

## DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF EMERGENCY RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to D.C. Official Code §§ 2-1801.04 and 2-1801.05, and Mayor's Order 86-38, dated March 4, 1986, hereby gives notice of the adoption of the following emergency rulemaking. This emergency rulemaking will amend Title 16, Chapter 33 of the D.C. Municipal Regulations (DCMR) to amend sections 3309.1, 3309.2, and 3309.3(c) to cite to the current District of Columbia Construction Codes.

This emergency rulemaking is necessitated by the immediate need to address a gap in the enforcement of compliance with the current District of Columbia Construction Codes, which were published in final form in the *D.C. Register* on December 26, 2008 (55 DCR 13094). Upon the expiration in early July of previous emergency and proposed rulemaking, published in the *D.C. Register* on March 6, 2009 (56 DCR 2011), violations of the Construction Codes would not be subject to notices of violation and enforcement proceedings because the existing regulations refer to a previous version of the Construction Codes. Violations of the Construction Codes pose an immediate and continuing threat to the public health and safety.

This emergency rule was adopted on June 25, 2009, to become effective July 1, 2009. This emergency rule will remain in effect for up to one hundred twenty (120) days, unless earlier superseded by a notice of final rulemaking.

**Title 16, Chapter 33, Section 3309.1 of the DCMR is amended to read as follows:**

- 3309.1 Violation of any of the following provisions shall be a Class 1 infraction:
- (a) 12G DCMR PM § 705.1 (failure to remedy dangerous conditions to remove hazardous materials);
  - (b) 12A DCMR § 114.10 (failure to comply with terms of a stop work order);
  - (c) 12A DCMR § 114.3 (unauthorized removal of a posted stop work order);
  - (d) Reserved;
  - (e) Reserved;
  - (f) IBC § 709.3 (failure to maintain all required fire resistance rated doors or smoke barriers);
  - (g) IFC § 901.4.1 (failure to maintain in an operative condition at all times fire protection and life safety systems, devices, units, or service equipment);
  - (h) 12H DCMR § F-906.1 (failure to provide fire extinguishers);
  - (i) IFC § 1003.1 (failure to maintain in a safe condition and free of all obstructions the means of egress from each part of the building);
  - (j) IBC § 1004.1 (overcrowding or admitting persons beyond the established posted occupants load);

- (k) IFC § 508.5.4 (fire hydrants, fire department inlet connections, or fire protection system control valves are obstructed in such manner as to interfere with fire fighting access);
- (l) IFC § 1006.1 (failure to provide adequate lighting for stairways, hallways, and other means of egress); or
- (m) IBC § 1024.6 (exits fail to discharge directly at a public way or at a yard, court, or open space of the required width and size to provide all occupants with a safe access to a public way).

**Section 3309.2 is amended to read as follows**

3309.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) IPMC § 307.1 (permitting the accumulation of waste paper, wood, hay straws, weeds, litter, or combustible or flammable waste or rubbish of any kind);
- (b) IFC § 904.11 (failure to provide or maintain an automatic activation kitchen hood fire extinguishing system);
- (c) IFC § 904.11.1 (failure to provide or maintain a manual activation device for the hood fire extinguishing system);
- (d) NFPA 70 § 110.32 (failure to provide the required clearance between all electrical service equipment and storage);
- (e) IFC § 904.11.5 (failure to provide a sufficient number of portable fire extinguishers);
- (f) IFC § 906.2 or 12G DCMR PM § 705.2 (failure to maintain, test, or recharge hand-operated portable fire extinguishing equipment);
- (g) IFC § 315.2.2 (storing combustible or flammable materials on any portion of an exit, elevator car, stairway, fire escape, or other means of egress);
- (h) IBC § 1005.1 (door openings fail to meet the requirements of minimum width based upon occupant load);
- (i) IBC § 1008.1.9 (doors are not equipped with approved panic hardware);
- (j) IBC § 1008.1.2 (exit doors swing in the wrong direction);
- (k) 12E DCMR M § 1004.1 (failure to provide an oil burner emergency switch);
- (l) IBC § 1011.5.3 (failure to provide emergency lights, alarms, or power back-ups);
- (m) IBC § 1011.1 (permitting decorations, furnishings, or equipment, which impairs the visibility of exit signs);
- (n) IBC § 715.4.7.3 (failure to maintain self-closing and automatic doors or to provide a fire or smoke barrier);

- (o) IBC § 1004.3 (failure to conspicuously post sign stating the number of occupants permitted within such space for each place of assembly);
- (p) IBC § 1011.1 (failure to maintain exit signs in theaters or other places of public assembly); or
- (q) IBC § 806 (decorative materials are not non-combustible or flame resistant).

