

**DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**

FINAL RULEMAKING

ERRATA

The Director of the Department of Consumer and Regulatory Affairs (DCRA) published, in the D.C. Register at 51 DCR 292, January 9, 2004, a Notice of Final Rulemaking adopting Title 12 of the District of Columbia Municipal Regulations (DCMR), the Construction Codes Supplement of 2003; 2000 edition of the International Code Council (ICC) International Building Code; the 2000 edition of the ICC International Residential Code; the 2000 edition of the ICC International Fuel Gas Code; the 2000 edition of the ICC International Mechanical Code; the 2000 edition of the ICC International Plumbing Code; the 2000 edition of the ICC International Property Maintenance Code; the 2000 edition of the ICC International Fire Code; the 2000 edition of the ICC International Energy Conservation Code; the D.C. Existing Buildings Code Supplement of 2003 and; the 1996 edition of the NFPA National Electrical Code.

The January 9, 2004 notice failed to include the text of the D.C. Existing Buildings Code Supplement of 2003 (DCMR 12 J), which had been included in the proposed rulemaking and was approved by the Council of the District of Columbia on December 2, 2003. On February 20, 2004 an ERRATA was published to correct the omission and publish the text of the D.C. Existing Buildings Code Supplement of 2003 (DCMR 12 J).

The January 9, 2004 Notice of Final Rulemaking also failed to include portions of sections 106 through 109 of Chapter 1 of the DCMR 12A, the D.C. Building Code Supplement of 2003, but instead omitted the provisions from the middle of section 106.6.3 to the middle of section 109.1. The full text of sections 106 through 109 of DCMR 12A was included in the proposed rulemaking and was approved by the Council of the District of Columbia on December 2, 2003.

Therefore, the entire text on sections 106.6 through 109.1 of DCMR 12A are set forth below and are made a part of the final rulemaking:

106.6 Form of Covenants and Agreements. All covenants and agreements required by the Construction Codes or drafted in connection therewith shall require approval as to form and legal sufficiency by the Corporation Counsel.

106.6.1 Vault Agreement. Before issuance of a permit for the use or construction of a vault in public space, the owner of the abutting private property shall execute an agreement, in the form prescribed by the District, acknowledging for the owner, owner's heirs and assigns, (1) that no right, title, or interest of the public is thereby acquired, waived, or abridged; (2) that the Mayor may inspect such vault during regular business hours; (3) that the Mayor may introduce or authorize the introduction into or through such vault, with right of entry for inspection, maintenance, and repair of any water pipe, gas pipe, sewer, conduit, other pipe, or other public utility underground construction,

which the Mayor deems necessary in the public interest to place in or by the District, at the expense of such owner, to conform with any change made in the street, roadway, or sidewalk width or grade; and (4) that rental for such vault will be paid to the District as required by the D.C. Public Space Rental Act (D.C. Code, Title 7, Chapter 9). A copy of such agreement shall be recorded in the Office of the Recorder of Deeds by and at the expense of such owner.

106.6.2 Covenants for Openings on Property Lines. A covenant running with the land shall be required where openings in exterior walls closer than 5 feet (1524 mm) from interior lot lines are allowed pursuant to Sections 704.8.4 through 704.8.4.3, to ensure that compliance with the minimum requirements of those sections will be maintained for as long as the building shall exist, and to ensure that responsibility for the maintenance of those conditions will be conveyed to any future owner of the building. Two copies of such covenant, approved and accepted by the Corporation Counsel as to legal form and sufficiency, shall be recorded with the Recorder of Deeds of the District of Columbia by and at the expense of the owner, and shall be made an official part of the land records of that property before issuance of the final Certificate of Occupancy for the building.

106.6.3 Covenants for Projections. The owner shall, by covenant running with the land for such period as the projection shall exist, agree to such limitations and conditions as shall be imposed by the code official, which shall include but not be limited to agreement to save harmless the District of Columbia, its officers and agents, from liability by virtue of the grant of authority to construct said projection, and agreement to landscape or otherwise treat, to the satisfaction of the code official, and thereafter to maintain the area upon which the covenantor has forborne to build. Such covenant, to which the District of Columbia shall be made covenantee, shall be satisfactory to the Corporation Counsel, as to legal form and sufficiency and shall be filed with the Recorder of Deeds, by and at the expense of such owner, before a permit for said projection is issued.

106.6.4 Covenants for Projection Modification for Foregone Construction. The owner who applies for a projection modification pursuant to Section 3202.4 shall, by covenant running with the land for such period as the projection shall exist, agree to such limitations and conditions as shall be imposed by the code official, which shall include but not be limited to agreement to save harmless the District of Columbia, its officers and agents, from liability by virtue of the grant of authority to construct said projection, and agreement to landscape or otherwise treat, to the satisfaction of the code official, and thereafter to maintain the area upon which the covenantor has forborne to build. Such covenant to which the District of Columbia shall be made covenantee, shall be satisfactory to the Corporation Counsel, as to legal form and sufficiency and shall be filed with the Recorder of Deeds by and at the expense of the owner, and shall be made an official part of the land records of that property, before a permit for said projection is issued.

106.6.5 Covenants for Alternative Compliance Plan. A covenant shall be required, before an Alternative Fire Protection Compliance Plan submitted under Section 604.2.1.2 of the Existing Buildings Code can be approved. Such covenant to which the District of

Columbia shall be made covenantee, shall be satisfactory to the Corporation Counsel, as to legal form and sufficiency and shall be filed with the Recorder of Deeds by and at the expense of the owner, and shall be made an official part of the land records of that property before issuance of the final Certificate of Occupancy for the building.

