

The International Property Maintenance Code can be found here: <<https://codes.iccsafe.org/content/document/918>>\_\_\_\_\_

The DC rulemaking is here (and in this manual):  
<<http://www.dcregs.dc.gov/Gateway/IssueHome.aspx?IssueId=486>>

Note: The new provision with respect to conflicts between the PMC and the Housing Code:

102.4.1 Code precedence. If a conflict arises between the \*Housing Code\*, Title 14 DCMR, Subtitle A and the \*Property Maintenance Code\*, the provisions of the \*Property Maintenance Code\* shall take precedence.

Note: The intention of DC Government is to eventually eliminate Title 14 and rely only on the Property Maintenance Code. However, as of May of 2014, both are in effect.

**DISTRICT OF COLUMBIA  
CONSTRUCTION CODES SUPPLEMENT OF 2013  
12 DCMR G PROPERTY MAINTENANCE  
CODE SUPPLEMENT**

The District of Columbia has adopted the 2012 edition of the *International Property Maintenance Code* (IPMC), as amended by this Supplement.

**IPMC CHAPTERS AMENDED BY THIS SUPPLEMENT:**

CHAPTER 1	ADMINISTRATION AND ENFORCEMENT
CHAPTER 2	DEFINITIONS
CHAPTER 3	REQUIREMENTS
CHAPTER 4	LIGHT, VENTILATION, AND OCCUPANCY LIMITATIONS
CHAPTER 5	PLUMBING FACILITIES AND FIXTURES REQUIREMENTS
CHAPTER 6	MECHANICAL AND ELECTRICAL REQUIREMENTS
CHAPTER 7	FIRE SAFETY REQUIREMENTS
CHAPTER 8	REFERENCED STANDARDS

The *District of Columbia Property Maintenance Code* (2013), referred to as the “*Property Maintenance Code*,” consists of the 2012 edition of the *International Property Maintenance Code*, published by the International Code Council (ICC), as amended by the *District of Columbia Property Maintenance Code Supplement* (2013) (12 DCMR G). The *International Property Maintenance Code* is copyrighted by the ICC and therefore is not republished here. However, a copy of the text may be obtained at: <http://publicecodes.cyberregs.com/icod/ipmc/2012/index.htm?bu=IC-P-2012-000006&bu2=IC-P-2012-000019>.

## CHAPTER 1 ADMINISTRATION AND ENFORCEMENT

- 101 General
- 102 Applicability
- 103 Department of Consumer and Regulatory Affairs
- 104 Duties and Powers of the Code Official
- 105 Approval
- 106 Violations and Infractions
- 107 Notice and Orders
- 108 Unsafe Structures Premises and Equipment
- 109 Emergency Measures
- 110 Demolition

*Strike Chapter 1 of the International Property Maintenance Code in its entirety and insert new Chapter 1 in the Property Maintenance Code in its place to read as follows:*

### 101 GENERAL

**101.1 Title.** The *D.C. Property Maintenance Code* (2013), hereinafter referred to as the “*Property Maintenance Code*,” shall consist of the 2012 edition of the *International Property Maintenance Code*, as amended by the *D.C. Property Maintenance Code Supplement* (2013) (12 DCMR G).

**101.2 Scope.** The scope of the *Property Maintenance Code* shall be as defined in Section 101.4.5.2 of 12 DCMR A.

**101.3 Intent.** The intent of the *Property Maintenance Code* shall be as defined in Section 101.4.5.3 of 12 DCMR A.

**101.4 Severability.** The provisions of Sections 102.5, Partial Invalidity, and 102.5.1, Segregation of Invalid Provisions, of 12 DCMR A, shall apply to the *Property Maintenance Code* and are hereby incorporated by reference.

### 102 APPLICABILITY

**102.1 Conflicting provisions.** Where there is a conflict between a general requirement and a specific requirement, the specific requirement shall govern. Where differences occur between provisions of the *Property Maintenance Code* and its referenced standards, the provisions of the *Property Maintenance Code* shall apply. Where, in a specific case, different sections of the *Property Maintenance Code* specify different requirements, the most restrictive shall govern.

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**102.2 Maintenance.** Equipment, systems, devices and safeguards required by the *Property Maintenance Code* or a previous regulation or code under which the *structure* or *premises* was constructed, altered or repaired shall be maintained in good working order. No *owner*, *operator* or *occupant* shall cause any service, facility, equipment or utility which is required under this section to be removed from or shut off from or discontinued for any occupied *dwelling*, except for such temporary interruption as necessary while repairs or alterations are in progress. The requirements of the *Property Maintenance Code* are not intended to provide the basis for removal or abrogation of fire protection and safety systems and devices in existing *structures*. Except as otherwise specified herein, the *owner* or the *owner's* designated agent shall be responsible for the maintenance of buildings, *structures* and *premises*.

**102.3 Application of other codes.** Repairs, additions, demolition, razing or alterations to a structure, or changes of use or occupancy, shall be done in accordance with the provisions of the *Construction Codes*. Nothing in the *Property Maintenance Code* shall be construed to cancel, modify or set aside any provision of the *Construction Codes* or the *Zoning Regulations*, Title 11 DCMR.

**102.4 Existing remedies.** The provisions in the *Property Maintenance Code* shall not be construed to abolish or impair existing remedies of the District of Columbia or its officers or agencies relating to the condemnation, removal or demolition of any structure which is dangerous, unsafe and/or unsanitary, the abatement of nuisance property, or the maintenance of vacant buildings.

**102.4.1 Code precedence.** If a conflict arises between the *Housing Code*, Title 14 DCMR, Subtitle A and the *Property Maintenance Code*, the provisions of the *Property Maintenance Code* shall take precedence.

**102.5 Workmanship.** Repairs, maintenance work, alterations or installations which are caused directly or indirectly by the enforcement of the *Property Maintenance Code* shall be executed and installed in a workmanlike manner, installed in accordance with the manufacturer's installation instructions, and use materials of a quality and kind suitable for the purpose for which used and of a kind normally used in the applicable trade.

**102.6 Historic buildings.** Any *building* or other *structure* that is listed (either as an individual listing or as a contributing resource to a listed historic district) in the D.C. or National Register of Historic Places shall be exempt from specific provisions of the *Property Maintenance Code*; provided, that (a) the D.C. Historic Preservation Officer or the Keeper of the National Register of Historic Places certifies that compliance with the specific provisions of the *Property Maintenance Code* will cause the loss of irretrievable historic components that may lead to the de-listing of the *building* or other *structure*; and (b) the *code official* determines the exemption does not adversely affect the safety of the building or other structure or the public interest of

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health, safety and welfare.

**102.7 Referenced codes and standards.** The provisions of Section 102.4, Referenced Standards, of 12 DCMR A, shall apply to the *Property Maintenance Code* and are hereby incorporated by reference.

**Exception:** Where enforcement of a *Property Maintenance Code* provision would violate the conditions of the listing of the equipment or appliance, the conditions of the listing shall apply.

**102.8 Matters not covered by the code.** Requirements necessary for the strength, stability or proper operation of an existing fixture, structure or equipment, or for the public health, safety and welfare, not specifically covered by the *Property Maintenance Code*, shall be determined by the *code official*.

**102.9 Application of references.** References to chapter or section numbers, or to provisions not specifically identified by number, shall be construed to refer to such chapter, section or provision of the *Property Maintenance Code*.

**102.10 Other laws.** The provisions of the *Property Maintenance Code* shall not be deemed to nullify any provisions of local or federal law.

**102.11 Special flood hazard areas.** The storage of equipment or materials that are listed as dangerous materials in 20 DCMR § 3106.2 or that will affect either the base flood elevation or the floodway in any Special Flood Hazard Area, as delineated on the Federal Emergency Management Agency's Flood Insurance Rate Map for the District (20 DCMR § 3101.2), shall be required to obtain a building permit from the Department of Consumer and Regulatory Affairs, pursuant to 12 DCMR A § 105, and comply with the requirements of 20 DCMR Chapter 31.

## **103 DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS**

**103.1 Department of Consumer and Regulatory Affairs.** The provisions of Section 103, Department of Consumer and Regulatory Affairs, of 12 DCMR A, shall apply to the *Property Maintenance Code* and are hereby incorporated by reference.

**103.2 Liability.** The provisions of Section 104.8, Relief from Personal Liability, of 12 DCMR A, shall apply to the *Property Maintenance Code* and are hereby incorporated by reference.

**103.3 Fees.** The fees for activities and services performed by the Department of Consumer and Regulatory Affairs in carrying out its responsibilities under the *Property Maintenance Code* shall be paid in accordance with the applicable fee schedule published in 12 DCMR M as amended from time to time.

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## 104 DUTIES AND POWERS OF THE CODE OFFICIAL

**104.1 General.** The *code official* shall enforce the provisions of the *Property Maintenance Code*.

**104.1.1 Rulemaking authority.** The provisions of Section 104.1.1, Legal Authority, of 12 DCMR A, shall apply to the *Property Maintenance Code* and are hereby incorporated by reference.

**104.2 Inspections.** The *code official* is authorized to make all of the required inspections, or to accept reports of inspection by *approved* agencies. The *code official* is authorized to engage such expert opinion as deemed necessary to report upon unusual technical issues that arise.

**104.3 Right of entry.** The *code official* is authorized to enter a structure or *premises* at all reasonable times to inspect and for the purpose of enforcing the *Property Maintenance Code*, subject to constitutional restrictions on unreasonable searches and seizures, and subject to the provisions of this Section. If entry is refused or not obtained, the *code official* is authorized to obtain an administrative search warrant issued pursuant to D.C. Official Code § 11-941 (2012 Repl.) or D.C. Superior Court Civil Rule 204 or to pursue any other recourse as provided by law.

**104.3.1 Right of entry – housing business license property.** The *code official*, both prior to the issuance of a *housing business* license and during the license period, is authorized, at all reasonable hours, to enter and inspect the *premises* occupied or to be occupied by a *housing business* except as provided in Section 104.3.2

**104.3.2 Right of entry of housing business license property with tenant.** If it appears that any portion of a *premises* is under the exclusive control of a *tenant*, or if the operator of a *housing business* so claims, the *code official* shall not enter that portion of the *premises* without first having obtained permission from the *tenant* or the *tenant's* agent, except as provided in Section 104.3.3.

**104.3.3 Tenant refusal to permit inspection.** If a *tenant* of a *housing business* does not give permission to inspect that portion of the *premises* under the *tenant's* exclusive control, the *code official* shall not enter that portion of the *premises* unless the *code official* has:

1. A valid administrative warrant permitting the inspection, issued pursuant to D.C. Official Code § 11-941 (2012 Repl.) or D.C. Superior Court Civil Rule 204; or
2. A reasonable basis to believe that exigent circumstances require immediate entry into that portion of the *premises* in order to prevent any *imminent danger* to the public health or welfare.

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The refusal of any *tenant* to permit such an inspection shall not result in the revocation or suspension of the *housing business* license, nor shall such refusal result in the assessment of penalties against the *operator* of a *housing business*, provided however, that when the *code official* presents a valid administrative search warrant that permits inspection of *premises* under a *tenant's* exclusive control, the *tenant* of a *housing business* who refuses to give permission to inspect that portion of the *premises* shall be in violation of the *Property Maintenance Code*.

**104.3.4 Refusal to permit inspection.** If the *owner* or *operator* of a *housing business*, or agent of such *owner* or *operator*, refuses to permit the *code official* to inspect the *premises* occupied or to be occupied by a *housing business*, such refusal shall be cause for withholding the issuance of a license for those *premises* until the inspection is permitted, and/or cause for the revocation of any existing license.

**104.3.4.1** As a condition of receiving a *housing business* license under D.C. Official Code § 47-2828 (2012 Repl.), the *owner* or *operator* of a *housing business* must agree to:

1. Allow access to the *Department* for any inspection required under the *Construction Codes*; and
2. Notify any affected *tenant* whose unit requires inspection.

**104.4 Identification.** The provisions of Section 104.5, Credentials, of 12 DCMR A, shall apply to the *Property Maintenance Code* and are hereby incorporated by reference.

**104.5 Notices and orders.** The *code official* is authorized to issue all necessary notices or orders to ensure compliance with the *Property Maintenance Code*, and to institute administrative and legal actions to correct violations or infractions, including actions pursuant to An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, and for other purposes, approved April 14, 1906 (34 Stat. 114; D.C. Official Code § 42-3131.01 *et seq.* (2012 Repl.)), and the Abatement and Condemnation of Nuisance Properties Omnibus Amendment Act of 2002, effective April 19, 2002 (D.C. Law 14-114; D.C. Official Code § 42-3171.01 *et seq.* (2012 Repl.)).

**104.6 Department records.** The provisions of Section 104.7, Department Records, of 12 DCMR A, shall apply to the *Property Maintenance Code* and are hereby incorporated by reference.

**104.7 Coordination of inspections.** Whenever in the enforcement of the *Property Maintenance Code* or another code or ordinance, the responsibility of more than one *code official* of the

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District is involved, it shall be the duty of the *code officials* involved to coordinate their inspections and administrative orders as fully as practicable so that the *owners* and occupants of the structure shall not be subjected to visits by numerous inspectors or multiple or conflicting orders.

## **105 APPROVAL**

**105.1 Modifications.** Whenever there are practical difficulties involved in carrying out the provisions of the *Property Maintenance Code*, the *code official* shall have the authority to grant modifications for individual cases upon application of the *owner* or *owner's* representative, provided the *code official* shall first find that special individual reasons makes the strict letter of the *Property Maintenance Code* impractical, that the modification is in compliance with the intent and purpose of the *Property Maintenance Code*, and that such modification does not lessen health, life and fire safety requirements or violate District law or regulations. The details of any action granting modifications shall be recorded and entered in the *Department* files.

**105.2 Alternative materials, methods and equipment.** The provisions of Section 104.11, Alternative Materials, Equipment, Methods of Construction and Design, of 12 DCMR A, shall apply to the *Property Maintenance Code* and are hereby incorporated by reference.

**105.3 Required testing.** Whenever there is insufficient evidence of compliance with the provisions of the *Property Maintenance Code*, or evidence that a material or method does not conform to the requirements of the *Property Maintenance Code*, or in order to substantiate claims for alternative materials or methods, the *code official* shall have the authority to require tests to be made as evidence of compliance at no expense to the jurisdiction.

**105.3.1 Test methods.** Test methods shall be as specified in the *Property Maintenance Code* or by other recognized and accepted test methods in the industry. In the absence of recognized and accepted test methods, the *code official* shall be permitted to approve appropriate testing procedures performed by an agency *approved* by the *code official*.

**105.3.2 Test reports.** The provisions of Section 104.7, Department Records, of 12 DCMR A, regarding retention of test reports, shall apply to the *Property Maintenance Code* and are hereby incorporated by reference.

**105.4 Used material and equipment.** The provisions of Section 104.9.1, Used Materials, Equipment and Devices, of 12 DCMR A shall apply to the *Property Maintenance Code* and are hereby incorporated by reference.

**105.5 Permits for repairs and improvements.** Any repair or improvement which may be required by a notice issued under the authority of the *Property Maintenance Code* for which a permit is required shall not be made until that permit has been issued by the District.

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**105.5.1 Compliance with applicable laws.** All work under a permit shall be done in accordance with all applicable laws and regulations. The provisions of Section 102.4.1, Conflicts, of 12 DCMR A, shall apply to the *Property Maintenance Code* and are hereby incorporated by reference.

## **106 VIOLATIONS AND INFRACTIONS**

**106.1 Unlawful acts.** It shall be unlawful for a person, firm or corporation to be in conflict with or in violation of any of the provisions of the *Property Maintenance Code*.

**106.2 Notice of violation or order.** Service of a notice of violation or order shall be in accordance with Section 107.

**106.3 Code official authority.** Whenever the *code official* has reasonable grounds to believe that a violation of the *Property Maintenance Code* exists, he or she is authorized to take the following actions either singly or in combination, in addition to imposing any other remedies or penalties otherwise available to the *code official* in the *Property Maintenance Code* or otherwise:

1. Institute the appropriate proceeding at law or in equity to prosecute, restrain, correct or abate such violation, or to require the removal or termination of the unlawful occupancy of the structure in violation of the provisions of the *Property Maintenance Code* or of the order or direction made pursuant thereto;
2. Issue a notice of violation, which may afford the person responsible for the correction of the violation an opportunity to abate the violation;
3. Issue a notice of infraction, assessing a fine for the infraction;
4. Issue a combined notice of violation and notice of infraction;
5. Issue an order requiring a deposit of collateral for uncorrected violations;
6. Effect summary correction of the violation, or demolition of the structure, as authorized by law;
7. Refer the property to the Board of Condemnation of Insanitary Buildings (BCIB) for condemnation proceedings pursuant to D.C. Official Code § 6-902 *et seq.* (2012 Repl. & 2013 Supp.); or
8. Issue any other order or notice authorized to be issued by the *code official*.

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**106.4 Violation fines and penalties.** Any person who violates a provision of the *Property Maintenance Code*, or fails to comply therewith or with any of the requirements thereof, shall be subject to the penalties established hereafter and shall be subject to prosecution. In the event of any failure to comply with any provision of the *Property Maintenance Code* following service of a notice of violation or order in accordance with Section 107, each and every day such violation continues shall constitute a separate offense.

**106.4.1 Penalty.** Any person who violates any of the provisions of the *Construction Codes* or orders issued under the authority of the *Construction Codes*, shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$2,000, or by imprisonment not exceeding 90 days, or both, for each such offense. Each day a violation continues shall be deemed a separate offense. Prosecutions pursuant to this section shall be brought in the name of the District of Columbia by the Attorney General for the District of Columbia.

**106.4.2 Additional penalties.** Civil fines, penalties, and fees may be imposed, in addition to other available remedies, for any infraction of the provisions of the *Construction Codes*, including the provisions of the *Property Maintenance Code*, pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801 *et seq.* (2012 Repl.)) (“Civil Infractions Act”). Violation of the provisions of the *Property Maintenance Code* shall be deemed a strict liability offense for which a fine may be imposed pursuant to the *Civil Infractions Act* and Title 16 of the DCMR. Adjudication of any infraction shall be pursuant to the *Civil Infractions Act*.

**106.4.3 Culpability.** Any person, including a *tenant*, who causes a violation of the *Property Maintenance Code*, is subject to the same penalties as those provided in Section 106.4.

**106.4.4 Separate offenses.** The penalties prescribed in Section 106.4 shall be applicable to each separate offense.

**106.4.5 Housing business license.** The violation of any of the provisions of the *Property Maintenance Code* may be grounds for denial, suspension or revocation of any *housing business* license or license endorsement under Chapter 28 of Title 47 of the D.C. Official Code and/or the *Housing Code*, Title 14 DCMR.

**106.5 Abatement of violation.** Notwithstanding any other penalties or remedies set forth in Section 106.4, where any person violates a provision of the *Property Maintenance Code*, or fails to comply therewith or with any of the requirements thereof, following notice as prescribed in Section 107 of this chapter, the *code official* may cause such condition to be corrected. The costs of any corrective action, and all expenses incident thereto, shall be deemed a special assessment

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and shall be assessed as a tax against the property on which the violating condition existed, bear interest and be collected in the same manner as delinquent general taxes in the District are collected, in accordance with D.C. Official Code § 47-1205 (2012 Repl.). Nothing herein shall be construed to abolish or impair existing remedies relating to abatement of nuisance property, including, but not limited to, Chapters 31 and 31A of Title 42 of the D.C. Official Code, or to preclude conversion of a special assessment lien to an administrative judgment, enforceable in the same manner as any other civil judgment under District of Columbia law, as authorized by D.C. Official Code § 42-3131.01 (2012 Repl.).

**106.6 Deposit of collateral.** The *code official* is authorized to require a deposit of collateral as directed, from an owner or person(s) responsible, for uncorrected violations of the *Property Maintenance Code* where a notice or order has been issued for the violation, reinspection indicates that the violation has not been corrected, and no appeal from the notice or order is pending. The collateral amount shall be based on the reasonable estimated cost of labor and materials to correct the violative condition. The *code official* is authorized to draw down on the collateral deposited to cover the costs of *summary abatement*.

## 107 NOTICES AND ORDERS

**107.1 Notice to owner or to person or persons responsible.** In addition to other penalties authorized by statute or regulation, whenever the *code official* determines that there has been a violation of the *Property Maintenance Code* or has grounds to believe that a violation has occurred, the *code official* is authorized to serve one or more of the following notices or orders, which may impose a fine or other penalty, on an *owner* or the person or persons responsible therefore:

1. A notice of violation;
2. A notice of infraction;
3. A combined notice of violation and notice of infraction; or
4. Any other order or notice authorized to be issued by the *code official*.

**107.1.1 Applicable procedures.** Service of a notice of violation or any other authorized notice or order, other than a notice of infraction, shall be in the manner prescribed in Sections 107.2 and 107.3, except as otherwise provided herein. Notices of infraction shall be issued in accordance with the procedures and fine amounts set forth in Section 201 of the *Civil Infractions Act* and Title 16 of the DCMR.

**107.1.2 Code official discretion.** Issuance of a notice of violation, notice of infraction, or combined notice of violation and notice of infraction pursuant to this section, prior to

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taking other enforcement action, is at the discretion of the *code official*. Failure to issue a notice of violation, notice of infraction, or combined notice of violation and notice of infraction shall not be a bar or a prerequisite to criminal prosecution, civil action, corrective action, or civil infraction proceeding based upon a violation of the *Property Maintenance Code*.

**107.1.3 Historic Preservation.** Additional notice procedures may apply to historic buildings pursuant to D.C. Official Code § 6-801 *et seq.* (2012 Repl.).

**107.2 Form of notice or order.** Notices or orders issued under the *Property Maintenance Code* must:

1. Be in writing;
2. Include the name and address of the person or entity being cited;
3. Include a description of the real estate sufficient for identification;
4. Include a statement of the violation or violations, the code section(s) violated and why the notice or order is being issued;
5. Include, if the notice or order affords an opportunity to abate a violation, a reasonable period of time by which the required repairs and improvements must be made;
6. Include, if applicable, a specific time by which unsafe or imminently dangerous *premises* shall be closed, barricaded and/or vacated, or equipment placed out of service;
7. Include a statement informing the property *owner* of the right to appeal pursuant to Section 107.8; and
8. Include a statement of the District of Columbia's right in accordance with Section 106.5 to abate the violation without the *owner's* consent if the *owner* fails to comply with the notice or order or to file a timely appeal, to assess the costs of such abatement against the *owner*, and to place a tax lien on the property for the costs of such abatement.

**107.2.1 Special notice provisions for residential premises.** Where the *code official* (a) issues a notice or order to close and barricade a residential structure or *dwelling unit*, pursuant to Section 108.3, or (b) posts a closure or imminently dangerous notice or order pursuant to Section 109.1.1, the following additional provisions shall apply:

1. The notice or order shall specify a date by which *tenants* or occupants of the structure or unit are required to vacate the structure or unit;

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2. The notice or order shall include a statement informing *tenants* or occupants of the structure or unit of the right to appeal pursuant to Section 107.8, including, where applicable, the right to an expedited hearing pursuant to Section 107.8.2;
3. A copy of the notice or order shall be provided to *tenants* in accordance with Section 107.7; and
4. The notice shall provide contact information for the Office of the Tenant Advocate.

**107.3 Method of service of notices and orders.** The *code official* shall effect service of any notice or order (except notices of infraction) upon the property *owner* or person(s) responsible for the violation or violations by one of the following methods, any of which shall be deemed proper service:

1. Personal service on the property *owner* or persons responsible, or the agents thereof; or
2. By electronic mail to the last-known electronic mail address of the person or business to be notified, provided that a copy of the notice or order is posted in a conspicuous place in or about the structure or *premises* affected by such notice; or
3. Delivering the notice to the last known home or business address of the property *owner* or persons responsible as identified by the tax records, business license records, or corporate registration records, and leaving it with a person over the age of 16 years old residing or employed therein; or
4. Mailing the notice, via first class mail postage pre-paid, to the last known home or business address of the property *owner* or persons responsible or the agents thereof as identified by the tax records, business license records or corporate registration records; or
5. If the notice is returned as undeliverable by the Post Office authorities, or if no address is known or can be ascertained by reasonable diligence, by posting a copy of the notice in a conspicuous place in or about the structure or *premises* affected by such notice.