**Section 3309.3(c) is amended to read as follows:**

- 3309.3 (c) Any provision of the District of Columbia Construction Codes, consisting of the 2006 edition of the International Code Council (ICC) International Building Code, the 2006 edition of the ICC International Residential Code, the 2006 edition of the ICC International Fuel Gas Code, the 2006 edition of the ICC International Mechanical Code, the 2006 edition of the ICC International Plumbing Code, the 2006 edition of the ICC International Property Maintenance Code, the 2006 edition of the ICC International Fire Code, the 2006 edition of the ICC International Energy Conservation Code, the 2006 edition of the ICC International Existing Buildings Code, the 2005 edition of the NFPA National Electrical Code, and Title 12 of the District of Columbia Municipal Regulations (DCMR), the Construction Codes Supplement of 2008, including local variations to the adopted codes, which is not cited elsewhere in this section shall be a Class 3 infraction.

## METROPOLITAN POLICE DEPARTMENT

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Chief of the Metropolitan Police Department, pursuant to subsections 504(e)(4), 504(f), and section 712 of the Firearms Regulations Control Act of 1975 (Act), effective March 31, 2009 (D.C. Law 17-0372; 56 DCR 1365), hereby gives notice of the adoption on an emergency basis of an amendment to add section 2325 to Chapter 23 (Guns and Other Weapons) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR). The rulemaking exempts certain single action pistols manufactured before 1985 from the application of section 504 of the Act, and establishes that certain other types of pistols manufactured before 1985 are deemed included on the newly created District Roster of Handguns Determined Not to be Unsafe. The rulemaking is informed by the reasonable laws and regulations of the State of Maryland. The rulemaking will make the District's safe gun laws identical to the State of Maryland as to Pre-1985 pistols.

Emergency rulemaking action is necessary to interpret and implement the provisions of 504 of the Act and to add suitable weapons to the District's Roster of Handguns Determined Not to be Unsafe and to exempt suitable weapons from the application of the roster. Emergency rulemaking will immediately clarify those firearms that are eligible for sale, transfer, ownership, or possession so as to continue the District's compliance with the Supreme Court's decision and mandate in *District of Columbia v. Heller* concerning a person's constitutional right to legally possess a firearm in a person's home for the purpose of self-defense.

This emergency rulemaking was adopted on June 25, 2009, and became effective immediately. The emergency rulemaking will expire after one hundred and twenty (120) days, or upon publication of a Notice of Final Rulemaking in the D.C. Register, whichever occurs first.

The Chief also gives notice of her intent to take final rulemaking action to adopt the proposed rulemaking in not less than thirty (30) days from the date of publication of this notice in the D.C. Register.

**Chapter 23 of Title 24 DCMR is amended to add section 2325 to read as follows:****2325 PRE-1985 PISTOLS**

- 2325.1 Any pistol with a single action firing mechanism manufactured prior to 1985 shall be exempt from the application of section 504 of the Firearms Regulations Control Act of 1975, effective March 31, 2009 (D.C. Law 17-0372; 56 DCR 1365).
- 2325.2 Any pistol manufactured prior to 1985, not subject to § 2325.1, shall be deemed included on the District Roster established pursuant to § 2323.

All persons interested in commenting on the subject matter of this proposed rulemaking action may file comments, in writing, with: Terrence D. Ryan, General Counsel, Metropolitan Police Department, Suite 4125, 300 Indiana Avenue, N.W., Washington, D.C. 20001. Comments must be received no later than thirty (30) days after the date of publication of this notice in the D.C. Register. Copies of this proposal may be obtained, at cost, by writing to the above address.