the short title.

Short titles should be short, if at all possible. It is not necessary, for example, to include the full short title of an act being amended within the short title of the amendatory act. The year of the bill's introduction should appear in the short title; if the bill is reported by a committee in a later year, the amendment changing the year should be made during mark-up.

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<sup>4</sup> The exception to this rule is that an amendment made to an enacted title that is essentially freestanding within that title would *not* be considered an "amendment" act. This would include, for instance, tax-abatement legislation.

As a general rule, do not use "District of Columbia" in short titles because all Council legislation relates solely to the District of Columbia. The exceptions to this rule are (1) when the name of a law being amended contains "District of Columbia" in its short title and its complete short title is being used in the new short title and (2) "District of Columbia" is part of a proper name being used in the short title. Any unnecessary use of "District of Columbia" in short titles should be deleted in committee prints; if not, the Legislative Counsel will make technical amendments to delete it in engrossments and enrollments.

#### **4.8. Definitions; definitions applicable to all enactments**

##### *4.8.1. Generally*

A definitions section of a measure can be one of the most important parts of a bill. Defining a term used in a measure can add clarity, reduce repetition, and allow for greater precision in legislative drafting.

Definitions, therefore, should be used where a word has several different common usages or if a word is to be used in a sense broader or narrower than its common usage. Definitions also should be used to avoid repetition of a phrase or to reduce a long series of words defining the official name of a governmental agency to a single word, short phrase, or initials.

Once a term is defined, however, a defined term must be used identically throughout the measure. Do not use variations of the defined term.

##### *4.8.2. "Means" or "includes"*

The distinction between "means" and "includes" in a definitions section is a well-recognized drafting convention,<sup>5</sup> and the District follows that convention. Thus, you should use the word "means" to express a comprehensive meaning of a word and use the word "includes" to express a meaning in addition to common usage or a meaning that is not intended to be comprehensive.

It is redundant to say that a term "includes but is not limited to" in composing a definition. To avoid any doubt, the Council passed a law

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<sup>5</sup> See, e.g., *Christopher v. SmithKline Beecham Corp.*, 132 S. Ct. 2156, 2170 (2012) (explaining that the verb "includes" indicates that a definition is "intended to be illustrative, not exhaustive").

defining the term "includes" to mean "includes, but not limited to."<sup>6</sup> Finally, if you wish to *exclude* a meaning from a definition, you should use the phrase "does not include."

Sec. 2. Definitions.

For the purposes of this act, the term:

- (1) "Capulet" includes Juliet and Tybalt.
- (2) "Montague" includes Romeo and Benvolio.
- (3) "Rose" means a flower in the genus Rosa and does not include a flower by any other name.

**Example 10. A definitions section**

*4.8.3. Common issues in the drafting of a definitions section*

When drafting a definitions section, the following standards apply:

- A definition should not include a substantive provision. Including a substantive provision in the definitions section will make the requirement imposed by the substantive provision more difficult for a reader to discern. The substantive portion of the definition must be included in the substantive provisions of the bill.
- Do not define a general term as a specific subset of that term (e.g., "The term "employer" means a business employing over 25 employees."). The inconsistency between the more commonly understood meaning of the general term and its more specific statutory definition is likely to create confusion for readers and will make the legislation more difficult to understand. In the example above, a better solution would be to use a phrase such as "covered employer" as the defined term. This will signal to the reader that the term has a specific meaning that can be determined by reading the definitions section.
- Do not include 2 defined terms with the same meaning. For example, a definition should not state "'Department" or "DDOT" means the District Department of Transportation"; instead the section should state either "'Department" means the District Department of Transportation" or "'DDOT" means the District Department of Transportation".
- Do not provide 2 definitions for one term. For example, a definition should not state "'Director" means, depending on the context, either the director of the Department of Health or the director of the Department of Human Services". Instead, a separate term should be provided for each definition (e.g., "'DOH Director" means..." and "'DHS Director means ...") and the appropriate term should be used in the substantive provisions of the bill.

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<sup>6</sup> D.C. Official Code § 1-301.45(10).



- Do not create circular definitions (e.g., The term "parent" means a parent of a child);
- Do not define a term in a manner that is inconsistent with its common meaning (e.g., The term "parent" means a mother).
- Do not capitalize a defined term in the text (except when it begins a sentence or subdivision). Only capitalize a defined term if it abbreviates a proper noun or if capitalization is necessary in order to avoid confusion.
- When the final draft of the legislation is being prepared, make sure that all of the defined terms are actually used in that draft. As a bill is revised, defined terms that were used in an earlier draft often no longer appear in the substantive provisions of the final draft. Make sure to delete unused definitions.

#### *4.8.4. Additional drafting conventions for definitions*

- The definitions section should generally be placed at the beginning of a measure. If, however, a measure has definitions that apply only to a specific section (or subdivision of a section), it is acceptable to place the definition at the end of the operative section or subdivision, or in a separate subsection or paragraph.
- The lead-in language to the definitions should read "For the purposes of this act [or appropriate subdivision of the act], the term". The lead-in language should be followed by a colon if there is more than one defined term or by the defined term itself if there is only one defined term.
- Definitions should be placed in alphabetical order. Use the letter-by-letter method of alphabetizing, which ignores spaces, hyphens, slashes, and apostrophes. (For example, "newspaper" would precede "New York".) A term beginning with a numeral should precede all terms beginning with a letter.

(2) For the purposes of this subsection, the term "demonstration" means marching, congregating, standing, sitting, lying down, parading, demonstrating, or patrolling by one or more persons, with or without signs, for the purpose of persuading one or more individuals, or the public, or to protest some action, attitude, or belief.

**Example 11. A single definition contained within a subsection**

#### *4.8.5. Adoption of definition by reference*

When a term should have the same meaning in separate but related laws, it may be useful to include a definition in the second law that adopts by reference the definition in the first law. The cross-reference should be to related laws to avoid confusion, unanticipated changes in different contexts, and the possibility of divergent interpretations.

(B) "Health care facility" shall have the same meaning as provided in section 2(5) of the Nurse Staffing Agency Act of 2003, effective March 4, 2004 (D.C. Law 15-74; D.C. Official Code § 44-1051.02(5)).

**Example 12. A definition adopted by reference**

A drafter should use adoption of a definition by reference only when it is desired to maintain parallel meaning and not merely to save words. In the latter circumstance, the future amendment of the adopted definition could produce unforeseen consequences.

*4.8.6. Pre-defined terms*

Unless otherwise specified, sections 2 and 4 of the General Legislative Procedures Act of 1975, D.C. Official Code §§ 1-301.45 & 1-301.47, apply to all enactments and provide general defined terms that should not be defined again in drafting legislation unless necessary to avoid confusion or when a different meaning is needed. For example, the terms *Council*, *Mayor*, *person*, *officer*, *signature*, *writing*, *Act*, *act*, and *District* are all pre-defined terms.

*4.8.7. Parenthetical defined terms*

A parenthetical defined term (for example, "The Department of Motor Vehicles ("DMV") may issue...") should be used only if the defined term occurs in only one section of the bill. If the defined term occurs in more than one section of the bill, it should be included in a definitions section for the entire bill. In addition, if there is a definitions section for the entire bill, it is generally preferable to place all of the defined terms in that section, even defined terms for which a parenthetical defined term would otherwise be appropriate.

**4.9. Substantive provisions.**

Legislation should be organized in the most useful and logical format for the reader. Avoid an organization that requires understanding of a later section in order to understand an earlier section. Group all sections dealing with a common subject. Divide a very lengthy bill into titles. Divide a very lengthy section into multiple sections.

Substantive provisions should be placed in order of importance or other logical sequence, with mandatory provisions before permissive provisions and permanent provisions before temporary provisions

## 4.10. Section headings, titles and subtitles, and sections

### 4.10.1. Section headings

Use a section heading for each section of a freestanding or amendatory act. The one exception to this rule is that a heading is not required for an amendatory section, although a heading may be used for an amendatory section if it would be helpful to the reader. (Even though an amendatory section does not require a section heading, each section added to an organic act or an enacted title of the D.C. Official Code by the amendatory section should include a section heading.) Section headings aid the reader in complex legislation, are helpful in locating new law, and are required whenever legislation amends an enacted title. Headings are located at the beginning of each section immediately after the section number. Capitalize only the first word of a section heading (unless a proper noun is used in the section heading). Use semicolons to separate subjects and end the heading with a period. Do not underline or italicize headings unless the organic act did so (some congressional acts do).

Sec. 3. Classification authority; relation to federal law.  
\*\*\*

Sec. 6.\* The Council Act of 2009, effective June 20, 2009 (D.C. Law ----; D.C. Official Code ----), is amended by adding a new section 13a to read as follows:

"Sec. 13a. Relation to federal law.  
\*\*\*

\* A section heading may be used here if helpful to the reader.

#### **Example 13. Examples of use of section headings**

Do not use headings with subsections, paragraphs, subparagraphs, sub-subparagraphs, or sub-sub-subparagraphs unless the organic act used them (some congressional acts use them).

Note: When amending an enacted title of the Code check to see whether the heading should be amended to reflect the change, and, if applicable, the table of contents for the title as well as for the chapter.

Sec. 103. Title 47 of the District of Columbia Official Code is amended as follows:

\*\*\*

(c) Chapter 13A is amended as follows:

(1) The table of contents is amended by adding a new section designation to read as follows:

"47-1336. Energy efficiency loan foreclosure."

(2) A new section 47-1336 is added to read as follows:

"§ 47-1336. Energy efficiency loan foreclosure."

\*\*\*

**Example 14. Adding a new section to the table of contents in an enacted title**

Note: If a heading is omitted from an unenacted title, the Office of the General Counsel will create a heading.

*4.10.2. Titles and subtitles*

For complicated measures, it may be desirable to use titles or subtitles as additional organizational aids. Think of titles (or, if appropriate) subtitles as "separate bills" integrated into a single legislative vehicle for the purposes of enactment.

Titles and subtitles are written in all capital letters and are followed by a period. Generally, a title within a bill should have a short title; however, the use of a short title is optional with subtitles.

*4.10.3. Use of the word "section"*

The word "section" is capitalized and abbreviated only in headings (for example, "Sec. 3. Rules."; otherwise the word is lower-cased and spelled out.

*4.10.4. Cross-references to other sections*

When a bill refers to a section in another law, the proper style will depend on whether the bill amends an enacted or an unenacted title. If the bill amends an enacted title, the cross-reference should use the D.C. Official Code citation, even if the cited law is in an unenacted title.

... pursuant to § 1-204.46 ...

**Example 15. A cross-reference from an enacted title to a provision in an unenacted title**

If the bill amends an unenacted title, the cross-reference would depend on whether the cited section is in an enacted title or not.

... pursuant to section 446 of the District of Columbia Home Rule Act, approved December 24, 1973 (D.C. Official Code § 1-204.46; 87 Stat. 801), ...

**Example 16. A cross-reference from an unenacted title to a provision in an unenacted title**

... pursuant to D.C. Official Code § 47-369.01 ...

**Example 17. A cross-reference from an unenacted title to a provision in an enacted title**

#### 4.10.5. *Lead-in language*

Paragraphs are used within a section when the lead-in language is text, even when the lead-in language is undesignated. For example, paragraph numbering is used for definitions (unless the organic act uses a different scheme). In the following example, the lead-in language is an undesignated subsection (a). (Note that each paragraph should be indented twice, pursuant to the normal formatting standard for paragraphs, even though in this instance the paragraph is the first designated subdivision level in the section.)

Sec. 2. For the purposes of this act, the term:

(1) "Apple" means . . . .

(2) "Pear" means . . . .

**Example 18. Numbering when the lead-in language is undesignated text**

However, subsections are used within a section when the lead-in language is a citation to a law being amended.

Sec. 2. The Gold Act of 1905, approved May 4, 1905 (93 Stat. 22; D.C. Official Code § 1-317.01 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 1-317.01) is amended by striking the word "gold" and inserting the word "silver" in its place.

(b) Section 22 (D.C. Official Code § 1-317.21) is amended by adding a new subsection (b) to read as follows:

"(b) All that glitters is not gold."

**Example 19. Numbering when the lead-in language is a citation**

#### 4.10.6. *Multiple sections*

When referring to multiple sections, use the word "sections" only if there is in fact more than one section.

... sections 4(a) and 5(b) ...

But

... section 4(a), (b), and (d) ...

**Example 20. Reference to multiple sections**

## 4.11. Numbering

### 4.11.1. Generally

With 2 exceptions, you should use Arabic numbers for numerals (i.e. 2, 3, 4). The exceptions to the rule are as follows:

- Spell out "zero" and "one."
- Spell out a number if it is the first word of a sentence or subdivision, unless the number is unusually large (e.g., "525,600 minutes" instead of "Five hundred twenty five thousand six hundred minutes"...).

### 4.11.2. Numbering for unenacted titles

Designate each section, subsection, paragraph, subparagraph, sub-subparagraph, or sub-sub-subparagraph by a letter or number:

- Sections are numbered as follows: Sec. 2., Sec. 3., Sec. 4., Sec. 5.
- Subsections are designated as follows: (a), (b), (c)
- Paragraphs are numbered as follows: (1), (2), (3)
- Subparagraphs are designated as follows: (A), (B), (C)
- Sub-subparagraphs are numbered as follows: (i), (ii), (iii)
- Sub-sub-subparagraphs are numbered as follows: (I), (II), (III)

Sec. 2. Section 2(a)(1)(A)(i)(I) of the [organic act citation] is amended as follows:

**Example 21. Numbering for an unenacted title amendment**

Designate each title and subtitle as follows:

- Titles are numbered as follows: TITLE I., TITLE II., TITLE III.
- Subtitles are designated as follows: SUBTITLE A., SUBTITLE B., SUBTITLE C.

### 4.11.3. Section numbering for amendments to enacted titles

When you are drafting a bill that will amend an enacted title of the D.C. Official Code, the section numbering for the sections will be the same as that of an unenacted title (e.g., Sec. 2., Sec. 3., etc). See § 4.11.2. References to the D.C. Official Code sections within the amendment will be to the sections as they appear in the Code.

Sec. 2. Section 21-2202 of the District of Columbia Official Code is amended to read as follows:

"§ 21-2202. Definitions.

