

**DISTRICT OF COLUMBIA
DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS
OFFICE OF PLANNING (HISTORIC PRESERVATION OFFICE)
DEPARTMENT OF HEALTH
DEPARTMENT OF MENTAL HEALTH
AND
DEPARTMENT OF INSURANCE, SECURITIES, AND BANKING**

NOTICE OF FINAL RULEMAKING

CIVIL INFRACTIONS: SCHEDULE OF FINES AMENDMENTS

The Directors of the Department of Consumer and Regulatory Affairs (DCRA), the Office of Planning's Historic Preservation Office (HPO), the Department of Health (DOH), the Department of Mental Health (DMH), and the Department of Insurance, Securities, and Banking, pursuant to the authority set forth in section 104 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 ("the Act"), effective October 5, 1985, (D.C. Law 6-42; D.C. Official Code § 2-1801.04); section 10 of the Historic Landmark and Historic District Protection Act of 1978 (D.C. Law 2-144, as amended, D.C. Official Code § 6-1110), section 4902 of the Department of Health Functions Clarification Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-731); section 114 of the Mental Health Service Delivery Reform Act of 2001, effective December 18, 2001 (D.C. Law 14-56, D.C. Official Code § 7-1131.14); section 4 of the Department of Insurance and Securities Establishment Act of 1996, effective May 21, 1997 (D.C. Law 11-268; D.C. Official Code § 31-103); Mayor's Order 2004-46, dated March 22, 2004; Mayor's Order 2002-103, dated June 18, 2002; and Mayor's Order 99-141, dated September 2, 1999, Mayor's Order 86-38, dated March 6, 1986, Mayor's Order 83-119, dated May 6, 1983, Mayor's Order 83-25, dated January 3, 1983, Mayor's Order 79-50, dated March 21, 1979, hereby gives notice that final rulemaking action was taken on May 18, 2005 to adopt the following rulemaking to amend Title 16 of the District of Columbia Municipal Regulations (DCMR).

The final rules amend the definitions of Class 1, Class 2 and Class 3 infractions, increase the fine amounts for all classes of infractions, and expand the definition of recidivism for housing providers. In addition, the final rulemaking divides the civil infractions schedule of fines by District of Columbia Government agencies including the Department of Consumer and Regulatory Affairs (DCRA), Fire and Emergency Medical Services (D.C. Fire and EMS), the Department of Mental Health (DMH), the Department of Health (DOH), the Department of Insurance, Securities, and Banking (DISB) and the Historic Preservation Office (HPO) of the Office of Planning.

The rules were published as proposed rulemaking on April 1, 2005, in 52 *D.C.R.* 3253. On February 16, 2005, the proposed rulemaking was submitted to the Council of the District of Columbia for a 60-day period of review. The period of review ended on May 1, 2005 and the Council did not disapprove or amend the proposed rulemaking. The proposed rules included a

redesignation of Title 16 to encompass chapters 1 – 31 and a new Title 16A to encompass chapters 32 and 33. There will not be a new Title 16A. Chapter 32 of Title 16 will continue to contain the Schedule of Fines for the Act, including definitions of the classes of infractions, the fine amounts for each class, and related provisions regarding recidivism. New Chapters 33 – 38 of Title 16 will contain the classification of infractions for the listed District Government agencies with a clarifying provision in each chapter indicating that the provisions of Chapter 32, will apply to each infraction listed in the new chapters. (The current 16 DCMR Chapter 33 containing fines for the Department of Mental Health have been moved to the new 16 DCMR Chapter 35). Comments have been received and considered. There have been no substantive changes made to the proposed rules, only the proposed rules renumbered as described above and the caption changed to clarify that the Historic Preservation Office is in the Office of Planning. These final rules will be effective upon publication of this notice in the *D.C. Register*.

Chapter 32 of Title 16 DCMR (Civil Infractions Schedule of Fines) is amended to read as follows:

CHAPTER 32 CIVIL INFRACTIONS: SCHEDULE OF FINES

Secs.

3200 Classes of Infractions

3201 Fine Amounts

3200 CLASSES OF INFRACTIONS

3200.1 The schedule of fines set forth in this chapter shall include the following classes:

- (a) Class 1 - Egregious infractions that result from flagrant, fraudulent, or willful conduct, or unlicensed activity, or that are imminently dangerous to the health, safety, or welfare of persons within the District of Columbia;
- (b) Class 2 - Other serious infractions that result from flagrant, fraudulent, or willful conduct, or unlicensed activity, or that are imminently dangerous to the health, safety, or welfare of persons within the District of Columbia;
- (c) Class 3 - Infractions that involve a failure to comply with a law or rule requiring periodic renewal of licenses or permits, or infractions that are serious and have an immediate, substantial impact on the health, safety, or welfare of persons within the District of Columbia;
- (d) Class 4 - Infractions that involve a failure to post required licenses or permits, or infractions that are minor, but have the potential to be hazardous to the health, safety, or welfare of persons within the District of Columbia; and

- (e) Class 5 - Infractions that collectively create a nuisance but individually do not pose a threat to the health, safety, or welfare of persons within the District of Columbia.

3200.2 The schedule of fines may also include infractions that have not been classified in accordance with § 3200.1.

3201 FINE AMOUNTS

3201.1 The fines for the infractions specified in § 3200.1 shall be as follows:

- (a) For Class 1 infractions, the fines are as follows:
 - (1) For the first offense.....\$ 2,000;
 - (2) For the second offense.....\$ 4,000;
 - (3) For the third offense..... \$ 8,000;
 - (4) For the fourth and subsequent offenses.....\$16,000;
- (b) For Class 2 infractions, the fines are as follows:
 - (1) For the first offense.....\$ 1,000;
 - (2) For the second offense.....\$ 2,000;
 - (3) For the third offense.....\$ 4,000;
 - (4) For the fourth and subsequent offenses.....\$ 8,000;
- (c) For Class 3 infractions, the fines are as follows:
 - (1) For the first offense.....\$ 500;
 - (2) For the second offense.....\$ 1,000;
 - (3) For the third offense..... \$ 2,000;
 - (4) For the fourth and subsequent offenses.....\$ 4,000;
- (d) For Class 4 infractions, the fines are as follows:

- (1) For the first offense.....\$ 100;
- (2) For the second offense.....\$ 200;
- (3) For the third offense..... \$ 400;
- (4) For the fourth and subsequent offenses.....\$ 800;

(e) For Class 5 infractions, the fines are as follows:

- (1) For the first offense.....\$ 50;
- (2) For the second offense.....\$ 100;
- (3) For the third offense..... \$ 200;
- (4) For the fourth and subsequent offenses.....\$ 400.

3201.2 An infraction shall be a repeat infraction and shall carry the enhanced penalties set forth in § 3201.1 if:

- (a) The infraction is a violation by the same person of the same provision of a law or rule committed within 3 years following the initial infraction; or
- (b) The infraction is a violation by the same person within the same three-year (3 year) period and involves the same property, building or dwelling unit as the initial infraction and where both infractions involve a violation of any housing code provision or housing regulation of the Housing Regulations Subtitle A of Title 14 DCMR.

