

**NOTICE OF FINAL RULEMAKING**

The Interim Director of the Child and Family Services Agency (CFSA), pursuant to section 2(o) of the Child and Family Services Agency Establishment Amendment Act of 2000, effective April 4, 2001, D.C. Law 13-277, D.C. Official Code § 4-1303.03 (2005 Supp); section 106 of the Grandparent Caregivers Pilot Program Establishment Act of 2005, effective March 8, 2006, D.C. Law 16-0069 (Act); and Mayor's Order 2006-38, dated March 20, 2006, hereby gives notice of the adoption of a new Chapter 68 of Title 29 of the District of Columbia Municipal Regulations (DCMR). The rules establish procedures for providing subsidies to certain District residents who are grandparents, great-grandparents, great-aunts or great-uncles of children and who have been granted legal custody of the children or standby guardianship in accordance with D.C. Official Code § 16-4802 (2005 Supp.).

The rules were previously published as emergency and proposed rulemaking on March 31, 2006 (53 DCR 2439). No changes have been made to the rulemaking since its publication on March 31, 2006. Final action to adopt these rules was taken on July 14, 2006. These final rules will be effective upon publication of this notice in the D.C. Register.

**Title 29 DCMR is amended by adding the following new Chapter 68:**

**CHAPTER 68**

**GRANDPARENT CAREGIVERS PILOT PROGRAM SUBSIDIES**

**6801 SCOPE**

- 6801.1 The purpose of this chapter is to establish criteria and procedures regarding the provision of a subsidy under the Grandparent Caregivers Pilot Program (Pilot Program).
- 6801.2 The Pilot Program provides subsidies for grandparents, great-grandparents, great-aunts and great-uncles who meet the criteria set forth in this chapter and are caring for a child under certain circumstances.
- 6801.3 The Child and Family Services Agency (CFSA) shall be responsible for the implementation of this chapter, which shall apply to all subsidies provided through CFSA pursuant to the Pilot Program.
- 6801.4 All subsidies provided through CFSA pursuant to the Pilot Program are subject to the availability of funds specifically appropriated for this purpose by the District of Columbia. Nothing in this chapter shall be construed as creating an entitlement to a subsidy.

6801.5 Copies of this chapter shall be available from CFSA upon request.

**6802 ELIGIBILITY**

6802.1 To the extent that funds are specifically appropriated for the Pilot Program, an applicant shall be eligible to receive a subsidy under the Pilot Program if each of the following criteria is met:

- (a) The applicant has submitted a completed application packet in accordance with § 6803;
- (b) The applicant is the grandparent, great-grandparent, great-aunt or great-uncle of the child;
- (c) There is a court order awarding the applicant either legal custody or standby guardianship of the child;
- (d) The child has resided with the applicant on a continuous basis for at least the most recent six (6) months;
- (e) Unless the parent designated the applicant to be the child's standby guardian, the child's parent has not resided in the applicant's home for at least the most recent six (6) continuous months;
- (f) The applicant and all adults residing in the applicant's home have obtained a criminal background check in accordance with § 6804;
- (g) The applicant and all adults residing in the applicant's home have obtained a child protection register check in accordance with § 6804;
- (h) The household income is under two hundred percent (200%) of the federally-defined poverty level;
- (i) The applicant has applied for Temporary Assistance for Needy Families (TANF) benefits for the child through the Department of Human Services, and an eligibility determination has been made;
- (j) The applicant is a resident of the District of Columbia; and
- (k) The applicant has entered into a subsidy agreement in accordance with § 6806.

**6803 APPLICATION PROCESS**

6803.1 Each applicant shall submit a completed application packet.

6803.2 The application packet shall include the following:

- (a) The application form, which shall include a signed, notarized statement, sworn under penalty of perjury, that all information provided in the application packet is true and accurate to the best belief of the applicant;
- (b) Proof that the applicant is the grandparent, great-grandparent, great-aunt or great-uncle of the child;
- (c) A copy, under court seal, of the court order granting the applicant legal custody or standby guardianship;
- (d) The original results of a criminal background check, dated within one (1) year of the application;
- (e) A completed application for a Child Protection Register check;
- (f) Proof of application for TANF benefits on behalf of the child through the District of Columbia Department of Human Services, Income Maintenance Administration;
- (g) Proof that the child has resided with the applicant on a continuous basis for at least the most recent six (6) months. A sworn statement on the application is sufficient proof;
- (h) Unless the parent designated the applicant to be the child's standby guardian, proof that the child's parent has not resided in the applicant's home for at least the most recent six (6) continuous months. A sworn statement on the application is sufficient proof;
- (i) Proof of household income; and
- (j) Proof that the applicant resides in the District of Columbia.

6803.3 An applicant shall be ineligible for a subsidy if the application is not complete, if it is determined that the applicant made false statements in the application packet, or if any of the eligibility requirements set forth in § 6802 are not met. An application is incomplete if the requirements of §§ 6803.1 and 6803.2 are not met.

6803.4 CFSA shall complete its review of the application, determine the applicant's eligibility, and notify the applicant in writing of its decision within forty-five (45) days of receipt of a completed application.

**6804 CRIMINAL BACKGROUND CHECK AND CHILD PROTECTION REGISTER CHECK**

- 6804.1 At the choice of the applicant, the criminal background checks required under this chapter may be obtained directly through the Metropolitan Police Department (MPD) or through CFSA.
- 6804.2 If the criminal background check is obtained through CFSA, CFSA shall pay the cost of the criminal background check for the legal custodian or guardian, and any other grandparent, great-aunt or great-uncle who resides in the home.
- 6804.3 This section shall not preclude an agency other than CFSA from paying for all or part of the cost of the criminal background check.
- 6804.4 In the event a criminal background check reveals a crime of violence or a crime against a child, CFSA shall review the conviction and determine whether the applicant is able to provide for the health, safety and welfare of the child in light of:
- (a) When the crime occurred;
  - (b) The nature of the crime;
  - (c) Any efforts made by the individual who has the criminal history to alter his or her behavior; and
  - (d) Any other factors that assist CFSA in assessing the health, safety and welfare of the child.
- 6804.5 In the event that a child protection register check reveals that an individual is identified as the abuser or neglecter in a substantiated child abuse or neglect case, CFSA shall review the results and determine whether the applicant is able to provide for the health, safety and welfare of the child in light of:
- (a) When the child abuse or neglect occurred;
  - (b) The nature of the child abuse or neglect;
  - (c) Any efforts made by the individual who has the criminal history to alter his or her behavior; and
  - (d) Any other factors that assist CFSA in assessing the health, safety and welfare of the child.
- 6804.6 CFSA may determine that an applicant is ineligible for a subsidy if it determines that the applicant not able to provide for the health, safety and welfare of the child after conducting a review in accordance with § 6804.4 or 6804.5.

**6805 SUBSIDY**

6805.1 The amount of the subsidy shall be the amount that CFSA provides as the regular daily rate for a Level I permanent guardianship subsidy pursuant to Title 29 DCMR, Chapter 61, less any TANF benefits received for the child.

6805.2 The subsidy shall expire after one (1) year unless the recipient is recertified in accordance with § 6807.

**6806 SUBSIDY AGREEMENT**

6806.1 An applicant shall enter into a subsidy agreement with CFSA prior to receiving a subsidy.

6806.2 The amount of the subsidy stated in the subsidy agreement shall be the sole and complete amount of funds an individual shall receive under the Pilot Program for a child named in the subsidy agreement.

6806.3 A subsidy agreement shall include at least:

- (a) The amount of the subsidy;
- (b) A statement that the subsidy shall expire after one (1) year unless the recipient is recertified in accordance with § 6807;
- (c) A statement that the receipt of the subsidy is contingent upon the availability of funds specifically appropriated for this Pilot Program, and that if funds are exhausted during the period covered by the subsidy agreement, the subsidy will terminate;
- (d) A statement that subject to availability of funds specifically appropriated for this Pilot Program, the recipient may reapply annually to be recertified in accordance with § 6807; and
- (e) A statement of the circumstances under which the subsidy shall terminate.

6806.4 A subsidy agreement shall terminate:

- (a) If funds specifically appropriated for this Pilot Program are not available to pay the subsidy;
- (b) At the end of one (1) year if the recipient fails to reapply and be recertified for the succeeding year;
- (c) If the recipient dies;
- (d) If the recipient is no longer the child's legal custodian or standby

guardian;

- (e) Upon the earlier of the child's:
  - (1) Eighteenth (18<sup>th</sup>) birthday;
  - (2) Residence outside recipient's the home, unless the recipient can demonstrate that he or she retains financial responsibility for the child and the child is attending a residential school;
  - (3) Marriage;
  - (4) Death; or
  - (5) Enlistment in the military;
- (f) If there is a substantiated finding of child abuse or neglect resulting in the child's removal from the household;
- (g) If the recipient no longer meets the eligibility criteria set out in § 6802; or
- (h) In accordance with any additional terms contained in the subsidy agreement or otherwise in accordance with this chapter.

6806.5 The recipient shall notify CFSA within two (2) weeks of:

- (a) Any circumstances that may result in the recipient no longer meeting the eligibility criteria set out in § 6802;
- (b) Any circumstances that may result in the termination of the agreement pursuant to § 6806.4; and
- (c) Any change of address.

## **6807 RECERTIFICATION**

6807.1 If the applicant seeks recertification of the subsidy, CFSA shall conduct a review of the subsidy to determine whether the recipient remains eligible in accordance with this chapter.

6807.2 The recipient shall establish continued eligibility.

- 6807.3 The recipient shall submit a recertification application packet at least sixty (60) days but not more than ninety (90) days prior to the expiration of the subsidy.
- 6807.4 The application packet shall include:
- (a) A signed, notarized statement, sworn under penalty of perjury, that all information provided to establish continued eligibility is true and accurate to the best belief of the recipient and that there has been no material change in circumstance since the recipient was initially determined to be eligible for a subsidy;
  - (b) Updated child protection register and criminal background checks; and
  - (c) The child's school attendance records.
- 6807.5 If a recipient fails to submit an application for recertification or fails to cooperate with CFSA in its conduct of the review, CFSA may terminate the grandparent caretaker subsidy.

#### **6808 APPEAL PROCEDURE**

- 6808.1 Except as provided in § 6808.2, an applicant or recipient who is aggrieved by a decision of CFSA in connection with eligibility for a subsidy may appeal the decision in accordance 29 DCMR, Chapter 59.
- 6808.2 An applicant or recipient may not appeal an eligibility decision that is based on the unavailability of funds specifically appropriated for the Pilot Program.

#### **6809 CONFIDENTIALITY**

- 6809.1 CFSA shall maintain the confidentiality of information and records concerning an application for or receipt of a subsidy. Information or records may only be released as permitted by applicable provisions of District or federal law.

#### **6899 DEFINITIONS**

- 6899.1 The following terms and phrases shall have the meanings ascribed:

“Adult” – An individual who is 18 years of age or older.