"For the purposes of this chapter, the term:

"(1) "Apple" means . . . .

"(2) "Pear" means . . . .

**Example 22. Numbering for an enacted title amendment**

*4.11.4. Numbering for new sections and, subsections, paragraphs, subparagraphs, sub-subparagraphs, and sub-sub-subparagraphs*

When amending an existing law, don't renumber sections, subsections, paragraphs, or subparagraphs, sub-subparagraphs, or sub-sub-subparagraphs. Renumbering makes statutory research difficult and gives the reader no clue that changes have been made. Instead of renumbering, add new levels and repeal existing levels as follows:

- Between numerically designated sections, add a small letter immediately after the section number (e.g., add a new section 3a between existing sections 3 and 4 or add a new D.C. Official Code § 16-1111a between existing sections § 16-1111 and § 16-1112).
- Between 2 sections that have a number and a small letter, add a hyphen and a number after the small letter (e.g., add a new section 3a-1 between sections 3a and 3b).
- For alphabetically designated subsections, add a hyphen and a number after the letter (e.g., add new subsections (a-1) and (a-2) between subsections (a) and (b)).
- Between 2 alphanumerically designated subsections, add a capitalized letter after the number (e.g., add a new subsection (b-1A) between (b-1) and (b-2)).
- For paragraphs, add a capitalized letter immediately after the paragraph number. (e.g., add a new paragraph (3A) between paragraphs (3) and (4)).
- For subparagraphs, sub-subparagraphs, and sub-sub-subparagraphs, add a hyphen and a number after the letter using the next lower classification (e.g., (B-i), (ii-II), and (II-aa)).

The drafting rules do not cover all of the possible insertion situations. Insertions that create unusual numbering schemes should be avoided wherever possible. Accordingly, if a situation does not fit any of the rules contained in this manual, consider locating the new provision elsewhere.

Sec. 2. The Compulsory/No-Fault Motor Vehicle Insurance Act of 1982, effective September 18, 1982 (D.C. Law 4-155; D.C. Official Code § 31-2401 *et seq.*), is amended by adding a new section 4a to read as follows:

**Example 23. Adding a new section between existing sections 4 and 5**

*4.11.5. Numbering for repealed provisions*

To repeal a section, subsection, paragraph, subparagraph, or sub-subparagraph, or sub-sub-subparagraph, identify specifically what is

being repealed. Do not renumber repealed provisions; they will be designated as "repealed".

Sec. 2. Section 389(c) of the Revised Statutes of the District of Columbia (D.C. Official Code § 5-113.06(c)), is repealed.

**Example 24. A repealer of a subsection**

*4.11.6. Numbering of sections of legislation that is divided into titles*

Titles use 100-series numbers rather than the single Arabic numeral, so that sections 2 through 11 would be shown as sections 101 through 110 of Title I. Each title begins with a section \_\_01 regardless of the number of sections in the preceding title.

**4.12. Using lists in drafting**

The Council prefers lists and, in some instances, tables to present complicated material. Break a sentence into its parts and present them in the form of a list whenever this makes the meaning clearer. Use tabulation if the subject matter makes the use of a list impossible or difficult to understand.

*4.12.1. When to use a list*

Consider using a list when a number of rights, powers, privileges, duties, or liabilities are granted to or imposed upon a person and in other situations if the use of a list makes the provision substantially easier to understand. In preparing lists, apply the following standards:

- All items in the list must belong to the same class or category.
- Each item in the list must be responsive in substance and form to the introductory sentence.
- Each item must be indented and numbered or designated.
- The first word in each item must be capitalized, except where this would be inconsistent with the capitalization in the organic act for unenacted titles.
- To avoid confusion, spell out a number used as the first word in any item in a list (unless the number is unusually large).

*4.12.2. Using lists with incomplete sentences*

If the introductory language for the list is an incomplete sentence or phrase, end the introductory language with a colon and end each item in the list, except the last item, with a semicolon. End the last item in the list with a period and use a single "or" to indicate the disjunctive or a single "and" to indicate the conjunctive at the end of the penultimate item in the list. (If the list is of definitions, end each item with a period and use neither "and" nor "or".)



- (b) The Mayor shall:
- (1) Submit the proposed rule;
  - (2) Work with the advisory committee; and
  - (3) Prepare a final report.

**Example 25. A list consisting of incomplete sentences**

**4.12.3. Using lists with complete sentences**

If the introductory language for the list is a complete sentence, end the introductory language with a colon and make each item in the list a separate sentence ending with a period. To indicate the conjunctive or disjunctive, use a phrase in the introductory clause of the series that clearly expresses how many of the following items are to be included, such as "any of the following", "one of the following", "all of the following", or "any one or more of the following".

- (b) The Mayor shall appoint members of the Commission as follows:
- (1) One member shall be appointed to represent the Office of the Attorney General.
  - (2) Ten members shall be appointed to represent the community, including at least one from each ward in the District.

**Example 26. A list consisting of complete sentences**

Do not include as an item in a list language that qualifies all of the items. Do not interrupt a list to include language qualifying an item on the list; instead, put the qualifying language in a separate subsection, paragraph, or other subdivision. Do not place an unnumbered sentence or paragraph after a tabulation. If a sentence or paragraph is not a part of the tabulated series, draft it as a separate subsection or paragraph.

<i>SAY:</i>	<i>DON'T SAY:</i>
Sec. 3. (a) Each owner shall: (1) Give 30 days' notice to each lessee; and (2) Send a copy of the notice to the District. (b) The notice shall be in writing and notarized.	Sec. 3. Each owner shall: (1) Give 30 days' notice to each lessee; and (2) Send a copy of the notice to the District. The notice shall be in writing and notarized.

## 5. COMMON CLAUSES

All bills must include 2 clauses at the end: (1) a fiscal impact statement and (2) an effective date clause. These clauses vary depending on the nature of the bill, and the drafter should take care to use the correct clause for a specific bill. Other common provisions include applicability sections, transition provisions, the creation of special funds, and transmittal clauses. This chapter covers some of the most common clauses.

### 5.1. Fiscal impact statements

#### 5.1.1. Generally

Section 602(c)(3) of the Home Rule Act requires that the Council include a fiscal impact statement ("FIS") with all legislation transmitted to Congress. Section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a), and Council Rule 803(g), require that FIS accompany all bills, resolutions, and amendments considered by the Council, except for emergency declaration, ceremonial, confirmation, and sense of the Council resolutions.

A FIS must include an "estimate of the costs which will be incurred by the District as a result of the enactment of the measure in the current and each of the first four fiscal years for which the act or resolution is in effect, together with a statement of the basis for such estimate." D.C. Official Code § 1-301.47a(a)(2).

Questions regarding the sufficiency of a particular FIS should be directed to the Council's Budget Director.

#### 5.1.2. Fiscal impact statement in the committee report

Under Council Rule 803(g), a FIS must be included in committee reports for all permanent acts. Example 27 contains the standard FIS language used when the FIS is contained in the committee report. Introduced permanent bills should all include this stock language.

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

#### Example 27. Fiscal impact statement for permanent bill

If a new, revised fiscal impact statement is issued after the filing of the committee report, the fiscal impact statement provision will be revised

to identify the latest fiscal impact statement: "The Council adopts the [month, date, year) fiscal impact statement of the Chief Financial Officer . . ."

*5.1.3. Fiscal impact statement language for measures not reported by a committee*

Emergency measures must also contain a fiscal impact statement. A FIS can be obtained either from the Chief Financial Officer's Office of Revenue Analysis or from the Council's Budget Director. Generally, measures that are introduced at the request of the Mayor will include a FIS from the Chief Financial Officer, and emergency measures originating in the Council will include a FIS from the Budget Director.

**Sec. 3. Fiscal impact statement.**

The Council adopts the fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code §1-206.02(c)(3)).

**Example 28. Fiscal impact statement for emergency and temporary legislation prepared by the Chief Financial Officer**

**Sec. 3. Fiscal impact statement.**

The Council adopts the fiscal impact statement of the Budget Director as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

**Example 29. Fiscal impact statement prepared by the Budget Director**

*5.1.4. Fiscal impact statements for related measures*

If a permanent bill for which an emergency bill is being considered has been reported by a committee (and the 2 bills are substantially similar), it is appropriate for the emergency bill to refer to the FIS in the committee report for the permanent bill. Example 30 contains an example to refer to a related FIS.

**Sec. 3. Fiscal impact statement.**

The Council adopts the fiscal impact statement in the committee report for the Teachers' Retirement Amendment Act of 2013, passed on 1st reading on May 7, 2013 (Engrossed version of Bill 20-64), as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

**Example 30. Fiscal impact statement for emergency bill that references the committee report in a permanent bill**

## 5.2. Effective dates

There are 10 standard effective-date clauses used by the Council. The standard effective-date clauses for bills list publication in the District of Columbia Register after the congressional review period. The long-standing interpretation of the provision, however, has been that the publication requirement is satisfied when the text of the act itself has been published in the District of Columbia Register, which typically occurs while a measure is pending review by Congress.

1. For permanent acts, which take effect after a 30-day period of congressional review:

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

**Example 31. The permanent noncriminal act effective-date clause**

2. For criminal law acts that amend Titles 22, 23, or 24 of the D.C. Official Code and take effect only after a 60-day period of congressional review:

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

**Example 32. The permanent criminal act effective-date clause**

3. For temporary acts, which take effect after a 30-day congressional review but are only in effect for 225 days:

Sec. 4. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

**Example 33. The temporary act 30-day effective-date clause**

4. For criminal law temporary acts that amend Titles 22, 23, or 24 of the D.C. Official Code and take effect after a 60-day congressional review period, but which are only in effect for 225 days:

Sec. 4. Effective date.

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 60-day period of congressional review as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

**Example 34. The temporary act 60-day effective-date clause**

5. For emergency acts, which do not undergo congressional review and are in effect for not more than 90 days:

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), and shall remain in effect for no longer than 90 days, as provided for emergency acts of the Council of the District of Columbia in section 412(a) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 788; D.C. Official Code § 1-204.12(a)).

**Example 35. The emergency act effective-date clause**

6. For resolutions (other than emergency resolutions and legislative-review or legislative-veto resolutions), which take effect upon the first date of publication in the District of Columbia Register:

Sec. 4. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

**Example 36. A resolution effective-date clause**

This effective-date clause applies to resolutions initiated by a member of the Council, other than emergency resolutions or resolutions "that pertain[ ] to the internal operation or organization of the Council." D.C. Official Code § 2-602. An example of a resolution pertaining to the internal operation of the Council is a resolution appointing the General Counsel to the Council of the District of Columbia. By contrast, a resolution confirming a Council appointee to an outside body would not pertain to the internal operation of the Council and, therefore, it would not be effective until it was published in the District of Columbia Register.

7. For emergency resolutions, emergency declaration resolutions, and legislative-review or legislative-veto resolutions, which take effect immediately without prior publication:

Sec. 4. This resolution shall take effect immediately.

**Example 37. The emergency or legislative-review resolution effective-date clause**

8. For budget request acts:

This act shall take effect as provided in section 446 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 801; D.C. Official Code § 1-204.46).

**Example 38. The budget act effective-date clause**

9. For TRANs acts, which are not subject to congressional review (see section 3.1.6 above):

This act shall take effect upon enactment as provided in section 472(d)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 806; D.C. Official Code § 1-204.72(d)(1)).

**Example 39. A tax revenue anticipation note act effective-date clause**

10. Charter amendments, which must be made in accordance with section 303 of the Home Rule Act (D.C. Official Code § 1-203.03):

This act shall take effect as provided in section 303 of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 784; D.C. Official Code § 1-203.03).

**Example 40. A Charter amendment effective-date clause**

### 5.3. Other provisions

#### 5.3.1. Applicability provisions

Applicability provisions are also placed in a separate section just before the fiscal impact statement section. Applicability provisions delay implementation of a new law (prospective applicability) or, in some instances, accelerate the timing of the implementation of a new law so that it applies to events that occurred before the effective date of the law (retroactive applicability). The applicability date is different than the effective date. Applicability provisions do not affect the progress of legislation through the legislative process.

Legislation containing an applicability provision becomes law at the end of the period of congressional review (or upon approval of the Mayor or override of a mayoral veto in the case of emergency acts), but its implementation is accelerated or delayed.

**Sec. 3. Applicability.**  
**This act shall apply as of December 31, 2014.**

**Example 41. An applicability provision**

**Sec. 401. Applicability of provisions; non-retroactivity.**  
This act shall apply only to the offenses committed on or after the effective date of this act.

**Example 42. A non-retroactive applicability provision**

*5.3.2. Sunset provisions*

A "sunset" provision is a means to allow a law to expire without further Council action.

**Sec. 3. Sunset.**  
This act shall expire on December 31, 2014.

**Example 43. A sunset provision**

*5.3.3. "Subject to appropriations" provisions*

One special case for an applicability provision is what is commonly referred to as a "subject to appropriations" provision. This provision is necessary where proposed legislation has a negative fiscal impact, and therefore cannot be effective until the legislation has been budgeted for (See section 4a(b) of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a(b))). Over time, a practice has emerged to include a "subject to appropriations" provision when it is expected that funds will become available after the enactment of the law. It is important to distinguish this provision from other situations where affirmative congressional approval or authorization is required (e.g., where the legislation would be inconsistent with the federal Antideficiency Act or where the appropriations exist outside of the District's budget and financial plan).

**Sec. 3. Applicability.**  
[This act, section, etc.] shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan, as certified by the Chief Financial Officer to the Budget Director of the Council in a certification published by the Council in the District of Columbia Register.

**Example 44. An applicability provision for legislation made "subject to appropriations"**

As a procedural matter, emergency acts that are "subject to appropriations" have been ruled out of order if they are not likely to be funded during the 90-day effective period.

Additionally, a drafter should be aware that an act or provision of an act that is "subject to appropriations" is typically not codified until the act or provision is funded.

#### *5.3.4. Savings clauses*

Savings clauses serve to maintain the force of a pre-existing law that a new law supersedes with respect to certain events or transactions that occur before the new law takes effect. Savings clauses can be narrowly drafted to apply to only a discrete set of occurrences, or they can be general and all-encompassing. Savings clauses should be placed immediately after any transitional provisions and just before the fiscal impact section.