3201.3 An infraction committed by an individual acting as agent, partner, director, officer, or employee of a person shall be considered to have been committed by that person.

3201.4 For purpose of this Title, the term “person” means corporations, firms, agencies, companies, associations, organizations, partnerships, societies, and joint stock companies, as well as individuals.

3201.5 When a Notice of Infraction is issued, an the infraction is for the violation of a law contained in an unenacted title of the D.C. Official Code, or any superseding official code, the Notice of Infraction may cite the D.C. Official Code, or any superseding official code, provision instead of the organic law citation cited in this Title.

3201.6 The parenthetical language which follows the laws or regulations listed in this Title is only descriptive and the provisions of the cited law or regulation are controlling if there is any conflict between the cited law or regulation and the descriptive parenthetical language.

Chapter 33 of Title 16 DCMR is amended to read as follows:

**CHAPTER 33 DEPARTMENT OF CONSUMER & REGULATORY
AFFAIRS (DCRA) INFRACTIONS**

Secs.

3300	Administrative Procedures and Schedule of Fines Applicable
3301	Business and Professional Licensing Administration Infractions
3302	Corporation Division Infractions
3303	Office of Investigation, Weights and Measures Infractions
3304	Towing Service for Motor Vehicles Infractions
3305	Housing Inspection Division Infractions
3306	Building Inspection Division Infractions
3307	Building Condemnation Division Infractions
3308	Rental Accommodations and Conversion Division Infractions
3309	Fire Protection Division Infractions
3310	Housing Protection Division Noise Infractions
3311	Vacant Property Infractions
3312	Zoning Division Infractions

**3300 ADMINISTRATIVE PROCEDURES AND SCHEDULE OF FINES
APPLICABLE**

3300.1 The civil infractions set forth in this chapter are subject to the provisions of Chapter 31 (Administrative Procedures) and Chapter 32 (Schedule of Fines) of this Title.

**3301 BUSINESS AND PROFESSIONAL LICENSING ADMINISTRATION
INFRACTIONS**

3301.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) D.C. Official Code § 47-2808 (crying or conducting an auction without a license endorsement);
- (b) D.C. Official Code § 47-2814 (possessing explosives without a license; operating a wholesale fireworks business without a license endorsement);
- (c) D.C. Official Code § 47-2814 (operating a gasoline dealer business without a license endorsement);
- (d) D.C. Official Code § 47-2815 (possessing pyroxlin without a license endorsement);

- (e) D.C. Official Code § 47-2817 (operating a hand and power laundry without a license endorsement);
- (f) D.C. Official Code § 47-2817 (operating a dry cleaning business without a license endorsement);
- (g) D.C. Official Code § 47-2820(a) (operating a motion picture business without a license endorsement);
- (h) D.C. Official Code § 47-2820(b) (operating a building in which skating rinks, fairs, carnivals, balls, dances, exhibitions, lectures, or entertainment of any description including theatrical or dramatic performances of any kind are conducted, for profit or gain, including a public hall or an amusement arcade, without a license endorsement);
- (i) D.C. Official Code § 47-2821 (operating a bowling alley, billiard parlor or pool hall business without a license endorsement);
- (j) D.C. Official Code § 47-2823 (operating grounds used for an athletic exhibition or amusement pack without a license endorsement);
- (k) D.C. Official Code § 47-2826 (operating a special event without a license endorsement);
- (l) D.C. Official Code § 47-2827 (selling food products without a license endorsement);
- (m) D.C. Official Code § 47-2828 (engaging in the business of home improvement contracting without a license endorsement);
- (n) D.C. Official Code § 47-2832 (operating a motor vehicle repair business without a license endorsement);
- (o) D.C. Official Code § 47-2832.01 (operating a parking establishment business without a license endorsement);
- (p) D.C. Official Code § 47-2834 (operating a street or public space vending business without a license endorsement);
- (q) D.C. Official Code § 47-2835 (operating as a solicitor without a license endorsement);
- (r) D.C. Official Code § 47-2836 (operating a tour guide Class A or Class B business without a license endorsement);

- (s) D.C. Official Code § 47-2838 (dealing in dangerous or deadly weapons without a license endorsement);
- (t) D.C. Official Code § 47-2839 (operating a private detective business or operating as a private detective without a license endorsement);
- (u) D.C. Official Code § 47-2851.02 (engaging in business without a basic business license or proper license endorsement);
- (v) D.C. Official Code § 47-2851.03a:
 1. operating an automobile repossession business without a license endorsement;
 2. operating as a motor vehicle dealer without a license endorsement;
 3. operating an employment agency, employer paid personnel service, job listing service, employment counseling service or as an employment counselor without a license endorsement;
 4. operating as a home improvement contractor without a license endorsement
 5. operating as a motor vehicle sales person without a license endorsement;
 6. engaging in the business of, or operating a bed and breakfast inn without a license endorsement;
 7. engaging in the business of, or operating an automobile driving school without a license endorsement; or
 8. engaging in the business of, or operating as a pawnbroker without a license endorsement.
- (w) D.C. Official Code § 47-2851.03a (engaging in any business activity requiring licensure under D.C. Official Code §47-2851.03a without a license endorsement);
- (x) D.C. Official Code § 47-2853.02 (practicing, attempting to practice, or offering to practice any of the following occupations or professions without a valid license, certificate or registration:
 - i. Architect;
 - ii. Asbestos Worker;
 - iii. Barber;

- iv. Certified Public Accountant;
- v. Cosmetologist;
- vi. Electrician;
- vii. Interior Designer;
- viii. Land Surveyor;
- ix. Operating Engineer;
- x. Plumber/Gasfitter;
- xi. Professional Engineer;
- xii. Property Manager;
- xiii. Real Estate Appraiser;
- xiv. Real Estate Broker;
- xv. Real Estate Salesperson;
- xvi. Refrigeration and Air Conditioning Mechanic; or
- xvii. Steam Engineer);

- (y) D.C. Official Code § 47-2883.01 (engaging in the home improvement business without proper bonding);
- (z) D.C. Official Code § 47-2884.04 (operating as a pawn broker without proper bonding);
- (aa) D.C. Official Code § 47-2885.19 (selling over-the-counter preparations (patent medicine) without a license);
- (bb) D.C. Official Code § 47-2887.03(a) (acting as an athletic agent in the District of Columbia without holding a certificate of registration);
- (cc) Section 6 of the District of Columbia Funeral Services Regulatory Act of 1984, effective May 22, 1984 (D.C. Law 5-84; **D.C. Official Code §3-405(e)**) (operating a funeral establishment without a license endorsement);
- (dd) Section 4 of the District of Columbia Solid Waste Facility Permit Act of 1995, effective Feb. 27, 1996 (D.C. Law 11-94; **D.C. Official Code §8-1053**)(operating a solid waste collection business without a license endorsement);
- (ee) Section 15 of the Veterinary Practice Act of 1982, effective Mar. 9, 1983 (D.C. Law 4-171; **D.C. Official Code § 3-514**) (engaging in prohibited veterinary acts);
- (ff) Section 12 of the District of Columbia Funeral Services Regulatory Act of 1984, effective May 22, 1984 (D.C. Law 5-84; **D.C. Official Code §- 3-411**) (engaging in prohibited funeral directing or servicing acts);
- (gg) Section 7 of the Boxing and Wrestling commission Act of 1975 effective Oct. 8, 1975 (D.C. Law 1-20; **D.C. Official Code §3-606(b)**) (engaging or

participating in a boxing or wrestling contest, match, or exhibition without a valid license or permit);