“Applicant” – An individual who is applying for a subsidy provided under the Grandparent Caregivers Pilot Program.

“Application” – A written request to be found eligible for a subsidy submitted pursuant to this chapter.

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“CFSA” – The District of Columbia Child and Family Services Agency.

“Child” – An individual who is under eighteen (18) years of age and who is the grandchild, grand-nephew or grand-niece, as appropriate, of the applicant or recipient.

“Court” – Any court of competent jurisdiction.

“Crime against a child” – A criminal offense which is comparable to:

- (a) Kidnapping of a minor, except by a parent;
- (b) False imprisonment of a minor, except by a parent;
- (c) Criminal sexual conduct toward a minor;
- (d) Solicitation of a minor to engage in sexual conduct;
- (e) Use of a minor in a sexual performance;
- (f) Solicitation of a minor to practice prostitution;
- (g) Any conduct that by its nature is a sexual offense against a minor;  
or
- (h) Production or distribution of child pornography.

For purposes of this definition, conduct which is criminal only because of the age of the victim shall not be considered a criminal offense if the perpetrator was a minor when the crime was committed.

“Crime of violence” – Has the meaning set forth in D.C. Official Code § 23-1331 (2005 Supp).

“Criminal background check” – The investigation of an individual’s criminal history through the record systems of both the Federal Bureau of Investigation and the Metropolitan Police Department.

“DCMR” – The District of Columbia Municipal Regulations.

“Household income” – The combined gross income of the applicant or recipient, as appropriate, and all other individuals, including children, residing in the applicant or recipient’s home.

“Legal custodian” – The person to whom a court of competent jurisdiction has awarded custody.

“Legal custody” -- A legal status awarded by a court which vests in a custodian the responsibility for the custody of a minor and that includes rights and responsibilities that are substantially similar to those set out in D.C. Official Code § 16-2301(21) (2005 Supp).

“Minor” – An individual who is under eighteen (18) years of age

“Recipient” – An individual who receives a subsidy under the Grandparent Caregivers Pilot Program.

“Resident of the District of Columbia” – A resident as defined by section 503 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code § 4-205.03).

“Standby guardianship” – A legal status awarded by the court in accordance with D.C. Official Code § 16-4802 (2005 Supp.).

“Subsidy” – A subsidy provided under the Grandparent Caregivers Pilot Program.

“Subsidy agreement”-- An agreement entered into between CFSA and a grandparent, great-grandparent, great-aunt or great-uncle concerning the provision of a subsidy under the Grandparent Caregivers Pilot Program.

“Substantiated” – Has the meaning set forth in the Improved Child Abuse Investigations Amendment Act of 2002, effective October 19, 2002, (D.C. Law 14-206; D.C. Official Code § 4-1301.02(19A)).

“Temporary Assistance for Needy Families” or “TANF” -- the Temporary Assistance for Needy Families program established by section 201 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Official Code 4-202.01), which is administered through the Department of Human Services, Income Maintenance Administration.

## DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

## NOTICE OF FINAL RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the Authority set forth in D.C. Official Code § 47-2853.10 (a) (12) and Mayor's Order 2000-70, dated May 2, 2000, hereby gives notice of final rulemaking for a new 17 DCMR Chapter 23 (Real Estate Appraisers), and an amendment to 17 DCMR Chapter 33. This rulemaking is necessary to update the Real Estate Appraiser regulations to reflect changes in the law and the profession. In addition, pursuant to a September 2003 vote of the Board of Real Estate Appraisers, the rulemaking reflects two new license categories: appraiser trainee and certified residential real property appraiser.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on March 10, 2006. Comments were received from the public. In response to these comments the Director and the Board amended the proposed rules. The affected sections were §§ 2304.13, 2304.15, 2306.6, 2311.7, 2318.1, 2320.1(b), and 2325.3. In addition, the Appraiser Trainee classification was changed from a registration to a license. A second Notice of Proposed Rulemaking was published in the *D.C. Register* on May 26, 2006. No comments were received in response to that notice. These final rules will be effective upon publication in the *D.C. Register*.

Title 17 DCMR Chapter 33 is amended as follows:

The title of Chapter 33, Title 17 DCMR is amended to read as follows:

“GENERAL RULES: FUNERAL DIRECTORS, VETERINARIANS, INTERIOR DESIGNERS AND REAL ESTATE APPRAISERS”; and

Title 17 DCMR Chapter 33, section 3300.1(d) is amended by adding a new paragraph to read as follows:

(d) The Board of Real Estate Appraisers, established by D.C. Official Code § 47-2853.06(g)

Title 17 DCMR Chapter 23 is amended to read as follows:

**CHAPTER 23 -- REAL ESTATE APPRAISERS**

Secs.

- 2300 General Provisions
- 2301 General Requirements for Licensure
- 2302 Prelicensure Education Requirements
- 2303 Accreditation and Certification of Prelicense Education Programs
- 2304 Prelicensure Experience Requirements
- 2305 License Reciprocity or Endorsement
- 2306 Temporary Practice

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- 2307 Examination
- 2308 Term of License
- 2309 License Renewal
- 2310 Continuing Education Requirements
- 2311 Documentation of Continuing Education Credits
- 2312 Approved Continuing Education Programs
- 2313 Inactive Status
- 2314 Display of License and License Numbers
- 2315 Change of Name or Address
- 2316 Standards of Professional Practice
- 2317 National Registry Fee Assessment
- 2318 Payment of License Fees
- 2319 Appraiser Recordkeeping and Notification Requirements
- 2320 Appraisal Instructors
- 2321 Appraisal Education Fund Assessment
- 2322 Appraisal Education Fund Use for Programs
- 2323 Appraiser Trainee License
- 2324 Disciplinary Action
- 2325 Persons Exempt from Licensure
- 2399 Definitions

**2300 GENERAL PROVISIONS**

- 2300.1 This chapter shall apply to holders of and applicants for a license to practice real estate appraising. The purpose of this chapter is to establish and enforce education, experience, and practice standards that will allow individuals licensed in the District of Columbia to perform appraisals for federally related and non-federally related real estate transactions.
- 2300.2 17 DCMR Chapter 33 (General Rules) shall supplement this chapter and establish the procedural requirements associated with initiating and holding disciplinary proceedings against licensees. In the event that a provision within 17 DCMR Chapter 33 conflicts with this chapter or the Act, the applicable provision within this chapter or the Act shall control.
- 2300.3 The Board may meet at least once a month in public session, but shall not meet less than four times per year. The Board shall publish notice of the time and place of each meeting in the D.C. Register at least one week in advance of the meeting. The public has the right to appear before the Board and testify on subjects within the Board's jurisdiction.
- 2300.4 The Board shall elect a chairperson from among the members of the Board. The Chairperson shall have the authority to sign all official documents issued on behalf of the Board, after approval by the Board.
- 2300.5 A majority of the legislated size of the Board shall be present at a meeting in order to constitute the quorum necessary to conduct official business.

- 2300.6 A majority vote of all Board members present and voting is necessary and sufficient for any action taken by the Board.
- 2300.7 Board members may convene in small committees of not less than three Board members to carry out specific functions of the Board, such as holding disciplinary hearings, if the full Board ratifies the actions of the small committees.
- 2300.8 Copies of all records and papers pertaining to licensure, inspections, investigations, and other matters under the jurisdiction of the Board shall be maintained by the Department on behalf of the Board. Copies of all records and papers duly certified and authenticated by the seal of the Board shall be received in evidence in all courts equally, and with like effect as the original, subject to the rules of evidence.
- 2300.9 It shall be Board policy to retain jurisdiction over the hearing process for each disciplinary matter that it initiates unless the Board, by majority vote, agrees to send a disciplinary matter to the Office of Administrative Hearings (OAH) for adjudication pursuant to D.C. Official Code § 2-1831.01 et seq. (2003 Supp.). Any disciplinary proceeding initiated by the Board, and any hearing or other conference held by the Board pursuant thereto, shall comply with the requirements of this chapter and the Act.
- 2300.10 Any licensee adversely impacted by a final OAH decision in a case initiated by the Board from the Board's issuance of 'Charges and Specifications' against a licensee, except those decisions related to procedural matters not under the Board's jurisdiction, may appeal the OAH decision to the Board. Appeals from any Board decision, whether rendered by the Board in its capacity as an initial hearing body or as an appellate body, shall be made to the D.C. Court of Appeals.

## **2301 GENERAL REQUIREMENTS FOR LICENSURE**

- 2301.1 An applicant for a license shall do the following:
- (a) Submit a completed application on a form supplied by the Board;
  - (b) Pay the required fees;
  - (c) Submit to the Board all required supporting credentials, documents, and materials requested by the Board including the following:
    - (i) Transcripts;
    - (ii) References;
    - (iii) Test scores;

- (iv) Affidavits of successful completion of prelicensing or precertification coursework; and
  - (v) A completed and notarized affidavit of work experience.
- (d) Submit with the application two (2) recent passport-type photographs of the applicant's face measuring two inches by two inches (2" x 2");
  - (e) If applicable, the applicant shall submit proof of having passed the examination required by the Board for the level of licensure desired by the applicant.
- 2301.2 Applicants shall be at least eighteen (18) years of age.
- 2301.3 Applicants may not have been convicted of an offense that bears directly on the fitness of the applicant to be licensed.
- 2301.4 Application fees and examination fees are not refundable.
- 2301.5 An applicant may not have been convicted of a crime in any jurisdiction or disciplined by any regulatory body in any jurisdiction for any activity that either would be grounds for the Board to discipline the applicant or would impair the applicant's ability to transact the business of a licensed or certified real property appraiser, or appraiser trainee.
- 2301.6 An applicant may not have been convicted, in any jurisdiction, of an offense bearing directly upon the applicant's fitness to be licensed under this chapter or the Act. Any plea of nolo contendere shall be considered a conviction for the purposes of these regulations.

