District of Columbia Office of Energy

NOTICE OF PROPOSED RULEMAKING

The Director of the D.C. Energy Office, with the concurrence of the Gas Station Advisory Board, pursuant to section 5-301(h) of the Retail Service Station Act of 1976, effective April 19, 1977, D.C. Law 1-123, D.C. Official Code § 36-304.01(h)(2001), hereby gives notice of the intent to adopt the following rules in not less than thirty days from the date of publication of this notice in the D.C. Register. The proposed rules delineate what information must be included in a Notice of Violation. The rules also set forth the procedures involved in issuing and responding to Notices of Violation. Lastly, the proposed rules specify who may appear at hearings and what penalties administrative law judges may impose on respondents found to have violated the regulations. Final rulemaking action shall be taken not less than thirty days from the date of publication of this notice in the D.C. Register.

Title 1 (Mayor and Executive Agencies) of the DCMR, Chapter 22 is amended by adding the following new sections to read as follows:

2210 **CHAPTER 22**
GAS STATION ADVISORY BOARD RULES AND PROCEDURES

2210.1 **GENERAL PROVISION**

These regulations are in addition to the rules regulating the Office of Administrative Hearings (OAH.) Where there is a conflict, the OAH regulations will prevail.

2211 **NOTICE OF INFRACTION**

2211.1 A Notice of Infraction ("NOI") shall be in the form prescribed by the Mayor's appointee or the Gas Station Advisory Board ("GSAB") Chairman and will be issued for infractions.

2211.2 A NOI must include the following information:

(a) The name and address of the respondent;
(b) A citation to the law or rule that the respondent allegedly violated;
(c) The amount of the fine;
(d) The nature, time and place of the infraction;
(e) Notification that:

(1) The respondent must request a hearing or pay the fine within fifteen days of the date the NOI was served on the respondent;

(2) A penalty equal to the amount of the fine may be imposed on the respondent if the respondent does not pay the fine within fifteen days;
(3) The respondent may request a hearing according to procedures described in the NOI;
(4) The respondent may pay by:

(A) cash, which must be paid in person as directed in the NOI; or
(B) certified check, postal or bank money order payable to the District of Columbia Treasurer, any of which may be submitted in person or by mail as directed in the NOI.

(5) If the respondent answers "Admit" or "Admit with Explanation," he or she must certify that each infraction on the NOI has been abated; and
(f) Any other information the Director may require.

2211.3 If the fine listed on the NOI is inconsistent with the fine listed in the statute, the respondent can be subject only to the lesser fine.

2211.4 Upon observing an infraction, the investigator may issue an NOI.

2211.5 A properly completed NOI signed by the issuing agent constitutes *prima facie evidence* of the statements contained in the Notice.

2211.6 Each incident of prohibited conduct constitutes a separate infraction subject to penalty.

2212 SERVICE OF THE NOTICE OF INFRACTION

2212.1 The NOI must be served on the violator, the business owner, or the owner's agent by means of certified mail, personal service or conspicuous posting.

2212.2 An NOI served via U.S. mail must be sent to the respondent's last known home or business address.

2212.3 If service is made by certified mail, the petitioner must provide a copy of the return receipt of certified mail to the Office of Administrative Hearings within fifteen calendar days after a case is filed.

2212.4 If service is made by personal delivery, the petitioner may provide a certificate of service signed by the issuing agent.

2212.5 If service is made by posting, the petitioner must provide an affidavit of posting, stating when the NOI was posted and the duration of the posting.

2213 ANSWERING THE NOTICE OF INFRACTION

2213.1 A respondent answers an NOI by pleading Admit, Admit with Explanation, or Deny.

2213.2 An answer of Admit constitutes the respondent's acceptance of liability for the condition(s) cited in the NOI.

2213.3 An answer of Admit with Explanation must be accompanied by a written explanation and any other papers that might explain the circumstances surrounding the infraction.

