

Title 16 DCMR is amended to add a new Chapter 36 to read as follows:

**CHAPTER 36 DEPARTMENT OF HEALTH (DOH) INFRACTIONS**

Secs.

<b>3600</b>	<b>Administrative Procedures and Schedule of Fines Applicable</b>
<b>3601</b>	<b>Health Practice Infractions</b>
<b>3602</b>	<b>Child Care and Child Placing Infractions</b>
<b>3603</b>	<b>Health Facility and Community Residence Facility Infractions</b>
<b>3604</b>	<b>Tissue Bank Infractions</b>
<b>3605</b>	<b>Group Homes for Mentally Retarded Persons Infractions</b>
<b>3606</b>	<b>Hospital Infractions</b>
<b>3607</b>	<b>Nursing Facility Infractions</b>
<b>3608</b>	<b>Home Care Agency Infractions</b>
<b>3609</b>	<b>Background Checks for Health Care Workers Infractions</b>
<b>3610-3614</b>	<b>Reserved</b>
<b>3615</b>	<b>Pharmacy and Medical Devices Infractions</b>
<b>3616</b>	<b>Controlled Substances Infractions</b>
<b>3617-3619</b>	<b>Reserved</b>
<b>3620</b>	<b>Food and Food Operations Infractions</b>
<b>3621</b>	<b>Swimming Pool and Spa Operations Infractions</b>
<b>3622</b>	<b>Public Bath Infractions</b>
<b>3623</b>	<b>Mattresses Infractions</b>
<b>3624</b>	<b>Barber Shop and Cosmetology Salon Operations Infractions</b>
<b>3625</b>	<b>Massage Establishment Infractions</b>
<b>3626-329</b>	<b>Reserved</b>
<b>3630</b>	<b>Vector Control and Animal Disease Prevention Infractions</b>
<b>3631-336</b>	<b>Reserved</b>
<b>3637</b>	<b>Air Quality Infractions</b>
<b>3638-3643</b>	<b>Reserved</b>
<b>3644</b>	<b>Water Quality Infractions</b>
<b>3645</b>	<b>Aquatic Animal Protection and Fishing Infractions</b>
<b>3646</b>	<b>Soil Erosion, Sediment Control and Storm Water Management Infractions</b>
<b>3647-369</b>	<b>Reserved</b>
<b>3650</b>	<b>Toxic Substances Infractions</b>
<b>3651</b>	<b>Underground Storage Tank Infractions</b>
<b>3652</b>	<b>Hazardous Waste Infractions</b>
<b>3653-3661</b>	<b>Reserved</b>
<b>3662</b>	<b>Lead Based Paint Abatement and Control Infractions</b>

**3600 ADMINISTRATIVE PROCEDURES AND SCHEDULE OF FINES  
APPLICABLE**

3600.1 The civil infractions set forth in this chapter are subject to the provisions of Chapter 31 (Administrative Procedures) and Chapter 32 (Schedule of Fines) of this Title.

**3601 HEALTH PRACTICE INFRACTIONS**

3601.1 Violation of the following provision shall be a Class 1 infraction:

Section 501 of the District of Columbia Health Occupations Revision Act of 1985, effective Mar. 25, 1986 (D.C. Law 6-99; **D.C. Official Code § 3-1205.01**) (practicing medicine, acupuncture, chiropractic, registered nursing, practical nursing, dentistry, dental hygiene, dietetics, nutrition, nursing home administration, occupational therapy, optometry, pharmacy, physical therapy, podiatry, psychology, social work, as a physician's assistant or as an occupational therapy assistant without a license).

3601.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) Section 901 of the District of Columbia Health Occupations Revision Act of 1985 (**D.C. Official Code § 3-1209.01**) (practicing naturopathy or naturopathic healing without a certificate of registration);
- (b) Section 902 of the District of Columbia Health Occupations Revision Act of 1985 (**D.C. Official Code § 3-1209.02**) (engaging in the practice of dance therapy or recreation therapy without a certificate of registration); or
- (c) Section 101 of the District of Columbia Health Occupations Revision Act of 1985 (**D.C. Official Code § 3-1210.01**) (practicing a health occupation, other than one enumerated in D.C. Official Code § 3-1205.01, without a license).

3601.3 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) Section 513(a) of the District of Columbia Health Occupations Revision Act of 1985 (**D.C. Official Code § 3-1205.13(a)**) (failure to display license conspicuously in any and all places of business or employment of the licensee); or
- (b) Section 513(b) of the District of Columbia Health Occupations Revision Act of 1985 (**D.C. Official Code § 3-1205.13(b)**) (failure to notify the board of any changes of address of the place of residence or place of business or employment within 30 days after the change of address).

**3602 CHILD CARE AND CHILD PLACING INFRACTIONS**

3602.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 29 DCMR § 301.1 (operating a child development facility without a license);
- (b) 29 DCMR § 301.3 (failure to have a separate license for each facility located at different premises); or
- (c) 29 DCMR § 1600.4 (failure of a child placing agency to have an office and staff within the District of Columbia).

3602.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 29 DCMR § 306.1(c) (committing, aiding, abetting, or permitting fraud, gross negligence, abuse, assault, or another illegal act in the operation of a child development facility);
- (b) 29 DCMR § 311 (failure to permit authorized officials to enter and inspect);
- (c) 29 DCMR § 315.3 (failure to have a qualified director in charge of a child development center);
- (d) 29 DCMR § 315.4 (failure to have a qualified teacher in charge of a group at a child development center);
- (e) 29 DCMR § 330.8 (failure of a child development center to maintain all exits properly equipped);
- (f) 29 DCMR § 1601 (failure to comply with provisions concerning incorporation and operation of a child placing agency);
- (g) 29 DCMR § 1603.1 (failure to employ a qualified executive director);
- (h) 29 DCMR § 1608.1 (establishing fees not in accordance with fee-setting regulations);
- (i) 29 DCMR § 1608.4 (failure to provide client with written estimate of cost of services);
- (j) 29 DCMR § 1608.5 (accepting money or another item of value beyond the established fees for services);

- (k) 29 DCMR § 1613, except § 1613.9 (failure to employ sufficient and qualified professional staff or failure of professional staff to fulfill specified responsibilities);
- (l) 29 DCMR § 1614.3 (failure to employ qualified professional staff on a contract basis);
- (m) 29 DCMR § 1619.1 (failure to develop a written case plan on a child);
- (n) 29 DCMR § 1619.4 (failure to secure written authorization to place a child before accepting that child for placement);
- (o) 29 DCMR § 1619.5 (failure to secure written authorization to provide medical care before accepting that child for placement);
- (p) 29 DCMR § 1620.1 (failure to conduct an adoptive home study);
- (q) 29 DCMR § 1623.1 (failure to establish that a child is legally free for adoption or legally able to enter the District of Columbia for adoption before placing that child for adoption);
- (r) 29 DCMR § 1628.6 (failure to secure written consent to place a child before accepting that child for placement);
- (s) 29 DCMR § 1628.7 (failure to secure written consent to provide medical care before accepting that child for placement);
- (t) 29 DCMR § 1628.10 (encouraging a birth parent to surrender a child by coercion, promise of financial aid or other consideration, or making acceptance for casework services contingent upon surrender);
- (u) 29 DCMR § 1638.2 (using an unlicensed foster home for the placement of a child);
- (v) 29 DCMR § 1639.1 (failure to conduct a foster home study); or
- (w) 29 DCMR § 1644.3 (failure to provide or ensure the provision of health care for a foster child in the agency's care).

3602.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 29 DCMR § 301.9 (transfer of child development facility license to another person or place without government approval);

- (b) 29 DCMR § 301.10 (refusal to return license after suspension, revocation, non-renewal, or voluntary closure);
- (c) 29 DCMR § 302 (failure to comply with application requirements);
- (d) 29 DCMR § 304.4 (failure to inform of change in operation, program, or services which may affect licensure);
- (e) 29 DCMR § 315.1 (failure of child development center director to be physically present at least one-third of the time when children are at the center);
- (f) 29 DCMR § 315.2(a) (failure of child development center director to select and supervise qualified staff to ensure provision of required child development program);
- (g) 29 DCMR § 315.2(d) (failure of child development center director to develop an approved plan for emergencies, fire evacuation, and staff illness);
- (h) 29 DCMR § 315.2(e) (failure of child development center director to designate a teacher to be responsible for center operation in the director's absence);
- (i) 29 DCMR § 315.2(g) (failure of child development center director to ensure adult supervision of the children);
- (j) 29 DCMR § 315.5 (failure to have a qualified assistant teacher in charge of a group at a child development center);
- (k) 29 DCMR § 315.10 (failure of child development center to have sufficient staff to maintain sanitation and safety standards);
- (l) 29 DCMR § 316.1 (exceeding maximum permissible size of a group in a child development center);
- (m) 29 DCMR § 316.2 (failure of child development center to provide 2 staff members as specified for each group);
- (n) 29 DCMR § 317.1 (failure of child development center to provide adequate daily program as specified);
- (o) 29 DCMR § 318.4 (failure of child development center to consider parental information concerning a child's nutritional needs);

- (p) 29 DCMR § 320.1 (failure of child development home caregiver to supervise and administer home);
- (q) 29 DCMR § 320.7 (failure of child development home caregiver to cooperate with government officials in implementing child development program);
- (r) 29 DCMR § 325 (failure to comply with health requirements for children and/or staff);
- (s) 29 DCMR § 327 (failure to comply with building and environmental requirements);
- (t) 29 DCMR § 328.1 (failure to provide suitable outdoor play space free from hazardous conditions);
- (u) 29 DCMR § 329.1 (failure to provide adequate toilet and lavatory facilities as specified);
- (v) 29 DCMR § 329.4 (failure to provide soap and either individual towels or disposable paper towels in bathroom);
- (w) 29 DCMR § 330, except 330.8 (failure to comply with safety and health requirements for facility premises);
- (x) 29 DCMR § 1600.2 (failure of a child placing agency to develop and make available a written statement of purpose, philosophy and program, including a description of services provided);
- (y) 29 DCMR § 1600.3 (failure to provide a description of the geographical area served or intended to be served);
- (z) 29 DCMR § 1602 (failure to comply with requirements concerning establishment and composition of board of directors);
- (aa) 29 DCMR § 1603, except § 1603.1 (failure to comply with requirements concerning responsibilities of board of directors);
- (bb) 29 DCMR § 1605 (failure to maintain and document sufficient funding);
- (cc) 29 DCMR § 1606 (failure to maintain financial records and establish an accounting system);
- (dd) 29 DCMR § 1607 (failure to have financial records audited annually by an independent Certified Public Accountant);

- (ee) 29 DCMR § 1608.2 (failure to comply with requirements concerning agency policies on fees);
- (ff) 29 DCMR § 1608.3 (failure to make agency policies on fees available for public inspection);
- (gg) 29 DCMR § 1609 (failure to comply with requirements concerning office space);
- (hh) 29 DCMR § 1610 (failure to comply with requirements concerning personnel policies);
- (ii) 29 DCMR § 1611 (failure to comply with requirements concerning personnel records);
- (jj) 29 DCMR § 1612.3 (failure to perform a criminal background check on a prospective employee who will have direct contact with children or clients);
- (kk) 29 DCMR § 1617 (failure to comply with requirements concerning adoptive services recruitment, application, and information);
- (ll) 29 DCMR § 1618 (failure to comply with requirements concerning intake for adoptive services);
- (mm) 29 DCMR § 1619, except §§ 1619.1, 1619.4, and 1619.5 (failure to comply with requirements concerning case plan services, content, and information);
- (nn) 29 DCMR § 1620, except § 1620.1 (failure to comply with requirements concerning adoptive home study services, content, information, and re-evaluation);
- (oo) 29 DCMR § 1621 (failure to comply with requirements concerning notification regarding adoption application);
- (pp) 29 DCMR § 1622 (failure to comply with requirements concerning services for adoptive parents);
- (qq) 29 DCMR § 1623, except § 1623.1 (failure to comply with requirements concerning adoption pre-placement responsibilities);
- (rr) 29 DCMR § 1624 (failure to comply with requirements concerning adoption post-placement responsibilities);

- (ss) 29 DCMR § 1625 (failure to comply with requirements concerning maintenance of adoption records);
- (tt) 29 DCMR § 1626.2 (failure to provide a required report to a court concerning a petition for adoption);
- (uu) 29 DCMR § 1628.3 (failure to provide birth parents with information concerning ramifications of adoption);
- (vv) 29 DCMR § 1630 (failure to comply with requirements concerning severance of parental rights);
- (ww) 29 DCMR § 1633 (failure to comply with requirements concerning adoption placement considerations);
- (xx) 29 DCMR § 1635 (failure to comply with requirements concerning interstate placement);
- (yy) 29 DCMR § 1636 (failure to comply with requirements concerning international adoption services, policies, and information);
- (zz) 29 DCMR § 1637 (failure to comply with requirements concerning maintenance of records);
- (aaa) 29 DCMR § 1638, except § 1638.2 (failure to comply with general requirements concerning foster care);
- (bbb) 29 DCMR § 1639, except § 1639.1 (failure to comply with requirements concerning foster home study services, content and information);
- (ccc) 29 DCMR § 1640 (failure to comply with requirements concerning notification regarding foster care application);
- (ddd) 29 DCMR § 1641 (failure to comply with requirements concerning foster parent training);
- (eee) 29 DCMR § 1643 (failure to comply with requirements concerning agency responsibilities in foster care); or
- (fff) 29 DCMR § 1644, except § 1644.3 (failure to comply with requirements concerning supervision of children in foster care).

3602.4

Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 29 DCMR § 301.7 (failure to post child development facility license conspicuously on the facility premises);

- (b) 29 DCMR § 305.2 (failure to submit renewal application timely)
- (c) 29 DCMR § 315.2(c) (failure of child development center director to ensure compliance with applicable codes and regulations);
- (d) 29 DCMR § 315.2(f) (failure of child development center director to ensure provision of in-service training to volunteers);
- (e) 29 DCMR § 315.2(h) (failure of child development center director to develop a plan for parent involvement);
- (f) 29 DCMR § 315.6 (failure of child development center to ensure that teacher performs required duties);
- (g) 29 DCMR § 315.7 (failure of child development center to ensure that assistant teacher performs required duties);
- (h) 29 DCMR § 315.9 (failure of child development center to ensure that aide performs required duties);
- (i) 29 DCMR § 316.3 (failure of child development center to obtain approval for mixed-age group or to comply with child:adult ratio applicable to youngest child in group);
- (j) 29 DCMR § 316.4 (failure of child development center to obtain approval for change in child:adult ratio);
- (k) 29 DCMR § 317, except § 317.1 (failure to comply with individual child development center daily program requirements);
- (l) 29 DCMR § 318, except § 318.4 (failure of child development center to comply with meal and snack requirements);
- (m) 29 DCMR § 320.3 (failure of child development home caregiver to ensure compliance with applicable codes and regulations);
- (n) 29 DCMR § 320.4 (failure of child development home caregiver to conduct food handling, preparation and service in an adequate manner);
- (o) 29 DCMR § 320.5 (failure of child development home caregiver to develop an approved plan for emergencies, including designation of a responsible adult substitute caregiver);
- (p) 29 DCMR § 320.6 (failure of child development home caregiver to develop a plan for parent involvement);

- (q) 29 DCMR § 321 (failure to comply with child development home daily program requirements);
- (r) 29 DCMR § 322 (failure of child development home to comply with equipment and supply requirements);
- (s) 29 DCMR § 326 (failure to comply with recordkeeping requirements for children and/or employees);
- (t) 29 DCMR § 328.2 (failure to provide adequate outdoor play space);
- (u) 29 DCMR § 328.3 (failure to provide adequate indoor program space);
- (v) 29 DCMR § 329.2 (failure to provide block or step when needed for toilets and lavatories);
- (w) 29 DCMR § 329.3 (failure to provide toilet training chairs and to maintain in a sanitary manner);
- (x) 29 DCMR § 329.5 (failure to provide a drinking fountain or individual clean cups for drinking);
- (y) 29 DCMR § 1604 (failure of a child placing agency to maintain a current agency organizational table);
- (z) 29 DCMR § 1612, except § 1612.3 (failure to comply with requirements concerning applicants for employment);
- (aa) 29 DCMR § 1613.9 (failure of office staff to fulfill responsibilities);
- (bb) 29 DCMR § 1615 (failure to comply with requirements concerning volunteers);
- (cc) 29 DCMR § 1616 (failure to comply with requirements concerning student interns);
- (dd) 29 DCMR § 1626.4 (failure to provide copy of adoption decree to other agency involved in adoption);
- (ee) 29 DCMR § 1628, except §§ 1628.3, 1628.6, 1628.7, and 1628.10 (failure to comply with general requirements concerning social services related to child placing);
- (ff) 29 DCMR § 1629 (failure to comply with requirements concerning notice to actual and possible birth parents);

- (gg) 29 DCMR § 1631 (failure to comply with requirements concerning paternity affidavits);
- (hh) 29 DCMR § 1632 (failure to comply with requirements concerning efforts to locate birth parents);
- (ii) 29 DCMR § 1634 (failure to refer unsuccessful child or client to other adoption agencies, services, and exchanges); or
- (jj) 29 DCMR § 1642 (failure to comply with requirements concerning foster care placement considerations).

**3603 HEALTH FACILITY AND COMMUNITY RESIDENCE FACILITY INFRACTIONS**

3603.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 22 DCMR § 3102.1 (operating a health care or community residence facility without a license);
- (b) Section 201 of the D.C. Ambulatory Surgical Treatment Center Licensure Act, effective Apr. 6, 1978 (D.C. Law 2-66; 24 DCR 6836) (operating an ambulatory surgical treatment center without a license);
- (c) 22 DCMR § 2602.1 (operating a maternity center without a license).

3603.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 22 DCMR § 3101.1 (failure to allow an authorized official to enter and inspect a health care or community residence facility);
- (b) 22 DCMR § 3101.3 (failure to give authorized official access to records necessary to determine compliance);
- (c) 22 DCMR § 3105.2 (failure to allow authorized official to enter and investigate complaints);
- (d) 22 DCMR § 3102.9 (transfer of a license to another person or place without government approval);
- (e) 22 DCMR § 3401.4 (failure of a community residence facility to ensure that a resident has an annual medical exam);

- (f) 22 DCMR § 3401.5 (failure of a large facility as specified to retain a physician to advise and handle emergencies);
- (g) 22 DCMR § 3402.1 (failure to provide sufficient staff);
- (h) 22 DCMR § 3404.3 (failure to ensure that medical care is secured for a resident in case of serious illness or accident);
- (i) 22 DCMR § 3404.4 (failure to secure medical care from backup physician if primary physician is unavailable);
- (j) 22 DCMR § 3405.1 (failure to notify sponsor or physician when resident's condition deteriorates to need ongoing nursing care);
- (k) 22 DCMR § 3405.2 (providing nursing care for longer than 72 hours or without appropriate physical environment or professional services);
- (l) 22 DCMR § 3405.3 (failure to notify when unable to obtain appropriate medical care for a resident);
- (m) 22 DCMR § 3405.6 (failure to notify physician and/or obtain assistance when a resident may do harm to self or others);
- (n) 22 DCMR § 3406.7 (failure to ensure that residents are not harassed or abused);
- (o) 22 DCMR § 3415.6 (failure to ensure that staff do not employ abuse);
- (p) 22 DCMR § 3427.3 (failure to ensure that water supply is automatically controlled not to exceed 110 degrees Fahrenheit);
- (q) Section 303 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure of an ambulatory surgical treatment center to comply with requirements concerning professional staffing);
- (r) Section 305 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure to comply with requirements concerning post-operative care);
- (s) Section 401 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure to comply with requirements concerning supplies, equipment, and medication);

- (t) Section 501 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure to allow government inspectors access to facility records);
- (u) Section 502(a) of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (performing a surgical procedure requiring general anesthesia without the immediate medical direction of a licensed and qualified anesthesiologist);
- (v) Section 502(b) of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure to report to the OCC a referral wherein a fee was charged);
- (w) Section 502(c) of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (sharing a fee for a service or a referral with a physician, person, agency or clinic);
- (x) 22 DCMR § 2604.7 (failure of a maternity center to permit entry and inspection by government inspectors);
- (y) 2 DCMR § 2609.12 (failure to provide, maintain, and document maintenance of emergency, diagnostic, and sterilization equipment);
- (z) 22 DCMR § 2613.5 (failure to have a qualified OB/GYN as Director of Medical Affairs or failure of Director of Medical Affairs to carry out responsibilities);
- (aa) 22 DCMR § 2613.6 (failure to have a certified nurse-midwife as Director of Midwifery Services if such services are offered);
- (bb) 22 DCMR § 2614.5 (failure to have a patient in labor attended by a certified nurse-midwife or a physician with special training in obstetrics at all times from admission through immediate post-partum);
- (cc) 22 DCMR § 2614.6 (failure to have two attendants present at every birth, one of whom is a physician or CNM, and both of whom are certified in adult CPR and neonatal CPR);
- (dd) 22 DCMR § 2614.7 (failure to have qualified personnel on duty at all times when patients are admitted, including a licensed nurse-midwife and/or a board-certified physician either on the premises or on call);
- (ee) 22 DCMR § 2614.11 (failure to have a written practice agreement with an OB/GYN and a pediatrician or neonatologist for 24-hour consultation and referral or transfer to hospital if needed);

- (ff) 22 DCMR § 2614.12(b) (failure to have a written transfer agreement with a hospital for transfer of patients no longer "low risk");
- (gg) 22 DCMR § 2614.13 (failure to provide adequate emergency transportation services);
- (hh) 22 DCMR § 2615.3 (failure to have sufficient qualified personnel to perform the services offered);
- (ii) 22 DCMR § 2616.1 (admitting an individual for labor and delivery who is not "low risk" as specified);
- (jj) 22 DCMR § 2617.1 (failure to conduct an evaluation of a patient admitted while in labor);
- (kk) 22 DCMR § 2619 (failure to comply with requirements concerning discharge planning and postpartum care);
- (ll) 22 DCMR § 2620.2 (use of general or regional anesthesia, or use of systemic analgesia without a physician's or CNM's determination, or use of anesthesia for episiotomy not in accordance with facility practice guidelines); or
- (mm) Section 301 of the Nursing and Community Residence Facility Residents' Protections Act of 1985, effective Apr. 18, 1986 (D.C. Law 6-108; D.C. Official Code § 44-1003.01) (discharge, transfer or relocation of a resident of a long-term care facility for reasons other than those specified).