**107.4 Unauthorized tampering.** Signs, placards, tags, or seals posted or affixed by the *code official* shall not be mutilated, destroyed, obstructed or tampered with, or removed without authorization from the *code official*.

**107.5 Penalties.** Penalties for noncompliance with *the Property Maintenance Code* shall be as set forth in Section 106.

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**107.6 Transfer of ownership.** It shall be unlawful for the *owner* of any *dwelling unit* or structure upon whom a notice of violation or order has been served to sell, transfer, mortgage, lease or otherwise dispose of such *dwelling unit* or structure to another person or entity until the provisions of the notice or order have been complied with, or until such *owner* shall first furnish the grantee, transferee, mortgagee or lessee a true copy of any notice or order issued by the *code official* and shall furnish to the *code official* a signed and notarized statement from the grantee, transferee, mortgagee or lessee, acknowledging the receipt of such notice or order and fully accepting the responsibility without condition for making the corrections or repairs required by such notice or order.

**107.7 Copy of notices and orders.** After an inspection of a *dwelling unit* occupied by a *tenant*, the *code official* ~~Director~~ shall provide the *tenant* with a copy of any notice or order with respect to that unit issued to the *owner* pursuant to the *Property Maintenance Code*. This requirement will be satisfied by mailing a copy to the *tenant* by first-class mail, leaving a copy at the *tenant*'s residence or any other reasonable method in the *code official*'s discretion.

**107.7.1 Notification for multiple tenants.** In any instance where a violation or violations of the *Property Maintenance Code* involve more than one *tenant* of a residential building or dwelling, including violations involving common space, the *code official* shall post a copy of any notice or order issued to the *owner* pursuant to Section 107 for a reasonable time in one or more locations within the building or buildings in which the deficiency exists. The locations for posting the notification shall be reasonably selected to give notice to all *tenants* affected. Any *tenant* directly affected by the violation(s) shall, upon request to the *code official*, be sent a copy of the posted notification.

**107.7.1.1 Building Closures.** Where the *code official* (a) issues an order or notice to close and barricade a residential *structure* or *dwelling unit*, pursuant to Section 108, or (b) posts a closure or imminently dangerous order or notice pursuant to Section 109, in addition to posting the notice or order as provided in 107.7.1, the *code official* shall provide a copy of the notice or order to each *tenant* affected by the notice or order by leaving a copy at each *dwelling unit* or any other reasonable method in the *code official*'s discretion.

**107.7.2 Tampering with notification.** No person shall alter, modify, destroy, obstruct or otherwise tamper with or mutilate a notification posted under Section 107.7.1 or Section 107.3.

**107.7.3 Exclusivity of tenant notice provisions.** The *code official* shall not be subject to any other *tenant* notification provisions, except as set forth in this Section 107.

**107.8 Appeal and hearing.** Any person directly affected by a notice or order issued under this

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*Property Maintenance Code* shall have the right to appeal to the Office of Administrative Hearings (OAH).—Except where an expedited hearing is requested pursuant to Section 107.8.2, the OAH appeal shall be filed within 10 business days after the date the *person* appealing the decision of the *code official* had notice or knowledge of the decision, or should have had notice or knowledge of the decision, whichever is earlier. The appeal shall specify that the *Property Maintenance Code* or the rules legally adopted thereunder have been incorrectly interpreted or applied by the *code official*, the provisions of the *Property Maintenance Code* do not fully apply, or the requirements of the *Property Maintenance Code* are adequately satisfied by other means. OAH shall have no authority to waive requirements of the *Property Maintenance Code*.

**Exceptions:**

1. OAH review of a notice or order to close or vacate residential *premises* issued pursuant to Section 108 shall be based solely on the issue of whether the *premises* are unsafe or unfit for occupancy requiring a building closure under the provisions of Section 108.
2. OAH review of a notice or order to close or vacate residential *premises* issued pursuant to Section 109 shall be based solely on the issue of whether the *code official's* building closure decision comported with Section 109.1.
3. Where the *owner* waives the right to an administrative hearing pursuant to Section 302.4.2.1.

**107.8.1 Stay of enforcement.** Appeals of notices or orders shall stay the enforcement of the notice or order until the appeal is heard by OAH.

**Exceptions:**

1. Closure or imminent danger notices or orders issued pursuant to Section 109, and related orders to vacate *premises*; or
2. Closure notices or orders issued pursuant to Section 108, and related orders to vacate *premises*, except where the *tenant* or occupant has requested an expedited OAH hearing in accordance with Section 107.8.2.

**107.8.2 Expedited OAH hearing for Section 108 closure orders.** Where a notice or order to close or vacate a residential *premises* is issued pursuant to Section 108, a *tenant* or occupant of the *premises* affected by the closure has a right to request an expedited hearing by OAH prior to the closure subject to the following requirements:

1. The *tenant* or occupant shall file the request for an expedited hearing with OAH no later than the date specified in the closure order for *tenants* or occupants to

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vacate the structure or unit;

2. OAH review shall be based solely on the issue of whether the *premises* are unsafe or unfit for occupancy requiring a building closure under the provisions of Section 108 of the *Property Maintenance Code*;
3. Enforcement of the closure notice or order shall be stayed until OAH issues a written decision; and
4. OAH shall hold a hearing within 72 hours of receipt of a timely request, and shall issue a decision within 72 hours after the hearing. For purposes of computing the 72 hour period, weekends and legal holidays shall be excluded.

Nothing herein shall be construed to authorize an expedited hearing for any notices or orders issued, or actions taken, pursuant to Section 109.

**107.8.3 Section 109 closure or imminently dangerous orders and notices.** Appeal of a closure notice or order issued pursuant to Section 108, or a request for an expedited hearing pursuant to 107.8.2, shall not preclude the *code official* from issuing a notice or order pursuant to Section 109 for the same *premises* or structure, while such appeal or hearing is pending.

## **108 UNSAFE STRUCTURES AND EQUIPMENT**

**108.1 General.** When structures, *premises* or equipment, in whole or in part, are found by the *code official* to be unsafe or dangerous, or when a structure is found unfit for human occupancy, or is found to be unlawful, such structure may be closed by the *code official* pursuant to the provisions of the *Property Maintenance Code* and may be referred to the Board of Condemnation for issuance of a condemnation order, pursuant to An Act To create a board for the condemnation of insanitary buildings in the District of Columbia, and for other purposes, as amended, approved May 1, 1906 (34 Stat. 157; D.C. Official Code § 6-901 *et seq.* (2012 Repl. & 2013 Supp.)).

**108.1.1 Unsafe structures.** An unsafe structure or anything attached to or connected with any building or other structure that is found to be unsafe or dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment, or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that partial or complete collapse is possible.

**108.1.2 Unsafe equipment.** Unsafe equipment includes any boiler, heating equipment,

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elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the *premises* or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the *premises* or structure.

**108.1.3 Structure unfit for human occupancy.** A *structure* is unfit for human occupancy whenever the *code official* finds that such structure is: unsafe; unlawful; or, due to the degree to which the structure is in disrepair or lacks maintenance, is unsanitary or vermin or rat infested, contains filth and contamination, or lacks *ventilation*, illumination, sanitary or heating facilities or other essential equipment required by the *Property Maintenance Code*; or whenever the *code official* finds that the location of the structure constitutes a hazard to the *occupants* of the *structure* or to the public.

**108.1.4 Unlawful structure.** An unlawful *structure* is one found in whole or in part to be occupied by more persons than permitted under the *Property Maintenance Code*, or was erected, altered or occupied contrary to law.

**108.1.5 Dangerous structure or premises.** For the purpose of this code, any *structure* or *premises* that has any or all of the conditions or defects described below shall be considered dangerous:

1. Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the *Construction Codes* as related to the requirements for existing buildings.
2. The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.
3. Any portion of a building, *structure* or appurtenance that has been damaged by fire, earthquake, wind, flood, *deterioration*, *neglect*, abandonment, vandalism or any other cause to such an extent that it is likely to partially or completely collapse, or to become *detached* or dislodged.
4. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof, that is not of sufficient strength or stability, or is not so *anchored*, attached or fastened in place so as to be capable of resisting natural or artificial loads of one and one-half the original designed value.
5. The building or *structure*, or part of the building or *structure*, is likely to collapse partially or completely, because of dilapidation, *deterioration*, decay, faulty construction, the removal or movement of some portion of the ground necessary

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for the support, or for any other reason, or some portion of the foundation or underpinning of the building or *structure* is likely to fail or give way.

6. The building or *structure*, or any portion thereof, is clearly unsafe for its use and *occupancy*.
7. The building or *structure* is *neglected*, damaged, dilapidated, unsecured or abandoned so as to become an attractive nuisance to children who might play in the building or *structure* to their danger, become a harbor for vagrants, criminals or immoral persons, or enable persons to resort to the building or *structure* for committing a nuisance or an unlawful act.
8. The building or *structure* has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or *structure* provided by the *Construction Codes*, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse or any other threat to life and safety.
9. A building or *structure*, used or intended to be used for dwelling purposes, that is determined by the *code official* to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, *ventilation*, mechanical or plumbing system or otherwise.
10. Any building or *structure* that is determined by the *code official* to be a threat to life or health because of a lack of sufficient or proper fire-resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause.
11. Any portion of a building or *structure* that remains on a site after the demolition or destruction of the building or *structure*, or whenever any building or *structure* or portion thereof is abandoned so as to become an attractive nuisance or hazard to the public.

**108.1.6 Unserviceable equipment.** Whenever the *code official* determines that the repair record on any boiler, air conditioning system, heating equipment, elevator, moving stairway or other equipment on the *premises* or within a *structure* reflects the need for replacement of the equipment, the *code official* may declare the equipment “unserviceable” and order the replacement of the equipment.

**108.2 Closing of vacant structures.** If the *structure* is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the *code official*, after providing notice as

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prescribed in Section 108.3, is authorized to post a closure placard on the *premises* and order the *structure* closed up so as not to be an attractive nuisance. Upon failure of the *owner* to close up the *premises* within the time specified in the order, the *code official* shall cause the *premises* to be closed and secured through any available public agency or by contract or arrangement with private persons, and the cost thereof shall be charged against the real estate upon which the *structure* is located and shall be a lien upon such real estate and may be collected by any other legal resource.

**108.2.1 Authority to disconnect service utilities.** The provisions of Section 111.3, Authority to Disconnect Service Utilities, of 12 DCMR A shall apply to the *Property Maintenance Code* and are hereby incorporated by reference.

**108.3 Notice.** Whenever the *code official* has found a *premises* or *structure* to be unsafe or unfit for occupancy or has found the use of equipment to be unsafe or unlawful under the provisions of this Section 108, notice shall be posted in a conspicuous place in or about the *premises* or *structure* affected by such notice and shall be served on the *owner* or the person or persons responsible for the *premises*, *structure* or equipment in accordance with Section 107.3 and An Act To authorize the Commissioners of the District of Columbia to remove dangerous or unsafe buildings and parts thereof, and for other purposes, as amended, approved March 1, 1899 (30 Stat. 923; D.C. Official Code § 6-801 *et seq.* (2012 Repl.)). If the notice pertains to equipment, it shall also be placed on the equipment found to be unsafe or unlawful. The notice shall be in the form prescribed in Section 107.2. The *code official* is authorized to order the *owner* to close and barricade the structure or *dwelling unit* within a specified period of time.

### **108.3.1 Special provisions applicable to residential premises.**

**108.3.1.1 Copies of notices and orders.** The *code official* shall provide *tenants* of *residential premises* with copies of notices and orders issued pursuant to Section 108 in accordance with Section 107.7. The *code official* shall not be subject to any other *tenant* notification provisions, except as expressly set forth in Section 107.7.

**108.3.1.2 Building closures.** The *code official* is authorized to order *tenants* or occupants of *residential premises* to vacate the premises within a time sufficient to allow the *owner* to comply with the order to close and barricade the premises, provided that *tenants* shall be given at least five calendar days to vacate the *premises*. If any *tenant* or occupant fails to vacate the *premises* within the time period set forth in the notice or order, subject to the appeal provisions of Section 107.8, the *code official* is authorized to order the removal of the *tenants* or occupants.

**108.3.1.3 Other rental housing provisions.** The removal of *tenants* from unsafe *residential premises*, or the service of an order to vacate pursuant to this Section 108, shall not be considered an eviction or notice to vacate under D.C. Official Code § 42-

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3505.01 (2012 Repl.). Notwithstanding the foregoing, nothing herein shall be construed to nullify or abrogate any other rights to which a *tenant* is entitled under District laws or regulations, including relocation assistance, the right to reoccupy the rental unit following rehabilitation, or the right to pursue rights and remedies under D.C. Official Code Title 42, Chapter 34 (2012 Repl. & 2013 Supp.).

**108.3.2 Historic preservation.** Repairs to, or removal or demolition of, a historic landmark or building or structure located within an historic district shall comply with D.C. Official Code § 6-801 *et seq.* (2012 Repl.).

**108.4 Placarding.** Upon failure of the *owner* or person responsible to comply with the notice provisions within the time given, the *code official* is authorized to ~~shall~~ post on the *premises* a closure placard bearing the words “These Premises are Unsafe and Its Occupancy Has Been Prohibited by the Code Official,” or to post on the defective equipment a placard bearing the words “Removed from Service.” The placard shall include a statement of the penalties provided for occupying the *premises* or operating the equipment, and for removing the placard.

**108.4.1 Removal of placard.** The *code official* shall authorize removal of the applicable placards whenever the defect or defects upon which the closure or removal from service actions were based have been eliminated. Any person who defaces or removes a placard without the approval of the *code official* shall be subject to the penalties provided by the *Property Maintenance Code*.

**108.5 Prohibited occupancy.** Any occupied *structure*, closed and placarded by the *code official*, shall be vacated as ordered by the *code official*. Any person who shall occupy a placarded *premises* or shall operate placarded equipment, and any *owner* or any person responsible for the *premises* who shall let anyone occupy a placarded *premises* or operate placarded equipment, shall be liable for the penalties provided by the *Property Maintenance Code*.

**108.6 Abatement methods.** The *owner*, *operator* or *occupant* of a *structure*, *premises* or equipment deemed unsafe by the *code official* shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, demolition or other *approved* corrective action.

**108.6.1 Costs of abatement.** Where the *owner*, *operator* or *occupant* of a *premises*, including any *buildings*, other *structures*, or equipment, deemed unsafe by the *code official* fails to abate such unsafe condition following notice as prescribed in Section 107, the *code official* may cause such condition to be corrected and assess the costs of any corrective action, and all expenses incident thereto, as a tax against the property in accordance with Section 106.5. Nothing herein shall be deemed to preclude or negate any other penalties or remedies set forth in Section 106.4, or to preclude conversion of a special assessment lien to an administrative judgment, enforceable in the same manner as

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any other civil judgment under District of Columbia law, as authorized by D.C. Official Code § 42-3131.01 (2012 Repl.).

**108.7 Record.** The *code official* shall maintain a report on an unsafe condition. The report shall state the *occupancy* of the *structure* and the nature of the unsafe condition.

**108.8 Condemnation.** The *code official* is authorized to refer a building or structure determined to be unsafe under this Section 108 to the Board for the Condemnation of Insanitary Buildings for issuance of an order of condemnation, pursuant to D.C. Official Code § 6-903 (2012 Repl.).

## **109 EMERGENCY MEASURES**

**109.1 Imminent danger.** The *code official* is hereby authorized and empowered to order and require the tenants or occupants to vacate a *premises* forthwith when, in the opinion of the *code official*: there is imminent danger of failure or collapse of a building or other structure which endangers life; or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure; or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors, or the presence of toxic fumes, gases or materials; or when the health or safety of occupants of the *premises* or those in the proximity of the *premises* is immediately endangered by an unsanitary condition or the operation of defective or dangerous equipment. The *code official* shall cause to be posted at each entrance to such structure a notice or order reading as follows: “This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the *code official*.” It shall be unlawful for any *person* to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition, or demolishing the same.

### **109.1.1 Special provisions applicable to residential premises.**

**109.1.1.1 Copies of notices and orders.** The *code official* shall provide *tenants* of *residential premises* with copies of notices and orders issued pursuant to Section 109 in accordance with Section 107.7. The *code official* shall not be subject to any other *tenant* notification provisions, except as expressly set forth in Section 107.7.

**109.1.1.2 Building closures.** Where the *code official* posts a closure or imminently dangerous notice or order pursuant to Section 109.1, the *code official* is authorized to order all *tenants* or occupants to vacate the imminently dangerous structure or *dwelling unit*. The notice or order shall include the time by which the *premises* must be vacated, provided that tenants and occupants shall be given at least 24 hours to vacate, unless the *code official* determines that *tenants* and occupants must leave the *premises* immediately for their personal safety. If any

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*tenant* or occupant fails to vacate the structure or unit within the time specified in the notice or order, the *code official* is authorized to order removal of the *tenant* or occupant from the structure or unit.

**109.1.1.3 Other rental housing provisions.** The removal of tenants from imminently dangerous premises, or the service of an order to vacate, pursuant to this Section 109 shall not be considered an eviction or notice to vacate under D.C. Official Code § 42-3505.01 (2012 Repl.). Notwithstanding the foregoing, nothing herein shall be construed to nullify or abrogate any other rights to which a *tenant* is entitled under District laws or regulations, including relocation assistance, the right to reoccupy the rental unit following rehabilitation, or the right to pursue rights and remedies under D.C. Official Code Title 42, Chapter 34 (2012 Repl. & 2013 Supp.).

**109.1.2 Appeals.** Imminent danger notices and orders, and other notices and orders issued pursuant to Section 109, are appealable to OAH pursuant to Section 107.8, but any appeal shall not stay the enforcement of the notice or order. Any person ordered to take emergency measures or actions shall comply with such order forthwith. The expedited hearing procedures set forth in Section 107.8.2 shall not apply to orders and notices issued pursuant to Section 109.

**109.1.3 Historic preservation.** Emergency measures affecting a historic landmark or a building or structure located within an historic district shall comply with D.C. Code § 6-803(b) (2012 Repl.).

**109.2 Temporary safeguards.** Whenever, in the opinion of the *code official*, there is imminent danger due to an unsafe condition, the *code official* shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been instituted; and shall further cause such other action to be taken as the *code official* deems necessary to meet such emergency.

**109.3 Closing streets.** When necessary for the public safety, the *code official* is authorized to temporarily close sidewalks, streets, buildings, other structures, and places adjacent to such unsafe structure, and prohibit them from being used.

**109.4 Emergency repairs.** For the purposes of this section, the *code official* shall employ the necessary labor and materials to perform the required work as expeditiously as possible.

**109.5 Costs of emergency repairs.** Where the *code official* causes emergency work to be done pursuant to Section 109.2 or Section 109.4, the costs incurred in the performance of emergency work and expenses incident thereto shall be paid from appropriations of the District of Columbia on certification of the *code official* and shall be assessed as a tax against the property on which

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the emergency work or repairs were performed in accordance with Section 106.5. Nothing herein shall be deemed to preclude conversion of a special assessment lien to an administrative judgment, enforceable in the same manner as any other civil judgment under District of Columbia law, as authorized by D.C. Official Code § 42-3131.01 (2012 Repl.).

**109.5.1 Additional costs of emergency repairs.** Costs of emergency repairs shall also be deemed to include, but are not limited to, costs associated with cleaning the premises to comply with the *Property Maintenance Code*, utility removal or disconnection costs, court costs, fines, and penalties. If the *code official* determines that no other shelter is available to tenants or occupants removed from residential premises pursuant to Section 109.1, the *code official* has discretion to assess all expenses incident to *tenant* relocation as a cost of emergency repairs, including, but not limited to, temporary housing, security deposits and the first month's rent if required.

**109.6 Condemnation.** The *code official* is authorized to refer a building or structure determined to be imminently dangerous under this Section 109 to the Board of Condemnation of Insanitary Buildings for issuance of an order of condemnation pursuant to D.C. Official Code § 6-903 (2012 Repl.).

## 110 DEMOLITION

**110.1 Demolition of deteriorated structures.** The *code official* is authorized to initiate proceedings pursuant to D.C. Official Code § 42-3173 (2012 Repl.) to demolish or enclose a “deteriorated structure”, as defined in D.C. Official Code § 42-3173.01 (2012 Repl.).

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## CHAPTER 2 DEFINITIONS

### 202 General Definitions

#### 202 GENERAL DEFINITIONS

*Insert the following new definitions in Section 202 of the Property Maintenance Code:*

**COMMON SPACE.** All portions of the *premises* used in common by the occupants of a *building* or *structure* not under the exclusive control of a single *tenant*.

**GROWING SEASON.** The time period from May 1 through October 31 of the same calendar year.

**HOUSING BUSINESS.** A business licensed, or required to be licensed, under D.C. Official Code § 47-2828 (2012 Repl.), including any *dwelling unit* or *rooming unit* in a residential building that is offered for rent or lease. A housing business also includes the rental of a *dwelling unit* or *rooming unit* in a residential building that the housing business owner or operator also occupies. A housing business does not include any transient housing providers, such as a hotel, bed and breakfast, inn and motel, boarding house or *rooming house*.

**MAIN ENTRANCE (for Section 304.3).** The principal point of entry into a building or other structure from a public street, private street or officially named alley.

**PRIVATE THOROUGHFARE (for Section 304.3).** Streets, alleys and other thoroughfares where the underlying land is owned by private citizens or entities, or is part of existing tax or record lots adjoining a *public thoroughfare*.

**PUBLIC THOROUGHFARE (for Section 304.3).** Streets, alleys and other thoroughfares that are under the jurisdiction of the District of Columbia, any other public government, including the Federal Government or its branches, or by any adjoining state government.

**QUALIFIED PERSON.** One who has received training in and has demonstrated skills and knowledge in the construction and operation of specific equipment and installations and the hazards involved.

**STREET NUMBER (for Section 304.3).** A number used to provide specific identification for a *premises* on a public or private thoroughfare in the District of Columbia. A street number may be (1) the address of the *main entrance* of a *premises* or (2) an address created when a *building* has an entrance from the exterior, other than the *main entrance*, that directly serves a tenant different than that served by the *main entrance*. It shall be stored as a numeric value.

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**SUMMARY ABATEMENT.** The process by which the *code official* may remove a nuisance from any *premises*, at the expense of the *owner* in situations where the *owner* fails to comply with or to appeal a notice or order to abate, or where emergency measures are required.

**UNTENDED.** Conditions that evidence a lack of care, maintenance, or management of a *premises*, including buildings or structures.

**VEGETATIVE GROWTH.** Vegetation of all types, including weeds, poison ivy, poison oak, poison sumac, kudzu, plants with noxious odors, and grasses.

*Strike the definitions of ROOMING HOUSE and ROOMING UNIT in Section 202 of the International Property Maintenance Code and insert new definitions in Section 202 of the Property Maintenance Code in their place to read as follows:*

**ROOMING HOUSE (for the *Property Maintenance Code*).** A building or part thereof that provides sleeping accommodations for three or more persons who are not members of the immediate family of the resident operator or manager, with or without the provision of meals, for compensation; *sleeping units* are not under the exclusive control of the *occupants*. The term *rooming house* shall not be interpreted to include an establishment known as, or defined in the *Construction Codes* as, a hotel, motel, inn, bed and breakfast, private club, tourist home, guest house, or other transient accommodation.

