

**THE DISTRICT OF COLUMBIA DEPARTMENT OF INSURANCE  
AND SECURITIES REGULATION**

**ERRATA NOTICE**

The District of Columbia Department of Insurance and Securities Regulation published a Notice of Final Rulemaking amending 26 DCMR, Chapter 1 "Licensure as Insurance Provider" at 50 DCR 10371 (December 5, 2003). The notice incorrectly stated that the effective date of the final rulemaking would be March 27, 2003. The effective date of the final rulemaking should be the date of publication, December 5, 2003.

DISTRICT OF COLUMBIA  
DEPARTMENT OF MOTOR VEHICLES

NOTICE OF FINAL RULEMAKING

The Director of the Department of Motor Vehicles, pursuant to the authority set forth in Section 1425 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999 (D.C. Law 12-175; D.C. Official Code §§ 50-901 *et seq.*) (2001), Section 7 of the Traffic Act of 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-1401.01); and Mayor's Order 03-58, hereby gives notice of the adoption of the following amendment to Chapter 1 of Title 18, DCMR (Traffic Regulations) to increase the provisional operators' permit application fee to \$20. No comments were received and no changes were made to the text of the proposed rules, a published with the Notice of the Proposed Rulemaking in the *D.C. Register* on October 31, 2003, at 50 DCR 9260. These final rules will be effective upon publication of this notice in the *D.C. Register*.

Title 18, DCMR, is amended as follows:

Chapter 1, Section 103, APPLICATION FOR A DRIVER'S LICENSE OR LEARNER'S PERMIT, subsection 103.8 is amended to read as follows:

- 103.8           The following fees shall apply to permit applicants:
  - (a)   Learner's permit test. . . . . \$10;
  - (b)   Driver's permit road test. . . . . \$10;
  - (c)   Driver's permit application fee. . . . . \$39;
  - (d)   Learner's permit application fee. . . . . \$20; and
  - (e)   Provisional operator's permit application fee. . . \$20.

DISTRICT OF COLUMBIA  
DEPARTMENT OF MOTOR VEHICLESNOTICE OF FINAL RULEMAKING

The Director of the Department of Motor Vehicles, pursuant to the authority set forth in Section 1425 of the Department of Motor Vehicles Establishment Act of 1998, effective March 26, 1999, (D.C. Law 12-175; D.C. Official Code § 50-901 *et seq.* (2001 Ed.)), § 107 of the Traffic Adjudication Act, effective September 12, 1978, (D.C. Law 2-104; D.C. Official Code § 50-2301.07), and § 901 of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1996 (D.C. Law 11-198; D.C. Official Code 50-2209.01 *et seq.*), hereby gives notice of the adoption of an amendment to Title 18 of the District of Columbia Municipal Regulations (DCMR) (Vehicles and Traffic), section 1035. The rulemaking amends existing evidentiary rules setting forth the proof necessary to establish calibration and proper functioning for photo radar devices by extending those rules to cover fixed photo radar devices. Fixed photo radar devices, unlike mobile photo radar devices, will not be relocated or redeployed on a regular basis, but instead will remain in a designated location for an indeterminate period of time. Therefore, minor changes to the evidentiary rules were necessary to implement the fixed photo radar program. No comments were received and no changes have been made to the text of the proposed rules, as published together with the Notice of Final Rulemaking in the *D.C. Register* on October 31, 2003, at 50 DCR 9261. These final rules will be effective upon publication of this notice in the *D.C. Register*.