3603.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 3102.7 (failure of a health care or community residence facility to inform of a change in operation, program or services that might affect licensure);
- (b) 22 DCMR § 3102.8 (failure to return license upon suspension, revocation, non-renewal, forfeiture, or discontinuation of operation);
- (c) 22 DCMR § 3102.18 (failure to meet minimum requirements for insurance);
- (d) 22 DCMR § 3103.9 (failure to submit a plan of correction in relation to an initial licensure inspection);
- (e) 22 DCMR § 3104.5 (failure to submit a plan of correction in relation to a renewal licensure inspection);

- (f) 22 DCMR § 3105.4 (failure to submit a plan of correction in relation to a complaint investigation inspection);
- (g) 22 DCMR § 3400 (failure of a community residence facility to comply with requirements concerning the Residence Director);
- (h) 22 DCMR § 3401.3 (failure to obtain proof that a resident has a medical exam within 30 days before admission and annually thereafter);
- (i) 22 DCMR § 3402.3 (failure to ensure that each employee has a pre-employment medical exam and obtains an annual health certificate);
- (j) 22 DCMR § 3403 (failure to comply with requirements concerning admission policies);
- (k) 22 DCMR § 3404.1 (failure to obtain and maintain proof of a resident's annual medical exam);
- (l) 22 DCMR § 3404.5 (failure to notify a resident's sponsor and/or next of kin of a serious illness or accident);
- (m) 22 DCMR § 3404.7 (failure to promptly notify a resident's physician and sponsor and/or next of kin of the resident's death);
- (n) 22 DCMR § 3404.8 (failure to permit a physician to determine and pronounce a resident's death or failure to permit investigation of a resident's death);
- (o) 22 DCMR § 3405.4 (failure to comply with requirements concerning transfer and discharge);
- (p) 22 DCMR § 3405.5 (imposing a curfew or preventing a resident from leaving the facility);
- (q) 22 DCMR § 3406, except § 3406.7 (failure to comply with requirements concerning residents' rights);
- (r) 22 DCMR § 3407 (failure to comply with requirements concerning residents' personal property);
- (s) 22 DCMR § 3411 (failure to comply with requirements concerning residents' records);
- (t) 22 DCMR § 3412 (failure to comply with requirements concerning confidentiality of records);

- (u) 22 DCMR § 3415, except § 3415.6 (failure to comply with requirements concerning restraint, confinement, and behavior modification);
- (v) 22 DCMR § 3416 (failure to comply with requirements concerning medication storage and disposal);
- (w) 22 DCMR § 3417 (failure to comply with requirements concerning dietary services);
- (x) 22 DCMR § 3418 (failure to comply with requirements concerning therapeutic diets);
- (y) 22 DCMR § 3420 (failure to comply with requirements concerning rehabilitation);
- (z) 22 DCMR § 3421 (failure to comply with requirements concerning housekeeping, sanitation, maintenance, and laundry);
- (aa) 22 DCMR § 3422 (failure to comply with requirements concerning social services);
- (bb) 22 DCMR § 3423.1 (failure of a large facility as specified to employ a qualified resident activities specialist);
- (cc) 22 DCMR § 3424.1 (failure to locate within easy walking distance of public transportation);
- (dd) 22 DCMR § 3424.2 (failure to provide transportation);
- (ee) 22 DCMR § 3424.3 (failure to locate away from noise);
- (ff) 22 DCMR § 3424.4 (failure to locate away from noxious or hazardous vapors);
- (gg) 22 DCMR § 3425 (failure to comply with structural requirements or to notify when altering physical structure of facility);
- (hh) 22 DCMR § 3427, except 3427.3 (failure to comply with requirements concerning water supply);
- (ii) 22 DCMR § 3428 (failure to comply with requirements concerning heat, ventilation, and insulation);
- (jj) 22 DCMR § 3431 (failure to comply with requirements concerning bedrooms);

- (kk) 22 DCMR § 3432 (failure to comply with requirements concerning bathrooms);
- (ll) 22 DCMR § 3442 (failure to comply with requirements concerning insurance);
- (mm) Section 203 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure of an ambulatory surgical treatment center to comply with requirements concerning insurance coverage);
- (nn) Section 301 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure to comply with requirements concerning facility governance and procedures);
- (oo) Section 302 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure to comply with requirements concerning administrative operation and responsibility);
- (pp) Section 304 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure to comply with requirements concerning pre-operative care);
- (qq) Section 306 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure to comply with requirements concerning recordkeeping and reporting);
- (rr) Section 402 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure to comply with requirements concerning environmental conditions and maintenance);
- (ss) 22 DCMR § 2600.8 (failure of a maternity center to comply with requirements concerning newborn infant screening);
- (tt) 22 DCMR § 2602.3 (failure to specify on an application the care to be offered or other information requested);
- (uu) 22 DCMR § 2605.1 (relocation of center without government approval);
- (vv) 22 DCMR § 2608 (failure to comply with requirements concerning design, construction, and safety);
- (ww) 22 DCMR § 2609, except § 2609.12 (failure to comply with requirements concerning facilities and equipment);

- (xx) 22 DCMR § 2611.1 (installation or use of a nonconforming fixture, appurtenance, material, or method without governmental approval);
- (yy) 22 DCMR § 2612 (failure to comply with requirements concerning environmental services and infection control);
- (zz) 2 DCMR § 2613.1 (failure to identify who has authority and responsibility for overall policy and fiscal management);
- (aaa) 22 DCMR § 2613.2 (failure to develop an organizational plan or to appoint a qualified Director and Director of Medical Affairs);
- (bbb) 22 DCMR § 2614.1 (failure to develop, implement, or review Practice Guidelines for normal and emergency care);
- (ccc) 22 DCMR § 2614.2 (failure to develop, implement, or review Practice Guidelines for standards of services provided);
- (ddd) 22 DCMR § 2614.3 (failure to have Practice Guidelines adequately address the scope and conduct of maternity care provided);
- (eee) 22 DCMR § 2614.4 (failure to have Practice Guidelines for intrapartum care developed by the Director, Director of Medical Affairs, and Director of Midwifery Services, or failure to have these guidelines include all specified elements);
- (fff) 22 DCMR § 2614.8 (failure to develop and implement policies and procedures, including all specified elements);
- (ggg) 22 DCMR § 2614.9 (failure to develop and implement a quality assurance plan);
- (hhh) 22 DCMR § 2614.10 (failure to evaluate and revise the quality assurance plan or to document and make available facility actions relevant thereto);
- (iii) 22 DCMR § 2614.12(a) (failure to have written policies and procedures for emergencies);
- (jjj) 22 DCMR § 2615, except § 2615.3 (failure to comply with personnel health, training, and recordkeeping requirements);
- (kkk) 22 DCMR § 2616.2 (failure to inform a patient of risks and benefits or to obtain informed consent);
- (lll) 22 DCMR § 2616.3 (failure to include specified elements, including all District of Columbia requirements, on the patient consent form);

- (mmm) 22 DCMR § 2617, except § 2617.1 (failure to comply with requirements concerning patient records);
- (nnn) 22 DCMR § 2618 (failure to comply with requirements concerning antepartum care and recordkeeping);
- (ooo) 22 DCMR § 2620, except § 2620.2 (failure to comply with requirements concerning medication);
- (ppp) 22 DCMR § 2621 (failure to comply with requirements concerning medical records and reporting); or
- (qqq) Section 302 of the Nursing and Community Residence Facility Residents' Protections Act of 1985 (**D.C. Official Code § 44-1003.02**) (failure to provide a notice of transfer or discharge from a long-term care facility, and procedures for contesting same, to a resident and to his or her representative as required by law).

3603.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 22 DCMR § 3102.2 (failure of a health care or community residence facility to submit an initial application timely);
- (b) 22 DCMR § 3102.4 (failure of a health care or community residence facility to submit a renewal application timely);
- (c) 22 DCMR § 3402.2 (failure of a community residence facility to develop and to make available its personnel policies);
- (d) 22 DCMR § 3402.4 (failure to maintain accurate personnel records);
- (e) 22 DCMR § 3402.5 (failure to maintain complete personnel records);
- (f) 22 DCMR § 3404.2 (failure to communicate periodically with a resident's sponsor, if any);
- (g) 22 DCMR § 3410 (failure to comply with requirements concerning administrative records);
- (h) 22 DCMR § 3413 (failure to develop a program statement);
- (i) 22 DCMR § 3423, except § 3423.1 (failure to comply with requirements concerning resident activities);
- (j) 22 DCMR § 3424.6 (using a misleading or improper name);

- (k) 22 DCMR § 3426 (failure to comply with lighting requirements);
- (l) 22 DCMR § 3430 (failure to comply with architectural and space requirements);
- (m) 22 DCMR § 2602.5 (failure of a maternity center to submit an initial application or a renewal application timely);
- (n) 22 DCMR § 2604.5 (failure to frame and post license conspicuously);
- (o) 22 DCMR § 2605.3 (failure to notify of change in ownership or name);
- (p) 22 DCMR § 2613.3 (failure to post names comprising governing entity and organizational chart in an area available to patients);
- (q) 22 DCMR § 2616.4 (failure to provide an orientation program including all specified elements);
- (r) 22 DCMR § 2616.5 (failure to develop policies for visits with families and other support persons);
- (s) Section 302(d) of the Nursing and Community Residence Facility Residents' Protections Act of 1985 (**D.C. Official Code § 44-1003.02(d)**) (failure to provide timely, complete or correct notice of a transfer or discharge from a long-term care facility, and procedures for contesting same, to a resident and his or her representative);
- (t) Section 304 of the Nursing and Community Residence Facility Residents' Protections Act of 1985 (**D.C. Official Code § 44-1003.04**) (failure to discuss a transfer, discharge, or relocation with the resident and his or her representative, or failure to offer counseling concerning the action); or
- (a) Section 311 of the Nursing and Community Residence Facility Residents' Protections Act of 1985 (**D.C. Official Code § 44-1003.11**) (failure to provide each resident, his or her representative, and the Long-Term Care Ombudsman correct, timely notice when the facility is closing because of an adverse action by the Mayor or is voluntarily closing).

**3604 TISSUE BANK INFRACTIONS**

3604.1 Violation of the following provision shall be a Class 1 infraction:

22 DCMR § 301.1 (operating a tissue bank without a license).

- 3604.2 Violation of any of the following provisions shall be a Class 2 infraction:
- (a) 22 DCMR § 300.3 (failure to manage and operate a tissue bank in accordance with good medical and public health practice);
  - (b) 22 DCMR § 302.1 (failure to have a physician as director and operator of the bank);
  - (c) 22 DCMR § 302.2 (failure to maintain a roster of authorized persons and to establish policies and procedures for operation of the bank);
  - (d) 22 DCMR § 302.4 (failure of a hospital licensee to designate a physician as director and operator of the bank);
  - (e) 22 DCMR § 303 (failure to comply with requirements concerning tissue acquisition, tissue withdrawal, and recordkeeping);
  - (f) 22 DCMR § 304 (failure to comply with physical and sanitary requirements);
  - (g) 22 DCMR § 305.2 (failure to cooperate in an inspection); or
  - (h) 22 DCMR § 306.1 (transporting tissue without the required record).

- 3604.3 Violation of any of the following provisions shall be a Class 3 infraction:
- (a) 22 DCMR § 301.4 (failure to sign and certify application for license);
  - (b) 22 DCMR § 302.3 (failure to provide policies and procedures for inspection upon request); or
  - (c) 22 DCMR § 302.6 (failure to notify of change in operator).

- 3604.4 Violation of the following provision shall be a Class 4 infraction:
- 22 DCMR § 301.10 (failure to frame and post license).

**3605 GROUP HOMES FOR MENTALLY RETARDED PERSONS  
INFRACTIONS**

**3605.1 Reserved**

- 3605.2 Violation of any of the following provisions shall be a Class 2 infraction:
- (a) 22 DCMR § 3502.6 (denial of meals as a form of punishment);

- (b) 22 DCMR § 3509.9 (employing staff with a history of abuse, neglect, exploitation, or conviction of a sexual or violent crime);
- (c) 22 DCMR § 3520 (failure to comply with requirements concerning professional services);
- (d) 22 DCMR § 3521 (failure to comply with requirements concerning habilitation and training); or
- (e) 22 DCMR § 3523 (failure to observe and protect client's rights).

3605.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 3500.1 (failure to comply with general provisions regarding pharmacies and pharmaceuticals);
- (b) 22 DCMR § 3500.2 (failure to demonstrate understanding that D.C. Law 6-137 governs care and rights of mentally retarded persons);
- (c) 22 DCMR § 3501.1 (failure to provide home-like atmosphere and least restrictive yet safe setting);
- (d) 22 DCMR § 3501.3 (failure to locate within easy walking distance of transportation or to provide transportation);
- (e) 22 DCMR § 3501.4 (failure to locate away from noise and hazardous or noxious conditions);
- (f) 22 DCMR § 3501.6 (failure to provide tempered glass and to conspicuously mark sliding doors or panels);
- (g) 22 DCMR § 3501.10 (failure to provide social and recreational space);
- (h) 22 DCMR § 3501.11 (failure to provide adequate community space);
- (i) 22 DCMR § 3502, except 3502.6 (failure to comply with requirements concerning meal service and dining areas);
- (j) 22 DCMR § 3503.1 (failure to provide sufficient square footage in bedroom or exceeding allowable bedroom occupancy);
- (k) 22 DCMR § 3503.2 (failure to keep beds sufficiently apart from each other and from radiators);
- (l) 22 DCMR § 3503.3 (failure to provide required bedroom furniture or bedding);

- (m) 22 DCMR § 3503.5 (failure to provide sufficient storage space in bedroom);
- (n) 22 DCMR § 3503.7 (failure to designate bedroom for bedroom use only);
- (o) 22 DCMR § 3503.8 (failure to provide adequate bathroom space and fixtures);
- (p) 22 DCMR § 3503.9 (failure to provide adequate appliances and equipment in bathroom);
- (q) 22 DCMR § 3504 (failure to comply with requirements concerning housekeeping, sanitation, and/or maintenance);
- (r) 22 DCMR § 3506 (failure to comply with program statement requirements);
- (s) 22 DCMR § 3507 (failure to comply with requirements concerning policies and procedures);
- (t) 22 DCMR § 3508 (failure to comply with requirements concerning administrative support, residents' funds, and/or insurance);
- (u) 22 DCMR § 3509.1 (failure to develop and distribute personnel policies);
- (v) 22 DCMR § 3509.2 (failure to develop and distribute job descriptions);
- (w) 22 DCMR § 3509.6 (failure to ensure that employee has and passes health examination prior to employment and annually thereafter);
- (x) 22 DCMR § 3509.7 (failure to ensure that employee's initial health exam is done within 90 days prior to employment);
- (y) 22 DCMR § 3509.8 (failure to obtain physician's documentation that employee with positive test for communicable disease is receiving needed follow-up care);
- (z) 22 DCMR § 3510 (failure to comply with requirements concerning staff training);
- (aa) 22 DCMR § 3511 (failure to comply with requirements concerning direct care staff ratios);
- (bb) 22 DCMR § 3513 (failure to comply with requirements concerning administrative records);

- (cc) 22 DCMR § 3514 (failure to comply with requirements concerning resident records);
- (dd) 22 DCMR § 3515 (failure to comply with requirements concerning confidentiality of records);
- (ee) 22 DCMR § 3516 (failure to develop and make available policies concerning admission, transfer, and discharge);
- (ff) 22 DCMR § 3517 (failure to comply with requirements concerning admission policies and procedures, health screening and recordkeeping);
- (gg) 22 DCMR § 3518 (failure to comply with requirements concerning discharge and transfer policies and procedures and recordkeeping);
- (hh) 22 DCMR § 3519 (failure to comply with requirements concerning emergencies and unusual incidents); or
- (ii) 22 DCMR § 3522 (failure to comply with requirements concerning medications).

3605.4

Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 22 DCMR § 3500.3 (using an improper name or logo on the exterior of the facility);
- (b) 22 DCMR § 3501.5 (failure to supply window curtains, shades or blinds, clean and in good repair);
- (c) 22 DCMR § 3501.7 (failure to show that facility can provide outside recreational activities);
- (d) 22 DCMR § 3501.8 (failure to provide access to and encourage full utilization of space);
- (e) 22 DCMR § 3501.9 (failure to locate restricted space in the most remote portions of the facility);
- (f) 22 DCMR § 3503.4 (failure to provide employee with copy of job description);
- (g) 22 DCMR § 3503.10 (failure to provide required supplies in bathroom);

- (h) 22 DCMR § 3509.3 (failure to discuss contents of job description with employee periodically);
- (i) 22 DCMR § 3509.4 (failure to provide employee with copy of job description);
- (j) 22 DCMR § 3509.5 (failure to update job description and review it with employee); or
- (k) 22 DCMR § 3512 (failure to comply with general recordkeeping requirements).

**3606****HOSPITAL INFRACTIONS**

## 3606.1

Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 22 DCMR § 2002.1 (operating a hospital without a license);
- (b) 22 DCMR § 2101.2 (failure to have the medical staff of each service under the direction and supervision of a qualified physician specialist);
- (c) 22 DCMR § 2101.4 (failure to provide adequate medical staff);
- (d) 22 DCMR § 2105 (failure to have physicians available as specified or failure to have each patient under the care of a physician);
- (e) 22 DCMR § 2112, except § 2112.13 and § 2112.14 (failure to comply with requirements concerning adequacy, direction, qualifications and duties of nursing staff);
- (f) 22 DCMR § 2200.1 (failure to have the anesthesia service under the direction of an anesthesiologist);
- (g) 22 DCMR § 2200.2 (failure to have an anesthesiologist or nurse-anesthetist present or on call at all times);
- (h) 22 DCMR § 2202.1 (failure to have the emergency room under the direction and supervision of a physician);
- (i) 22 DCMR § 2202.2 (failure to have qualified professional staff available for duty in the emergency room);
- (j) 22 DCMR § 2203.1 (failure to have the maternity and newborn service under the direction and supervision of an obstetrician and a pediatrician);

- (k) 22 DCMR § 2203.6 (failure to provide sufficient nursing staff for the maternity and newborn service);
- (l) 22 DCMR § 2205, except § 2205.6 (failure to comply with requirements concerning the adequacy, direction, supervision and qualifications of the medical service physicians and nursing staff);
- (m) 22 DCMR § 2206.1 (failure to have the pediatric service and the pediatric nursing service under the supervision and direction of a pediatrician and a qualified nurse as specified);
- (n) 22 DCMR § 2207.1 (failure to have the psychiatric service under the supervision and direction of a psychiatrist);
- (o) 22 DCMR § 2207.2 (failure to have the psychiatric nursing service under the supervision and direction of a qualified nurse as specified);
- (p) 22 DCMR § 2207.3 (failure to have qualified personnel in charge of the psychiatric ward);
- (q) 22 DCMR § 2208.1 (failure to have the radiological and radioisotope services under the direction of a radiologist and a physician);
- (r) 22 DCMR § 2208.2 (failure to have personnel available to provide x-ray service);
- (s) 22 DCMR § 2210.1 (failure to have the surgical service under the direction and supervision of a surgeon);
- (t) 22 DCMR § 2210.2 (failure to have the surgical nursing service under the direction and supervision of a qualified nurse as specified);
- (u) 22 DCMR § 2210.3 (failure to have the surgical operating suite under the direction of a qualified nurse as specified);
- (v) 22 DCMR § 2210.4 (failure to provide adequate nursing personnel in the operating suite);
- (w) 22 DCMR § 2210.5 (failure to provide qualified and trained nursing personnel as specified for the surgical service);
- (x) 22 DCMR § 2211.1 (failure to have a qualified person as specified in charge of the outpatient service);
- (y) 22 DCMR § 2211.2 (failure to have each outpatient clinical service under the supervision of a qualified physician specialist);

- (z) 22 DCMR § 2211.3 (failure to provide adequate facilities and personnel for each outpatient service);
- (aa) 22 DCMR § 2212.1 (failure to have the laboratory service under the direction of a pathologist or other qualified physician);
- (bb) 22 DCMR § 2212.2 (failure to provide competent personnel for the laboratory service);
- (cc) 22 DCMR § 2213.1 (failure to have an on-site pharmacy service operated by or under the direction and supervision of a pharmacist);
- (dd) 22 DCMR § 2213.2 (failure to have a pharmacy available for the hospital's use at all times); or
- (ee) 22 DCMR § 2203 (failure to comply with requirements concerning electrical power and back-up power).