Each regulation, standard, rule, notice, order, and guidance promulgated or issued by the Mayor pursuant to this act and in effect before the effective date of this act shall remain in effect according to its terms unless superseded.

**Example 45. A savings clause**

This chapter does not affect an action or proceeding commenced, or right accrued, before the applicability date of this chapter. Subject to § 16-4403, an arbitration agreement made before the applicability date of this chapter is governed by §§ 16-4301 to 16-4319.

**Example 46. A savings clause maintaining the existing law for events occurring before the effective date of a new law**

### **5.4. Establishment of special funds**

#### *5.4.1. Generally*

Section 450 of the Home Rule Act provides that, in general, District revenues are deposited in the District's "General Fund." Section 450 also provides, however, that the Council may "from time to time establish such additional special funds as may be necessary for the efficient operation of the government of the District." D.C. Official Code § 1-204.50.

When creating a special fund, include the following features:

- An administrator;
- Revenue source;
- Purpose of the fund;
- Restrictions on the fund;
- Whether the fund should be "nonlapsing" (see § 5.4.2); and
- Whether the fund should have "no-year" appropriation authority (see § 5.4.3).



(a) There is established as a special fund the [Name] Fund ("Fund"), which shall be administered by [Administrator] in accordance with subsections (c) and (d) of this section.

(b) Revenue from the following sources shall be deposited in the Fund:

- (1) [Source];
- (2) [Source]; and
- (3) [Source].

(c) Money in the Fund shall be used for the following purposes:

- (1) [Purpose];
- (2) [Purpose]; and
- (3) [Appropriate overhead/administration expenses related to the Fund];

(d) Money in the Fund may not be used for the following purposes:

- (1) [Restriction];
- (2) [Restriction]; and
- (3) [Restriction]

**Example 47. Outline for the creation of a special fund**

*5.4.2. Nonlapsing special funds*

If at the end of the fiscal year, the funds should not revert to the General Fund but should instead remain in the special fund, a subsection creating a "nonlapsing" special fund should be included.

(e) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

**Example 48. Subsection for establishment of a nonlapsing fund**

*5.4.3. No-year appropriations for special funds*

In addition, a drafter should consider whether a fund should have a "no-year appropriation." Although the Council may create a nonlapsing fund without additional action, because all obligations and expenditures must have an appropriation, any funds remaining in a nonlapsing fund may not be spent unless there is an appropriation supporting the expenditure. To ensure that funds deposited in a special fund remain available for obligation and expenditure beyond a fiscal year, authorization in an appropriations act or other federal law must be sought for a no-year appropriation. Authorization may be sought on a continuing basis, whereby money deposited in the special fund will be available for obligation and expenditure without further appropriation.

(e)(1) The money deposited into the Fund, and interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

**Example 49. Subsection for establishment of a continuing no-year appropriation**

Because this type of authorization limits Council authority over expenditures and has the effect of creating a less transparent budget process, it should be used only when there is a compelling reason.

Authorization for a no-year appropriation may also be sought on a one-time basis, in which funds appropriated in a specific fiscal year are also available for obligation and expenditure in any future fiscal year. Generally, the authorization for a one-time no-year appropriation is included in a Budget Request Act.

*Provided*, that the Advisory Neighborhood Commission allotments shall not revert to the General Fund of the District of Columbia at the end of the fiscal year, or at any time, but shall be continually available until expended;

**Example 50. Provision in Budget Request Act for a one-time no-year appropriation**

## 5.5. Transmittal provisions

Once the Council adopts a resolution (unlike an act) there is no requirement to present the measure to the Mayor. It is common, however, to include a transmittal provision in order to provide notice to affected parties of the Council's actions.

There are 2 general formats for transmittal provisions. The format which should be used in a specific resolution depends on whether the resolution is considered a "Type 1" or "Type 2" resolution under section 412 of the Home Rule Act. The Chairman should be designated to transmit "Type 1" resolutions (resolutions used to "express simple determinations, decisions, or directions of the Council of a special or temporary character"). An example of a Type 1 resolution is a sense of the Council resolution. The Council should be designated to transmit "Type 2" resolutions: (resolutions used to "approve or disapprove proposed actions of a kind historically or traditionally transmitted by the [Executive]...to the Council pursuant to an act"). An example of a Type 2 resolution is a resolution confirming a mayoral appointment. As a

matter of custom and practice, either the Chairman or Secretary may transmit "Type 2" resolutions.

The recipient of a transmittal is left to the discretion of the Council.

**Sec. 4. Transmittal.**

The Chairman shall transmit a copy of this resolution, upon its adoption, to the President of the United States.

**Example 51. A "Type 1" resolution transmittal provision**

**Sec. 3. Transmittal.**

The Council shall transmit a copy of this resolution, upon its adoption, to the nominee and to the Mayor.

**Example 52. A "Type 2" resolution transmittal provision**

**5.6. Criminal fine proportionality**

In 2012, the Council enacted the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01 *et seq.*) ("Proportionality Act"), which established standard fines for criminal offenses that also have potential prison terms. In that act, the Council required that exceptions to the act have a "specific reference" to it. Accordingly, when a law adopts a criminal fine that is different from the fine that would otherwise be imposed under the Proportionality Act, the law should state explicitly that the fine imposed by the law is an exception to the Proportionality Act.

(c) The fine set forth in this section shall not be limited by section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01 *et seq.*).

**Example 53. A reference establishing an exception to the Criminal Fine Proportionality Amendment Act of 2012**

Although the Proportionality Act does not require a law to specifically incorporate a reference to the Proportionality Act when the intent is for the fine imposed by the Proportionality Act to apply to violations of the law (the Proportionality Act states that if the penalty for violation of a law is not set forth in the law and the law, by specific reference, does not exempt the offense from the fine otherwise applicable under the Proportionality Act, the fine under the Proportionality Act shall apply to violations of the law), a reference incorporating the fine imposed by the Proportionality Act should still be included in the law. This will make clear to the public that a fine may be imposed for a

violation of the law and will help defend against a lawsuit challenging the imposition of a fine under the law.

(c) Subsection (c) is amended to read as follows:

"(c) A person violating subsection (b) of this section shall be fined no more than the amount set forth in section 101 of the Criminal Fine Proportionality Amendment Act of 2012, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01), or incarcerated for no more than 90 days, or both."

**Example 54. A reference incorporating the Criminal Fine Proportionality Amendment Act of 2012**

As an additional consideration, a drafter should be aware that the seriousness of a criminal penalty may affect prosecutorial jurisdiction. See *In re Hall*, 31 A.3d 453 (D.C. 2011).

## 6. SPECIAL RULES FOR AMENDING EXISTING LAW

If you are amending an existing law (see § 2.4), there are several special rules to consider.

### 6.1. Order of amendments

Typically, amendments should be drafted in order of importance and then according to sequential order within the D.C. Official Code.

### 6.2. Division of amendments into sections and subsections

If amending more than one organic act, each organic act is amended in its own section.<sup>7</sup>

<i>SAY:</i>	<i>DON'T SAY:</i>
<p><b>Sec. 2.</b> The Organic Act of 1973 [citation] is amended as follows:</p> <p>...</p> <p><b>Sec. 3.</b> The Inorganic Act of 1992 [citation] is amended as follows:</p> <p>...</p>	<p>Sec. 2. <b>(a)</b> The Organic Act of 1973 [citation] is amended as follows:</p> <p>...</p> <p><b>(b)</b> The Inorganic Act of 1992 [citation] is amended as follows:</p> <p>...</p>

If multiple sections of an organic act are amended, the lead-in language of the amendatory section should cite the organic act as a whole, and the amendments to each section of the organic act should be placed in a separate subsection of that amendatory section.

If only one section of an organic act is amended, the lead-in language of the amendatory section should cite the specific section of the organic act, and amendments to each subsection of that section of the organic act should be placed in a separate subsection of the amendatory act. (If only one amendment to the act is made, the amendatory section is not subdivided.)

The lead-in language would cite to the lowest subdivision of the section being amended.

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<sup>7</sup> One limited exception is when conforming amendments are included in the same section, with the section heading "Conforming amendments."

Sec. 2. Section 7(a)(1)(A)(i)(I) of the Organic Act of 1973, effective January 1, 1993 (D.C. Law 19-73; D.C. Official Code § 52-706(a)(1)(A)(i)(I)), is amended by striking the word "floors" and inserting the phrase "floors and walls" in its place.

**Example 55. A citation to the lowest subdivision**

<i>SAY:</i>	<i>DON'T SAY:</i>
<p>Sec. 2. The Organic Act of 1973, effective January 1, 1993 (D.C. Law 19-73; D.C. Official Code § 52-101 <i>et seq.</i>), is amended as follows:</p> <p>(a) <b>Section 7</b> (D.C. Official Code § 52-106) is amended as follows:</p> <p>(1) <b>Subsection (a)</b> is amended by...</p> <p>(2) <b>Subsection (b)(2)</b> is amended by...</p> <p>(b) Section 10 (D.C. Official Code § 52-109) is amended by...</p>	<p>Sec. 2. The Organic Act of 1973, effective January 1, 1993 (D.C. Law 19-73; D.C. Official Code § 52-101 <i>et seq.</i>), is amended as follows:</p> <p>(a) <b>Section 7(a)</b> is amended as follows:</p> <p>(b) <b>Section 7(b)(2)</b> is amended by...</p> <p>(c) Section 10 is amended by...</p>
<p>Sec. 2. Section 7 of the Organic Act of 1973 (D.C. Law 19-73; D.C. Official Code § 52-106), is amended as follows:</p> <p>(a) Subsection (a) is amended by...</p> <p>(b) Subsection (b)(2) is as follows: ...</p>	<p>Sec. 2. The Organic Act of 1973, effective January 1, 1993 (D.C. Law 19-73; D.C. Official Code § 52-101 <i>et seq.</i>), is amended as follows:</p> <p>(a) Section 7(a) is amended as follows:</p> <p>(b) Section 7(b)(2) is amended as follows:...</p>
	<p>Sec. 2. The Organic Act of 1973, effective January 1, 1993 (D.C. Law 19-73; D.C. Official Code § 52-101 <i>et seq.</i>), is amended by amending section 7 as follows:</p>

For each section of an organic act that is amended, the parallel D.C. Official Code cite is only included on first reference.

<i>SAY:</i>	<i>DON'T SAY:</i>
<p>(a) Section 7 (D.C. Official Code § 52-106) is amended as follows:</p> <p style="padding-left: 40px;">(1) Subsection (a) is amended by...</p> <p style="padding-left: 40px;">(2) Subsection (b)(2) is amended by...</p>	<p>(a) Section 7 (D.C. Official Code § 52-106) is amended as follows:</p> <p style="padding-left: 40px;">(1) Subsection (a) (D.C. Official Code § 52-106(a)) is amended by...</p> <p style="padding-left: 40px;">(2) Subsection (b)(2) (D.C. Official Code § 52-106(b)(2)) is amended by...</p>

Example 56 below provides an overall example of the drafting standards applied to an amendment to multiple sections, subsections, paragraphs, and subparagraphs of an organic act.

<p>Sec. 2. The Organic Act of 1973, effective January 1, 1993 (D.C. Law 19-73; D.C. Official Code § 52-101 <i>et seq.</i>), is amended as follows:</p> <p style="padding-left: 40px;">(a) Section 7 (D.C. Official Code § 52-106) is amended as follows:</p> <p style="padding-left: 80px;">(1) Subsection (a) is amended by...</p> <p style="padding-left: 80px;">(2) Subsection (b) is amended as follows:</p> <p style="padding-left: 120px;">(A) Paragraph (1) is amended by:...</p> <p style="padding-left: 120px;">(B) Paragraph (2) is amended as follows:</p> <p style="padding-left: 160px;">(i) Subparagraph (A) is amended by...</p> <p style="padding-left: 160px;">(ii) Subparagraph (B) is amended by...</p> <p style="padding-left: 40px;">(b) Section 10(b) (D.C. Official Code § 52-109(b)) is amended by ...</p> <p style="padding-left: 40px;">(c) Section 12 (D.C. Official Code § 52-111) is amended as follows...</p> <p><b>Example 56. Example of an amendment to multiple sections and subsections of an organic act</b></p>
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### 6.3. Citing the law to be amended

#### 6.3.1. Citing amendments to organic laws

The Council considers each later amendatory law to be included and made part of the underlying organic act as of the date of its becoming law. It is therefore inappropriate to amend an amendatory law, but not inappropriate to amend an amendatory act if it has not yet become law.

For example, if section 3(a) of the Organic Act of 1973 is amended in 1992, a subsequent amendment made in 2014 should be to the Organic Act of 1973. By contrast, if there is an amendatory act pending

congressional review, an amendment may be made to that amendatory act rather than the organic act.

In addition, because each later amendatory law is included and made part of the underlying organic law, it is inappropriate to refer to a law "as amended".

<i>SAY:</i>	<i>DON'T SAY:</i>
... as set forth in section 3(a) of the Organic Act of 1973 [citation].	... as set forth in section 3(a) of the Organic Act of 1973 [citation], as amended.

*6.3.2. Citing the appropriate page for amendments to provisions in existing law*

If the citation format set out in chapter 8 requires the inclusion of a page number from the D.C. Register or Statutes at Large as part of the citation, the following rules apply:

- If amending only one specific section of a law, cite the first page in the D.C. Register or Statutes at Large (as applicable) on which that section appears. If amending only one subdivision of a section, still cite to the first page on which the entire section appears (e.g., "as provided in section 602(c)(2) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(2)), ...").
- If amending multiple sections of an existing law, cite the first page in the D.C. Register or Statutes-at-Large (as applicable) on which the law appears. Note that page number references are not required for each section thereafter amended; only the specific D.C. Official Code cross-reference is required.

Sec. 2. An Act For the retirement of public-school teachers in the District of Columbia, approved August 7, 1946 (60 Stat. 875; D.C. Official Code § 38-2021.01 *et seq.*), is amended as follows:  
 (a) Section 1 (D.C. Official Code § 38-2021.01) is amended as follows:  
 \*\*\*

**Example 57. Citation to publication page number for an amendment to multiple sections of an existing law**

Sec. 2. Section 4 of An Act For the retirement of public-school teachers in the District of Columbia, approved August 7, 1946 (60 Stat. 877; D.C. Official Code § 38-2021.04), is amended by ...

