

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 ("Act"), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02 (14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of the adoption of the following amendments to Chapter 42 of Title 17 of the District of Columbia Municipal Regulations (DCMR).

The purpose of the amendments is to amend the continuing education requirements for renewal, reinstatement, and reactivation of licensure in the District of Columbia to add requirements that licensees obtain cardiopulmonary resuscitation ("CPR") certification and infection control training; to limit the number of continuing education units ("CEUs") that can be granted for internet courses; and to clarify the education programs and activities approved for CEU credit, and to allow the Board the discretion to accept a state board dental examination in lieu of a regional board examination if the Board determines the state board dental examination to be substantially equivalent.

Proposed Rulemaking was published March 31, 2006, at 53 DCR 2426. No written comments were received from the public in connection with that notice. These final rules will be effective upon publication of this notice in the D.C. Register.

17 DCMR Chapter 42, DENTISTRY, is amended to read as follows:

Section 4206.1 is amended to read as follows:

4206.1 This section shall apply to applicants for the renewal, reactivation, or reinstatement of a license, subject to section 4206.2, beginning with the renewal period ending December 31, 2007, and for subsequent terms.

Section 4206.4 is amended to read as follows:

4206.4 An applicant for renewal of a license shall submit proof pursuant to § 4206.9 of having completed twenty-five (25) hours of credit, which shall include current cardiopulmonary resuscitation certification for health care providers ("CPR certification") and four (4) hours of infection control in approved continuing education programs within the two-year (2) period preceding the date the license expires.

Section 4206.5 is amended to read as follows:

4206.5 Not more than eight (8) continuing education units ("CEUs") for approved internet continuing education courses may be accepted in any renewal period, or for reinstatement or reactivation of a license.

Section 4206.6 is amended to read as follows:

4206.6 Internet courses and programs shall not be used to satisfy the continuing education CPR certification requirement.

Section 4206.7 is amended to read as follows:

4206.7 To qualify for a license, a person in inactive status within the meaning of § 511 of the Act, D.C. Official Code § 3-1205.11 (2001) who submits an application to reactivate a license shall submit proof pursuant to § 4206.9 of having completed twenty-five (25) hours of approved continuing education credit, which shall include current CPR certification and four (4) hours of infection control, obtained within the two (2) year period preceding the date of the application for reactivation of that applicant's license and an additional twelve (12) hours of approved continuing education credit for each additional year that the applicant was inactive status beginning with the third year.

Section 4206.8 is amended to read as follows:

4206.8 To qualify for a license, an applicant for reinstatement of a license shall submit proof pursuant to § 4206.9 of having completed twenty-five (25) hours of approved continuing education credit, which shall include current CPR certification and four (4) hours of infection control, obtained within the two (2) year period preceding the date of the application for reinstatement of the applicant's license and an additional twelve (12) hours of approved continuing education credit for each additional year that the license was expired beginning with the third year.

Section 4206.9 is amended to read as follows:

4206.9 An applicant under this section shall prove completion of required continuing education credits by submitting with the application the following information with respect to each program:

- (a) The name and address of the sponsor of the program;
- (b) The name of the program, its location, a description of the subject matter covered, and the names of the instructors;
- (c) The dates on which the applicant attended the program;
- (d) The hours of credit claimed; and
- (e) Verification by the sponsor of completion, by signature or stamp.

Section 4206.10 is amended to read as follows:

4206.10 An applicant for renewal of a license who fails to submit proof of having completed continuing education requirements by the date the license expires may renew the license up to sixty (60) days after expiration by submitting this proof pursuant to § 4206.9 and by paying the required additional late fee.

Section 4206.11 is amended to read as follows:

4206.11 Upon submitting proof of having completed continuing education requirements and paying the late fee, the applicant shall be deemed to have possessed a valid license during the period between the expiration of the license and the submission of the required documentation and payment of the late fee.

A new section 4206.12 is added to read as follows:

4206.12 If an applicant for renewal of a license fails to submit proof of completion of continuing education requirements or pay the late fee within sixty (60) days after the expiration of applicant's license, the license shall be considered to have lapsed on the date of expiration.

A new section 4206.13 is added to read as follows:

4206.13 The Board may, in its discretion, grant an extension of the sixty (60) day period to renew after expiration if the applicant's failure to submit proof of completion was for good cause. As used in this section, "good cause" includes the following:

- (a) Serious and protracted illness of the applicant; and
- (b) The death or serious and protracted illness of a member of the applicant's immediate family.