3606.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 22 DCMR § 2000.3 (failure to manage and operate a hospital in accordance with good medical and public health practice);
- (b) 22 DCMR § 2004.4 (transferring a license to another licensee or premises without government approval);
- (c) 22 DCMR § 2005.1 (moving to another premises without government approval);
- (d) 22 DCMR § 2011.3 (installing or using a nonconforming fixture, appurtenance, material or method without government approval);
- (e) 22 DCMR § 2100 (failure to comply with requirements concerning governing body and administration);
- (f) 22 DCMR § 2101.1 (failure to comply with requirements concerning medical staff and bylaws);
- (g) 22 DCMR § 2102.1 (failure to ensure that each direct patient care staff member has a health examination before employment and annually thereafter as specified);
- (h) 22 DCMR § 2102.4 (failure to obtain a signed health professional's report of a direct care staff member's health examination);

- (i) 22 DCMR § 2102.5 (failure to maintain, and to make available for inspection, a report of a direct care staff member's health examination);
- (j) 22 DCMR § 2103.1 (failure to ensure that each direct patient care staff member who is absent from duty because of illness obtains certification that he or she can return to duty before returning to duty);
- (k) 22 DCMR § 2103.2 (failure to obtain, maintain, and make available for inspection a direct care staff member's certification that he or she can return to duty);
- (l) 22 DCMR § 2106 (failure to comply with requirements concerning separate care units and isolation of patients);
- (m) 22 DCMR § 2107 (failure to comply with requirements concerning long-term and convalescent care);
- (n) 22 DCMR § 2108 (failure to comply with requirements concerning restraint and seclusion of patients);
- (o) 22 DCMR § 2109.1 (failure to comply with requirements concerning medical history and examination of newly admitted patients);
- (p) 22 DCMR § 2110 (failure to comply with requirements concerning medication and treatment);
- (q) 22 DCMR § 2112.3 (failure to have the Director of Nursing participate in establishment of policies and procedures for the nursing service);
- (r) 22 DCMR § 2112.4 (failure to establish a plan of authority, including duties and responsibilities, for the nursing service);
- (s) 22 DCMR § 2113 (failure to comply with requirements concerning medical services and facilities);
- (t) 22 DCMR § 2200, except § 2200.1 and § 2200.2 (failure to comply with requirements concerning the anesthesia service);
- (u) 22 DCMR § 2201 (failure to comply with requirements concerning communicable disease);
- (v) 22 DCMR § 2202.5 (failure to make a record of each patient cared for in the emergency room, containing all elements as specified);

- (w) 22 DCMR § 2203, except §§ 2203.1, 2203.6, and 2203.13 through 2203.16 (failure to comply with requirements concerning the maternity and newborn service);
- (x) 22 DCMR § 2206.2 (failure to separate pediatric care units from other patient care units and to use them only for infants, children and adolescents);
- (y) 22 DCMR § 2206.3 (failure to ensure that pediatric patients are within view of nursing stations and corridors);
- (z) 22 DCMR § 2206.6 (failure to provide a newborn isolation unit for the pediatric service);
- (aa) 22 DCMR § 2206.8 (failure to locate adolescent patients as far away as practicable from infants and younger children);
- (bb) 22 DCMR § 2207, except §§ 2207.1, 2207.2, and 2207.3 (failure to comply with requirements concerning the psychiatric service);
- (cc) 22 DCMR § 2208.4 (failure to establish a Radiation Protection Committee composed and with duties as specified);
- (dd) 22 DCMR § 2208.6 (failure to provide facilities for the detection and measurement of radiation exposures and dosages);
- (ee) 22 DCMR § 2208.7 (failure to provide walls, equipment, and supplies as required to protect persons subjected to radiation);
- (ff) 22 DCMR § 2210, except §§ 2210.1 through 2210.5 (failure to comply with requirements concerning the surgical service);
- (gg) 22 DCMR § 2211, except §§ 2211.1, 2211.2, and 2211.3 (failure to comply with requirements concerning the outpatient service);
- (hh) 22 DCMR § 2212, except §§ 2212.1 and 2212.2 (failure to comply with requirements concerning the laboratory service);
- (ii) 22 DCMR § 2213, except §§ 2213.1 and 2213.2 (failure to comply with requirements concerning the pharmacy service);
- (jj) 22 DCMR § 2214, except § 2214.3 (failure to comply with requirements concerning the social service department);
- (kk) 22 DCMR § 2215.1 (failure to have a qualified person in charge of the central sterile supply service);

- (ll) 22 DCMR § 2215.2 (failure to provide adequate facilities, services and personnel for the central sterile supply service);
- (mm) 22 DCMR § 2216 (failure to comply with requirements concerning the medical records service);
- (nn) 22 DCMR § 2220 (failure to comply with requirements concerning ancillary services);
- (oo) 22 DCMR § 2300.1 (performing construction, addition, alteration or major repair without government approval);
- (pp) 22 DCMR § 2301, except § 2301.2 (failure to comply with requirements concerning equipment and facilities maintenance and control of sepsis and infection);
- (qq) 22 DCMR § 2302 (failure to comply with requirements concerning facility construction and storage of gases);
- (rr) 22 DCMR § 2304.5 (failure to provide running hot water at above 140 degrees Fahrenheit where required); or
- (ss) 22 DCMR § 2304.9 (failure to provide knee, elbow, or foot controlled water valves as required).

## 3606.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 2002.8 (failure to notify of change in nonresident licensee's agent, manager, or attorney-in-fact);
- (b) 22 DCMR § 2004.5 (failure to frame and post license as required);
- (c) 22 DCMR § 2006.2 (failure to notify of change in ownership, name or location and to submit new application in connection therewith);
- (d) 22 DCMR § 2101.3 (failure to ensure that all persons working in the hospital are familiar with applicable regulations);
- (e) 22 DCMR § 2102, except §§ 2102.1, 2102.4, and 2102.5 (failure to comply with requirements concerning the content of a direct patient care staff member's health examination);
- (f) 22 DCMR § 2103.4 (failure to comply with immunization requirements);

- (g) 22 DCMR § 2109.2 (failure to maintain records, other than medical records, as required);
- (h) 22 DCMR § 2111 (failure to comply with requirements concerning sterilization and laundering);
- (i) 22 DCMR § 2202.3 (failure to provide adequate work area in emergency room as specified);
- (j) 22 DCMR § 2202.4 (failure to provide privacy screening in emergency room as specified);
- (k) 22 DCMR § 2205.5 (failure of medicine service to make resources available for electrocardiograms);
- (l) 22 DCMR § 2206.5 (failure to provide a play room or play area readily available to each patient care unit within the pediatric service);
- (m) 22 DCMR § 2206.7 (failure to provide sufficient and adequately equipped single-occupancy rooms for the pediatric service);
- (n) 22 DCMR § 2208.3 (failure to provide special devices for obstetric roentgenography);
- (o) 22 DCMR § 2208.5 (failure to prominently post radiation protection policies and procedures);
- (p) 22 DCMR § 2214.3 (failure to provide adequate private space within the social services department);
- (q) 22 DCMR § 2215, except § 2215.1 and § 2215.2 (failure to comply with general requirements concerning the central sterile supply service);
- (r) 22 DCMR § 2301.2 (failure to comply with general sanitation and maintenance requirements);
- (s) 22 DCMR § 2304, except § 2304.5 and § 2304.9 (failure to comply with requirements concerning water facilities); or
- (t) 22 DCMR § 2305 (failure to comply with requirements concerning refuse disposal facilities).

3606.4

Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 22 DCMR § 2002.5 (failure to submit an initial or renewal license application timely);

- (b) 22 DCMR §§ 2203.13 through 2203.16 (failure to comply with requirements concerning formula rooms and formula preparation for the maternity and newborn service); or
- (c) 22 DCMR § 2206.4 (failure to provide formula storage and warming facilities within the pediatric service).

**3607 NURSING FACILITY INFRACTIONS**

3607.1 Violation of the following provision shall be a Class 1 infraction:

22 DCMR § 3203.1 (operating a nursing facility without a license).

3607.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 22 DCMR § 3200.1 (failure to comply with requirements concerning a provision in the federal regulations);
- (b) 22 DCMR § 3205 (failure to comply with requirements concerning insurance coverage);
- (c) 22 DCMR § 3207 (failure to comply with requirements concerning physician services and medical supervision);
- (d) 22 DCMR § 3208 (failure to comply with requirements concerning nursing services and Director of Nursing);
- (e) 22 DCMR § 3209 (failure to comply with requirements concerning nursing services supervision);
- (f) 22 DCMR § 3210 (failure to comply with requirements concerning licensed nursing coverage);
- (g) 22 DCMR § 3211 (failure to comply with requirements concerning nursing personnel);
- (h) 22 DCMR § 3212 (failure to comply with requirements concerning temporary nursing personnel);
- (i) 22 DCMR § 3213 (failure to comply with requirements concerning restorative nursing care);
- (j) 22 DCMR § 3215 (failure to comply with requirements concerning ventilator care services);

- (k) 22 DCMR § 3216 (failure to comply with requirements concerning use of restraints);
- (l) 22 DCMR § 3217.6 (failure to ensure that infection control policies are implemented and that environmental services are in compliance);
- (m) 22 DCMR § 3217.8 (failure to report communicable disease);
- (n) 22 DCMR § 3222 (failure to comply with requirements concerning immunizations);
- (o) 22 DCMR § 3223 (failure to comply with requirements concerning rehabilitative services);
- (p) 22 DCMR § 3224 (failure to comply with requirements concerning pharmaceutical services and supervision);
- (q) 22 DCMR § 3225 (failure to comply with requirements concerning physician orders for medications);
- (r) 22 DCMR § 3226 (failure to comply with requirements concerning administration of medication);
- (s) 22 DCMR § 3227 (failure to comply with requirements concerning labeling and storage of medication);
- (t) 22 DCMR § 3235.5 (failure to provide emergency power generator when life support system is used);
- (u) 22 DCMR § 3235.6 (failure to provide emergency power for elevators); or
- (v) 22 DCMR § 3236.4 (failure to maintain water temperature between 95 and 110 degrees Fahrenheit).

3607.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 3201 (failure to comply with requirements concerning administrative management);
- (b) 22 DCMR § 3202 (failure to comply with requirements concerning personnel policies);
- (c) 22 DCMR § 3203, except § 3203.1 (failure to comply with requirements concerning licenses and administrative records);

- (d) 22 DCMR § 3206 (failure to comply with requirements concerning resident care policies);
- (e) 22 DCMR § 3214 (failure to comply with requirements concerning in-service education for nursing personnel);
- (f) 22 DCMR § 3217, except § 3217.6 and § 3217.8 (failure to comply with requirements concerning infection control);
- (g) 22 DCMR § 3218 (failure to comply with requirements concerning dietary supervision);
- (h) 22 DCMR § 3219 (failure to comply with requirements concerning dietary services);
- (i) 22 DCMR § 3220 (failure to comply with general dietary requirements);
- (j) 22 DCMR § 3221 (failure to comply with requirements concerning dietary management and records);
- (k) 22 DCMR § 3228 (failure to comply with requirements concerning podiatry services);
- (l) 22 DCMR § 3229 (failure to comply with requirements concerning social services);
- (m) 22 DCMR § 3230 (failure to comply with requirements concerning resident activities);
- (n) 22 DCMR § 3231 (failure to comply with requirements concerning medical records);
- (o) 22 DCMR § 3232 (failure to comply with requirements concerning incident reporting);
- (p) 22 DCMR § 3233 (failure to comply with requirements concerning grievances);
- (q) 22 DCMR § 3234 (failure to comply with environmental requirements);
- (r) 22 DCMR § 3235, except § 3235.5 and § 3235.6 (failure to comply with requirements concerning electrical systems);
- (s) 22 DCMR § 3236, except § 3236.4 (failure to comply with requirements concerning water supply and distribution);

- (t) 22 DCMR § 3237 (failure to comply with requirements concerning sewage and solid waste disposal);
- (u) 22 DCMR § 3238 (failure to comply with requirements concerning heating and cooling);
- (v) 22 DCMR § 3239 (failure to comply with requirements concerning ventilation and exhaust);
- (w) 22 DCMR § 3240 (failure to comply with requirements concerning acoustical insulation and noise reduction);
- (x) 22 DCMR § 3241 (failure to comply with requirements concerning elevators);
- (y) 22 DCMR § 3242 (failure to comply with requirements concerning walls, ceilings, floors and finishes);
- (z) 22 DCMR § 3243 (failure to comply with requirements concerning ramps, stairs, and corridors);
- (aa) 22 DCMR § 3244 (failure to comply with requirements concerning outdoor space);
- (bb) 22 DCMR § 3245 (failure to comply with requirements concerning nursing unit design);
- (cc) 22 DCMR § 3246 (failure to comply with requirements concerning resident bedrooms);
- (dd) 22 DCMR § 3247 (failure to comply with requirements concerning resident toilets and bathrooms);
- (ee) 22 DCMR § 3248 (failure to comply with requirements concerning refreshment stations);
- (ff) 22 DCMR § 3249 (failure to comply with requirements concerning resident recreation and social areas);
- (gg) 22 DCMR § 3250 (failure to comply with requirements concerning food service areas);
- (hh) 22 DCMR § 3251 (failure to comply with requirements concerning therapy service areas);

- (ii) 22 DCMR § 3252 (failure to comply with requirements concerning resident shopping and grooming areas);
- (jj) 22 DCMR § 3253 (failure to comply with requirements concerning public and staff facilities);
- (kk) 22 DCMR § 3254 (failure to comply with requirements concerning laundry areas);
- (ll) 22 DCMR § 3255 (failure to comply with requirements concerning housekeeping and maintenance);
- (mm) 22 DCMR § 3256 (failure to comply with requirements concerning housekeeping and maintenance services);
- (nn) 22 DCMR § 3257 (failure to comply with requirements concerning pest control);
- (oo) 22 DCMR § 3258 (failure to comply with requirements concerning general safety and inspection);
- (pp) 22 DCMR § 3259 (failure to comply with requirements concerning fire and emergency preparedness);
- (qq) 22 DCMR § 3264 (failure to comply with requirements concerning physical structure and construction); or
- (rr) 22 DCMR § 3265 (failure to comply with requirements concerning wheelchair and handicapped access).

**3608 HOME CARE AGENCY INFRACTIONS**

3608.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 22 DCMR § 3900.2 (operating a home care agency without a license);
- (b) 22 DCMR § 3900.3 (failure of existing agency to apply for licensure within time specified).

3608.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 22 DCMR § 3900.4 (failure to provide at least one required service);
- (b) 22 DCMR § 3900.5 (failure to maintain an operating office within the District of Columbia and to staff that office at least 8 hours per day, Monday through Friday);

- (c) 22 DCMR § 3900.6 (failure to maintain required records within District of Columbia office or to produce records for inspection as specified);
- (d) 22 DCMR § 3900.8 (failure to comply with other applicable federal and District laws and rules);
- (e) 22 DCMR § 3901 (failure to comply with insurance requirements);
- (f) 22 DCMR § 3904 (failure to have a qualified Director or failure of Director to carry out responsibilities);
- (g) 22 DCMR § 3907.8 (knowingly permitting an employee under the influence of drugs or alcohol or carrying a communicable disease to provide home care services);
- (h) 22 DCMR § 3907.9 (failure to ensure that an employee is properly licensed, certified, or registered to provide services);
- (i) 22 DCMR § 3908.3 (failure to properly evaluate a request for home care services);
- (j) 22 DCMR § 3914.1 (failure to develop a patient plan of care);
- (k) 22 DCMR § 3914.2 (failure to obtain physician approval of patient plan of care);
- (l) 22 DCMR § 3916.1 (failure to periodically review, evaluate, and report to physician on skilled care services);
- (m) 22 DCMR § 3916.3 (failure to provide skilled services in accordance with plan of care);
- (n) 22 DCMR § 3917 (failure to comply with requirements concerning skilled nursing services);
- (o) 22 DCMR § 3918 (failure to comply with requirements concerning psychiatric nursing services);
- (p) 22 DCMR § 3919 (failure to comply with requirements concerning monitoring services);
- (q) 22 DCMR § 3920, except § 3920.5 (failure to comply with requirements concerning intravenous therapy services); or

- (r) 22 DCMR § 3924 (failure to comply with requirements concerning restrictions on service to patients requiring special care).

3608.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 3903 (failure to establish a governing body or failure of governing body to comply with specified requirements);
- (b) 22 DCMR § 3905 (failure to develop, implement, and make available policies and procedures);
- (c) 22 DCMR § 3906 (failure to comply with requirements concerning contractor agreements);
- (d) 22 DCMR § 3907.2 (failure to maintain accurate and complete personnel records);
- (e) 22 DCMR § 3907.4 (failure to maintain personnel records within District of Columbia office or to produce records for inspection as specified);
- (f) 22 DCMR § 3907.6 (failure to verify that new employee has been screened for and is free of communicable disease);
- (g) 22 DCMR § 3907.7 (failure to ensure that employee is screened for and certified free of communicable disease annually);
- (h) 22 DCMR § 3907.10 (failure to document professional qualifications of employee or care provider);
- (i) 22 DCMR § 3908.3 (failure to comply with requirements concerning admission policies, procedures and recordkeeping);
- (j) 22 DCMR § 3909 (failure to comply with requirements concerning discharge, transfer or referral);
- (k) 22 DCMR § 3910 (failure to comply with requirements concerning records retention and disposal);
- (l) 22 DCMR § 3911 (failure to comply with requirements concerning clinical records);
- (m) 22 DCMR § 3914, except § 3914.1 and § 3914.2 (failure to comply with requirements concerning content of patient plan of care);
- (n) 22 DCMR § 3915 (failure to comply with requirements concerning home health aide and personal care aide services);

- (o) 22 DCMR § 3916.2 (failure to develop and implement policies for documentation of coordination of skilled services);
- (p) 22 DCMR § 3920.5 (failure to comply with policies and procedures requirements for intravenous therapy);
- (q) 22 DCMR § 3921 (failure to comply with requirements concerning nutritional support services);
- (r) 22 DCMR § 3922 (failure to comply with requirements concerning occupational therapy services);
- (s) 22 DCMR § 3923 (failure to comply with requirements concerning physical therapy services);
- (t) 22 DCMR § 3925 (failure to comply with requirements concerning speech language pathology services); or
- (u) 22 DCMR § 3926 (failure to comply with requirements concerning social services).

3608.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 22 DCMR § 3900.7 (failure to post license conspicuously);
- (b) 22 DCMR § 3907.1 (failure to have and make available written personnel policies as specified);
- (c) 22 DCMR § 3907.5 (failure to permit employee to review personnel records);
- (d) 22 DCMR § 3907.11 (failure to ensure that employee or contract worker presents valid agency identification before entering patient's home);
- (e) 22 DCMR § 3912 (failure to comply with requirements concerning patient rights and responsibilities); or
- (f) 22 DCMR § 3913 (failure to comply with requirements concerning complaint process).

**3609 BACKGROUND CHECKS FOR HEALTH-CARE WORKERS  
INFRACTIONS**

3609.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 22 DCMR § 4701.1(a) (employing or using the contract services of a person convicted of a listed offense);
- (b) 22 DCMR § 4705.1 (employing or using the contract services of a person convicted of a listed offense);
- (c) 22 DCMR § 4701.1(b) (employing or using the contract services of a person listed on the Nurse Aide Abuse Registry);
- (d) 22 DCMR § 4703.2 (continuing to employ or use the contract services of a current staff member if a background check reveals a conviction for a listed offense); or
- (e) 22 DCMR § 4705.2 (employing or using the contract services of a person convicted of a listed misdemeanor offense unless the specified requirements for employment are met).

3609.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 22 DCMR § 4701.2 (failure to obtain a criminal background check and/or a Nurse Aide Abuse Registry check before employing or using the contract services of a covered person);
- (b) 22 DCMR § 4704.1(d) (failure to maintain documentation of an employee's criminal background check results);
- (c) 22 DCMR § 4704.1(e) (failure to maintain documentation of an employee's Nurse Aide Abuse Registry check results); or
- (d) 22 DCMR § 4705.3 (failure to verify whether a person convicted of a misdemeanor meets the specified requirements for employment).

3609.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 4701.5 (failure to obtain a complete criminal background check as specified before employing an individual);
- (b) 22 DCMR § 4704.2 (improper disclosure of criminal background check records);
- (c) 22 DCMR § 4704.3 (failure to manage recordkeeping and disclosure of Nurse Aide Abuse Registry information in compliance with the Abuse Registry rules);

- (d) 22 DCMR § 4704.4 (failure to maintain an employee's criminal background records for 1 year following the end of that person's employment).

3609.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 22 DCMR § 4701.3 (failure to inform an applicant of the background check requirement, or to obtain the information necessary for the performance of the check, before offering employment);
- (b) 22 DCMR § 4704.1(a) (failure to maintain documentation of an employee's date of hire);
- (c) 22 DCMR § 4704.1(b) (failure to maintain documentation of the date a background check was requested for an employee);
- (d) 22 DCMR § 4704.1(c) (failure to maintain documentation of the date the background check results for an employee were received);
- (e) 22 DCMR § 4704.1(f) (failure to maintain documentation of any sworn statements submitted by an employee related to his or her background check); or
- (f) 22 DCMR § 4704.1(g) (failure to maintain documentation of any action taken by the employer facility as a result of information obtained from a background check).

**3610-3614 RESERVED**

**3615 PHARMACY AND MEDICAL DEVICES INFRACTIONS**

3615.1 Violation of any of the following provisions of D.C. Official Code § 47-2885.01 *et seq.* (Operation of Pharmacy) shall be a Class 1 infraction:

- (a) D.C. Official Code § 47-2885.03(d) (operating, maintaining, opening or establishing a pharmacy within the District of Columbia without a license or registration issued by the Mayor);
- (b) D.C. Official Code § 47-2885.03(f) (using or having upon it, or displaying within it, or affixing or using in connection with it, a sign bearing the word or words "pharmacy," "apothecary," "drugstore," "druggist," or any word or words of similar or like import which tends to indicate that the practice of pharmacy is being conducted in the establishment or institution);

- (c) D.C. Official Code § 47-2885.08(c) (using a pharmacy license for a location other than the one specified on the license);
- (d) D.C. Official Code § 47-2885.09(d) (failure to report a burglary or damage to a pharmacy or its contents by fire, flood, or other cause; or dispensing, selling, or giving away a drug or other merchandise damaged by fire, flood, or other cause prior to approval);
- (e) D.C. Official Code § 47-2885.10(a)(2) (furnishing false or misleading information to the Mayor, failing to furnish information requested by the Mayor);
- (f) D.C. Official Code § 47-2885.10(a)(3) (selling or offering for sale an adulterated or misbranded drug or device); or
- (g) D.C. Official Code § 47-2885.12) (failure to comply with provision governing the bulk sale or transfer of drugs or medical devices).