**Example 58. Citation to publication page number for an amendment to a single section of an existing law**



*6.3.3. Citing sections later added to an organic law*

If you are amending language in a section that did not exist in the organic law, cite to:

1. The **organic act by name**,
2. The effective or approval date of the **later amendment**,
3. The D.C. Law number (or the first page in the Statutes at Large) of the **later amendment**, and
4. The Code citation.

This applies only to sections that have been added in total, not to subsections or lesser divisions or to later revisions in language. If only a subsection or lesser division was added by a later act, use the standard citation format (the effective or approval date of the organic law and the D.C. Law number or first page in the Statutes at Large of the organic law).

**6.4. Language, generally**

The Council generally uses a drafting convention for amendments that is sometimes referred to as a "cut-and-bite" approach. This means that changes to organic laws are reflected by striking existing text and inserting new text in its place. For sake of consistency, the Council only "strikes" and "inserts". It does not change, modify, delete, remove, replace, or substitute.

<i>SAY:</i>	<i>DON'T SAY:</i>
Strike	delete
insert	replace substitute

There are two other common drafting conventions that the Council uses for amendments. If a new section, or subdivision of a section, is added to an existing law, the new section or subdivision is "added" to the law. Similarly, a new sentence may be "added" at the end of a section or subdivision of a section. *See* § 6.6. Where an existing section or subdivision of a section is rewritten in its entirety, that section or subdivision is "amended to read as follows." *See* § 6.4.6.

*6.4.1. Identify what is being added, inserted, or stricken as a "word," "phrase," "number," "date," or "figure"*

Unlike the congressional drafting style, the Council's drafting conventions require identification of the type of amendment made.

Language that is inserted or struck is referred to as "word," "phrase," "number," "date," "acronym", or "figure".

(a) Subsection (a) is amended by striking the **phrase** "apples and bananas" and inserting the **word** "apples" in its place.

If the language being struck consists of a single word and a punctuation mark, that language is considered a phrase (e.g., the phrase "; and").

*6.4.2. Change no less than an entire word or a hyphenated phrase*

<i>SAY:</i>	<i>DON'T SAY:</i>
Strike the phrase " <b>low-income</b> " and insert the phrase " <b>moderate-income</b> " in its place.	Strike the word " <b>low-</b> " and insert the word " <b>moderate-</b> " in its place.
<b>Strike</b> the word "the" and <b>insert</b> the word "The" in its place.	<b>Capitalize</b> the word "the".

*6.4.3. Amend punctuation by including the words around the punctuation*

<i>SAY:</i>	<i>DON'T SAY:</i>
Paragraph (8) is amended by striking the period and inserting the phrase "; and" in its place.	
<b>Strike the phrase "bananas;"</b> and insert the phrase "bananas; and" in its place.	Insert "and" <b>at the end.</b>

It is acceptable, however, to replace punctuation marks with other punctuation marks without incorporating them into a phrase if the punctuation is at the end of a list or a part of a list. Thus, it would be acceptable to say "strike the semicolon and insert a period in its place."

*6.4.4. Multiple identical amendments within a discrete component of the law*

If the same language is being struck in multiple places in a law, you may strike the identified language "wherever it appears". Only the smallest discrete subdivisions of the law where the text is being struck should be referenced in the lead-in language to the amendment in order to ensure accuracy in interpretation and codification. It is preferable to use the phrase "wherever it appears" only when the language being amended occurs more than twice within the smallest discrete subdivision. When the same language appears twice, it is preferable to use the phrase "both times it appears".

<i>SAY:</i>	<i>DON'T SAY:</i>
<p><b>Section 5(b)</b> of the Act of Law, effective May 1, 1985 (D.C. Law 5-102; D.C. Official Code § 25-104(b)), is amended by striking the word "Council" wherever it appears and inserting the word "Mayor" in its place.                      [Note: This example applies if there is also a section 5(c).]</p>	<p><b>Section 5</b> of the Act of Law, effective May 1, 1985 (D.C. Law 5-102; D.C. Official Code § 25-104), is amended by striking the word "Council" wherever it appears and inserting the word "Mayor" in its place.</p>
	<p>The Act of Law effective May 1, 1985 (D.C. Law 5-102; D.C. Official Code § 6-101.01 et seq.), is amended by striking the word "Council" <b>wherever it appears</b> and inserting the word "Mayor" in its place.</p>

It is also acceptable instead to amend each occurrence of the same text. When doing so in instances where the text appears more than once in the same subdivision of the law, use words surrounding the text to distinguish each occurrence of the text.

*6.4.5. Amend in context*

Generally, a cut-and-bite amendment is made only to the word or words that are actually being changed. Suppose, however, that a section reads "The Mayor shall issue rules and the Mayor may impose fees to implement this act." Because the word "Mayor" appears twice in the section, if you intend to amend the word in only one place, you must distinguish between the first and second instances of the word. To do so, use the surrounding words to distinguish the instances.

<i>SAY:</i>	<i>DON'T SAY:</i>
<p>Strike <b>the phrase "Mayor may"</b> and insert the phrase "Department may" in its place.</p>	<p>Strike <b>the word "Mayor" the second place it appears</b> and insert the word "Department" in its place.</p>

You may also amend in context when the context will help a reader better understand the effect of the amendment.

*6.4.6. Multiple amendments within a discrete subdivision of the law*

As an alternative to the "cut-and-bite" approach, you may amend a subdivision of an organic law to "read as follows." This should be done when enumerating each amendment would be cumbersome or obscure the meaning of the section.

<i>SAY:</i>	<i>DON'T SAY:</i>
<p style="text-align: center;">Section 4 of the Old Act, effective March 3, 1980 (D.C. Law 3-5; D.C. Official Code § 43-105), <b>is amended to read as follows:</b></p> <p style="padding-left: 40px;">"Sec. 4. (a) The Board shall meet at least quarterly.</p> <p style="padding-left: 40px;">(b) The Board shall issue an annual report that includes:</p> <p style="padding-left: 80px;">(1) The number of complaints filed; and</p> <p style="padding-left: 80px;">(2) The resolution of these complaints."</p>	<p style="text-align: center;">Section 4 of the Old Act, effective March 3, 1980 (D.C. Law 3-5; D.C. Official Code § 43-105), <b>is amended as follows:</b></p> <p style="padding-left: 40px;">(a) <b>Strike</b> the word "Commission" each place it appears and <b>insert</b> the word "Board" in its place.</p> <p style="padding-left: 40px;">(b) <b>Strike</b> the word "annually" and <b>insert</b> the phrase "at least quarterly" in its place.</p> <p style="padding-left: 40px;">(c) Subsection (b) is amended as follows:</p> <p style="padding-left: 80px;">(1) <b>Strike</b> the word "may" and <b>insert</b> the word "shall" in its place.</p> <p style="padding-left: 80px;">(2) <b>Strike</b> the phrase "answer to" and <b>insert</b> the phrase "resolution of" in its place.</p>
<p>amended to read as follows</p>	<p>repealed and amended to read as follows</p> <p>section 3 is repealed and a new section 3 is added to read as follows</p>

Do not amend over a section or subdivision of a section if the new language has nothing to do with the language it is replacing. Instead, repeal the section or subdivision of a section that is no longer necessary and add a new section or subdivision of a section for the new subject matter.

*6.4.7. Verb mood*

Amendatory laws are considered self-executing and therefore the amendments are stated in the indicative mood.

<i>SAY:</i>	<i>DON'T SAY:</i>
is amended to read as follows	shall be amended to read as follows

Note that amendments to a bill during its consideration by a committee or the Council are stated in the imperative mood (for example, "strike the word "street" and insert the word "start" in its place"), since they are considered instructions to staff to make the changes to the bill.

**6.5. Punctuation**

*6.5.1. Quotation marks*

When adding a new section or other subdivision, or amending a section or other subdivision "to read as follows", use an opening double quotation mark (") at the beginning of each indentation (that is, at each new section and each subdivision of a section). Only use a closing double quotation mark at the end of the entire addition or replacement. After the closing quotation mark, insert a period. The period after the double quotation mark serves to end the amendatory sentence.

<i>SAY:</i>	<i>DON'T SAY:</i>
...is added to read as follows: "For the purposes of this act, the term: (1) "Capulet" includes Juliet and Tybalt. (2) "Montague" includes Romeo and Benvolio. (3) "Rose" means a flower in the genus Rosa and does not include a flower by any other name."	...is added to read as follows: "For the purposes of this act, the term:" (1) "Capulet" includes Juliet and Tybalt." (2) "Montague" includes Romeo and Benvolio." (3) "Rose" means a flower in the genus Rosa and does not include a flower by any other name."

*6.5.2. Internal punctuation*

The punctuation inside the double quotes should be **exactly** as it will read in the amended act. This is different than academic writing.

<i>SAY:</i>	<i>DON'T SAY:</i>
Strike the phrase "'Agency"	Strike the phrase "'Agency'

means" and insert the phrase ""Department" means" in its place.	means" and insert the phrase "'Department' means" in its place.
Strike the word "annually".	Strike the word "annually."

## 6.6. Adding new language

### 6.6.1. General standards

When adding a section or other subdivision to an existing law, do not renumber other sections or subdivisions in order to "fit" the new section or subdivision within the existing law. For example, if an existing section includes subsections (a), (b), and (c), and a new subsection is to be added between subsections (b) and (c), the new subsection should be designated (b-1); do not redesignate the existing subsection (c) as subsection (d) and then add a new subsection (c). See § 4.11.4 for the numbering of added sections and subdivisions.

When a new section or other subdivision is added to an organic act, do not state that the new section or other subdivision is added after or before another section or subdivision; the location of the new section or other subdivision is deemed to be known automatically.

<i>SAY:</i>	<i>DON'T SAY:</i>
A new section 3a is added to read as follows:	<b>Renumber section 4 as section 5</b> and add a new section 4 to read as follows:
A new subsection (e) is added to read as follows:	A new subsection (e) is added after subsection (d) to read as follows:
A new sentence is added at the end to read as follows:	A new sentence is added to read as follows:

### 6.6.2. Indentation of added sections and subdivisions

The text of a section subdivision added to an organic act should be indented the appropriate distance for its subdivision level.

Sec. 2. Section 4 of the Organic Act of 1973, effective January 1, 1993 (D.C. Law 19-73; D.C. Official Code § 52-104), is amended as follows:

(a) A new subsection (b-1) is added to read as follows:

"(b-1) The application shall be filed ... .".

(b) Subsection (c)(1) is amended by adding a new subparagraph (C) to read as follows:

"(C) The Mayor may ....".

**Example 59. Indentation of subdivisions added to an organic act**

**6.7. Conforming amendments**

When drafting any legislation, special care must be taken to identify other provisions of law that are inconsistent with the legislation being drafted. When an inconsistency is identified, a conforming amendment should be included as a part of the legislation being drafted.

Conforming amendments are often needed when an existing law, or section of a law, is repealed. The Office of the General Counsel can assist in identifying necessary conforming amendments, however, many cross references can be identified by searching the D.C. Official Code on the Internet.

**6.8. Rules specific to amending an enacted title**

*6.8.1. Language*

Do not refer to "this act" within provisions of an enacted title of the Code; refer instead to "this chapter" or "this subchapter". Once a title has been enacted, there no longer is an organic act. The Code itself is the law. Amend the Code directly.

Draft the amendments to read exactly as you wish them to appear in the D.C. Official Code.

Use the abbreviated form of terms already defined for the chapter or subchapter being amended.

<i>SAY:</i>	<i>DON'T SAY:</i>
<b>Section 16-503.01 of the District of Columbia Official Code is added</b> to read as follows:	A <b>new section 3a</b> is added to read as follows:
Chapter 5 of Title 16 of the District of Columbia Official Code is amended by adding a new section 16-503.01 to read as follows: "§ 16-503.01. Designees. "The Mayor may designate one of	Section 16-503.01 of the District of Columbia Official Code is added to read as follows: "§ 16-503.01 Designees. "The Mayor may designate one of the following officials to eat lunch in the Mayor's place:

<p>the following officials to eat lunch in the Mayor's place:                  "(1) The Director of <b>DDOT</b>;                  "(2) The Director of <b>DOH</b>; or                  "(3) The City Administrator."                   *Assumes these acronyms are defined previously.</p>	<p>"(1) The Director of the <b>District Department of Transportation</b>;                  "(2) The Director of the <b>Department of Health</b>; or                  "(3) The City Administrator."</p>
--	--

*6.8.2. Format*

Include a **section heading** for each new section in the enacted title.

**Amend the table of contents** for the chapter, and, if appropriate, the table of contents for the title. *See Example 7.*

Use the format of the enacted title, even if it conflicts with the current style, unless an entire section is being added or "amended to read as follows".

**6.9. Rules specific to amending an unenacted title**

*6.9.1. Language*

When amending an unenacted title of the Code, do not copy the language of the Code into the amendatory language. When an organic act is compiled in the Code, a number of textual modifications may be made. Some of the most common modifications are modifications to cross-references (e.g., "this act" becomes "this title" or "this chapter" and "pursuant to section [section number of organic act]" becomes pursuant to "§ [D.C. Official Code section number]"); modifications to references to effective dates (e.g., "within 60 days after the effective dates of this act" becomes "by [calendar date that is 60 days after when the law became effective]"); and modifications to pre-Home Rule references to the District of Columbia Council and the Commissioner. You should therefore locate the text of the organic act and ensure that amendments to the organic act strike the correct text and that amendments adding or inserting text to the organic act conform to the rules for drafting laws that are part of an unenacted title.

<i>SAY:</i>	<i>DON'T SAY:</i>
<p>...is amended to read as follows:                  "(x) Notwithstanding the provisions of this <b>act</b>..."</p>	<p>...is amended to read as follows:                  "(x) Notwithstanding the provisions of this <b>subchapter</b>..."</p>
<p>...is amended by...                  "...as set forth in <b>section 3(6) of</b></p>	<p>...is amended by...                  "...as set forth in <b>§ 2-502(6).</b>"</p>



<b>the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-502(6))."</b>	
act	chapter
title	subchapter
subtitle	part

Use terms defined in the existing organic law without defining them again.

