

CHILD AND FAMILY SERVICES AGENCY

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Child and Family Services Agency ("CFSA"), acting pursuant to section 8 of the Newborn Safe Haven Temporary Act of 2009 (Act), effective July 18, 2009, D.C. Law 18-29; and Mayor’s Order 2009-146, effective September 1, 1009, hereby gives notice of the adoption of the following new Chapter 83 entitled “Safe Haven for Newborns” to Title 29 of the District of Columbia Municipal Regulations on an emergency basis.

The emergency action is based upon an immediate need in the District of Columbia to implement the Act to ensure the safety and protection of newborns whose parents wish to relinquish their parental rights. The emergency rules were adopted and became effective on September 1, 2009. They will remain in effect for 120 days from the date of adoption.

The Director also gives notice of his intent to take final rulemaking action to adopt these rules in not less than thirty (45) days from the date of publication of this notice in the *D.C. Register* following the 45-day period of Council review required by section 8 of the Act. Pursuant to that section, the proposed rules will be deemed approved, if the Council does not approve or disapprove the proposed rules, by resolution, within the 45-day period of review.

29 D.C. Municipal Regulations is amended by adding a new Chapter 83 as follows:

CHAPTER 83 SAFE HAVEN FOR NEWBORNS

- 8300 PURPOSE
- 8301 ANONYMITY OF PARENT
- 8302 ACTIONS TAKEN BY AUTHORIZED RECEIVING FACILITY
- 8303 HOSPITAL INTAKE PROCEDURES FOR A SURRENDERED NEWBORN
- 8304 ACTION TAKEN BY CFSA UPON NOTIFCATION OF A SURRENDERED SAFE HAVEN NEWBORN
- 8305 RELINQUISHMENT OF PARENTAL RIGHTS
- 8306 INFANTS WHO DO NOT FALL UNDER THE SAFE HAVEN ACT
- 8307 IMMUNITY FROM LIABILITY
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8300 PURPOSE

8300.1 The purpose of this chapter is to provide for the health, safety, and welfare of newborns by providing a safe place for them to be surrendered by a parent.

8301 ANONYMITY OF PARENT

8301.1 A parent who surrenders a newborn at an authorized receiving facility shall not be required to disclose his or her name or address.

8302 ACTIONS TAKEN BY AUTHORIZED RECEIVING FACILITY

8302.1 The authorized receiving facility shall make reasonable efforts to obtain family and medical history from the surrendering parent on a voluntary basis, without seeking personal information such as the identity or the address of the parent.

8302.2 The authorized receiving facility shall provide information on adoption and counseling services to the surrendering parent.

8302.3 The authorized receiving facility receiving a newborn shall notify CFSA that a newborn has been surrendered within one hour of the surrender or as soon as possible.

8302.4 The authorized receiving facility shall complete an authorized receiving facility report as accurately and completely as possible. At a minimum, the authorized receiving facility report should be signed and dated and provide the following information:

- (a) the name of the employee receiving the surrendered newborn;
- (b) the name of the authorized receiving facility;
- (c) the reason why the person receiving the newborn believes that the newborn is 7 days old or younger;
- (d) whether the parent was provided with information on adoption and counseling; and
- (e) the reasons, if any, as to why information on adoption and counseling were not offered to the parent.

8302.5 If a newborn appears to have been abused or neglected or older than seven days, the authorized receiving facility shall follow normal procedures for reporting abuse or neglect.

8302.6 If a parent returns to the authorized receiving facility requesting return of the newborn, personnel shall advise the parent to contact CFSA's Post Permanency Unit.

8303 HOSPITAL INTAKE PROCEDURES FOR A SURRENDERED NEWBORN

- 8303.1 When a newborn is surrendered to a hospital or transported to another hospital after being surrendered, the hospital shall:
- (a) provide CFSA with a copy of the authorized receiving facility report on or before CFSA assumes physical custody of the newborn. CFSA will not assume physical custody of the newborn until it receives the authorized receiving facility report;
 - (b) contact the CFSA Post Permanency Unit within one hour of receiving the newborn; and
 - (c) treat and provide care for the newborn.

8304 ACTION TAKEN BY CFSA UPON NOTIFICATION OF A SAFE HAVEN NEWBORN

- 8304.1 CFSA shall accept immediate care, custody, and control of the surrendered newborn as soon as possible, but no later than 23 hours after being contacted by the hospital that a newborn has been surrendered, if CFSA receives the authorized receiving facility report at the time of transfer, or prior to the transfer of the newborn, from an authorized receiving facility..
- 8304.2 CFSA shall transport the surrendered newborn from the hospital to CFSA.
- 8304.3 CFSA shall place the surrendered newborn in a pre-adoptive home that is the first and best placement.