3615.2 Violation of any of the following provisions of D.C. Official Code § 47-2885.01 *et seq.* (Operation of Pharmacy) shall be a Class 2 infraction:

- (a) D.C. Official Code § 47-2885.08(b) (failure to renew a pharmacy license);
- (b) D.C. Official Code § 47-2885.08(d) (transferring a pharmacy license);
- (c) D.C. Official Code § 47-2885.08(f) (failure to surrender a pharmacy license when a change of proprietorship occurs);
- (d) D.C. Official Code § 47-2885.09(b) (failure of pharmacist on duty to control all professional aspects of the practice of pharmacy, or allowing any usurpation, in reference or impairment of the exercise of professional judgment of the pharmacist on duty by a non-pharmacist proprietor or personnel);
- (e) D.C. Official Code § 47-2885.09(c)(1) (failure of pharmacist on duty to securely enclose a pharmacy area to prevent unauthorized access to pharmacy areas and to prevent the diversion of drugs stored in pharmacy areas);
- (f) D.C. Official Code § 47-2885.09(c)(2) (failure to substantially construct the pharmacy and any storage area for prescription drugs outside of the pharmacy);
- (g) D.C. Official Code § 47-2885.09(c)(3) (failure of pharmacist on duty to securely lock and restrict access to pharmacy area to unauthorized persons);

- (h) D.C. Official Code § 47-2885.09(c)(4) (failure to keep the key or keys to the pharmacy areas under the control or in the possession of the pharmacist on duty or the proprietor of the pharmacy);
- (i) D.C. Official Code § 47-2885.10(a)(1) (failure to notify Mayor of a conviction of a felony or violation of a law or regulation of the District of Columbia or the United States relating to drugs by a person named in the application for pharmacy licensure);
- (j) D.C. Official Code § 47-2885.11(a)(1) (pharmacy personnel actively engaged in any work, which includes contact with any merchandise or drugs in a pharmacy or the care of dispensing, manufacturing, or storage facilities, in a pharmacy who is affected by, or is believed by the Mayor, upon reasonable grounds to be infected by a communicable disease, or to be a carrier of a communicable disease in any capacity dispensing, manufacturing, or storing merchandise or drugs when infected with a communicable disease);
- (k) D.C. Official Code § 47-2885.11(a)(2) (intentionally permitting a person to engage in work activities while infected with a communicable disease);
- (l) D.C. Official Code § 47-2885.11(b)(1) (working in any capacity in a pharmacy when infected with a boil, infectious wound, sore or an acute respiratory infection);
- (m) D.C. Official Code § 47-2885.11(b)(3) (working in any capacity in a pharmacy when suffering from chronic alcoholism);
- (n) D.C. Official Code § 47-2885.11(b)(4) (working in any capacity in a pharmacy without following hygienic work practices);
- (o) D.C. Official Code § 47-2885.13(a) (failure to store drugs under conditions specified on the label of the original container and in accordance with applicable District of Columbia or federal laws or regulations);
- (p) D.C. Official Code § 47-2885.13(a) (selling or dispensing drugs after the expiration date designated on the label of the original container, and in accordance with applicable District of Columbia or federal laws or regulations);
- (q) D.C. Official Code § 47-2885.13(b) (selling drugs designated as "sample");

- (r) D.C. Official Code § 47-2885.13(c) (placing in stock for reuse or resale a drug which has been returned after leaving the pharmacy, except manufacturer packaged unit dose or unit of use drugs which have been unopened and unaltered);
- (s) D.C. Official Code § 47-2885.14 (failure of pharmacy to dispense a drug in a suitable container appropriately labeled for subsequent administration to, or use by an individual entitled to the drug);
- (t) D.C. Official Code § 47-2885.14 (failure of pharmacy to dispense a drug, except to inpatients of a licensed hospital, with the following information included on the label of the container: (1) the name and strength of the drug, when applicable unless otherwise directed by the prescribing practitioner, (2) the name and address and telephone number of the pharmacy filing the prescription, (3) the prescription number, (4) the date of issuance and the name of the prescriber, (5) directions for use, (6) the name of the individual for whom the prescription is written, and (7) other information and labeling which may be required by any District of Columbia or federal laws or regulations);
- (u) D.C. Official Code § 47-2885.16 (refusing to allow entry into any pharmacy or drug outlet for the purpose of making inspections to determine compliance with this chapter or with other laws or regulations applicable to the practice of pharmacy, at reasonable times); or
- (v) 22 DCMR §§ 1908.1 through 1908.8 (performing professional services under unsanitary conditions).

3615.3

Violation of any of the following provisions of D.C. Official Code § 47-2885.15 (Pharmacy Records – All Prescriptions) shall be a Class 2 infraction:

- (a) D.C. Official Code § 47-2885.15(a) and § 47-2885.15(c) (failure to maintain in every pharmacy, or in the establishment or institution where a pharmacy is located, a suitable book, file, or other easily retrievable record, for a period of not less than two (2) years for every prescription compounded dispensed at the pharmacy for inspection, during regular business hours);
- (b) D.C. Official Code § 47-2885.15(b)(1)) and § 47-2885.15(c) (failure to maintain in every pharmacy, or in the establishment or institution where a pharmacy is located, bound volumes recording the information required by law or regulation concerning the over-the-counter sales of those drugs which are listed in Schedule V established or amended pursuant to the federal Comprehensive Drug Abuse Prevention and Control act of 1970 (21 U.S.C. § 801 et seq). for inspection, during regular business hours);

- (c) D.C. Official Code § 47-2885.15(b)(2)(A) and § 47-2885.15(c) (failure to maintain a bound volume containing similar information concerning each sale of hypodermic syringes, needles, or other medical devices which may be used in the administration of controlled substances for inspection, during regular business hours);
- (d) D.C. Official Code § 47-2885.15(b)(2)(B) and § 47-2885.15(c) (failure to maintain a bound volume containing similar information concerning each sale of gelatin capsules and glassine envelopes in quantities sufficient to indicate an intention to use such items in the distribution of controlled substances for inspection, during regular business hours);
- (e) D.C. Official Code § 47-2885.15(b)(2)(C); and § 47-2885.15(c) (failure to maintain a bound volume containing similar information concerning each sale of diluents or adulterants, such as lactose or quinine, in quantities sufficient to indicate an intention to use such substances for the illegal distribution or dispensing of any controlled substance for inspection, during regular business hours); or
- (f) Section 6 of An Act Relating to the adulteration of foods and drugs in the District of Columbia, approved Feb. 17, 1898 (30 Stat. 247, Ch. 25; D.C. Official Code § 48-106) (failure to furnish a sufficient sample of any drug or article of food for analysis).

3615.4 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) Sections 1006a (a)(1) through (a)(6) and (a)(8) of the District of Columbia Health Occupations Revision Act of 1985, as added April 26, 1994 (D.C. Law 10-102; **D.C. Official Code § 3-1210.06a (a)(1) through (a)(6); and § 3-1210.06a.(a)(8)**) (failing to consult with medical assistance recipient or caregivers who presents an original prescription order for outpatient drugs);
- (b) Section 1006a (c)(1) of the District of Columbia Health Occupations Revision Act of 1985 (**D.C. Official Code § 3-1210.06a (c)(1)**) (failure to document the refusal for a consultation by a Medical Assistance Recipient or Caregiver);
- (c) D.C. Code § 47-2885.09(a) (failure to post his or her license in a conspicuous place while on duty);
- (d) (D.C. Code § 47-2885.09(a) (failure to conspicuously display on the outside of the pharmacy the hours that the pharmacy is open for business));
- (e) D.C. Code § 47-2885.09(c)(1) (failure to securely enclose the pharmacy areas);

- (f) D.C. Code § 47-2885.09(c)(2); and § 47-2885.09(c)(3) (failure to substantially construct, securely lock, or restrict access to the pharmacy and any areas where prescription drugs are stored to pharmacists, the proprietor, or persons authorized by a pharmacist with the consent of the proprietor);
- (g) Section 3 of the District of Columbia Prescription Drug Price Information Act effective Sept. 10, 1976 (D.C. Law 1-81; **D.C. Official Code § 48-801.03**) (failure to post current selling price for the 100 most commonly used prescription drugs and related data); or
- (h) 22 DCMR § 1909.3 (failure to post conspicuously in the vicinity of the pharmacy practice area: the pharmacy license, federal and District controlled substances registrations, licenses of pharmacists on duty, certificate of occupancy; and certificates of registration of pharmacy interns).

## 3616

**CONTROLLED SUBSTANCES INFRACTIONS**

## 3616.1

Violation of any of the following provisions shall be a Class 1 infraction:

- (a) D.C. Official Code § 47-2885.15(a) and § 47-2885.15(c) (failure to maintain in every pharmacy, or in the establishment or institution where a pharmacy is located, a suitable book, file, or other easily retrievable record, for a period of not less than two (2) years for every prescription compounded dispensed at the pharmacy for inspection, during regular business hours);
- (b) D.C. Official Code § 47-2885.15(b)(1) and § 47-2885.15(c) (failure to maintain in every pharmacy, or in the establishment or institution where a pharmacy is located, bound volumes recording the information required by law or regulation concerning the over-the-counter sales of those drugs which are listed in Schedule V established or amended pursuant to the federal Comprehensive Drug Abuse Prevention and Control act of 1970 (21 U.S.C. § 801 et seq. for inspection, during regular business hours);
- (c) D.C. Official Code § 47-2885.15(b)(2)(A) and § 47-2885.15(c) (failure to maintain in every pharmacy, or in the establishment or institution where a pharmacy is located, bound volumes recording the information required by law or regulation concerning hypodermic syringes, needles, or other medical devices for inspection, during regular business hours);
- (d) D.C. Official Code § 47-2885.15(b)(2)(B) and § 47-2885.15(c) (failure to maintain in every pharmacy, or in the establishment or institution where a pharmacy is located, bound volumes recording the information required by

- law or regulation concerning gelatin capsules for inspection, during regular business hours);
- (e) D.C. Official Code § 47-2885.15(b)(2)(C) and § 47-2885.15(c) (failure to maintain in every pharmacy, or in the establishment or institution where a pharmacy is located, bound volumes recording the information required by law or regulation concerning diluents of adulterants for inspection, during regular business hours);
  - (f) 22 DCMR § 1007.1 (using a controlled substances registration for a location other than the one specified on the registration);
  - (g) 22 DCMR § 1502.1 (failure of registrant to keep records, maintain inventories and file reports in conformance with the requirements of federal law, including the requirements prescribed under 21 CFR, Part 1304);
  - (h) 22 DCMR § 1503.1 (failure of pharmacies to maintain invoices, prescription files, and other records required by federal and District of Columbia laws and regulations);
  - (i) 22 DCMR § 1503.2 (failure of medical, dental, and veterinary practitioners to maintain invoices, prescription files, and other records required by federal and District of Columbia laws and regulations);
  - (j) 22 DCMR § 1503.3 (failure of manufacturers and distributors (including wholesalers) to maintain invoices received and distributed and other records required by federal and District of Columbia laws and regulations);
  - (k) 22 DCMR § 1505.1 (failure to retain all records required by 22 DCMR, Chapter 15 for a period of at least two (2) years);
  - (l) 22 DCMR § 1913.1 (failure of registrant (pharmacy, hospital, clinic, ambulatory surgery center or any other medical treatment facility or establishment) to dispense a controlled substance on an outpatient basis without a label affixed to the container with the information as specified in subsections 1913.1(a) through (g); or
  - (m) 22 DCMR § 1920.1 (failure of registrant to immediately report to the Department a burglary, robbery, thief, loss, or damage involving due to fire, flood, or other causes).

3616.2 Violation of any of the following provisions of 22 DCMR Chapters 13 and 15 (Schedule I or II – DEA Order Forms) shall be a Class 1 infraction:

- (a) 22 DCMR § 1305.7 (failure to obtain original prescriptions within 72 hours for emergency oral orders); or
- (b) 22 DCMR § 1504.1 (failure of registrant to distribute controlled substances in Schedule I and II to another registrant only pursuant to an order form).

3616.3 Violation of any of the following provisions of 22 DCMR Chapter 13 (Schedules III, IV, and V – DEA Order Forms) shall be a Class 1 infraction:

- (a) 22 DCMR § 1310.1 (filling or refilling a prescription for controlled substance listed in Schedule III, IV, or V more than 6 months after the date on which prescription was issued);
- (b) 22 DCMR § 1310.2 (refilling a prescription for controlled substance more than 5 times);
- (c) 22 DCMR § 1314.1(b) (dispensing a controlled substance listed in Schedule II, III, IV, or V without a prescription to a purchaser at retail in a quantity greater than 240cc (8 oz.) or 48 dosage unit of any controlled substance containing opium to same purchaser in 48 hour period without prescription); or
- (d) 22 DCMR § 1314.1(b) (dispensing a controlled substance listed in Schedule II, III, IV, or V without a prescription to a purchaser at retail in a quantity greater than 120cc (4 oz.) or 24 dosage unit of any controlled substance to same purchaser in 48 hour period without prescription).

3617-3619 **RESERVED**

3620 **FOOD & FOOD OPERATIONS INFRACTIONS**

3620.1 **Reserved**

3620.2 **Reserved**

3620.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 25 DCMR § 200.3 or § 200.4 (failure of licensee to employ a full-time person in charge who is present at the food establishment during all hours of operation);
- (b) 25 DCMR § 200.3 or § 200.4 (failure of licensee to employ a full-time person in charge who is a certified food manager recognized by the Department);

- (c) 25 DCMR § 3210.1 (failure to minimize the presence of rodents on the premises, as specified in §§ 3210.1(a) through (d));
- (d) 25 DCMR § 4409.1 (operating a food establishment with an interruption of water service resulting in insufficient capacity to meet water demands throughout the establishment);
- (e) 25 DCMR § 4409.1 (operating a food establishment with extensive fire damage that affects the establishment's ability to operate in compliance with the Food Code);
- (f) 25 DCMR § 4409.1 (operating a food establishment with a sewage backup);
- (g) 25 DCMR § 4409.1 (operating a food establishment with an extended interruption of electrical service that affects the establishment's ability to operate in compliance with the Food Code);
- (h) 25 DCMR § 4409.1 (operating a food establishment with serious flood damage affecting the establishment's ability to operate in compliance with the Food Code);
- (i) 25 DCMR § 4409.1 (misuse of poisonous or toxic materials in a food establishment);
- (j) 25 DCMR § 4409.1 (operating a food establishment with gross insanitary occurrence or condition that may endanger public health including, but not limited to, heavy infestation of vermin);
- (k) 25 DCMR § 4409 (operating a food establishment with circumstances that may endanger public health including, but not limited to, no hot water, or incorrect hot and cold holding temperatures for potentially hazardous foods that do not comply with the Food Code and cannot be corrected during the course of the inspection);
- (l) 25 DCMR § 4300.1 (operating a food establishment without a valid license issued by the Mayor, unless exempted under 25 DCMR § 99);
- (m) 25 DCMR § 4402.1 (failure to allow access to DOH during the food establishment's hours of operation and other reasonable times as determined by DOH, for one or more purposes identified in subsection § 4402.1(a) through (c));

- (n) Section 1 of An Act Relating to the adulteration of foods and drugs in the District of Columbia, approved February 17, 1898 (30 Stat. 246; **D.C. Official Code § 48-101**) (selling, exchanging, or delivering, or having in his or her custody or possession with the intent to sell or exchange, or expose or offer for sale or exchange, any article of food or drug which is adulterated within the meaning of this chapter);
- (o) Section 8 of An Act Relating to the adulteration of foods and drugs in the District of Columbia, effective May 2, 2002 (D. C. Law 14-116; **D.C. Official Code § 48-108**) (hindering, obstructing, or in any way interfering with any inspector, or other authorized personnel of DOH in the performance of his duty in carrying out the provisions of Food, Chapter 1-Adulteration); or
- (p) Section 4a (a) or (b) of the District of Columbia Smoking Restriction Act of 1979, effective March 29, 1988 (D.C. Law 7-100; **D.C. Official Code § 7-1703.01(a) or §7-1703.01(b)**) (failure to designate a non-smoking area in a restaurant with a capacity of 50 or more).

3620.4

Violation of any of the following provisions of 25 DCMR Chapters 2 through 5 (Subtitle B: Management and Personnel) shall be a Class 4 infraction:

- (a) 25 DCMR § 201 (failure to demonstrate knowledge);
- (b) 25 DCMR § 300.1 (failure of licensee to require food employees and food employee applicants to report to the person in charge information about their health and activities as they relate to diseases that are transmissible through food);
- (c) 25 DCMR § 301.1 (failure to exclude a food employee from a food establishment when the food employee is diagnosed with an infectious agent specified in § 300.3);
- (d) 25 DCMR § 301.2 (failure to restrict a food employee from working with exposed food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles when the food employee is suffering from a symptom specified in § 300.4, or has a stool that yields a specimen culture that is positive for *Salmonella Typhi*, *Shigella spp.*, or *Escherichia coli 0157:H7*);
- (e) 25 DCMR § 301.3 (failure to exclude a food employee working with a highly susceptible population when the employee is experiencing symptoms, conditions or history of illness specified in § 300.4);
- (f) 25 DCMR § 301.4(a) (failure to exclude a food employee who is jaundiced from the food establishment when the onset of jaundice

occurred within seven (7) calendar days of the licensee being put on notice of the employee's symptoms);

- (g) 25 DCMR § 301.4(b) (failure to exclude a food employee who is jaundiced from a food establishment that serves a highly susceptible population when the onset of jaundice occurred more than seven (7) calendar days of the licensee being put on notice of the employee's symptoms);
- (h) 25 DCMR § 301.4(c) (failure to restrict a food employee who is jaundiced from activities specified in § 301.2 when the food establishment does not serve a highly susceptible population);
- (i) 25 DCMR § 500.1 (except as specified in § 500.2, failure to prohibit an employee from eating, drinking, or using any form of tobacco in areas where the contamination of exposed food, clean equipment, utensils, linens, unwrapped single-service and single-use articles, or other items needing protection can result);
- (j) 25 DCMR § 501.1 (failure to prohibit food employees who are experiencing persistent sneezing, coughing, or runny nose that causes discharges from the eyes, nose, or mouth from working with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles); or
- (k) 25 DCMR § 503.1 (except as specified in § 503.2, failure to prohibit food employees from caring for, or handling animals that are allowed on the premises of a food establishment pursuant to §§ 3214.2(b) through (e)).

3620.5

Violation of any of the following provisions of 25 DCMR Chapters 6 through 13 (Subtitle C: Food) shall be a Class 4 infraction:

- (a) 25 DCMR § 600 or 25 DCMR §§ 700 through 706 (prohibited sale of, use of, or offer for sale of food that is from an unapproved source);
- (b) 25 DCMR § 707.1 through § 707.5 (receiving potentially hazardous food that is not at the required temperature);
- (c) 25 DCMR § 708.1 (receiving food that contains unapproved additives or additives that exceed amounts specified in 21 CFR 170 through 180; 21 CFR 181 through 186; and 9 CFR Subpart C Section 424.21(b));
- (d) 25 DCMR § 709.1 (receiving shell eggs that are not clean and sound and that exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in 7 CFR Part 56, and 9 CFR Part 590);

- (e) 25 DCMR §§ 710.1 through 710.4 (receiving egg and milk products that are not pasteurized as specified by the USDA at 21 CFR 135; and 21 CFR 133);
- (f) 25 DCMR § 711.1 (receiving food packages that are not in good condition so that the food is exposed to adulteration or potential contaminants);
- (g) 25 DCMR § 712.1 (receiving ice for use as a food or a cooling medium that is not made from drinking water);
- (h) 25 DCMR §§ 714.1 through 714.3 (receiving shellstock in containers that do not bear legible source identification tags or labels that are affixed by the harvester and each dealer that depurates, ships, or reships the shellstock, as specified in the Food Code);
- (i) 25 DCMR § 717.1 (except as specified in section § 717.3, failure to ensure that shellstock tags remain attached to the container in which the shellstock was received until the container is empty);
- (j) 25 DCMR § 717.2 (failure to retain shellstock tags or labels for ninety (90) calendar days from the date the container is emptied using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the shellstock are sold or served);
- (k) 25 DCMR § § 800.1 (failure to prevent food employees from contaminating ready-to-eat food with his or her bare hands as specified in sections §§ 800.1 through 800.4);
- (l) 25 DCMR § 801.1 (failure to prevent food employees from contaminating food by using a utensil more than once to taste food that is to be sold or reserved);
- (m) 25 DCMR § 802.1 (failure to protect food from cross contamination as specified in subsections §§ 802.1(a) through (h));
- (n) 25 DCMR § 804.1 (failure to substitute pasteurized eggs or egg products for raw shell eggs in the preparation of foods as specified in subsections §§ 804.1(a) through (b));
- (o) 25 DCMR § 805.1 (failure to protect food from contamination that may result from the addition of unsafe or unapproved food or color additives, or unsafe or unapproved levels of approved food and color additives);
- (p) 25 DCMR § 805.2 (failure to protect food from contamination by employees applying sulfiting agents to fresh fruit and vegetables intended

- for raw consumption or to a food considered to be a good source of vitamin B<sub>1</sub>, or employees serving or selling food, except for grapes, that is treated with sulfiting agents before receipt by the food establishment);
- (q) 25 DCMR § 809.1 (failure to prevent contamination of food through contact with equipment and utensils that are not cleaned as specified in Chapter 19 and sanitized as specified in Chapter 20 of the Food Code);
  - (r) 25 DCMR §§ 822.1 through 822.3 or 25 DCMR §§ 823.1 through 823.2 (failure to protect food from contamination by consumers);
  - (s) 25 DCMR §§ 900.1 through 900.4 (failure to cook raw animal foods such as eggs, fish, meat, poultry, and foods containing raw animal foods at required temperatures and holding times);
  - (t) 25 DCMR § 901.1 (failure to properly cook raw animal foods in a microwave as specified in subsections § 901.1(a) through (d));
  - (u) 25 DCMR § 903.1 (except as specified in section § 903.2, failure to freeze throughout raw, raw-marinated, partially cooked, or marinated-partially cooked fish other than molluscan shellfish at required temperatures and time controls);
  - (v) 25 DCMR §§ 906.1 through 906.5 (except as provided, failure to heat ready-to-eat foods or to reheat potentially hazardous foods for hot holding at required temperatures and time controls);
  - (w) 25 DCMR § 1003 through 1006 (failure to comply with required temperatures and time controls for cooling methods for hot and cold holding and for food display);
  - (x) 25 DCMR § 1007.1 through 1007.6 (failure to clearly date mark at the time of preparation ready-to-eat, potentially hazardous foods held refrigerated at required temperatures and time controls for more than twenty-four (24) hours);
  - (y) 25 DCMR § 1008 (failure to discard ready-to-eat, potentially hazardous foods, prepared and held refrigerated at required temperatures and time controls for more than twenty-four (24) hours, which was not consumed within the time specified in section § 1008);
  - (z) 25 DCMR § 1009 (failure to comply with requirements when using time as a public health control);
  - (aa) 25 DCMR § 1010.1 or 25 DCMR § 4102 (failure to obtain a variance before smoking food as a flavor enhancement, curing food, brewing

alcoholic beverages, using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement or to render a food so that it is not potentially hazardous);

- (bb) 25 DCMR § 1010.2 or 25 DCMR § 4102 (failure to obtain a variance before packaging food using a reduced oxygen method of packaging except as specified in section 1011 where a barrier to *Clostridium botulinum* in addition to refrigeration exists, before custom processing animals that are for personal use as food and not for sale or service in a food establishment, or before preparing food by another method that is determined by the Department to require a variance);
- (cc) 25 DCMR § 1011.1 (failure to ensure that there are at least two (2) barriers in place to control the growth and toxin formation of *Clostridium botulinum* where a food establishment packages foods using a reduced oxygen method of packaging and *Clostridium botulinum* is identified as a microbiological hazard in the final packaged form);
- (dd) 25 DCMR § 1011.2; and 25 DCMR § 4205.1(d) (failure to have a HACCP Plan and maintain specific information as required where a food establishment packages foods using a reduced oxygen packaging methods and *Clostridium botulinum* is identified as a microbiological hazard in the final packaged form);
- (ee) 25 DCMR § 1105.1 (except as specified in §§ 900.3, 900.4 and 1300.1(d), failure to notify consumers of the potential health risks associated with eating animal food that is raw, undercooked, or not otherwise processed to eliminate pathogens where the food establishment offers such foods in ready-to-eat form or as a raw ingredient in another ready-to-eat food);
- (ff) 25 DCMR § 1200.1 (failure to discard or recondition food that is unsafe, adulterated, or not honestly presented as specified in section 600);
- (gg) 25 DCMR § 1200.2 (failure to discard food that is not from an approved source as specified in §§ 700 through 706);
- (hh) 25 DCMR § 1200.3 (failure to discard ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified in § 301);
- (ii) 25 DCMR § 1200.4 (failure to discard food that is contaminated by food employees, consumers, or other persons through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means); or

- (jj) 25 DCMR § 1300 (failure of food establishment that serves a highly susceptible population to comply with specialized requirements for serving, re-serving or offering food for sale).