- (hh) Section 6 of the Security and Fire Alarm Systems Regulation Act of 1980, effective Sept. 26, 1980 (D.C. Law 3-107; **D.C. Official Code §7-2805**) (operating an alarm dealer and agent business without a license endorsement); or
- (ii) Section 4 of An Act To provide full and fair disclosure of the character of charitable, benevolent, patriotic, or other solicitations in the District of Columbia, approved July 10, 1957 (71 Stat. 279; **D.C. Official Code §44-1703(a)**) (engaging in the conduct of charitable solicitation without a certificate of registration).

3301.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) D.C. Official Code § 47-2853.17 (employing an unlicensed person to engage in any occupation or profession that is regulated pursuant to D.C. Official Code § 47-2853.04);
- (b) D.C. Official Code § 47-2853.26 (representing to the public by title, description of services, methods, or procedures, or otherwise that the person is authorized to practice any occupation or profession that is regulated pursuant to D.C. Official Code § 47-2853.04);
- (c) Employment Services Licensing and Regulation Act of 1984, effective Mar. 13, 1985 (D.C. Law 5-136; **D.C. Official Code § 32-401 et seq.**, except § 32-402(a)) (violation of any provision of the Employment Services Licensing and Regulation Act of 1984, D.C. Law 5-136, or rule issued pursuant thereto, except section 3(a); (D.C. Official Code § 32-402(a)); or
- (d) Automobile Consumer Protection Act of 1984, effective Mar. 14, 1985 (D.C. Law 5-162; **D.C. Official Code § 50-501 et seq.**) (violation of any provision of the Automobile consumer Protection Act of 1984, or rule issued pursuant thereto).

3302 CORPORATION DIVISION INFRACTIONS

3302.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) Section 151 of the District of Columbia Business Corporation Act (**D.C. Official Code § 29-101.151**) (submitting a document containing a false statement);

- (b) Section 109 of the District of Columbia Nonprofit Corporation Act, 76 Stat. 306, (**D.C. Official Code § 29-301.109**) (submitting a document of a non-profit corporation containing a false statement);
- (c) Section 34 of An Act To amend the Code of the District of Columbia to provide for the organization and regulation of cooperative associations (hereafter the “District of Columbia Cooperative Association Act”), approved June 19, 1940 (54 Stat. 488, ch. 397; **D.C. Official Code § 29-934**) (submitting a report of a cooperative association containing a false statement);
- (d) Section 69 of the Limited Liability Company Act of 1994, (**D.C. Official Code § 29-1068**) (operating a LLC after revocation of the Articles of Organization or Certificate of Registration);
- (e) Section 207 of the Uniform Limited Partnership Act of 1987, (**D.C. Official Code § 33-202.07**) (filing a false statement in certificate of limited partnership);
- (f) Section 907 of the Uniform Limited Partnership Act of 1987 (**D.C. Official Code § 29-209.07**) (doing business without certificate of authority; or
- (g) Section 45 of the District of Columbia Business Corporation Act (**D.C. Official Code § 29-101.45**) (failure to make an entry, allow an inspection of books or keep books open for inspection).

3302.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) Section 48 of the District of Columbia Business Corporation Act, approved June 8, 1954 (68 Stat. 199, ch. 269; **D.C. Official Code § 29-101.48**) (failure of a domestic corporation to file articles of incorporation);
- (b) Section 119 of the District of Columbia Business Corporation Act (**D.C. Official Code § 29-101.119**) (failure of a foreign corporation to obtain a certificate of authority);
- (c) Section 25 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 Technical and Clarifying Amendments Act of 1990, effective Mar. 8, 1991 (D.C. Law 8-237; **D.C. Official Code § 29-101.124**) (operating a corporation after revocation of the articles of incorporation or certificate of authority);
- (d) Section 87 of the District of Columbia Nonprofit Corporation Act, approved, Aug. 6, 1962 (76 Stat. 299; **D.C. Official Code § 29-301.87**)

(operating a non-profit corporation after revocation of the articles of incorporation or certificate of authority);

- (e) Section 14 of the District of Columbia Professional Corporation Act (**D.C. Official Code § 29- 414**) (failure of a foreign professional corporation to obtain a certificate of authority);
- (f) Section 7 of the Limited Liability Company Act of 1994, effective July 23, 1994 (D.C. Law 10-138; **D.C. Official Code § 29-1006**) (failure of a domestic LLC to file Articles of Organization);
- (g) Section 59 of the Limited Liability Company Act of 1994 (**D.C. Official Code § 29-1058**) (failure of a foreign LLC to obtain a certificate of registration);
- (h) Section 11 of the Limited Liability Company Act of 1994, (**D.C. Official Code § 29-1010**) (requirement to appoint or maintain a registered agent);
- (i) Section 65 of the Limited Liability Company Act of 1994, (**D.C. Official Code § 29-1064**) (failure to file a two-year report);
- (j) Section 205 of the Uniform Limited Partnership Act of 1987, effective, Dec. 10, 1987 (D.C. Law 10-138; **D.C. Official Code § 33-202.06**) (failure to file certificate of limited partnership); or
- (k) Section 902 of the Uniform Limited Partnership Act of 1987 (**D.C. Official Code § 29-209.02**) (failure to file a foreign limited liability partnership statement of qualification).