**ROOMING UNIT.** One or more *habitable spaces* forming a single habitable unit occupied or intended to be occupied for sleeping or living purposes; but not for the preparation or eating of meals.

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## CHAPTER 3 REQUIREMENTS

302	Exterior Property Areas
303	Exterior Structure
304	Interior Structure
307	Handrails and Guardrails
308	Rubbish and Garbage
309	Pest Elimination
310	Carbon Monoxide Alarms

### 302 EXTERIOR PROPERTY AREAS

*Strike Section 302.1 of the International Property Maintenance Code in its entirety and insert new Section 302.1 in the Property Maintenance Code in its place to read as follows:*

**302.1 Sanitation.** All *exterior property* and *premises* shall be maintained in a clean, safe and sanitary condition. The *occupant* shall keep that part of the *exterior property* which such *occupant* occupies or controls in a clean and sanitary condition. Without limiting the generality of the foregoing, the accumulation of trash on a *premises* shall constitute an unsanitary and unhealthy condition if it creates a:

1. Harbor or concealment (including hiding places for persons);
2. Harbor or refuge for snakes, rodents, or other vermin, including rats and mice;
3. Noxious or unpleasant odor; or
4. Fire hazard.

*Strike Section 302.4 of the International Property Maintenance Code in its entirety and insert new Section 302.4 in the Property Maintenance Code in its place to read as follows:*

**302.4 Weeds.** All *premises* and *exterior property* shall be maintained free from weeds or plant growth in excess of 8 inches (203 mm). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation other than trees or shrubs; provided, however, that this term shall not include cultivated flowers and gardens.

Upon failure of the *owner* or agent having charge of a property to cut and destroy weeds or *vegetative growth* (as described below) after service of a notice of violation, the owner shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the District of Columbia. Upon failure to comply with the notice of violation, any duly authorized employee of

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the District of Columbia or contractor hired by the District of Columbia shall be authorized to enter upon the property in violation and cut and destroy the weeds growing thereon, and the costs of such removal shall be paid by the *owner* or agent responsible for the property.

**302.4.1 Vegetative growth.** The following types of *vegetative growth* are prohibited regardless of height:

1. *Vegetative growth* that is *untended*;
2. Shrubbery that is a detriment to the health, safety, or welfare of the public;
3. *Vegetative growth* that creates a harbor or concealment, including hiding places for persons and harbors or concealments for refuse or trash;
4. *Vegetative growth* that harbors, or provides a refuge for, snakes, rodents, or other vermin, including rats and mice;
5. *Vegetative growth* that creates an unpleasant or noxious odor;
6. *Vegetative growth* that constitutes a fire hazard;
7. *Vegetative growth* that creates a breeding place for mosquitoes; and
8. *Vegetative growth* that is dead or diseased.

**Exceptions:**

1. Weeds, grasses, or other vegetation planted for agricultural use, if such weeds, grasses or vegetation are located at least 150 feet (45.72 m) from property zoned for nonagricultural use.
2. Healthy plants, grasses, or shrubbery in tended grounds, gardens, or landscape designed yards, which exceed 8 inches in height.

**302.4.2 Additional enforcement provisions.**

**302.4.2.1 Written consent of owner.** The *owner* of the *premises* may give written consent to the Mayor or the Mayor's designee authorizing the removal of trash or the mowing of weeds or grass pursuant to a notice of violation requiring abatement of a prohibited condition. By giving such written consent, the *owner* waives the right to an administrative hearing challenging the Mayor's abatement actions.

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**302.4.2.2 Summary abatement during the same growing season.** If the *owner* of any *premises* is served in accordance with the procedures set forth in Section 107.2 and 107.3 with a notice of violation under Section 302.4 but fails to comply with the terms of the notice of violation, then, the District of Columbia government may summarily abate the violating condition during the same growing season in which the notice of violation was issued without issuance of another notice.

## **304 EXTERIOR STRUCTURE**

*Insert new Section 304.2.1 in the Property Maintenance Code to read as follows:*

**304.2.1 Elimination of peeling, flaking and chipped paint; pre-1978 structures.** In *structures*, including *building* components, built before 1978, peeling, flaking and chipped paint covered by Section 304.2 shall be eliminated in accordance with the work practice standards for renovations set forth in regulations governing lead-based paint promulgated, or as may be promulgated, by the District’s Department of the Environment (DDOE) or the federal Environmental Protection Agency, including, but not limited to, 40 CFR § 745.85 (7-1-12 edition) and in conformance with all pertinent lead abatement requirements in D.C. Official Code § 8-231.01 *et seq.* (2012 Repl. & 2013 Supp.), including all pertinent implementing regulations.

### **Exceptions:**

1. *Structures* and building components built in 1978 or later; or
2. Where all components containing deteriorated paint (as defined in 40 CFR § 745.63) have been tested in accordance with 40 CFR § 745.82(a) (7-1-12 edition) and are documented to be exempt from lead-safe work practice requirements.

*Strike Section 304.3 of the International Property Maintenance Code in its entirety and insert new Section 304.3 to the Property Maintenance Code in its place to read as follows.*

**304.3 Premises identification.** Each *premises*, including buildings and *structures*, to which a *street number* has been assigned shall have the number displayed in conformance with the requirements specified in 12 DCMR A Section 118. The *owner* of a *premises* shall obtain a *street number* assignment, as applicable, pursuant to Section 118, Addresses of Premises, of 12 DCMR A. The minimum size of a street number shall be 3 inches (76 mm) high and 1/2 inch (13 mm) wide and shall be in Arabic figures on a contrasting background.

### **304.3.1 Main entrance location.**

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**304.3.1.1** The assigned *street number* shall be located directly over or near the *main entrance* in a position easily observed and readable from the opposite side of a *public thoroughfare*.

**304.3.1.2** Multi-tenant buildings having separate exterior entrances with separate numbers shall post the assigned *street number* near each entrance in accordance with this section.

**304.3.1.3** In addition to posting the street number of the building or other structure in a position easily observed and readable from the opposite side of the *public thoroughfare* serving that entrance, the *owner* of a building or other structure located on a lot where the *main entrance* is not located at and fronting on a *public thoroughfare*, shall post the *street number* directly above or near the *main entrance*.

**304.3.24 Rear entrance location.** If the rear of a *premises*, to which a *street number* has been assigned, faces a street or *public thoroughfare* accessible to the public, the *owner* shall also place the *street number* of the *main entrance* in a position easily observed and readable from the *public thoroughfare* serving the rear of that *premises*.

**304.3.35 Construction Sites–location.** *Street numbers* shall be posted at construction sites in a position easily observed and readable from any *public thoroughfare* serving the construction site.

**304.3.46 Private Thoroughfare Streets.** The *owner* of a *private thoroughfare* shall provide standard street signs in compliance with Sections 118.14.1, 118.14.3 and 118.14.4 of 12 DCMR A. The *owner* of a building, *premises*, or *structure* located on a *private thoroughfare* shall comply with the *street number* display provisions of Section 304.3; provided, the *street number* need not be readable from a *public thoroughfare* if, under the circumstances, this requirement would be impracticable and the *approved street numbers* are placed in a position to be plainly legible and visible from the *private thoroughfare* fronting the property.

*Strike Section 304.7 of the International Property Maintenance Code in its entirety and insert new Section 304.7 to the Property Maintenance Code in its place to read as follows.*

**304.7 Roofs and drainage.** The roof and flashing shall be sound and tight and shall not have defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the *structure*. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

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**304.7.1 Storm drainage.** Storm water shall drain into a separate storm sewer system, or a combined sewer system, or to an *approved* place of disposal.

**304.7.2 Grading.** The yard or area at the *premises* shall be graded so that all storm drainage flows freely from all parts of the *premises* into an inlet or place of disposal that complies with Section 304.7.1, and so that the drainage shall flow away from any building on the *premises*.

**304.7.3 Water accumulation.** Yard spaces and other areas appurtenant to a residential building shall be graded to avoid the accumulation of water.

*Strike Section 304.11 in the International Property Maintenance Code in its entirety and insert new Section 304.11, to the Property Maintenance Code in its place to read as follows:*

**304.11 Chimneys and towers.** All chimneys, cooling towers, smoke stacks and similar appurtenances shall be maintained structurally safe and sound and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

**304.11.1** Unused openings in chimneys shall be closed.

**304.11.2** All flue openings in chimneys shall be supplied with flue crocks, and metal or masonry thimbles.

*Strike Section 304.14 of the International Property Maintenance Code in its entirety and insert new Section 304.14 in its place to read as follows:*

**304.14 Insect screens.** During the period from March 15 to November 15 of each year, every door, window and other outside opening required for *ventilation* of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with *approved* tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm) and every screen door used for insect control shall have a self-closing device in good working condition.

**Exception:** Screens shall not be required where other *approved* means, such as air curtains or insect repellent fans, are employed.

*Strike Section 304.18.3 of the International Property Maintenance Code in its entirety and insert new Section 304.18.3 in its place to read as follows:*

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**304.18.3 Basement hatchways.** *Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry. Each basement hatchway shall be constructed and maintained to prevent the entrance of rodents, rain or surface drainage water into the dwelling unit, rooming unit or housekeeping unit.*

## **305 INTERIOR STRUCTURE**

*Strike Section 305.3 in the International Property Maintenance Code in its entirety and insert new Sections 305.3 and 305.3.1 in the Property Maintenance Code in its place to read as follows:*

**305.3 Interior surfaces.** All interior surfaces, including windows and doors, shall be maintained in good, clean, dry and sanitary condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, holes, decayed wood, water damage and other defective surface conditions shall be corrected.

**305.3.1 Elimination of peeling, flaking and chipped paint; pre-1978 structures.** In structures, including *building* components, built before 1978, peeling, flaking and chipped paint covered by Section 305.3 shall be repaired, removed or covered in accordance with the work practice standards for renovations set forth in regulations governing lead-based paint promulgated, or as may be promulgated, by the District's Department of the Environment (DDOE) or the federal Environmental Protection Agency, including, but not limited to, 40 CFR § 745.85 (7-1-12 edition), and in conformance with all pertinent lead abatement requirements in D.C. Official Code § 8-231.01 *et seq.* (2012 Repl. & 2013 Supp.), including all pertinent implementing regulations.

### **Exceptions:**

1. *Structures and building components built in 1978 or later; or*
2. *Where all components containing deteriorated paint (as defined in 40 CFR §745.63) have been tested in accordance with 40 CFR § 745.82(a) (7-1-12 edition) and are documented to be exempt from lead-safe work practice requirements.*

*Strike Section 305.4 in the International Property Maintenance Code in its entirety and insert new Section 305.4 in the Property Maintenance Code in its place to read as follows:*

**305.4 Stairs and walking surfaces.** Every stair, ramp, landing, balcony, porch, deck or other

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walking surface shall be maintained in sound condition and good repair, and maintained free from hazardous conditions.

### **307 HANDRAILS AND GUARDRAILS**

*Strike Section 307.1 in the International Property Maintenance Code in its entirety and insert new Section 307.1 in the Property Maintenance Code in its place to read as follows:*

**307.1 General.** Every exterior and interior flight of stairs having more than three risers shall have a handrail on one side of the stair and every open portion of a stair, landing, balcony, porch, deck, ramp or other walking surface which is more than 30 inches (762 mm) above the floor or grade below shall have *guards*. Handrails shall not be less than 30 inches (762 mm) in height or more than 42 inches (1067 mm) in height measured vertically above the nosing of the tread or above the finished floor of the landing or walking surfaces. *Guards* shall not be less than 30 inches (762 mm) in height above the floor of the landing, balcony, porch, deck, or ramp or other walking surface.

**Exception:** *Guards* shall not be required where exempted by the *Building Code*

### **308 RUBBISH AND GARBAGE**

*Strike Section 308.1 of the International Property Maintenance Code in its entirety and insert new Section 308.1 in the Property Maintenance Code in its place to read as follows:*

**308.1 Accumulation of rubbish or garbage.** All *exterior property* and *premises*, and the interior of every structure, shall be free from any accumulation of *rubbish* or garbage. The occupant of a *sleeping unit*, *dwelling unit*, multiple occupancy or a *rooming house* shall not permit the accumulation of rags, waste paper, broken furniture or any combustible junk in any portions of the *premises* under the occupant's control.

*Strike Section 308.2 in the International Property Maintenance Code in its entirety and insert new Section 308.2 in the Property Maintenance Code in its place to read as follows:*

**308.2 Disposal of rubbish.** Every *occupant* of a structure shall dispose of all *rubbish* in a clean and sanitary manner by placing such *rubbish* in *approved* containers.

**308.2.1 Rubbish storage facilities.** The *owner* of every occupied *premises* shall supply *approved* covered containers for *rubbish*, and the *owner* of the *premises* shall be responsible for the removal of *rubbish*. The place of common storage or disposal for such containers shall be readily accessible to all occupants at all times through *common space*.

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**308.2.2 Refrigerators.** Refrigerators and similar equipment not in operation shall not be discarded, abandoned or stored on *premises* without first removing the doors.

**308.2.3 Housing business.** The *operator* of a *housing business* shall not permit the accumulation or rags, waste paper, broken furniture or any combustible junk in any portions of the premises under the *operator's* control.

*Strike Section 308.3 in the International Property Maintenance Code in its entirety and insert new Section 308.3 in the Property Maintenance Code in its place to read as follows:*

**308.3 Disposal of garbage.** Every *occupant* of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an *approved* garbage disposal facility or *approved* garbage containers.

**308.3.1 Garbage facilities.** The *owner* of every dwelling shall supply one of the following: an *approved* mechanical food waste grinder in each *dwelling unit* or an *approved* leakproof, covered, outside garbage container.

**308.3.2 Containers.** The *operator* of every establishment producing garbage shall provide, and at all times cause to be utilized, *approved* leakproof containers provided with close-fitting covers for the storage of such materials until removed from the *premises* for disposal. The place of common storage or disposal for such containers shall be readily accessible to all occupants at all times through *common space*.

*Insert new Section 308.4 in the Property Maintenance Code to read as follows:*

**308.4. Condition of storage receptacles.** Persons required by this Section 308 to provide and maintain storage receptacles shall keep them free of accumulated grease, filth, or insect breeding, and shall keep them in a clean condition.

*Strike Section 309 of the International Property Maintenance Code in its entirety and insert new Section 309 in the Property Maintenance Code in its place to read as follows:*

## **309 PEST ELIMINATION**

**309.1 Infestation.** All *structures* shall be kept free from insect and rodent *infestation*. The maintenance of all *structures* in a reasonably insect-free and rodent-free state shall be the responsibility of the *owner* and *occupant* or *tenant*. All *structures* in which insects or rodents are found shall be promptly exterminated by *approved* processes that will not be injurious to human health. After extermination, proper precautions shall be taken by the *owner* and *occupant* or *tenant* to prevent re-infestation.

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**309.2 Owner.** The *owner* of any *structure* shall be responsible for extermination within the *structure* prior to renting or leasing the *structure*.

**309.3 Single occupant.** The *occupant* of a one-family dwelling or of a single-tenant non-residential *structure* shall be responsible for extermination on the *premises*.

**309.4 Non-residential multiple occupancy.** The *owner* of a non-residential *structure* containing multiple *occupants* shall maintain the public or shared areas of the *structure* and *exterior property* free from insects, rodents and rodent harborages. It shall be the responsibility of each *occupant* to maintain the area occupied in a safe and sanitary condition so as to minimize the potential for *infestation* by insects or rodents.

**309.4.1 Infestation.** If *infestation* is caused by failure of an *occupant* to prevent such *infestation* in the area occupied, the *occupant* shall be responsible for extermination; or, where the *infestation* is caused by defects in the *structure*, the *owner* shall be responsible for extermination.

**Exception:** A lease between *owner* and *occupant* may assign responsibility for extermination.

**309.5 Residential multiple occupancy.** The *owner* of a *structure* containing two or more *sleeping units* or *dwelling units*, a Group R occupancy (other than a single-family *dwelling*) or a *rooming house*, shall maintain the public or shared areas of the *structure* and *exterior property* free from insects, rodents and rodent harborages. In addition, the *owner* shall provide regular extermination services that may be utilized by the *occupant* of each dwelling upon reasonable request. Each *occupant* shall maintain the occupied areas in a safe and sanitary condition so as to minimize the potential for *infestation* by insects or rodents, promptly report any *infestation* to the *owner* and request and allow the extermination services provided by the *owner*.

**309.5.1 Multiple sleeping unit or dwelling unit infestation.** Where more than one *sleeping unit* or *dwelling unit* in a *structure* is infested with insects or rodents, the *owner* shall provide extermination services at the *owner's* expense.

**309.5.2 Single sleeping unit or dwelling unit infestation.** Where only one *sleeping unit* or *dwelling unit* is infested, and there is evidence that the *occupant* has not kept their *sleeping unit* or *dwelling unit* in a safe and sanitary condition, the *owner* may charge the *occupant* for the cost of the extermination services in that *sleeping unit* or *dwelling unit*.

**309.5.3 Owner responsibility.** Where the *owner* fails to provide regular extermination services that may be utilized by the *occupant* upon reasonable request, the *owner* shall pay for all extermination services as are required.

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## 310 CARBON MONOXIDE ALARMS

*Insert new Section 310 in the Property Maintenance Code to read as follows:*

**310.1. Carbon monoxide alarms.** Effective one year from the date that the 2013 edition of the *Construction Codes* is adopted pursuant to Section 122 of the *Building Code*, an *approved* carbon monoxide alarm shall be installed, in Group I and R occupancies and buildings regulated by the *Residential Code*, in the immediate vicinity of the *bedrooms* in *dwelling units* located in a building containing a fuel-burning appliance or a building which has an attached garage. Only one alarm shall be required outside each separate sleeping area or grouping of *bedrooms*. The carbon monoxide alarms shall be listed as complying with UL 2034 and be installed and maintained in accordance with NFPA 720 and the manufacturer's instructions. An *open parking garage*, as defined by Chapter 2 of the *Building Code*, or an enclosed parking garage ventilated in accordance with section 404 of the *Mechanical Code*, shall not be considered an attached garage.

**Exception:** A *sleeping unit* or *dwelling unit* which does not itself contain a fuel-burning appliance or have an attached garage, but which is located in a building with a fuel-burning appliance or an attached garage, need not be equipped with a carbon monoxide alarm provided that:

1. The *sleeping unit* or *dwelling unit* is located more than one story above or below any story which contains a fuel-burning appliance or attached garage;
2. The *sleeping unit* or *dwelling unit* is not connected by ductwork or ventilation shafts to any room containing a fuel-burning appliance or to an attached garage; and
3. The building is equipped with a common area carbon monoxide alarm system.

**310.1.1 Single station carbon monoxide alarms.** Single station carbon monoxide alarms shall be battery operated, or shall receive their primary power from the building wiring system. Plug-in devices securely fastened to the *structure* and installed in accordance with the manufacturer's installation instructions are deemed to satisfy this requirement. Hard wired and plug-in carbon monoxide alarms shall be equipped with battery back up.

**310.1.2 Combination smoke/carbon monoxide alarms.** Combination smoke/carbon monoxide alarms shall receive their primary power from the building wiring when such wiring is served from a commercial source, and when primary power is interrupted, shall receive power from a battery. Wiring shall be permanent and without a disconnecting switch other than those required for overcurrent protection. Smoke alarm features of combination smoke/carbon monoxide alarms shall be interconnected.

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**310.2 Carbon monoxide detection systems.** Carbon monoxide detection systems, which include carbon monoxide detectors and audible notification appliances, installed and maintained in accordance with this section for carbon monoxide alarms and NFPA 720 shall be permitted. The carbon monoxide detectors shall be listed as complying with UL 2075.

**310.2.1 Housing business.** The *owner* or *operator* of a *housing business* shall replace or repair the carbon monoxide detectors within 15 days of receipt of written notification by an *occupant* or *tenant* that replacement or repairs are needed. The *owner* or *operator* shall ensure that a carbon monoxide detector is operable and in good repair at the beginning of each tenancy.

**310.3 Where required in existing dwellings.** Where work requiring a permit occurs in an existing *dwelling unit*, carbon monoxide alarms shall be provided in the *dwelling unit* in accordance with Section 908.7 of the *Building Code* for new construction.

**Exception:** Work involving the exterior surfaces of a *building* or *structure*, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, are exempt from the requirements of Section 310.

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## CHAPTER 4 LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

- 401 General
- 402 Light
- 403 Ventilation
- 404 Occupancy Limits

### 401 GENERAL

*Strike Section 401.3 in the International Property Maintenance Code in its entirety and insert new Sections 401.3 and 401.4 in the Property Maintenance Code in its place to read as follows:*

**401.3. Window obstruction where natural light or natural ventilation is required.** Exterior glazed openings shall open directly onto a *public way* or onto a *yard* or *court* in accordance with the provisions in effect when the building was approved for occupancy. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above the sill of the window, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room. A reasonable number of trees or shrubs shall not violate this section.

**401.4 Habitable spaces.** *Habitable spaces* are permitted below grade plane, provided they meet the requirements of this code.

### 402 LIGHT

#### 402.1 Habitable Space.

*Strike Section 402.1 of the International Property Maintenance Code in its entirety and insert new Section 402.1 in its place in the Property Maintenance Code to read as follows:*

**402.1 General.** Every space intended for human occupancy shall be provided with natural light by means of exterior glazed openings in accordance with Section 1205.2 of the *Building Code* or shall be provided with artificial light in accordance with Section 1205.3 of the *Building Code*.

**Exception:** Artificial light shall not be used to meet the lighting requirements for bedrooms, living rooms and *sleeping units*.

**402.1.1 Natural light.** Where natural light is required, the minimum net glazed area shall be not less than 8 percent of the floor area of the room or rooms served. At least 50

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percent of required glazing shall be clear glass; it is permissible for the remainder of the required glazing to be obscure glass, glass block or other *approved* translucent material.

**402.1.1.1 Adjoining spaces.** For the purpose of natural lighting, any room is permitted to be considered as a portion of an adjoining room where one-half of the area of the common wall is open and unobstructed and provides an opening of not less than one-tenth of the floor area of the interior room or 25 square feet (2.32 m<sup>2</sup>), whichever is greater.

1. It is permissible for glazing to fill a portion or all of the required opening between adjoining spaces.
2. It is permissible to install doors in openings between adjoining spaces. However, opaque portions of doors shall not contribute to meeting the minimum opening requirement of not less than one-tenth of the floor area of the interior room or 25 square feet (2.32 m<sup>2</sup>), whichever is greater.

**Exception:** Openings required for natural light shall be permitted to open into a sunroom with *thermal isolation* or a patio cover where the common wall provides a glazed area of not less than one-tenth of the floor area of the interior room or 20 square feet (1.86 m<sup>2</sup>), whichever is greater.

**402.1.1.2 Exterior openings.** Exterior openings required by Section 402.1 for natural light shall open directly onto a *public way, yard or court*, as set forth in Section 401.3.

**Exceptions:**

1. Required exterior openings are permitted to open into a roofed porch where the porch:
  - 1.1. Abuts a *public way, yard or court*;
  - 1.2. Has a ceiling height of not less than 7 feet (2134 mm); and
  - 1.3. Has a longer side at least 65 percent open and unobstructed.
2. Skylights are not required to open directly onto a *public way, yard or court*.

*Strike Section 402.1.2 in the International Property Maintenance Code in its entirety and insert new Section 402.1.2 in the Property Maintenance Code in its place to read as follows:*

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**402.1.2 Artificial light.** Artificial light shall be provided that is adequate to provide an average illumination of 10 footcandles (107 lux) over the area of the room at a height of 30 inches (762 mm) above the floor level.

*Strike Section 402.2 of the International Property Maintenance Code in its entirety and insert new Section 402.2 in the Property Maintenance Code in its place to read as follows:*

**402.2 Common space and stairways.** Every *common space* and stairway in residential occupancies, other than in one-family dwellings, shall be lighted at all times with a minimum of 15 footcandles (164 lux) at floor level. Means of egress serving more than two *dwelling units*, including exterior means of egress, shall be illuminated at all times the building space served by the means of egress is occupied with a minimum of 1 footcandle (11 lux) at floors, landings and treads.