Section 4207.2(c) is amended to read as follows:

4207.2(c) An educational program given at a conference or convention; and

Section 4207.6(c) is amended to read as follows:

4207.6(c) Serving as a clinical instructor for students of dentistry or dental residents; and

Section 4208.3 is amended to read as follows:

4208.3 The Board may grant a maximum of thirteen (13) continuing education credits per year to an applicant who attends a full time post-graduate education program.

Section 4209.1(d) is amended to read as follows:

(d) Has passed the NERB examination;

Section 4209.1(e) is amended to read as follows:

(e) Has passed a regional board examination, other than the NERB examination, and meets the active practice requirements set forth in § 4209.3(f) of this chapter; or

Section 4209.1(f) is added to read as follows:

(f) Has passed a state dental examination determined by the Board to be substantially equivalent, and meets the active practice requirements set forth in § 4209.3(f) of this chapter.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to section 4902 (c) of the Department of Health Functions Clarification Act of 2001 (Act), effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731(c)) (2005 Supp.), and Mayor's Order 2005-81, dated May 25, 2005, hereby gives notice of his intent to adopt the following amendment to Title 25 (Food and Food Operations) of the District of Columbia Municipal Regulations (DCMR), Chapter 50 (Schedule of Fees for Services). This amendment adds a replacement fee for lost Certified Food Manager Identification cards; and adds new service fees for health inspections of mobile food vendors, plan reviews, re-inspections after closures, processing variance requests, and HACCP Plan reviews to Chapter 50 to defray costs incurred by the Department of Health in implementing the Act. The Department has decided to reissue the entire Chapter.

No comments were received and no changes were made to the Notice of Proposed Rulemaking published in the D.C. Register on April 14, 2006 at 53 DCR 3078. These rules will become effective upon publication of this notice the D.C. Register.

CHAPTER 50 of TITLE 25, DCMR, IS AMENDED AS FOLLOWS:

CHAPTER 50 SCHEDULE OF FEES FOR SERVICES

5000 FEES

5000.1 The following fees are applicable to Certified Food Protection Managers and Certified Limited Food Protection Managers:

| <u>Description of Services:</u> | <u>Fees:</u> |
|--|--------------|
| New Food Manager Identification Card (Valid for a 3-year period) | \$ 35.00 |
| Renewal of <u>Food Manager Identification</u> Card (Valid for a 3-year period) | \$ 35.00 |
| Lost Identification Card Replacement | \$ 15.00 |

5000.2 The following fees are applicable to Health Inspections Certificates for Mobile Food Vendors:

| <u>Description of Services:</u> | <u>Fees:</u> |
|---------------------------------|--------------|
| Health Inspection Certificate | \$ 100.00 |

(Food Carts) (Valid for 6 months) (every 6 mos.)
 Lost Health Inspection Certificate (Food Carts) \$ 15.00

5000.3 The following fees are applicable to Food Establishment Plan Reviews:

| <u>Description of Services:</u> | <u>Fees:</u> |
|--|--------------|
| <u>Plan Review – Type A</u> (Carryout or capacity of 25 seats or less, or a market with 3,000 sq. ft. or less of gross floor area) | \$100.00 |
| <u>Plan Review – Type B</u> (26 to 75 seats, or a market with more than 3,000 sq. ft. of gross floor area but less than 10,000 sq. ft. of gross floor area) | \$200.00 |
| <u>Plan Review – Type C</u> (76 or more seats, or a market with more than 10,000 sq. ft. of gross floor area) | \$300.00 |
| <u>Plan Review – Equipment Replacement</u> | \$ 70.00 |

5000.4 The following fees are applicable to Compliance Re-inspections after Closures for violations of Title 25 of the District of Columbia Municipal Regulations (Food Code):

| <u>Description of Services:</u> | <u>Fees:</u> |
|--|------------------------------|
| <u>Compliance Re-inspection</u> <u>During</u> business hours (9:00 a.m. – 4:40 p.m.) | \$100.00 (per inspection) |
| <u>Compliance Re-inspection</u> <u>After</u> business hours <u>or on the weekend</u> | \$400.00 (per inspection) |

5000.5 The following fees are applicable to Requests for Variances from a required provision of Title 25 of the District of Columbia Municipal Regulations (Food Code):

| <u>Description of Services:</u> | <u>Fees:</u> |
|---------------------------------|--------------|
| Processing a Variance Request | \$200.00 |

5000.6 The following fees are applicable to HACCP Plan Reviews as determined by risk levels identified in Section 4400.2 of Title 25 of the District of Columbia Municipal Regulations (Food Code):

| <u>Description of Services:</u> | <u>Fees:</u> |
|---|--------------|
| Moderate Risks (#2 and #3) Establishments | \$ 75.00 |
| High Risks (#4 and #5) Establishments | \$125.00 |
| Food Processors | \$200.00 |

5000.7 All fees shall be paid by certified check, money order, business check, or personal check made payable to the "District of Columbia Treasurer."