3302.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) Section 10 of the District of Columbia Business Corporation Act (**D.C. Official Code § 29-101.10**) (failure to appoint or maintain a registered agent);
- (b) Section 98 of the District of Columbia Business Corporation Act (**D.C. Official Code § 29-101.98**) (failure to file a two-year report);
- (c) Section 30 of the District of Columbia Nonprofit Corporation Act (**D.C. Official Code § 29- 301.30**) (failure of a domestic non-profit corporation to file articles of incorporation);
- (d) Section 82 of the District of Columbia Nonprofit Corporation Act (**D.C. Official Code § 29-301.82**) (failure of a foreign corporation to obtain a certificate of authority);

- (e) Section 38 of the District of Columbia Cooperative Association Act (**D.C. Official Code § 29-938**) (paying or receiving compensation or a promotion commission for cooperative housing);
- (f) Section 39 of the District of Columbia Cooperative Association Act (**D.C. Official Code § 29-939**) (spreading a false report about the management or finances of any cooperative association);
- (g) Section 106 of the District of Columbia Business Corporation Act (**D.C. Official Code § 29-101.106**) (failure of a foreign corporation to appoint or maintain a registered agent);
- (h) Section 11 of the District of Columbia Nonprofit Corporation Act (**D.C. Official Code § 29-301.11**) (failure of a domestic non-profit corporation to appoint or maintain a registered agent);
- (i) Section 71 of the District of Columbia Nonprofit Corporation Act (**D.C. Official Code § 29-301.71**) (failure of a foreign non-profit corporation to appoint or maintain a registered agent);
- (j) Section 14 of the District of Columbia Professional Corporation Act (**D.C. Official Code § 29-414**) (failure of a professional corporation to appoint or maintain a registered agent);
- (k) Section 112 of the District of Columbia Business Corporation Act (**D.C. Official Code § 29-101.112**) (failure of a foreign corporation to file a two-year report);
- (l) Section 85 of the District of Columbia Nonprofit Corporation Act, (**D.C. Official Code § 29-301.85**) (failure of a domestic and foreign non-profit corporation to file a 2-year report);
- (m) Section 19 of the District of Columbia Professional Corporation Act (**D.C. Official Code § 29-419**) (failure of a professional corporation to file a two-year report);
- (n) Section 35 of the District of Columbia Cooperative Association Act (**D.C. Official Code § 29-935**) (failure of a cooperative association to file an annual report);
- (o) Section 6 of the District of Columbia Cooperative Association Act (**D.C. Official Code § 29-906**) (failure of a cooperative association to file articles of incorporation); or
- (p) Section 37 of the District of Columbia Cooperative Association Act, (**D.C. Official Code § 29-937**) (unauthorized use of term "cooperative").

3302.4 Violation of any provision of the District of Columbia Business Corporation Act, **D.C. Official Code §§ 29-101 et seq.**, District of Columbia Non-Profit Corporation Act, **D.C. Official Code §§ 29-301 et seq.**, District of Columbia Professional Corporation Act, **D.C. Official Code § 29-401 et seq.**, or the District of Columbia Cooperative Association Act, **D.C. Official Code §§ 29-901 et seq.**, **D.C. Official Code 29-101 et seq.**, D.C. Limited Liability Company Act of 1994, **D.C. Official Code § 29-1001 et seq.**, or rule issued pursuant to any of these Acts, which provision or rule is not cited elsewhere in this section, shall be a Class 4 infraction.

3303 DCRA OFFICE OF INVESTIGATION - WEIGHTS AND MEASURES INFRACTIONS

3303.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) Chapter 118, Section 32a of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, effective December 7, 2004 (D.C. Law 15-205; **D.C. Official Code § 37-201.32a**) (operating a weighing or measuring device without payment of the registration and inspection fee);
- (b) Chapter 118, Section 3, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, approved Mar. 3, 1921 (41 Stat. 1218; **D.C. Official Code § 37-201.03(a)**) (use of any weighing device that has not been inspected and approved);
- (c) Chapter 118, Section 4, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1218; **D.C. Official Code § 37-201.04**) (use of any weighing device that has been altered without inspection and approval or after altering any tag or label attached thereto without the permission of the Director);
- (d) Chapter 118, Section 5, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1218; **D.C. Official Code § 37-201.05**) (obstruction of inspection);

- (e) Chapter 118, Section 20 of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1223; **D.C. Official Code § 37-201.20**) (use of a pump or similar device which does not measure correctly); or
- (f) Chapter 118, Section 22, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1224; **D.C. Official Code § 37-201.22**) (refusing inspection).

3303.2 22 DCMR 1910.2(d) Failure of a pharmacy to maintain a prescription balance shall be a Class 2 infraction.

3303.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) Chapter 118, Section 7, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1219; **D.C. Official Code § 37-201.07**) (selling commodities short measured);
- (b) Chapter 118, Section 8, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1219; **D.C. Official Code § 37-201.08**) (selling commodities short weight);
- (c) Chapter 118, Section 9, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1219; **D.C. Official Code § 37-201.09**) (failure to maintain vending machine);
- (d) Chapter 118, Section 10, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1219; **D.C. Official Code § 37-201.10**) (giving improper sales ticket);
- (e) Chapter 118, Section 11, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1219; **D.C. Official Code**

§ 37-201.119(c)) (non-compliance with request for delivery ticket, product weight or vehicle weight for the sale of coal, charcoal or coke);

- (f) Chapter 118, Section 11, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1219; **D.C. Official Code § 37-201.11(f)**) (failure to display name and address on coal, charcoal or coke delivery vehicle);
- (g) Chapter 118, Section 12, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1220; **D.C. Official Code § 37-201.12**) (failure to sell ice by weight or failure to maintain scale on delivery vehicle);
- (h) Chapter 118, Section 13, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1220; **D.C. Official Code § 37-201.13**) (failure to maintain proper printings and markings);
- (i) Chapter 118, Section 14, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1221; **D.C. Official Code § 37-201.14(a)**) (selling frozen or fluid dairy products improperly measured or labeled);
- (j) Chapter 118, Section 14, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1221; **D.C. Official Code § 37-201.14(b)**) (improperly labeled milk varieties);
- (k) Chapter 118, Section 15, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1221; **D.C. Official Code § 37-201.15**) (selling fruits, vegetables or dry commodities in either non-standard containers, incorrect weight or incorrect count);
- (l) Chapter 118, Section 16, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of

Columbia and for other purposes, (41 Stat. 1223; **D.C. Official Code § 37-201.16**) (use of prohibited containers for dry measure);

- (m) Chapter 118, Section 16, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1223; **D.C. Official Code § 37-201.16(a)**) (failure to provide quantity markings on food package);
- (n) Chapter 118, Section 17, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1223; **D.C. Official Code § 37-201.17**) (not selling fire wood in proper measurements);
- (o) Chapter 118, Section 18, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1223; **D.C. Official Code § 37-201.18**) (using non-standard liquid measurements);
- (p) Chapter 118, Section 19, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1223; **D.C. Official Code § 37-201.19**) (selling oysters short measured or selling fish, meat, butter or cheese by means other than avoirdupois weight);
- (q) Chapter 118, Section 21, of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (41 Stat. 1224; **D.C. Official Code § 37-201.21**) (failure to sell by prorate quantity); or
- (r) Violation of any provision of An Act To establish standard weights and measures for the District of Columbia; to define the duties of the Superintendent of Weights, Measures and Markets of the District of Columbia and for other purposes, (Chapter 118, 41 Stat. 1217, **D.C. Official Code § 37-201.01 et seq.**), or rule issued pursuant to that Act which provision or rule is not cited elsewhere in this section, shall be a class 3 infraction.