3620.6

Violation of any of the following provisions of 25 DCMR Chapters 14 through 22 (Subtitle D: Equipment, Utensils, and Linen) shall be a Class 4 infraction:

- (a) 25 DCMR § 1400.1 or 25 DCMR § 1411 (failure to use utensils and food-contact surfaces of equipment, and single-service and single-use articles that meet the requirements of §§ 1400.1 and 1411 as specified in §§ 1400.1(a) through (e));
- (b) 25 DCMR § 1403.1 (improper use of copper and copper alloy such as brass in contact with acidic food that has a pH below six (6) such as vinegar, fruit juice, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator, except as specified in § 1403.2);
- (c) 25 DCMR § 1404.1 (improper use of galvanized metal for utensils or food-contact surfaces or equipment that are used in contact with acidic food that has a pH below (six) 6 such as vinegar, fruit juice or wine);
- (d) 25 DCMR § 1501.1 (improper use of food temperature measuring devices with sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used);
- (e) 25 DCMR § 1502.1 (failure to use multi-use food-contact surfaces that are smooth, free of breaks, open seams, cracks, chips, pits, and similar imperfections; free of sharp internal angles, corners, and crevices; and that have smooth welds and joints);
- (f) 25 DCMR § 1502.2 (failure to use multi-use food-contact surfaces that are accessible for cleaning and inspection by one of the methods specified in § 1502.2(a) through (c));
- (g) 25 DCMR § 1523.1 (use of a machine vending potentially hazardous food that is not equipped with an automatic control that prevents the machine from vending food if there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that cannot maintain food temperatures as specified in the Food Code until the machine is serviced and restocked with food that has been maintained at temperatures specified in the Food Code);

- (h) 25 DCMR § 1810.1 (failure to maintain the temperature of the water at 77°C (171°F) or above when immersion in hot water is used for sanitizing equipment in a manual operation);
- (i) 25 DCMR § 1813.1 (failure to use a chemical sanitizer in a sanitizing solution for a manual or mechanical operation at exposure times specified in § 2002.2 that is listed in 21 CFR 178.1010—sanitizing solutions, and that is used in accordance with the EPA-approved manufacturer's label use instructions);
- (j) 25 DCMR § 1813.2 (failure to use a chlorine solution that has a minimum temperature based on the concentration and pH of the solutions listed in the chart);
- (k) 25 DCMR § 1813.3 (failure to use an iodine solution as specified in §§ 1813.3(a) through (c));
- (l) 25 DCMR § 1813.4 (failure to use a quaternary ammonium compound solution as specified in subsections 1813.4(a) through (c));
- (m) 25 DCMR § 1817.1 (failure of food establishment operating without facilities specified in the Food Code for cleaning and sanitizing kitchenware and tableware to provide only single-use kitchenware, single-service articles, and single-use articles for use by food employees and single-service articles for use by consumers);
- (n) 25 DCMR § 1900.1 (failure to keep equipment food-contact surfaces, and utensils clean to sight and touch);
- (o) 25 DCMR § 1900.2 (failure to keep food-contact surfaces of cooking equipment and pans free of encrusted grease deposits, and other soil accumulations);
- (p) 25 DCMR § 1900.3 (failure to keep nonfood-contact surfaces of equipment free of an accumulation of dust, dirt, food residue, and other debris);
- (q) 25 DCMR §§ 1901.1 through 1901.5 (failure to clean equipment food-contact surfaces, and utensils as specified);
- (r) 25 DCMR §§ 1910.1 through 1910.3 (failure to meet the requirements for cleaning and refilling empty containers intended to be cleaned and refilled); or

- (s) 25 DCMR §§ 2001 through 2002 (failure to sanitize equipment, food-contact surfaces, and utensils before use after cleaning at the required temperature and hold time, frequency, and methods).

3620.7

Violation of any of the following provisions of 25 DCMR Chapters 23 through 27 (Subtitle E: Water, Plumbing, and Waste) shall be a Class 4 infraction:

- (a) 25 DCMR § 2300.1, 25 DCMR § 2302.1, or § 25 DCMR § 2304.1 (use of drinking water from a system other than the District of Columbia public water system or other approved sources);
- (b) 25 DCMR § 2301.1 (failure to flush and disinfect drinking water system before placing it in service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system);
- (c) 25 DCMR § 2304.2 (failure to use nondrinking water for nonculinary purposes only);
- (d) 25 DCMR § 2305.1 (failure to use a water source and system that is of sufficient capacity to meet the water demands of the food establishment);
- (e) 25 DCMR § 2305.2 (failure to use a hot water generation and distribution systems that are of sufficient capacity to meet peak hot water demands throughout the food establishment);
- (f) 25 DCMR § 2400.1 (use of a plumbing system and hoses conveying water that are not constructed and repaired with approved materials according to the accepted code of practice);
- (g) 25 DCMR § 2400.2 (use of a water filter that is not made of safe materials);
- (h) 25 DCMR § 2401.1 (use of a plumbing system that is not designed, constructed, and installed according to the accepted code of practice);
- (i) 25 DCMR § 2403.1 (failure to use an air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment that is at least twice the diameter of the water supply inlet and that is not less than twenty-five millimeters (25mm) or one inch (1in.));
- (j) 25 DCMR §§ 2406 through 2407 (failure to provide hand washing lavatories for employees' use as specified in § 2411, in accordance with accepted code of practice);

- (k) 25 DCMR § 2409.1 (failure to install a plumbing system that precludes backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment, as specified in § 2409.1);
- (l) 25 DCMR §§ 2411.1 through 2411.7 (failure to locate a hand washing lavatory to allow convenient use by employees in food preparation, food dispensing, and ware washing areas and in, or immediately adjacent to, toilet rooms);
- (m) 25 DCMR § 2415.1 (operating with a prohibited cross-connection by connecting a pipe or conduit between the drinking water system and a nondrinking water system or a water system of unknown quality);
- (n) 25 DCMR §§ 2417.1 through 2417.2 (failure to clean and maintain a reservoir that is used to supply water to a device such as a defogger in accordance with manufacturer's specifications or in accordance with the procedures specified in § 2712.2, whichever is more stringent);
- (o) 25 DCMR § 2418.1 (failure to maintain and operate a plumbing system in good repair in accordance with the accepted code of practice);
- (p) 25 DCMR § 2510.1 (failure to flush and sanitize a water tank, pump, and hoses before being placed in service after construction, repair, modification, and periods of nonuse);
- (q) 25 DCMR § 2602 (prohibited use of a direct connection between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed, excepted as specified in §§ 2602.2 and 2602.3);
- (r) 25 DCMR § § 2604.1 (failure to convey sewage to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated in accordance with the accepted code of practice);
- (s) 25 DCMR § 2607.1 (failure to dispose of sewage through an approved facility that is a public sewage treatment plant or an individual sewage disposal system that is sized, constructed, maintained, and operated in accordance with the accepted code of practice); or
- (t) 25 DCMR § 2607.2 (failure of a food establishment that is served by a sanitary sewer and conducting any activity or activities which generate food wastes to have and use one (1) or more food waste grinders that are conveniently located near each such activity and which have adequate capacity to dispose of all readily grindable food waste produced).

- 3620.8 Violation of any of the following provisions of 25 DCMR Chapters 28 through 32 (Subtitle F: Physical Facilities) shall be a Class 4 infraction:
- (a) 25 DCMR § 3204.1 (improper use of food preparation sinks, hand washing lavatories, and ware washing equipment to clean maintenance tools, to prepare or hold maintenance materials, or the disposal of mop water and similar liquid wastes);
  - (b) 25 DCMR § 3210.2 (failure to maintain copies of the food establishment's professional service contract and service schedule, which documents the information specified in §§ 3210.1(a) through (c));
  - (c) 25 DCMR § 3214.1 (failure to prohibit live animals on the premises, except as specified in §§ 3214.2 and 3214.3); or
  - (d) 25 DCMR §§ 3214.2 through 3214.3 (failure to prevent the contamination of food, clean equipment, utensils, linens, or unwrapped single-service and single-use articles from live animals permitted on the premises as specified in § 3214.2(a) through (d)).
- 3620.9 Violation of any of the following provisions of 25 DCMR Chapters 33 through 35 (Subtitle G: Poisonous or Toxic Materials) shall be a Class 4 infraction:
- (a) 25 DCMR § 3300.1 (use of containers of poisonous or toxic materials and personal care items that do not bear a legible manufacturer's label);
  - (b) 25 DCMR § 3301.1 (failure to identify clearly and individually with the common name of the material working containers used for storing poisonous or toxic materials, such as cleaners and sanitizers taken from bulk supplies);
  - (c) 25 DCMR § 3400.1 (failure to properly store poisonous or toxic materials so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles as specified in §§ 3400.1(a) and (b));
  - (d) 25 DCMR § 3401.1 (failure to allow on the premises of a food establishment only those poisonous or toxic materials that are required for the operation and maintenance of the food establishment);
  - (e) 25 DCMR §§ 3402.1 through 3402.3 (use of poisonous or toxic materials in violation of D.C. pesticide laws and regulations and the Food Code);
  - (f) 25 DCMR § 3403.1 (improper use of container previously used to store poisonous or toxic materials to store, transport, or dispense food);

- (g) 25 DCMR § 3404.1 (applying chemical sanitizers and other chemical antimicrobials to food-contact surfaces that do not meet the requirements of 21 CFR 178.1010 – Sanitizing Solutions);
- (h) 25 DCMR § 3405.1 (use of chemicals to wash or assist in the peeling of raw, whole fruits and vegetables that do not meet the requirements of the Food Code);
- (i) 25 DCMR § 3406.1 (use of chemicals as boiler water additives that do not meet the requirements of 21 CFR 173.310 – Boiler Water Additives);
- (j) 25 DCMR § 3407.1(a) through (e) (use of drying agents used in conjunction with sanitization that contain components not listed in this section);
- (k) 25 DCMR § 3408.1 (use of lubricants that do not meet the requirements specified in 21 CFR 178.3570);
- (l) 25 DCMR § 3409 (use of restricted use pesticides that do not meet the requirements specified in 40 CFR part 152 Subpart I – Classification of Pesticides);
- (m) 25 DCMR § 3410 (use of rodent bait that is not contained in a covered, tamper-resistant bait station);
- (n) 25 DCMR § 3411 (use of tracking powder pesticide);
- (o) 25 DCMR § 3412.1 (except as provided, allowing in a food establishment medicines not necessary for the health of the employees);
- (p) 25 DCMR § 3412.2 or 25 DCMR § 3414 (failure to properly label, store, and locate medicines and first aid supplies for employees' use to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles);
- (q) 25 DCMR § 3413.1 (failure to meet the requirements for storing refrigerated medicines belonging to employees or to children in a day care center as specified in § 3413);
- (r) 25 DCMR § 3500.1 (failure to store and display for retail sale poisonous or toxic materials so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles as specified in §§ 3500.1(a) through (b)); or

- (s) 25 DCMR § 4104.2 (failure to comply with the HACCP Plan and procedures submitted as the basis for a variance, as specified in §§ 4104.2(a) and 4104.2(b)(1) through (4)).

3620.10 Violation of any provision of the District of Columbia Food Code Regulations (25 DCMR Chapters 1 through 99), which is not cited elsewhere in this section, shall be a Class 5 infraction.

**3621 SWIMMING POOL & SPA OPERATIONS INFRACTIONS**

**3621.1 Reserved**

3621.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 22 DCMR § 6400.2 (failure to submit construction documents for approval before constructing, installing or enlarging a swimming pool or appurtenances thereto);
- (b) 22 DCMR § 6400.5 (a) (failure to obtain a proper license to operate a swimming pool or spa);
- (c) 22 DCMR § 6400.5 (d) (failure to obtain a pesticide operator or pesticide applicator license, permit or certificate before operating a swimming pool or spa);
- (d) 22 DCMR § 6400.7 (employing a person at a swimming pool or spa having a disease in a stage which is communicable or likely to become so);
- (e) 22 DCMR § 6400.11 (failure to secure an unopened pool by a locked gate, fence or door);
- (f) 22 DCMR § 6401.1 (failure to have a swimming pool or spa operator on duty at the facility or able to reach the facility within thirty (30) minutes);
- (g) 22 DCMR § 6401.2 (failure to have a valid swimming pool or spa operator permit before serving as a swimming pool or spa operator);
- (h) 22 DCMR § 6402.1 (failure to provide an adequate number of lifeguards);
- (i) 22 DCMR § 6402.4 (failure to follow an approved Swimming Pool Child Safety Plan);
- (j) 22 DCMR § 6402.5 (failure to follow an approved Spa Child Safety Plan);

- (k) 22 DCMR § 6402.11 (failure to keep bathers out of the water during the lifeguard's absence);
- (l) 22 DCMR §§ 6403.2 (a)-(b) (failure to post required warning signs for bathers);
- (m) 22 DCMR § 6408.17 (operating a swimming pool that is contaminated);
- (n) 22 DCMR § 6411.3 (operating a swimming pool or spa that has not passed inspection by the Department); or
- (o) 22 DCMR § 6411.6 (operating a swimming pool or spa for which the operating license has been summarily suspended).

## 3621.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 6401.4 (failure to have swimming pool or spa operator permits readily accessible to the Department);
- (b) 22 DCMR § 6402.13 (failure to have evidence of the on-duty lifeguard's qualifications readily accessible to the Department);
- (c) 22 DCMR §§ 6403.1 (a) through (h) (failure to post required rules for admission to the swimming pool);
- (d) 22 DCMR §§ 6403.3 (a) through (j) (failure to post required rules for admission to the spa);
- (e) 22 DCMR § 6403.5 (failure to provide a clock or other time-keeping device for bathers using a spa);
- (f) 22 DCMR § 6404.3 (failure to provide minimum bather preparation facilities);
- (g) 22 DCMR § 6404.4 (failure to provide appropriate water temperature at showerheads);
- (h) 22 DCMR § 6404.5 (failure to provide water for cleaning or personal hygiene from the District of Columbia public water system);
- (i) 22 DCMR § 6404.6 (failure to provide soap in a non-glass dispenser unit);
- (j) 22 DCMR § 6404.7 (failure to provide an unbreakable mirror over each lavatory or a supply of toilet tissue at each toilet);

- (k) 22 DCMR § 6404.9 (failure to provide the required feminine hygiene products);
- (l) 22 DCMR § 6404.10 (failure to provide clean and dry bathing suits and towels to bathers that are stored in a sanitary manner);
- (m) 22 DCMR § 6405.1 (failure to separate eating and drinking areas from the swimming pool or spa);
- (n) 22 DCMR § 6405.2 (failure to provide food and beverages in nonbreakable containers);
- (o) 22 DCMR § 6405.3 (failure to provide for adequate garbage and refuse collection at a facility housing a swimming pool or spa);
- (p) 22 DCMR §§ 6406.1 (a) through (q) (failure to meet minimum equipment and facility safety standards);
- (q) 22 DCMR §§ 6407.1 (a) through (h) (failure to have the required first aid and lifesaving equipment available on the premises);
- (r) 22 DCMR § 6408.2 (failure to maintain adequate turnover of the swimming pool or spa waters);
- (s) 22 DCMR § 6408.4 (failure to maintain adequate filtration of the swimming pool or spa waters);
- (t) 22 DCMR § 6408.5 (failure to maintain adequate overflow facilities for the swimming pool or spa);
- (u) 22 DCMR § 6408.6 (failure to maintain adequate swimming pool or spa water temperatures);
- (v) 22 DCMR § 6408.7 (failure to maintain sufficient clarity of the swimming pool or spa waters);
- (w) 22 DCMR § 6408.8 (failure to prevent the presence of sunken debris, algae dirt, filter media or filter aids in the swimming pool or spa);
- (x) 22 DCMR § 6408.10 (failure to maintain sufficient acidity/alkalinity of the swimming pool or spa waters);
- (y) 22 DCMR § 6408.11 (failure to use disinfectant and chemical feeders at swimming pools or spas);

- (z) 22 DCMR § 6408.12 (use of products in a swimming pool or spa that are not approved by the United States EPA or the Mayor);
- (aa) 22 DCMR § 6408.13 (failure to use a pesticide in a manner that is consistent with the labeling of the pesticide or consistent with the restrictions imposed on the use of the pesticide by the United States EPA or the Mayor);
- (bb) 22 DCMR § 6408.15 (failure to maintain the appropriate residuals for cyanuric acid, if used);
- (cc) 22 DCMR § 6408.18 (failure to close a facility for a minimum of twenty (20) minutes to allow for proper disinfection after fecal matter is introduced into the swimming pool or spa);
- (dd) 22 DCMR § 6409.1 (failure to use a chemical test kit);
- (ee) 22 DCMR §§ 6409.2 (a) through (o) (failure to record required information on operational logs);
- (ff) 22 DCMR § 6409.6 (failure to report to the Director, within three (3) days of the incident, injury at a swimming pool or spa that results in death or that requires resuscitation or admission to a hospital);
- (gg) 22 DCMR § 6409.7 (failure to report waterborne illness contracted at a swimming pool or spa to the Director within twenty-four (24) hours of management's knowledge of the incident);
- (hh) 22 DCMR § 6410.1 (making an unapproved direct mechanical connection between the potable water supply and the swimming pool or spa that is not protected against backflow and back-siphonage in a manner approved by the Mayor); or
- (ii) 22 DCMR § 6410.3 (failure to discharge backwash or drainage waters of a swimming pool or spa into a sanitary sewer through an approved air gap or other means approved by the Mayor).

3621.4 Violation of any provision of the swimming pools and spas regulations, 22 DCMR Chapter 64, which is not cited elsewhere in this section, shall be a Class 4 infraction.

**3622 PUBLIC BATHS INFRACTIONS**

**3622.1 Reserved**

**3622.2 Reserved**

3622.3 Violation of the following provision shall be a Class 3 infraction:

- (a) D.C. Official Code § 47-2812 (owning or managing an establishment where public baths are supplied to transients without a license).

**3623 MATTRESS INFRACTIONS****3623.1 Reserved**

3623.2 Violation of the following provision shall be a Class 2 infraction:

- (a) D.C. Official Code § 47-2818 (operating a mattress establishment without a license).

3623.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 115.3 (failure to keep any material used in the manufacture or renovation of mattresses in a clean place);
- (b) 22 DCMR § 115.4 (failure to maintain a finished mattress free of dampness and dirt); or
- (c) 22 DCMR § 115.12 (using an improper material for the manufacture or renovation of a mattress).

3623.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 22 DCMR § 115.5 (possession of a mattress which does not have a tag or label required by law);
- (b) 22 DCMR §§ 115.7 or 115.11 (use of an improper tag or label on a mattress);
- (c) 22 DCMR § 115.8 (failure to submit a tag or label to the Department for approval); or
- (d) 22 DCMR § 115.10 (failure to obtain approval from the Director for sterilization methods used on mattresses).

3623.5 Violation of any provision of An Act to regulate within the District of Columbia the manufacture, renovation and sale of mattresses, approved July 3, 1926 (44 Stat. 838; **D.C. Official Code § 8-501 et seq.**), which is not cited elsewhere in this section, shall be a Class 5 infraction.

**3624 BARBERSHOP & COSMETOLOGY SALON OPERATIONS  
INFRACTIONS****3624.1 Reserved****3624.2 Reserved****3624.3** Violation of any of the following provisions shall be a Class 3 infraction:

- (a) D.C. Official Code § 47-2809 (operating a barbershop or beauty parlor without a license);
- (b) 17 DCMR § 3701.9 (engaging in the practice of barbering or cosmetology when suffering from a known infectious or contagious disease unless the licensee takes appropriate precautions and uses safeguards that prevent the spread of the disease to the public);
- (c) 17 DCMR § 3702.1 (a) through (g) (operating a barbershop or beauty parlor without a license or certificate of registration);
- (d) 17 DCMR § 3702.2 (engaging in the practice of barbering or cosmetology before the issuance of all required licenses);
- (e) 17 DCMR § 3702.2 (owning a salon or shop before the issuance of all required licenses);
- (f) 17 DCMR § 3702.2 (operating a salon or shop before the issuance of all required licenses);
- (g) 17 DCMR § 3716.1 (operating a salon or shop without first having obtained the appropriate business licenses, registrations, and/or certificates, except as specified in § 3721); or
- (h) 17 DCMR § 3727.1 (failure to permit an inspection of the premises).

**3624.4** Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 17 DCMR § 3716.7 (operating a salon or shop without a licensed manager on duty at all times during operating hours, except as specified in section 3721); or
- (b) 17 DCMR § 3718.1 through 3718.18 (failure to comply with minimum equipment requirements in violation of public health regulations).

3624.5 Violation of any provision of District of Columbia Barber and Cosmetology Regulations, 17 DCMR, Chapter 37, which is not cited elsewhere in this section, shall be a Class 5 infraction.

**3625 MASSAGE ESTABLISHMENT INFRACTIONS**

3625.1 Violation of the following provision shall be a Class 1 infraction:

D.C. Official Code § 47-2811 (operating a massage establishment, Turkish, Russian, or medicated bath, without a license).

**3626-3629 RESERVED**

**3630 VECTOR CONTROL AND ANIMAL DISEASE PREVENTION  
INFRACTIONS**

3630.1 Reserved

3630.2 Reserved

3630.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 107.1(a) (failure to comply with an order to provide vent stoppage of any rat-infested building or other structure or part thereof);
- (b) 22 DCMR § 107.1(b) (failure to comply with an order to remove trash or refuse from the premises which may provide rat harborage);
- (c) 22 DCMR § 107.1(c) (failure to comply with an order to protect food and garbage from rats); or
- (d) Section 908(c) of the Rodent Control Act of 2000, effective October 19, 2000 (D.C. Law 13-172; **D.C. Official Code § 8-2101.01 et seq.**)(failure to comply with an order to remove debris from public or private property).
- (e) 22 DCMR § 107.4 (refusing to permit or interfering with inspections to determine the prevalence of rats);
- (f) Section 908(b) of the Rodent Control Act of 2000 (**D.C. Official Code § 8-2101.01 et seq.**) (failure of an owner to comply with an order to take appropriate abatement measures if signs of past rodent harborage are found upon transfer or change of occupancy of real property);

- (g) Section 908(c) of the Rodent Control Act of 2000 (**D.C. Official Code § 8-2101.01 *et seq.***) (failure to use a licensed and certified pest controller to abate existing rodent populations due to the accumulation of debris on public or private property);
- (h) Section 908(c) of the Rodent Control Act of 2000 (**D.C. Official Code § 8-2101.01 *et seq.***) (failure to use a licensed and certified pest controller to abate existing rodent populations found upon transfer or change of occupancy of real property);
- (i) 21 DCMR § 707.9 (failure to properly store grease held for recycling or disposal);
- (j) 21 DCMR § 707.11 (failure to keep waste container lids closed at all times other than when the container is being filled or emptied); or
- (k) 22 DCMR § 107.1(d) (failure to comply with an order to exterminate rats on the premises of buildings or other structures).