2213.4 An answer of Deny indicates that the respondent accepts no liability for the condition(s) cited in the Notice of Infraction.

2214 HEARINGS

2214.1 Petitioner and respondent may represent themselves and be represented by counsel.

2214.2 Hearings may not be conducted by mail.

2215 PAYMENT OF CIVIL SANCTIONS

2215.1 An administrative law judge may impose monetary fines and penalties.

2215.2 All checks must be certified and made payable to "D.C. Treasurer."

2215.3 Payment of the fine does not relieve the respondent of the obligation to abate the infraction cited in the NOI.

Any person wishing to comment on these proposed rules should file written comments no later than thirty days after the date of publication of this notice in the D.C Register. Comments should be delivered or mailed to Christine V. Davis, General Counsel for the Department of Public Works, 2000 14th Street NW, 6th Floor, Washington, D.C. 20009. Copies of the proposed rules may be obtained at this address, as well.

DEPARTMENT OF HEALTH

NOTICE OF PROPOSED RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the D.C. Health Occupations Revision Act of 1985, effective March 15, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of his intent to take final rulemaking action to adopt the following new rules to Title 17 DCRM, Chapter 48 in not less than thirty (30) days from the date of publication of this notice in the D.C. Register. The purpose of this rulemaking is to establish practice and supervisory guidelines for unlicensed chiropractic assistants.

Chapter 48 (Chiropractic) of Title 17 DCMR (Business, Occupations & Professions) (May 1990) is amended to read as follows:

A new section 4810 is added to read as follows:

4810 PRACTICE OF CHIROPRACTIC ASSISTANTS

4810.1 A chiropractic assistant may perform the following under the general supervision of a licensed doctor of chiropractic:

(a) Case histories;

(b) Diagnostic testing;

(c) Therapeutic ancillary procedures.

4810.2 A chiropractic assistant may not perform the following:

(a) Any tasks requiring manipulative or adjustment techniques;

(b) The rendering of diagnostic results or interpretations;

(c) Giving treatment advice without direct written orders from the Doctor of Chiropractic;

(d) The taking of x-rays unless properly trained.

4810.3 A licensed doctor of chiropractic shall be fully responsible for all of the actions performed by the chiropractic assistant during the time of the supervision and is subject to disciplinary action for any violation of the Act or this chapter by the person supervised.

4899 **DEFINITIONS**

4899.1 As used in this chapter, the following terms shall have the meanings ascribed:

Chiropractic assistant – an unlicensed person who has completed an educational training program or has adequate experience or training acceptable to the Doctor of Chiropractic, who assists in basic health care duties in the practice of chiropractic under the general supervision of a Doctor of Chiropractic, and who performs delegated duties commensurate with the chiropractic assistant's education and training.

General supervision – supervision in which the supervisor is available on the premises and within vocal communication either directly or by a communication device at the time the chiropractic assistant is practicing.

All persons desiring to comment on the subject of this proposed rulemaking should file comments in writing not later than thirty (30) days after the date of the publication of this notice in the D.C. Register. Comments should be sent to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4th Floor, Washington, D.C. 20002. Copies of the proposed rules may be obtained from the Department at the same address during the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday, excluding holidays.

DEPARTMENT OF PUBLIC WORKS

NOTICE OF PROPOSED RULEMAKING

The Director, D.C. Department of Public Works, pursuant to the authority set forth in section 2(c) of the District of Columbia Solid Waste Disposal Act of 1989, effective July 15, 1989 (D.C. Law 8-16; 36 DCR 4155) and Mayor's Order 2005-123, dated August 23, 2005, hereby gives notice of final action to adopt the following rules on November 29, 2005. The Department of Public Works published a Notice of Proposed Rulemaking on October 7, 2005, at 52 DCR 8960. In addition, the proposed rules were submitted to the Council of the District of Columbia on September 20, 2005 for a forty-five day period of review. The Council of the District of Columbia took no action to disapprove the proposed rules during that review period and they were deemed approved on November 28, 2005.