3304

TOWING SERVICE FOR MOTOR VEHICLES INFRACTIONS

3304.1

Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 16 DCMR § 401.2 (failure to permit inspection by an authorized government official, including inspecting and photographing of towing equipment, tow trucks, towing storage lots, logs and documents related to towing services initiated in the District);
- (b) 16 DCMR § 401.3 (failure to permit inspection of a towing service storage lot by officials of DCRA and other authorized government agencies);
- (c) 16 DCMR § 401.4 (interfering with an authorized inspection);
- (d) 16 DCMR § 401.5 (failure to surrender records upon lawful demand by an authorized government official);
- (e) 16 DCMR § 401.6 (submitting towing service records that were created after demand for inspection by an authorized government official; or, creating towing service records after an authorized government official demands an inspection);
- (f) 16 DCMR § 402.1 (owning a towing business without proper licensure);
- (g) 16 DCMR § 402.2 (owning a towing service storage lot without proper licensure);
- (h) 16 DCMR § 403.2 (unauthorized operation of a tow truck, or operating an unlicensed tow truck);
- (i) 16 DCMR § 405.1 (failure to locate secured storage lot in the District of Columbia; or, failure to provide descriptive signage on lot; or, failure to comply with other District laws and regulations; or, failure to comply with District zoning rules);
- (j) 16 DCMR § 406.3 (failure to obtain a towing control number before initiating a public tow);
- (k) 16 DCMR § 406.7 (towing from private property without consent of the owner and without a citation for the vehicle issued by law enforcement personnel; or, towing from private property without being directed by a police officer in an emergency; or, failure to comply with provisions of D.C. Official Code §§ 50-2651 through 50-2654 (2001));
- (l) 16 DCMR § 408.1 (charging rates for public tows that exceed rates specified in the Director's Schedule of Maximum Rates in § 408.1);

- (m) 16 DCMR § 408.2 (charging rates for private tows that exceed rates specified in the towing business' Basic Business License Endorsement Application);
- (n) 16 DCMR § 409.3 (charging for services not provided);
- (o) 16 DCMR § 410.1 (operating or offering to engage in the towing business without valid licensure; or, operating a towing storage lot without valid licensure);
- (p) 16 DCMR § 410.6 (charging more than one towing fee for towing to a repair facility owned or operated by person or entity conducting tow);
- (q) 16 DCMR § 410.9 (soliciting or providing unauthorized towing service at the scene of an accident);
- (r) 16 DCMR § 410.11 (failure to provide an itemized receipt for charges related to towing or storing of a vehicle);
- (s) 16 DCMR § 410.14 (failure to surrender suspended, revoked or canceled license or endorsement);
- (t) 16 DCMR § 410.16 (permitting the unlawful use of a towing license or endorsement; or, the unlawful use of a towing license or endorsement);
- (u) 16 DCMR § 411.3 (failure to appear when summoned by the Director);
- (v) 16 DCMR § 411.8 (performing towing services, including operating a towing service storage lot, without a license or endorsement; or, performing towing services, including operating a towing service storage lot, with a license that has been revoked, cancelled or suspended); or
- (w) 16 DCMR § 411.9 (failure to remove accident debris from roadway before towing a vehicle involved in a collision).

3304.2

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

- (a) 16 DCMR § 402.4(c) (failure to report discontinuance of availability of towing service storage lot to Director at least ten (10) days prior to discontinuance of availability);
- (b) 16 DCMR § 402.6 (failure to update information provided in an application for a license or endorsement to DCRA within fourteen (14) days of change);

- (c) 16 DCMR § 402.7 (failure to identify person with financial interest in towing business or towing service storage lot);
- (d) 16 DCMR § 402.8 (owning or operating a towing business or truck, or towing service storage lot within five (5) years of specified auto related misdemeanor or felony);
- (e) 16 DCMR § 403.1 (operating or using a tow truck without an authorized unique identifier);
- (f) 16 DCMR § 403.4 (failure to display license in manner specified by the Director);
- (g) 16 DCMR § 404.1 (failure to maintain at least one fully equipped and licensed tow truck);
- (h) 16 DCMR § 404.2 (failure to mark cab of tow truck with trade name, primary location and primary telephone number, as specified);
- (i) 16 DCMR § 404.3 (failure to mark cab of tow truck with private towing and storage fees, as specified);
- (j) 16 DCMR § 404.4 (failure to mark cab of tow truck with alphanumeric identifier, as specified);
- (k) 16 DCMR § 404.5 (failure to equip tow truck with operable communication system, as specified; or, failure to produce a current permit and license, as required, to operate the communications system);
- (l) 16 DCMR § 404.11 (improper use of equipment while towing; or, towing without manufacturer's minimally specified equipment for a particular vehicle);
- (m) 16 DCMR § 406.4 (failure to provide information to Department of Public Works (DPW) before initiating a tow from private real property);
- (n) 16 DCMR § 408.3 (failure to submit documentary evidence to Director within seventy-two (72) hours after collecting extra charges under extraordinary circumstances; or, failure to provide a refund of disapproved charges within seventy-two (72) hours of receipt of notice of disapproval);
- (o) 16 DCMR 408.4 (towing storage lot failure to remain open as required for the reclaiming of vehicles);

- (p) 16 DCMR § 408.5 (charging for towing service, in response to a dispatch, after authorized official determines that service is not required; or, failure to notify DPW that a public tow has been discontinued);
- (q) 16 DCMR § 408.6 (failure to discontinue tow and release vehicle upon request by owner/operator and after payment of lawful rate (and concurrence of requesting official, if present; or, failure to notify DPW that a tow has been discontinued);
- (r) 16 DCMR § 408.8 (failure to accept lawful payment for towing services rendered);
- (s) 16 DCMR § 408.10 (performing repair work on a public tow vehicle without written consent of the owner or owner's agent);
- (t) 16 DCMR § 409.4 (failure to exhibit statements or receipts upon request; or, failure to retain statements and receipts for three (3) years from date of issuance);
- (u) 16 DCMR § 409.6 (assessing charges for providing unnecessary services; or, assessing charges for the use of unnecessary equipment);
- (v) 16 DCMR § 409.7 (failure to release vehicle after tender of lawful payment by owner or owner's agent);
- (w) 16 DCMR § 410.3 (unauthorized removal of vehicle involved in accident);
- (x) 16 DCMR § 410.8 (installing or maintaining a receiver capable of tuning to MPD radio frequencies);
- (y) 16 DCMR § 410.10 (depositing a vehicle that is inoperable or in disrepair upon public space, without direction from an authorized official; or, depositing a vehicle that is inoperable or in disrepair upon private property without permission of the owner of the property);
- (z) 16 DCMR § 410.18 (towing vehicles in the District of Columbia without current insurance coverage, as required); or
- (aa) 16 DCMR § 411.11 (failure to provide documentary proof of current insurance coverage, upon the request of any District government official).