## **2302 PRELICENSURE EDUCATION REQUIREMENTS**

- 2302.1 Prior to applying for licensure applicants for the Appraiser Trainee classification shall fulfill the requirements set forth in § 2325 of this chapter.
- 2302.2 Applicants for the Licensed Residential Real Property Appraiser classification shall complete one hundred fifty (150) classroom hours of courses in subjects related to real estate appraisal, including those subjects listed in subsection 2302.10.
- 2302.3 Applicants for the Certified Residential Real Property Appraiser classification shall complete two hundred (200) classroom hours in subjects related to real estate appraisal, including those courses listed in § 2302.10. The two hundred (200) classroom hours may include the one hundred fifty (150) classroom hour requirement for the Licensed Real Property Appraiser classification. Applicants shall also have at least a two-year associate's degree or have completed 21 hours of college course work. The 21 hours of college course work shall have been earned from an accredited college, junior college, community college, or university in the following subjects:

- (a) English Composition;
  - (b) Principles of Economics (Micro or Macro);
  - (c) Finance;
  - (d) Algebra, Geometry, or higher mathematics;
  - (e) Statistics;
  - (f) Introduction to computers – Word processing/spreadsheets; and
  - (g) Business or Real Estate Law.
- 2302.4 Applicants for the Certified General Real Property Appraiser classification shall complete three hundred (300) classroom hours of courses in subjects related to real estate appraisal, including those courses listed in § 2302.10. The three hundred (300) hours may include the one hundred fifty (150) classroom hours required for the Licensed Residential Appraiser classification or the two hundred (200) classroom hours required for the Certified Residential Real Property Appraiser Classification. Applicants shall also possess at least a bachelor's degree or have completed 30 hours of college course work earned from an accredited college, junior college, community college, or university in the following subjects:
- (a) English Composition;
  - (b) Micro Economics;
  - (c) Macro Economics;
  - (d) Finance;
  - (e) Algebra, Geometry, or higher mathematics;
  - (f) Statistics;
  - (g) Introduction to Computers-Word processing/spreadsheets;
  - (h) Business or Real Estate Law; and
  - (i) Two elective courses in accounting, geography, ag-economics, business management, or real estate.
- 2302.5 The Board shall not grant credit toward the prelicensure classroom hour requirement unless the length of a class is at least fifteen (15) hours and the individual passes an examination pertinent to that class.

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- 2302.6 Prelicensure course coverage on the Uniform Standards of Professional Appraisal Practice (USPAP) for all license classifications shall include the greater of fifteen (15) hours or the minimum hours required by the Appraisal Qualifications Board (AQB).
- 2302.7 Prelicensure education credit for the USPAP course shall only be awarded to licensees completing a USPAP course taught by an AQB certified instructor.
- 2302.8 The applicant shall list all qualifying courses, seminars, workshops, or conferences on the official form provided by the Board. The applicant shall sign the form and have the form notarized by a notary public. The applicant shall attach proof of completion of the required courses to the application, which shall consist of course certificates signed by the course providers or an official transcript in an envelope sealed by the school.
- 2302.9 An applicant shall not use courses that he/she has taught to satisfy the prelicensure/precertification educational requirements.
- 2302.10 The required prelicensure core curriculum for each license classification shall meet or exceed the requirements established by the AQB. Course content shall substantially comply with the AQB's guidelines for curriculum content as indicated in the AQB required core curriculum, AQB Guide Note 1 (GN-1). The prelicensure core curriculum for each license classification shall be as follows:

(a) Appraisal Trainee:

- (1) Basic Appraisal Principles - 30 hours;
- (2) Basic Appraisal Procedures - 30 Hours;
- (3) The 15-Hour national USPAP course or its equivalent;

Total -- 75 Hours

(b) Licensed Residential Real Property Appraiser classification shall include coverage of the following topics:

- (1) Basic Appraisal Principles - 30 hours;
- (2) Basic Appraisal Procedures - 30 Hours;
- (3) The 15-Hour national USPAP course or its equivalent -- 15 Hours;
- (4) Residential Market Analysis and highest and best use - 15 Hours;
- (5) Residential Appraiser Site Valuation and cost approach -- 15 Hours;

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(6) Residential sales comparison and income approaches – 30 Hours;

(7) Residential report writing and case studies – 15 Hours;

Total – 150 Hours

(c) Certified Residential Real Property Appraiser:

(1) Basic Appraisal Principles - 30 hours;

(2) Basic Appraisal Procedures - 30 Hours;

(3) The 15-Hour national USPAP course or its equivalent – 15 Hours;

(4) Residential Market Analysis and highest and best use - 15 Hours;

(5) Residential Appraiser Site Valuation and cost approach – 15 Hours;

(6) Residential sales comparison and income approaches – 30 Hours;

(7) Residential report writing and case studies – 15 Hours;

(8) Statistics, Modeling, and Finance – 15 Hours;

(9) Advanced Residential Applications and Case Studies – 15 Hours;

(10) Appraisal Subject Matter Electives – 20 Hours  
(may include hours over minimum shown above in other modules);

Total – 200 Hours

(d) Certified General Real Property Appraiser:

(1) Basic Appraisal Principles - 30 hours;

(2) Basic Appraisal Procedures - 30 Hours;

(3) The 15-Hour national USPAP course or its equivalent – 15 Hours;

(4) General Appraiser Market Analysis and highest and best use - 30 Hours;

(5) Statistics, Modeling, and Finance – 15 Hours;

(6) General Appraiser sales comparison approach – 30 Hours;

(7) General Appraiser Site Valuation and cost approach – 30 Hours;

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- (8) General Appraiser Income approach – 60 Hours;
- (9) General Appraiser report writing and case studies – 30 Hours;
- (10) Appraisal Subject Matter Electives – 30 Hours  
(may include hours over minimum shown above in other modules);

Total – 300 Hours

2302.11 The following factors shall be used to convert university, college, junior college, and community college course credits into classroom hours:

- (a) Semester credits x 15 = classroom hours;
- (b) Quarter credits x 10 = classroom hours.

2302.12 Curriculum content for each course listed in § 2302.10 shall comply with the applicable portions of the Required Core Curriculum Content Guide Note published by the Appraisal Foundation and the AQB as part of the Real Property Appraiser Qualification Criteria. The Board may add additional requirements to the curriculum of any license classification if the Board's additions substantially comply with AQB criteria. Additions to the curriculum content shall be effective only after the Board has published a Notice of Final Rulemaking.

2302.13 The education and experience requirements for all classes of licensure shall meet or exceed the standards established by the AQB.

2302.14 If the Appraisal Qualifications Board amends the education or experience requirements for any license classification, and the amendments increase the education or experience requirements beyond the requirements established by the Board in this chapter, then the corresponding requirements established by the Board shall be deemed amended to reflect the AQB's requirements. The Board shall amend this chapter as soon as practicable to reflect any changes in education and experience requirements established by the AQB.

2302.15 Amendments to the prelicensing education and experience requirements shall not affect the status of licensees possessing current active licenses unless otherwise required by the AQB.

### **2303 ACCREDITATION AND CERTIFICATION OF PRELICENSE EDUCATION PROGRAMS**

2303.1 Appraisal organizations shall obtain advance approval from the Board for any changes to be made in Board recognized equivalent courses with regard to program structuring, course content, course completion standards, textbooks or course materials, or instructor qualification requirements.

- 2303.2 An organization that has obtained Board recognition of its courses may advertise that such courses are "recognized" for equivalent prelicensure education credit toward the requirements for initial District of Columbia real estate appraiser licensure or certification.
- 2303.3 All courses offered by bona fide professional appraisal organizations deemed acceptable by the Board shall be acceptable for credit.
- 2303.4 Appraisal and appraisal related courses taught by institutions of higher learning recognized by an accrediting body approved by the United States Secretary of the Department of Education shall be acceptable for prelicensure or precertification credit if the course has a final written examination.
- 2303.5 All courses endorsed by the Appraiser Qualifications Board of the Appraisal Foundation shall be acceptable for credit. ---
- 2303.6 All courses submitted for credit shall indicate a passing grade or indicate successful completion of the course and the examination.
- 2303.7 The Board may request information from the applicant or the course provider, such as course descriptions, syllabi, or textbook references, in order to evaluate course content.
- 2303.8 Correspondence courses may be acceptable for prelicensure or precertification credit if the course meets the following conditions:
- (a) The course is presented by an accredited college or university that offers correspondence programs in other disciplines;
  - (b) An individual successfully completes a written examination administered by an official approved by the college or university; and
  - (c) The subject matter is appraisal related, and the length of the course is a minimum of fifteen (15) classroom hours for a prelicensure or precertification course.
- 2303.9 The Board may issue a list of recognized prelicensure or precertification education programs.

**2304 PRELICENSURE EXPERIENCE REQUIREMENTS**

- 2304.1 There is no experience requirement for the Appraisal Trainee classification.
- 2304.2 Applicants for the Licensed Real Property Appraiser shall have two thousand (2000) hours of appraisal experience obtained in no fewer than twelve (12) months.

- 2304.3 Applicants for the Certified Residential Real Property Appraiser classification shall have two thousand five hundred hours (2500) of appraisal experience obtained during no fewer than twenty-four (24) months of appraisal work.
- 2304.4 Applicants for the Certified General Real Property Appraiser classification shall have three thousand (3000) hours of appraisal experience obtained during no fewer than thirty (30) months of appraisal work.
- 2304.5 The Board may treat an applicant's hours of appraisal experience as cumulative when applied by the applicant toward achieving the necessary hours of appraisal experience for each classification.
- 2304.6 For the Certified General Real Property Appraiser classification, fifty percent (50%) or one thousand five hundred (1,500) hours of the required three thousand (3,000) hours experience shall be in appraising non-residential real property.
- 2304.7 Experience shall be supported by adequate written appraisal reports or file memoranda that shall be made available to the Board upon request.
- 2304.8 The property address for each appraisal assignment shall be identified in the experience log.
- 2304.9 An hour of experience means verifiable time spent actively engaging in tasks that are in accordance with acceptable appraisal practice. Qualifying tasks may include activities such as data gathering, property inspection, analysis, report writing, or any other activity approved by the Appraisal Qualifications Board. Minimum standards for reports are those standards that are prescribed in Standard 2 of the Uniform Standards of Professional Appraisal Practice in the edition in effect at the time of the reports' preparation.
- 2304.10 Except as provided in this section, acceptable appraisal practice for experience credit includes appraisal, review appraisals, real estate appraisal consulting, and mass appraisal activities that comply with USPAP and conforms to USPAP Standards 1, 2, 3, 4, 5, or 6, where the appraiser demonstrates proficiency in appraisal principles, methodology, procedures, and reporting conclusions.
- 2304.11 Appraisal experience shall be verifiable and shall be reported to the Board on a form provided by the Board. A completed form shall include the following information;
- (a) Type of property;
  - (b) Date of value;
  - (c) Address of appraised property;
  - (d) Description of work performed by the trainee/applicant and the scope of the review and supervision by the supervising appraiser;

- (e) Number of actual work hours by the trainee/applicant on the assignment;
  - (f) The signature and state certification number of the supervising appraiser if applicable.
- 2304.12 The following experience credit shall be given for work performed in accordance with the Uniform Standards of Professional Appraisal Practice:
- (a) 75 % credit for review appraisals performed under Standard 3 of the Uniform Standards of Professional Appraisal Practice;
  - (b) 100% credit for a whole real estate or real property appraisal if the appraiser did 75% of the appraisal;
  - (c) 10% credit under Standard 2.5 of the Uniform Standards of Professional Appraisal Practice for desk reviews where the review appraiser signs the appraisal;
  - (d) 100% credit for residential form appraisals and commercial form appraisals; and
  - (e) 100% credit for narrative appraisals.
- 2304.13 Separate appraisal logs shall be maintained for each supervising appraiser if applicable.
- 2304.14 There is no maximum time limit during which experience may be obtained.
- 2304.15 Effective January 1, 2008, work experience must be USPAP compliant and have been earned on or after January 30, 1989.