The Department of Public Works did not receive any public comments on the proposed rules and the final rules are identical to the proposed rules. These final rules will become effective upon publication of this notice in the *D.C. Register.*

Chapter 7 of Title 21, DCMR, is amended as follows:

Section 719.6 is amended to read as follows:

719.6 The following fee-setting formula is established for the disposal of each ton of construction and demolition debris: Solid Waste Disposal Fee for Construction and Demolition Debris + Solid Waste Disposal Fee + Special Handling Costs + Recycling Surcharge

Section 720.5 is amended to read as follows:

720.5. The applicable fees for the disposal of construction and demolition debris at the waste-handling facilities shall be seventy dollars ($70.00) for each ton disposed; Provided, that a minimum fee of thirty-five dollars ($35.00) shall be imposed on each load weighing one thousand pounds (1,000 lbs.) or less.

Section 720.8 is amended to read as follows:

720.8 The applicable fees for the disposal of each ton of solid waste at the waste-handling facilities, excluding those wastes specified in § 720.5, 720.6, and 720.7, shall be fifty dollars ($50.00) for each ton disposed; provided, that a minimum fee of twenty-five dollars ($ 25.00) shall be imposed on each load weighing one-thousand pounds (1,000 lbs.) or less.

Section 720.9 is amended to read as follows:

720.9 The waste reduction and recycling surcharge shall be one dollar ($ 1.00) for each ton of solid waste disposed of at the waste-handling facilities.

Section 720.10 is repealed.

Section 721.1 is amended to read as follows:

721.1 A solid waste collector who disposes of solid waste at a disposal facility owned by, operated by, or under contract with the District shall pay its disposal fees in advance by certified check or credit card, or by establishing an escrow account with a financial institution for monthly drawdowns by the District to pay for the collector's solid waste disposal fees. The escrow account shall maintain a balance equivalent to sixty (60) days of estimated disposal fees. Estimated disposal fees shall be based on the average of the solid waste collector's disposal cost from the preceding six (6) month period. If the disposal cost information for the preceding six (6) month period is not available, the Mayor shall reasonably determine the balance to be maintained in the escrow account. All escrow accounts shall be reconciled within five (5) business days after the date on which the solid waste disposal collector is notified of any deficiency in an escrow account. If the escrow account is not reconciled within five (5) business days, the Mayor shall impose a five percent (5%) penalty based on the amount due in the escrow account.

Section 721.2 is repealed.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING
Z.C. Case No. 05-12
(Text Amendment – 11 DCMR – Hostels)

The Zoning Commission for the District of Columbia, pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Code 2001 Ed. § 6-641.01 (2001)), hereby gives notice of its intent to amend chapters 1 and 17 of the Zoning Regulations (Title 11 DCMR). The proposed amendment would modify the definition of "Inn" to clarify that the limitation on central dining does not prohibit Inns, including hostels, from providing centrally located cooking facilities or permitting guests to prepare and eat meals in such facilities. The proposed amendment would also permit the hostel located at Lot 810, Square 342 (1009 11th Street, N.W.) to expand or rebuild without having to comply with the residential requirement of § 1706.5(b) of the Zoning Regulations and to achieve a maximum density of 9.5 FAR, notwithstanding the fact that it will not be subject to that requirement. Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The following rulemaking action is proposed:

Title 11 DCMR (Zoning) is proposed to be amended as follows:

A. Section 199, DEFINITIONS, subsection 199.1 ("Inn"), is amended by adding a new final sentence as follow and shown bolded and underlined:

> **Inn** - a building or part of a building in which habitable rooms or suites are reserved primarily for transient guests who rent the rooms or suites on a daily basis. Guestrooms or suites may include kitchens, but central dining, other than breakfast for guests, is not allowed. The term "inn" may be interpreted to include an establishment known as a bed and breakfast, hostel, or tourist home, but shall not be interpreted to include a hotel, motel, private club, rooming house, boarding house, tenement house, or apartment house. **For the purposes of this definition, the limitation on central dining does not prohibit an Inn from allowing guests to prepare their meals at centrally located cooking facilities and to eat such meals in a central dining area.**

