

FIRE AND EMERGENCY MEDICAL SERVICES DEPARTMENT

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Chief of the Fire and Emergency Medical Services Department (“Department”), pursuant to Sections 5a and 6 of the Public Access to Automated External Defibrillator Act of 2000 (“Act”), effective April 7, 2001 (D.C. Law 13-278; D.C. Official Code §§ 7-2371.04a and 7-2371.05), and Mayor’s Order 2023-105, dated August 24, 2023, hereby gives notice of his adoption, on an emergency basis, of a new Chapter 44 (Automated External Defibrillator Incentive Program) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking establishes a rebate program to offset the cost of purchase of life-saving automated external defibrillators (“AEDs”) placed in publicly accessible locations on properties owned or leased by small businesses, places of worship, small multi-unit apartment, condominium, and cooperative buildings, and non-profit organizations. It also requires the registration of these AEDs with the Department.

This program will partially reimburse small businesses, places of worship, small multi-unit apartment, condominium, and cooperative buildings, and non-profit organizations for their purchase and registration of AEDs. This program will highlight the benefits of AEDs and subsidize their purchase and installation in neighborhoods without AEDs—primarily in Wards 1, 4, 5, 7, and 8 where cardiac arrest survival rates are lowest in the District.

Cardiac arrest survival rates in the District of Columbia are low. Since 2018, more than 80% of all cardiac arrests in the District have been experienced by African Americans. In Fiscal Year 2021, there were 916 cardiac arrests in the District, 83% of which occurred among African Americans, who disproportionately experience and die from cardiac arrests in the District. That year, the survival rate from cardiac arrest for African Americans was 4.7%, while that of Whites was 8.2%.

Studies show the availability of AEDs can drastically increase the likelihood of survival of a person experiencing cardiac arrest. This program will allow the Department to target the communities most in need and provide a life-saving service to help address the racial disparities in survival rates that currently exist.

There is an immediate need to protect the health, safety, and welfare of District residents in underserved areas by providing access to life-saving cardiac equipment prior to the arrival of emergency medical services professionals through the offset of the cost of purchase.

This emergency rulemaking was adopted by the Chief of the Department on December 5, 2023 and became effective on that date. The emergency rulemaking will remain in effect for one hundred twenty (120) days after the date of adoption, expiring on April 3, 2024, unless earlier rescinded, amended, or superseded by publication of a final rulemaking in the *District of Columbia Register*.

The Chief of the Department also hereby gives notice of his intent to take final rulemaking action to adopt these proposed rules in not less than thirty (30) days after the publication of this notice in the *District of Columbia Register*.

A new Chapter 44, AUTOMATED EXTERNAL DEFIBRILLATOR INCENTIVE PROGRAM, is added to Title 24 DCMR, PUBLIC SPACE AND SAFETY, to read as follows:

CHAPTER 44 AUTOMATED EXTERNAL DEFIBRILLATOR INCENTIVE PROGRAM

<u>Sec.</u>	<u>Title</u>
4400	General provisions
4401	Application
4402	Installation Verification
4403	AED Registry Entry
4404	Cardiac Emergency Response Plan
4405	Eligible Products
4406	Characteristics of Proper Placement
4407	Prioritization of Eligible Locations
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4400 GENERAL PROVISIONS

4400.1 This chapter implements a rebate program (the “AED Rebate Program”) to offset the cost of purchase by private entities of automated external defibrillators (“AEDs”) that are registered with the Fire and Emergency Medical Services Department (“Department”) and placed in publicly accessible locations within small businesses, places of public worship, small multi-unit apartment, condominium, or cooperative buildings, and nonprofit organizations.

4400.2 An applicant shall meet the following requirements to be eligible for a rebate under the AED Rebate Program:

- (a) The applicant purchased an AED that is eligible for a rebate under § 4405;
- (b) The applicant submits a completed application for the rebate pursuant to § 4401;
- (c) The applicant submits the application within ninety (90) days after purchase; provided that the ninety (90)-day period may be extended by the Department for good cause shown by the applicant;
- (d) The applicant is an owner or authorized tenant, or an agent of an owner or authorized tenant, of a building located in the District that is used as a small business, place of public worship, or nonprofit organization or that is a small multi-unit apartment, condominium, or cooperative building;
- (e) The AED is permanently installed in a publicly accessible location within one hundred fifty (150) feet from the entrance of the building or in another highly trafficked area of the building;

- (f) A three (3) dimensional sign indicating the presence of the AED is installed at the location of the AED (*e.g.*, above the AED cabinet);
- (g) The applicant has purchased or otherwise acquired ongoing maintenance of the AED for a period of at least one (1) year after the first year of installation;
- (h) The applicant has developed and provided a Cardiac Emergency Response Plan (“CERP”) meeting the requirements of § 4404; and
- (i) The applicant has registered the AED with the Department, as provided in § 4403.