**2305 LICENSURE BY RECIPROCITY OR ENDORSEMENT**

- 2305.1 An applicant for a license or certificate by reciprocity shall furnish proof satisfactory to the Board that the applicant is licensed or certified and in good standing under the laws of another State or U.S. territory with requirements that are substantially equivalent to the requirements of this chapter and the Act, and the State or U.S. territory admits real estate appraisers licensed or certified in the District in a similar manner.
- 2305.2 An applicant for licensure by endorsement shall furnish proof of the following:
- (a) That the applicant is currently licensed or certified and is in good standing under the laws of another state;
  - (b) That the original state of licensure or certification has examination requirements which, in the opinion of the Board, were substantially equivalent at the time of

licensure or certification to the requirements of the Act, and the examination has been approved by the Appraisal Foundation;

- (c) That the prelicensure or precertification requirements of the original state of licensure were substantially equivalent, at the time of licensure or certification, to the requirements of the Act.
  - (d) That the applicant meets the minimum requirements for licensure in the District of Columbia set forth in § 2301 of this chapter.
- 2305.3 The Board may deny an application if the applicant has been convicted in any jurisdiction of any crime involving any offense that bears on the fitness of the individual to be licensed or certified. A plea of nolo contendere shall be considered a conviction for purposes of this subsection.
- 2305.4 An applicant for a license or certificate by reciprocity or endorsement shall not have had an application denied by the Board for reasons other than failure to pass the National Uniform Appraiser Examination within 1 year prior to the date on which the application is filed.

#### **2306 TEMPORARY PRACTICE**

- 2306.1 Pursuant to Section 1121 of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989, 12 USCS § 1811, and the Act, the Board shall issue an individual a temporary license if the individual completes an application provided by the Board and provides documentation that he or she meets the following requirements:
- (a) The individual is licensed or certified and in good standing under the laws of another state;
  - (b) The property to be appraised by the individual is part of a federally related transaction, is located in the District, and the assignment and property are specifically identified in the application;
  - (c) The appraisal assignment is of a temporary nature and is limited to one specific assignment or six months, whichever is shorter;
  - (d) Upon completion of the assignment, the temporary license is surrendered to the Board; and
  - (e) The individual pays the applicable fee identified in 17 DCMR 3500.1.
- 2306.2 The holder of a temporary permit to practice in the District is subject to the applicable provisions of this chapter and the Act.

- 2306.3 The Director or the Board may revoke a temporary license without a hearing for any reason that the Board determines to be in the interest of the health or welfare of the citizens of the District, upon a minimum of five (5) days notice given in the manner prescribed by § 3318 of Chapter 33 of this Title.
- 2306.4 An individual shall not hold more than one temporary license at a time.
- 2306.5 A specific appraisal assignment may include multiple properties.
- 2306.6 A temporary license holder may extend the temporary license for one additional license period by filing an application for extension. If a temporary license holder requires an additional extension after the first the temporary license holder must apply for a new temporary license and the Board may grant or deny the second application at its discretion.

**2307 EXAMINATION**

- 2307.1 Within twenty-four (24) months of having successfully passed the National Uniform Appraiser Examination or other precicensure qualification examination approved by the Appraisal Qualifications Board and the Board, the applicant shall file an application for licensure.
- 2307.2 A candidate shall complete the educational requirements prior to sitting for the examination.
- 2307.3 A candidate who fails an examination may have the examination reviewed in accordance with the procedures, if any, of the testing service.
- 2307.4 Failure to comply with the requirements of this subsection shall require reexamination.

**2308 TERM OF LICENSE**

- 2308.1 All licenses issued pursuant to this chapter and the Act shall expire on February 28 of each even numbered year, constituting a license cycle.
- 2308.2 The Board may change the license cycle for administrative convenience.
- 2308.3 If the Board changes the license cycle, the term of a license that is in effect on the date of the Board's determination to change the cycle may, at the Board's discretion, be extended up to three (3) years in order to permit an orderly transition. Any extension of the license term implemented under this section shall only be made by Board resolution.

**2309 LICENSE RENEWAL**

- 2309.1 At least sixty (60) days prior to the expiration of a license the Board shall send a renewal application by certified or registered first class mail to the holder of a license at the licensee's last known address.
- 2309.2 A holder of a license shall meet all of the requirements for license renewal prior to the issuance of the renewal.
- 2309.3 A holder of a license shall provide the Board a street address for the licensee's residence, not a post office box, and shall notify the Board in writing of any change of home or business address within thirty (30) days of the change.
- 2309.4 The failure of a holder of a license to receive the notice required by § 2310.1 of this section does not relieve the holder of the responsibility of renewing the license.
- 2309.5 A holder of a license who fails to renew before the expiration date may renew the license within sixty (60) days after expiration upon paying the required late fee. Upon renewal, the holder shall be deemed to have possessed a valid license during the period between the expiration of the license and its renewal.
- 2309.6 If a licensee fails to renew his or her license within sixty (60) days after its expiration, the license shall be deemed to have lapsed on the date of expiration and the holder shall be required to apply for reinstatement of the expired license pursuant to D.C. Official Code § 47-2853.15 (2001) and § 3308 of chapter 33 of this title and pay the required reinstatement fee. A licensee may not apply for reinstatement if the license has been expired for five (5) years or more.
- 2309.7 The Board shall deny a renewal application if the applicant has not completed the continuing education requirements prior to the expiration date of the license.
- 2309.8 Denial of an application for renewal for failure to complete the continuing education requirements shall require the applicant to complete the continuing education requirements prior to submitting an application for reinstatement pursuant to § 2622 of this chapter.

**2310 CONTINUING EDUCATION REQUIREMENTS**

- 2310.1 Except as provided in § 2311.2, this section shall apply to all applicants for the renewal or reinstatement of each license classification.
- 2310.2 This section shall not apply to an applicant who obtains a license during the second year of the two (2) year period proceeding the date the license expires.
- 2310.3 An applicant for renewal or reinstatement of a real estate appraiser license shall be required to satisfactorily complete twenty-eight (28) classroom hours of Board approved continuing education courses within each licensing cycle.

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- 2310.4 The Board will grant credit toward the classroom hour requirement only when the length of the educational offering is at least three (3) hours.
- 2310.5 The Board may approve the following continuing education activities, not to exceed (10) hours, if the activity relates to real estate appraising:
- (a) Serving as an instructor or speaker at a conference, seminar, or workshop; and
  - (b) Publication of an article in a professional journal, publication of a book or a chapter in a book, or publication of a review in a professional journal.
- 2310.6 A continuing education credit shall be valid only if it is a part of a program or activity approved by the Board.
- 2310.7 Prior to renewing his or her license, and as part of the twenty-eight hours of continuing education courses required by the Board and the Appraisal Qualifications Board, appraisers shall successfully complete either the seven-hour National USPAP Update Course or an equivalent course as determined by the Appraisal Qualifications Board and approved by the Board.
- 2310.8 Continuing education credit for the National USPAP Update Course shall only be awarded to licensees completing USPAP continuing education courses taught by an AQB certified instructor and at least one certified residential real property appraiser or one certified general real property appraiser.

**2311 DOCUMENTATION OF CONTINUING EDUCATION CREDITS**

- 2311.1 Continuing education course documentation shall be filed on a form provided by the Board and shall include the following:
- (a) Sponsor;
  - (b) Title and/or description of course content;
  - (c) Dates of attendance or publication;
  - (d) Location; and
  - (e) Number of hours.

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**2312 APPROVED CONTINUING EDUCATION PROGRAMS**

2312.1 The Board may approve continuing education programs that contribute to the growth of an applicant in professional competence in the practice of real estate appraising.

2312.2 The Board may approve educational offerings that include, but are not limited to, the following real estate related appraisal topics:

- (a) Ad Valorem Taxation;
- (b) Arbitration;
- (c) Business courses related to practice of real estate appraisal;
- (d) Construction cost estimating;
- (e) Ethics and standards of professional practice;
- (f) Land use planning, zoning and taxation;
- (g) Management, leasing, brokerage, timesharing;
- (h) Property development;
- (i) Real estate appraisal (valuations/evaluations);
- (j) Real estate law;
- (k) Real estate litigation;
- (l) Real estate financing and investment;
- (m) Real estate appraisal related computer applications;
- (n) Real estate securities and syndication;
- (o) Real property exchange; and
- (p) USPAP.

2312.3 To qualify for approval by the Board, a continuing education program shall be administered by one of the following:

- (a) Colleges or Universities;
- (b) Community or Junior Colleges;

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- (c) Real Estate Appraisal or Real Estate Related Organizations;
- (d) State or Federal Agencies or Commissions;
- (e) Proprietary Schools; or
- (f) Other providers approved by the Board.

2312.4 The Board may issue a list of approved continuing education programs.

2312.5 An applicant shall have the burden of verifying whether a program is approved by the Board pursuant to this section prior to attending the program.

**2313 INACTIVE STATUS**

2313.1 Upon application by a licensee and payment of the required fee, the Board shall place a licensee on inactive status.

2313.2 The Board shall issue a license to an individual who is on inactive status and who desires to resume practice as a real estate appraiser if the individual meets the following requirements:

- (a) Pays the required fee;
- (b) Demonstrates compliance with continuing education requirements; and
- (c) Applies for license renewal within five years of going on inactive status.

2313.3 The Board may take disciplinary action against a licensee on inactive status.

2313.4 A licensee may remain on inactive status for a period not to exceed five (5) consecutive years.

**2314 DISPLAY OF LICENSE AND LICENSE NUMBERS**

2314.1 The license pocket card issued by the Director to each real estate appraiser or appraisal trainee shall be retained by the licensee as evidence of licensure and shall be carried by the licensee during the process of appraising real property in the District.

2314.2 The license number shall be prominently displayed adjacent to the signature on every appraisal.

2314.3 The license issued by the Director to each real estate appraiser and appraiser trainee shall be prominently displayed in the appraiser's place of business.

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**2315 CHANGE OF NAME OR ADDRESS**

2315.1 A licensee shall notify the Board in writing within thirty (30) days of any name change or change of business address or residence address.

**2316 STANDARDS OF PROFESSIONAL PRACTICE**

2316.1 A licensee shall conduct all appraisals in conformity with the current edition of the Uniform Standards of Professional Appraisal Practice as promulgated by the Appraisal Standards Board of the Appraisal Foundation, including Preamble, Ethics Provision, Competency Provision, Departure Provision, Jurisdictional Exception, Supplemental Standards, Definitions and Standards 1, 2, and 3 with all related Standard Rules, Statements on Appraisal Standards, Advisory Opinions, and indices is incorporated by reference.