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING**

AND

Z.C. ORDER NO. 03-09

Z.C. Case No. 03-09

**(Text Amendment – District Government Agency Uses
in Public School Buildings - 11 DCMR)**

January 9, 2006

The Zoning Commission for the District of Columbia, pursuant to the authority set forth in §§ 1 and 3 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, 798 as amended; D.C. Official Code, §§ 6-641.01 and 6-641.03 (2001 ed.)); having held a public hearing as required by § 3 of the Act (D.C. Official Code 6-641.03 (2001 ed.)); and having referred the proposed amendment to the National Capital Planning Commission for a 30-day period of review pursuant to section § 492(b)(2) of the District of Columbia Home Rule Act; hereby gives notice of the adoption of an amendment to Chapter 2 of the Zoning Regulations (11 DCMR).

The purpose of the amendment is to add a new § 222 to authorize the Board of Zoning Adjustment to permit the use of an existing or former public school building, and the land on which it is located, by a District government agency as a special exception. The public school building must be either designated a historic landmark or be within a historic district.

No changes to the text have been made to the text as published in the Notice of Proposed Rulemaking in the November 25, 2005 edition of the *D.C. Register* at 52 DCR 10420. The Commission took final action to adopt the amendment at a public meeting on January 9, 2006. This final rulemaking is effective upon publication in the *D.C. Register*.

Description of Text Amendment

The purpose of the text amendment is to create a provision that allows for the use by District government agencies of surplus public school buildings that are either designated landmarks or located within a historic district, subject to certain limitations and special exception approval. The text amendment encourages the preservation and designation of many of the city's surplus and neglected public school buildings, allows for their adaptive reuse, and allows District government agencies to use such buildings.

Relationship to the Comprehensive Plan

The amendment will not be inconsistent with the Comprehensive Plan. Moreover, the amendment advances the following provisions of the Comprehensive Plan:

- § 102 – which encourages locating public facilities in neighborhoods to add to the neighborhoods' livability;
- § 601 – which creates the goal of maintaining the District's public facilities in good condition and in a way that supports neighborhood improvement objectives;
- § 606 – which states that public facilities should be located so as to provide optimum public service and to support the land use, transportation, economic and social development, and neighborhood improvement objectives;
- § 804 – which sets a policy of using historic properties for carrying out government responsibilities to the maximum extent feasible; and
- § 805 – which encourages the adaptive re-use of historic properties.

The amendment is also supported by the all of the individual Ward Plans.

Set Down Proceeding and Public Hearing

The case was initiated by a report filed by the Office of Planning on February 27, 2003, proposing an amendment to § 217 of the Zoning Regulations, Title 11, DCMR. The Zoning Commission set the case down for a public hearing at its March 10, 2003 public meeting. A Notice of the Public Hearing containing the proposed amendments, and setting the hearing date for May 29, 2003, was originally published in the April 11, 2003 edition of the D.C. Register. A Revised Notice of Public Hearing was then published in the April 18, 2003 edition of the *D. C. Register* at 50 DCR 3024 to correct minor errors in the original advertisement.

A public hearing was held on May 29, 2003. At the public hearing, issues were raised about potentially incompatible government uses in Residence Districts, and the definition of "non-profit organizations" as it is used in § 217.

The record was left open for a period of time to allow for additional written comments. Two letters were submitted to the record in opposition citing concerns about not knowing the exact location of potential historic schools, the appropriateness of government uses within residential neighborhoods, and expanding § 217 to include non-residential structures.

Proposed Rulemaking

Following the public hearing and review of the public record, the Commission considered proposed action at the meeting of July 31, 2003. During consideration of proposed action, the Commission discussed issues related to the "non-profit" uses permitted by § 217. The Commission expressed concern about the lack of guidance within § 217 for reviewing non-profit uses, and the potential locations of such uses.

To effectuate the intent of the original text amendment of allowing local government uses in historically designated or contributing public school buildings, but avoid the issues related to "non-profit" uses permitted by § 217, the Office of Planning proposed inserting the proposed advertised text as a new stand-alone section, § 222. The Commission agreed and took no action pending re-insertion of the proposed text as a new § 222.