*6.9.2. Short title*

The short title must include the word "Amendment" when the law amends an organic act codified in an unenacted title unless the bill makes only *de minimis* conforming amendments.

*6.9.3. Freestanding provisions*

As a general matter, do not combine amendments and freestanding provisions in a single bill amending an unenacted title (or a single title of a bill with more than one title), unless the amendments are conforming amendments. Consider whether the freestanding provision can be added as a new section to existing law without changing its meaning. An alternative is to include freestanding provisions in one title and amendatory provisions in a second title.

*6.9.4. Internal citations*

Whenever the legislation you are drafting amends an existing law, use "this act" only when referring to the existing organic act as amended by the legislation you are drafting. If you mean to refer to the amendatory act, use the amendatory act's short title to refer to the legislation you are drafting.

The Old Law of 1950, approved June 1, 1950 (99 Stat. 103; D.C. Official Code § 5-741 *et seq.*), is amended by adding a new section 11 to read as follows:

"Sec. 11. The Mayor shall issue rules within 180 days of the effective date of the New Law Amendment Act of 2014, passed on 2<sup>nd</sup> reading on May 1, 2014 (Enrolled version of Bill 20-200).".\*

\*If you instead wrote "this act", the Mayor would be required to issue rules within 180 days of June 1, 1950.

**Example 60. A self-referential citation within an amendment to an organic act**

### 6.10. Amending the DCMR

Try to avoid amending the DCMR. The legislative amendment of administrative rules blurs the lines between administrative and legislative authority, making it unclear whether the Executive can amend Council enactments if the Council has delegated its authority to adopt rules in a particular area. This is particularly true for rules that are subject to Council review. Additionally, as a legal matter, amending the statute has the effect of overriding inconsistent regulations, making it unnecessary for the Council to amend the rules.

However, if you need to amend the DCMR, pay attention to these guidelines:

1. Include the words "Regulation" and "Amendment" in the short title of the bill.
2. Identify the source of the language that you are amending. Cite to the original source rather than to the DCMR itself unless the source of the language was a notice of final rulemaking promulgated by an agency.

<i>SAY:</i>	<i>DON'T SAY:</i>
Sec. 2. Section XX of the Noise Control Act of ... (D.C. Law xx-xx; 20 DCMR xxx), is amended as follows:	Sec. 2. Chapter XX of Title 20 of the DCMR is amended as follows:
Sec. 2. Commissioner's Order XX ... (C.O. xx-xx; YY DCMR aaa), is amended as follows:	Sec. 2. Chapter A of Title XX of the DCMR is amended as follows:

3. Use the style and format of the DCMR within the substantive portion of the bill.

<i>SAY:</i>	<i>DON'T SAY:</i>
paragraph (a)	subsection (a)
subsection 123.1	section 123.1
The area shall be <b>four square inches (4 sq. in.)</b> .	The area shall be <b>4 square inches</b> .

## **7. RULES OF THUMB**

### **7.1. Findings and purposes sections**

#### *7.1.1. Discouraged*

"Findings" and "purposes" sections are strongly discouraged. There are several reasons to avoid them. Chief among the reasons to avoid a findings or purposes section is the likelihood that the section may create confusion or ambiguity in the law, particularly if there are conflicts between the section and the substantive provisions of the act. This may come as a result of differing terms, underinclusion, overinclusion, or similar incongruities.

#### *7.1.2. When to use*

If amending a law that includes either of these sections, it is acceptable to amend them. Alternatively, if there is a reasonable suspicion that the law might be challenged on constitutional grounds, findings that are specific and well-founded to explain the reasons for the bill's enactment may be acceptable. A finding or purpose should be written to aid a court in discerning the Council's intent. If the finding or purpose does not do so, it should not be included. The committee report is the more appropriate place for explaining the purpose of a bill and the reasons for enacting it.

### **7.2. Table of contents**

Only use a table of contents when a measure is lengthy. (For example, Budget Support Acts include tables of contents.) Unless the bill is one to enact a title of the D.C. Official Code, the table of contents is included before the enacting clause because it is not part of the law itself.

### **7.3. Repealers**

#### *7.3.1. Implied repeals*

The D.C. Court of Appeals has repeatedly held that "repeals by implication are not favored." *Richardson v. United States*, 927 A.2d 1137, 1143 (D.C. 2007) (quoting *U.S. Parole Comm'n v. Noble*, 693 A.2d 1084, 1087 (D.C. 1997)). Thus, courts will construe 2 seemingly contrary provisions as both being effective if they are "*capable* of co-existence...absent a clearly expressed legislative intention to the contrary." *Noble*, 693 A.2d at 1087. Accordingly, if the drafter's intention is to repeal a provision, the law must expressly repeal the provision.

### *7.3.2. Format of repeal provisions*

To repeal a law immediately upon the effective date of the amendatory law, the format is "The Council Act of 2004 [citation], is repealed." To repeal a law prospectively, the appropriate form is "The Council Act of 2004 [citation], is repealed effective [date on which repeal will be effective]."

### *7.3.3. Transition provisions*

Additionally, when repealing an act, or when shifting authority, particular care should be taken to ensure that any rules or regulations promulgated and any powers that exist under the repealed laws are not instantly repealed or lost unless that is the intention of the drafter. Generally, it is advisable to provide a transition provision.

Sec. 106. Transfers; continuation.

(a) All functions, authority, programs, positions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds available or to be made available to the Board of Education, as the local education agency, established pursuant to section 495 of the Home Rule Act (D.C. Official Code 1-204.95) for the purpose of providing educational services to residents of the District of Columbia are transferred to the Mayor.

(b) All rules, orders, obligations, determinations, grants, contracts, licenses, and agreements of the Board of Education and the District of Columbia Public Schools transferred to the Mayor under subsection (a) of this section shall continue in effect according to their terms until lawfully amended, repealed, or modified.

**Example 61. Example of a transition provision that transfers powers**

### *7.3.4. Revival of repeals*

If an amendatory act repeals a provision of the organic law, the correct fashion in which to add the repealed section back into the law is to add an amendment of the exact text of the repealed act as an affirmative amendment to the organic law (known as "reviving" the repealed provision). Simply repealing the repealer does not revive the provisions of law that were repealed by the repealer. *See* D.C. Official Code § 45-501. For example, if Law B repealed certain sections of Law A, the repeal of Law B by Law C does not revive the provisions of Law A that were repealed by Law B. If the intent is to revive the repealed provisions of Law A, the amendatory act (Law C) should contain a provision that explicitly revives those provisions and then sets forth the text of the repealed provisions as an amendment to Law A.

(b) Section 301 (D.C. Official Code § 2-1225.21) is revived as of September 14, 2011, and amended to read as follows:

**Example 62. A revival provision**

#### **7.4. Severability clauses**

Courts infer severability into District laws, so a severability clause is not necessary. This construction is also explicitly codified at D.C. Official Code § 45-201. If the law is to be *non-severable*, include a non-severability clause and reflect the non-severability clause in the long title of the bill.

**Sec. 4. Non-severability.**

If any provision of section 2 of this act or its application to any person or circumstance is held to be unconstitutional, beyond the statutory authority of the Council, or otherwise invalid, then all provisions of this act shall be deemed invalid.

**Example 63. A non-severability clause**

#### **7.5. Incorporation by reference**

##### *7.5.1. Generally*

In most situations, do not incorporate other material by reference. Instead, restate the text of the other material in full.

##### *7.5.2. When appropriate*

If a referenced law may be amended over time by the Council, and the law you are drafting ought to develop with the referenced law, it is appropriate to incorporate that law by reference. Examples include the Administrative Procedure Act or the Human Rights Act.

##### *7.5.3. When prohibited*

Material created by another body may not be incorporated by reference if the effect is to delegate authority to that body. For example, the Council may not pass a law such as "The Montgomery County Building Code is adopted as the building code of the District," as amendments to the Building Code would then be made by Montgomery County rather than by the District of Columbia.

#### **7.6. Differences between legislative drafting and rulemaking**

##### *7.6.1. Numbering*

All numbers except one are written as Arabic numerals in laws, but in rules, all numbers are spelled out and included in parentheses (e.g. "four (4)").

### *7.6.2. Definitions sections*

Definitions go at the beginning in laws, and at the end in rules.

### *7.6.3. Abbreviations*

In laws, notation of an abbreviated term is given in quotation marks (e.g. "(DDOT)"); in rulemaking there are no quotation marks (e.g. "DDOT").

### *7.6.4. Other differences*

There are other differences between legislative drafting and rulemaking. Refer to the Office of Documents' *Rulemaking Handbook and Publications Style Manual* for further information on the drafting standards for rulemaking. The *Rulemaking Handbook* is available at the D.C. Municipal Regulations and D.C. Register website, <http://dcregs.dc.gov>.

## 8. CITATIONS

### 8.1. Acts of Parliament

The earliest statutory materials found in a codified edition of the District of Columbia Code can be traced from acts of the English parliament, enacted before the American Revolution. These became part of the District's law because they formed a part of Maryland's law after the American Revolution. These laws generally deal with real property and include, as an illustrative example, a 1278 enactment that, in its archaic formulation, requires a tenant to pay treble damages for any waste that he or she has committed during a tenancy. The following example gives the proper citation for amending this old English law.

The Act of Parliament, 6 Edw. 1, c. 5, § 1 (1278; D.C. Official Code § 42-1601), is amended as follows:

**Example 64. A citation to an Act of Parliament**

### 8.2. Acts of the Legislative Assembly

During the period of limited home rule from 1870-1874, the District's legislative body was called the Legislative Assembly. Some enactments of the Legislative Assembly remain as laws of the District of Columbia. Proper citation to these enactments is as follows:

Chapter 51 of the Acts of the Legislative Assembly, adopted August 19, 1871 (D.C. Official Code § 1-301.113), is amended as follows:

**Example 65. A citation to an Act of the Legislative Assembly**

### 8.3. Acts of Congress

#### 8.3.1. Generally

Throughout much of the District's history, public laws affecting the District of Columbia were adopted by the United States Congress. These laws follow the legislative process of the House of Representatives and the Senate as public laws of national application. Congress, in adopting the District of Columbia Home Rule Act, retained plenary authority to adopt laws affecting the District of Columbia. D.C. Official Code § 1-201.02(a).

Citations to federal laws use an "approved" rather than "effective" date. Do not use a section symbol to designate the Statutes at Large page reference. Many older federal laws do not have a short title, so the long title given at the start of the law is used as the official name,

such as "An Act To amend the law relating to the distribution of the funds of the Creek Tribe, and for other purposes".

More recent federal laws use a short title, located either at the beginning or end of the law. In lengthy federal laws addressing multiple subjects, the individual titles of the law may be given a separate official name, which may be used instead in the citation. To find the correct name of a congressional law, check the Statutes at Large and use the exact title listed, including the original capitalization and punctuation.

*8.3.2. Federal laws contained in an enacted title of the D.C. Official Code*

Sixteen titles of the D.C. Official Code have been positively enacted. Laws contained in Titles 11-21, 23, 25, 28, 29, and 47 of the D.C. Official Code should be cited directly to the D.C. Official Code without further citation.

D.C. Official Code § 11-501

**Example 66. A citation to a federal law contained in a D.C. Official Code enacted title**

*8.3.3. Federal laws contained in an unenacted title of the D.C. Official Code*

Federal laws contained in the unenacted titles of the D.C. Official Code (Titles 1 through 10, 22, 24, 26, 27, 30 through 46, and 48 through 51) should be cited as follows:

District of Columbia Election Code of 1955, approved August 12, 1955 (69 Stat. 702; D.C. Official Code § 1-1001.01 *et seq.*)

**Example 67. A citation to a federal law contained in an unenacted D.C. Official Code title**

*8.3.4. Federal laws contained in an enacted title of the U.S. Code*

Enacted titles of the United States Code (often referred to as positive law titles), like enacted titles of the D.C. Official Code, should be cited directly without further citation.

31 U.S.C. § 451

**Example 68. A citation to an Act of Congress contained in a U.S. Code enacted title**

*8.3.5. Federal laws contained in an unenacted title of the U.S. Code*

Most other federal laws, not contained in the enacted titles listed above, require full citation, including:



- The complete, official name of the legislation;
- The date of approval by the President;
- The volume and page reference to the Statutes at Large; and
- The volume and page reference to the United States Code.

Social Security Act, approved August 14, 1935 (49 Stat. 620; 42 U.S.C. § 701 *et seq.*)

**Example 69. A citation to an Act of Congress contained in a U.S. Code unenacted title**

### *8.3.6. Laws published as notes to the U.S. Code*

Provisions of laws included only as full text notes to the U.S. Code should be cited as follows:

section 604 of the Narcotic Addict Rehabilitation Act, approved November 8, 1966 (80 Stat. 1450; 42 U.S.C. § 3401, note)

**Example 70. A citation to an Act of Congress codified only as a note in the U.S. Code**

### *8.3.7. Uncodified federal laws*

There are a few federal laws that are not codified in either the D.C. Official Code or the U.S. Code that apply exclusively to the District. A citation form using the public law number and the Statutes at Large citation as a cross reference is used for federal laws not contained in either the D.C. Official Code or the U.S. Code.