### **402.3 Other spaces.**

*Insert new subsection 402.3.1 to Section 402.3 of the Property Maintenance Code to read as follows:*

**402.3.1 Bathrooms.** Each *bathroom, toilet room* or compartment, and other similar rooms shall be naturally or artificially lighted at least equivalent to the requirements of Section 402. Naturally lighted *bathrooms, toilet rooms* or compartments, and other similar rooms shall be provided with aggregate glazing area of not less than 3 square feet (0.3 m<sup>2</sup>).

## **403 VENTILATION**

*Strike Section 403.1 of the International Property Maintenance Code in its entirety and insert new Section 403.1 in its place in the Property Maintenance Code to read as follows:*

**403.1 General.** Every space intended for human occupancy shall be provided with natural ventilation in accordance with Section 1203.4 of the *Building Code*, or mechanical ventilation in accordance with the *Mechanical Code*. Each new *dwelling unit* shall be ventilated by mechanical means in accordance with Section 403 of the *Mechanical Code* and shall have at least one opening to the outdoors for natural ventilation of not less than 4 percent of the floor area of the habitable spaces of the *dwelling unit*.

## **404 OCCUPANCY LIMITS**

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*Strike Section 404.1 in the International Property Maintenance Code in its entirety and insert new Section 404.1 in the Property Maintenance Code in its place to read as follows:*

**404.1 Privacy.** *Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces, and shall be arranged so that occupants can access common space without going through another unit.*

*Insert new Subsection 404.4.1.1 to Section 404.4.1 of the Property Maintenance Code to read as follows:*

**404.4.1.1 Special provisions for existing high-density transient uses.** Where a hotel or motel has a valid certificate of occupancy as of January 1, 2014, and the hotel or motel uses any sleeping room for the accommodation of a greater number of occupants than is authorized by Sections 404.4.1 and 404.5, the increased density of occupancy (referred to as “high density occupancy” or “high density use”) shall be permitted only if there is compliance with the following conditions:

1. Each occupant of a high density use room shall be a transient;
2. The maximum number of occupants accommodated on any single floor of the hotel or motel shall not exceed one person for each 50 square feet (4.6 m<sup>2</sup>) the total habitable room area in all of the *rooming units* located on that floor;
3. High density occupancy rooms shall be provided with daily maid service which shall include at least one thorough cleaning of the room each day it is occupied;
4. Each high density occupancy room shall be given a daily airing, unless the room is mechanically ventilated;
5. The beds in each high density occupancy room shall be arranged so that the head end of each bed is at least 3 feet distant from the head end of any other bed;
6. A high density use room shall be located in a hotel or a motel protected by a supervised watchman service comprised of such number of employees, with such number of watchmen’s clock stations, and with inspection tours following such routes, as may be approved by the Fire Marshal; and
7. Each floor and stairway in a high density use hotel or a motel shall be inspected by the employees of the supervised watchman service at least

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once every 30 minutes during the period beginning at midnight and ending at 7:00 a.m. the following morning.

*Strike Section 404.4.3 in the International Property Maintenance Code in its entirety and insert new Section 404.4.3 in the Property Maintenance Code in its place to read as follows:*

**404.4.3 Water closet accessibility.** Every *bedroom* shall have access to at least one water closet and one lavatory without passing through another *bedroom*, or a non-residential space. Every *bedroom* in a *dwelling unit* shall have access to at least one water closet and lavatory located in the same story as the *bedroom* or an adjacent story.

*Insert new Section 404.4.6 in the Property Maintenance Code to read as follows:*

**404.4.6** No room shall be divided in any manner into space intended for living, sleeping, eating or cooking purposes by an installed partition or divider of any type above four feet (1219 mm) in height, unless each such subdivided part complies with the requirements for a *habitable* space.

**Exception:** The enclosure of cabinet-type kitchenettes by doors or other closing devices, where those kitchenettes are too small to be occupied when the doors or other closing devices are closed in a normal manner, shall not be deemed to subdivide the room.

#### **404.7 Food preparation.**

*Insert new Subsection 404.7.1 to Section 404.7 of the Property Maintenance Code to read as follows:*

**404.7.1 Facilities provided by an owner.** If an *owner* furnishes any facilities for cooking, storage or refrigeration of food that are not within a *sleeping unit* or *dwelling unit*, these facilities shall be maintained by the *owner* in a safe and sanitary condition and in good working order.

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## CHAPTER 5 PLUMBING FACILITIES AND FIXTURE REQUIREMENTS

- 503 Toilet Rooms
- 505 Water System

### 503 TOILET ROOMS

*Strike Section 503.4 of the International Property Maintenance Code in its entirety and insert new Section 503.4 in the Property Maintenance Code in its place to read as follows:*

**503.4 Floor surface.** In other than *dwelling units*, every *toilet room* floor and every wall base in a *toilet room* shall be a smooth, hard, nonabsorbent surface that permits such floor to be easily kept in a clean and sanitary condition. The wall base shall be at least 3 inches (76.20 mm) in height.

### 505 WATER SYSTEM

#### 505.4 Water heating facilities.

*Insert new Subsection 505.4.1 in the Property Maintenance Code to read as follows:*

**505.4.1 Inspection.** The owner or operator of a *housing business*, with one or more *dwelling units* occupied by a *tenant* or *tenants* served by a water heating facility, shall cause the water heating facility, including the flues, vents and dampers for escape of carbon monoxide gas, to be inspected by a qualified person annually. A copy of all inspection and service reports shall be available on site.

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## CHAPTER 6 MECHANICAL AND ELECTRICAL REQUIREMENTS

602	Heating Facilities
603	Mechanical Equipment
604	Electrical Facilities
605	Electrical Equipment
606	Elevators and Conveying Systems
608	Air Conditioning

### 602 HEATING FACILITIES

*Strike Section 602.3 of the International Property Maintenance Code in its entirety and insert new Section 602.3 in the Property Maintenance Code in its place to read as follows:*

**602.3 Heat supply.** Every owner and operator of any building who rents, leases or lets one or more *dwelling units*, or *rooming units*, dormitory or guestrooms on terms, either expressed or implied, to furnish heat to the *occupants* thereof shall supply heat during a period starting no later than October 1 and ending no earlier than May 1 to maintain a temperature of not less than 68 °F (20 °C) in all habitable rooms, *bathrooms* and *toilet rooms*.

#### Exceptions:

1. When the outdoor temperature is below the winter outdoor design temperature for the District, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full capacity. The winter outdoor design temperature for the District of Columbia is 17°F (-8.33°C).
2. Heat in a building with a two-pipe system, or any other system reasonably requiring more than 15 days to transition from air-conditioning to heat, shall be supplied during a period starting no later than October 15 and ending no earlier than May 1 to maintain a temperature of not less than 68 °F (20 °C) in all habitable rooms, *bathrooms* and *toilet rooms*.

*Strike Section 602.4 of the International Property Maintenance Code in its entirety and insert new Section 602.4 in the Property Maintenance Code in its place to read as follows (maintain Exceptions to this Section):*

**602.4 Occupiable work spaces.** Indoor occupiable work spaces shall be supplied with sufficient heat during the period from October 15 to May 15 to maintain a minimum temperature of 65 °F (18 °C) during the hours the spaces are occupied.

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**Exceptions:**

1. Processing, storage and operation areas that require cooling or specific temperature conditions.
2. Areas in which persons are primarily engaged in vigorous physical activities.

*Insert new Section 602.6 in the Property Maintenance Code to read as follows:*

**602.6 Inspection of heating facilities by qualified persons.** The *owner* of a multiple dwelling, containing two or more units served by a heating facility, shall cause the heating facility to be inspected by a qualified person annually. A copy of all inspection and service reports shall be available for public inspection on site in the office of the building *operator*.

**Exception:** If the building operator does not have an on site office, the reports shall be made available for inspection:

1. By posting the reports in an on site location accessible to all building residents; or
2. By mailing or delivering a copy of the reports to each unit; or
3. By mailing or delivering a notice to each unit identifying a location within the District of Columbia where the reports are available for public inspection during normal business hours.

**603 MECHANICAL EQUIPMENT**

**603.1 Mechanical appliances.**

*Insert new Subsection 603.1.1 to Section 603.1 of the Property Maintenance Code to read as follows:*

**603.1.1 Prohibited Locations.** Gas meters and fuel-fired appliances and equipment shall not be located in sleeping rooms, *bathrooms*, *toilet rooms*, storage closets, or surgical rooms, or in a space that opens only into such rooms or spaces, except where the installation complies with one of the following:

1. The appliance is a direct-vent appliance installed in accordance with the conditions of the listing and the manufacturer’s instructions.
2. Vented room heaters, wall furnaces, vented decorative appliances, vented gas fireplaces, vented gas fireplace heaters and decorative appliances for installation

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in vented solid fuel-burning fireplaces are installed in rooms that meet the required volume criteria of the *Fuel Gas Code* Section 304.5.

3. A single wall-mounted unvented room heater is installed in a bathroom and such unvented room heater is equipped as specified in the *Fuel Gas Code* Section 621.6 and has an input rating not greater than 6,000 Btu/h (1.76 kW). The bathroom shall meet the required volume criteria of the *Fuel Gas Code* Section 304.5.
4. A single wall-mounted unvented room heater is installed in a bedroom and such unvented room heater is equipped as specified in the *Fuel Gas Code* Section 621.6 and has an input rating not greater than 10,000 Btu/h (2.93 kW). The bedroom shall meet the required volume criteria of the *Fuel Gas Code* Section 304.5.
5. The appliance is installed in a room or space that opens only into a bedroom or bathroom, and such room or space is used for no other purpose and is provided with a solid weather-stripped door equipped with an approved self-closing device. All combustion air shall be taken directly from the outdoors in accordance with the *Fuel Gas Code* Section 304.6.

## 604 ELECTRICAL FACILITIES

*Strike Section 604.2 of the International Property Maintenance Code in its entirety and insert new Section 604.2 in the Property Maintenance Code in its place to read as follows:*

**604.2 Service.** The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70. *Dwelling units* shall be served by a three-wire, 120/240 volt, single-phase electrical service having a rating of not less than 60 amperes.

**Exception:** For installations consisting of not more than two 2-wire branch circuits, service disconnecting means shall have a rating of not less than 30 amperes.

## 605 ELECTRICAL EQUIPMENT

*Insert new Section 605.4 in the Property Maintenance Code to read as follows:*

**605.4 Switchboards of 1000 amperes or larger.** Preventative maintenance shall be performed on switchboards having a capacity of 1000 amperes or larger as required by Article 408.23 of the *Electrical Code*, as amended.

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*Strike Section 606 of the International Property Maintenance Code in its entirety and insert new Section 606 in the Property Maintenance Code in its place to read as follows:*

## **606 ELEVATORS AND CONVEYING SYSTEMS**

**606.1 General.** No elevator or conveying system, including, but not limited to, escalators, dumbwaiters, wheelchair lifts, cartveyors, manlifts and moving walks, shall be operated without a valid certificate of inspection issued by the *code official*.

### **Exceptions:**

1. Where the *code official* authorizes limited approval of use in accordance with the provisions of Section 606.2, or Section 3010.2 of the *Building Code*.
2. Elevators and conveying systems covered by the *Residential Code* where the equipment is serving one *dwelling unit*.
3. In Groups R-2 and R-3 occupancies where the equipment is serving one *dwelling unit*.

**606.2 Content of certificate of inspection; posting.** The certificate of inspection shall contain the following information:

1. The address of the structure;
2. The name and address of the owner;
3. A description of the vertical transportation equipment (e.g., escalator, elevator, dumbwaiter, wheelchair lift, moving walk or conveyor);
4. The rated load and speed;
5. A statement that the described equipment has been inspected for compliance with the requirements of the *Construction Codes*;
6. The name of the *code official*; and
7. Any special stipulations and conditions of the permit under which the equipment was installed, relocated or altered.

**606.2.1 Posting of certificate.** A copy of the most current certificate of inspection shall be conspicuously displayed at all times within the elevator car or attached to the

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conveying system unless display of certificates is exempted pursuant to Section 606.4. If the building operator maintains an office in the same building, the certificate of inspection may be made available for public inspection in the office instead of being on display within the elevator.

**606.3 Maintenance, testing, inspections.** Periodic tests and inspections shall be made by the *code official*, or by an *approved* Third Party Inspection Agency, and shall be made at the expense and responsibility of the *owner*. Except as otherwise provided for in this code, the maintenance, inspection and testing of all elevators and conveying systems and their components, including the frequency of inspections and testing, shall conform to:

**606.3.1 Elevators, escalators and other conveyances listed in ASME A17.1, Appendix N.** Inspection and tests shall be performed at not less than the periodic intervals listed in ASME A17.1, Appendix N, except where otherwise specified by the *code official*.

**Exception:** Units in residential use serving one family *dwelling unit*.

**606.3.2 Platform lifts and stairway chair lifts.** Inspections and testing of platform lifts and stairway chair lifts shall be performed for all units as stated in ASME A18.1, Safety Standard for Platform Lifts and Stairway Chairlifts.

**Exception:** Units in residential use serving one family *dwelling unit*.

**606.3.3 Manlifts.** Inspections and testing of manlifts shall be performed for all units as stated in ASME A90.1, Safety Standard for Manlifts.

**606.3.4 Conveyors and related equipment.** Inspections and testing of conveyors and related equipment shall be performed as stated in ASME B20.1, Safety Standard for Conveyors and Related Equipment.

**606.3.4.1 Cartveyors.** Cartveyors shall be maintained as per original equipment manufacturer's recommendations. Inspection and testing shall be at the same frequency as escalators as stated in ASME A17.1, Appendix N.

**606.4 Reports and certificates.** Where inspections and tests are not made by the *code official*, the *approved* agency shall submit a report of the inspections and tests to the *code official* on *approved* forms not more than 30 days after completion of the inspection and tests. Upon receipt of satisfactory inspection and test reports, the *code official* shall authorize the issuance of a certificate of inspection, or a renewal certificate as provided in Section 3010.9, for each unit of equipment.

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**Exceptions:** The submission of test reports to the *code official* and the issuance of certificates and display of certificates is not required:

1. In Group R-2 and R-3 occupancies where the equipment is serving one *dwelling unit*.
2. In buildings under the jurisdiction of the *Residential Code* where the equipment is serving one *dwelling unit*.

**606.5 Out of service; temporarily dormant.** A permit from the *Department* shall be required: (a) to take an elevator or conveying system out of service pursuant to ASME A17.1, Section 8.11.1.4; or (b) to place an elevator or conveying system in temporarily dormant status as set forth in Section 606.5.1.

**606.5.1 Temporarily dormant.** An elevator or conveying system shall be temporarily dormant where removed from its normal class of service for an extended period of time (not to exceed five years) by an owner's decision and not due to maintenance or repair. During this period of time, the equipment shall be secured for the benefit of public safety in accordance with the following requirements:

1. The power supply shall be disconnected by removing fuses and placing a padlock on the mainline disconnect switch in the "OFF" position. This padlock shall not be removed without permission from the *code official*.
2. The unit shall be parked and the hoistway/runway doors securely bolted from opening in any plane. The means of securing the doors shall be exclusive of the interlocks.
3. A wire seal shall be installed on the mainline disconnect switch by an elevator inspector accredited by a national certifying agency and *approved* by the *code official* which wire seal shall not be removed without permission from the *code official*.
4. The equipment shall not be used again until it has been put in safe running order and passed an acceptance test, congruent with the installation date or the Code Data Tag posted on the equipment, as provided in ASME 17.1, Section 8.10, and the *owner* has obtained a valid certificate of inspection from the *code official*.
5. Annual inspections shall continue for the duration of the period that the elevator is temporarily dormant, and the inspector shall file an annual report with the *code official* to confirm that the requirements set forth in this section are met.

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**606.6 Equipment in operation.** In buildings equipped with passenger elevators, at least one elevator shall be maintained in operation at all times when the building is occupied.

**Exception:** Buildings equipped with only one elevator or conveying system shall be permitted to have the elevator or conveying system temporarily out of service for testing, maintenance and/or repair.

**606.7 Renewal of certificates.** The certificate of inspection, for each elevator and conveying system, must be renewed every 24 months, or at an alternate interval specified by the *code official*, as long as the unit is in service. Renewal of the certificate of inspection will be granted upon satisfactory demonstration to the *code official* that the unit of equipment has met all of the inspections and testing required by the *Construction Codes* and referenced standards.

**606.8 Unsafe equipment.** When, in the opinion of the *code official*, an elevator or conveying system or its components are unsafe or unlawful, the *code official* is authorized and empowered to place the unit out of service, and to prohibit the operation of the equipment until the unsafe or unlawful condition is corrected pursuant to the procedures set forth in Section 108. When, in the opinion of the *code official*, there is imminent danger due to an unsafe condition, the *code official* is authorized to place the equipment out of service and to take other emergency measures, without notice to the owner, pursuant to Section 109. Whenever the *code official* places an elevator or conveying system out of service, a placard or notice bearing the words “Unsafe to Use” shall be posted on the equipment and the *code official* may also attach a lead seal to prevent the equipment from being operated.

**606.8.1 Notification of code official by third party inspection agency.** When an *approved* Third Party Inspection Agency inspector observes or identifies unsafe, unlawful or imminently dangerous condition(s) causing an elevator to be removed from service, the inspector shall notify the *code official* immediately. Where emergency measures are required, the Third Party Inspector is authorized to place on the unit adjudged to be unsafe or unlawful an “Unsafe to Use” placard; provided, that the *code official* is notified immediately of the Third Party Inspector’s action, pursuant to the notification procedures established by the *code official*.

**606.8.2. Placard removal.** The *code official* shall remove the “Unsafe to Use” notice whenever the defect or defects upon which a the closure action was based have been eliminated. Any person who defaces or removes an “Unsafe to Use” notice or lead seal without the approval of the *code official*, or operates placarded equipment, shall be subject to the penalties provided by this code. An *approved* Third Party Inspector is permitted to remove an “Unsafe to Use Notice” issued by that inspector, after abatement of the unsafe or unlawful condition and appropriate reinspection of the conveyance.

**Exception:** Placarded equipment may be operated only as necessary to effectuate

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repairs.

**606.8.3 Abatement methods.** The *owner* of the equipment deemed unsafe by the *code official* shall abate or cause to be abated or corrected such unsafe conditions either by repair, rehabilitation, replacement or other *approved* corrective action.

*Insert new Section 606.9 in the Property Maintenance Code to read as follows:*

**606.9 Required Elevator Signage.** A permanent sign of durable material, with lettering no smaller than one quarter inch (6 mm) high shall be placed in all elevators cars, with the following wording:

**ALL ACCIDENTS ON OR DAMAGE TO ELEVATORS ARE TO BE REPORTED TO THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS 202 442-4400; OR AFTER WORKING HOURS BY CALLING 311.**

*Insert new Section 608 in the Property Maintenance Code to read to as follows:*

## **608 AIR CONDITIONING**

**608.1 General.** The *owner* or *operator* of a *housing business*, who provides air conditioning as a service either through individual air conditioning units or a central air conditioning system, shall maintain each such air conditioning unit or system in safe and good working condition so that it is capable of providing, during a period starting no later than May 15 and ending no earlier than September 15, an inside temperature, in the rooms it is intended to serve, equal to the greater of: (a) 78 °F (26 °C); or (b) at least 15 °F (9 °C) less than the outside temperature.

**Exception:** The air conditioning system in a building with a two-pipe system, or any other system reasonably requiring more than 15 days to transition from heat to air conditioning, shall be maintained in safe and good working condition so that it is capable of providing, during the period starting no later than June 1 and ending no earlier than September 15, an inside temperature, in the rooms it is intended to serve, equal to the greater of: (a) 78 °F (26 °C); or (b) at least 15 °F (8 °C) less than the outside temperature.

**608.2 Inspection of air conditioning equipment by qualified persons.** The *owner* of a *structure* containing two or more units served by central or shared air conditioning equipment, or wall-mounted air conditioning units (not including window air conditioning units), shall cause the air conditioning equipment to be inspected by a *qualified person* annually. A copy of current inspection and service reports shall be available for public inspection on site in the office of the building *operator*.

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**Exception:** If the building operator does not have an on-site office, the reports shall be made available for inspection:

1. By posting the reports in an on site location accessible to all building residents; or
2. By mailing or delivering a copy of the reports to each unit; or
3. By mailing or delivering a notice to each unit identifying a location within the District of Columbia where the reports are available for public inspection during normal business hours.

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## CHAPTER 7 FIRE SAFETY REQUIREMENTS

- 701 General
- 702 Means of Egress
- 704 Fire Protection Systems

### 701 GENERAL

*Insert new Section 701.3 in the Property Maintenance Code to read as follows:*

**701.3 Hazardous and combustible materials.** Combustible, flammable, explosive or other hazardous materials, such as paint, volatile oils and cleaning fluids, or combustible *rubbish*, such as wastepaper, boxes and rags, shall not be accumulated or stored unless such storage complies with the applicable requirements of the *Building Code* and the *Fire Code*.

### 702 MEANS OF EGRESS

*Strike Section 702.4 of the International Property Maintenance Code in its entirety and insert new Section 702.4 in the Property Maintenance Code in its place to read as follows:*

**702.4 Emergency escape openings.** Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and shall conform with the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening. It shall be the duty of the *owner* to keep fire escapes, stairways, and other egress facilities in a good state of repair, painted and free from obstruction.

*Insert new Sections 702.5, 702.6 and 702.7 to the Property Maintenance Code to read to as follows:*

**702.5 Arrangements.** Exits from *dwelling units, rooming units and sleeping units*, including guestrooms and dormitory units, shall not lead through other such units, or through *toilet rooms* or *bathrooms*.

**702.6 Exit signs.** All means of egress shall be indicated with approved “Exit” signs where required by the *Building Code*. All “Exit” signs shall be maintained visible, and all illuminated “Exit” signs shall be illuminated at all times that the building is occupied.

The District of Columbia Property Maintenance Code (2013), referred to as the “Property Maintenance Code,” consists of the 2012 edition of the *International Property Maintenance Code*, published by the International Code Council (ICC), as amended by the *District of Columbia Property Maintenance Code Supplement* (2013) (12 DCMR G). The *International Property Maintenance Code* is copyrighted by the ICC and therefore is not republished here. However, a copy of the text may be obtained at: <http://publicecodes.cyberregs.com/icod/ipmc/2012/index.htm?bu=IC-P-2012-000006&bu2=IC-P-2012-000019>.

**702.7 Stair identification.** The interior and exterior of all stairway doors shall be provided with signage as required by Section 1022.9 of the *Building Code*.

## **704 FIRE PROTECTION SYSTEMS**

### **704.1. General.**

*Insert new Subsection 704.1.2 in the Property Maintenance Code to read as follows:*

**704.1.2 Fire extinguishers.** All portable fire extinguishers required by a prior or current *Building Code* or *Fire Code* shall be visible, readily accessible and maintained in an efficient and safe operating condition. Extinguishers shall be of an *approved* type. Fire extinguishers shall be maintained in accordance with NFPA 10 as referenced in the *Fire Code*.

*Strike Section 704.2 of the International Property Maintenance Code in its entirety and insert new Sections 704.2 and 704.2.1 in the Property Maintenance Code in its place to read as follows:*

**704.2 Smoke alarms.** Single- or multiple-station smoke alarms shall be installed and maintained in Group R or I-1 occupancies, regardless of *occupant* load at all of the following locations:

1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of *bedrooms*.
2. In each room used for sleeping purposes.
3. In each story within a *dwelling unit*, including *basements* and cellars but not including crawl spaces and uninhabitable attics. In dwellings or *dwelling units* with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

Single- or multiple-station smoke alarms shall be installed in other groups in accordance with the *Fire Code*.