2316.2 Upon the completion of an assignment, a licensee shall return to the owner, upon demand, any original document, or instrument that the licensee or certificate holder possesses.

2316.3 A licensee appraising property in which he/she, any member of his/her family, any member of his/her firm, or any entity in which he/she has a financial or ownership interest, shall disclose in writing, to any client such interest in the property and his/her status as a real estate appraiser licensed or certified in the District of Columbia.

2316.4 All licensees shall comply with the Competency Rule of USPAP.

**2317 NATIONAL REGISTRY FEE ASSESSMENT**

2317.1 In accordance with the requirements of Section 1109 of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (103 Stat. 513; 12 U.S.C. 3338), \$ 50.00 of the biennial renewal fee assessed for all licensed and certified real estate appraisers, except licensed appraisal trainees, shall be submitted by the Department of Consumer and Regulatory Affairs to the Appraisal Subcommittee.

**2318 PAYMENT OF LICENSE FEES**

2318.1 Payment of real estate appraiser license fees shall be made by personal check, cashier's check, certified check, money order, or credit card.

**2319 APPRAISER RECORDKEEPING AND NOTIFICATION REQUIREMENTS**

2319.1 A licensee shall retain records of appraisal, analysis, and review assignments, including oral testimony, in the following manner:

- (a) For a period of at least five (5) years after preparation of the report generated by the activity; or

(b) If a report was the subject of or used for litigation purposes, and testimony was given, the report shall be kept for two (2) years after final disposition of any judicial proceeding in which testimony was given.

- 2319.2 A licensee shall, upon demand or request by the Board, promptly produce any document, book, or record concerning any appraisal that the licensee or certificate holder performed.
- 2319.3 A licensee shall inform the Board in writing within thirty (30) days of pleading guilty or nolo contendere, or being convicted or found guilty of any felony or of any misdemeanor.
- 2319.4 A licensee shall inform the Board in writing within thirty (30) days of the suspension, revocation, or surrender of his or her appraiser license or certificate held in any other jurisdiction.

## **2320 APPRAISAL INSTRUCTORS**

- 2320.1 To be approved by the Board for prelicensing credit, a course instructor shall be an individual who has been approved as an instructor by one of the bona fide professional appraisal organizations that is a member of the Appraisal Foundation, or be a professor or instructor at a college or university which has an accredited department of real estate and economics.
- 2320.2 An appraiser instructor of a prelicensing (residential appraisal) course shall possess one hundred five (105) classroom hours of real estate appraisal education and 2,000 hours experience as a residential real estate appraiser within the previous five years.
- 2320.3 An appraiser instructor of a precertification (general appraisal) course shall possess two hundred five (205) classroom hours of real estate appraisal education and 2,000 hours experience as a general real estate appraiser within the previous five years, with at least one-half of such experience being in income property appraising.
- 2320.4 All Uniform Standards of Appraisal Practice (USPAP) courses taught for prelicensure or continuing education purposes shall be taught by instructors certified by the Appraiser Qualifications Board.

## **2321 APPRAISAL EDUCATION FUND ASSESSMENT**

- 2321.1 An applicant for a license shall pay, in addition to the applicable license fee, the sum of one hundred dollars (\$100.00) into the Fund.
- 2321.2 Upon renewal of a license the licensee shall pay, in addition to the applicable renewal fee, the sum of one hundred dollars (\$100.00) into the Fund.

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**2322 APPRAISAL EDUCATION FUND USE FOR PROGRAMS**

- 2322.1 The Board may use the Fund to pay that proportion of the cost of a program that is equal to the percentage of the program that is directly related to establishing or maintaining an educational program to improve the competency of licensees or certificate holders.
- 2322.2 The Board may authorize the Fund to be used for expenditures for conferences, workshops, and educational programs for real estate appraisal officials as provided in §§ 2324.3 and 2324.4.
- 2322.3 For purposes of this subsection, a "real estate appraisal official" means an employee of the District of Columbia government whose duties involve the enforcement of real estate appraisal license laws including, but not limited to, board members, legal counsel, and other employees as designated by the Board.
- 2322.4 The Board may use the Fund to pay the entire permissible cost for a real estate appraisal official, whose duties relate in whole or in part to the enforcement of real estate appraisal license laws, to participate in a conference, workshop, or educational program that the Board determines is qualified pursuant to § 2324.5.
- 2322.5 In deciding whether a conference, workshop, or educational program is qualified, the Board shall consider the following:
- (a) The educational objective of the proposed program;
  - (b) The length of the proposed program, the schedule of instruction, location, and anticipated number of participants;
  - (c) A list of instructors and their credentials; and
  - (d) Any other information about the conference, workshop, or program as the Board may require.

**2323 APPRAISER TRAINEE**

- 2323.1 The Board may issue an appraiser trainee license to an applicant who has completed a prelicensure education program that meets the following requirements:
- (a) Seventy-five (75) classroom hours of instruction that shall include fifteen (15) hours relative to the Uniform Standards of Professional Appraisal Practice (USPAP):
    - (1) A classroom hour is equal to fifty (50) minutes of each sixty (60) minute segment and includes time devoted to tests which are considered to be part of the course;

- (2) Classroom hours may only be obtained where the minimum length of the educational offering is fifteen (15) hours and the individual successfully completes an examination pertinent to that educational offering;
- (3) Credit for the classroom hours may be obtained from the following:
  - (i) Colleges or Universities;
  - (ii) Community or Junior Colleges;
  - (iii) Real Estate Appraisal or Real Estate Related Organizations;
  - (iv) State or Federal Agencies or Commissions;
  - (v) Proprietary Schools; or
  - (vi) Other providers approved by the Board or the Educational Licensure Commission.
- (4) Qualifying education shall have been obtained within the five-year period immediately preceding application for licensure; and
- (5) The content for courses, seminars, workshops, or conferences should include coverage of real estate appraisal related topics, such as influences on real estate value, legal considerations in appraisal, types of value, economic principles, real estate markets and analysis, valuation process, property description, highest and best use analysis, appraisal statistical concepts, sales comparison approach, site value, cost approach, income approach, valuation or partial interests, and the Uniform Standards of professional appraisal Practice (USPAP).

2323.2 There are no examination or experience requirements for the appraiser trainee classification.

2323.3 Within four (4) years of submitting his or her initial application for licensure, the appraiser trainee shall pass one of the following examinations approved by the Board; the licensed residential real property appraiser examination, certified residential real property appraiser examination, or certified general real property appraiser examination.

2323.4 The appraiser trainee is subject to direct supervision by a supervising Certified Residential Real Property Appraiser or a Certified General Real Property Appraiser licensed in the District and in good standing.

2323.5 The supervising appraiser shall be responsible for the training and supervision of the trainee by:

- (1) Accepting responsibility for appraisal reports prepared by the appraiser trainee by signing and certifying that the report complies with the Uniform Standards of Professional Appraisal Practice (USPAP);
  - (2) Reviewing the appraiser trainee reports; and
  - (3) Personally inspecting each appraised property with the appraiser trainee until the supervising appraiser determines that the appraiser trainee is competent in accordance with the Competency Provision of the Uniform Standards of Professional Appraisal practice (USPAP) for the property type.
- 2323.6 The appraiser trainee may have more than one supervising appraiser, but a licensed or certified appraiser may not have more than three (3) appraisal trainees.
- 2323.7 The appraiser trainee shall maintain an appraiser log and shall include at least the following information for each appraisal record:
- (a) Type of property;
  - (b) Date of report;
  - (c) Client name and address;
  - (d) Address of appraised property;
  - (e) Description of work performed;
  - (f) Number of work hours;
  - (g) Signature and state/jurisdiction license/certification number of the supervising appraiser; and
  - (h) Separate appraisal logs shall be maintained for each supervising appraiser.
- 2323.8 There are no continuing education requirements for the appraiser trainee classification for the first two years of licensure. An appraiser trainee shall complete fourteen (14) hours of continuing education during each calendar year beyond the second year of licensure prior to applying for a license as a Real Property Appraiser, Certified Real Property Appraiser, or Certified General Real Property Appraiser.
- 2323.9 The appraiser trainee shall be entitled to obtain copies of appraisal reports that he or she prepared.
- 2323.10 The supervising appraiser shall keep copies of appraisal reports for a period of at least five (5) years or at least two (2) years after the final disposition of any judicial proceedings in which testimony was given, whichever period expires last.

**2324 DISCIPLINARY ACTION**

- 2324.1 If the Board, subject to the applicant or licensee's right to a hearing as provided by the Act, finds that an applicant or licensee has violated any applicable provision of this chapter or the Act the Board may deny an application, revoke or suspend a license or privilege, levy a civil penalty, issue a reprimand, require a course of remediation, or refer an applicant or licensee to the Office of Corporation Counsel for criminal prosecution.
- 2324.2 The Board may, prior to a hearing but after an investigation, issue an order requiring any person alleged to be in violation of this chapter or the Act to cease and desist immediately from the alleged activity if the alleged activity has caused or may cause immediate or irreparable harm to the public. The Board shall deliver the order to the person affected pursuant to the provisions of D.C. Official Code § 47-2853.19 (2001).
- 2324.3 The Director may, after investigation but without a hearing, summarily suspend or restrict a licensee's license to practice pursuant to this chapter and the Act if the Director determines that the licensee's conduct presents an imminent danger to the health or safety of persons in the District.
- 2324.4 If the Director suspends or restricts a licensee's license or certification to practice pursuant to § 2326.3 of this chapter, the licensee is entitled to notice and a hearing pursuant to the provisions of D.C. Official Code § 47-2853.18.
- 2324.5 If the Board receives notification from any federal agency or federally-related lending institution that utilizes licensees or certificate holders in real property appraisals that the agency or institution has suspended a licensee from offering appraisal services on federally related transactions, the Board shall conduct an investigation into the circumstances and, if appropriate, commence disciplinary action against the licensee.

**2325 PERSONS EXEMPT FROM LICENSURE**

- 2325.1 No person in the District of Columbia shall conduct an appraisal for a federally related or non-federally related real estate or real property transaction or represent him or herself as holding a license issued by the Board unless he or she holds an active District of Columbia license.
- 2325.2 A person who is certified by the Office of Tax and Revenue (OTR) to perform ad valorem tax appraisal may identify himself or herself as a "certified assessor" if the term is not used in a manner that creates the impression that the person has been licensed, certified, or registered by the Board to perform real property appraisals for federally-related or non-federally related real estate and real property transactions.
- 2325.3 A person certified to perform ad valorem tax appraisal by OTR who is not licensed, certified, or registered by the Board shall not perform a real estate or real property appraisal for any purpose other than ad valorem tax purposes.

2325.4 Nothing in this chapter or the Act prohibits a person who holds an active real estate broker or real estate salesperson license issued by the D.C. Board of Real Estate from giving an opinion on the price of real estate or real property in the District for the purpose of a prospective listing or sale, or when making a Competitive Market Analysis (CMA), if the opinion or CMA complies with the requirements of 17 DCMR 2609.15.

