

# Government of the District of Columbia Advisory Neighborhood Commission 4B



## RESOLUTION #4B-23-1105

**Supporting and Providing Feedback on B25-0564,  
the Environmental Justice Amendment Act of 2023  
Adopted November 27, 2023**

Advisory Neighborhood Commission 4B takes note of the following:

- On November 6, 2023, Councilmember Zachary Parker (Ward 5) introduced [B25-0564](#), the Environmental Justice Amendment Act of 2023. Councilmembers Christina Henderson (At-Large) and Kenyan R. McDuffie (At-Large) co-introduced the proposed legislation. The proposed legislation has been referred to the DC Council’s Committee on Transportation and Environment.
- The Environmental Justice Amendment Act would require the District government to consider the cumulative environmental impacts of a project when granting or renewing permits and licenses and would create a mechanism to deny permits and licenses where a project will disproportionately burden “overburdened communities” that are subject to a disproportionately high level of environmental and public health stressors. At root, the proposal seeks to provide a mechanism to regulate projects of all sizes that create hazardous waste in neighborhoods already experiencing significant environmental pollution – projects like the National Engineering Products chemical facility in Ivy City, which has emitted harmful chemicals for over half a century. The proposed legislation [aims to make it harder for smaller polluters to operate \(and continue to operate\) without oversight](#).
- More specifically, the Environmental Justice Amendment Act has four major components. It would:
  - require an assessment of the cumulative environmental impact of permitted projects on overburdened communities and create a process that can result in denial of those projects where they create a disproportionate impact;
  - require a similar assessment for District agency projects that seek to locate significant sources of environmental harm in overburdened

- communities and create a process that can result in denial of spending on those projects where they create a disproportionate impact;
- authorize the Mayor to fine applicants for failure to comply with mitigating measures detailed in cumulative impact statements and empower the Office of the People’s Counsel to initiate civil actions; and
  - establish an Energy and Environmental Justice Division at the District Department of Energy and Environment, charged in part with identifying and reducing environmental, energy, climate, and health burdens and cumulative impacts on overburdened communities.
- The proposed legislation uses the [Centers for Disease Control’s Environmental Justice Index](#) to define an “overburdened community” – which takes into account environmental burdens, social vulnerability, and health vulnerability – and specifically as any census block group in the top quarter in the Index, or in the second-highest quarter but next to a community in the highest quarter. That definition includes every census tract in Wards 7 and 8, as well as nearly all of Ward 5 and a significant piece of Ward 4.
  - The proposed legislation [acknowledges a history of concentration of environmental hazards in specific DC communities](#) and the need for a proactive approach to correct for this concentration: “For decades, the District has concentrated facilities that produce air pollution, hazardous waste, water pollution, stormwater runoff, and urban heat island effects in low income and predominantly Black neighborhoods. During that time, the District has placed the burden of fighting these injustices on the residents in Ivy City, Brentwood, Mayfair, Bellevue, and countless other communities in Wards 4, 5, 7, and 8.”
  - Advisory Neighborhood Commission 4B “believes in the urgent need to incorporate climate resiliency and sustainability as core considerations for DC government services, infrastructure projects, and developments in the Commission area.” Advisory Neighborhood Commission 4B, Annual Report 2023 (Nov. 27, 2023). The Commission has repeatedly noted the need for a proactive, equity-centered approach to environmental justice: “A healthy, resilient District is one where environmental sustainability and consistency in and quality of government services are not dependent on the wealth of a community.” *Id.* Advisory Neighborhood Commission 4B has previously called for consideration of socio-economic and health variables in considering equitable access to and maintenance of the District’s public spaces. See [Resolution 4B-23-0902](#), Calling for Extended Outdoor Public Pool Season & Hours (Sept. 26, 2023) (“The District has produced a Heat Sensitivity-Exposure Index that maps six socio-economic variables (people of color, elderly, children, low income, disability, and English proficiency) and three health variables (asthma,

obesity, and coronary heart disease), thereby providing a baseline for equitable interventions to address extreme heat.”).

- In addition, Advisory Neighborhood Commission 4B recognizes that the District’s environmental and climate injustices reflect longstanding racist housing and zoning practices that have allowed the concentration of facilities like transfer stations, bus depots, asphalt plants, and other chemical plants, as well as highways and highway-like roads, in specific neighborhoods. About half of all the District’s land zones for industrial use sits in Ward 5, often with little or no buffer between industrial and residential neighborhoods. Advisory Neighborhood Commission 4B has recognized both the disproportionate and unnecessary interest in retaining industrial land, while also noting the District’s minimal comprehensive and strategic planning about the use of that land. *See [Resolution 4B-20-0104](#)*, Providing Feedback on Proposed Changes to the Comprehensive Plan (Jan. 27, 2020) (“By focusing only on preserving PDR-zoned areas, the District is effectively choosing not to provide adequate longterm strategic planning or vision for the future of this portion of our community.”). The DC government has made active choices regarding zoning and land use that have facilitated the concentration of industrial land and environmental pollution in overburdened communities. *See* Alex Baca, Shelley Vinyard & Conor Shaw, “[A vision for an affordable and accessible Eckington deferred](#),” *Greater Greater Washington* (May 5, 2021) (“When DC Council Chairman Phil Mendelson [released his amendments](#) to the Office of Planning’s submittal for the April 20 markup, he removed our [recommendations](#), and doubled down on an illogical position that the city needs industrial land more than it needs new housing.”). While this proposed legislation takes steps to correct for these injustices, the Commission believes further efforts with regarding to zoning, land use, and housing law and policy will be necessary.
- Advisory Neighborhood Commission 4B is grateful for the work of other Commissions and residents in seeking to address environmental injustices, including Advisory Neighborhood Commission 5D, which has advocated for years regarding the toxic chemical facility – National Engineering Products – located in its Commission area. As that Commission has stated, “For over half a century, NEP’s chemical plant in Ivy City has emitted harmful chemicals, including carcinogens like formaldehyde and cresol, severely impacting residents’ health and the environment. The cumulative impact of industrial uses in Ivy City are burdensome to the residents on top of the cancer-causing chemicals being emitted by NEP. NEP operates without an air quality permit due to outdated regulations and zoning laws. The plant’s toxic emissions have led to severe health issues among residents, including migraines, asthma, and loss of smell. Some residents share a wall with the plant and live in a home that was constructed and sold through a District government-subsidized affordable housing program.” *See also* Advisory Neighborhood Commission 5C, [Resolution on National Engineering](#)