3630.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) Section 908(c) of the Rodent Control Act of 2000 (**D.C. Official Code § 8-2101.01 *et seq.***) (failure to comply with an order to keep grass or weeds cut to a height of less than eight (8) inches); or
- (b) 21 DCMR § 707.10 (failure to keep commercial trash compactor free of spilled waste).

3630.5 Violation of the following provision shall be a Class 5 infraction:

21 DCMR § 707.12 (failure to store pet food or bird seed in a rodent-proof container or remove uneaten food or feed remaining on the ground after birds and pets have been fed).

**3631-3636 RESERVED**

**3637 AIR QUALITY INFRACTIONS**

3637.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR § 107.1 (failure to have operative or effective air pollution control device);
- (b) 20 DCMR § 200.1 (failure to obtain air pollution construction or modification permit);

- (c) 20 DCMR § 200.2 (failure to obtain air pollution operation permit);
- (d) 20 DCMR § 205.1 (failure to comply with New Source Performance Standards);
- (e) 20 DCMR § 401.7 (failure to timely submit an emergency episode abatement plan);
- (f) 20 DCMR § 401.10 (failure to comply with emergency abatement plan);
- (g) 20 DCMR § 501.1 (failure to install/maintain/operate monitor or provide monitoring information);
- (h) 20 DCMR § 501.2 (failure to conduct ambient monitoring);
- (i) 20 DCMR § 501.3 (failure to comply with ambient monitoring requirements);
- (j) 20 DCMR § 502.10 (failure to comply with specification(s) for monitoring and recording equipment);
- (k) 20 DCMR § 602 (failure to comply with incinerator operating standards);
- (l) 20 DCMR § 603.1 (failure to comply with PM emission limits);
- (m) 20 DCMR § 603.3 (adding diluted air to the exhaust gas stream to avoid compliance with PM standards);
- (n) 20 DCMR § 720.1 (distributing or manufacturing consumer products that exceed VOC limits);
- (o) 20 DCMR § 724.1 (consumer products containing specified ozone depleting compounds);
- (p) 20 DCMR § 725.4 (distributing or manufacturing consumer products containing methylene chloride, perchloroethylene, or trichloroethylene);
- (q) 20 DCMR § 726.1 (distributing or manufacturing consumer products which contain specified toxic air contaminants);
- (r) 20 DCMR § 727.1 (distributing or manufacturing uncertified charcoal lighter material);
- (s) 20 DCMR § 732.9 (failure to comply with ACP agreement);

- (t) 20 DCMR § 750.1 (distributing or manufacturing an AIM coating that exceeds specified VOC content);
- (u) 20 DCMR § 750.5 (applying an AIM coating that exceeds VOC limit);
- (v) 20 DCMR § 750.6 (applying an AIM rust preventative coating that exceeds VOC limit);
- (w) 20 DCMR § 800.1 (failure to properly and timely notify of asbestos abatement);
- (x) 20 DCMR § 800.3 (failure to comply with the requirements for obtaining an asbestos abatement permit or license);
- (y) 20 DCMR § 800.5 (failure to apply for or renew an asbestos abatement permit or license);
- (z) 20 DCMR § 800.6 (failure to provide asbestos worker protection);
- (aa) 20 DCMR § 800.7 (failure to implement asbestos abatement control measures);
- (bb) 20 DCMR § 801.1 (purchasing, selling, offering for sale, storing, transporting or using fuel oil which contains more than one percent (1%) sulfur);
- (cc) 20 DCMR § 802.1 (purchasing, selling, offering for sale, storing, transporting or using coal which contains more than one percent (1%) sulfur);
- (dd) 20 DCMR § 803.1 (failure to comply with sulfur emission limit);
- (ee) 20 DCMR § 803.3 (adding diluted air to the exhaust gas stream to avoid compliance with SO<sub>2</sub> standards);
- (ff) 20 DCMR § 804.1 (failure to comply with NO<sub>x</sub> standard for fuel burning equipment);
- (gg) 20 DCMR § 805.1 (failure to comply with NO<sub>x</sub> regulations);
- (hh) 20 DCMR § 805.4(a) (failure to comply with combustion turbine emission standards);
- (ii) 20 DCMR § 805.4(d) (failure to maintain continuous compliance at all times);

- (jj) 20 DCMR § 805.5(b) (failure to comply with NO<sub>x</sub> emission rates on a calendar day average);
- (kk) 20 DCMR § 805.5(c) (failure to comply with NO<sub>x</sub> emission rates);
- (ll) 20 DCMR § 805.5(e) (failure to maintain continuous compliance at all times);
- (mm) 20 DCMR § 805.6(a) (failure to comply with NO<sub>x</sub> emission rates);
- (nn) 20 DCMR § 805.6(c) (failure to maintain continuous compliance at all times);
- (oo) 20 DCMR § 805.7(b) (failure to reduce emissions as required by RACT emission control plan);
- (pp) 20 DCMR § 805.7(c) (failure to maintain continuous compliance at all times, or failure to install and operate a CEM); or
- (qq) 20 DCMR § 805.8 (failure to adjust combustion process).

## 3637.2

Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 107.2 (failure to provide notice of control equipment shutdown);
- (b) 20 DCMR § 107.3 (failure to comply with an air pollution control notice);
- (c) 20 DCMR § 107.4 (installation or use of any article, machine, equipment, device or contrivance which conceals an air pollution emission);
- (d) 20 DCMR § 202.2(b) (failure to observe permit terms or conditions);
- (e) 20 DCMR § 301.1 (failure to timely submit a complete permit application or renewal);
- (f) 20 DCMR § 301.3(h) (failure to adhere to compliance plan);
- (g) 20 DCMR § 302.1(c) (failure to maintain monitoring data/support information or to submit emission reports);
- (h) 20 DCMR § 303.2 (operating after the time required to submit a timely and complete new permit application);

- (i) 20 DCMR § 303.8 (failure to follow renovation and termination procedures);
- (j) 20 DCMR § 500.1 (failure to file written reports);
- (k) 20 DCMR § 500.2 (failure to maintain/provide records regarding emissions);
- (l) 20 DCMR § 502.1 (failure to conduct air pollutant emission tests);
- (m) 20 DCMR § 502.2 (failure to provide sampling facility/fuel sample);
- (n) 20 DCMR § 502.5 (failure to perform NO<sub>x</sub>, SO<sub>2</sub> or PM test accordingly);
- (o) 20 DCMR § 502.6 (failure to properly test for sulfur);
- (p) 20 DCMR § 600.1 (failure to comply with PM standard for fuel-burning equipment);
- (q) 20 DCMR § 600.7 (blowing soot from coal fired boiler between 4 p.m. and 10 a.m.);
- (r) 20 DCMR § 601.1 (selling/installing/using rotary cup burner);
- (s) 20 DCMR § 601.2 (selling/using fuel oil in rotary cup burner);
- (t) 20 DCMR § 606.1 (visible emission from stationary source);
- (u) 20 DCMR § 606.2 (visible emission from fuel-burning equipment);
- (v) 20 DCMR § 606.3 (failure to maintain/operate equipment);
- (w) 20 DCMR § 606.5 (failure to train/supervise personnel);
- (x) 20 DCMR § 700.2 (failure to comply with photochemically reactive solvent discharge rates);
- (y) 20 DCMR § 700.3 (failure to comply with non-photochemically reactive discharge rates);
- (z) 20 DCMR § 701 (failure to store petroleum liquid properly);
- (aa) 20 DCMR § 703.1 (failure to maintain/operate terminal vapor recovery system);

- (bb) 20 DCMR § 704.1 (failure to transfer volatile organic compounds or gasoline from delivery vessel to stationary source container as prescribed);
- (cc) 20 DCMR § 704.2 (Stage I vapor recovery system does not include a return line or condensation system);
- (dd) 20 DCMR § 704.4(a) (tank truck not refilled at facility with ninety percent (90%) vapor recovery system);
- (ee) 20 DCMR § 704.4(b) (failure to conduct annual tank truck leak test);
- (ff) 20 DCMR § 704.4(d) (failure to remove failed tank truck from service);
- (gg) 20 DCMR § 704.6 (operating delivery system/vessels with a vapor or liquid leakage);
- (hh) 20 DCMR § 705.1 (failure to use prescribed equipment during the transfer of gasoline to any vehicular fuel tank from any stationary storage container);
- (ii) 20 DCMR § 709.1 (manufacturing, mixing, storing, using or applying cutback asphalt between April 1st and September 30th);
- (jj) 20 DCMR § 710.1 (failure to operate in compliance with printing and engraving regulations);
- (kk) 20 DCMR § 710.4 (using inks exceeding the VOC limits);
- (ll) 20 DCMR § 710.6 (using control devices with less than ninety percent (90%) VOC reduction efficiency);
- (mm) 20 DCMR § 710.10 (failure to prevent leaking);
- (nn) 20 DCMR § 710.11 (failure to properly store or dispose any solvent-containing material);
- (oo) 20 DCMR § 718.3 (application of coatings exceeding VOC limits);
- (pp) 20 DCMR § 718.5 (failure to use a proper application technique);
- (qq) 20 DCMR § 731 (failure to comply with testing methods and maintain accurate records for consumer products);
- (rr) 20 DCMR § 739 (failure to follow portable fuel container and spout testing procedures);

- (ss) 20 DCMR § 754 (failure to comply with testing methods for AIM products);
- (tt) 20 DCMR § 800.4(b) (failure to properly notify resilient floor covering removals);
- (uu) 20 DCMR § 805.3(a) (failure to timely submit and receive approval for an emission control plan prior to implementation of NO<sub>x</sub> RACT); or
- (vv) 20 DCMR § 805.7(e) (failure to perform tests that demonstrate NO<sub>x</sub> compliance).

3637.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 200.6 (failure to submit permit applications on the correct forms or supply necessary data and information);
- (b) 20 DCMR § 301.2 (failure to submit relevant facts or correct inaccurate information submitted in a permit application);
- (c) 20 DCMR § 303.3 (operating after the time required to submit a timely and complete renewal permit application);
- (d) 20 DCMR § 502.4 (failure to submit test reports);
- (e) 20 DCMR § 605.1(e) (failure to control fugitive dust from demolition activity);
- (f) 20 DCMR § 605.1(f) (failure to control fugitive dust from removal of demolition debris);
- (g) 20 DCMR § 605.1(g) (failure to control fugitive dust from loading dusty material or sandblasting);
- (h) 20 DCMR § 605.1(h) (failure to control fugitive dust from stockpile of dusty material);
- (i) 20 DCMR § 605.2 (failure to control fugitive dust from other specified activities);
- (j) 20 DCMR § 710.9 (failure to close VOC containing vessel when not in use);
- (k) 20 DCMR § 727.3 (failure to submit relevant or correct information regarding charcoal lighter material);

- (l) 20 DCMR § 730 (failure to comply with reporting requirements for consumer products);
- (m) 20 DCMR § 732.8 (failure to maintain ACP records);
- (n) 20 DCMR § 736 (failure to maintain spill-proof system);
- (o) 20 DCMR § 743 (failure to follow cold cleaning procedures);
- (p) 20 DCMR § 744 (failure to follow batch vapor cleaning procedures);
- (q) 20 DCMR § 745 (failure to follow in-line vapor cleaning procedures);
- (r) 20 DCMR § 746.1(b) - (g) (failure to follow Airless Airtight cleaning operations);
- (s) 20 DCMR § 747 (failure to meet alternative compliance requirements);
- (t) 20 DCMR § 753 (failure to properly submit AIM coating reports);
- (u) 20 DCMR § 800.9 (failure to timely notify building occupants of impending asbestos abatement);
- (v) 20 DCMR § 805.3(b) (failure to submit notification to comply with § 805.8);
- (w) 20 DCMR § 805.4(b)(1) (failure to maintain in a logbook dates and hours of turbine operation);
- (x) 20 DCMR § 805.7(d) (failure to maintain records); or
- (y) 20 DCMR § 900.1 (idling engine for more than three (3) minutes).

3637.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 20 DCMR § 604.1 (open burning);
- (b) 20 DCMR § 605.1 (failure to minimize fugitive dust emissions);
- (c) 20 DCMR § 605.1(a) (failure to control fugitive dust from unpaved road/roadway/parking lot);
- (d) 20 DCMR § 605.1(b) (failure to control fugitive dust from paved road/roadway/parking lot);

- (e) 20 DCMR § 605.1(c) (failure to control fugitive dust from vehicle transporting dusty material);
- (f) 20 DCMR § 605.1(d) (failure to control fugitive dust from dirty vehicle);
- (g) 20 DCMR § 605.3 (failure to comply with soil erosion and sedimentation control regulations);
- (h) 20 DCMR § 704.4(e) (failure to post leak test certificate on tank truck);
- (i) 20 DCMR § 704.4(f) (loading/unloading tank truck with no certificate);
- (j) 20 DCMR § 705.6 (failure to comply with requirements for a vapor balance system);
- (k) 20 DCMR § 705.7 (failure to maintain/operate balance system);
- (l) 20 DCMR § 705.8 (refueling with nozzle not designed to automatically shutoff when tank is full);
- (m) 20 DCMR § 705.10 (failure to maintain/operate Stage II vapor recovery system);
- (n) 20 DCMR § 705.12 (failure to post operating instructions/warnings for Stage II vapor recovery system);
- (o) 20 DCMR § 705.13 (failure to install/certified vapor control systems/components per required standards);
- (p) 20 DCMR § 706.2 (failure to install/operate solvent recovery dryer or equivalent);
- (q) 20 DCMR § 706.3 (failure to install/operate solvent filtration system);
- (r) 20 DCMR § 706.4 (failure to minimize emissions from stored still waste);
- (s) 20 DCMR § 706.5 (failure to repair solvent leak);
- (t) 20 DCMR § 706.11 (failure to conduct weekly leak inspection);
- (u) 20 DCMR § 707.1(a) (failure to properly operate a perchloroethylene dryer facility);
- (v) 20 DCMR § 718.4 (failure to provide documentation of VOC content);

- (w) 20 DCMR § 718.8 (failure to comply with housekeeping, pollution, and training measures);
- (x) 20 DCMR § 727.5 (failure to timely notify regarding change in charcoal lighter material);
- (y) 20 DCMR § 728.1 (failure to properly label floor wax strippers);
- (z) 20 DCMR § 732.2 (failure to submit ACP agreement);
- (aa) 20 DCMR § 732.4 (failure to properly submit ACP application);
- (bb) 20 DCMR § 732.10 (failure to comply with surplus reduction regulations);
- (cc) 20 DCMR § 733.1 (failure to submit CARB Innovative Product exemption for consumer products);
- (dd) 20 DCMR § 740.1 (failure to submit Innovation Product exemption for portable fuel containers and spouts);
- (ee) 20 DCMR § 746.1(a) (failure to properly record vapor cleaning);
- (ff) 20 DCMR § 748 (failure to accurately record and monitor solvent cleaning operations);
- (gg) 20 DCMR § 750.4 (failure to close AIM container when not in use);
- (hh) 20 DCMR § 752 (failure to properly label AIM coatings);
- (ii) 20 DCMR § 901.1 (visible emission for more than ten (10) seconds from vehicle); or
- (jj) 20 DCMR § 903.1 (emitting odorous/other air pollutant).

3637.5 Violation of any of the following provisions shall be a Class 5 infraction:

- (a) 20 DCMR § 718.7 (failure to properly clean spray gun);
- (b) 20 DCMR § 729 (failure to properly label consumer products);
- (c) 20 DCMR § 732.15 (failure to notify of ACP modifications);
- (d) 20 DCMR § 738 (failure to properly label portable fuel containers and spouts).

3637.6 Violation of any provision of of the Air Quality Control Regulations, 20 DCMR Chapters 1 through 9, which provision or rule is not cited elsewhere in this section, shall be a Class 4 infraction.

**3638-3643 RESERVED**

**3644 WATER QUALITY INFRACTIONS**

3644.1 Violation of Section 3 of the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; **D.C. Official Code § 8.103.02**) (discharge of pollutants to the waters of the District without a permit) shall be a Class 1 infraction.

3644.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) Section 7(a) of the Water Pollution Control Act of 1984 (**D.C. Official Code 8.103.06(a)**) (discharging corrosive, flammable or explosive material into a sewer);
- (b) Section 8(e) of the Water Pollution Control Act of 1984 (**D.C. Official Code § 8.103.07(e)**) (discharging used motor oil into a sewer); or
- (c) 21 DCMR § 1407.1 (the use of any herbicide or chemical to control submerged aquatic vegetation without approval).

3644.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) Section 7(m) of the Water Pollution Control Act of 1984 (**D.C. Official Code § 8.103.06(m)**) (discharging sanitary sewage, wash or process water, oil laden bilge water, refuse or litter from a watercraft);
- (b) Section 8(d) of the Water Pollution Control Act of 1984 (**D.C. Official Code § 8.103.07(d)**) (discharging oil, gasoline, anti-freeze, acid or other hazardous substance, pollutant or nuisance material into a public space);
- (c) Section 17(b)(1) of the Water Pollution Control Act of 1984 (**D.C. Official Code § 8.103.16(b)(1)**) (making a false statement in an application, record, report, plan, or other document filed under the Water Pollution Control Act); or
- (d) 21 DCMR § 1401.3 (harvesting, cutting, removing, or eradication of submerged aquatic vegetation without plan approval).

**3645 AQUATIC ANIMAL PROTECTION AND FISHING INFRACTIONS****3645.1 Reserved****3645.2** Violation of the following provision shall be a Class 2 infraction:

19 DCMR § 1503.1(a) (introducing a species of fish or other aquatic organism not indigenous to the District of Columbia into the waters of the District of Columbia).

**3645.3** Violation of the following provision shall be a Class 3 infraction:

19 DCMR § 1503.1(e) (capturing, harassing, harming or failing to return to the waters immediately any organism listed as a threatened or endangered species).

**3645.4** Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 19 DCMR § 1502.1 (taking of a fish or any other aquatic organism for sale or profit);
- (b) 19 DCMR § 1503.1(b) (possession of a fish which is under the minimum legal size);
- (c) 19 DCMR § 1503.1(c) (possessing more of a particular species of fish than is allowed by law);
- (d) 19 DCMR § 1503.1(d) (possessing fish with prescribed weight, from which the heads and tails have been removed);
- (e) 19 DCMR § 1503.1(f) (use of explosives, chemicals, firearms or electricity to take or injure fish or aquatic organisms);
- (f) 19 DCMR § 1503.1(h) (taking fish illegally);
- (g) 19 DCMR § 1503.1(i) (taking, catching or possessing striped bass or hybrid striped bass); or
- (h) 19 DCMR § 1506.1 (angling for striped bass or hybrid striped bass).

**3645.5** Violation of any of the following provisions shall be a Class 5 infraction:

- (a) 19 DCMR § 1501.1 (fishing without a license);
- (b) 19 DCMR § 1501.3 (failure to display license upon request);

- (c) 19 DCMR § 1501.4 (collecting fish for scientific purposes without a permit);
- (d) 19 DCMR § 1501.5 (fishing without a valid license);
- (e) 19 DCMR §§ 1501.2 through 1502.7 (fishing with unauthorized equipment or methods); or
- (f) 19 DCMR § 1503.1(g) (taking, catching or possessing a sturgeon).

**3646 SOIL EROSION AND SEDIMENT CONTROL AND STORM WATER MANAGEMENT INFRACTIONS**

3646.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 21 DCMR § 502.6 (failure to comply with stop work order for land disturbing activity); or
- (b) 21 DCMR § 532.4(d) (failure to comply with stop work order for storm water management).

3646.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 21 DCMR § 502.1 (failure to obtain a building permit before engaging in any earth movement or land disturbing activity that requires an approved erosion and sedimentation plan); or
- (b) 21 DCMR § 526.1 (engaging in any earth movement or land disturbing activity without instituting appropriate storm water management measures).

3646.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 21 DCMR § 504.1 (failure to correct erosion);
- (b) 21 DCMR § 505.3 (failure to notify the Department timely of completion of land disturbing activity);
- (c) 21 DCMR § 506.2 (failure to comply with an approved erosion and sedimentation plan);
- (d) 21 DCMR § 529.1 (failure to comply with storm water management criteria before developing any land);

- (e) 21 DCMR § 529.2 (failure to comply with minimum storm water run-off control requirements);
- (f) 21 DCMR § 530.1 (failure to establish measures for the management of storm water run-off);
- (g) 21 DCMR § 531.1 (failure to submit a storm water management plan);
- (h) 21 DCMR § 532.4(a) (failure to comply with the conditions of the storm water management plan);
- (i) 21 DCMR § 532.4(b) (failure to comply with conditions upon which a waiver was granted);
- (j) 21 DCMR § 532.4(c)(failure to comply with approved construction plan);
- (k) 21 DCMR § 532.4(e) (failure to implement measures to avoid immediate danger in a downstream area);
- (l) 21 DCMR § 533.2 (failure to notify the Department twenty-four (24) hours before beginning construction of any on-site or off-site storm water management facility);
- (m) 21 DCMR § 533.4 (beginning scheduled storm water management work before authorized Department representative inspects and approves work previously completed);
- (n) 21 DCMR § 533.5 (failure to promptly correct in the manner specified any portion of the work that does not comply with the approved plans);
- (o) 21 DCMR § 534.2 (failure to comply with requirements for proper and timely maintenance and repair of storm water management facility);
- (p) 21 DCMR § 535.1 (failure to comply with specifications and designs of the District of Columbia Storm Water Management Guidebook);
- (q) 21 DCMR § 538.1(e) (failure to limit grading to areas of workable size so as to limit the duration of exposure of disturbed and unprotected areas);
- (r) 21 DCMR § 538.1(f) (failure to strip, stockpile and stabilize topsoil; failure to protect stockpiled material with mulch or temporary vegetation);
- (s) 21 DCMR § 538.1(g) (failure to control runoff by diverting or conveying it safely through the areas with structural measures);

- (t) 21 DCMR § 538.1(h) (failure to provide appropriate erosion and sediment control structures before or during the first phase of land grading);
- (u) 21 DCMR § 538.1(i) (failure to seed/sod and mulch debris basins, diversions, waterways and related structures immediately after they are built);
- (v) 21 DCMR § 538.1(j) (failure to provide sediment traps to protect inlets or storm sewers below silt producing areas);
- (w) 21 DCMR § 538.1(k) (failure to establish temporary cover by seeding or mulching graded areas);
- (x) 21 DCMR § 538.1(l) (failure to stabilize all streets and parking areas within thirty (30) days of final grading, with base course crushed stone);
- (y) 21 DCMR § 539.4 (failure to place adequate erosion control measures before and during exposure);
- (z) 21 DCMR § 539.5 (creating period of exposure exceeding one hundred twenty (120) days);
- (aa) 21 DCMR § 539.6 (failure to provide temporary or permanent stabilization during or after rough grading);
- (bb) 21 DCMR § 539.9 (failure to protect all cut and fill slopes against storm water runoff);
- (cc) 21 DCMR § 541.2 (failure to place excavated material on uphill side of trenches); or
- (dd) 21 DCMR § 543.3 (failure to provide erosion and sediment control plan).