3304.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 16 DCMR § 400.8 (failure to provide insurance information, upon request by the owner or operator of a towed vehicle, as requested);

- (b) 16 DCMR § 405.3 (failure to contact DPW with required information prior to releasing a public tow vehicle);
- (c) 16 DCMR § 405.7 (failure to provide "Owner's Bill of Rights for Towed Vehicles" to vehicle owner or operator on the scene before a tow; or, failure to post "Owner's Bill of Rights for Towed Vehicles" at towing service storage lot);
- (d) 16 DCMR § 406.3 (failure to display towing control number as prescribed by DPW; or, failure to use towing control number on documents related to the tow);
- (e) 16 DCMR § 406.5 (failure to obtain towing control number after emergency; or, failure to provide information as required after an emergency);
- (f) 16 DCMR § 406.8 (failure to assume responsibility for loss or damaged sustained as a result of a public tow; or, failure to provide appropriately trained personnel to tow vehicles);
- (g) 16 DCMR § 407.2 (initiating the private tow of a vehicle without obtaining written consent, as specified);
- (h) 16 DCMR § 408.7 (failure to release vehicle to authorized person when presented with proof of personal identification and lawful payment);
- (i) 16 DCMR § 408.9 (failure to provide Owner's Bill of Rights for Towed Vehicles upon release of vehicle; or, failure to provide legal authority for towing of vehicle, including towing control number; or, failure to provide itemized charges; or, failure to provide a receipt);
- (j) 16 DCMR § 409.1 (for private tow: failure to furnish an itemized estimate of charges; or, failure to furnish an itemized estimate of charges on approved form; or, failure to obtain signature of owner or operator before initiating tow);
- (k) 16 DCMR § 409.3 (failure to document actual amount paid; or, failure to sign receipt);
- (l) 16 DCMR § 410.4 (soliciting or requiring repair work as a condition for towing of vehicle);
- (m) 16 DCMR § 410.5 (removing a vehicle from the scene of an accident or event and depositing it upon public space, without direction from a police officer);

- (n) 16 DCMR § 410.7 (towing to a repair facility without prior written consent); or
- (o) 16 DCMR § 410.17 (failure to perform tow in accordance with vehicle manufacturer's instructions; or, failure to perform a tow in accordance with the tow crane manufacturer's instructions).

3304.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 16 DCMR § 405.2(b), (c), (d) (failure to maintain a log; or, failure to properly record entries in log; or, failure to retain log for inspection three (3) years after last entry);
- (b) 16 DCMR § 408.11 (using an improper form to obtain consent for repair work on a public tow vehicle);
- (c) 16 DCMR § 409.2 (failure to provide complete information in itemized estimate of charges);
- (d) 16 DCMR § 410.2 (misrepresentation); or
- (e) 16 DCMR § 411.10 (failure to report the presence of alleged hazardous materials, as required).

3304.5 Violation of any of the following provisions shall be a Class 5 infraction:

- (a) 16 DCMR § 404.6 (failure to maintain tie-down devices, chains, or straps, as specified);
- (b) 16 DCMR § 404.7 (engaging in recovery towing without proper equipment, as specified);
- (c) 16 DCMR § 404.8 (operating a crane tow truck without proper equipment, as specified);
- (d) 16 DCMR § 404.9 (operating wheel lift tow truck without proper equipment, as specified);
- (e) 16 DCMR § 404.10(a-h) (failure to maintain equipment in good working order);
- (f) 16 DCMR § 405.4 (failure to clearly designate or identify towing business assigned to each apportioned section);

- (g) 16 DCMR § 405.5 (failure to clearly designate storage spaces; or, failure to clearly identify towing business assigned to each space in an apportioned section); or
- (h) 16 DCMR § 410.13 (failure to allow inspection of vehicle before receiving payment of fees; or, failure to allow inspection before release of vehicle).

3305 HOUSING INSPECTION DIVISION INFRACTIONS

3305.1 Violation of the following provision shall be a Class 1 infraction:

- (a) Any flagrant, fraudulent, or willful violation by a housing provider of any of the Housing Regulations, Subtitle A of Title 14 DCMR, that constitutes an imminent danger to the health or safety of any tenant or occupant of a housing unit or housing accommodation, or that imminently endangers the health, safety or welfare of the surrounding community including, but not limited to, the interruption of electrical, heat, gas, water, or other essential services when the interruption results from other than natural causes;
- (b) Section 1 of An Act To authorize the Commissioners of the District of Columbia to remove dangerous or unsafe buildings and parts thereof, approved Mar. 1, 1899 (41 Stat. 1218; **D.C. Official Code § 6-801**) (failure to secure or repair an unsafe structure);
- (c) Section 3 of An Act To authorize the Commissioners of the District of Columbia to remove dangerous or unsafe buildings and parts thereof, (**D.C. Official Code § 6-803**) (attempting to repair after expiration of allowed period, or interfering with authorized agents);
- (d) Section 4 of An Act To authorize the Commissioners of the District of Columbia to remove dangerous or unsafe buildings and parts thereof, (**D.C. Official Code § 6-804**) (allowing a nuisance to exist on any lot or parcel of land in the District of Columbia which affects the public health, comfort, safety and welfare of citizens);
- (e) 14 DCMR § 103.2 (removal of placard by an unauthorized person);
- (f) 14 DCMR § 402.4 (permitting a sleeping facility to be located in a room with a furnace, open flame, space heater, domestic water heater, or gas meter);
- (g) 14 DCMR § 404.4 (failure to obtain a permit for building alterations and conform to requirements of the International Code Council (ICC) International Building Code and Title 12 of the District of Columbia Municipal Regulations, the Construction Codes Supplement of 2003);

- (h) 14 DCMR § 704.1 (permitting to exist on premises a foundation or structural member that fails to provide a safe, firm and substantial base and support for the structure at all points);
- (i) 14 DCMR § 901.1 (failure to maintain fire extinguishing equipment in an operable condition);
- (j) 14 DCMR § 901.2 (failure to maintain fire proofing or fire protective construction in a good state of repair);
- (k) 14 DCMR § 902.1 (failure to maintain an egress facility in a good state of repair);
- (l) 14 DCMR § 902.3 (failure to maintain a fire door in an openable condition);
- (m) 14 DCMR § 902.4 (failure to maintain a public or exit corridor free of obstruction);
- (n) 14 DCMR § 904.1 (failure to maintain a fire alarm system in an operable condition);
- (o) 14 DCMR § 904.4 (failure to properly install a smoke detector or otherwise comply with the Smoke Detector Act of 1978, effective June 20, 1978 (D.C. Law 2-81; **D.C. Official Code § 6-751.01 et seq.**);
- (p) 14 DCMR § 1115.4 (permitting the employment of a food handler afflicted with a communicable disease);
- (q) 14 DCMR § 1201.1 (failure to maintain an office or agent in the District of Columbia); or
- (r) 14 DCMR § 1401.1 (permitting the use of a structure for other than a one-family dwelling without a valid Certificate of Occupancy).