An Act Making appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (Pub. L. No. 62-435; 37 Stat. 996)

**Example 71. A citation to an uncodified Act of Congress**

### *8.3.8. Federal appropriation law*

Appropriations acts for the District of Columbia as passed by Congress should be cited as follows:

the District of Columbia Appropriations Act, 2005, approved October 18, 2004 (Pub. L. No. 108-335; 118 Stat. 1322)

**Example 72. A citation to a federal appropriations act for the District**

### *8.3.9. Revised Statutes*

The Revised Statutes of the District of Columbia is an enacted codification of all laws that had been passed by the Congress relating to the District of Columbia through December 1, 1873. The formal title of the act is "An Act To revise and consolidate the statutes of the

United States, general and permanent in their nature, relating to the District of Columbia, in force on the first day of December, in the year of our Lord one thousand eight hundred and seventy-three". It is also known by its unofficial short title, "Revised Statutes of the United States, relating to the District of Columbia", which was the title printed on the cover page of the act's publication in the Statutes at Large. Several sections of the Revised Statutes continue to be valid law and are included in the D.C. Official Code.

section 1 of the Revised Statutes of the District of Columbia (D.C. Official Code § 1-101)

**Example. A citation to the Revised Statutes of the District of Columbia**

#### **8.4. Commissioners' Orders and Commissioner's Orders**

Commissioners' Orders, before 1967, and Commissioner's Orders, from November 1967 through 1974, were adopted by the combined executive-legislative form of the government and the mayor-commissioner arm of the government, respectively. An order should be cited by its title (followed by the word "Order" where not redundant) and its date of issuance, followed in parentheses by the order number and the location of codification or publication. With respect to the codification or publication location, these orders are often contained in the DCMR. If no DCMR reference is available, use a D.C. Register reference. If an order was not published in either the DCMR or D.C. Register, the notation "unpublished" should be inserted where the DCMR or D.C. Register citation would otherwise be inserted. Copies of many Commissioners' Orders and Commissioner's Orders issued after late 1960 are available at <http://dcregs.dc.gov>.

Police Regulations Order, issued February 27, 1958 (C.O. 58-320; 24 DCMR § 108.1)

**Example 73. A citation to a Commissioners' Order published in the DCMR**

#### **8.5. Regulations of the appointed District of Columbia Council**

The appointed District of Columbia Council, established by Reorganization Plan No. 3 of 1967, used "regulations" for all enactments. A citation to a regulation should include the title of the regulation (followed by the word "Regulation" where not redundant) and the date that the regulation was approved by the Commissioner followed, in parentheses, by the regulation number and the location of its codification or publication. With respect to the location of

codification or publication, these regulations are contained in the D.C. Official Code, the DCMR, or the D.C. Register.

the Rental of Public Vault Space Regulation, approved July 3, 1969 (Reg. 69-25; 24 DCMR 200 *et seq.*)

**Example 74. A citation to a regulation passed by the appointed D.C. Council**

## **8.6. Resolutions of the appointed District of Columbia Council**

The appointed District of Columbia Council also took certain action by resolutions. A citation to a resolution should include the title of the resolution followed by the word "Resolution", the effective date of the resolution and, in parentheses, the resolution number and a citation to the first page on which the resolution was published in the *D.C. Register*.

Establishment of Current Rates for Home Services Resolution, effective August 1, 1969 (Res. 69-57; 16 DCR 27)

**Example 75. A citation to a resolution passed by the appointed D.C. Council**

## **8.7. Enactments of the Council of the District of Columbia**

### *8.7.1. Generally*

Since January 3, 1975, the Council of the District of Columbia has been vested with authority to adopt acts and resolutions. Acts are to be used for matters of general public application. Resolutions may be used by the Council to express simple determinations, decisions, or directions of the Council of a special or temporary character and to approve or disapprove proposed actions of a kind historically or traditionally transmitted by the Mayor, the Board of Elections, Public Service Commission, Armory Board, the Board of Education, the Board of Trustees of the University of the District of Columbia, or the Convention Center Board of Directors to the Council pursuant to an act. D.C. Official Code § 1-204.12(a). *See* §§ 3.1 & 3.2.

### *8.7.2. Laws contained in an enacted title of the D.C. Official Code*

The bulk of District laws are found in the D.C. Official Code, which consists of 51 titles and includes all laws of general and permanent application. Sixteen of these 51 titles (Titles 11-21, 23, 25, 28, 29, and 47) are enacted titles. Laws contained in these enacted titles are cited by direct reference to the D.C. Official Code itself.

Section 11-1401 of the District of Columbia Official Code

**Example 76. A citation to a law contained in an enacted title of the D.C. Official Code**

*8.7.3. Laws contained in an unenacted title of the D.C. Official Code*

Most District laws of general application are codified in the unenacted titles of the D.C. Official Code. A full citation to these laws includes:

- The particular section of the law, if one or more specific sections is being referenced;
- The short title of the law followed by a comma;
- The effective date of the law; and
- A parenthesis containing the D.C. Law number followed by a semicolon and a cross-reference to the D.C. Official Code section(s) containing the sections of the law being referenced, if one or more sections of the law is being specifically referenced, or a cross-reference to the D.C. Code section containing the first section of the law followed by "et seq.", in italics, if the law as a whole is being referenced.

Like all other full citations, a citation to a law contained in an unenacted title of the D.C. Official Code is followed by a comma unless it is being cited as a parallel citation.

section 4 of the Council Act of 2001, effective May 5, 2001 (D.C. Law 14-22; D.C. Official Code § 6-601.02), . . .

**Example 77. A citation to a section of law in a D.C. Official Code unenacted title**

the Council Act of 2001, effective May 5, 2001 (D.C. Law 14-22; D.C. Official Code § 6-601.01 *et seq.*), . . .

**Example 78. A citation to an entire law included in a D.C. Official Code unenacted title**

*8.7.4. Laws published in full as notes to the D.C. Official Code*

Laws that are not of a general and permanent nature are not typically published in the text of the Code, but are often included as annotations to another provision. Provisions of law included only as full text notes to the D.C. Official Code (if full text is only published in the D.C. Register see § 8.7.7) should be cited as follows:

section 12 of the District of Columbia Act of 2001, effective June 5, 2001 (D.C. Law 14-10; D.C. Official Code § 5-451, note)

**Example 79. A citation to a law whose text is published in full as a D.C. Official Code note**

#### *8.7.5. Not yet codified laws*

Since the D.C. Official Code is to be updated only twice a year, certain Council laws of general and permanent nature are not yet in the D.C. Official Code but will be included in the next publication. These laws are cited as follows, if the codification is known, otherwise use the citation for laws published only in the D.C. Register (Example 82).

section 4 of the Not Yet Codified Act of 2001, effective May 5, 2001 (D.C. Law 14-22; to be codified at D.C. Official Code § 6-601.02)

**Example 80. A citation to a law that has not yet been codified**

#### *8.7.6. Laws published in the DCMR*

Another major publication containing District laws is the District of Columbia Municipal Regulations ("DCMR"). The DCMR is a subject matter compilation of certain laws and regulations passed by the Council and its predecessors, and executive branch rules. Many of the regulations passed by the appointed District of Columbia Council, Commissioners' Orders, and Commissioner's Orders, which may have only limited application, are published in the DCMR. Laws contained in the DCMR rather than the D.C. Official Code are cited by using the full name of the organic law and reference the DCMR publication as follows:

section 5 of the Comprehensive Plan Act of 1984, effective March 15, 1984 (D.C. Law 5-164; 10 DCMR § 504)

**Example 81. A citation to a law published in the DCMR**

#### *8.7.7. Laws published only in the D.C. Register*

Certain laws, such as alley closing, emergency, and temporary legislation, are not published in either the D.C. Official Code or the DCMR. In these instances, reference should be made to the D.C. Register, a weekly publication containing all Council actions.

the Make Things Easier Act of 2001, effective June 1, 2001 (D.C. Law 14-15; 48 DCR 1505)

**Example 82. A citation to a law published only in the D.C. Register**

#### *8.7.8. Emergency acts*

The D.C. Register is also used as the publication source for all emergency acts of the Council. (Emergency acts are not codified, although they are referenced in notes to the D.C. Official Code.)

section 4 of the Emergency Act of 2001, effective October 22, 2001 (D.C. Act 14-666; 48 DCR 4450)

**Example 83. A citation to an emergency act**

Note that emergency acts receive an act number, but do not receive a law number.

*8.7.9. Council resolutions*

The D.C. Register is used as the publication source for all Council resolutions.

the Council Resolution of 2001, effective October 22, 2001 (Res. 14-666; 48 DCR 4450)

**Example 84. A citation to a Council resolution**

*8.7.10. Acts or bills that are not yet law*

Acts passed by the Council but not yet law are cited as follows:

section 4 of the Not Yet Law Act of 1999, enacted on October 1, 1999 (D.C. Act 13-662; 47 DCR 333)

**Example 85. A citation to an act that is not yet law**

Bills passed on second reading by the Council but which have not yet been signed or returned by the Mayor and for which the Mayoral review period has not concluded are cited as follows:

section 3 of the Solid Waste Facility Permit Amendment Act of 1999, passed on 2nd reading on April 13, 1999 (Enrolled version of Bill 13-30)

**Example 86. A citation to a Council bill that has passed 2nd reading**

Bills passed on first reading by the Council but not yet considered at second reading are cited as follows:

section 4 of the Solid Waste Facility Permit Amendment Act of 1999, passed on 1st reading on March 2, 1999 (Engrossed version of Bill 13-30)

**Example 87. A citation to a Council bill that has only passed 1st reading**

Bills and resolutions that have been approved by a Council committee but not yet considered by the Council are cited as follows:

the ABC Act of 1999, as approved by the Committee on Consumer and Regulatory Affairs on February 9, 1999 (Committee print of Bill 13-29)

**Example 88. A citation to a Council bill approved by a committee**

the Right Resolution of 1999, as approved by the Committee on the Judiciary on January 4, 1999 (Committee print of Res. 13-7)

**Example 89. A citation to a Council resolution approved by a committee**

Bills and resolutions that have been introduced, but not yet considered by a committee are cited as follows:

the ABC Act of 1999, as introduced on January 5, 1999 (Bill 13-29)

**Example 90. A citation to a Council bill as introduced**

the Right Resolution of 1999, as introduced on January 5, 1999 (P.R. 13-7)

**Example 91. A citation to a Council resolution as introduced**

Acts that have been passed by the Council and vetoed by the Mayor, where the veto has been overridden by the Council but the act is not yet law, are cited as follows:

the Confirmation Amendment Act of 1998, vetoed by the Mayor on December 29, 1998, and overridden by the Council on January 5, 1999 (D.C. Act 12-622; 46 DCR 123)

**Example 92. A citation to a Council bill vetoed by the Mayor and overridden by the Council but not yet law**

Note that once such an act becomes law, the law should be cited without reference to the veto or override.

Emergency bills passed by the Council but which have not yet been signed or returned by the Mayor and for which the Mayoral review period has not concluded are cited as follows:

the Confirmation Emergency Amendment Act of 2001, passed on emergency basis on March 7, 2001 (Enrolled version of Bill 14-100)

**Example 93. A citation to a Council bill passed on an emergency basis but not yet signed by the Mayor**

*8.7.11. Resolutions deemed approved (or disapproved) by operation of law*

Resolutions described in section 412(2) of the Home Rule Act (D.C. Official Code § 1-204.12) which have been transmitted to the Council and deemed approved or disapproved by operation of law are cited as follows:

the Civil Infractions Schedules of Fines Amendment Approval  
Resolution of 2005, deemed approved May 1, 2005 (Res. 16-153; 52  
DCR 5445)

**Example 94. A citation to a Council resolution that has been approved by  
operation of law**



## 9. STYLISTIC CONSIDERATIONS

### 9.1. Generally

- Use short, simple sentences.
- Use the present tense. Note also that as a general rule of statutory construction, "Words used in the present tense include the future as well as the present." D.C. Official Code § 1-301.45(1).
- When possible, use the singular instead of the plural.

<i>SAY:</i>	<i>DON'T SAY:</i>
An employee shall...	Employees shall...
The Mayor may issue a grant...	The Mayor may issues grants...

As a general rule of statutory construction, "[w]ords importing the singular include and apply to several persons, parties, or things." D.C. Official Code § 1-301.45(1.)

- Avoid legalese.
- Eliminate unnecessary words. Eliminating unnecessary words will make the bill crisper and clearer. Also, eliminating unnecessary words will aid in interpretation. Courts presume that each word in a bill is included for a reason, so if a word can be deleted, it should be deleted. However, if it takes more words to make the bill clearer, then use more words; in those situations, brevity should be sacrificed for clarity.

### 9.2. People First Respectful Language

When drafting a measure that refers to people with disabilities, refer to a "person with ..." or a "person who ..." or a similar construction as dictated by the substance of the measure. Do not say "disabled person," "wheelchair user," or any of the other words and phrases prohibited in section 3 of the People First Respectful Language Modernization Act of 2006, effective September 29, 2006 (D.C. Law 16-169; D.C. Official Code § 2-632).

### 9.3. Consistency

#### 9.3.1. Wording

Use one word (or phrase) to mean one thing. Once that word or phrase is selected, use it consistently throughout the bill. Do not use an alternative or shortened form of the word or phrase, other than a defined abbreviation, to refer to the same thing. Repeated use may

seem unimaginative, but it makes the legislation clearer and aids in interpretation.

Do not use one word to mean more than one thing.

<i>SAY:</i>	<i>DON'T SAY:</i>
The <b>temporary license</b> shall expire in one year. The Mayor shall charge \$5 for a <b>temporary license</b> .	The <b>temporary license</b> will be good for one year, after which the <b>permit</b> shall expire.  The <b>temporary license</b> will be good for one year, after which the <b>license</b> shall expire.

*9.3.2. Parallel structure*

Be consistent in the arrangement of comparable provisions.

<i>SAY:</i>	<i>DON'T SAY:</i>
The Mayor shall <b>eat, drink, and be merry</b> . The Council shall also <b>eat, drink, and be merry</b> .	The Mayor shall <b>eat, drink, and be merry</b> . The Council shall also <b>eat, be merry, and drink</b> .

**9.4. Sentence structure**

*9.4.1. Active voice*

Avoid the passive voice. The active voice is generally clearer. Moreover, use of the passive voice often obscures who must take an action required by law.

<i>SAY:</i>	<i>DON'T SAY:</i>
The Director shall approve or deny the application within 30 days after ... .	The application shall be approved or denied within 30 days after ....

*9.4.2. Subject of sentence*

If a law imposes a duty or obligation on a person (or entity), use that person as the subject of the sentence. ("The Director shall ...")

If a law prohibits a person from doing something, use that person as the subject of the sentence. ("The Director may not ...")

If a law grants a person a right, use that person as the subject of the sentence. ("The Director may ...")

## 9.5. Punctuation

### 9.5.1. Generally

Choose punctuation carefully. Consider recasting a sentence if a change in punctuation might change its meaning.

### 9.5.2. Series and lists: commas

Use a comma before "and" to separate the last of a conjunctive series of 3 or more words, phrases, or clauses in a sentence. Remember, omitting a comma before the conjunction can create an ambiguity.