At its regular meeting of September 15, 2005, the Commission reviewed the renumbered text and concluded that there were no substantive changes to the text as it was originally advertised. The Commission took proposed action pursuant to 11 DCMR § 3027.2, on September 15, 2005 to approve the revised text amendment to be codified. A Notice of Proposed Rulemaking to create § 222 was published in the November 25, 2005 edition of the *D.C. Register* at 52 DCR 10420.

National Capital Planning Commission

The proposed rulemaking was referred to the National Capital Planning Commission ("NCPC") in accordance with § 492 of the District of Columbia Charter and was reviewed pursuant to the Commission's delegation of authority adopted on August 6, 1999. NCPC found that the proposed text would not adversely affect the identified federal interests, and is not inconsistent with the Comprehensive Plan for the National Capital.

Final Rulemaking

After publication of the proposed rulemaking, the Commission received no written comments. The Commission took final action to adopt the rulemaking at its regularly scheduled public meeting on January 9, 2006.

The Office of the Attorney General has determined that this rulemaking meets its standards of legal sufficiency.

Based upon the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purposes of the Zoning Regulations, and not inconsistent with the District of Columbia Comprehensive Plan.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the new § 222 of the Zoning Regulations, Title 11, DCMR:

Title 11 DCMR (Zoning), Chapter 2, R-1 RESIDENCE DISTRICT USE REGULATIONS, is amended by adding a new § 222 to read as follows

222 DISTRICT GOVERNMENT AGENCY (R-1)

222.1 The use of an existing or former public school building, and the land on which it is located, by a District government agency shall be permitted as a special exception in an R-1 District in the following instances if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of this section.

JUN 2 2006

- 222.2 The school building must either be:
- (a) Listed in the District of Columbia's Inventory of Historic Sites contained in the comprehensive statewide historic preservation survey and plan prepared pursuant to § 101 of the National Historic Preservation Act, approved October 15, 1966 (80 Stat. 915, as amended; 16 U.S.C. § 470); or
 - (b) Located within a district, site, area, or place listed on the District of Columbia's Inventory of Historic Sites.
- 222.3 The use of the property shall not tend to adversely affect the character or use of the neighboring properties as a result of noise, traffic, or other objectionable conditions.
- 222.4 The use of the property shall not intrude upon the privacy of the residents of the neighborhood.
- 222.5 The Board may limit the hours of operation of the use so as to assure compliance with §§ 222.3 and 222.4.
- 222.6 The property may house more than one District agency and more than one principal use, provided each principal use shall be found consistent with the provisions of this section.
- 222.7 The principal use of the property shall not be interior or exterior storage or vehicle parking.
- 222.8 The use shall not extend outside the building unless accessory and incidental to the principal interior uses.
- 222.9 Any storage shall be fully enclosed.
- 222.10 The following uses shall not be permitted:
- (a) Vehicle storage, vehicle maintenance, storage of impounded vehicles, or storage of seasonal vehicles or equipment; or
 - (b) Any use first permitted in the CM zone district.
- 222.11 The amount and arrangement of parking spaces and loading spaces shall be adequate and located to minimize traffic impact on the adjacent neighborhood.
- 222.12 Any additions to the building or any major modifications to the exterior of the building or to the property shall require the approval of the Board of Zoning Adjustment. The Board shall refer any proposed addition or modification to the Historic Preservation Office, for a report identifying possible detrimental consequences that the proposed

JUN 2 2006

addition or modification may have on the architectural or historical significance of the building or property or district in which the building is located.

- 222.13 Any special exception application made pursuant to this section may be heard and decided together with any other special exception or variance relief required. The Applicant shall have the burden of proving compliance with all applicable special exception requirements, whether stated in this section or elsewhere in this title. In the event of any inconsistency between the requirements, the most restrictive criteria shall apply.

Vote of the Zoning Commission to **APPROVE** the proposed rulemaking was taken during its public meeting on September 15, 2005: 4-0-1 (Anthony J. Hood, Gregory N. Jeffries, John G. Parsons, and Kevin Hildebrand to adopt; Carol J. Mitten, not having participated, not voting).

The Zoning Commission at its public meeting of January 9, 2006 adopted the Order by a vote of: 4-0-1 (Anthony J. Hood, Gregory N. Jeffries, John G. Parsons, and Kevin Hildebrand to adopt; Carol J. Mitten, not having participated, not voting).

In accordance with the provisions of 11 DCMR §3028.9, this order shall become effective upon publication in the *D.C. Register*; that is on _____.