B. Chapter 17, DOWNTOWN DEVELOPMENT OVERLAY DISTRICT, Section 1706, Residential and Mixed Use Development, is amended by adding a new subsection 1706.20 to read as follows:

1706.20 The hostel existing as of (THE EFFECTIVE DATE OF THIS AMENDMENT) on the land area currently comprising lot 810 in Square 342 may be expanded or rebuilt without complying with the housing requirement specified in § 1706.5(b) for so long as the hostel use continues and may be constructed to a maximum FAR of 9.5, notwithstanding the inapplicability of the residential requirement.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon S. Schellin, Office of Zoning, 441 4th Street, N.W., Suite 210-S, Washington, D.C. 20001. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING
Z.C. Case No. 05-29
(Text Amendment – 11 DCMR — Flexibility for Private Schools to Enroll Students Displaced by Hurricane Katrina)

The Zoning Commission for the District of Columbia, pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Code 2001 Ed. § 6-641.01 (2001)), hereby gives notice of its intent to amend chapter 2 of the Zoning Regulations (Title 11 DCMR). The proposed amendment would temporarily permit private schools in the District of Columbia to enroll students displaced by the effects of Hurricane Katrina without having such students count against enrollment caps imposed by orders of the Board of Zoning Adjustment. The rule would limit the number of students who could be enrolled without counting towards such caps at ten percent of the maximum number permitted or twenty students, whichever is less, and would expire on July 1, 2006. Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*.

The following rulemaking action is proposed:

Title 11 DCMR (Zoning) is proposed to be amended as follows:

Chapter 2, R-1 RESIDENCE DISTRICT USE REGULATIONS, is amended by adding new §§ 206.4 and 206.5 to read as follows:

206.4 Students who were displaced due to the effects of Hurricane Katrina may attend a private school existing as of September 15, 2005, without being counted against the limit on the number of students that may be a condition of an order of the Board of Zoning Adjustment; provided, that the number of students to be accommodated at a school shall not exceed ten percent (10%) of the maximum number permitted or twenty (20) students, whichever is less.

206.5 Subsection 206.4 shall expire on July 1, 2006.

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Sharon S. Schellin, Office of Zoning, 441 4th Street, N.W., Suite 210-S, Washington, D.C. 20001. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF PROPOSED RULEMAKING
Z.C. Case No. 05-20
(Text Amendment – 11 DCMR)
(Asphalt Plants)

The Zoning Commission for the District of Columbia, pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Code 2001 Ed. § 6-641.01 (2001)), hereby gives notice of its intent to amend chapter 8 of the Zoning Regulations (Title 11 DCMR). The proposed amendment would allow asphalt plants as a permitted use within industrial zone districts subject to special exception review. Currently, this use is not permitted in any zone, as all existing plant(s) pre-date the current zone regulations. Further, the proposed text amendment permits the asphalt plant, now located at 60 P Street, S.E., Square 705, Lot 802, to relocate as a matter-of-right within a designated area in D.C. Village. Final rulemaking action shall be taken in not less than thirty (30) days from the date of publication of this notice in the D.C. Register

The following rulemaking action is proposed:

Title 11 DCMR is amended as follows:

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

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

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

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

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

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

All persons desiring to comment on the subject matter of this proposed rulemaking action should file comments in writing no later than thirty (30) days after the date of §publication of this notice in the D.C. Register. Comments should be filed with Sharon S. Schellin, Acting Secretary to the Zoning Commission, Office of Zoning, 441 4th Street, N.W., Suite 210-S, Washington, D.C. 20001. Copies of this proposed rulemaking action may be obtained at cost by writing to the above address.