4400.3 An applicant meeting the requirements of § 4400.2 shall be eligible for a rebate of \$400 per AED; except, that:

- (a) If the cost of purchase of the AED is less than \$400, the amount of the rebate shall be equal to the cost of the purchase of the AED; and
- (b) The total dollar amount of rebates provided for AEDs installed at a single address shall not exceed \$750.

4400.4 A nonprofit or community-based organization may purchase AEDs on behalf of a rebate-eligible entity and may receive the rebate payment in lieu of the rebate-eligible entity, subject to the other requirements of this section.

4400.5 The rebates provided under the AED Rebate Program are not an entitlement. The provision of a rebate under the AED Rebate Program is subject to the availability of funds appropriated for the purpose of providing the rebate and is also subject to the availability and allocation of adequate administrative resources to implement the program.

4401 APPLICATION

4401.1 To apply for a rebate under the AED Rebate Program, an applicant shall submit to the Department an application that includes:

- (a) A completed application form, which form shall be prescribed by the Department;
- (b) A certificate of authority for a lessee as described in § 4401.3 (if applicable);
- (c) Verification of the installation of the AED pursuant to § 4402;
- (d) Verification of registration of the AED using the Department’s AED Registry;

- (e) A copy of the CERP, which shall include the name and contact information of the lead person responsible for coordinating the CPR/AED program;
- (f) Proof of purchase of an eligible product pursuant to § 4405;
- (g) Proof of purchase of an AED maintenance program for a minimum of one (1) year after the first year of installation; and
- (h) A certification that the applicant:
 - (1) Will not use the AED for any unlawful purpose and will comply with all applicable building and electrical code requirements;
 - (2) Will train persons regularly on site on the steps necessary to use the AED, provide compression CPR, and notify 911;
 - (3) Will include AED maintenance in the organization's budget for the replacement of batteries and pads annually after the first year;
 - (4) Will have a CERP and a designated lead person responsible for coordinating the CPR/ AED program; and
 - (5) Has read and understands the requirements of this rulemaking; and the applicant.

4401.2

An applicant who is a lessee shall secure a certificate of authority for the installation of permanent fixtures in publicly accessible areas if required by the terms of the lease. The certificate of authority shall meet the following requirements:

- (a) The certificate of authority shall state:
 - (1) The name and legal address(es) of the lessor and the lessee;
 - (2) That the lessee is authorized to install an AED in a publicly accessible area of the subject property;
 - (3) That the lessee is authorized to provide power, if required, to the location of the device;
 - (4) That the lessee is authorized to install one (1) or more AED signs noting the location of the device; and
 - (5) The start and end dates of the authorization. The end date of the authorization must be at least two (2) years after the date on which the applicant files its application.
- (b) The certificate of authority shall be typed on the letterhead of the lessor and signed by an authorized representative of the lessor.

4401.3 Upon the determination that an applicant has complied with all the requirements of § 4401.2, and subject to 4400.5, the applicable rebate amount shall be provided to the applicant pursuant to § 4408.

4402 INSTALLATION VERIFICATION

4402.1 An AED shall be verified as installed before it is eligible for a rebate under the AED Rebate Program.

4402.2 An applicant shall verify installation as follows:

- (a) If the AED system is installed by a business regularly engaged in the installation of AEDs, the business shall provide a written certification of the installation of the AED system at the property, including photographic evidence to the Department; or
- (b) If the AED is installed by the property owner, lessee, or a business not regularly engaged in the installation of AEDs, the applicant shall upload a picture of the installed AED system in the application to verify the installation.

4403 AED REGISTRY ENTRY

4403.1 The applicant must register the AED with the Fire and Emergency Medical Services Department at aedregistry.pulsepoint.org before it will be eligible for the rebate.

4404 CARDIAC EMERGENCY RESPONSE PLAN

4404.1 The applicant shall develop a CERP to be used in the event a person in distress presents symptoms consistent with cardiac arrest.