Use a comma before "or" to separate the last of a disjunctive series of 3 or more words, phrases, or clauses in a sentence.

<i>SAY:</i>	<i>DON'T SAY:</i>
The Mayor shall eat, drink, <b>and</b> be merry.	The Mayor shall eat, drink <b>and be</b> merry.
The Mayor may hop, skip, <b>or</b> jump.	The Mayor may hop, skip <b>or</b> jump.

### 9.5.3. Series and lists: colons

Use a colon to introduce a list of items.

The word "contract" includes: (1) Awards and notices of award; (2) Contracts providing for the issuance of job or task orders; and (3) Purchase orders.
---

### 9.5.4. Additional comma guidance

When writing a date with the month, date, and year, use a comma to set off the year. (December 24, 1973, ...)

When writing a date with only the month and year, do not use commas. (January 2013 \_\_.)

Do not use commas when including "Jr.", "Sr.", "Esq.", and the like with a name.

Use commas to set off a reference to a District quadrant in a street address ("from R Street, N.W., to ...").

### 9.5.5. Hyphenation of phrasal adjectives

Hyphenate phrasal adjectives composed of 2 or more words when they precede a noun. If the first word of a compound adjective is an adverb ending in -ly, the combination should not be hyphenated.

<i>HYPHENATE:</i>	<i>DON'T HYPHENATE:</i>
interest-bearing account	legally required action
over-the-counter sales	municipally operated utility
moderate-income person	publicly owned building
30-day period	for 90 days
tax-exempt properties	
part-time employee	
full-time employee	

*9.5.6. Hyphenation of other compounds and words with prefixes*

A question often arises of whether a 2-word phrase not covered by section 9.5.6 should be open (i.e., with a space between the 2 words), hyphenated, or closed (combined into one word). Similarly, the question often arises of whether a hyphen should be used between a prefix and a word or if the prefix and word should be closed.

More commonly used words which should be closed include "bylaws", "markup" (as a noun only; as a verb use "mark up"), "multiyear", "nonprofit" (but use "for-profit"), "online", "pretrial", and "semiannually".

**9.6. Capitalization**

*9.6.1. General rule of capitalization*

Capitalize proper names, derivatives of proper names, the first word in a sentence, the formal names of government departments and agencies, titles of a bill, and specific chapters and titles (but not sections) of the D.C. Official Code, U.S. Code, and the D.C. Municipal Regulations. In most other cases, do not capitalize. Do not capitalize chapters and titles when referring to a particular chapter or title within a chapter or title (i.e. "this chapter" or "this title").

<i>CAPITALIZE:</i>	<i>DON'T CAPITALIZE:</i>
<b>District</b> government	<b>federal</b> government
<b>Title</b> 47 of the District of Columbia Official Code	<b>section</b> 47-810 of the District of Columbia Official Code
<b>Title</b> 21 of the District of Columbia Municipal Regulations	

Act (if referring to a congressional act)	act (if referring to a Council act)
Fiscal Year 2014	this fiscal year
Square 22, Lot 21	
Subtitle X of Chapter 10 of this Title	
Council	congressional review
Mayor	
Bachelor of Arts degree	
Internet	

*9.6.2. Capitalization of first words of a subdivision*

Capitalize the first word of each subdivision of a bill. This rule applies even when the text of a subdivision is a continuation of lead-in language and would not constitute an independent sentence. For example, when drafting a list of items each of which appears in a separate subdivision, capitalize the first word in each item. See section 4.9.

<i>SAY:</i>	<i>DON'T SAY</i>
(a) The application shall include a:	(a) The application shall include a:
(1) Name;	(1) name;
(2) Address; and	(2) address; and
(3) Phone number.	(3) phone number.

**9.7. Word choice**

*9.7.1. Word pairs*

Avoid using redundant couplets; use one of the 2 words, but not both.

<i>SAY:</i>	<i>DON'T SAY:</i>
each	each and every
unless	unless and until
any	any and all
void	null and void
full	full and adequate

	full and complete
--	-------------------

*9.7.2. "A" vs. "any"*

A legislative provision applies to each person subject to the provision. Therefore, "a" or "an" should be used instead of "any", "each", "every", or "all", except in situations where one of the latter terms is needed for clarity or desired to provide a specific emphasis.

<i>SAY:</i>	<i>DON'T SAY:</i>
An employee shall...	All employees shall...

*9.7.3. Among vs. between*

1. When more than 2 things or persons are involved use among.
2. When 2 or more are involved but are treated individually, use between.
3. Never say "among and between."

<i>SAY:</i>	<i>DON'T SAY:</i>
among between	among and between

*9.7.4. Shall vs. may*

1. Use "shall" rather than "must". Use "shall" to express a duty, obligation, or requirement.
2. Use "shall not" to express a prohibition.
3. Use "may" to express a power, privilege, or right.
4. Do not use "will", "should", or "ought" in legislation.

<i>SAY:</i>	<i>DON'T SAY:</i>
shall	must is authorized and directed to is directed to it is the duty
may	is authorized to it shall be lawful to
shall not may not	

*9.7.5. "and/or"*

Do not use "and/or"; "or" includes "and".

<i>SAY:</i>	<i>DON'T SAY:</i>
dogs or cats	dogs and/or cats

*9.7.6. That vs. which*

Use "that" with a phrase that is necessary to understand the noun it describes.

Use "which" (always following a comma) with a phrase that gives additional information about the noun it describes.

*9.7.- Within [x] days*

Do not use the phrase "within [x] days of" a date or event. It is unclear whether the phrase refers to a time frame before or after the date or event. Instead, use the phrase "within [x] days after" or "within [x] days before".

*9.7.7. Numbers and dollar amounts*

Only spell out the numbers zero and one. For all other numbers, use the Arabic numeral unless it is the first word of a sentence or subdivision. Also use Arabic numerals for fractions. (Also note that in fractions, the Arabic numeral is used for "1".)

For dollar amounts, use the dollar symbol followed by the cardinal numbers representing the amount of dollars. Do not use unnecessary decimal places (that is, use "\$2", not "\$2.00"); the exception to this rule is that the trailing "0" should be used if the amount of cents is a multiple of 10 (that is, use "\$2.50, not "\$2.5"). Note that in the case of a dollar amount, if the number "one" stands on its own, the Arabic numeral, rather than the word, is used (e.g., "\$1 million" or "\$1"). Where the dollar amount is in millions or billions, use both the Arabic numerals and the word "million" or "billion" (e.g., "\$48 million"). The rule applies only if the Arabic numeral would include 3 or fewer decimal places; if the Arabic numeral would include more than 3 decimal places, the Arabic numeral should be used for the entire dollar amount. In addition, this rule does not apply when a series of dollars amounts is set forth in a list or chart.

For ordinal numbers, use the Arabic numeral followed by the appropriate ordinal indicator (e.g., 22nd, 31st). The ordinal indicator should not be in superscript. Note, for example, that the appropriate

ordinal indicator for 2nd is "nd", not "d", and the appropriate ordinal indicator for 3rd is "rd", not "d" .

<i>SAY:</i>	<i>DON'T SAY:</i>
2/3	two-thirds
one [but, 1/3]	1
2	two
\$1 million	one million dollars
\$1.65 million	\$1,650,000
\$1,234,500	\$1.2345 million
2nd	second 2d

*9.7.8. Percentages*

Use the percent symbol ("%"); do not spell out the word "percent".

<i>SAY:</i>	<i>DON'T SAY:</i>
51%	51 percent

*9.7.9. Pronouns*

It is generally better to repeat a noun rather than use a pronoun. Repeating the noun increases the clarity of the provision and may aid in interpretation. Use a pronoun only if its meaning is unmistakable and there is a particular reason not to repeat the noun. If the sentence structure is so complex or lengthy that a pronoun seems necessary to shorten the sentence or to simplify the wording of the sentence, consider redrafting the sentence rather than using a pronoun. If a pronoun is used, make sure it is gender neutral.

*9.7.10. "Legalese", generally*

Don't use it.

For example, do not use "such" or "said" when "the" may be used instead.

<i>SAY:</i>	<i>DON'T SAY:</i>
<b>the</b> designee shall	<b>said</b> designee shall



promptly review <b>the</b> application	promptly review <b>such</b> application
--	---

Use "such" to express "for example" or "of a kind".

Other common legalese with natural language equivalents:

<i>SAY:</i>	<i>DON'T SAY:</i>
before	prior to
after	subsequent to
in sections 2023 through 2039	in sections 2023 to 2039 inclusive
to hold [or other infinitive]	for the purpose of holding [or gerund of infinitive] with the object of holding [or gerund of infinitive]
becomes ___ years of age	attains the age of ___
because	for the reason that
where	at the place
when	at the time at the same time
when where	in a case in which
too many	excessive number of
if	in case in the event that
to	in order to
consider	deem
whenever (to indicate recurring applicability)	in the case of
for	in the interest of
applies	is applicable
binds	is binding upon
cannot	is unable to
cause	occasion (as a verb)

technical	of a technical nature
by	on the part of
or	or, in the alternative
period	period of time
use	utilize employ
completes or passes	successfully completes or passes
under	under the provisions of
named	specified (in the sense of expressly mentioned or listed)
enough	sufficient number of
how	the manner in which
that	to the effect that
until	until such time as
for	with reference to

Less common legalese with natural language equivalents:

<i>SAY:</i>	<i>DON'T SAY:</i>
%	per centum
inside or outside [a geographical or political boundary]	within or without [a geographical or political boundary]
void	absolutely null and void and of no effect
given	accorded
allow	admit of
does not	does not operate to
appoint	constitute and appoint
District corporation	corporation organized and existing in the District of Columbia
fail	fail, refuse, and neglect
evidence	evidence, documentary and

	otherwise
at his or her request	on his or her own application
[party's name]	party of the first part
do its business carry on its business	prosecute its business
make	render (in the sense of "cause to be")
give	render (in the sense of "give")
permit allow	suffer

Words to just avoid:

	<i>DON'T SAY</i>
	aforesaid
	hereinabove
	before mentioned
	whatsoever
	aforementioned
	hereby [except in ceremonial resolutions]

*9.7.11. Latin phrases*

In general, do not use a Latin phrase. Use its English equivalent unless one is not available.

*9.7.12. Time frames and dates*

<i>SAY:</i>	<i>DON'T SAY:</i>
before July 1, 1974	no later than June 30, 1974
after June 30, 1981	on or after July 1, 1974
before July 1, 1984	on or before June 30, 1984
April 1 through April 15, 1987	April 1, 1987, through April 15, 1987
through September 30	up to and until September 30

April 1 through March 31	per annum
per year	per annum
while	during such time as
during	during the course of for the duration of

*9.7.13. Internal references*

Cross-references in a bill are cited as follows:

<i>SAY:</i>	<i>DON'T SAY:</i>
section 5	section 5 of this act
subsection (a) of this section	subsection (a)
paragraph (1) of this subsection	paragraph (1)
subparagraph (A) of this paragraph	subparagraph (A)
paragraph (1)(A) of this section	subparagraph (1)(A)

In addition, the citation should begin at the highest level of the subdivision cited.

<i>SAY:</i>	<i>DON'T SAY:</i>
section 5(a)	subsection (a) of section 5
paragraph (1)(A) of this section	subparagraph (A) of paragraph (1) of this section

## 10. LEGISLATIVE-VETO RESOLUTIONS

Legislative-veto resolutions are resolutions that: approve or disapprove proposed actions of a kind historically or traditionally transmitted to the Council by the Mayor, the Board of Elections, Public Service Commission, Armory Board, Board of Education, the Board of Trustees of the University of the District of Columbia, or the Convention Center Board of Directors pursuant to an act. (See section 412(a) of the Home Rule Act). Legislative-veto resolutions take effect immediately, and not upon the first date of publication in the District of Columbia Register.

In *Wilson v. Kelly*, 615 A.2d 229 (D.C. 1992), the court opined that the Council could use resolutions to approve or disapprove proposed actions only if the use was consistent with the "historically or traditionally" standard specified in section 412(a)(2) of the Home Rule Act. The test for determining whether a matter may be approved or disapproved by resolution (subject to a legislative veto) is whether it is substantially similar to one of the 32 statutes on a list submitted to Congress when the Home Rule Act was amended in 1984. The *Wilson* court found that a statute is "'of a kind' with one on the list [of 32 statutes]" if it operates "in a significantly analogous way in the same discrete field of District governance." *Wilson* at 233. Therefore, if a resolution operates in a significantly analogous way to one of the 32 actions below, the Council may use its resolution power to review the Mayor's decision. The resolutions must be specifically authorized by an act and must be designed to implement that act. The list of 32 statutory provisions, as enunciated by the *Wilson* court, is as follows:

- Pub. L. 97-257: Transfer of appropriated funds.
- D.C. Official Code § 1-204.22(12): Reorganization Plans.
- D.C. Official Code § 1-608.01(e)(3): Exemptions from Residency Requirements.
- D.C. Official Code § 1-611.06: Career and Excepted Service Pay Package.
- D.C. Official Code § 1-611.07(d): Executive Service Pay Rates.
- D.C. Official Code § 1-611.08(b): Boards and Commissions Compensation.
- D.C. Official Code § 1-611.11: Educational Service Pay Package.
- D.C. Official Code § 1-617.17(j): Labor Relations Settlements.
- D.C. Official Code § 1-523.01: Confirmation of Executive Service Nominees.
- D.C. Official Code § 2-215.10: Minority Contract Rules.
- D.C. Official Code § 4-207.03: Public Assistance Complements.
- D.C. Official Code § 5-501: Major Changes in Fire Department.