**704.2.1 Existing occupancies.** Existing Group I-1 and R occupancies shall have a 36 month period, commencing on the date of adoption of the 2013 edition of the *D.C. Construction Codes* in accordance with Section 122 of the *Building Code*, to install smoke alarms that comply with the requirements of Section 704.2.

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*Insert new Section 704.5 in the International Property Maintenance Code to read as follows:*

**704.5 Fire alarm systems.** Fire alarm systems shall be continuously maintained in accordance with applicable NFPA requirements or as otherwise directed by the *code official*.

**704.5.1 Manual fire alarm boxes.** All manual fire alarm boxes shall be operational and unobstructed.

**704.5.2 Fire alarm signage.** Where fire alarm systems are not monitored by a supervising station, an approved permanent sign shall be installed adjacent to each manual fire alarm box that reads: “**WHEN ALARM SOUNDS CALL FIRE DEPARTMENT**”.

**Exception:** When the manufacturer has permanently provided this information on the manual fire alarm box.

**704.5.3 Fire alarm notice.** In accordance with the requirements of the Fire Alarm Notice and Tenant Fire Safety Amendment Act of 2009, effective March 11, 2010 (D.C. Law 18-116; D.C. Official Code § 6-751.11 (2012 Repl.)), the *owner* of a *building* containing four or more *dwelling units, rooming units* or *sleeping units* shall post in conspicuous places in the *common space* of the *building*, and distribute to each *tenant* or *unit owner*, a written notice that provides information about fire alarm systems in the *building*. The notice shall be on a form developed and published by the *code official* in English and in the languages required under section 4 of the Language Access Act of 2004, effective June 19, 2004 (D.C. Law 15-167; D.C. Official Code § 2-1933 (2012 Repl.)).

*Insert new Section 704.6 in the Property Maintenance Code to read as follows:*

**704.6 High rise buildings.** The *owner* of a *high-rise building* shall:

1. Prepare and maintain a fire safety and evacuation plan for the building; and
2. Conduct fire drills at least once every year.

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## CHAPTER 8 REFERENCED STANDARDS

*Strike the ASME referenced standard in Chapter 8 of the International Property Maintenance Code in its entirety and insert the following new ASME referenced standards in its place to read as follows:*

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<b>ASME</b>	American Society of Mechanical Engineers Three Park Avenue New York, NY 10016-5990
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Standard Reference Number	Title	Referenced in code section number
A17.1 /CSA B44- 2010	Safety Code for Elevators and Escalators	606.2.1, 606.2.4.1
A18.1-2008	Safety Standard for Platform Lifts and Stairway Chairlifts	606.2.2
A90.1-2009	Safety Standard for Manlifts	606.2.3
B20.1-2009	Safety Standard for Conveyors and Related Equipment	606.2.4

*Insert a new NFPA referenced standard in Chapter 8 of the Property Maintenance Code to read as follows:*

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<b>NFPA</b>	National Fire Protection Association 1 Batterymarch Park Quincy, MA 02169
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Standard Reference Number	Title	Referenced in code section number
720-05	Standard for the Installation of Carbon Monoxide (CO) Warning Equipment in Dwelling Units	310

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*Insert a new UL referenced standard in Chapter 8 of the Property Maintenance Code to read as follows:*

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UL	Underwriters Laboratories, Inc. 333 Pfingsten Road Northbrook, IL 60062	
Standard Reference Number	Title	Referenced in code section number
2304-08	Single and Multiple-station Carbon Monoxide Alarms	310

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The *District of Columbia Property Maintenance Code* (2013), referred to as the “*Property Maintenance Code*,” consists of the 2012 edition of the *International Property Maintenance Code*, published by the International Code Council (ICC), as amended by the *District of Columbia Property Maintenance Code Supplement* (2013) (12 DCMR G). The *International Property Maintenance Code* is copyrighted by the ICC and therefore is not republished here. However, a copy of the text may be obtained at: <http://publicecodes.cyberregs.com/icod/ipmc/2012/index.htm?bu=IC-P-2012-000006&bu2=IC-P-2012-000019>.





501 3<sup>rd</sup> Street, NW, 8<sup>th</sup> Floor  
Washington, DC 20001  
T 202.467.4900 · F 202.467.4949  
[www.childrenslawcenter.org](http://www.childrenslawcenter.org)

Title 14, aka the Housing Code, can be found here:

<http://www.dcregs.dc.gov/gateway/TitleHome.aspx?TitleNumber=14>

\*\*Note: The intention of DC Government is to eventually eliminate Title 14 and rely only on the Property Maintenance Code. However, as of March 2020, both are in effect.



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[www.childrenslawcenter.org](http://www.childrenslawcenter.org)

Link to unified International Property Maintenance Code and Housing Code:

[http://www.ecodes.biz/ecodes\\_support/Free\\_Resources/2013DistrictofColumbia/13PropertyMaint/13DCPropMaint\\_main.html](http://www.ecodes.biz/ecodes_support/Free_Resources/2013DistrictofColumbia/13PropertyMaint/13DCPropMaint_main.html)

[https://os.dc.gov/sites/default/files/dc/sites/os/publication/attachments/OS\\_DCMR\\_12G\\_Property\\_Maintenance\\_Code\\_Supplement.pdf](https://os.dc.gov/sites/default/files/dc/sites/os/publication/attachments/OS_DCMR_12G_Property_Maintenance_Code_Supplement.pdf)

Title 8, Chapter 2A. Paint Hazards and Paint Stewardship, can be found here:

<https://beta.code.dccouncil.us/dc/council/code/titles/8/chapters/2A/>

Title 20, Section 33: Regulation of Lead-Based Paint Activities, can be found here:

<http://www.dcregs.dc.gov/Gateway/ChapterHome.aspx?ChapterNumber=20-33>

AN ACT

D.C. ACT 20-365

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JUNE 23, 2014

To amend the District of Columbia Air Pollution Control Act of 1984 to modify and clarify the authority of the Mayor to establish a comprehensive program for the control and prevention of air pollution in the District of Columbia, to establish an indoor air hazard education program, to provide the Mayor with inspection authority and a right of entry to safeguard and preserve air quality in the District, to require the Mayor to establish an electronic procedure for receiving and responding to air quality complaints, to provide for civil, criminal, administrative and other enforcement of the act, to provide a penalty for false statements, and to provide a right to an administrative appeal of certain actions; to require disclosure of information related to the operation of demand response generating sources to the District Department of the Environment, to prohibit demand response generating sources from being permitted as emergency generators, to require that demand response generating sources implement, at a minimum, best available control technology; to amend the Rental Housing Act of 1985 to require a residential property owner to disclose indoor mold contamination to a tenant; to provide definitions for indoor mold, professional indoor mold assessment, and professional indoor mold remediation, to require the District Department of the Environment to set a threshold of indoor mold beyond which professional remediation is required, to require the District Department of the Environment to issue standards and certifications for indoor mold assessment and remediation, to require a residential property owner to remediate indoor mold, to provide that in a cause of action by a tenant against a residential property owner for a violation of the District Housing or Property Maintenance Codes (“Codes”), an indoor mold assessment finding a threshold level of indoor mold shall create a rebuttable presumption of a violation of the property owner’s obligation to maintain the property under the Codes, to establish the Indoor Mold Assessment and Remediation Fund; and to repeal a section of the District of Columbia Air Pollution Control Act of 1984.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Air Quality Amendment Act of 2014”.

TITLE I. AIR POLLUTION CONTROL PROGRAM.

Sec. 101. The District of Columbia Air Pollution Control Act of 1984, effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code § 8-101.01 *et seq.*), is amended as follows:

(a) Section 5 (D.C. Official Code § 8-101.05) is amended to read as follows:

“Sec. 5. Comprehensive air pollution control program.

“(a) The Mayor shall develop a comprehensive program for the control and prevention of air pollution in the District that provides for the administration and enforcement of the requirements of this act and the regulations promulgated pursuant to this act.

“(b)(1) The Mayor, in the administration of the comprehensive program for the control and prevention of outdoor air pollution, may exercise the following powers to safeguard and preserve air quality in the District:

“(A) Conduct research, monitoring, modeling, investigations, experiments, training demonstrations, surveys, and studies, relating to the causes, effects, extent, prevention, and control of air pollution in the District;

“(B) Collect and distribute, through publication, educational and training programs, and other means, the results of, and other information pertaining to, the activities carried out under subparagraph (A) of this paragraph;

“(C) Advise, consult, cooperate, and enter into agreements with the governments and agencies of any state or political subdivision and any interstate or other regional organization representing these states or political subdivisions to:

“(i) Establish cooperative effort and mutual assistance agreements or programs for the prevention and control of air pollution and the enforcement of their respective air pollution laws; and

“(ii) Establish or participate in any organization as may be necessary to carry out these agreements;

“(D) Adopt air pollution control standards, require and issue permits, and establish any other program necessary to regulate sources of air pollution emissions in the District;

“(E) Adopt ambient air quality standards;

“(F) Adopt standards governing emission of nuisance air pollutants likely to injure public health or welfare or interfere with reasonable enjoyment of life and property; and

“(G) Establish and maintain an indoor air hazard education program to educate District residents on the potential threats posed by and mitigation methods for indoor air hazards.

“(2) In determining interference with reasonable enjoyment of life and property under paragraph (1)(F) of this subsection, the Mayor shall consider:

“(A) The frequency, duration, and intensity of the source;

“(B) The number of complaints filed about the source;

“(C) The number of distinct complaints filed about the source;

“(D) The zoning classification of the affected area; and

“(E) The source’s ability to prevent complaints.

“(c) For the purpose of executing the authority under this act, the Mayor may:

“(1) Hold hearings relating to the administration of this act;

“(2) Secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract, or otherwise;

“(3) Receive and administer grants or donations made to carry out the purposes of this act; and

“(4) Take any other action necessary.

“(d) To assist in enforcing the provisions of this act and regulations issued pursuant to this act, the Mayor shall:

“(1) Make available an electronic complaint form to receive complaints of air quality violations from the public, including, at a minimum, complaints of odors and engine idling;

“(2) Acknowledge receipt of an air quality complaint to the complainant no later than 7 days after receipt, in a writing or through an electronic message;

“(3) Track all air quality complaints, the agency’s response to each complaint, and the resolution of each complaint;

“(4) Establish an electronic mechanism by which the complainant, the source of the complaint, and any interested party may access any publically available information on the complaint; and

“(5) Make publicly available on the District Department of the Environment’s website a quarterly report listing all air quality complaints received and their resolution.”

(b) New sections 5a, 5b, 5c, 5d, 5e, 5f, 5g, and 5h are added to read as follows:

“Sec. 5a. Inspection; right of entry.

“(a) Upon the presentation of appropriate credentials to the owner, agent in charge, or tenant, the Mayor shall have the right, subject to subsection (c) of this section, to enter a premises or inspect an activity reasonably believed to be subject to this act to determine compliance with this act or a regulation promulgated pursuant to this act. The right of entry shall be for the following purposes:

“(1) Inspection, including the right to inspect and copy records related to compliance with this act and regulations promulgated pursuant to this act;

“(2) Observation;

“(3) Measurement;

“(4) Sampling;

“(5) Testing; and

“(6) Collection of evidence.

“(b) The Mayor may:

“(1) Investigate and take testimony under oath regarding any report of noncompliance with a federal or District law or regulation applicable to air pollution control;

“(2) Require a person or entity subject to this act or a regulation promulgated pursuant to this act, or who the Mayor reasonably believes may have information necessary to carry out the purposes of this act, on a one-time, periodic, or continuous basis to:

**ENROLLED ORIGINAL**

“(A) Establish, maintain, and submit records and reports;

“(B) Install, use, and maintain monitoring equipment, and use audit procedures, or methods;

“(C) Sample emissions in accordance with such procedures or methods, at such locations, at such intervals, during such periods and in such manner as the Mayor shall prescribe;

“(D) Keep records on control equipment parameters, production variables, or other indirect data, as appropriate;

“(E) Submit compliance certifications; and

“(F) Provide other information as the Mayor may require.

“(c) If the Mayor is denied access to enter or inspect the premises in accordance with this section, the Mayor may apply to the Superior Court of the District of Columbia, pursuant to D.C. Official Code § 11-941, or the Office of Administrative Hearings, pursuant to section 12(b)(12) of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.09(b)(12)), for a search warrant. An owner’s denial of access to conduct an inspection in accordance with this section shall constitute a violation of this section, and the owner shall be subject to the civil and administrative penalties imposed by section 5c and the criminal penalties imposed by section 5d.

“(d) The Mayor may require reimbursement of costs for services, including inspections, sample collection, document review, or other reasonable costs or fees incurred in implementing this section and section 5.

“Sec. 5b. Violations.

“Each day of a violation of or failure to comply with this act or a regulation promulgated pursuant to this act shall constitute a separate offense, and the penalties set forth in sections 5c, 5d, 5e, and 5f shall be applicable to each separate offense.

“Sec. 5c. Civil penalties.

“(a) A person who violates this act or a regulation promulgated pursuant to this act shall be civilly liable and shall be subject to a civil penalty of no more than \$37,500 per day per offense. The Mayor may adjust this civil penalty by rulemaking to account for inflation and shall adjust this civil penalty by rulemaking to meet or exceed the civil penalty authorized for violations pertaining to the Clean Air Act, approved July 14, 1955 (77 Stat. 392; 42 U.S.C. § 7401 *et seq.*).

“(b) The Mayor may impose civil infraction penalties, fines, and fees as alternative sanctions for any violation of this act or a regulation promulgated pursuant to this act, pursuant to the procedures of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 *et seq.*).

“Sec. 5d. Criminal penalties.

“A person who willfully or recklessly violates this act or a regulation promulgated pursuant to this act shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine not to exceed \$25,000 per offense per day, imprisonment not to exceed one year, or both. The fines set forth in this section shall not be limited by section 101 of the Criminal Fine

Proportionality Amendment Act of 2012, approved June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01).

“Sec. 5e. False statements.

“A person who knowingly makes a false statement in an application, record, report, plan, or other document submitted or maintained under this act shall be guilty of a misdemeanor, and subject to a fine not to exceed \$10,000, imprisonment not to exceed 6 months, or both. The fines set forth in this section shall not be limited by section 101 of the Criminal Fine Proportionality Amendment Act of 2011, effective June 11, 2013 (D.C. Law 19-317; D.C. Official Code § 22-3571.01).

“Sec. 5f. Other sanctions.

“In addition to, or in lieu of, a civil or criminal penalty or fee:

“(1) The Mayor may modify, suspend, revoke, or deny a permit or certification issued by the District for failure to comply with this act or a regulation promulgated pursuant to this act, after notice and opportunity for a hearing pursuant to section 5h; and

“(2) The Attorney General for the District of Columbia may commence appropriate civil action in the Superior Court of the District of Columbia or any other court of competent jurisdiction for damages, cost recovery, reasonable attorney and expert witness fees, and injunctive or other appropriate relief to enforce compliance with this act or the regulations adopted pursuant to this act.

“Sec. 5g. Orders.

“(a) If the Mayor determines that a hazardous condition exists that may endanger the health or safety of the residents or property, or the environment in the District due to a person’s noncompliance with this act or a regulation promulgated pursuant to this act, the Mayor may issue a cease and desist order requiring the person to cease operations immediately or to otherwise cease noncompliance with this act or a regulation promulgated pursuant to this act.

“(b) If the Mayor has reason to believe that there has been a violation of this act or a regulation promulgated pursuant to this act, the Mayor may issue a compliance order requiring a violator to take action to come into compliance with this act or a regulation promulgated pursuant to this act and to take such measures as may be necessary to remedy a hazardous condition.

“Sec. 5h. Administrative appeals.

“(a) A person aggrieved by an action of the Mayor taken pursuant to this act or a regulation promulgated pursuant to this act may appeal the action of the Mayor to the Office of Administrative Hearings, pursuant to section 6(a) of the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code § 2-1831.03(a)). The Office of Administrative Hearings shall provide a de novo hearing and shall determine whether the Mayor’s action was legally proper.

“(b) An appeal shall be filed within 15 days after the adverse action of the Mayor or within 20 days if notice of the adverse action is served by United States mail or commercial carrier.



“(c) A person subject to an order issued pursuant to section 5g shall comply with the order pending appeal.”.

TITLE II. DEMAND RESPONSE GENERATING SOURCES.

Sec. 201. Definitions.

For the purposes of this title, the term:

(1) “Best available control technology” or “BACT” means the pollution control standard as determined by the Director consistent with, but no less stringent than, section 169(3) of the federal Clean Air Act, approved July 14, 1955 (77 Stat. 392; 42 U.S.C. § 7479(3)).

(2) “Demand response generating source” means a stationary generator subject to an agreement or obligation to provide power in response to power grid needs, economic signals from competitive wholesale electric markets, or special retail rates. The term “demand response generating source” shall not include a generator that derives its energy from an energy source that qualifies as a tier one renewable source under the Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340; D.C. Official Code § 34-1431 *et seq.*).

(3) “Director” means the Director of the District Department of the Environment.

Sec. 202. Disclosure.

A person who owns or operates an internal combustion engine as a demand response generating source shall track and submit an annual report disclosing the total number of hours, including the dates and times, that the source operated during the preceding year, and the total number of hours, including the dates and times, that the source operated as a demand response generating source during the preceding year, as well as any additional information the Director requires. The report shall be submitted to the District Department of the Environment by March 1, 2015, and annually on March 1 thereafter.

Sec. 203. Limitation on the use of a generator as a demand response generating source.

(a) No person shall construct or operate an internal combustion engine as a demand response generating source unless the source implements, at a minimum, current best available control technology in accordance with a permit issued by the Director.

(b) A demand response generating source shall not be classified or permitted as an emergency generator.

(c) Nothing in this title shall prevent the Director from denying an application for or renewal of a permit for a demand response generating source to protect air quality or to encourage energy efficiency or conservation-based demand response in the District.

(d) A person found by the Director to be in violation of this section shall be subject to the civil penalties available under section 5c of the District of Columbia Air Pollution Control Act of 1984, passed on 2nd reading on June 3, 2014 (Enrolled version of Bill 20-368).

Sec. 204. Rules; fees

(a) The Mayor, pursuant to the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this title, including establishing permit fees and other fees necessary to support the implementation of this title.

(b) The Mayor may require reimbursement of costs for services, including inspections, sample collection, document review, or other reasonable costs or fees incurred in implementing this title or a regulation promulgated pursuant to this title.

TITLE III. INDOOR AIR QUALITY.

SUBTITLE A. INDOOR MOLD DISCLOSURE AMENDMENT.

Sec. 301. The Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Official Code § 42-3501.01 *et seq.*), is amended as follows:

(a) Section 222(b)(1) (D.C. Official Code § 42-3502.22(b)(1)) is amended as follows:

(1) Subparagraph (F) is amended by striking the phrase “housing code” and inserting the phrase “housing code and property maintenance code” in its place.

(2) Subparagraph (J) is amended by striking the period and inserting the phrase “; and” in its place.

(3) A new subparagraph (K) is added to read as follows:

“(K) Information known or that should have been known about the presence of indoor mold contamination as defined in section 302(5) of the Air Quality Amendment Act of 2014, passed on 2nd reading on June 3, 2014 (Enrolled version of Bill 20-368), in the rental unit or common areas in the previous 3 years, unless the mold has been remediated by an indoor mold remediation professional certified and licensed by the District.”.

SUBTITLE B. RESIDENTIAL INDOOR MOLD ASSESSMENT AND REMEDIATION.

Sec. 302. Definitions.

For the purposes of this subtitle, the term:

(1) “Director” means the Director of the District Department of the Environment.

(2) “Dwelling unit” means a building or structure used or designed to be used, in whole or in part, as a living or sleeping place for one or more persons.

(3) “Indoor mold assessment professional” means an indoor mold assessor certified and licensed by the District in accordance with section 304.

(4) “Indoor mold” means living or dead fungi or related products or parts, including spores hyphae, and mycotoxins, on an interior surface of a building, including common spaces, utility spaces, HVAC, or other systems.

(5) “Indoor mold contamination” means indoor mold at or above the threshold established under section 303(a)(1).

(6) “Indoor mold remediation professional” means an indoor mold remediator certified and licensed by the District in accordance with section 304.

(7) “Professional indoor mold assessment” means an indoor mold assessment conducted by an indoor mold assessment professional.

(8) “Professional indoor mold remediation” means an indoor mold remediation conducted by an indoor mold remediation professional.

Sec. 303. Indoor mold assessment and remediation standards.

(a) Consistent with applicable U.S. Environmental Protection Agency or U.S. Department of Labor, Occupational Safety and Health Administration guidelines and regulations relating to the assessment and remediation of mold, the Director shall:

(1) Set a threshold level of indoor mold contamination that requires professional indoor mold remediation at residential properties;

(2) Establish scientific and objective methods to be used by individuals certified by the District when conducting an indoor mold assessment;

(3) Establish minimum performance standards and work practices for conducting professional indoor mold remediation in the District; and

(4) Establish guidelines for the removal of indoor mold below the threshold set by paragraph (1) of this subsection.

(b) When professional indoor mold remediation is required under section 305 because a professional indoor mold assessment found indoor mold contamination at a property, the Director may require the property owner to provide a remediation report from an indoor mold remediation professional to the tenant and to the Department of the Environment.

Sec. 304. Certification of mold assessment and remediation professionals.

(a)(1) The Director shall issue licenses and may issue certifications for conducting indoor mold assessment and remediation in the District.

(2) In licensing a person to conduct indoor mold assessment or remediation, the Director may recognize certification programs of other states or independent bodies that the Director determines to be sufficient to ensure professional conduct of indoor mold assessment or remediation.

(b) No person shall engage in the business of residential indoor mold assessment or remediation unless the person is certified and licensed in accordance with requirements promulgated by the Director.

(c) The Director shall maintain a publicly available list of all certified indoor mold assessment and remediation professionals in the District.

(d) The Director shall establish reasonable and necessary fees to administer this section, including fees for certifications and licenses. The fees shall be set, at a minimum, in an amount sufficient to recover the costs of administering this section. All fees collected under this subsection shall be deposited into the Indoor Mold Assessment and Remediation Fund established under section 308.

Sec. 305. Indoor mold remediation obligations at residential properties.

(a) A residential property owner who receives written or electronic notice from a tenant that indoor mold or suspected indoor mold exists in the dwelling unit or in a common area of the property shall inspect the property within 7 days and remediate the condition in accordance with subsections (b) and (c) of this section within 30 days of the inspection unless a shorter timeframe is ordered by a court or the Mayor.

(b) Where professional indoor mold remediation is not required under subsection (c) of this section, a residential property owner notified of indoor mold by a tenant in accordance with subsection (a) shall clean and remove the indoor mold from the contaminated surface in accordance with the guidelines established under section 303(a)(4). Failure of the Director to issue guidelines under section 303(a)(4) shall not excuse the residential property owner from the obligation to clean and remove visible indoor mold from the contaminated surface.

(c) If a residential property owner knows or has reason to know that indoor mold contamination exists in a tenant's dwelling unit or in a common area of the property, the residential property owner shall cause the mold to be remediated by an indoor mold remediation professional.

(d) The provisions of this section may be enforced pursuant to section 306.

Sec. 306. Violations.

(a) In a private cause of action, claim, or defense by a tenant against a residential property owner for a violation of Title 12G of the District of Columbia Municipal Regulations (12G DCMR § 101G *et seq.*) ("Property Maintenance Code") or Title 14 of the District of Columbia Municipal Regulations (14 DCMR § 100 *et seq.*) ("Housing Code"):

(1) A professional indoor mold assessment finding indoor mold contamination in a tenant's dwelling unit or a common area of the property shall create a rebuttable presumption of a violation of the property owner's obligation to maintain the property free from defective surface conditions as required by the Property Maintenance Code and the Housing Code. To establish the presumption, the tenant must demonstrate that the property owner received a professional indoor mold assessment in written or electronic form that determined that indoor mold contamination existed in the tenant's dwelling unit.