Title 18 DCMR, is amended as follows:

Section 1035, EVIDENCE: PHOTO RADAR DEVICE, subsection 1035.2, is amended to read as follows:

- 1035.2 A photo radar device shall be deemed to be calibrated correctly and in proper working order if:
- (a) For a mobile device, there is a Unit Deployment Log corresponding to the time period, date and location of the alleged violation being adjudicated that:
    - (1) Indicates that the electronic radar tuning fork reading was 36, 37 or 38 and that the radar test sequence displayed the figure "288 8888" at the beginning and the end of deployment; and
    - (2) Contains a certification by the operator that the device was correctly set up and deployed when the alleged violation was recorded; or
  - (b) For a fixed photo radar device, there are Fixed Site Logs for the device dated not more than four (4) days before and four (4) days after the date of the alleged violation that:

- (1) Indicate that the electronic radar tuning fork reading was 36, 37, or 38 and that the radar test sequence displayed the figure "288 8888"; and
- (2) Contain certifications by a technician or police officer, or both, that the device was correctly set up.

**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA  
NOTICE OF FINAL RULEMAKING  
and  
ORDER NO. 03-10  
Z.C. Case No. 03-10  
(Text Amendments – 11 DCMR)  
(Public Libraries)  
December 8, 2003**

The Zoning Commission for the District of Columbia ("Commission"), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797, as amended; D.C. Official Code § 6-641.01); having held a public hearing as required by § 3 of the Act (D.C. Official Code § 6-641.03); and having referred the proposed amendments to the National Capital Planning Commission for a 30-day period of review pursuant to 11 DCMR §§ 3025.3 and 3028.1; hereby gives notice of the adoption of the following amendments to § 199 (Definitions), § 201 (Uses as a Matter of Right (R-1)), § 601 (Uses as a Matter of Right (CR)), Chapter 7 (Commercial Districts), § 901 (Uses as a Matter of Right (W)), Chapter 13 (Neighborhood Commercial Overlay), and Chapter 21 (Schedule of Requirements for Parking Spaces) of the Zoning Regulations (Title 11 DCMR). The amendments establish "public library" as a distinct permitted use, with corresponding parking requirements. The Commission took final action to adopt the amendments at a public meeting held on December 8, 2003.

This final rulemaking is effective upon publication in the *D.C. Register*.

Existing Regulations

The Zoning Regulations do not specifically authorize public libraries, most of which are in residential districts, as a permitted use. The use "library" is first permitted in the CR (Mixed Use) District. It continues as a use permitted as a matter of right in all C (Commercial), W (Waterfront), and C-M and M (Industrial) Districts, but is not permitted in any R (Residence) or SP (Special Purpose) Districts. Therefore, a use variance is currently required to establish, construct, or expand most of the District's public libraries.

Description of Text Amendment

The Commission initiated this rulemaking in response to a petition from the District of Columbia Public Library. The proposed text amendment established a new use, public library, which will be allowed as a matter of right in all R (Residence), W (Waterfront), and CR (Mixed Use) Districts and incorporated into the SP (Special Purpose), C (Commercial), C-M (Commercial

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Light Manufacturing), and M (General Industry) Districts. The definition creates three subcategories for that use: Full-Service Neighborhood Public Library, Community Public Library, and Kiosk Public Library, for the purposes of establishing different parking requirements. Because of its low impact and size, a Kiosk Public Library, unlike the other two categories, is not required to provide parking. A special exception from the parking requirements is possible for any public library located within a one-half mile of a Metrorail station.

This rulemaking creates a use that is distinct from the uses permitted by the existing term "library", which has been clarified to read "Library (other than public library)". Now, public libraries may be expanded or established in a greater range of locations than other libraries. The Commission feels that treating public libraries differently from other libraries is justified, because public libraries are supported largely by public money and are specifically designed to benefit all residents.