3646.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 21 DCMR § 538.2 (failure to apply appropriate conservation practices on first disturbed section of land before opening up another);
- (b) 21 DCMR § 539.1 (failure to apply erosion and sediment control measures to erodible material exposed by project activity);
- (c) 21 DCMR § 539.2 (failure to limit grading to only those areas involved in current construction activities);
- (d) 21 DCMR § 539.3 (failure to protect all exposed, unprotected areas within a minimum amount of time);

- (e) 21 DCMR § 539.8 (exposing more than seven hundred fifty thousand square feet (750,000 sq. ft.) of area).
- (f) 21 DCMR § 539.10 (failure to protect cut and fill slopes in five foot (5 ft.) vertical increments);
- (g) 21 DCMR § 540.1 (failure to protect rough graded rights-of-way (for roads or utilities) with interceptor dikes no more than three hundred feet (300 ft.));
- (h) 21 DCMR § 540.2 (failure to use temporary diversion dikes or flumes to carry runoff down fill slopes to suitable outlet);
- (i) 21 DCMR § 540.3 (failure to install permanent drainage and diversion structures after completing rough grading);
- (j) 21 DCMR 541.1 (creating more than five hundred feet (500 ft.) of open trench);
- (k) 21 DCMR 542.1 (failure to install gutters and downspouts in a timely manner);
- (l) 21 DCMR 542.2 (failure to dissipate velocity of water from downspouts or pipe it directly to storm drains);
- (m) 21 DCMR 542.3 (failure to retain as much natural vegetation on site as practicable or failure to limit removal of vegetation to that necessary for landscaping or construction); or

3646.5 Violation of any provision of the District of Columbia Soil Erosion and Sedimentation and Storm Water Management Regulations (21 DCMR, Chapter 5), that is not cited elsewhere in this section, is a Class 4 infraction.

3647-3649 **RESERVED**

3650 **TOXIC SUBSTANCES DIVISION (PESTICIDE PROGRAM)  
INFRACTIONS**

3650.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR § 2200.1 (manufacture, sale, shipment, use, or application of pesticide not registered with the United States Environmental Protection Agency (EPA));

- (b) 20 DCMR § 2207.12 (impersonating a federal, state, or District inspector or official);
- (c) 20 DCMR § 2211.1 (disposing, storing, or discarding any pesticide container or rinsate in a manner that causes injury to humans); or
- (d) 20 DCMR § 2211.3 (handling, transporting, storing, displaying or distributing a pesticide in a way that endangers humans, the environment, food, feed, or any product).

3650.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 2200.3 (distribution of pesticide not registered with the District of Columbia Department of Health);
- (b) 20 DCMR § 2205.5 (improper use of a public applicator license);
- (c) 20 DCMR §§ 2207.1 or 2210.1 (use of a pesticide in a manner inconsistent with its labeling, or in violation of imposed restriction);
- (d) 20 DCMR § 2207.2 (making a pesticide recommendation that is inconsistent with the labeling or in violation of imposed restriction);
- (e) 20 DCMR §§ 2207.3 or 2207.9 (falsifying, refusing, or neglecting to maintain or make available required records);
- (f) 20 DCMR § 2207.4 (use of fraud or misrepresentation in applying for a certificate or license);
- (g) 20 DCMR § 2207.6 (making a false or fraudulent claim that misrepresents the effect of a pesticide or method to be utilized in its application);
- (h) 20 DCMR §§ 2207.7 or 2210.2 (applying an ineffective or improper pesticide, or operating faulty or unsafe equipment);
- (i) 20 DCMR § 2207.8 (using or supervising the use of a pesticide in a faulty, careless, or negligent manner);
- (j) 20 DCMR § 2207.10 (aiding, abetting, or conspiring to evade pesticide laws);
- (k) 20 DCMR § 2207.11 (making a fraudulent or misleading statement during or after an inspection of a pest infestation);
- (l) 20 DCMR § 2207.13 (distributing an adulterated pesticide);

- (m) 20 DCMR § 2207.14 (failure to register a pesticide in the District of Columbia);
- (n) 20 DCMR § 2208.1 (distributing any pesticide or device that is misbranded);
- (o) 20 DCMR § 2208.6 (failure to provide registration number on pesticide labels as assigned under § 7 of FIFRA, 7 USC § 136e);
- (p) 20 DCMR §§ 2208.8 or 2208.14 (failure to comply with a provision concerning pesticide labeling);
- (q) 20 DCMR § 2210.5 (failure to apply a pesticide so as to prevent harmful effects to the environment);
- (r) 20 DCMR § 2210.8 (permitting an inspection for wood-destroying pests by a pesticide operator who is not licensed in the "Wood Destroying Organisms" subcategory);
- (s) 20 DCMR § 2211.1 (disposing, storing, or discarding any pesticide container or rinsate in a manner that causes injury to vegetation, crops, livestock, wildlife, or pollinating insects, or that pollutes any water or water way);
- (t) 20 DCMR § 2215.1 (performing fumigation without being a licensed applicator or without supervision by a licensed applicator);
- (u) 20 DCMR §§ 2215.2, 2215.9, or 2215.10 (failure to comply with a requirement for introducing a fumigant);
- (v) 20 DCMR § 2215.3 (failure to notify the nearest fire station and the Director prior to fumigation);
- (w) 20 DCMR § 2215.5 (failure to post warning signs for fumigation);
- (x) 20 DCMR § 2215.7 (failure to provide a guard during fumigation);
- (y) 20 DCMR §§ 2300.1 or 2300.2 (purchasing, using, or supervising the use of a restricted use pesticide without a license);
- (z) 20 DCMR §§ 2400.1 or 2400.4 (failure to obtain an operator or applicator license);
- (aa) 20 DCMR § 2400.2 (permitting the use of any pesticide by persons who are not certified or registered);

- (bb) 20 DCMR § 2400.3 (licensed operator permitting the use of restricted pesticides by persons who are not certified or registered);
- (cc) 20 DCMR § 2400.5 (transferring a pesticide operator license from one business to another);
- (dd) 20 DCMR § 2502.2 (violating a "stop sale, use or removal" order);
- (ee) 20 DCMR §§ 2508.1 to 2508.3, 2508.5 to 2508.7, or 2508.11 to 2508.13 (failure to comply with a record keeping or reporting requirement); and
- (ff) 20 DCMR §§ 2509.1 or 2509.3 (failure to maintain or provide records on restricted use pesticides); or
- (gg) 20 DCMR § 2509.4 (selling or transferring any restricted use pesticide to any person other than a licensed applicator).

3650.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 2200.5 (using or revealing for one's own advantage information relating to the formula of a pesticide registered with the Department);
- (b) 20 DCMR § 2207.5 (refusing or neglecting to comply with a limitation or restriction on a certificate or license);
- (c) 20 DCMR § 2208.5 (offering for sale a pesticide under the name of another pesticide or imitation of another pesticide);
- (d) 20 DCMR § 2210.6 (applying a pesticide when the wind velocity will cause the pesticide to drift beyond the target area);
- (e) 20 DCMR § 2210.7 (displaying or offering for sale a pesticide in a container which is damaged or has a damaged or obscure label);
- (f) 20 DCMR § 2212.1 (failure to inform an employee of the hazards and the proper use of preventive steps when applying pesticides);
- (g) 20 DCMR § 2212.2 (failure to provide safety equipment and protective clothing);
- (h) 20 DCMR § 2212.3 (failure to inform an employee of reentry requirements and provide protective clothing or apparatus if premature reentry is necessary);

- (i) 20 DCMR § 2300.1 (purchase, use, or supervision of use of restricted use pesticide by unlicensed person);
- (j) 20 DCMR § 2311.1 (applying a pesticide without the supervision of a licensed certified applicator);
- (k) 20 DCMR §§ 2403.3, 2403.6, or 2403.7 (failure to comply with liability insurance requirements);
- (l) 20 DCMR § 2507.3 (failure to renew a license on or before the first day of any licensure period);
- (m) 20 DCMR § 2508.10 (failure to report significant pesticide accidents or incidents when required to do so by the Director); or
- (n) 20 DCMR § 2509.2 (failure to provide copies to the Director of the records required by § 2509.1).

3650.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 20 DCMR § 2204.1 (application of a pesticide by an unregistered employee);
- (b) 20 DCMR §§ 2204.4 or 2204.5 (failure to register an employee who works under the direct supervision of a licensed, certified applicator within thirty (30) days of employment);
- (c) 20 DCMR § 2208.4 (failure to comply with a package, container, or wrapping requirement);
- (d) 20 DCMR § 2210.3 (use of a pesticide container for a purpose other than containing the original product);
- (e) 20 DCMR § 2210.4 (failure to provide an effective anti-siphon device for equipment);
- (f) 20 DCMR §§ 2300.18, 2300.19, 2400.8, or 2400.9 (failure to post or make accessible for inspection a license or permit);
- (g) 20 DCMR § 2306.4 (failure of applicator to submit the applicator's credentials and license to the employing pesticide operator after termination of employment);
- (h) 20 DCMR § 2306.5 (failure to notify the Director of the termination of an employee or return a terminated employee's license and credentials to the Director);

- (i) 20 DCMR § 2311.7 (failure to have pesticide labels at work site);
- (j) 20 DCMR § 2400.6 (failure to surrender a pesticide operator's license within ten (10) days of termination); or
- (k) 20 DCMR § 2402.4 (failure to notify the Director when supervision by a licensed certified applicator is not available).

3650.5 Violation of any provision of the Pesticide Operations Act of 1977, effective April 18, 1978 (D.C. Law 2-70, as amended; **D.C. Official Code §§ 8-401 to 8-419**), or the implementing rules in 20 DCMR Chapters 22 through 25 which is not cited elsewhere in this section, shall be a Class 5 infraction.

### 3651 UNDERGROUND STORAGE TANK INFRACTIONS

3651.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR §§ 5700.1(a), 5701.1, 5701.2, or 5701.3 (installation of petroleum UST which does not meet new UST system performance standards, including cathodic protection);
- (b) 20 DCMR §§ 5700.1(b) or (c), or 5800.1(a) or (d) (failure to properly upgrade or permanently close existing petroleum UST by December 22, 1998);
- (c) 20 DCMR §§ 5700.3, 5702.1, 5702.2, or 5702.3 (installation of hazardous substance UST that does not meet UST system performance standards for hazardous substances including cathodic protection);
- (d) 20 DCMR §§ 5700.3, 5700.4, or 5800.2 (failure of existing hazardous substance UST to meet required tank performance standards or permanent closure requirements by December 22, 1994);
- (e) 20 DCMR §§ 6201.1, 6201.3, or 6201.5 (failure of responsible party to take immediate action to contain and clean up any spill or overfill);
- (f) 20 DCMR §§ 6201.2 (failure of responsible party to report spill or overfill to Director and to Fire Chief as required);
- (g) 20 DCMR §§ 6202.1, 6202.2, 6202.3, 6202.6, or 6212.3 (failure to notify Director and Fire Chief of release or suspected release from UST as required);

- (h) 20 DCMR §§ 6202.7 or 6203.3 (failure to investigate and confirm suspected release in accordance with required procedures);
- (i) 20 DCMR § 6203.2 (failure to repair, replace, or upgrade system after leak determined);
- (j) 20 DCMR § 6203.7(a) (failure to identify and mitigate any fire, explosion or vapor hazards upon confirmation of release);
- (k) 20 DCMR § 6203.7(b) (failure to take immediate action to prevent any further release into the environment);
- (l) 20 DCMR § 6203.9 (failure of responsible party to empty regulated substance from UST system in the event of a suspected UST system failure);
- (m) 20 DCMR § 6203.9(c) (failure of responsible party to monitor and mitigate hazards caused by vapors or free product in subsurface structures);
- (n) 20 DCMR § 6203.12 (failure to investigate to determine presence of free product);
- (o) 20 DCMR §§ 6204.1, 6204.2, or 6206.3 (failure to properly remove free product in accordance with requirements);
- (p) 20 DCMR § 6204.3 (failure to treat, discharge, recycle or dispose of free product in accordance with law);
- (q) 20 DCMR § 6204.5 (failure to handle flammable substances in safe manner to prevent fire or explosion);
- (r) 20 DCMR §§ 6205.1, 6205.2, or 6205.4(b) (failure to perform complete site assessment and submit report within time required);
- (s) 20 DCMR §§ 6207.1, 6207.2, 6207.3, 6207.4, 6207.5 (failure to submit a corrective action plan (CAP) which meets requirements within time frame required);
- (t) 20 DCMR § 6207.10 (failure to implement CAP within thirty (30) days of approval, or in accordance with schedule);
- (u) 20 DCMR § 6301.3, (failure of responsible party to conduct monitoring, testing or corrective action as required);

- (v) 20 DCMR §§ 6301.5 or 5602.1 (refusal of owner or operator or other responsible party to cooperate with inspections, monitoring or testing conducted by Director);
- (w) 20 DCMR § 6700.10, 6700.11, or 6700.12 (failure of petroleum UST owner to demonstrate required financial responsibility for taking corrective action and compensating third parties for damages caused by accidental releases); or
- (x) 20 DCMR § 6701.1 (failure of owner to utilize acceptable mechanism(s) to demonstrate financial responsibility).

3651.2

Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR §§ 5600.1, 5600.2, or 5600.3 (failure to submit notification of underground storage tank (UST) in accordance with requirements and within prescribed time period);
- (b) 20 DCMR §§ 5602.4(d) or 6103.2 (failure to maintain records of site investigation conducted at permanent closure);
- (c) 20 DCMR § 5602.8 (failure to maintain records for required period);
- (d) 20 DCMR § 5603.2 (failure to provide notice to Director of date and time of installation, removal, abandonment, repair, or upgrade);
- (e) 20 DCMR § 5604.1 (seller's failure to notify real property purchaser in writing of existence or removal of UST);
- (f) 20 DCMR § 5700.1(c) (tank installed after December 22, 1988, and before November 12, 1993, does not meet federal new tank performance standards);
- (g) 20 DCMR § 5700.9 (tank not properly designed and constructed in accordance with approved code of practice);
- (h) 20 DCMR § 6004.2 (pressurized piping not equipped with automatic line leak detector);
- (i) 20 DCMR §§ 5701.4, 5701.5, 5701.6, 5702.4, 5703.4, 5703.5, or 5703.6 (secondary containment systems improperly designed, constructed, installed);
- (j) 20 DCMR § 5703.1 (new heating oil tank does not meet performance standards including cathodic protection requirements);

- (k) 20 DCMR §§ 5704.1, 5704.2, or 5704.3 (UST piping not properly constructed in accordance with code of practice, or not cathodically protected);
- (l) 20 DCMR § 5704.5 (failure to secondarily contain pressurized underground piping and piping for hazardous substance USTs);
- (m) 20 DCMR § 5706.1 (new UST system not properly installed in accordance with approved code of practice);
- (n) 20 DCMR § 5706.2 (UST installer/installation not certified);
- (o) 20 DCMR § 5706.4 (installation not inspected and approved by Director and Fire Chief);
- (p) 20 DCMR § 5902.9 (failure to maintain records of each repair for operating life of repaired UST);
- (q) 20 DCMR § 5903 (UST system incompatible with substance stored therein);
- (r) 20 DCMR §§ 6000.1 or 6000.3 (owner/operator fails to employ an approved method of release detection);
- (s) 20 DCMR § 6000.6 (release detection system not capable of detecting release from any portion of system as required);
- (t) 20 DCMR § 6000.7 (failure to properly install, calibrate, operate, or maintain release detection system);
- (u) 20 DCMR § 6002.2 (failure of owner/operator of hazardous substance UST to provide release detection which meets requirements);
- (v) 20 DCMR § 6100.7 (failure to empty tank, open vent lines, and cap lines within ninety (90) days of temporary closure);
- (w) 20 DCMR § 6101.4 (failure to follow accepted code of practice in meeting closure requirements);
- (x) 20 DCMR §§ 6101.5, or 6101.8 (failure to empty tank and properly dispose of contents prior to removal or change in service);
- (y) 20 DCMR § 6101.6 (failure to remove tank from ground or obtain variance);

- (z) 20 DCMR § 6101.12 (failure to treat or properly dispose of excavated contaminated soils within thirty (30) days);
- (aa) 20 DCMR § 6102.2 (failure of responsible party for out-of-service UST to comply with directive to close UST and assess the excavation zone as required);
- (bb) 20 DCMR § 6207.6 (failure of responsible party to prepare site specific health and safety plan for on-site work in compliance with OSHA requirements);
- (cc) 20 DCMR § 6301.6 (failure of responsible party to comply with request for submission of records, documents or information); or
- (dd) Section 10(d) or (g) of the District of Columbia Underground Storage Tank Management Act of 1990, effective March 8, 1991 (D.C. Law 8-242; D.C. Official Code § 8-113.09(d) or (g)) (failure to comply with a final compliance order or final cease and desist order).

3651.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR §§ 5600.2 or 5600.7 (failure to include required information on notification form or to update as required);
- (b) 20 DCMR §§ 5601.2, 5601.5, 5601.10 (failure to register UST or to renew registration);
- (c) 20 DCMR §§ 5601.12 or 5601.14 (deposit of regulated substance in unregistered UST);
- (d) 20 DCMR §§ 5601.13 or 5601.14 (dispensing regulated substance from unregistered UST);
- (e) 20 DCMR § 5603.1 (failure to submit written notice to Director of installation, removal, abandonment, repair, or upgrade of UST five (5) business days in advance);
- (f) 20 DCMR § 5603.3 (failure to provide notice to Director and Fire Chief of emergency removal or repair);
- (g) 20 DCMR § 5603.4 (failure to obtain UST Branch approval of plans and specifications for UST installation or upgrade);
- (h) 20 DCMR §§ 5603.6 or 5603.7 (failure to provide timely notice of tightness test to Director and Fire Chief);

- (i) 20 DCMR § 5803 (failure of owner or operator to use required spill and overfill prevention equipment);
- (j) 20 DCMR § 5706.5 (failure to perform precision test upon installation of UST as required);
- (k) 20 DCMR §§ 5801.2, 5801.3 (failure to properly install or periodically inspect internal lining);
- (l) 20 DCMR § 5801.5 (UST not properly upgraded by cathodic protection);
- (m) 20 DCMR § 5802.1 (failure to upgrade metal piping with required cathodic protection);
- (n) 20 DCMR § 5900 (failure to comply with spill and overfill control requirements);
- (o) 20 DCMR § 5901 or 5704.1 (failure to comply with operation and maintenance requirements for UST system corrosion protection to prevent releases);
- (p) 20 DCMR §§ 5902.1 or 5902.2 (failure of owner or operator to use proper techniques, materials for repairs and to follow code of practice);
- (q) 20 DCMR § 6000.9 (manufacturer/installer performance claims not in writing or incomplete);
- (r) 20 DCMR § 6000.10 (release detection system not capable of accurately detecting leak rate);
- (s) 20 DCMR § 6001.1 (failure of owner/operator to maintain required records);
- (t) 20 DCMR § 6003.3 (failure to monitor tank every thirty (30) days for release as required);
- (u) 20 DCMR § 6003.5 (secondary containment system not checked for release every thirty (30) days);
- (v) 20 DCMR §§ 6004.1, 6004.3, or 6004.4 (failure of owner or operator of petroleum UST to regularly monitor underground piping as required for release);
- (w) 20 DCMR § 6005.1 (failure to perform monthly product inventory control);

- (x) 20 DCMR § 6006 (failure to follow proper procedures for manual tank gauging);
- (y) 20 DCMR § 6007 (failure to conduct proper tank tightness testing);
- (z) 20 DCMR § 6008 (automatic tank gauging does not meet requirements);
- (aa) 20 DCMR § 6009 (vapor monitoring method does not meet requirements);
- (bb) 20 DCMR § 6010 (ground-water monitoring does not meet requirements);
- (cc) 20 DCMR § 6011 (interstitial monitoring does not meet requirements);
- (dd) 20 DCMR § 6012 (alternative method of release detection does not meet performance requirements);
- (ee) 20 DCMR §§ 6004.2 and 6004.5 (failure of release detection for petroleum UST piping to meet performance requirements);
- (ff) 20 DCMR § 6100.4 (failure to notify Director and Fire Chief of temporary closure of UST within seven (7) days);
- (gg) 20 DCMR § 6100.8 (failure to permanently close UST within twelve (12) months after temporary closure);
- (hh) 20 DCMR § 6101.3 (failure to notify Director and Fire Chief of permanent closure or change in service);
- (ii) 20 DCMR § 6101.8 (failure to fill tank with inert solid material when variance granted);
- (jj) 20 DCMR §§ 6101.9 or 6101.15 (failure to conduct site assessment of excavation zone before permanent closure or change in service);
- (kk) 20 DCMR § 6203.7(d) (failure to notify Director and Fire Chief of confirmation of release);
- (ll) 20 DCMR § 6206.6 (failure to submit free product removal report);
- (mm) 20 DCMR §§ 6205.3 or 6207.5 (failure to prepare and follow site-specific Quality Assurance/Quality Control plan prior to conducting site activities for site assessment or corrective action);
- (nn) 20 DCMR § 6207.10 (initiation of remediation without notifying Director, complying with conditions imposed by Director);

- (oo) 20 DCMR § 6207.12 (failure to monitor, evaluate, and report results of implementing CAP in accordance with required schedule);
- (pp) 20 DCMR § 6207.15 (failure to submit one-year evaluation of CAP effectiveness);
- (qq) 20 DCMR § 6207.16 (failure of responsible party to remove equipment and ensure that wells are closed down, removed, grouted and sealed);
- (rr) 20 DCMR §§ 6701.7, 6702.9, or 6715.4 (failure of owner to obtain and submit current evidence of financial responsibility to Director within thirty (30) days after owner receives notice of incapacity of assurance provider);
- (ss) 20 DCMR §§ 6702.1 through 6702.7 (failure of owner to maintain records of financial assurance mechanisms as required);
- (tt) 20 DCMR § 6702.8 (failure of owner to submit evidence of financial responsibility to Director within thirty (30) days after identifying a release from UST);
- (uu) 20 DCMR §§ 6706.4, 6706.5, 6706.6, or 6715.2 (failure of guarantor to meet financial test criteria and send required notices to owner);
- (vv) 20 DCMR §§ 6703.6, 6714.6, or 6715.5 (failure of owner to notify Director of failure to obtain alternate assurance);
- (ww) 20 DCMR § 6714.2 or 6714.3 (termination of financial assurance mechanism without proper notice to owner); or
- (xx) 20 DCMR § 6715.1 (failure to notify the Director of bankruptcy).