(2) When ruling in favor of a tenant with respect to a Property Maintenance Code or Housing Code violation based on a professional mold assessment, the court shall have discretion to reimburse indoor mold assessment costs and award attorney fees and court costs to the tenant. The court may award treble damages to a tenant when:

- (A) The tenant discovered the indoor mold;
- (B) A professional indoor mold assessment determined that indoor mold contamination existed in the tenant's dwelling unit;
- (C) The residential property owner received the indoor mold assessment in written or electronic form;
- (D) The residential property owner did not remediate the indoor mold within 60 days; and

(E) The court finds that the residential property owner acted in bad faith.

(b) In issuing a notice of violation to a property owner for failure to maintain the property free from defective surface conditions as required by the Property Maintenance Code and the Housing Code, the Mayor shall have discretion to rely upon a professional indoor mold assessment.

Sec. 307. No private right of action against the District.

Nothing in this subtitle is intended to, or does, create a private right of action against the government of the District of Columbia and its officers, employees, agents, representatives, contractors, successors, and assigns based upon compliance or noncompliance with its provisions. No person or entity may assert any claim or right as a beneficiary or protected class under this act in any civil, criminal, or administrative action against the District of Columbia.

Sec. 308. Indoor Mold Assessment and Remediation Fund.

(a) There is established a special fund the Indoor Mold Assessment Fund, which shall be administered by the District Department of the Environment in accordance with subsection (c) of this section.

(b) The Fund shall consist of the revenue from the fees collected in accordance with section 304 and any other money accepted for the benefit of the Fund. The Fund may be supplemented by other District funds at the Mayor's discretion or by an act of the Council.

(c)(1) The Fund shall be used to administer the certification and licensing programs established under section 304 and may be used to administer grants issued under paragraph (2) of this subsection.

(2) Where there are funds in excess of the amount needed to administer the certification and licensing programs under section 304, those funds shall be used to provide financial assistance grants to:

(A) Low-income District residents for the purpose of having a professional mold assessment conducted in their premises, in the event that the owner of the resident's property fails to comply with the requirements in section 305; and

(B) Residential property owners without financial means, as determined by the Mayor, to comply with section 305.

(d)(1) The money deposited into the Fund, and any interest earned, shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time.

(2) Subject to authorization in an approved budget and financial plan, any funds appropriated in the Fund shall be continually available without regard to fiscal year limitation.

Sec. 309. Common law unaffected.

The remedies under this subtitle do not supplant rights and remedies that may be available against property owners and other liable parties under the common law.

Sec. 310. Rules.

The Mayor, pursuant to the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to implement the provisions of this subtitle, including civil penalties or fines to enforce this subtitle.

TITLE IV. REPEALER.

Sec. 401. Section 4 of the District of Columbia Air Pollution Control Act of 1984, effective March 15, 1985 (D.C. Law 5-165; D.C. Official Code § 8-101.04), is repealed.

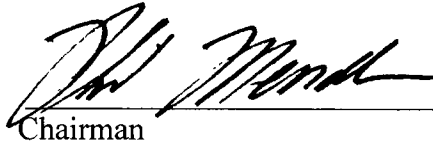
TITLE V. FISCAL IMPACT AND EFFECTIVE DATE.

Sec. 501. Fiscal impact statement.

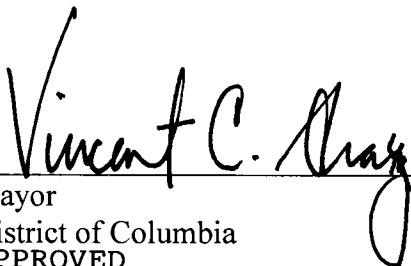
The Council adopts the June 3, 2014 fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 502. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
June 23, 2014

**DEPARTMENT OF ENERGY AND ENVIRONMENT**

**NOTICE OF FINAL RULEMAKING**

**Mold Assessment and Remediation Licensure Regulations**

The Director of the Department of Energy and Environment (DOEE or Department), pursuant to the authority set forth in Sections 103(b)(1)(B)(ii)(III) and 107(4) of the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.03 (b)(1)(B)(ii)(III) and 8-151.07(4) (2013 Repl. & 2015 Supp.)); Title III, Subtitle B of the Air Quality Amendment Act of 2014, effective September 9, 2014 (D.C. Law 20-135; D.C. Official Code §§ 8-241.01 *et seq.* (2013 Repl. & 2015 Supp.)); and Mayor’s Order 2006-61, dated June 14, 2006, hereby gives notice of the intent to promulgate a new Chapter 32 of Title 20 (Environment) of the District of Columbia Municipal Regulations (DCMR), the Mold Assessment and Remediation Licensure Regulations.

This rulemaking implements the provisions of Title III, Subtitle B of the Air Quality Amendment Act of 2014 by providing mold licensure and certification mechanisms for all mold assessment or remediation professionals who operate in the District of Columbia. This rulemaking also sets a threshold above which a property owner must employ assessment and remediation professionals if the property is rented for residential use.

The proposed regulations were first published in the *D.C. Register* on April 3, 2015 at 62 DCR 3941, followed by a Notice of Public Hearing posted in the *D.C. Register* on May 29, 2015, at 62 DCR 6954. A Notice of Second Proposed Rulemaking was published on September 25, 2015, at 62 DCR 12746. This Notice of Final Rulemaking includes non-substantial revisions that clarify the original intent of the rules, including a clarifying change to the definition of “dwelling unit,” by adding a definition for “transient housing business,” in accordance with Chapter 28 of Title 47 of the District of Columbia Official Code. The Department received comments on the second proposed rulemaking. All comments were given due consideration and provided a response. Interested persons can find both the comments and the Department’s response at <http://doee.dc.gov/moldlicensureregs>.

These rules were adopted as final on January 12, 2016, and will become effective upon publication of this notice in the *D.C. Register*.

**Title 20, ENVIRONMENT, is amended by adding a new Chapter 32 as follows:**

**CHAPTER 32 MOLD LICENSURE AND CERTIFICATION**

- 3200 PURPOSE AND SCOPE**
- 3201 EXCEPTIONS AND THRESHOLD FOR MOLD PROFESSIONALS**
- 3202 REQUIREMENTS AND FEES TO OBTAIN A LICENSE**
- 3203 SCOPE OF MOLD LICENSES**
- 3204 PROHIBITIONS AND LICENSEE OBLIGATIONS**

- 3205**            **MINIMUM PERFORMANCE STANDARDS AND WORK PRACTICES FOR LICENSEES**
- 3206**            **MINIMUM WORK GUIDELINES AND REQUIREMENTS FOR NON-LICENSEES: ASSESSMENT**
- 3207**            **LICENSEE INSURANCE REQUIREMENTS**
- 3208**            **APPLICANT AND LICENSEE TRAINING REQUIREMENTS**
- 3209**            **NOTIFICATION REQUIREMENTS**
- 3210**            **INDOOR MOLD REMEDIATION PROFESSIONAL RECORD-KEEPING REQUIREMENTS**
- 3211**            **INSPECTION**
- 3212**            **DENIAL, SUSPENSION, MODIFICATION, OR REVOCATION OF LICENSES**
- 3213**            **ENFORCEMENT AND PENALTIES**
- 3299**            **DEFINITIONS**

**3200**            **PURPOSE AND SCOPE**

- 3200.1            The purpose of this chapter is to implement Title III of the Air Quality Amendment Act of 2014 (Act), effective September 9, 2014 (D.C. Law 20-135; D.C. Official Code §§ 8-241.01 *et seq.*
  
- 3200.2            This chapter establishes (1) a licensing program for indoor mold assessment and remediation professionals performing work on all properties in the District of Columbia, (2) a mold contamination threshold for residential properties of ten square feet (10 ft.<sup>2</sup>) of indoor mold growth in an affected area, and (3) guidelines for residential indoor mold assessment and remediation below the threshold level.
  
- 3200.3            Indoor mold remediation obligations of residential property owners and tenants are stated in D.C. Official Code § 8-241.04 (2013 Repl. & 2015 Supp.).

**3201**            **EXCEPTIONS AND THRESHOLD FOR MOLD PROFESSIONALS**

- 3201.1            This chapter shall not apply to:
  - (a)            The following activities when not conducted for the purpose of complying with D.C. Official Code § 8-241.04 (2013 Repl. & 2015 Supp.):
    - (1)            Routine cleaning;
    - (2)            The diagnosis, repair, cleaning, or replacement of plumbing, heating ventilation, air conditioning, electrical, or air duct systems or appliances;
    - (3)            Commercial or residential real estate inspections; or
    - (4)            The incidental discovery or emergency containment of indoor



mold growth during the conduct or performance of services listed in this subsection.

- (b) The repair, replacement, or cleaning of construction materials during the construction of a structure; or
- (c) A pest control inspection conducted by a person regulated under Chapter 23 of this title.

3201.2 A license shall not be required under this chapter to perform mold assessment or remediation in a residential property containing a total surface area of less than ten square feet (10 ft.<sup>2</sup>) of indoor mold growth in an affected area.

3201.3 A license shall not be required under this chapter to perform mold assessment or remediation in an outdoor area or a non-residential property.

3201.4 A license shall not be required under this chapter to perform mold assessment or remediation when it is performed by the owner of a residential dwelling unit when the dwelling unit is owner occupied.

3201.5 An individual shall not be required to be licensed under this chapter to perform mold assessment or mold remediation while supervised by a licensee.

3201.6 An individual shall not be required to be licensed under this chapter if they are currently licensed by the District of Columbia or another jurisdiction in another field (including, but not limited to, medicine, architecture, or engineering) who provide to a licensee only consultation related to that other field. In such a case, the responsibility for the project or activity remains with the licensee.

3201.7 An individual shall not be required to be licensed under this chapter if they are performing the regulated activities of a licensed insurance adjuster, including investigation and review of losses to insured property, assignment of coverage, and estimation of the usual and customary expenses due under the applicable insurance policy, including expenses for reasonable and customary mold assessment and remediation.

3201.8 An individual who is performing mold assessment or remediation under the licensing exemption(s) of § 3201.2 and identifies indoor mold growth of ten square feet (10 ft.<sup>2</sup>) or more in an affected area shall:

- (a) Immediately cease all assessment or remediation work; and
- (b) Advise the person requesting the assessment or remediation that the exemption under § 3201.2 is no longer applicable and that any additional work in the area shall be conducted by a licensee under this chapter.

**3202 REQUIREMENTS AND FEES TO OBTAIN A LICENSE**

- 3202.1 Regardless of the exceptions in § 3201, an individual shall not engage in the business of mold assessment or mold remediation without a license issued pursuant to this section.
- 3202.2 Each individual applying for a license under this chapter shall be at least eighteen (18) years old at the time of application.
- 3202.3 An individual applying for a license under this chapter shall apply to the Department after passing an examination approved by the Department pursuant to this subsection.
- 3202.4 The Department may administer an examination following the standards enumerated in this section to assist in the licensure of indoor mold assessment and remediation professionals.
- 3202.5 The Department may approve examinations offered by organizations that are recognized in the mold assessment or mold remediation industry. The Department may also approve other states' examinations. The Department's website shall contain an active list of approved examinations.
- 3202.6 The Department shall adhere to the following standards for approval of mold assessment and remediation examinations:
- (a) The examination shall be proctored;
  - (b) The mold assessment examination shall cover:
    - (1) The physical sampling and detailed evaluation of data obtained from a building history and inspection to formulate a hypothesis about the origin, identity, location, and extent of amplification of indoor mold growth; and
    - (2) Mold remediation strategies.
  - (c) The mold remediation examination shall cover remediation planning and the removal, cleaning, sanitizing, demolition, or other treatment, including preventive activities, of mold or mold-contaminated matter.
- 3202.7 The Department may consider the following standards when approving an examination:
- (a) The overall difficulty of the examination, including the depth and variety of questions, and the score required to pass;

- (b) The examination covers topics referenced in § 3208.7; and
- (c) The recognized organization providing the examination requires examinees to participate in initial and refresher training, following the standards in § 3208, in the areas of mold assessment or remediation.

3202.8 An individual shall have either passed a Department-approved examination or recertified their credential no more than two (2) years prior to submitting an application to the Department.

3202.9 An individual applying to be licensed as an indoor mold assessment or remediation professional shall meet one or more of the following education and experience requirements of this subsection:

- (a) At least a two (2) year associate degree, or the equivalent, with at least thirty (30) semester hours in microbiology, engineering, architecture, industrial hygiene, occupational safety, or a related field of science from an accredited institution and a minimum of one (1) year of documented relevant field experience;
- (b) A certified industrial hygienist, a professional engineer, a professional registered sanitarian, a certified safety professional, or a registered architect, with at least six (6) months of documented relevant field experience; or
- (c) A high school diploma or the equivalent with a minimum of three (3) years of documented relevant field experience.

3202.10 An applicant for an indoor mold assessment or remediation professional license shall submit a completed application that includes the following:

- (a) A fee of three hundred dollars (\$300) for an initial application.
- (b) Documentation that the applicant meets the following requirements:
  - (1) The age requirement, as specified in § 3202.2;
  - (2) The examination requirement, as specified in § 3202.4 or 3202.5;
  - (3) One of the educational and experience requirements, as specified in § 3202.9;
  - (4) The insurance requirement, as specified in § 3207;
  - (5) Upon Department approval of training providers, the training requirements, as specified in § 3208; and

(6) Any other information that the Department requires for a complete application.

(c) For a renewal, submit the evidence required in § 3202.10(b)(2), (4), (5), and (6), and a fee of one hundred and five dollars (\$105).

3202.11 Submission of a current, valid license for mold assessment or remediation that is issued by another state, as approved by the Department following the standards established in this section, is sufficient for practice as an indoor mold assessment or remediation professional in the District of Columbia, if the applicant includes in an application to the Department:

(a) A fee of three hundred dollars (\$300) for an initial application.

(b) Documentation that the applicant meets the following requirements:

(1) The applicant is licensed and in good standing by an approved state; and

(2) Any other information that the Department requires for a complete application.

(c) For a renewal, submit the evidence required in paragraph (b) and a fee of one hundred and five dollars (\$105).

3202.12 The term of each license shall be two (2) years.

3202.13 A licensee whose license has expired but continues to hold himself or herself out as an indoor mold assessment or remediation professional is in violation of this chapter.

3202.14 Beginning in 2017, license fees charged by the Department may be adjusted annually based on the change in the Consumer Price Index value published by the U.S. Department of Labor for all-urban consumers.

### **3203 SCOPE OF MOLD LICENSES**

3203.1 An indoor mold assessment professional is permitted to:

(a) Record visual observations and take on-site measurements, including temperature, humidity, and moisture levels, during an initial or post-remediation mold assessment;

(b) Collect samples for mold analysis during a mold assessment;

- (c) Plan surveys to identify conditions favorable for indoor mold growth or to determine the presence, extent, amount, or identity of mold or suspected mold in a building;
- (d) Conduct activities recommended in a plan developed under paragraph (c) of this subsection and describe and interpret the results of those activities;
- (e) Determine locations at which the licensee or individuals under the licensee's supervision shall record observations, take measurements, or collect samples;
- (f) Prepare a mold assessment report, including the observations made, measurements taken, and locations and analysis;
- (g) Develop a mold management plan for a building or dwelling unit, including recommendations for periodic surveillance, response actions, and prevention and control of indoor mold growth;
- (h) Prepare a mold remediation protocol, including the evaluation and selection of appropriate remediation strategies, personal protective equipment, engineering controls, project layout, post-remediation verification evaluation methods and criteria, and preparation of plans and specifications; and
- (i) Evaluate a mold remediation project for the purpose of verifying that indoor mold identified for the remediation project has been remediated as outlined in a mold remediation protocol.

3203.2 An indoor mold remediation professional is permitted to:

- (a) Perform mold remediation, as defined in § 3299.1;
- (b) Prepare a mold remediation work plan providing instructions for the remediation efforts to be performed for a mold remediation project;
- (c) Conduct and interpret the results of activities recommended in a mold remediation work plan developed under paragraph (b) of this subsection; and
- (d) Complete appropriate sections of a verification report, as defined in § 3299.1.

**3204 PROHIBITIONS AND LICENSEE OBLIGATIONS**

3204.1 An individual shall not perform indoor mold assessment or remediation in the District of Columbia, unless licensed by the Department, or exempted by § 3201.

3204.2 Regardless of the exceptions in § 3201, a person shall not use the name or title of “licensed,” “professional,” “certified,” or any other term or terms that communicates a level of expertise in mold assessment or remediation, unless that person is an individual licensed by the Department or employs individuals who are licensed with the Department.

3204.3 All persons using such names or titles as referenced in § 3204.2 shall have readily available their name and license number or the name and license number of the individual(s) who are an employee of that person and who are also licensed by the Department.

3204.4 All licensees shall:

- (a) Perform only services that they are licensed to conduct;
- (b) Meet or exceed the minimum industry standards for mold assessment and remediation and the standards set in this chapter;
- (c) Disclose any known or potential conflict of interest to any party affected by such conflicts;
- (d) To the extent required by law, keep confidential any personal information (including medical conditions) obtained during the course of a mold-related activity;
- (e) Promptly furnish required documents or information to the Department and promptly respond to requests for information from the Department;
- (f) Maintain knowledge and skills for continuing professional competence;
- (g) Promptly report alleged misrepresentation or violations of the Act or this chapter to the Department;
- (h) Competently and efficiently perform their duties and report to the Department incompetent, illegal, or unethical conduct of any licensee; and
- (i) Supervise any person assisting with the licensee’s work and ensure that supervisees are following best practices and applicable laws and regulations.

3204.5 Licensees shall not:

- (a) Accept or offer any compensation to any other mold licensee or their company for the referral of any mold-related business;

- (b) Assess or remediate any property in which the indoor mold assessment professional or indoor mold remediation professional or their company has any financial interest;
- (c) Misrepresent any professional qualifications or credentials;
- (d) Provide any information to the Department or client that is false, deceptive, or misleading;
- (e) Work if impaired as a result of drugs, alcohol, sleep deprivation, or other conditions and not allow supervisees to work if the licensee knows or reasonably should know that the supervisee is impaired;
- (f) Make any false, misleading, or deceptive claims, or claims that are not readily subject to verification, in any advertising, announcement, presentation, or competitive bidding;
- (g) Make a representation that is designed to take advantage of the fears or emotions of the public or a customer;
- (h) Retaliate against any person who reported in good faith to any District of Columbia agency, department, or instrumentality, alleging incompetent, illegal, or unethical conduct; or
- (i) Supervise the work of more than ten (10) individuals at one time.

3204.6 Indoor mold assessment professionals shall:

- (a) Provide to the client a mold assessment report following an initial mold assessment;
- (b) If the licensee includes the results of the initial assessment in a mold remediation protocol or a mold management plan, not provide a separate assessment report;
- (c) If indoor mold growth is identified in a mold assessment, provide to the client a mold remediation protocol before a remediation project begins;
- (d) Within ten (10) days, after successful completion of remediation activities, provide a verification report to the client and the appropriate indoor mold remediation professional or, if an indoor mold assessment professional ceases to be involved with a project before it passes verification, provide a final status report to the client and the appropriate indoor mold remediation professional; and

- (e) In all issued reports, protocols, or other documents, include the date when the document was issued to the client and all indoor mold assessment professionals' names, license numbers, and, if applicable, business name and addresses.

3204.7 When conducting mold remediation, indoor mold remediation professionals shall:

- (a) Provide to a client a mold remediation work plan for the project before the mold remediation preparation work begins;
- (b) Inquire of the client or property owner whether any known or suspected hazardous materials, including lead-based paint and asbestos, are present in the project area, and, if present, follow appropriate work practices in accordance with District and federal law;
- (c) Provide to the property owner a completed verification report not later than the tenth (10<sup>th</sup>) day after receiving the verification report from the indoor mold assessment professional; and
- (d) In all issued reports, plans, or other documents, include the date when the document was issued to the client and all indoor mold remediation professionals' names, license numbers, and, if applicable, business name and addresses.

**3205 MINIMUM PERFORMANCE STANDARDS AND WORK PRACTICES FOR LICENSEES**

3205.1 Indoor mold assessment professionals shall adhere to the following minimum standards:

- (a) If an indoor mold assessment professional determines that personal protective equipment should be used during a mold assessment project, the indoor mold assessment professional shall ensure that all individuals who engage in assessment activities and who will be, or are anticipated to be, exposed to indoor mold growth are provided with, fit tested for, and trained on the appropriate use and care of the specified personal protective equipment;
- (b) If samples for laboratory analysis are collected during the assessment:
  - (1) Sampling and analysis shall be performed according to industry best practices;
  - (2) Preservation methods shall be implemented for all samples where necessary;



- (3) Proper sample documentation, including the sampling method, the sample identification code, each location and material sampled, the date collected, the name of the person who collected the samples, and the project name or number, shall be recorded for each sample; and
  - (4) Proper chain of custody procedures shall be used;
- (c) If mold remediation is to be conducted by an indoor mold remediation professional, prepare a mold remediation protocol that is specific to each remediation project and provide the protocol to the client before the remediation begins. The mold remediation protocol shall specify:
- (1) The rooms or areas where the work shall be performed;
  - (2) The estimated quantities of materials to be cleaned or removed;
  - (3) The methods to be used for each type of remediation in each area;
  - (4) The personal protective equipment to be used by indoor mold remediation professionals. A minimum of an N-95 respirator is recommended during mold-related activities when indoor mold growth could or will be disturbed. An indoor mold assessment professional may specify additional or more protective personal protective equipment if he or she determines that it is warranted;
  - (5) The proposed types of containment, as described in (d) of this subsection, to be used during the project in each area; and
  - (6) The proposed verification procedures and criteria, as described in paragraph (h) of this subsection, for each type of remediation in each area;
- (d) Containment shall be specified in a mold remediation protocol when a total surface area of ten square feet (10 ft.<sup>2</sup>) or more of indoor mold growth is in an affected area, unless the indoor mold assessment professional describes in the mold remediation protocol why containment is not necessary;
- (e) If walk-in containment is used, supply and return air vents shall be covered with plastic, and air pressure within the walk-in containment shall be lower than the pressure in building areas adjacent to the containment;
- (f) An indoor mold assessment professional indicating a specific disinfectant, biocide, or antimicrobial coating in a mold remediation protocol shall recommend only products or brands if it is registered by the District of

Columbia and the United States Environmental Protection Agency for the intended use and uses consistent with the manufacturer's labeling instructions;

- (g) A decision by an indoor mold assessment professional to use products in paragraph (f) of this subsection shall take into account the potential for occupant sensitivities and possible adverse reactions to chemicals that have the potential to be off-gassed from surfaces coated with such products; and
- (h) In the remediation protocol for the project, the indoor mold assessment professional shall specify:
  - (1) At least one industry-recognized analytical method for use within each remediated area to determine whether the indoor mold growth identified for the project has been remediated as outlined in the mold remediation protocol;
  - (2) The criteria to be used for evaluating analytical results to determine whether the mold remediation project is verified as complete;
  - (3) That post-remediation assessment shall be conducted while walk-in containment is in place, if walk-in containment is specified for the project; and
  - (4) The procedures to be used in determining whether the underlying causes of the mold identified for the project have been remediated so that it is reasonably certain that the mold will not return from those same causes.