2325.5 Persons who determine the value of things in the District of Columbia other than real property or real estate may use the word "appraiser" to describe their activities if they do not hold themselves out or imply that they are authorized to appraise real property or real estate.

## 2399 DEFINITIONS

2399.1 As used in this chapter, the following terms have the meanings ascribed:

**Act** - The Non-Health Related Occupations and Professions Licensure Act of 1998, effective April 20, 1999 (D.C. Law 12-261; D.C. Official Code § 47-2853.01, et seq. (2001)).

**Ad Valorem Tax Appraisal** – an appraisal used to establish the assessed value of real estate for real property tax purposes.

**Applicant** – a person applying for licensure.

**Appraisal** - the act or process of estimating the value of real estate.

**Appraisal Foundation** - the foundation incorporated as an Illinois Not-for-Profit Corporation on November 30, 1987, to establish and improve uniform appraisal standards by defining, issuing, and promoting such standards.

**Appraisal Qualifications Board** – the Board created by the Appraisal Foundation to: establish appropriate criteria for the certification and recertification of qualified appraisers by defining, issuing, and promoting such qualification criteria; disseminate such qualification criteria to states, governmental entities, and others; and to develop or assist in the development of appropriate examinations for qualified appraisers.

**Appraisal Subcommittee**- the designees of the heads of the federal financial institutions regulatory agencies established by the Federal Financial Institutions Examination Council Act of 1978 (12 U.S.C. § 3301 et seq.), as amended.

**Appraiser Trainee** – An individual who is licensed as an appraiser trainee under this chapter and who is training for licensure as a Residential Real Property Appraiser, Certified Residential Real Property Appraiser, or Certified General Real Property Appraiser, and who may appraise those properties that his or her supervising appraiser is permitted to appraise.

**Assignment** – one or more real estate appraisals and written appraisal reports that are covered by a contract to provide an appraisal for one or more specific parcels of real estate.

**Board** - District of Columbia Board of Real Estate Appraisers.

**Candidate** – a person who has applied to take the prelicensure examination but has not filed an application for licensure.

**Certified General Real Property Appraiser** - an individual licensed under this chapter to appraise any type of real estate and real property.

**Certified Instructor** – an individual holding an instructor certificate issued by the Real Estate Appraiser Board to act as an instructor.

**Certified Residential Real Property Appraiser** – an individual licensed under this chapter to appraise any residential real estate or residential real property of one to four units regardless of transaction value or complexity. Certified Residential Real Property Appraisers may also appraise nonresidential real property with a transaction value of up to \$250,000.

**Classroom hour** - fifty (50) minutes out of each sixty (60) minute segment.

**Client** - any person for whom an appraiser performs a service.

**Complex one to four family residential property appraisal** – an appraisal in which the property to be appraised, the form of ownership, or the market conditions are atypical as defined in the bank Holding Company Supervision manual, 1999 edition, page 10, section 2231.0.9.3. For non-federally related transaction appraisals, transaction value shall mean market value.

**Department** – The Department of Consumer and Regulatory Affairs or any successor agency with administrative authority over the Board.

**Director** - the Director of the Department of Consumer and Regulatory Affairs, or the Director's designee.

**Distance Education** – an educational process based on the geographical separation of provider and student (i.e., CD-ROM, on-line learning, correspondence courses, etc.).

**District** - the District of Columbia.

**Federally Related Transaction** - any real estate related financial transaction which:

1. A federal financial institutions regulatory agency engages in, contracts for or regulates; and
2. Requires the services of a licensed or certified appraiser.

**Feasibility Analysis** - A study of the cost-benefit relationship of an economic endeavor.

**Fee Appraisal** - appraisal made by an independent appraiser or firm hired by a client for a particular appraisal assignment.

**Highest and Best Use** - the reasonable and probable use that will support the highest present value as defined as of the effective date of the appraisal or the use, from among reasonably probable and legal alternative uses, found to be physically possible, appropriately supported, and financially feasible.

**Inactive licensee** – a licensee who, pursuant to this chapter and the Act, pays the required fees and agrees not to practice as a real estate appraiser in the District of Columbia until he or she applies for reinstatement.

**Licensed Residential Real Property Appraiser** – a person licensed under this chapter to perform appraisals of non-complex one to four residential units having a transaction value of less than \$1,000,000, complex one to four residential units having a transaction value of less than \$250,000, or commercial real property with a transaction value of \$250,000 or less.

**Mass Appraisal** - the process of valuing a universe of properties as of a given date using standard methodology, employing common data, and allowing for statistical testing.

**Office of Administrative Hearings (OAH)** - The independent agency established within the executive branch of the District of Columbia government by D.C. Official Code § 2-1831.01 *et seq.* (2003 Supp.) that is responsible for the administrative adjudication of all cases under its jurisdiction.

**Person** - an individual, corporation, trustee, receiver, guardian, representative, firm, partnership, society, school, or other entity.

**Proprietary school** – a privately owned school approved by the Board that offers appraisal or appraisal related courses.

**Provider** – means accredited colleges, universities, junior colleges, and community colleges; adult distributive or marketing education programs; local, state, or federal government agencies, boards or commission; proprietary schools; or real estate appraisal or real estate related organizations.

**Real Estate Appraisal or Real Estate Related Organization** – any appraisal or real estate related organization formulated on a national level, where its membership extends to more than one state or territory of the United States.

**Real Estate or Real Property** – land, including the air above and ground below, and any appurtenance or improvement thereto, as well as any interest, benefit, or right to inherit in the ownership of land.

**Real Estate Consulting** - advice and guidance on diversified problems in the broad field of real estate involving any or all segments of the business such as merchandising, leasing, management, planning, financing, appraising, court testimony, and other similar services. Real

Estate Consulting services are often associated with evaluation services concerning matters other than value estimates relating to real property and may include activities such as the following:

Absorption Study	Ad Valorem Tax study
Annexation Study	Assemblage Study
Assessment Study	Condominium Conversion Study
Cost-benefit Study	Cross Impact Study
Depreciation/Cost Study	Distressed Property Study
Economic Base Analysis	Economic Impact Study
Economic Structure Analysis	Eminent Domain Study
Feasibility Study	Highest and Best Use Study
Impact Zone Study	Investment Analysis Study
Investment Strategy Study	Land Development Study
Land Suitability Study	Land Use Study
Location Analysis Study	Market Analysis Study
Market Strategy Study	Market Turning Point Analysis
Marketability Study	Portfolio Study
Rehabilitation Study	Remodeling Study
Rental Market Study	Right of Way Study
Site Analysis Study	Utilization Study
Urban Renewal Study	Zoning Study

**Reinstatement** – pursuant to D.C. Official Code § 47-2853.15 (2001), having a license restored to effectiveness after the expiration date has passed.

**Renewal** – continuing the effectiveness of a license for another license cycle.

**Review Appraisal** – a report that forms an opinion as to the adequacy and appropriateness of the appraisal report that is being reviewed.

**Staff Appraisal** - appraisal made by an appraiser who is a salaried employee of a regulated institution.

**Substantially Equivalent** – any educational course or seminar, experience, or examination taken in this or another jurisdiction that is equivalent in classroom hours, course content and subject, and degree of difficulty, respectively, to those requirements outlined in this chapter and the Act.

**Supervising Appraiser** – any individual holding a license issued by the Real Estate appraiser Board to act as a certified general real estate appraiser, certified residential real estate appraiser, or licensed residential real estate appraiser who supervises any unlicensed person acting as a real estate appraiser or an appraiser trainee as specified in this chapter.

**Transaction Value** – the monetary amount of a transaction that may require the services of a certified or licensed appraiser for completion. Transaction value is not always equal to the market value of the real property interest involved.

**Uniform Standards of Professional Appraisal Practice** – those standards promulgated by the Appraisal Standards Board of the Appraisal Foundation for use by all appraisers in the preparation of appraisal reports.

**Valuation** – an estimate or opinion of the value of real property.

**THE OFFICE OF CONTRACTING AND PROCUREMENT**

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**NOTICE OF FINAL RULEMAKING**

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The Chief Procurement Officer of the District of Columbia, pursuant to authority granted by section 204 of the District of Columbia Procurement Practices Act of 1985 ("PPA"), effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-302.04 (2001)), and Mayor's Order 2002-207 (dated December 18, 2002), hereby gives notice of the adoption of the following final rule amending Chapter 13 of Title 27 of the District of Columbia Municipal Regulations (Contracts and Procurements). The rules amend a section of Chapter 13 concerning notices of contract awards to change the requirement for publication on the Internet site maintained by the CPO of notices of awards of contracts from above \$25,000 to above \$500,000 for the Metropolitan Police Department and the Office of the Chief Technology Officer, and above \$100,000 for all other agencies.

The rules were approved as emergency and proposed rules on August 2, 2005, and published in a Notice of Emergency and Proposed Rulemaking in the *D. C. Register* on September 16, 2005, at 52 DCR 8538. Since the emergency rules expired on November 30, 2005, a second Notice of Emergency Rulemaking was approved on November 30, 2005 pending approval by the District of Columbia Council of the final rules. The Notice of Emergency Rulemaking was published in the *D. C. Register* on December 30, 2005, at 52 DCR 11299. No changes have been made to the rules as proposed.

The Council of the District of Columbia approved these rules on March 28, 2006 by Resolution 16-578, pursuant to section 205(b) of the PPA (D. C. Official Code § 2-302.05(b) (2001)).

These rules shall become effective upon publication in the *D. C. Register*.

**CHAPTER 13****PUBLICIZING CONTRACT ACTIONS**

*Section 1301 is amended to read as follows:*

**1301 NOTICE OF CONTRACT AWARDS**

- 1301.1 Notice of awards of contracts exceeding five hundred thousand dollars (\$500,000) for the Metropolitan Police Department and the Office of the Chief Technology Officer, and exceeding one hundred thousand dollars (\$100,000) for all other agencies, shall be

published on the Internet site maintained in accordance with § 1300.7, within a reasonable period of time after the contracts are awarded.

**THE OFFICE OF CONTRACTING AND PROCUREMENT**

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**NOTICE OF FINAL RULEMAKING**

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The Chief Procurement Officer of the District of Columbia, pursuant to authority granted by sections 204 and 321 of the District of Columbia Procurement Practices Act of 1985, as amended, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code §§ 2-302.04 and 2-303.21 (2001 and 2005 Supp.)) (PPA), and Mayor's Order 2002-207 (dated December 18, 2002), hereby gives notice of the adoption of the following final rules amending Chapter 18 of Title 27 of the District of Columbia Municipal Regulations (Contracts and Procurements). The rules amend sections 1800-1803 of Chapter 18 concerning the processing of small purchases to authorize the Office of Contracting and Procurement to use small purchase procedures for the procurement of services and supplies for the Office of the Chief Technology Officer when the total of the procurement does not exceed \$500,000, as authorized by section 321 of the PPA (D. C. Official Code § 2-303.21 (2005 Supp.)).