#### Relationship to the Comprehensive Plan

The Comprehensive Plan, under § 608.2(h), recommends a policy to "*adopt measures to improve public library facilities*". The addition of public libraries to the Zoning Regulations will allow for the District to issue building permits for the improvement of the public libraries. The proposed text amendments will implement the following provisions of the Comprehensive Plan: § 1312.1 of the Ward 2 Element, which recognizes the role public facilities play within Ward 2; § 1336.1, which calls for strengthening Ward 2 libraries; § 1405.1 of the Ward 3 Element, which recognizes the role libraries play within Ward 3; § 1405.4 of the Ward 3 Element, which calls for physical renovation of public libraries; § 1516.1 of the Ward 4 Element, which calls for improving and maintaining public libraries; § 1616.1 of the Ward 5 Element, which calls for providing adequate public libraries; § 1618.1 of the Ward 5 Element, which calls for adequate planning and assessment of library facilities; and § 1916 of the Ward 8 Element, which acknowledges upgrading of public facilities.

#### Public Hearing

The Commission held a public hearing on the proposed text amendment on June 26, 2003. During the hearing, members of the Commission expressed concern about defining public libraries as a use and not as a structure.

Following the public hearing, the record was held open until July 10, 2003, to allow the Office of Planning ("OP") to revise the proposed three categories of public libraries and to submit a supplemental report in response to questions from the Commission.

#### Proposed Action

At the July 31, 2003 public meeting of the Zoning Commission, the Commission reviewed a letter submitted by the District of Columbia Public Library discussing the establishment of public libraries and library use. The Commission also considered the supplemental report of OP dated July 10, 2003, which addressed the Commission's concerns regarding the definition of the

three categories of libraries by deleting any reference to size and clarifying that the distance from a public library to a Metrorail station would be measured as a radius.

At the meeting, the Commission discussed the proposed amendments and decided to retain the definitions of the three categories of libraries as advertised but without reference to size, to retain the parking requirements as advertised with reference to gross floor area and not "patron use area", and to retain the advertised § 2104.2 requiring BZA approval for the reduction of parking within a one-half mile radius of a Metrorail station. The Commission did not accept the expanded definitions proposed by OP, preferring not to narrow the scope of the use.

The Commission then took proposed action pursuant to 11 DCMR § 3027.2 to approve the advertised text, with the modifications discussed above. A Notice of Proposed Rulemaking was published in the *D.C. Register* on September 5, 2003 at 50 DCR 7558, for a 30-day notice and comment period.

The proposed rulemaking was referred to the National Capital Planning Commission (NCPC) under the terms of § 492 of the District of Columbia Charter. NCPC, by report dated September 8, 2003, found that the proposed text amendments would not adversely affect the federal interests nor be inconsistent with the Federal Elements of the Comprehensive Plan for the National Capital.

No other comments and no report from any Advisory Neighborhood Commission were received.

#### Final Action

The Commission took final action to adopt the rulemaking at its regularly scheduled public meeting on December 8, 2003. No substantive changes were made to the advertised text. Several minor changes to the text were made to clarify that the pre-existing term "library" in the regulations does not include any public library.

Based on the above, the Commission finds that the proposed amendments to the Zoning Regulations are in the best interests of the District of Columbia, consistent with the purpose of the Zoning Regulations and Zoning Act, and not inconsistent with the Comprehensive Plan for the National Capital.

The Office of the Corporation Counsel has determined that this rulemaking meets its standards of legal sufficiency.

In consideration of the reasons set forth herein, the Zoning Commission hereby **APPROVES** the following amendments to Chapters 1, 2, 6, 9, 13, and 21 of the Zoning Regulations, Title 11 DCMR. Added wording is in bold and underlined, and deleted wording is shown in strike-through lettering:

- A. Chapter 1, § 199.1, Definitions, is amended by inserting the following definition in alphabetical order:

Public Library – a facility that falls into one of the following categories:

- a) Full-Service Neighborhood- A District of Columbia Public Library housed in a permanent structure that may include meeting rooms, staff work rooms, kitchen facilities and book overflow space. It contains space for a variety of activities, such as children's story hour, film showings and book talks, to take place simultaneously;
  - b) Community- A District of Columbia Public Library housed in a portable structure that may include a small staff and minimal space for activities; or
  - c) Kiosk- A District of Columbia Public Library housed in a portable structure with no space for activities.
- B. Chapter 2, R-1 RESIDENCE DISTRICT USE REGULATIONS, § 201.1 is amended by adding new a paragraph (r), to read as follows:
- (r) **Public library.**
- C. Chapter 6, MIXED USE (COMMERCIAL RESIDENTIAL) DISTRICTS, § 601.1 is amended as follows:
- 1) By amending paragraph (p) to read as follows:
    - (p) **Library (other than public library).**
  - 2) By adding a new paragraph (u) to read as follows:
    - (u) **Public library.**
- D. Chapter 7, COMMERCIAL DISTRICTS, § 701.6, paragraph (b) is amended to read as follows:
  - (b) **Library (other than public library).**
- E. Chapter 9, WATERFRONT DISTRICTS, § 901.1 is amended as follows:
- 1) By amending paragraph (q) to read as follows:
    - (q) **Library (other than public library).**
  - 2) By adding a new paragraph (v) to read as follows:
    - (v) **Public library.**

F. Chapter 13, NEIGHBORHOOD COMMERCIAL OVERLAY, § 1302.2(b) is amended to read as follows:

(b) Library (**other than public library**).

G. Chapter 21, OFF-STREET PARKING REQUIREMENTS, is amended by adding the following to the table following § 2101.1, under the heading "INSTITUTIONAL":

USES	NUMBER OF PARKING SPACES PROVIDED
<b><u>Public Library</u></b>	
<b><u>Full-Service Neighborhood Public Library</u></b>	
<b><u>All residence districts</u></b>	<b><u>For libraries constructed after [INSERT effective date of this amendment] and in excess of 2,000 square feet of gross floor area, 1 space for each additional 1,000 square feet of gross floor area.</u></b>
<b><u>All other districts</u></b>	<b><u>For libraries constructed after [INSERT effective date of this amendment] and in excess of 3,000 square feet of gross floor area, 1 space for each additional 1,000 square feet of gross floor area.</u></b>
<b><u>Community Public Library</u></b>	
<b><u>All districts</u></b>	<b><u>For libraries constructed after [INSERT effective date of this amendment] in excess of 2,000 square feet of gross floor area, 1 space for each additional 1,000 square feet of gross floor area.</u></b>
<b><u>Kiosk Public Library</u></b>	
<b><u>All districts</u></b>	<b><u>No Requirement</u></b>

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2104 EXCEPTIONS TO THE SCHEDULE OF REQUIREMENTS:  
NONRESIDENTIAL STRUCTURES NEAR METRORAIL STATIONS

2104.1 Except as otherwise provided in § 2104.2, the Board of Zoning Adjustment is authorized to reduce ~~the~~ the number of parking spaces required under § 2101.1 for a nonresidential building or structure located within a radius of eight hundred feet (800 ft.) of a Metrorail station entrance may be reduced by up to twenty-five percent (25%); provided:

- (a) The building or structure is located in a nonresidential district and is at least eight hundred feet (800 ft.) from any R-1, R-2, R-3, or R-4 District; and
- (b) The Metrorail station is currently in operation or is one for which a construction contract has been awarded.

2104.2 The Board of Zoning Adjustment is authorized to reduce the number of parking spaces for a public library located within a one-half mile radius of a Metrorail station by fifty percent (50%), if the Metrorail station is currently in operation or is one for which a construction contract has been awarded.

Vote of the Zoning Commission taken at its public meeting on September 8, 2003, to **APPROVE** the proposed rulemaking: **5-0-0** (John G. Parsons, Anthony J. Hood, James H. Hannaham, Carol J. Mitten, and Peter G. May to approve).

This final rulemaking and order were **ADOPTED** by the Zoning Commission at its public meeting on December 8, 2003, by a vote of **4-0-1** (Anthony J. Hood, John G. Parsons, and Carol J. Mitten to approve; Peter G. May to approve by absentee ballot; James H. Hannaham not present, not voting).

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