4404.2 The CERP shall provide that the AED may only be applied to victims who are unconscious and not breathing normally.

4404.3 As part of the CERP, the applicant shall offer persons assigned to or regularly attending the facility with hands-only CPR/AED training.

4404.4 The CERP shall include plans for regular maintenance and certification of the AED so that the AED is always ready for use.

4405 ELIGIBLE PRODUCTS

4405.1 Only AEDs listed as approved on the United States Food and Drug Administration website, <https://www.fda.gov/medical-devices/cardiovascular-devices/automated-external-defibrillators-aeds>, shall be eligible for rebate under this chapter.

4406 CHARACTERISTICS OF PROPER PLACEMENT

- 4406.1 An eligible AED shall be placed according to the American Disabilities Act Standards for Accessible Design in an AED cabinet mounted in an unobstructed area no more than forty-eight (48) inches above the ground or floor to ensure that anyone, including individuals in wheelchairs, can access the AED in the event of an emergency.
- 4406.2 An eligible AED shall be placed in a location that prevents or minimizes the potential for tampering, theft, or misuse. Facilities shall take additional steps to prevent the theft or improper removal of AEDs.
- 4406.3 An eligible AED shall be placed in a location that is well marked, visible, and accessible.
- 4406.4 Placement of signage shall be seven (7) feet above the floor to comply with Americans with Disabilities Act signage principles.
- 4406.5 Where automatic notification of the opening of an AED storage cabinet or removal of an AED from a cabinet is not implemented, 911 notification procedures shall be established and reflected in the CERP.

4407 PRIORITIZATION OF ELIGIBLE LOCATIONS

- 4407.1 The Department shall prioritize outreach to rebate-eligible entities in Wards 1, 4, 5, 7, and 8.

4408 REBATE ISSUANCE

- 4408.1 Upon the determination that an applicant has complied with all the requirements of § 4401.2, and subject to the availability of funds, the Department shall send the applicable rebate amount by check or direct deposit.

4409 APPEALS

- 4409.1 If the Department denies an application for a rebate, the Department shall send written notice of the denial to the applicant by U.S. Mail at the address provided on the application. The notice shall state the reasons for the denial of the application.
- 4409.2 If the Department denies an application, the applicant shall have the right to appeal to the Chief of the Fire and Emergency Medical Services Department (“Chief”) within thirty (30) days following the date of final Department action.
- 4409.3 Appeals shall be in writing and include the reason for the appeal, the rationale for reconsideration, any supporting documentation, and the proposed remedy.
- 4409.4 The decision of the Chief shall be postmarked within thirty (30) days after receipt of the appeal and shall be final.

4499 DEFINITIONS

4499.1

The following definitions shall apply to terms used in this chapter:

Applicant – a property owner, business owner, or authorized representative of a nonprofit organization or place of worship who applies for an automated external defibrillator rebate; provided, that a tenant of a property owner may apply with the consent of the property owner.

Automated external defibrillator (AED) – a device used to treat victims who experience sudden cardiac arrest.

Cardiac Emergency Response Plan (CERP) – A written document that establishes the specific steps to reduce death from cardiac arrest in any setting.

Department – the District of Columbia Fire and Emergency Medical Services Department.

Nonprofit Organization – a business organized other than for profit that furthers a social cause and provides a public benefit.

Place of public worship – a location or space generally reserved for devotion, prayer, meditation, or religious services by members of the public.

Publicly accessible location – a location that is readily available for use by the public in case of a cardiac emergency. A publicly accessible location may include a limited-access or secured-access area readily accessible by personnel of the facility whenever the facility is occupied.

Small business – a privately owned business entity that meets the definition of a small business enterprise, as self-certified by owner, co-owner, partner, manager, or officer.

Small multi-unit apartment, condominium, or cooperative building – a building or complex of apartment, condominium, or cooperative housing units with no more than two hundred fifty (250) housing units.

All persons interested in commenting on this proposed rulemaking action may submit comments in writing to Rudy Chounoune, Jr., Office of the General Counsel, the Fire and Emergency Medical Services Department, 2000 14th Street, NW, Suite 500, Washington, DC 20009, or via email at rudy.chounoune@dc.gov. Comments must be received no later than thirty (30) days after publication of this notice in the *District of Columbia Register*. Copies of the proposed rules can be obtained from the address listed above. Copies of this proposal may be obtained, at cost, by writing to the above address.