The rules were approved as emergency and proposed rules on August 22, 2005 and published in a Notice of Emergency and Proposed Rulemaking in the *D. C. Register* on September 30, 2005, at 52 DCR 8842. Since the emergency rules expired on December 20, 2005, a second Notice of Emergency Rulemaking was approved on that date to adopt the following rules pending approval by the Council of the District of Columbia of the final rules. No changes have been made to the rules as proposed.

The Council of the District of Columbia approved these rules on June 9, 2006 by Resolution 16-684, pursuant to section 205(b) of the PPA (D. C. Official Code § 2-302.05(b) (2001)).

These rules shall become effective upon publication in the *D. C. Register*.

**CHAPTER 18****SMALL PURCHASE AND OTHER SIMPLIFIED PURCHASE PROCEDURES**

*Sections 1800 through 1803 are amended to read as follows:*

**1800 USE OF SMALL PURCHASE PROCEDURES**

1800.1 The small purchase procedures set forth in this chapter may only be used for the

procurement of supplies, services, and other items when the total of the procurement does not exceed five hundred thousand dollars (\$500,000) for procurements for the Metropolitan Police Department (MPD) and the Office of the Chief Technology Officer (OCTO) and one hundred thousand dollars (\$100,000) for all other agencies, in accordance with § 321 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986, D. C. Law 6-85 (Act) as amended effective July 23, 2002 (D.C. Official Code § 2-303.21).

- 1800.2 A contracting officer shall not use small purchase procedures when the requirement can be met by using a requirements contract, an indefinite quantity contract, a federal supply schedule, or other required source of supply as set forth in Chapter 21 of Title 27 DCMR.
- 1800.3 A contracting officer shall not use small purchase procedures when the procurement requirement is initially estimated to exceed five hundred thousand dollars (\$500,000) for procurements for MPD and OCTO or one hundred thousand dollars (\$100,000) for all other agencies, even though the resulting award does not exceed the applicable small purchase limit.
- 1800.4 A contracting officer shall not split a procurement totaling more than the applicable small purchase limitation into several purchases that are less than the limit in order to permit the use of the small purchase procedures.
- 1800.5 A contracting officer shall not parcel, split or divide a procurement requirement, or purchase a procurement requirement over a period of time, in order to avoid the dollar limitations for use of small purchase procedures.
- 1800.6 A contracting officer shall use the small purchase procedure that is most suitable, efficient, and economical based on the circumstances of each procurement.

#### **1801 NON-COMPETITIVE SMALL PURCHASES**

- 1801.1 Except as provided in § 1801.2, a contracting officer may make a procurement for an amount of ten thousand dollars (\$10,000) or less without obtaining competitive quotations if the contracting officer determines that the purchase is in the best interest of the District government considering the price and other factors (including the administrative cost of the purchase).
- 1801.2 For small purchases for OCTO, a contracting officer may make a procurement for an amount of twenty-five thousand dollars (\$25,000) or less without obtaining competitive quotations if the contracting officer determines that the purchase is in the best interest of the District government considering the price and other factors (including the administrative cost of the purchase).
- 1801.3 A contracting officer shall distribute non-competitive small purchases equitably among suppliers. When practical, a contracting officer shall solicit a quotation from a vendor other than the previous supplier before placing a repeat order.

#### **1802 COMPETITIVE SMALL PURCHASES**

- 1802.1 Except as provided in §§ 1802.2, 1802.3 and 1802.4, in order to promote competition to the maximum extent practicable, and to ensure that the purchase is in the best interest of the District government, considering price and other factors (including the administrative cost of the purchase), a contracting officer shall solicit quotations as follows:
- (a) For each procurement of goods and services in an amount greater than ten thousand dollars (\$10,000) and less than or equal to twenty-five thousand dollars (\$25,000),

the contracting officer shall obtain at least three (3) oral quotations from vendors for the goods and services to be purchased;

- (b) For each procurement of goods and services for more than twenty-five thousand dollars (\$25,000) and less than or equal to one hundred thousand dollars (\$100,000), the contracting officer shall obtain at least three (3) written quotations from vendors for the goods and services to be purchased; and
- (c) The contracting officer shall, unless the award is to take into consideration factors other than price or price-related factors, award the contract to the vendor providing the lowest priced quotation for the goods or services solicited.

1802.2 Except as provided in § 1802.4, for small purchases for MPD, a contracting officer shall solicit quotations as follows:

- (a) For each procurement for goods and services in the amount greater than ten thousand dollars (\$10,000) and less than or equal to twenty-five thousand dollars (\$25,000), the contracting officer shall obtain at least three (3) oral quotations from vendors for the goods and services to be purchased;
- (b) For each procurement for goods and services for more than twenty-five thousand dollars (\$25,000) and less than or equal to five hundred thousand dollars (\$500,000), the contracting officer shall obtain at least three (3) written quotations from vendors for the goods or services to be purchased; and
- (c) The contracting officer shall, unless the award is to take into consideration factors other than price or price-related factors, award the purchase order to the vendor providing the lowest priced quotation for the goods or services solicited.

1802.3 Except as provided in § 1802.4, for small purchases for OCTO, a contracting officer shall solicit quotations as follows:

- (a) For each procurement for goods and services for more than twenty-five thousand dollars (\$25,000) and less than or equal to five hundred thousand dollars (\$500,000), the contracting officer shall obtain at least three (3) written quotations from vendors for the goods or services to be purchased; and
- (b) The contracting officer shall, unless the award is to take into consideration factors other than price or price-related factors, award the purchase order to the vendor providing the lowest priced quotation for the goods or services solicited.

1802.4 If the contracting officer determines that it is impractical under the circumstances to obtain the number of quotations required under §§ 1802.1, 1802.2 or 1802.3 due to time constraints, lack of available sources, or other factors set forth in § 1802.6, or if the contracting officer, despite a good faith effort, is unable to obtain the required number of quotations, the contracting officer may obtain quotations from fewer vendors than required in §§ 1802.1, 1802.2 or 1802.3. The contracting officer must document his or her attempts to obtain the required number of quotations.

1802.5 If the contracting officer determines that the best interest of the District or other factors set forth in § 1802.6 indicate that quotations should be obtained from more than the number of sources required under §§ 1802.1, 1802.2 or 1802.3, the contracting officer shall obtain additional quotations.

1802.6 In determining whether or not to obtain quotations from more or fewer vendors than required in §§ 1802.1, 1802.2 or 1802.3, the contracting officer shall consider the following factors:

- (a) The nature of the item or service to be purchased and whether it is highly competitive and readily available in several makes or brands, or if it is relatively non-competitive;
  - (b) Information obtained in making recent purchases of the same or similar item;
  - (c) The urgency of the proposed purchase;
  - (d) The dollar value of the proposed purchase; and
  - (e) Past experience concerning specific contractor prices.
- 1802.7 For procurements in excess of the amounts specified in § 1801, a contracting officer may award a small purchase solicitation on a sole source basis when the contracting officer determines that one (1) of the conditions in section 305(a) of the Act is satisfied, in accordance with chapter 17 of title 27 DCMR.
- 1802.8 Except for procurements made in accordance with section 1802.3, a contracting officer may orally solicit quotations for procurements valued at twenty-five thousand dollars (\$25,000) or less. However, a contracting officer shall use a written solicitation in the following circumstances:
- (a) When the contracting officer determines that obtaining oral quotations is not considered economical or practical; or
  - (b) When extensive specifications are involved.
- 1802.9 A contracting officer shall, to the greatest extent practicable under the circumstances, maximize competition for small purchases and shall not limit solicitations to suppliers of well known and widely distributed makes or brands, or solicit on a personal preference basis.
- 1802.10 Each contracting officer shall maintain a small purchase source list (or lists, if more convenient). The list shall indicate whether the business is a certified local, small, resident owned or disadvantaged business enterprise, for the purpose of applying preferences to be awarded in accordance with § 4 of the Equal Opportunity for Local, Small and Disadvantaged Business Enterprises Act of 1998, effective April 27, 1999, D. C. Law 12-268, as amended by § 2(c) of the Equal Opportunity for Local, Small and Disadvantaged Business Enterprises Amendment Act of 2000, effective October 4, 2000, D. C. Law 13-169 (D. C. Official Code § 2-217.03(b)).
- 1803 DETERMINATION OF REASONABLE PRICE AND AWARD**
- 1803.1 The contracting officer shall determine that the price to be paid to the successful offeror is fair and reasonable.
- 1803.2 When only one (1) response is received to a request for competitive quotations, or the price variance between multiple responses is so great that it reflects a lack of adequate competition, the contracting officer shall include a statement in the contract file giving the basis for the determination of a fair and reasonable price.
- 1803.3 The determination that a proposed price is fair and reasonable may be based on the following:
- (a) Competitive quotations;
  - (b) Comparison of the proposed price with (i) prices found reasonable on

previous purchases, (ii) current price lists, (iii) catalogs, (iv) advertisements or (v) similar items;

(c) Value analysis;

(d) The contracting officer's personal knowledge of the item being purchased; or

(e) Any other reasonable basis.

1803.4 The contracting officer shall establish and maintain records of oral and written price quotations and include the record in the purchase file. The records shall consist of the names of the suppliers contacted and the prices and other terms and conditions quoted by each.

1803.5 The contracting officer's records of solicitations shall include, at a minimum, notes of abstracts to show prices, delivery, references to printed price lists used, the vendor or vendors contacted, and other pertinent data.

1803.6 The contracting officer shall retain records supporting small purchases for a minimum of three (3) years.

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

**and**

**Z.C. ORDER NO. 05-20**

**Z.C. Case No. 05-20**

**(Text Amendment - Asphalt Plants)**

**April 20, 2006**

The Zoning Commission for the District of Columbia, pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01 (2001 ed.)) ("the Act"); having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641.03); and having referred the proposed amendments to the National Capital Planning Commission for a 30-day period of review pursuant to § 492 of the District of Columbia Home Rule Act; hereby gives notice of the adoption of amendments to §§ 801, 802, 822 and 823 of the Zoning Regulations (Title 11 DCMR).

The amendments will permit asphalt plants in C-M and M Zone Districts (except for Square 3582, 3584, and 3518) as a special exception, subject to the criteria already established for concrete plants in §§ 802.17 (a) through (h) of the Zoning Regulations. The amendments also permit the relocation of the asphalt plant located at Square 705, lot 802 to a specific site in D.C. Village, provided that the plant meets the requirements of §§ 802.17(a) through (h). The plant needs to be relocated to allow for the construction of a baseball stadium on the property now occupied by the plant.