3305.2

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

- (a) 14 DCMR § 103.3 (permitting the occupancy of an apartment or tenement thirty (30) days or more after the posting of a placard);
- (b) 14 DCMR § 104.1 (refusal to permit any designated agent of the District entry into the premises);
- (c) 14 DCMR § 104.4 (refusal to permit inspection of premises);

- (d) 14 DCMR § 400.1 (permitting the occupancy of any habitation in violation of 14 DCMR, Chapter 4);
- (e) 14 DCMR § 400.7 (renting a habitation in a building in which noxious gases or offensive odors are generated by a commercial activity);
- (f) 14 DCMR §§ 402.1 to 402.3 (failure to comply with occupancy requirements);
- (g) 14 DCMR § 403.1 (unlawful use of uninhabitable rooms);
- (h) 14 DCMR § 500.1 (failure to provide adequate heating, ventilating, or lighting facility);
- (i) 14 DCMR § 501.2 (failure to provide and maintain a heating facility capable of maintaining a temperature of seventy degrees Fahrenheit (70 [degrees] F.) in a building or part of a building used for habitation);
- (j) 14 DCMR § 501.4 (failure to supply sufficient heat);
- (k) 14 DCMR § 501.6 or 501.7 (failure to comply with the inspection, correction of defects and certification requirements);
- (l) 14 DCMR § 510 (failure to comply with a requirement concerning air conditioning maintenance);
- (m) 14 DCMR § 600.1 (failure to provide required facilities, utilities and fixtures);
- (n) 14 DCMR § 600.3 (failure to provide utility service);
- (o) 14 DCMR § 606.3 or 606.4 (failure to comply with the inspection, correction of defects and certification requirements);
- (p) 14 DCMR § 701.3 (failure to use a repair material of suitable kind or quality, or to perform or repair in a workmanlike manner);
- (q) 14 DCMR § 702.2 (failure to maintain smoke pipe or chimney which is adequately supported and free from leakage or obstruction);
- (r) 14 DCMR § 702.4 (permitting to exist on premises a chimney on which the total area of all flue openings exceeds the net area of the flue);
- (s) 14 DCMR § 707.1 (failure to comply with the requirements concerning the removal and repainting of loose or peeling wall covering or paint on interior surfaces);

- (t) 14 DCMR § 707.3 (permitting an unlawful quantity of lead to be present on an interior or exterior surface of a residential premise);
- (u) 14 DCMR § 707.5 (failure to remove peeling or flaking paint and to make the surface tight on inaccessible exterior surfaces);
- (v) 14 DCMR § 707.6 (failure to obtain compliance certification from DCRA prior to refinishing that the conditions affecting the surface has been abated in accordance with these regulations);
- (w) 14 DCMR § 707.7 (failure to comply with an order to abate issued pursuant to the provisions of 14 DCMR Section 707.4);
- (x) 14 DCMR § 708.5 (failure to install or maintain required porch balustrade or other guard);
- (y) 14 DCMR § 903.1 (failure to maintain an exit or emergency light in an operable condition);
- (z) 14 DCMR § 903.2 (failure to maintain a lighted exit or emergency light);
- (aa) 14 DCMR § 904.2 (failure to provide or maintain a sign concerning the operation of the local fire alarm system at each striking station);
- (bb) 14 DCMR § 904.3 (failure to properly post and maintain a sign concerning fires);
- (cc) 14 DCMR § 905.1 (permitting a rag or refuse material to be deposited or remain in a dwelling);
- (dd) 14 DCMR § 905.2 (failure to maintain premises free of combustible refuse or debris, accumulated grease, or oil spillage);
- (ee) 14 DCMR § 905.3 (permitting the accumulation of combustible junk);
- (ff) 14 DCMR § 906.2 (permitting the installation or maintenance of a heating or cooking facility in violation of District law);
- (gg) 14 DCMR § 906.5 (failure to connect an oil heater to a flue or install an oil heater in compliance with the Fire Prevention Code);
- (hh) 14 DCMR § 906.5 (permitting the placement of ashes in a combustible receptacle, or on or against a combustible material);
- (ii) 14 DCMR § 906.7 (failure to maintain an incinerator, shaft, spark

arrestor or hopper door in a fire-safe condition);

- (jj) 14 DCMR § 906.8 (failure to maintain a gas meter room free from combustible material or to properly ventilate a gas meter room);
- (kk) 14 DCMR § 1001.1 (failure to designate a manager or other person who is responsible for the premises);
- (ll) 14 DCMR § 1001.2 (failure of the designated manager to reside on the premises and have complete charge of the premises);
- (mm) 14 DCMR § 1003.4 (failure to ensure access to a rooming unit at any reasonable hour);
- (nn) 14 DCMR § 1004.3 or 1114.1 (failure to conspicuously color a preparation used for exterminating vermin, or store such a preparation in a container clearly labeled "POISON");
- (oo) 14 DCMR § 1004.3 or 1114.2 (permitting a container of poison to be placed with a receptacle containing a food substance);
- (pp) 14 DCMR § 1111.1 (permitting the storage or display of food or drink which is not protected from contamination);
- (qq) 14 DCMR § 1113.3 (permitting the storage or service of shellfish from a source not approved by the U.S. Public Health Service);
- (rr) 14 DCMR § 1114.3 (permitting the use of a substance containing poison to clean or polish eating or cooking utensils);
- (ss) 14 DCMR § 1205.1 (failure to maintain elevators in good working order);
- (tt) 14 DCMR § 1301.1 (failure to designate a manager or other person who shall superintend the operation of a hotel or motel).

3305.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 14 DCMR § 220.1(b) (failure to pay reinspection fee for routine housing inspections);
- (b) 14 DCMR § 400.2 (failure to advise the tenant of the maximum number of occupants permitted in the habitation);
- (c) 14 DCMR § 400.3 (renting or offering to rent a habitation that is not clean, safe, and free of vermin and rodents);

- (d) 14 DCMR § 400.4 (owner fails to provide and maintain the required facilities, utilities and services);
- (e) 14 DCMR § 400.8 (permitting the use of a structure as a tenement unit or tenement house);
- (f) 14 DCMR § 405.2 (permitting more than fifty percent (50%) of the total habitable space in a room having a sloping ceiling);
- (g) 14 DCMR § 405.3 (failing to comply with a requirement concerning ceiling height in a habitable room);
- (h) 14 DCMR § 405.4 (habitable room does not have a minimum clear head room of six feet eight inches (6 ft. 8 in.) under pipes or other construction projects);
- (i) 14 DCMR § 406 (permitting the subdivision of a habitable room in violation of 14 DCMR § 406);
- (j) 14 DCMR § 404.1 (permitting any room with more than fifty percent (50%) of any exterior wall area to be used as a habitable room);
- (k) 14 DCMR § 404.3 (failure to comply with the requirements of this section when altering any building in existence prior to June 9, 1960);
- (l) 14 DCMR § 404.5 (areaways constructed on buildings erected after June 9, 1960, does not comply with requirements of the International Code Council (ICC) International Building Code and Title 12 of the District of Columbia Municipal Regulations, the Construction Codes Supplement of 2003 and Zoning Regulations);
- (m) 14 DCMR § 500.2 (failure to properly or safely install, or maintain in a safe and working condition, a required facility);
- (n) 14 DCMR § 501.1 (failure to provide and maintain adequate eating facilities);
- (o) 14 DCMR § 501.3 (providing a heating facility that does not permit the temperature to be maintained at or below the maximums established by 14 DCMR § 501.3);
- (p) 14 DCMR § 502 (failure to comply with a lighting requirement for habitable rooms);
- (q) 14 DCMR § 503.1 (failure to maintain a yard surrounding a habitation free of light obstruction);