8305 RELINQUISHMENT OF PARENTAL RIGHTS

- 8305.1 A relinquishment of parental rights under the Act may be revoked and parental rights restored in accordance with the ten (10) day revocation period provided by section 6 (c) and (d) of An Act To regulate the placing of children in family homes, and for other purposes, approved April 22, 1944, 58 Stat. 194, ch. 174, D.C. Official Code Sec. 4-1406 (c) and (d). A waiting period of 30 days from the date of revocation of the first relinquishment shall expire before a second relinquishment may be executed. A parent may not revoke a second relinquishment, unless an additional right to revoke is granted by court order upon a finding by the court that the relinquishment was not given voluntarily.

8305.2 CFSA shall file a copy of the authorized receiving facility report with the Family Division of the Superior Court of the District of Columbia within 20 days of the expiration of the ten day revocation period.

8306 INFANTS WHO DO NOT FALL UNDER THE NEWBORN SAFE HAVEN ACT

8306.1 An infant does not fall under the Act if the;

- (a) infant appears to be older than seven (7) days;
- (b) infant appears to be abused or neglected;
- (c) infant is surrendered by a person other than his or her parents;
or
- (d) parent does not leave the newborn at an authorized receiving facility.

8306.2 If the infant does not fall under the Act, the authorized receiving facility shall file a report of abuse or neglect with CFSA.

8306.3 If the infant does not fall under the Act, the authorized receiving facility shall share with the Metropolitan Police Department and CFSA any identifying information about the person who brought the infant to the authorizing receiving facility.

8307 IMMUNITY FROM LIABILITY

8307.1 An Authorized Receiving Facility and its staff shall be immune from civil or criminal liability for the good faith performance of its responsibilities under the Act and this chapter.

8308 SIGNAGE

8308.1 An authorized receiving facility shall post a sign in a conspicuous place on the exterior of the facility that states in plain terms that a newborn may be surrendered at the facility.

8399 DEFINITIONS

“Act” means the New Born Safe Haven Temporary Act of 2009, effective July 18, 2009, D.C Law 18-29, or any similar succeeding legislation.

“Authorized Receiving Facility” means a hospital located in the District of Columbia.

“CFSA” means the Child and Family Services Agency of the District of Columbia.

“Newborn” means an infant that a licensed physician or other person authorized to accept the surrender reasonably believes is seven (7) days old or less.

“Surrender” means to bring a newborn to an authorized receiving facility during its hours of operation, and to leave the newborn with personnel of the authorized receiving facility.

COMMENTS

Copies of this proposed rulemaking may be obtained by contacting James Toscano, General Counsel, Child and Family Services Agency, 400 6th Street, S.W., Washington, DC 20024 or www.dcregister.org. All persons desiring to comment on the proposed rulemaking must submit their written comments no later than thirty (30) days after the date of publication of this notice in the D.C. Register.

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF EMERGENCY AND PROPOSED RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to sections 104 and 105 of the Department of Consumer and Regulatory Affairs Civil Infraction Act of 1985, effective October 5, 1985 (D.C. Law 6-42; 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 November of previous emergency rulemaking, published in the *D.C. Register* on July 3, 2009 (56 DCR 5431), 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 October 23, 2009, to become effective November 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.

This emergency and proposed rulemaking supersedes the notice of emergency and proposed rulemaking published in the *D.C. Register* on March 6, 2009 (56 DCR 2011).

The Director also hereby gives notice of the intent to adopt this rule, in final, in not less than thirty (30) days from the publication of this notice in the *D.C. Register*.

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 adopted pursuant to the Construction Codes Approval and Amendment Act of 1986, effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code §§ 6-1401 *et seq.*) which is not cited elsewhere in this section shall be a Class 3 infraction.

All persons desiring to comment on these proposed regulations should submit comments in writing to Helder Gil, Legislative Affairs Specialist, Department of Consumer and Regulatory Affairs, 941 North Capitol Street, NE, Suite 9500, Washington, D.C. 20002, or via e-mail at helder.gil@dc.gov, not later than thirty (30) days after publication of this notice in the *D.C. Register*. Copies of the proposed rules can be obtained from the address listed above. A copy fee of one dollar (\$1.00) will be charged for each copy of the proposed rulemaking requested. Free copies are available on the DCRA website at <http://dcra.dc.gov> by going to the “DCRA News” link and then clicking on the “Rulemaking” tab.