[Products and Environmental Justice](#) (Nov. 15, 2023) (“on November 6th, 2023, Ward 5 Councilmember Zachary Parker introduced the Environmental Justice Amendment Act of 2023, legislation informed by the struggles of communities in Ivy City, and ANC 5C’s own Brentwood, to combat facilities producing air pollution, hazardous waste, water pollution, stormwater runoff, and urban heat island effects in low-income and predominantly Black neighborhoods”); Advisory Neighborhood Commission 5F, [ANC5F-25-065](#), Resolution Supporting Closing and the Removal of the National Engineering Products Chemical Facility Located in Ivy City, Northeast, Washington DC (Oct. 24, 2023) (“ANC 5F acknowledges and stands with ANC 5D in their fight for environmental justice and request the District, DDOE, and EPA ensure that our neighbors in Ivy City are not subjected to hazardous ecological conditions”).

## **RESOLVED:**

- That Advisory Neighborhood Commission 4B supports [B25-0564](#), the Environmental Justice Amendment Act of 2023, including efforts to consider the historical and cumulative impact of environmental pollution on overburdened communities, and calls on the DC Council’s Committee on Transportation and the Environment to promptly hold a hearing on the proposed legislation and move it forward for a vote.
- That Advisory Neighborhood Commission 4B calls on the DC Council, including the Committee on Transportation and the Environment, to consider the following with regard to the proposed legislation:
  - defining or articulating parameters around “mitigating measure” and “reasonable alternative,” as both are undefined in the proposed legislation and recognizing that mitigation exists on a scale and reasonableness is subjective;
  - assessing whether a new Energy and Environmental Justice Division at the District Department of Energy and Environment would play a role with regard to environmental impact and cumulative impact statements, including as a “lead agency,” and whether that creates any conflict with their duty to act as an advocate for residents under the proposed law by “[e]nsur[ing] that communities are empowered to exercise their rights to participate in and enforce requirements under the District’s environmental laws”;
  - working collaboratively with the District Department of Energy and Environment to integrate their existing environmental justice efforts into the creation of a new Energy and Environmental Justice Division at the District Department of Energy and Environment, as well as to ensure the work of this new Division is

integrated into the Department’s several [comprehensive long-term plans](#), not just those related to greenhouse gas emissions;

- integrating the work and expertise of the Mayor’s Office of Racial Equity within the proposed framework of environmental and cumulative impact statements and with regard to the creation of a new Energy and Environmental Justice Division at the District Department of Energy and Environment, and specifically the Department’s role in adjusting the definition of “overburdened community” every five years;
  - assessing the District’s zoning practices and policies with regard to industrial land, which provide the underlying mechanism by which transfer stations, bus depots, asphalt plants, other chemical plants, and other pollutants are sited in specific neighborhoods, to develop a strategy not just to deconcentrate these facilities but to cohesively and transparently site them – or reject them;
  - providing additional consideration of the burden vehicle pollution, [the largest source of pollution in the District](#), places on already overburdened communities – and how the District can examine historically racist road construction practices to lessen the burden on these communities – especially given that road and highway construction is controlled exclusively by the government and does not require the involvement of private actors to improve; and
  - further assessing the standard and procedures created via this proposed legislation for actions taken by the DC government itself, which is often a [lead contributor in siting environmentally polluting facilities](#), to ensure the DC government is holding itself to the highest standards for sustainability, environmental justice, and equity, particularly with regard to the DC Council’s criteria for approving such projects.
- That Advisory Neighborhood Commission 4B requests that any hearings on [B25-0564](#), the Environmental Justice Amendment Act of 2023, include invitations to and testimony from representatives from [New Jersey](#), [New York](#), and [Massachusetts](#) regarding implementation of their related bills to understand challenges and best practices, including regarding the issues of mitigation and reasonable alternatives.

### **FURTHER RESOLVED:**

That the Commission designates Commissioner Erin Palmer, ANC 4B02, Commissioner Evan Yeats, ANC 4B01, Commissioner Alison Brooks, ANC 4B08, and Commissioner Zurick T. Smith, ANC 4B03, to represent the Commission in all matters relating to this Resolution.

### **FURTHER RESOLVED:**

That, in the event the designated representative Commissioners cannot carry out their representative duties for any reason, the Commission authorizes the Chair to designate another Commissioner to represent the Commission in all matter relating to this Resolution.

**FURTHER RESOLVED:**

That, consistent with DC Code § 1-309, only actions of the full Commission voting in a properly noticed public meeting have standing and carry great weight. The actions, positions, and opinions of individual commissioners, insofar as they may be contradictory to or otherwise inconsistent with the expressed position of the full Commission in a properly adopted resolution or letter, have no standing and cannot be considered as in any way associated with the Commission.

**ADOPTED** by voice vote at a regular public meeting (notice of which was properly given, and at which a quorum of nine members was present) on November 27, 2023, by a vote of 9 yes, 0 no, 0 abstentions.