- D.C. Official Code § 6-701.04, note: Construction Codes Adoption.
- D.C. Official Code § 6-301.06(c)(1): Urban Renewal Plan Changes.
- D.C. Official Code § 6-301.11: Urban Renewal Plan Changes.
- D.C. Official Code § 6-301.18(b): Advance Funds for Urban Renewal Projects.
- D.C. Official Code § 6-1002(c): Community Development Program and Amendments.
- D.C. Official Code § 10-1212(c): Convention Center Board Rules.
- D.C. Official Code § 24-211.02: Corrections Department Regulations for Penal Institutions.
- D.C. Official Code § 48-902.01(b): Schedule of Controlled Substances.
- D.C. Official Code § 32-241(f): Youth Employment Act Regulations.
- D.C. Official Code § 50-2301.05: Mayor's Order to Modify Civil Traffic Fines.
- D.C. Official Code § 34-1206(c): Cable TV Rules.
- D.C. Official Code § 42-1740(g): Real Estate Licensure Regulations.
- D.C. Official Code § 42-2604(a): Home Purchase Assistance Fund.
- D.C. Official Code § 51-113(b): Unemployment Compensation Board.
- D.C. Official Code § 47-308: Annual Budget Structure Resolution.
- D.C. Official Code § 47-209: Borrowing Funds from U.S. Treasury.
- D.C. Official Code § 47-363(a): Reprogramming Requests.
- D.C. Official Code § 47-364(a): Non-Offsetting Budget Modifications.
- D.C. Official Code § 47-385: Grant Applications and State Plan Approvals.
- 18 DCMR 2412.8: Residential Permit Parking.

## **11. COMMITTEE REPORTS**

### **11.1. General requirements for committee reports**

Under Council Rule 803, each measure adopted by a committee must be accompanied by a report. Although there are no particular style rules for drafting committee reports, there are a number of content requirements mandated by Council Rule 803 of the Rules of Organization and Procedure for Council Period 20. Specifically, under Council Rule 803(d), each report must contain the following information:

1. A section stating the measure's purpose and effect (or background and need), which includes the committee's reasoning;
2. A chronology of action;
3. The position of the Executive, if any, on the measure;
4. The committee's response to each relevant issue and concern raised in a recommendation adopted by a resolution of an affected Advisory Neighborhood Commission, if any, that has been provided to the committee before the close of the record;
5. A list of witnesses who testified at the hearing, or who submitted a statement for the record before close of the record;
6. An explanation of the impact on existing provisions of law that the measure would modify or affect;
7. A summary of the fiscal impact;
8. A detailed section-by-section analysis of the measure's provisions;
9. Any additional information that the committee decides to include; and
10. A summary of the committee's markup of the measure.

In addition, each report must have the following attachments:

1. The measure, as introduced, along with the Mayor's transmittal letter, if applicable (but not necessarily any other attachments to the introduction), and the Secretary's memorandum of referral;
2. Any written statements or materials that the committee decides to attach;
3. The fiscal impact statement prepared by the Chief Financial Officer or the Budget Director;
4. A legal sufficiency determination by the General Counsel;
5. If reporting a bill repealing or amending existing law, a comparative print showing, by italic, underscore, strikethrough, or other typographical device, the changes proposed; and
6. A committee print that states the number of the measure; in the top left-hand corner of the measure the name of the committee, the date of the committee markup, and the words "committee print".

For more specific information about committee reports, consult Council Rule 803.

### **11.2. Résumé requirement for committee reports**

Each report prepared by the Committee of the Whole on a Council appointment to another body and each report prepared by another committee on a confirmation shall include a current resume of the nominee.

### **11.3. Use of committee reports to interpret legislation**

Committee reports may often say "more" in explanatory materials than the words in the legislation suggest. Legal analyses in committee reports will aid or hinder the implementation of an act, and if the committee is attempting to overcome an adverse judicial precedent, the statement of intent will help administrative officers and courts interpret and carry out the Council's will.

Comments made during committee markup sessions, by the committee chairs, or by sponsors during meetings and in floor debate are all helpful. Self-serving comments of interest groups endorsing a particular bill are not aids, and care must be taken in considering the remarks of opponents of measures, who will often overstate the measure's intended effect. The setting of the community is also helpful in understanding why a particular bill was passed. A recent public controversy or a natural catastrophe will provide a backdrop against which a bill may be studied.

Interpretations of statutes contemporaneous with their passage are relevant guides to later interpretation. Interpretations of similar statutes in other jurisdictions are relevant guides to interpretation of statutes. In summary, the committee report serves as a valuable aid to the proper interpretation of legislation.

Report of the Committee on Consumer and Regulatory Affairs  
on Bill 11-258, the Telecommunications Competition Act of 1996, at 2  
(Council of the District of Columbia April 23, 1996)

#### **Example 95. A citation to a Council committee report**

### **11.4. Comparative prints**

Council Rule 803(e)(5) requires that each committee report on a bill that repeals or amends existing law include a "comparative print showing, by italic, underscore, strikethrough, or other typographical device, the changes proposed."



This rule, first adopted in Council Period 20, requires a committee to show what changes a bill makes to the law as it exists at the time of the amendment so that a reader may see the context for a given amendment. This rule is sometimes referred to as the Ramseyer Rule, named after Congressman Christian Ramseyer, who persuaded the United States House of Representatives to establish a comparative-print requirement in 1929.

*11.4.1. Reflecting the D.C. Official Code*

When making an amendment to a law codified in an unenacted title of the Code, it is acceptable for the comparative print to use the language codified in the Code to show the changes made in the law. That is because the comparative print is intended to allow a reader to understand what a proposed bill would do. It would not be acceptable, however, for the committee print to make changes to the codified language in an unenacted title of the Code. For a committee print that is amending a law in an unenacted title, the exact language of the organic act to be amended must be used.

*11.4.2. Level of amendment*

Generally, a comparative print should show amendments made at the section level. If there are amendments to multiple subsections in a section, or if there are subsections that may be omitted from a section without affecting the presentation of the changes made, the extraneous subsections may be omitted. Finally, if an amendment is made to an organizational unit lower than a subsection, the full text of the subsection should be included unless the amendment is to a list and if the change does not alter the list from a conjunctive list to a subjunctive list, or *vice versa*.

1. D.C. Official Code § 1-523.01(e):  
(e) Notwithstanding any other provision of law, the Mayor shall transmit to the Council, for a 90-day period of review, excluding days of Council recess, nominations to the boards and commissions listed in this subsection. If the Council does not approve by resolution within the 90-day period a nomination to these boards or commissions, the nomination shall be deemed disapproved.

\*\*\*

~~[(12) The District of Columbia Sports Commission Board of Directors, established by § 3-1404;]~~

\*\*\*

(20) The Washington Convention ~~Center Authority and Sports Authority Board of Directors~~, established by § 10-1202.05;

\*\*\*

**Example 96. Comparative print, amendment to lists**

#### 11.4.3. Stylistic considerations

Although Council Rule 803(e)(5) does not prescribe the specific manner by which the changes to the existing law can be shown, OGC recommends the following stylistic considerations for use by a committee. These stylistic considerations are aimed at promoting readability, follow standards used by other jurisdictions that use the Ramseyer Rule (or some variation to the Ramseyer Rule), and can be used to create a comparative print without too much difficulty using Microsoft Word:

- Make the changes in bold
- Always strike language first and insert new language after
- If repealing a whole organizational unit or if striking a punctuation mark, put brackets before and after the item to be changed
- Change complete words, even if correcting only portions of a word

1. D.C. Official Code § 52-101:  
§ 52-101. Gettysburg Address.  
(a) Four score and seven years ago our fathers brought forth on this continent a new nation, conceived in liberty, and dedicated to the proposition that all men are created equal.  
(b) Now we are engaged in a great civil war, testing whether that nation, or any nation, so conceived and so dedicated, can long endure. We are met on a great battle-field of that war. We have come to dedicate a portion of that field, **as a final resting place for those who here gave their lives that that nation might live.** It is altogether fitting and proper that we should do this.  
(c) But, in a larger sense, we can not dedicate, we can not consecrate, we can not hallow this ground. The brave men, living and dead, who struggled here, have consecrated it, far above our poor

power to add or detract. The world will little ~~not~~ note, nor long remember what we say here, but it can never forget what they did here~~].~~ It is for us the living, rather, to be dedicated here to the unfinished work which they who fought here have thus far so nobly advanced. It is rather for us to be here dedicated to the great task remaining before us—that from these honored dead we take increased devotion to that cause for which they gave the last full measure of devotion—that we here highly resolve that these dead shall not have died in vain—that this nation, under God, shall have a new birth of freedom—and that government of the people, by the people, for the people, shall not perish from the earth.

~~[(d) That's my speech.]~~

2. D.C. Official Code § 52-102(s):

(s) All this will not be finished in the first ~~30 minutes~~ 100 days. Nor will it be finished in the first ~~year~~ 1,000 days, nor in the life of this Administration, nor even perhaps in our lifetime on this planet. But let us begin.

**Example 97. Comparative Print, Stylistic Considerations**

## 12. AMENDMENTS OFFERED DURING DEBATE

One commonly used legislative document is an amendment offered during deliberation of a measure pending before the Council. Although the Council Rules allow for oral amendments in limited circumstances, most amendments must be in writing and come in one of 2 forms: (1) an amendment in the nature of a substitute and (2) a standard amendment.

Under Rule 354(b), an amendment in the nature of a substitute must "reflect all substantive changes from the earlier version of the legislation (committee print or engrossment) by using strikeouts on the language which is proposed to be deleted from the earlier version and an underscore on all new language being added by the amendment in the nature of a substitute."

When drafting a standard amendment, however, the drafter should apply the following drafting standards:

1. Identify, if possible, the version of the measure that is to be amended.

Amendment \_\_ to Bill 20-2001, the Christmas Tree Amendment Act of 2013 (Engrossed Version):

**Example 98. A "floor" amendment designation of measure and version to be amended**

2. Identify the location of the amendment by line number, and then, if appropriate, by section or other location identifier. In particular, use the line number where a particular amendment is dependent on the location of an existing provision in the bill.

On Line 4, strike the word "person" and insert the phrase "individual" in its place.

**Example 99. A location-dependent amendment**

At the appropriate location, insert the following:

Sec. \_\_. Sunset.

This act shall expire on December 31, 2013.

**Example 100. A location-independent amendment**

3. Draft in the imperative mood, not the indicative mood. This convention is applied because an amendment offered during debate is an instruction to the enrolling officer (the General Counsel).

Strike lines 10 through 12 [section 2(b)], and insert the following in their place:

(b) Use the imperative mood in floor amendments.

**Example 101. An amendment drafted using the imperative mood**

Section 2(b) is amended to read as follows:

"(b) In this example, the drafter used the indicative mood."

**Example 102. An amendment drafted using the indicative mood**

## 13. CEREMONIAL RESOLUTIONS

### 13.1. Generally

Under the Council Rules, a ceremonial resolution is defined as "an expression of appreciation, an honorarium of limited application, or a declaration of no legal effect that is adopted without objection." Rule 101(8). Accordingly, although a ceremonial resolution may be introduced by one or more members, the Council Rules require unanimity in approving a ceremonial resolution. Because ceremonial resolutions are intended to be essentially honorary measures, there are special drafting conventions that apply to them.

### 13.2. "Whereas" clauses

Although most Council resolutions begin with a long title followed by the resolving clause, ceremonial resolutions typically have a number of "whereas clauses" that come before the resolving clause.

A "whereas clause" may be only one sentence long and should be followed by a semicolon, with 2 exceptions. First, the penultimate clause should be followed by a semicolon and the word "and." Second, the final clause should be followed by a period.

The word "WHEREAS" is in capital letters followed by a comma. The following word is not capitalized unless it is part of a proper name.

The resolving clause should be preceded by the phrase "IT IS HEREBY" and followed by an expression of recognition.

**WHEREAS**, in the 19<sup>th</sup> century, British Prime Minister Benjamin Disraeli is said to have famously remarked that there are 3 kinds of lies: "lies, damned lies, and statistics";

WHEREAS, the famous American author Mark Twain popularized Mr. Disraeli's proverb; and

WHEREAS, the American Statistical Association is hosting its annual convention in Washington, DC, this May to promote the study of the more-refined kind of lie.

IT IS HEREBY RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, that the Council recognizes the importance of the statistical sciences and welcomes America's best statisticians for their upcoming convention.

**Example 103. Whereas clauses and resolving clause used in a ceremonial resolution**

### 13.3. Short titles

The short title for a ceremonial resolution should end with "Recognition Resolution of" followed by the year the resolution is

adopted. Quotation marks are used at the beginning and before the period at the end of the short title:

Sec. 2. This resolution may be cited as the "American Statistical Association Annual Convention Recognition Resolution of 2013".

**Example 104. Short title used in a ceremonial resolution**

### 13.4. Stylistic considerations

#### 13.4.1. Official names

Use the complete official name of an organization, agency, honoree, and law. For example:

- District of Columbia Public Schools [not "DCPS"]
- International Business Machines Corp. [not "IBM"]
- May H. Brown
- District of Columbia Government Comprehensive Merit Personnel Act of 1978

If you use an official name more than once, consider abbreviating it. Once a name has been abbreviated in the text, use the abbreviation throughout. If you wish, a full name may be used in the short title.

- Alcoholic Beverage Control Board ("ABC Board")

#### 13.4.2. Legalese

The purpose of a ceremonial resolution is to celebrate or recognize someone or something. With few exceptions, most people would prefer to be celebrated without resort to legalese. Using legalese as rarely as possible is therefore encouraged.

#### 13.4.3. Arabic numerals

Use Arabic numerals instead of spelling out the number (*e.g.*, "2" not "two"). If, however, the first word after a "whereas clause" is a number, you should spell out the number. In addition, if a number is spelled out as part of a proper name, make sure to spell out the number. Finally, spell out the number "one."

WHEREAS, "One fish two fish red fish blue fish" is one of my top 3 favorite children's books of all time;

**Example 105. Use of numerals in a ceremonial resolution**

#### 13.4.4. Dates

When an event lasts for more than a single day, use the month and date it begins, the conjunctive "through", and the month, date, and year it ends.

To declare April 4 through April 10, 2001, as "Sugar Week" in the District of Columbia.

**Example 106. Example of use of dates in a ceremonial resolution**

*13.4.5. Consistency in the use of terms*

When writing a ceremonial resolution, use the same term when you mean the same thing. As an example, do not say the following:

"WHEREAS, Robert Young served with the Metropolitan Police Department for 20 years and while a member of the police [read "the Metropolitan Police Department"] was wounded on 5 separate occasions;"

**13.5. Effective date clause**

Sec. 3. This resolution shall take effect immediately upon the first date of publication in the District of Columbia Register.

**Example 107. Effective date clause used in a ceremonial resolution**