SECTION 107 TEMPORARY STRUCTURES AND USES

107.1 General. The code official is authorized to issue a permit for temporary structures and temporary uses. Such permits shall be limited as to time of service, but such temporary construction shall not be permitted to remain in place for more than one year. The code official is authorized to grant extensions for demonstrated cause.

107.2 Conformance. Temporary structures shall conform to the structural strength, fire safety, means of egress, light, ventilation and sanitary requirements of this code as necessary to ensure the public health, safety and general welfare.

107.3 Temporary Power. The code official is authorized to give permission to temporarily supply and use power in part of an electric installation before such installation has been fully completed and the final certificate of completion has been issued. The part covered by the temporary certificate shall comply with the requirements specified for temporary lighting, heat or power in the electrical code.

107.4 Termination of Approval. The code official is hereby authorized to terminate such special approval and to order the demolition of any such construction at his discretion, or as directed by a decision of the Board of Appeals and Review.

SECTION 108 FEES

108.1 Payment of Fees. A permit to begin work for new construction, alteration, removal, demolition, or other building operation shall not be issued until all fees have been paid to the Department or other authorized agency, nor shall an amendment to a permit requiring an additional fee be approved until the additional fee shall have been paid.

108.1.2 Accounting. The code official shall keep an accurate account of all fees collected, and such collected fees shall be deposited with the D.C. Treasurer, or otherwise disposed of as required by law.

108.2 Schedule of Permit Fees. The building permit fees for plans examination, permit processing and inspections, shall be as prescribed in Section 108.2.1 and the code official is authorized to establish by approved rules a schedule of unit rates for buildings and structures and for the installation of their appurtenant systems, fixtures, appliances and equipment.

108.2.1 Fee Schedule. A fee for each plan examination, permit and inspections shall be paid in accordance with the applicable fee schedule published in the D.C. Register, as amended from time to time.

108.2.1.1 Application Filing Deposit for New Construction and Alterations. All applications filed for new construction or alterations must be accompanied by a portion of the permit fee in the amount of one dollar (\$1.00) for each one thousand dollars (\$1,000) or fraction thereof, of the estimated cost of construction; provided that the required deposit shall not exceed two thousand dollars (\$2,000).

108.3 Building Permit Valuations. The code official is authorized to require that permit applicants for alteration and repair work produce documental proof of the cost of construction declared in the application, before issuance of the building permit. Such proof can be made in any of the following forms:

1. A fully executed construction contract.
2. A formal contractor's estimate.
3. A construction estimate, for other than structures under the jurisdiction of the residential code or for use groups other than R-3, when a contract evidencing a deferred method of determining construction cost is submitted to the code official. Issuance of the certificate of occupancy will be contingent on adjustment of the building permit fee resulting from the difference between the estimated construction cost and the actual construction cost. The actual cost shall be substantiated by submission of a certificate of payment or its equivalent.
4. A construction estimate for repairs and alterations in Use Group R-3 and structures under the jurisdiction of the residential code.

108.4 Work Commencing Before Permit Issuance. Any person who commences any work on a building, structure, gas, electrical, mechanical or plumbing system before obtaining the necessary permits shall be subject to an additional fee established in the official fee schedule that shall be in addition to the required permit fees and any fines that may have been levied.

108.5 Related Fees. The payment of the building permit fee, as prescribed in Section 108.2, shall not relieve the applicant or holder of the permit from the payment of other fees that are prescribed by law, such as fees for water taps or sewer connections; fees for the temporary use of public space; fees for supplemental installation permits; fees for special inspections; fees for special permits issued in connection with or concurrently with a building permit, such as sign, projection, awning, demolition, razing, excavation permits; fees for plan revisions and amendment of permits; fees for certificates of use and occupancy; or fees for any other privileges, services or requirements, allowed or prescribed by the Construction Codes or other regulations, both within and without the jurisdiction of the Department.

108.6 Refunds. In the case of a revocation of a permit or of abandonment or discontinuance of a building project, upon written request made by the permit holder before the permit expires, the portion of the work actually completed shall be computed and any excess fee for the incomplete work shall be returned to the permit holder as soon as practicable after written request is made. All plan examination and permit processing fees, all fees for inspections actually performed, and all penalties that have been imposed on the permit holder under the requirements of this code shall first be withheld.

SECTION 109 INSPECTIONS

109.1 General. Inspections shall be performed:

1. Upon referral of a notice of violation received from inspection agencies other than the Department;
2. Upon receipt of a complaint by a District resident, Councilmember, District government employee, or other government agency;
3. Upon change of use or occupancy;
4. On new construction, additions, alterations, and repairs.

109.1.1 Field Enforcement. The purpose of inspections shall be to ensure that all work is performed in strict accordance with permit conditions, approved plans and the Construction Codes.

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Director of the Department of Health, pursuant to the authority set forth under § 302(14) of the District of Columbia Health Occupations Revision Act of 1985 ("Act"), effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1203.02(14)), and Mayor's Order 98-140, dated August 20, 1998, hereby gives notice of the adoption of the following amendments to Chapter 42 of Title 17 (Business, Occupations & Professions) (May 1990) of the District of Columbia Municipal Regulations (DCMR). The purpose of the amendments is to clarify the licensure requirements for applicants for dental licenses educated in foreign countries. Notice of Proposed Rulemaking was published in the D.C. Register on February 6, 2004 at 51 DCR 1436. No comments were received concerning these rules and no changes have been made since publication as a Notice of Proposed Rulemaking. These final rules will be effective upon publication of this notice in the D.C. Register.

17 DCMR Chapter 42, DENTISTRY, section 4203.2(c), is amended to read as follows:

- 4203.2 (c) Submit proof that the applicant has successfully completed a specified program of clinical and didactic training in a dental school recognized by the Council on Dental Accreditation of the ADA, which certifies that the applicant meets the same criteria as a DDS or DMD degree issued in the United States or Canada.