3205.2 Indoor mold remediation professionals shall adhere to the following standards:

- (a) An indoor mold remediation professional shall prepare a mold remediation work plan that is specific to each project, fulfills all the requirements of the mold remediation protocol, and provides specific instructions or standard operating procedures for how a mold remediation project shall be performed. The indoor mold remediation professional shall provide the mold remediation work plan to the client before site preparation work begins;
- (b) If an indoor mold assessment professional specifies in the mold remediation protocol that personal protective equipment is required for the project or if the indoor mold remediation professional determines that individuals require personal protective equipment, the indoor mold remediation professional shall provide the specified personal protective

equipment to all individuals who engage in remediation activities and who will, or are anticipated to, disturb or remove indoor mold growth. The recommended minimum personal protective equipment is an N-95 respirator;

- (c) Containment specified in the remediation protocol shall be used on a mold remediation project;
- (d) If walk-in containment is used, supply and return air vents shall be covered with plastic, and air pressure within the walk-in containment shall be lower than the pressure in building areas adjacent to the containment;
- (e) Signs advising that a mold remediation project is in progress shall be displayed at all accessible entrances to remediation areas and shall meet the following requirements:
  - (1) The signs shall be at least eight (8) inches by ten (10) inches in size and shall bear the words “NOTICE: Mold remediation project in progress” in black on a yellow background; and
  - (2) The text of the signs shall be legible from a distance of ten (10) feet;
- (f) No person shall remove or dismantle any walk-in containment structures or materials from a project site prior to receipt, by the indoor mold remediation professional overseeing the project, of a written notice from an indoor mold assessment professional that the project has been verified as complete as described under § 3299.1;
- (g) Disinfectants, biocides, and antimicrobial coatings may be used only if their use is specified in a mold remediation protocol, if they are registered by the District of Columbia and the United States Environmental Protection Agency for the intended use, and if the use is consistent with the manufacturer’s labeling instructions; and
- (h) If a protocol specifies the use of such a product, as referenced in paragraph (g), but does not specify the brand or type of product, an indoor mold remediation professional may select the brand or type of product to be used, subject to the other provisions of this chapter.

**3206 MINIMUM WORK GUIDELINES AND REQUIREMENTS FOR NON-LICENSEES: ASSESSMENT**

3206.1 In general, an indoor mold assessment professional should be consulted when assessing the extent of a moisture problem, indoor mold growth, and performing other related activities.

- 3206.2 The following guidelines are applicable to non-licensed individuals performing mold assessment on areas potentially affected by less than ten square feet (10 ft.<sup>2</sup>) of indoor mold growth; unless exempt by § 3201, a non-licensed individual shall not perform mold assessment on ten square feet (10 ft.<sup>2</sup>) or more of indoor mold growth in an affected area.
- 3206.3 Prior to taking any steps to clean, scrape, remove, paint over, or otherwise remediate any indoor mold growth, a visual inspection should be performed that assesses the following:
- (a) The extent of water damage, indoor mold growth, and affected building materials;
  - (b) Crawl spaces, attics, behind wallboards, carpet backing and padding, wallpaper, baseboards, insulation, and other materials that are suspected of hiding indoor mold growth;
  - (c) Ventilation systems for damp conditions and indoor mold growth on system components, like filters, insulations, and coils or fins; and
  - (d) Certain materials that are susceptible to indoor mold growth when damp, including ceiling tiles, paper-covered gypsum wallboard (drywall), structural wood, and other cellulose-containing surfaces.
- 3206.4 If assessment work might disturb indoor mold growth, personal protective equipment, like gloves and respiratory protection, should be worn.
- 3206.5 If indoor mold growth or water-damaged materials are visually identified, remediation shall be conducted in accordance with the guidance document published by the Department.
- 3206.6 If ten or more square feet (10 ft.<sup>2</sup>) of indoor mold growth in an affected area is visually identified, the property owner, unless if exempt by § 3201.4, shall hire an indoor mold assessment professional who is licensed pursuant to § 3202 to conduct an indoor mold assessment.

### **3207 LICENSEE INSURANCE REQUIREMENTS**

- 3207.1 An indoor mold assessment professional shall maintain general liability and errors and omissions insurance coverage of at least one million dollars (\$1,000,000) for preliminary and post-remediation mold assessment.
- 3207.2 An indoor mold remediation professional shall maintain a general liability insurance policy in an amount of at least one million dollars (\$1,000,000) that includes specific coverage for mold-related and general pollution claims.

3207.3 An indoor mold assessment professional or an indoor mold remediation professional shall maintain the applicable insurance policy unless covered under an employer's policy.

**3208 APPLICANT AND LICENSEE TRAINING REQUIREMENTS**

3208.1 Upon the Department's approval of training organizations, applicants and licensees shall meet the training requirements in this section.

3208.2 The same training performed to obtain and maintain a third-party accreditation can be used to meet the requirements in this section.

3208.3 Applicants and licensees shall take and complete training performed by Department-approved training providers.

3208.4 The Department shall require the following individuals to complete twenty-four (24) hours of training, with a minimum of four (4) hours of hands-on training, no more than two (2) years prior to submission of the application:

- (a) Applicants seeking an initial District indoor mold assessment or remediation professional license; and
- (b) Applicants that have allowed their District indoor mold assessment or remediation professional license to lapse for two (2) years or more.

3208.5 The Department shall require the following individuals to complete four (4) hours of refresher training no more than two (2) years prior to submission of the application: licensees seeking to renew a District indoor mold assessment or remediation professional license that either have not allowed their license to lapse or have allowed their license to lapse for less than two (2) years.

3208.6 Upon the Department's approval of training organizations, the Department shall develop and maintain an active list of approved training providers on its website.

3208.7 The Department shall consider the following standards when approving twenty-four (24) hour training courses:

- (a) For an indoor mold assessment professional, the course shall address the following topics:
  - (1) Role and responsibilities of an indoor mold assessment professional;
  - (2) Background information on mold, including health effects;

- (3) Employee personal protective equipment;
  - (4) Workplace safety hazards, including other environmental hazards, such as lead and asbestos;
  - (5) Knowledge of building construction related to eliminating moisture problems, including elements of airflow, mechanisms of moisture and heat flow, humidity, the building envelope, and porous and nonporous materials;
  - (6) Current relevant industry work practices and standards, including the use and reading of moisture meters and an understanding of HVAC systems;
  - (7) Pre-assessment planning and interpretation of previous mold assessment records;
  - (8) Mold assessment report development and recordkeeping;
  - (9) Inspection and sampling techniques for mold assessment;
  - (10) Designing a mold management plan, mold remediation protocol, and verification report;
  - (11) Public, employee, and building occupant relations;
  - (12) Liability and insurance issues relating to mold assessment; and
  - (13) Supervisory techniques for mold assessment activities including implementation of required work practices and prevention of unsafe work practices.
- (b) For an indoor mold remediation professional, the course shall address the following topics:
- (1) Role and responsibilities of an indoor mold remediation professional;
  - (2) Background information on mold including health effects;
  - (3) Employee personal protective equipment;
  - (4) Workplace safety hazards, including other environmental hazards such as lead and asbestos;
  - (5) Knowledge of building construction related to eliminating

moisture problems, including elements of airflow, mechanisms of moisture and heat flow, humidity, the building envelope, and porous and nonporous materials;

- (6) Current relevant industry work practices, including the use and reading of moisture meters, duct cleaning, and use of drying equipment;
  - (7) Pre-remediation planning and interpretation of a mold assessment report and a mold remediation protocol;
  - (8) Designing a mold remediation work plan;
  - (9) Liability and insurance issues relating to mold remediation;
  - (10) Recordkeeping for mold remediation projects; and
  - (11) Supervisory techniques for mold remediation activities including implementation of required work practices and prevention of unsafe work practices.
- (c) For an indoor mold assessment and remediation professional, the course should address the District's mold statute (D.C. Official Code §§ 8-231.01 *et seq.*) and this chapter.

3208.8 The Department shall consider the following standards when approving refresher training courses lasting four (4) hours: Comprehensive review of the respective twenty-four-hour (24) course topics with specific emphasis and update on current relevant mold assessment and remediation industry work practices and standards.

3208.9 When considering training providers for approval, the Department shall give preference to training providers that meet the following standards:

- (a) Instructors and guest speakers present in person at least fifty percent (50%) of the classroom instruction and all of the hands on instruction;
- (b) Courses that require hands-on practical training are presented in an environment that permits each student to have actual experience performing tasks associated with mold-related activities;
- (c) Student-to-instructor ratios and facilities are conducive to learning;
- (d) Those providing training have experience, education, or training in teaching workers or adults in the areas of mold assessment, remediation, or a related field;

- (e) Development and implementation of plans to maintain and improve the quality of the training program to reflect innovations in the field;
- (f) The provider is not also providing a Department-approved third-party examination;
- (g) The provider requires students to pass a closed-book, fifty (50) question multiple choice examination after training to ensure retention of topics covered by the course, requiring a passing score of seventy percent (70%) or higher; and
- (h) Upon the student passing training examinations in paragraph (g), the provider issues completion certificates to the students.

### **3209 NOTIFICATION REQUIREMENTS**

3209.1 An indoor mold assessment professional shall notify the Department when he or she determines that a property has ten or more square feet (10 ft.<sup>2</sup>) of indoor mold growth in an affected area, in accordance with the following requirements:

- (a) The notification shall include the address of the site, a short description of the building and its mold condition, building owner, the date(s) of the assessment, and the name and license number of the indoor mold assessment professional; and
- (b) The notification shall be provided to the Department no more than five (5) calendar days after issuance of a mold assessment report, mold remediation protocol, or a mold management plan.

3209.2 An indoor mold remediation professional shall notify the Department of a planned mold remediation at a property when it has ten or more square feet (10 ft.<sup>2</sup>) of indoor mold growth in an affected area, in accordance with the following requirements:

- (a) The notification shall include the address of the site, a short description of the building, the building owner, the start date, the anticipated stop date, and the name and license number of the indoor mold remediation professional;
- (b) The indoor mold remediation professional shall notify the Department at least five (5) calendar days prior to the date when remediation is scheduled to start;
- (c) After notification, if the scheduled start date changes, the indoor mold remediation professional shall provide the Department with the proper scheduled date at least five (5) calendar days prior to the scheduled start of



remediation;

- (d) After notification, if the scheduled stop date changes by more than one (1) calendar day, the indoor mold remediation professional shall provide the Department with the proper stop date as soon as practicable but no later than one (1) calendar day after the indoor mold remediation professional is aware of the new stop date;
- (e) The notification requirements of paragraphs (b), (c), and (d) do not apply in the event of an emergency, however in an emergency the indoor mold remediation professional shall provide the Department with a notification according to paragraph (a) as soon as practicable but no later than the following business day after the indoor mold remediation professional identifies the emergency; and
- (f) The notification requirements of paragraphs (b), (c), and (d) do not apply when, previously unknown to the indoor mold remediation professional, 10 square feet or more (10 ft.<sup>2</sup>) of indoor mold growth in an affected area is revealed during the remediation process, in which case the indoor mold remediation professional shall provide the Department with a notification according to paragraph (a) as soon as practicable but no later than the following business day after the indoor mold growth is revealed.

**3210 INDOOR MOLD REMEDIATION PROFESSIONAL RECORD-KEEPING REQUIREMENTS**

3210.1 An indoor mold remediation professional shall maintain the following records and documents on-site at a project for its duration:

- (a) A copy of the mold remediation work plan and all mold remediation protocols used in the preparation of the work plan;
- (b) A listing of the names and applicable license numbers for all individuals working on the remediation project; and
- (c) The written contract between the indoor mold remediation professional or his/her employer and the client, and any written contracts related to the mold remediation project between the indoor mold remediation professional or his/her employer and any other party.

**3211 INSPECTION**

3211.1 The Department may inspect or investigate the business practices of any person that it has reason to believe is licensed in accordance with this chapter, holding themselves out as an indoor mold assessment or remediation professional, or performing work that shall only be performed by an indoor mold assessment or

remediation professional.

3211.2 The Department, upon presenting proper identification, shall have the right to enter at all reasonable times any area or environment, including, but not limited to, any containment area, building, construction site, storage, or office area, or vehicle to review and copy records or question any person for the purpose of ensuring compliance with this chapter.

3211.3 If a person denies access to the Department acting pursuant to the authority of the Act or this chapter, the Department may apply for an administrative search warrant in a court of competent jurisdiction, in addition to other actions authorized by law and regulations.

## **3212 DENIAL, SUSPENSION, MODIFICATION, OR REVOCATION OF LICENSES**

3212.1 The Department shall initiate an action denying, suspending, modifying, or revoking a license by issuing a notice of denial, suspension, modification, or revocation.

3212.2 Except as provided in § 3212.5, the notice of proposed denial, suspension, modification, or revocation shall be in writing, and shall include the following:

- (a) The name and address of the holder of the license;
- (b) A statement of the action or proposed action and the effective or proposed effective date and duration of the denial, suspension, modification, or revocation;
- (c) The ground upon which the Department is proposing to deny, suspend, modify, or revoke the certification or license;
- (d) Notice that the respondent has a right to request an administrative hearing before the District of Columbia Office of Administrative Hearings (OAH), in accordance with Rules of Practice and Procedure of OAH set forth in Chapter 28 of Title 1 of the District of Columbia Municipal Regulations;
- (e) A statement that the respondent has the right, at the respondent's expense, to legal representation at the hearing; and
- (f) Information notifying the respondent of any scheduled hearing date or of any actions necessary to obtain a hearing, and the consequences of failure to comply with the suspension or immediate revocation, if applicable.

3212.3 The Department may issue a notice of denial, suspension, modification, or revocation, if the Department finds that the applicant or license holder:

- (a) Has failed to comply with a provision of the Act or a rule in this chapter;
- (b) Has misrepresented facts relating to a mold-related activity to a client, the Department, or other District agency;
- (c) Has made a false statement or misrepresentation material to the issuance, modification, or renewal of a license;
- (d) Has submitted a false or fraudulent record, invoice, or report;
- (e) Has a history of repeated violations of District regulation; or
- (f) Has had a certification or license denied, revoked, or suspended either by the Department or by another state or jurisdiction.

3212.4 Pursuant to § 3213.3, the applicant or license holder shall have (15) calendar days from the date of service of the notice of denial, suspension, modification, or revocation to request a hearing with OAH to show cause why the license should not be denied, revoked, modified, or suspended.

3212.5 The Department may immediately suspend a license to protect the public health, safety, or welfare, or the environment. The suspension shall be immediately effective pending further investigation.

3212.6 The Department may serve a notice of modification, suspension, or revocation in addition to any other administrative or judicial penalty, sanction, or remedy authorized by law.

3212.7 An individual whose license has been revoked or denied by the Department shall not be eligible to apply for any license available under this chapter until a period of ninety (90) days has passed after the effective date of such suspension, revocation or denial.

**3213 ENFORCEMENT AND PENALTIES**

3213.1 The Department may enforce a violation of the Act or this chapter by issuing one or more of the following:

- (a) Notice of Violation;
- (b) Notice of Infraction;
- (c) Cease and Desist Order, which shall take effect immediately, or a Compliance Order;

- (d) Notice of suspension, revocation, or denial of a license pursuant to § 3212; or
- (e) Any other order necessary to protect human health or the environment, or to implement this chapter consistent with the purposes of the Act.

3213.2 Orders issued pursuant to § 3213.1(b), (c), and (e):

- (a) Shall identify the name and address of the recipient;
- (b) Shall identify the alleged violation or threatened violation;
- (c) May require the respondent to conduct corrective action;
- (d) Shall make clear the basis for the order and that the respondent's failure to take the measures directed will constitute an additional violation of the Act or the chapter; and
- (e) Shall state the process for objecting to the order.

3213.3 A person may object to an order by requesting a hearing within fifteen (15) calendar days of service, or twenty (20) calendar days if service is made by United States mail, as follows:

- (a) If specific instructions are not on the order, the owner, individual, firm, or entity shall file a written request for a hearing, including the grounds for the objection, with the Office of Administrative Hearings (OAH), established pursuant to the Office of Administrative Hearings Establishment Act of 2001, effective March 6, 2002 (D.C. Law 14-76; D.C. Official Code, §§ 2-1831.01 *et seq.*), in accordance with the Rules of Practice and Procedure of the Office of Administrative Hearings set forth in Title 1 DCMR Chapter 28;
- (b) If a hearing is not requested within the specified time period, the order becomes final and remains in effect until the Department determines that any applicable corrective actions have been completed; and
- (c) A hearing request does not stay the effective date of a Cease and Desist Order.

3213.4 The Department may also initiate a civil action in the Superior Court of the District of Columbia to secure a temporary restraining order, preliminary injunction, or other relief necessary for enforcement of these rules.

**3299 DEFINITIONS**

3299.1

When used in this chapter or Title III of the Air Quality Amendment Act of 2014, the following words and phrases shall have the meaning as described:

**Affected** – in close proximity, likely impacted from the same source of water intrusion or moisture accumulation.

**Certified industrial hygienist** - an industrial hygienist who is certified by the American Board of Industrial Hygiene.

**Certified safety professional** - any individual who has been certified by the American Society of Engineers, American Board of Industrial Hygiene, or other nationally recognized health and safety industry organization, as determined by the Department.

**Conflict of interest** - because of other past, present, or future planned activities or relationships, the licensee is unable, or potentially unable, to render impartial services to the client.

**Containment** – a component or enclosure designed or intended to prevent the release of mold or mold-containing dust or materials into surrounding areas in the building during mold-related activities.

**Containment area** – an area that has been enclosed to prevent the release of mold or mold-containing dust or materials into surrounding areas.

**Department** – The Department of Energy and Environment or its successor agency.

**Dwelling Unit** – a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. The term “dwelling unit” does not include any room or group of rooms in a transient housing business or a dormitory.

**Emergency** – a situation in which water damage has occurred and a delay in mold remediation would allow indoor mold growth to increase.

**Final Status Report** – a document issued by an indoor mold assessment professional that includes:

- (a) A description of relevant worksite observations;
- (b) The type and location of relevant measurements made and samples collected at the worksite;
- (c) Relevant data obtained at the worksite, such as temperature,

humidity, and material moisture readings;

- (d) The results of analytical evaluation of the samples collected at the worksite;
- (e) Copies of relevant photographs; and
- (f) Any conclusions that the indoor mold assessment professional has drawn.

**Indoor mold assessment professional** – an individual who conducts mold assessment as defined in this section and who is licensed under this chapter as an indoor mold assessment professional.

**Indoor mold growth** – mold that exists on an interior surface of a building, including common spaces, utility spaces, HVAC, or other systems, and is visible.

**Indoor mold remediation professional** – an individual who conducts mold remediation as defined in this section and who is licensed under this chapter as an indoor mold remediation professional.

**License** – any license issued by the Department under this chapter.

**Licensee** – an individual licensed under this chapter to perform mold assessment or remediation.

**Mold** – living or dead fungi or related products or parts, including spores, hyphae, and mycotoxins.

**Mold analysis** – the examination of a sample collected during a mold assessment for the purpose of:

- (a) Determining the amount or presence of or identifying the genus or species of any living or dead mold or related parts (including spores and hyphae) present in the sample;
- (b) Growing or attempting to grow fungi for the purposes of paragraph (a); or
- (c) Identifying or determining the amount or presence of any fungal products, including but not limited to mycotoxins and microbial volatile organic compounds, present in the sample.

**Mold assessment** - an inspection, investigation, or survey, including by visual observation or other means, of a dwelling unit or other structure regarding

the presence, identification, or evaluation of mold that may include one or more of the following:

- (a) The development of a mold assessment report;
- (b) The development of a mold remediation protocol;
- (c) The development of a mold management plan; and
- (d) The collection or analysis of a mold sample(s).

**Mold assessment report** - a document prepared by an indoor mold assessment professional for a client that describes any observations made, measurements taken, and locations and analytical results of samples taken during a mold assessment. An assessment report can be either a stand-alone document or a part of a mold management plan or mold remediation protocol.

**Mold management plan** - a document prepared by an indoor mold assessment professional for a client that provides guidance on how to prevent and control indoor mold growth at a location.

**Mold professional** – indoor mold assessment and indoor mold remediation professionals.

**Mold-related activities** - the performance of a mold assessment, mold remediation, or related activities.

**Mold remediation** - the removal, cleaning, sanitizing, demolition, or other treatment, including preventive activities, of mold or mold-contaminated matter.

**Mold remediation protocol** - a document, prepared by an indoor mold assessment professional for a client, that:

- (a) Includes relevant photograph(s) of the scene of mold remediation prior to remediation;
- (b) Specifies the estimated quantities and locations of materials to be remediated; and
- (c) Specifies the proposed remediation methods and verification criteria for each type of remediation in each type of area for a mold remediation project.

**Mold remediation work plan** - a document, prepared by an indoor mold

remediation professional that fulfills all of the requirements of the mold remediation protocol and provides specific instructions or standard operating procedures for how a mold remediation project shall be performed.

**Person** - an individual, corporation, company, contractor, subcontractor, association, firm, partnership, joint stock company, foundation, institution, trust, society, union, District government entity, or any other association of individuals.

**Personal Protective Equipment** – items worn on an individual that limit their exposure to mold, including but not limited to gloves, goggles, respirators, and body suits.

**Preventive activities** - actions intended to prevent future indoor mold growth at a remediated area, including repairing leaks and other sources of water intrusion, and applying biocides or anti-microbial compounds.

**Professional engineer** - an engineer registered in a United States or Canadian jurisdiction.

**Professional registered sanitarian** - a sanitarian registered in a United States or Canadian jurisdiction, or by a Department-approved national organization.

**Project** - mold-related activities at a particular address for which a specific start date and a specific stop date is or will likely be provided.

**Registered Architect** - An architect registered in a United States or Canadian jurisdiction.

**Relevant field experience** - experience that involves:

- (a) For a mold indoor mold assessment professional: conducting microbial sampling or investigations; or
- (b) For a mold indoor mold remediation professional: mold remediation as defined in this section.

**Residential Property** - a building that contains one or more dwelling units, including common areas. Each street address constitutes a different residential property.

**Routine cleaning** - cleaning that is ordinarily done on a regular basis.

**Start date** - the date on which the mold remediation begins. Preparation work is not considered mold remediation.



**Stop date** - the date following the day on which an indoor mold assessment professional issues a verification report to the client and the applicable indoor mold remediation professional.

**Supervise or supervision** - to direct and exercise control over the activities of an individual by being physically present at the job site or, if not physically present, accessible by telephone within ten minutes and able to be at the site within one hour of being contacted.

**Survey** - an activity undertaken in a building to determine the presence or absence, location, or quantity of indoor mold or to determine the underlying condition(s) contributing to indoor mold growth, whether by visual or physical examination or by collecting samples of potential mold for further analysis.

**Transient housing business** - A business licensed, or required to be licensed under D.C. Official Code § 47-2828 and its implementing regulations, that provides or offers lodging for a consideration. Transient housing businesses include, but are not limited to, hotels, motels, inns, rooming houses, bed and breakfast establishments and boarding houses. A transient housing business also includes any building or part of a building that the owner also occupied where customers are provided with, or offered, lodging, for consideration for a period of less than thirty (30) consecutive days.

**Verification report** - a document that an indoor mold assessment professional issues when the indoor mold assessment professional determines that a project's remediation has been successful. The report includes:

- (a) A description of relevant worksite observations;
- (b) The type and location of relevant measurements made and samples collected at the worksite;
- (c) Relevant data obtained at the worksite, including but not limited to temperature, humidity, and material moisture readings;
- (d) The results of analytical evaluation of the samples collected at the worksite;
- (e) Copies of relevant photographs;
- (f) If necessary, recommendations of specific professional disciplines that may be needed to determine that the cause and origin of moisture leading to indoor mold growth has been properly

remediated;

- (g) If additional professional disciplines are recommended in paragraph (f), a statement that the project's verified completion is contingent upon said discipline(s) performing work that remediates the cause and origin of moisture leading to indoor mold growth;
- (h) An area for the indoor mold remediation professional that worked on the project to include his or her name, signature, company name, and license number, with language stating "I hereby certify that I completed mold remediation on this project"; and
- (i) Clear statements, based on the indoor mold assessment professional's observation, that:
  - (1) All project areas are free from visible mold, and visible dust and debris as they are related to the project;
  - (2) All work has been completed in compliance with the remediation protocol;
  - (3) All identified underlying causes of the mold have been remediated so that it is reasonably certain that the mold will not return from these same causes; and
  - (4) The project is verified as complete.