3651.4

Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 20 DCMR § 5600.9 (failure to file notification with Director after purchase of existing UST);
- (b) 20 DCMR § 5600.13 (failure to ensure that installer certifies proper installation);
- (c) 20 DCMR § 5601.15 (failure to notify UST owner or lessee of notification requirements);
- (d) 20 DCMR § 5601.11 (no registration certificate available for inspection);
- (e) 20 DCMR § 5601.15 (failure to notify UST purchaser or registration requirements);

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- (f) 20 DCMR § 5602.5 (records unavailable for inspection at UST site);
- (g) 20 DCMR § 5602.6 (records not readily available for inspection);
- (h) 20 DCMR § 5602.7 (failure to deliver closure records to Director when required);
- (i) 20 DCMR § 6700.8 or 6702.10 (failure to file Certification of Financial Responsibility within required time); or

3651.5 Violation of any provision of the District of Columbia Underground Tank Management Act of 1990, effective March 8, 1991 (D.C. Law 8-242, as amended; **D.C. Official Code §§ 8-113.01 to 8-113.12**), or the D.C. Underground Storage Tank Regulations, 20 DCMR, Chapters 55-67, which is not cited elsewhere in this section, shall be a Class 4 infraction.

## 3652 HAZARDOUS WASTE INFRACTIONS

3652.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR § 4002.1 (refusal of generator, transporter, or owner or operator of Treatment, Storage or Disposal (TSD) facility to allow entry by Director or designee for inspection as required);
- (b) Section 8 of the District of Columbia Hazardous Waste Management Act of 1977, effective March 16, 1978 (D.C. Law 2-64; **D.C. Official Code § 8-1307**) or 20 DCMR § 4003.1 (refusal of generator, transporter, or owner or operator of TSD facility to allow Director or designee to inspect premises, obtain samples, or inspect and copy records or test results);
- (c) 20 DCMR § 4003.5 (failure or refusal of generator, transporter, or owner or operator of TSD facility to conduct monitoring, testing, or take corrective action as directed);
- (d) 20 DCMR § 4015.1 (refusal of generator, transporter, or owner or operator of TSD facility or property owner to permit Director or designee to enter to respond to release or take corrective action);
- (e) 20 DCMR § 4200.10 (failure of person who generates a solid waste to determine if the waste is a hazardous waste);
- (f) 20 DCMR §§ 4200.12 or 4200.13 (failure of generator to obtain EPA identification number prior to treatment, storage, disposal, transportation, or offer for transportation of hazardous waste);

- (g) 20 DCMR § 4300.7 (failure of transporter to obtain EPA identification number);
- (h) 20 DCMR §§ 4301.9 or 4301.10 (failure of transporter to deliver entire quantity of hazardous waste accepted to designated facility, alternate designated facility, or next designated transporter, or to contact generator for further instructions);
- (i) 20 DCMR § 4302.1 (failure of transporter to properly notify authorities of discharge during transport, to take immediate actions to protect human health and the environment, or to clean up discharge as required);
- (j) 20 DCMR § 4400.3 (management or disposal of hazardous waste by underground injection, incineration, land treatment, landfills, or surface impoundment);
- (k) 20 DCMR §§ 4401.1 and 4402.3 (failure by facility owner or operator to apply for an EPA identification number in accordance with the Department notification procedures);
- (l) 20 DCMR § 4404.1 (failure by facility owner or operator to inspect the facility for malfunctions and deterioration, operator errors, and discharges which may be causing, or may lead to release of hazardous waste);
- (m) 20 DCMR § 4600.5, or 4600.6 (failure to have required storage, treatment, or disposal facility permit);
- (n) Section 4(a) of the District of Columbia Hazardous Waste Management Act of 1977 (**D.C. Official Code § 8-1303(a)**) or 20 DCMR § 4613.2 (failure to comply with permit condition); or
- (o) 20 DCMR §§ 4901.6(e), 4903.13(a), 4903.16(h), or 4901.13(h) (failure of used oil generator, used oil transporter, owner or operator of used oil transfer facility, or used oil processor / re-refiner to respond to used oil discharge).

3652.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 4003.4 (failure of generator, transporter, or owner or operator of TSD facility to submit records, documents, or responses to Director within fourteen (14) days of request);
- (b) 20 DCMR § 4102.6 (accumulation of hazardous waste by small quantity generator on-site for more than one hundred eighty (180) days or in excess of six hundred (600) kilograms or one (1) kilogram of acutely hazardous waste);

- (c) 20 DCMR § 4201.1 (failure of generator to prepare a manifest for transport);
- (d) 20 DCMR § 4201.2 (failure of generator to designate a facility which is permitted to handle waste on manifest);
- (e) 20 DCMR § 4201.3 (failure of generator to designate alternate facility or instruct transporter to return waste, where transporter cannot deliver to designated facility);
- (f) 20 DCMR §§ 4201.10(c) or 4203.1 (failure of generator to keep a copy of each manifest on-site for the required period of time);
- (g) 20 DCMR § 4202.1 (failure of generator to package hazardous waste in accordance with applicable USDOT Regulations prior to transport);
- (h) 20 DCMR § 4202.2 (failure of generator to label hazardous waste in accordance with applicable USDOT Regulations prior to transport);
- (i) 20 DCMR §§ 4202.3 or 4202.4 (failure of generator to mark hazardous waste in accordance with applicable USDOT Regulations prior to transport);
- (j) 20 DCMR § 4202.5 (failure of generator to placard hazardous waste in accordance with applicable USDOT Regulations prior to transport);
- (k) 20 DCMR § 4202.6 (accumulation of hazardous waste by generator for more than ninety (90) days);
- (l) 20 DCMR § 4202.7(c) (failure to clearly mark accumulation start date on each container);
- (m) 20 DCMR § 4202.7(d) (accumulation of hazardous waste without labeling containers with the words "hazardous waste");
- (n) 20 DCMR § 4202.7(e) (accumulation of hazardous waste without meeting personnel training requirements of 20 DCMR § 4405, preparedness and prevention requirements of 20 DCMR § 4409, or contingency plan and emergency procedures of 20 DCMR § 4410); or
- (o) 20 DCMR § 4203.5 (failure to submit a complete Biennial Report by the specified period of time).

3652.3

Violation of any provision of the District of Columbia Hazardous Waste Management Act of 1977, effective March 16, 1978 (D.C. Law 2-64, as amended);

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**D.C. Official Code §§ 8-1301 to 8-1314 (2001)**), or the District of Columbia Hazardous Waste Regulations, 20 DCMR chapters 40 through 54, which is not cited elsewhere in this section, shall be a Class 3 infraction.

**3653-3661 RESERVED**

**3662 LEAD-BASED PAINT ABATEMENT AND CONTROL INFRACTIONS**

**3662.1 Reserved**

**3662.2** Violation of the following provisions shall be a Class 2 infraction:

- (a) Section 4(a)(3) of the Lead Based Paint Abatement and Control Act of 1996, effective April 9, 1997 (D.C. Law 11-221; **D.C. Official Code § 8-115.03(a)(3)**) (providing training to others for lead-based paint activities without accreditation);
- (b) Section 4(b) of the Lead Based Paint Abatement and Control Act of 1996 (**D.C. Official Code § 8-115.03(b)**) (applying lead-based paint or glaze to a surface);
- (c) Section 4(c) of the Lead Based Paint Abatement and Control Act of 1996 (**D.C. Official Code § 8-115.03(c)**) (selling, offering for sale, delivering, transferring, or possessing with intent to sell, deliver, or transfer an article intended for use by children that has lead-based paint or glaze applied);
- (d) Section 6(a) or (b) of the Lead Based Paint Abatement and Control Act of 1996 (**D.C. Official Code § 8-115.05(a) or (b)**) (failure to obtain certification before conducting a lead-based paint activity);
- (e) Section 7(a) of the Lead Based Paint Abatement and Control Act of 1996 (**D.C. Official Code § 8-115.06(a)**) (failure to obtain accreditation for each training course or review course offered);
- (f) Section 8(a) of the Lead Based Paint Abatement and Control Act of 1996 (**D.C. Official Code § 8-115.07(a)**) (failure to obtain a permit before conducting lead-based paint abatement);
- (g) 40 CFR 745.227(e)(6)(i), incorporated by reference in 20 DCMR § 806.1 (open-flame burning or torching of lead-based paint during an abatement);
- (h) 40 CFR 745.227(e)(6)(ii), incorporated by reference in 20 DCMR § 806.1 (machine sanding or grinding, or abrasive blasting or sandblasting of lead-based paint during an abatement, without High Efficiency Particulate Air (HEPA) exhaust control);

- (i) 40 CFR 745.225(e)(6)(iii), incorporated by reference in 20 DCMR § 806.1 (dry scraping of lead-based paint during an abatement, except in conjunction with heat guns or around electrical outlets, or when totaling no more than two (2) square feet in any one room, hallway, or stairwell or totaling no more than twenty (20) square feet on exterior surfaces);
- (j) 40 CFR 745.227(e)(6)(iv), incorporated by reference in 20 DCMR § 806.1 (operating a heat gun on lead-based paint during an abatement at one thousand one hundred degrees Fahrenheit (1100° F) or above); or
- (k) 40 CFR 745.227(e)(8), incorporated by reference in 20 DCMR § 806.1 (failure to perform or complete required post-abatement clearance procedures).

3662.3 Violation of Section 9 of the Lead Based Paint Abatement and Control Act of 1996 (**D.C. Official Code § 8-115.08**)(record-keeping requirements) shall be a Class 3 infraction.

3662.4 Violation of any provision of the Lead-Based Paint Abatement and Control Act of 1996, effective April 9, 1997 (D.C. Law 11-221, as amended; **D.C. Official Code §§ 8-115.01 to 8-115.14** (2001 & Supp. 2003)), or the Lead Control Rules, 20 DCMR § 806, that is not cited elsewhere in this section shall be a Class 4 infraction.

Title 16 DCMR is amended to add a new Chapter 37 to read as follows:

**CHAPTER 37**                      **DEPARTMENT OF INSURANCE, SECURITIES, AND  
BANKING INFRACTIONS**

Secs.

**3700**                      **Administrative Procedures and Schedule of Fines Applicable**  
**3701**                      **Department of Insurance, Securities, and Banking Infractions**

**3700**                      **ADMINISTRATIVE PROCEDURES AND SCHEDULE OF FINES  
APPLICABLE**

3700.1                  The civil infractions set forth in this chapter are subject to the provisions of Chapter 31 (Administrative Procedures) and Chapter 32 (Schedule of Fines) of this Title.

**3701**                      **DEPARTMENT OF INSURANCE, SECURITIES, AND BANKING  
INFRACTIONS**

**3701.1**                  **Reserved**

3701.2                  Violation of the following provision shall be a Class 2 infraction:

Section 3 An Act To confer additional jurisdiction upon the Superintendent of Insurance for the District of Columbia to regulate domestic stock insurance companies and to exempt such companies from section 12(g) (1) of the Securities Exchange Act of 1934, approved Apr. 18, 1966 (80 Stat. 123; **D.C. Official Code § 31-603(i)**) (failure to comply with a provision or rule concerning domestic stock insurance companies).

3701.3                  Violation of any provision of the following statutes or rules issued pursuant thereto, which provision or rule is not cited elsewhere in this section, shall be a Class 3 infraction:

(a)                  An Act to regulate marine insurance within the District of Columbia, approved Mar. 4, 1922 (42 Stat. 401; **D.C. Official Code § 31-2602 et seq.**); or

(b)                  The Fire and Casualty Act, approved Oct. 9, 1940 (54 Stat. 1063; **D.C. Official Code § 31-2501 et seq.**).

Title 16 DCMR is amended to add a new Chapter 38 to read as follows:

**CHAPTER 38 OFFICE OF PLANNING INFRACTIONS**

**Secs.**

**3800 Administrative Procedures and Schedule of Fines Applicable**  
**3801 Historic Preservation Infractions**

**3800 ADMINISTRATIVE PROCEDURES AND SCHEDULE OF FINES**  
**APPLICABLE**

3800.1 The civil infractions set forth in this chapter are subject to the provisions of Chapter 31 (Administrative Procedures) and Chapter 32 (Schedule of Fines) of this Title.

**3801 HISTORIC PRESERVATION INFRACTIONS**

**3801.1 Reserved**

3801.2 Violations of any of the following provisions shall be a Class 2 infraction:

- (a) Sections 5, 6 and 8 of the Historic Landmark and Historic District Protection Act of 1978, effective, March 3, 1979 (D.C. Law 2-144; **D.C. Official Code §§ 6-1104, 6-1105, 6-1107**) (failure to comply with the permit review procedures for demolition, alteration, or construction of buildings or structures in historic districts or which are themselves historic landmarks);
- (b) 10A DCMR § 410 and § 411 (failure to comply with terms or conditions of approval by the Historic Preservation Office, Historic Preservation Review Board, or Mayor's Agent); and
- (c) Section 5b (a) of the Historic Landmark and Historic District Protection Act of 1978, effective April 27, 2001 (D.C. Law 13-281; **D.C. Official Code § 6-1104.02(a)**) (failure to protect a historic building or structure from demolition by neglect).

3801.3 Violation of the following provision shall be a Class 3 infraction:

- (a) Section 5a (a) of the Historic Landmark and Historic District Protection Act of 1978 (**D.C. Official Code § 6-1104.01(a)**) (failure to protect a historic building or structure against decay and deterioration).

## THE DISTRICT OF COLUMBIA HOUSING AUTHORITY

NOTICE OF FINAL RULEMAKING

The Board of Commissioners of the District of Columbia Housing Authority hereby gives notice of the adoption of an amendment to Chapter 85 to Title 14, which contain the rules governing participant household moves. Final action to adopt these rules was taken at the Board of Commissioners regular meeting on May 11, 2005. Notice of Proposed Rulemaking was published on March 18, 2005 (52 DCR 2778). Minor, but not substantial, changes were made to the text of the proposed rules as published under the notice of proposed rulemaking. These final rules will be effective upon publication of this notice in the D.C. Register.

**8500 PARTICIPANT HOUSEHOLD MOVES**

8500.1 Prerequisites to a Move. A Participant Household may be issued a transfer voucher entitling them to move to another unit with, and continue to receive, a housing assistance subsidy in the District of Columbia if:

- (a) The Household meets the following five conditions:
  - (1) The Household is not within the first term of their existing lease (unless Landlord and household mutually agree in writing to terminate the lease or HCVP terminates the HAP Contract for any reason);
  - (2) The Household is in good standing and is not currently in violation of any family obligations as a participant in the Housing Choice Voucher Program and applicable HCVP and HUD rules and regulations;
  - (3) The Household is current on any payments due to DCHA;
  - (4) The Household attends a full transfer briefing conducted by DCHA; and
  - (5) The effective date of the new lease begins on the first of the month; or
- (b) DCHA has determined, in its sole discretion, that one or more of the following emergency situations applies:
  - (1) There is a creditable threat of domestic violence or need for witness protection in connection with the Household that may be mitigated by a move;

- (2) There are serious unresolved Housing Quality Standard landlord violations in the Participant Household's existing leased unit;
  - (3) Other emergency factors acceptable to DCHA have been identified by the Participant Household.
- (c) If a Participant Household makes a written request for consideration under 8500.1(b) above, DCHA shall respond in writing within five business days.

8500.2 Transfer Vouchers.

- (a) For a Participant Household that qualifies for a move under Subsection 8500.1 above, the Participant Household shall be offered a Transfer Voucher to search for another unit.
- (b) The Transfer Voucher shall expire at the earlier of 180 days from the date of its issuance, or the date DCHA has terminated the Housing Assistance Contract on the Participant Household's existing unit with notice to the Household.
- (c) Any denial or refusal to issue a Transfer Voucher shall be issued in writing and state the reasons for such denial, including the specific nature of any denial due to any violation of Family Obligations or failure to be in good standing under 8500.1(a)(2) above.

8500.3 Processing the Move. After issuance of a Transfer Voucher, if the Participant Household locates a dwelling unit it wishes to lease, it shall be processed by DCHA as a new lease-up, including the following:

- (a) Provision of a lease-up packet when the Transfer Voucher is issued;
- (b) Inspection of the new unit for compliance with HQS; and
- (c) Approval of the lease-up lease package, including the lease and the lease terms including the gross rent and the contract rent subject to a rent reasonableness determination.

8500.4 Failure to Relocate. After a Transfer Voucher is issued, if the Household does not locate a new dwelling unit to move to:

- (a) The Household may continue on where it is currently leasing, provided that:
  - (1) The Household has not yet given notice to terminate their lease to the owner; or

- (2) The Household has delivered to the owner a notice rescinding the Household's earlier termination notice with a copy of such notice simultaneously delivered to DCHA; and
- (3) The HAP Contract has not otherwise been terminated by DCHA.
- (b) The Household is not required to provide new lease-up or other documents to DCHA and the owner shall continue to receive Housing Assistance Payments as if the Participant had never requested the Transfer Voucher.
- (c) The Household's prior Total Tenant Payment continues in effect.

8500.5 Future Moves. If a Household decides to move at a future date while the Transfer Voucher is still in effect, or upon obtaining another Transfer Voucher, the Household is required to:

- (a) Give the owner notice as provided under the Household's lease or otherwise by mutual consent with the Owner permitting termination of the existing lease; or
- (b) If the Transfer Voucher has expired, the Household is required to request a Transfer Voucher under the conditions identified in Subsection 8500.1 above.

## DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

## NOTICE OF FINAL RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs (Director), 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 the adoption of an amendment to Chapter 1 of Title 17 of the District of Columbia Municipal Regulations (DCMR). The new 17 DCMR Chapter 1, § 114 specifies the criteria used for the determination of fitness for licensure, based on a specific criminal offense committed by an applicant or licensee, by the District's non-health related occupations and professions boards and commissions. This rulemaking was required by section 202 of the Trade Occupations Exemption from Conviction Restriction on Licensure Act of 2004 (Act), signed by the Mayor on January 19, 2005 (D.C. Act 15-744; 52 DCR 1999), and preserves the ability of the non-health related occupations and professions boards and commissions to deny, suspend or revoke a license, based upon a criminal conviction of the applicant or licensee. No comments were received and no changes have been made to the text of the proposed rules, as published with the Notice of Proposed Rulemaking in the *D.C. Register* on April 15, 2005 (52 DC 3828). These final rules will be effective upon publication of this notice in the *D.C. Register*.

17 DCMR Chapter 1 is amended by inserting a new section 114 as follows:

**114                    STANDARD OF REVIEW FOR EVALUATING THE CRIMINAL HISTORY OF AN APPLICANT FOR LICENSURE OR CANDIDATE FOR SUSPENSION OR REVOCATION OF A LICENSE**

114.1                For the purposes of this section, the following words shall have the meaning ascribed:

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

**License** - a license, certification, or registration issued and regulated under the authority of D.C. Code § 47-2853.01 *et seq.* (2001).

**Licensee** – a person who possesses an active license.

114.2                No application for any license shall be denied and no licensee shall have his or her license suspended or revoked, for any license listed in subsection 114.7, by reason of the applicant or licensee having been convicted of one or more criminal offenses in the District of Columbia or another jurisdiction, or by reason of a finding of lack of "good moral character," when such finding is based upon the fact that the applicant or licensee has been convicted of one or more criminal offenses in any jurisdiction, unless the board with jurisdiction over the matter first shows that:

- (a) There is a potential direct relationship between the nature of one or more of the criminal offenses and the specific license sought or held; or
  - (b) The issuance or retention of the license could involve an unreasonable risk to property, safety, or welfare of specific individuals or the general public.
- 114.3 When a board bases a decision to deny, suspend, or revoke licensure for a license listed in subsection 114.7 upon the criteria set forth in paragraph (a) or (b) of subsection 114.2, the board shall, in writing, set forth the explanation as to how paragraph (a) or (b) of subsection 114.2 applies and then the board shall apply the additional criteria set forth in section 114.5 prior to denying, suspending, or revoking the license.
- 114.4 When a board seeks to deny, revoke, or suspend a license that is not listed in subsection 114.7, the board shall only be required to apply the criteria set forth in subsection 114.5.
- 114.5 In making a determination pursuant to subsection 114.2, or subsection 114.4 the board or commission shall consider the following factors:
- (a) The specific duties and responsibilities necessarily related to the license;
  - (b) The bearing, if any, the criminal offense or offenses for which the person was convicted will have on his fitness or ability to perform one or more such duties or responsibilities under the license;
  - (c) The time that has elapsed since the occurrence of the criminal offense or offenses;
  - (d) The age of the person at the time of occurrence of the criminal offense or offenses;
  - (e) The nature and seriousness of the offense or offenses;
  - (f) Any information produced by the person, or produced on his behalf, concerning his or her rehabilitation and good conduct; and
  - (g) The legitimate interest of the public agency in protecting property, the safety, or welfare of specific individuals or the general public.
- 114.6 In making a determination pursuant to section 114.5, the board or commission shall also consider a certificate of relief from disabilities or a certificate of good conduct issued to the applicant. Only a certificate issued by the District of Columbia shall create a presumption of rehabilitation. Certificates that have been issued by other jurisdictions may be provided as evidence of rehabilitation.
- 114.7 The following licenses require evaluation under both subsections 114.2 and 114.5:

- (A) Asbestos worker;
- (B) Barber;
- (C) Cosmetologist;
- (D) Commercial bicycle operator;
- (E) Electrician;
- (F) Funeral director;
- (G) Operating engineer;
- (H) Plumber/gasfitter;
- (I) Refrigeration and air conditioning mechanic; and
- (J) Steam engineer.

114.8

If a conviction of a criminal offense, which bears directly on the fitness of the person to be licensed, forms the basis of a board's decision to deny, suspend or revoke a license under this section, the board's decision shall be made in writing and specifically state the evidence presented and reasons for the decision. The board shall provide the affected person with a written copy of its decision.