A Notice of Proposed Rulemaking was published in the *D.C. Register* ("DCR") on December 9, 2005, at 52 DCR 10721. The Commission took final action to adopt the amendments at a public meeting on April 20, 2006. This final rulemaking is effective upon publication in the *D.C. Register*.

**Set Down Proceeding**

The Office of Planning (OP) initiated this rulemaking at the request of the Office of Property Management (OPM) and the District Department of Transportation (DDOT) by filing a report with the Zoning Commission. The OP report requested text amendments to the Zoning Regulations to allow asphalt plants as a permitted use within industrial zone districts, subject to special exception review. The OP report further requested an amendment to allow an existing asphalt plant to relocate to a new location within D.C. Village.

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At its July 11, 2005 public meeting, the Zoning Commission agreed to set down the case for a public hearing.

**Existing Regulations**

Asphalt plants are not an expressly permitted use under the current Regulations. A use variance is therefore required to operate or expand the operation of an existing asphalt plant. Several asphalt plants currently exist in the District that pre-date the adoption of the current Zoning Regulations.

The Zoning Regulations already provide for the special exception review of concrete plants to allow for the orderly and coordinated review of the facilities, and to mitigate their adverse impacts on adjoining properties. Many of the negative effects associated with concrete plants (truck traffic, truck stacking, hours of operation, noise, storage of materials, potential adverse impact on adjoining residential neighborhoods and the supporting roadway systems) are similar to those associated with asphalt plants. The special exception review regulations for concrete facilities are found at §§ 802.17 to 802.20 of the Zoning Regulations.

**Description of the Text Amendments**

This rulemaking will permit asphalt plants to locate in C-M and M Zone Districts as a special exception, subject to the criteria established for the special exception approval of concrete plants set forth in §§ 802.17 (a) through (h) of the Zoning Regulations. The criteria of §§ 802.17 (a) through (h) are intended to ensure that asphalt plants do not adversely impact park, residential, retail, office, church, school, or institutional uses; do not restrict neighborhood revitalization efforts; and do not overload public streets with industrial traffic. Asphalt plants are not permitted in Squares 3582, 3584, and 3518, although they are mapped in the C-M district.

The rulemaking also permits the asphalt plant located at Square 705, lot 802 to relocate to a specific site in D.C. Village as a matter of right, provided that the plant meets the requirements of §§ 802.17(a) through (h).

**Relationship to the Comprehensive Plan**

The amendments are not inconsistent with the Comprehensive Plan.

The Land Use Element of the Comprehensive Plan describes the District's current industrial zoned land as "a diminishing resource that must...continue to provide essential jobs and services for District residents, with the understanding that every effort will be made to mitigate or eliminate adverse impacts on surrounding communities..." 10 DCMR § 1100.4 (a). The Land Use Element also recommends relocation of large industrial areas through zoning and other appropriate measures to ensure their continued ability to function, modernize and expand, and to

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be contributors to the District's economy, with sufficient buffers to protect and preserve adjacent residential communities. 10 DCMR § 1122.2(f).

Authorizing the location of asphalt plants in industrial zone districts, subject to appropriate special exception criteria and review, allows existing asphalt businesses to modernize and expand their facilities in the District, and allows new plants to locate in appropriate locations, but ensures that these facilities do not adversely impact surrounding communities.

**Public Hearing**

The Commission held a public hearing on this case on October 6, 2005.

The District Department of Transportation (DDOT) in its memo to the Commission dated September 26, 2005 supported the text amendment to include asphalt plants as a permitted special exception use, and the matter of right relocation of the existing plant at 60 P Street S.E. to the C-M-1 portion of D.C. Village as proposed. The memo stressed DDOT's need for asphalt plants in the District, explaining that asphalt is a perishable product that must be used within 90 minutes of its processing. This time limit can be extended through the use of heated trucks, but use of heated trucks increases the handling price significantly.

**Proposed and Emergency Rulemaking**

The Zoning Commission took proposed action at a properly noticed special public meeting held on November 21, 2005. The Notice of Proposed Rulemaking was published in the *D.C. Register* on December 9, 2005 at 52 DCR 10721, for a 30-day notice and comment period.

The Commission took also emergency action on November 21, 2005 to expeditiously accommodate the relocation of the existing facility at 60 P Street, S.E. within the C-M -1 portions of D.C. Village in order to minimize the period of time that the plant would be off-line. The Notice of Emergency Rulemaking was published in the *D.C. Register* on December 9, 2005 at 52 DCR 10720, and expired on March 21, 2006.

The proposed rulemaking was referred to the National Capital Planning Commission (NCPC) under the terms of § 492 of the District of Columbia Charter. By report dated January 5, 2006 NCPC commented that:

- asphalt plants in the C-M-2 Zone District at Square 3518 or in Squares 3582 and 3584 at the intersection of New York and Florida Avenues will adversely affect the federal interests in NCPC's Memorials and Museums Master Plan and will be inconsistent with the Comprehensive Plan for the National Capital Federal Elements.

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- the Commission should undertake environmental review of the proposal under the DC Environmental Policy Act of 1989, and add a definition to the text for "asphalt plant."
- The text amendment should include a requirement to use evergreen trees to screen the western and southern edges of the D.C. Village site to protect the vista from the Anacostia Freeway and its viewshed.

No other comments were received.

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

### **Final Action**

At its properly noticed April 20, 2006 public meeting, the Commission took final action to approve the proposed text amendments, with changes to the text made in response to the comments made by NCPC in its January 5, 2006 report to exclude Squares 3582, 3584, and 3518 as potential asphalt plant locations. The Commission also made technical corrections to the text to ensure that asphalt plants in M Zone Districts are subject to special exception review.

In response to NCPC's comment that permitting asphalt plants at the intersection of Florida and New York Avenues would interfere with federal interests, the Commission is adding text to the amendment that specifically excludes Squares 3582, 3584, and 3518 as eligible locations for asphalt plants. The Commission believes this change addresses the federal interest concerns raised by NCPC. This change is within the scope of the proposed amendment as it was advertised in the public hearing notice, and therefore no new advertisement, hearing, or republication of a notice of proposed rulemaking is required to make this change to the text.

In response to NCPC's comment that, "the District should undertake environmental review of the proposal under the [District] Environmental Policy Act of 1989," the Commission believes that it would be premature to invoke the environmental review process now, because its decision to amend the text would not result in the issuance of a license, permit, certificate, or authorization. The District of Columbia Environmental Policy Act of 1989, effective October 18, 1989, (D.C. Law 8-36, D.C. Official Code § 8-109.01 *et seq.* (2001 ed.)) (DC EPA Act) establishes environmental review procedures for the District, and requires the preparation of an environmental impact statement prior to implementation of a "major action." D.C. Official Code § 8-109.03(a). The regulations implementing the DC EPA clarify when an environmental impact statement is required, stating "[n]o agency shall issue any license, permit, certificate, or authorization until completion of the environmental impact review process by the lead agency." 20 DCMR § 7203.6. The D.C. Court of Appeals concluded it would be premature to require environmental review when an applicant sought a zoning variance, because the decision to issue the variance would not result in the issuance of a license, permit, certificate, or authorization.

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*Concerned Citizens of Brentwood v. D.C. Board of Zoning Adjustment*, 634 A.2d 1234, 1241-1242 (D.C. 1993). In this case, the Zoning Commission is not issuing a license, permit, certificate, or authorization; it is amending the text of the Zoning Regulations. This decision is even further removed from the decision of whether to issue a license, permit, certificate, or authorization to a particular facility than the decision to grant a variance. The Commission therefore believes the DC EPA Act does not require it to undertake an environmental review at this point.

In response to NCPC's comment that the Commission should add a definition to the text for "asphalt plant," the Commission responds that asphalt plants already are defined by the proposed amended text. The amendment adds the word "asphalt" wherever the word "concrete" is found in the existing 11 DCMR § 802.17, so that section contains the following definition of concrete or asphalt plant, "[a] facility that manufactures, processes, mixes, stores, or distributes concrete or asphalt or materials that are used to make concrete or asphalt." The Commission believes this definition is adequate and addresses the concern expressed by NCPC.

NCPC's final comment was the text amendment should include protection of the vista from the Anacostia Freeway and its viewshed to the north by prohibiting visibility of any portion of the asphalt plant facility or equipment from the freeway, to include the use of evergreen trees to screen the western and southern edges of the site. The text already includes requirements that an asphalt facility be enclosed by a fence, that the public view side of the facility be landscaped and have an opaque screen, and that evergreen trees a minimum of eight feet in height when planted are planted and maintained in healthy growing conditions in the front, side and rear yards, and the along all public rights of way. The Commission believes these requirements fully address the issues raised by the NCPC comment.

Based on 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 purpose of the Zoning Regulations and the Zoning Act.

In consideration of the reasons set forth herein, the Zoning Commission hereby APPROVES the following amendments to Chapter 8 of the Zoning Regulations, Title 11 DCMR:

1. By amending § 801.7 to add a new § 801.7(m) to read as follows:

801.7(m) An asphalt plant located in D.C. Village on the part of parcel 253/26 west of Shepherd Parkway, S.W., and east of the Anacostia Freeway (D.C. Village site") if the plant was located in Square 705, Lot 802 on November 21, 2005 and was relocated to the D.C. Village site, provided that the plant:

- (i) Meets the requirements of 802.17 (a) through (h); and

(ii) Displays no signs visible from the Anacostia Freeway.

2. Subsections 802.17 through 802.20 are amended by inserting the phrase "or asphalt" after the word "concrete" wherever it appears.

3. By amending § 802.17 to add a new § 802.17(i) to read as follows:

(i) An asphalt facility shall not be located in Squares 3582, 3584, and 3518.

4. By amending § 822 to add a new § 822.15 to read as follows:

822.15 An asphalt plant shall be permitted as a special exception in the M District if approved by the Board of Zoning Adjustment under § 3104, subject to the provisions of §§ 802.17 through 802.20.

4. Amending § 823.1(f) by adding the phrase ", other than asphalt" after the phrase "bituminous products refining or manufacture".

Vote of the Zoning Commission taken at its public meeting on November 21, 2005, to **APPROVE** the proposed rulemaking by a vote of **3-0-2** (Anthony J. Hood, John G. Parsons, and Gregory N. Jeffries to approve; Carol J. Mitten not present, not voting; Michael G. Turnbull, not having not participated, not voting).

This Order was **ADOPTED** by the Zoning Commission at its public meeting on April 20, 2006, by a vote of **3-0-2** (Anthony J. Hood, John G. Parsons, and Gregory N. Jeffries to adopt; Carol J. Mitten not present, not voting; and Michael G. Turnbull, not having not 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 \_\_\_\_\_.

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

**and**

**Z.C. ORDER NO. 05-20**

**Z.C. Case No. 05-20**

**(Text Amendment - Asphalt Plants)**

**April 20, 2006**

The full text of this Zoning Commission order is published in the "Final Rulemaking" section of this edition of the *D.C. Register*.