**Visible** - capable of being seen with the naked eye, either by a lay person following the guidelines in § 3206, or by an indoor mold assessment professional following the standards in this chapter and best industry practices.

# EVERYTHING YOU NEED TO KNOW ABOUT THE DISTRICT'S MOLD LAW

## Overview of the Mold Law

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- The Air Quality Amendment Act of 2014 (Public Law No. 20-135) contains important rights for tenants dealing with mold in residential units. The law generally requires landlords to inspect and remediate mold, and in certain cases requires that the work be done by qualified professionals.
- The law became effective on September 9, 2014, although certain provisions of the law could not go into effect until the District Department of the Environment (DDOE) adopted implementing regulations.
- After conducting a rulemaking proceeding, DDOE has now adopted the implementing regulations. The regulations became effective on April 22, 2016. *Mold Assessment and Remediation Licensure Regulations*, 63 DCR 6098 (April 22, 2016).
- The law only applies to *indoor* mold in *residential* buildings.

## The Definition of "Mold"

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- The law defines "indoor mold" broadly as "living or dead fungi or related products or parts, including spores hyphae, and mycotoxins, on an interior surface of a building, including common spaces, utility spaces, HVAC, or other systems." (Public Law No. 20-135, § 302(4))
- The regulations define "indoor mold growth" as "mold that exists on an interior surface of a building, including common spaces, utility spaces, HVAC, or other systems, and is visible." (20 DCMR § 3299.1)
  - The regulations define "visible" as "capable of being seen with the naked eye, either by a lay person following [DDOE] guidelines ..., or by an indoor mold assessment professional following the standards in this chapter and best industry practices." (20 DCMR § 3299.1)

## The Landlord's Duty under the Mold Law: 7 Days to Inspect + 30 Days to Remediate

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- The law states that a "residential property owner who receives written notice or electronic notice from a tenant that indoor mold or suspected indoor mold exists in the dwelling unit or in a common area of the property shall inspect the property within 7 days and remediate the condition ... within 30 days of the inspection unless a shorter timeframe is ordered by a court or the Mayor." (Public Law No. 20-135, § 305(a))
- Note that the landlord's duty is only triggered by *written* or *electronic* notice; oral notice is not sufficient.

# EVERYTHING YOU NEED TO KNOW ABOUT THE DISTRICT'S MOLD LAW

## When Is the Landlord Required to Use Qualified Professionals? The "Ten Square Feet" Threshold

- Meeting or Exceeding the Threshold. The landlord must use an indoor mold assessment professional and an indoor mold remediation professional to address the mold problem if the total surface area of indoor mold growth in an "affected" area in the apartment or indoor common area is ten square feet (10 ft.<sup>2</sup>) or more. (Public Law No. 20-135, § 305(b) & (c); 20 DCMR §§ 3201.2; 3204.1; 3206.2, 3206.6)
  - "Affected" is defined as "in close proximity, likely impacted from the same source of water intrusion or moisture accumulation." (20 DCMR § 3299.1)
  - For example, the 10 ft.<sup>2</sup> threshold is satisfied where a group of mold spots that are in close proximity to each other measures five feet high and 2 feet wide.
  - Indoor mold that meets or exceeds the 10 ft.<sup>2</sup> threshold is considered "indoor mold contamination" under the law. (Public Law No. 20-135, § 302(5))
- Licensing. DDOE has adopted regulations defining who qualifies as an "indoor mold assessment professional" and an "indoor mold remediation professional."
  - In general, assessment and remediation professionals must comply with various licensing requirements adopted by DDOE. (Public Law No. 20-135, § 304; 20 DCMR § 3202)
- Unlicensed Workers Supervised by Licensed Professional. Unlicensed individuals may perform assessment and remediation work on mold projects exceeding the 10 ft.<sup>2</sup> threshold provided they are supervised by a licensed professional. (20 DCMR §§ 3201.5)
  - "Supervise" is defined as "to direct and exercise control over the activities of an individual by being physically present at the job site or, if not physically present, accessible by telephone within ten minutes and able to be at the site within one hour of being contacted." (20 DCMR § 3299.1)
  - The licensed professional must "ensure that supervisees are following best practices and applicable laws and regulations." (20 DCMR § 3204.4(i))
  - The licensed professional may not supervise the work of more than ten individuals at one time. (20 DCMR § 3204.5(i))
- Falling Below the Threshold. If the mold falls below the 10 ft.<sup>2</sup> threshold, the landlord is not required to use a qualified mold professional to assess or remediate the problem, but must nonetheless remediate the mold according to DDOE guidelines. (Public Law No. 20-135, § 305(b); 20 DCMR § 3201.2)
  - If after beginning work on a mold problem the landlord's maintenance staff (or any other unlicensed worker) discovers that the 10 ft.<sup>2</sup> threshold is in fact

## EVERYTHING YOU NEED TO KNOW ABOUT THE DISTRICT'S MOLD LAW

satisfied, all mold work must cease and the landlord must obtain qualified mold professionals to assess and remediate the mold. (20 DCMR §§ 3201.8, 3206.6)

### Assessing and Remediating Mold that Meets or Exceeds the "10 ft.<sup>2</sup>" Threshold

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- Professional Assessment and Remediation. When the indoor mold meets or exceeds the 10 ft.<sup>2</sup> threshold, the landlord must use a qualified indoor mold assessment professional to assess the mold, and a separate, qualified indoor mold remediation professional to remediate the mold.
  - The indoor mold assessment professional should prepare a mold assessment report, prepare a mold remediation protocol if indoor mold growth is found, establish any necessary containment and other procedures to protect the health and safety of workers and tenants during the work, and specify methods for verifying that the mold problem and the underlying causes of the problem have been successfully remediated. (20 DCMR §§ 3204.6, 3205.1)
  - The indoor mold remediation professional should prepare a work plan that follows the mold remediation protocol developed by the assessment professional, and perform the remediation work in a way that protects the health and safety of workers and tenants during the work. (20 DCMR §§ 3204.7, 3205.2)
  - Within 20 days of the successful completion of remediation activities, the professional mold assessment and remediation professionals should issue a report verifying that the mold has been successfully remediated. The verification report should also confirm that the underlying causes of the mold have been remediated so that it is reasonably certain that the mold will not return from these same causes. (20 DCMR §§ 3204.6(d), 3204.7(c), 3299.1)
- Minimum Performance Standards. Indoor mold assessment and remediation professionals must comply with DDOE minimum performance standards and work practices designed to ensure the mold is remediated safely and effectively. (20 DCMR §§ 3205.1, 3205.2)
- Disclosure of Reports. Indoor mold assessment and remediation professionals must provide their reports to their clients (presumably the landlord or property manager), but are not required by the mold law to provide their reports to the tenant unless ordered to do so by DDOE. (Public Law No. 20-135, § 303(b)) (Of course, the tenant can request the landlord/property manager to disclose these reports in a court case brought by the tenant.)
- Notice to DDOE. Indoor mold assessment and remediation professionals are required to notify DDOE about assessment and remediation projects involving mold meeting or exceeding the 10 ft.<sup>2</sup> threshold. (20 DCMR §§ 3209.1, 3209.2)

# EVERYTHING YOU NEED TO KNOW ABOUT THE DISTRICT'S MOLD LAW

## Assessing and Remediating Mold that Falls Below the "10 ft.<sup>2</sup>" Threshold

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- Consult with a Professional. Although the landlord is not required to use qualified professionals to perform the assessment and remediation work in dealing with mold that falls below the 10 ft.<sup>2</sup> threshold, the landlord should, in general, consult with an indoor mold assessment professional when assessing the extent of a moisture problem and indoor mold growth and performing related activities. (20 DCMR § 3206.1)
- Minimum Work Guidelines: Assessment. Under DDOE guidelines (20 DCMR §§ 3206.2, 3206.3), landlords should assess the following before taking any steps to remediate mold falling below the 10 ft.<sup>2</sup> threshold:
  - The extent of water damage, indoor mold growth, and affected building materials;
  - Crawl spaces, attics, behind wallboards, carpet backing, wallpaper, baseboards, insulation and other materials that are suspected of hiding indoor mold growth;
  - Ventilation systems for damp conditions and indoor mold growth;
  - Materials that are susceptible to indoor mold growth when damp, including ceiling tiles, drywall, and structural wood.
- Minimum Work Guidelines: Remediation. If the landlord's assessment identifies indoor mold growth or water-damaged materials, remediation shall be conducted according to DDOE guidelines (20 DCMR § 3206.5 and DDOE guidance document), including:
  - The underlying moisture problem should be corrected to prevent recurring indoor mold growth.
  - Relative humidity should be maintained at levels below 65% to inhibit indoor mold growth.
  - Building maintenance staff should be properly trained about the causes of moisture intrusion and mold growth, health concerns related to mold exposure, and mold remediation work practices.
  - DDOE guidelines set forth detailed steps for remediating water damage within 24-48 hours to prevent indoor mold growth, and for remediating different types of materials that have or are likely to have visible indoor mold growth.
  - Link to DDOE document:  
[http://doee.dc.gov/sites/default/files/dc/sites/ddoe/release\\_content/attachment\\_s/Mold%20Licensure%20-%20Guidance%20Document%20-%20Final.pdf](http://doee.dc.gov/sites/default/files/dc/sites/ddoe/release_content/attachment_s/Mold%20Licensure%20-%20Guidance%20Document%20-%20Final.pdf)

# EVERYTHING YOU NEED TO KNOW ABOUT THE DISTRICT'S MOLD LAW

## Painting Over Mold Does Not Solve the Problem

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- The EPA's website states: "Do not paint or caulk moldy surfaces. Clean up the mold and dry the surfaces before painting. Paint applied over moldy surfaces is likely to peel."  
<https://www.epa.gov/mold/mold-cleanup-your-home> (last visited 6/14/2016)
- A guidance document issued by DHS, CDC, FEMA, HUD, and NIH regarding mold cleanup after disasters states: "Painting or caulking over mold will not prevent mold from growing. Fix the water problem completely and clean up all the mold before you paint or caulk."  
[http://www.cdc.gov/mold/pdfs/homeowners\\_and\\_renters\\_guide.pdf](http://www.cdc.gov/mold/pdfs/homeowners_and_renters_guide.pdf) (page 3) (last visited 6/14/2016)

## Remedies

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- Presumption of Code Violation. A professional indoor mold assessment finding "indoor mold contamination" (*i.e.*, indoor mold meeting or exceeding the 10 ft.<sup>2</sup> threshold) in the tenant's unit or a common area creates a rebuttable presumption of a violation of the housing code / property management code. (Public Law No. 20-135, § 306(a)(1))
  - To establish the presumption, the tenant must show that the landlord received a written or electronic copy of the professional indoor mold assessment that determined that indoor mold contamination existed in the tenant's dwelling unit.
- Reimbursement of Costs. In ruling in favor of a tenant and finding a violation of the Housing or Property Maintenance Code based on a professional mold assessment, a court may order the landlord to reimburse the tenant for the mold assessment costs and may award attorney's fees and court costs. (Public Law No. 20-135, § 306(a)(2))
- Treble Damages. A court may award treble damages when (1) the tenant discovered the mold, (2) a professional indoor mold assessment determined that "indoor mold contamination" (*i.e.*, indoor mold meeting or exceeding the 10 ft.<sup>2</sup> threshold) existed in the tenant's dwelling unit; (3) the landlord received the indoor mold assessment in written or electronic form; (4) the landlord did not remediate the indoor mold within 60 days; and (4) the court finds that the landlord acted in bad faith. (Public Law No. 20-135, § 306(a)(2))
- DCRA. DCRA may rely on a professional mold assessment to issue a notice of violation for a defective surface in violation of the Housing or Property Maintenance Code. (Public Law No. 20-135, § 306(b))
- Indoor Mold Assessment and Remediation Fund: Any excess licensing fees collected by DDOE (as well as any funds appropriated by the Council in the future) may be used for grants (1) to low-income tenants to pay for mold assessment when the owner does not remediate, or (2) to owners without financial means to pay for mold remediation. (Public Law No. 20-135, §§ 304(d), 308)

# EVERYTHING YOU NEED TO KNOW ABOUT THE DISTRICT'S MOLD LAW

## Disclosure to Prospective Tenants

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- A landlord's disclosures to prospective tenants (already required under the Rental Housing Act) must include information known or that should have been known about the presence of indoor mold meeting or exceeding the 10 ft.<sup>2</sup> threshold in the rental unit or common areas in the previous 3 years, *unless* the mold has been remediated by an indoor mold remediation professional. (Public Law No. 20-135, § 301)



AN ACT

**D.C. ACT 21-566**

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

**DECEMBER 7, 2016**

To amend the Rental Housing Act of 1985 to clarify that a housing provider is prohibited from circumventing the rent control law by imposing on a tenant any mandatory fee for services or facilities except as included in the maximum rent charged, to prohibit a housing provider from entering a rental unit without a reasonable purpose, at a reasonable time, with reasonable notice to the tenant, to require that a housing provider have an affirmative duty to mitigate damages due to a tenant's breach of a rental agreement, to clarify that a tenant in a month-to-month tenancy is never required to provide more than a 30-day notice of the tenant's intention to vacate the premises, to otherwise restrict the use of lease provisions that require a tenant to provide more than 30 days notice of a tenant's intention to vacate the premises, to stipulate that where the lease provision requires the tenant to secure the housing provider's consent before subletting the premises or where the lease is silent that it be based on reasonable rental guidelines to be furnished to the tenant upon request, to provide a tenant with damages when a housing provider places or causes to be placed a prohibited provision in a lease in bad faith, and to add certain tenant protections concerning issues arising from ordinary wear and tear of apartments and their furnishings; and to amend An Act To establish a code of law for the District of Columbia to clarify that a residential tenant is never required to provide more than a 30-day notice of the tenant's intention to vacate the premises.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Residential Lease Clarification Amendment Act of 2016".

Sec. 2. The Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; D.C. Code § 42-3501.01 *et seq.*), is amended as follows:

(a) The table of contents is amended as follows:

(1) Insert the phrase "Sec. 211a. Mandatory fees prohibited." after the phrase "Sec. 211. Services and Facilities."

(2) A new Title V-A is added to read as follows:

"TITLE V-A. OTHER HOUSING PROVIDER ACTIONS DURING TENANCIES

"Sec. 531. Access by housing provider to dwelling unit.

"Sec. 532. Housing provider duty to mitigate damages after breach of the rental agreement by tenant.

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“Sec. 533. Notice of tenant’s intent to vacate upon the expiration of an initial lease term.

“Sec. 534. Notice of tenant’s intent to vacate after the expiration of the signed lease term, renewal or extension term.

“Sec. 535. Housing provider’s consent before subletting.”.

(b) A new section 211a is added to read as follows:

“Sec. 211a. Mandatory fees prohibited.

“(a) A housing provider shall not impose on a tenant a mandatory fee for any service or facility that has not been approved pursuant to section 211 or section 215.

“(b) A housing provider who violates this section shall be liable to the tenant for treble damages pursuant to section 901(a).”.

(c) Section 217 (D.C. Official Code § 42-3502.17) is amended by adding a new subsection (c) to read as follows:

“(c)(1) No housing provider shall withhold a security deposit for the replacement value of apartment items that are damaged due to ordinary wear and tear.

“(2) A covenant or promise by a tenant to leave, restore, surrender, or yield a leased premises in good repair does not obligate the tenant to make substantial repairs, replace obsolete materials, or fix other defects without negligence or fault on the tenant’s part.

“(3) For the purposes of this subsection, the term “ordinary wear and tear” means deterioration that results from the intended use of a dwelling unit, including breakage or malfunction due to age or deteriorated condition. The term “ordinary wear and tear” does not include deterioration that results from negligence, carelessness, accident, or abuse of the unit, fixtures, equipment, or other tangible personal property by the tenant, immediate family member, or a guest.”.

(d) A new Title V-A is added to read as follows:

“TITLE V-A

“OTHER HOUSING PROVIDER ACTIONS DURING TENANCIES

“Sec. 531. Access by housing provider to dwelling unit.

“(a) For the purposes of this section, the term:

“(1) “Reasonable notice” means written notice provided to the tenant at least 48 hours before the time the housing provider wishes to enter the unit or a shorter period of time as agreed to by the tenant in writing. Written notice may include electronic communication, including email and mobile text messaging; provided, that if the tenant fails to furnish a written acknowledgement, the housing provider will provide a paper notice

“(2) “Reasonable purpose” means a purpose that is directly related to the housing provider’s:

“(A) Duty to keep the entire property safe from damage;

“(B) Duty to inspect the premises;

“(C) Duty to make necessary or agreed repairs, decorations, alterations, renovations, or improvements;

“(D) Duty to supply necessary or agreed services and maintenance;

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“(E) Need to exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen, or contractors; or

“(F) Need to gain entry for work ordered by a governmental entity.

“(3) “Reasonable time” means a time between the hours of 9 a.m. and 5 p.m., and not on a Sunday or federal holiday, or at another time agreed upon by the tenant.

“(b)(1) Except in the event of an emergency for the protection or preservation of the premises, or for the protection and safety of the tenants or other persons, a housing provider may enter a rental unit during a tenancy only for a reasonable purpose, at a reasonable time, and after having provided the tenant with reasonable notice.

“(2) Upon a showing by the tenant that the housing provider has entered a unit in violation of this section, or has repeatedly made unreasonable demands for entry, any court of competent jurisdiction may enjoin the housing provider from that behavior and may assess appropriate damages against the housing provider for breach of the tenant’s right to quiet enjoyment of the premises.

“(3) Upon the allegation of a housing code violation by a tenant, a tenant may not unreasonably prevent the housing provider from accessing the unit for assessment and abatement of the alleged violation and must provide access to the unit within 48 hours of the written request by the housing provider for access.

“Sec. 532. Housing provider duty to mitigate damages after breach of the rental agreement by tenant.

“If a tenant refuses to take possession of a rental unit in bad faith, or vacates a rental unit before the end of a lease term, any actual damages the housing provider may be entitled to shall be subject to the duty of the housing provider to mitigate actual damages for breach of the rental agreement.

“Sec. 533. Notice of tenant’s intent to vacate upon the expiration of an initial lease term.

“Any provision that requires a tenant to provide more than a 30-day notice to the housing provider of the tenant’s intention to vacate the premises upon the expiration of an initial lease term shall be void and unenforceable, unless the lease explicitly states that the provision expires upon the expiration of the initial lease term, and that, unless the tenant agrees to sign a renewal lease of other than month-to-month, the tenant thereafter has the right to vacate the premises upon a 30-day notice for so long as the tenant remains a tenant from month-to-month.

“Sec. 534. Notice of tenant’s intent to vacate after the expiration of the signed lease term, renewal or extension term.

“(a) A residential tenancy from month-to-month may be terminated by a 30-day notice in writing only from the tenant to the housing provider of the tenant’s intention to quit. The notice shall expire on the first day of the first month at least 30 days after the date of the notice.

“(b) A housing provider shall not place or cause to be placed in a residential lease or rental agreement a requirement that the tenant provide more than a 30-day notice to the housing provider of the tenant’s intention to vacate the premises, unless the lease or agreement also requires the housing provider to provide the tenant with a written notice of any rent increase that is at least 15 days more than that time period.

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“Sec. 535. Housing provider’s consent before subletting.

“A housing provider may, in its sole and absolute discretion, prohibit subletting of the premise or assigning a lease, either in part or in full; provided, that the prohibition is included in the lease. Where the lease provision allows subletting subject to the housing provider’s reasonable consent or where the lease is silent regarding subletting, the housing provider may condition its consent on the prospective subtenant meeting all of the housing provider’s reasonable rental qualification guidelines; provided, that the housing provider furnishes the guidelines to the tenant upon request.”

(e) Section 901 (D.C. Official Code § 42-3509.01) is amended by adding a new subsection (a-1) to read as follows:

“(a-1) A housing provider found to have violated any provision of section 533, section 534, or section 535, or section 304 of Title 14 of the Housing Regulations of the District of Columbia, issued August 11, 1955 (C.C. 55-1503; 14 DCMR § 304), shall be liable to the tenant for treble damages if the housing provider is found to have acted in bad faith.”

Sec. 3. Section 1219 of An Act To establish a code of law for the District of Columbia, approved March 3, 1901 (31 Stat. 1382; D.C. Official Code § 42-3202), is amended to read as follows:

“Sec. 1219. NOTICES TO QUIT. --

“(a) A commercial tenancy from month-to-month, or from quarter-to-quarter, may be terminated by a 30-day notice in writing from the housing provider to the tenant to quit, or by such a notice from the tenant to the housing provider of the tenant’s intention to quit. The notice shall expire on the first day of the first month at least 30 days after the date of the notice.

“(b) A residential tenancy may be terminated by a 30-day notice in writing only from the tenant to the housing provider of the tenant’s intention to quit. The notice shall expire on the first day of the first month at least 30 days after the date of the notice.”

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 5. Effective date.

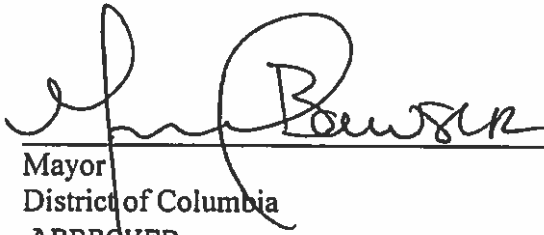
This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as

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provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman  
Council of the District of Columbia



Mayor  
District of Columbia  
APPROVED  
December 7, 2016



**COUNCIL OF THE DISTRICT OF COLUMBIA  
WASHINGTON, D.C. 20004**

Docket No. **B21-420**

- ITEM ON CONSENT CALENDAR  
 ACTION & DATE  
 VOICE VOTE  
 RECORDED VOTE ON REQUEST

**ADOPTED FIRST READING, 11/01/2016**

**APPROVED**

ABSENT

ROLL CALL VOTE - Result (.....)

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Mendelson	X				Evans	X				Silverman	X			
Alexander				X	Grosso	X				Todd	X			
Allen	X				May	X				White	X			
Bonds	X				McDuffie	X								
Cheh	X				Nadeau	X								

X - Indicate Vote

AB - Absent

NV - Present, Not Voting

CERTIFICATION RECORD

Secretary to the Council

11-21-16  
Date

- ITEM ON CONSENT CALENDAR  
 ACTION & DATE  
 VOICE VOTE  
 RECORDED VOTE ON REQUEST

**ADOPTED FINAL READING, 11/15/2016**

**APPROVED**

ABSENT

ROLL CALL VOTE - Result (.....)

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Mendelson	X				Evans	X				Silverman	X			
Alexander	X				Grosso	X				Todd	X			
Allen	X				May	X				White	X			
Bonds	X				McDuffie	X								
Cheh	X				Nadeau	X								

X - Indicate Vote

AB - Absent

NV - Present, Not Voting

CERTIFICATION RECORD

Secretary to the Council

11-21-16  
Date

- ITEM ON CONSENT CALENDAR  
 ACTION & DATE  
 VOICE VOTE  
 RECORDED VOTE ON REQUEST

ABSENT

ROLL CALL VOTE - Result (.....)

Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB	Councilmember	Aye	Nay	NV	AB
Chmn. Mendelson					Evans					Silverman				
Alexander					Grosso					Todd				
Allen					May					White				
Bonds					McDuffie									
Cheh					Nadeau									

X - Indicate Vote

AB - Absent

NV - Present, Not Voting

CERTIFICATION RECORD

\_\_\_\_\_  
Secretary to the Council

\_\_\_\_\_  
Date