- (r) 14 DCMR § 504.1 (failure to provide or maintain adequate bathroom lighting);
- (s) 14 DCMR § 505.2 (failure to provide or maintain required artificial illumination of a hallway or stair);
- (t) 14 DCMR § 506.1 (failure to provide required natural or mechanical ventilation for each habitable room);
- (u) 14 DCMR § 506.3, 506.4, 506.5, 506.8, or 506.9 (failure to comply with a requirement concerning the ventilation of habitable rooms);
- (v) 14 DCMR § 506.7 (failure to provide or maintain required openable area in case of mechanical ventilation failure);
- (w) 14 DCMR § 506.10 (permitting a prohibited recirculation of air);
- (x) 14 DCMR § 506.11 (permitting air from prohibited locations to be drawn into a habitable room);
- (y) 14 DCMR § 509.1 (permitting a prohibited obstruction of ventilation);
- (z) 14 DCMR § 600.2 (failure to properly install each facility, utility, or fixture);
- (aa) 14 DCMR § 600.4 (failure to maintain in a safe and good working condition a facility for cooling, storing, or refrigerating food);
- (bb) 14 DCMR § 601 (failure to comply with a requirement concerning plumbing facilities);
- (cc) 14 DCMR § 602.1 (failure to provide a lavatory, water closet and bathing facilities for each dwelling unit);
- (dd) 14 DCMR § 602.2 or 602.3 (failure to provide a sufficient number of bathing facilities);
- (ee) 14 DCMR § 606.1 or 606.2 (failure to comply with a requirement concerning water heating facilities);
- (ff) 14 DCMR § 701.1 (failure to maintain all structures located on a premise in a sanitary and structurally sound condition);
- (gg) 14 DCMR § 702.1 (failure to maintain a roof so that it does not leak, and so that rain water is properly drained there from);

- (hh) 14 DCMR § 702.6 (failure to provide a flue opening with a flue crock, or with a metal or masonry thimble);
- (ii) 14 DCMR § 705.6 (permitting to exist on premises a window, window frame, door, or door frame which does not completely exclude rain and substantially exclude wind);
- (jj) 14 DCMR §§ 708.1 to 708.4, §§ 708.7 to 708.9, or § 708.11 (failure to comply with a requirement concerning stairways, steps, guardrails, or porches);
- (kk) 14 DCMR, Chapter 8 (failure to comply with a requirement concerning the cleanliness and sanitation of premises occupied for residential purposes);
- (ll) 14 DCMR § 800.9 (premises creates a danger to the health, welfare or safety of the occupants, public and/or constitute a public nuisance;
- (mm) 14 DCMR § 800.10 (excessive vegetative growth or weeds exceeding ten (10) inches in height is unattended or creates a dense area of shrubbery that is a detriment to the health, safety and welfare of the public;
- (nn) 14 DCMR § 800.13 (accumulation of trash on any premises for more than seven (7) calendar days shall constitute an insanitary and unhealthy condition if it creates: harbor or concealment (including hiding places for person(s); deposit or accumulation or refuse or trash; harbor for rodents and vermin, or a refuge for snakes, rats or other rodents; noxious or an unpleasant order; or fire hazard;
- (oo) 14 DCMR § 900.2 (failure to afford protection against accident to a person in or about premises on which there is an unoccupied or uncompleted building);
- (pp) 14 DCMR § 901.3 (failure to submit fire inspection report or correct cited violations);
- (qq) 14 DCMR § 905.4 (permitting the accumulation of combustible junk);
- (rr) 14 DCMR § 907.1 (failure to properly notify the Fire Department of a fire);
- (ss) 14 DCMR § 1003.1 or 1003.2 (failure to provide an entrance door lock or key thereto);
- (tt) 14 DCMR § 1003.3 (failure to retain a duplicate key);

- (uu) 14 DCMR § 1005.4 (failure to maintain clean and sanitary bedding);
- (vv) 14 DCMR § 1005.5 or 1005.6 (failure to provide required clean linens and towels);
- (ww) 14 DCMR § 1103.1 or 1103.3 (operating a boarding house without first qualifying for a Manager's Certificate);
- (xx) 14 DCMR § 1104.1 (permitting a sleeping facility to exist in a room where food is prepared, served, or stored, or where utensils are washed or stored);
- (yy) 14 DCMR § 1104.2 (permitting the use of a room for sleeping without required ceiling clearance over floor area);
- (zz) 14 DCMR § 1104.5 (failure to maintain clean and sanitary bedding);
- (aaa) 14 DCMR § 1104.6 or 1104.7 (failure to provide required clean linens and towels);
- (bbb) 14 DCMR § 1106 or 1107 (failure to comply with a requirement concerning the construction, maintenance, or ventilation of rooms in which food or drink is stored, prepared, or served, or in which utensils are washed or stored);
- (ccc) 14 DCMR § 1109 (failure to comply with a requirement concerning food preparation or dishwashing facilities);
- (ddd) 14 DCMR § 1110 (failure to comply with a requirement concerning storage or handling utensils or the use of kitchens);
- (eee) 14 DCMR §§ 1111.2 to 1111.4 (failure to comply with a requirement concerning the storage or handling of food);
- (fff) 14 DCMR § 1112 (failure to comply with a requirement concerning refrigeration equipment or the refrigeration of food or drink);
- (ggg) 14 DCMR § 1113.1, 1113.2, or 1113.4 (failure to comply with a requirement concerning food, drink, service of milk, or the construction of cream dispensers);
- (hhh) 14 DCMR § 1116 (failure to comply with a requirement concerning employee cleanliness);

- (iii) 14 DCMR § 1117 (failure to comply with a requirement concerning lavatory facilities);
- (jjj) 14 DCMR § 1118.2 (failure to keep a soiled linen, coat, or apron in a vermin-proof container);
- (kkk) 14 DCMR § 1201.2 (failure to submit a timely notification to the Director of any change in the appointment of a general agent, manager or attorney);
- (lll) 14 DCMR § 1205.3 (failure to comply with the Elevator Code when altering, repairing or replacing elevator service);
- (mmm) 14 DCMR § 1302 (failure to comply with a requirement concerning registration of occupants);
- (nnn) 14 DCMR § 1303 (failure to comply with a requirement concerning room keys);
- (ooo) 14 DCMR § 1304 (failure to comply with a requirement concerning the cleaning and maintenance of hotel or motel rooms);
- (ppp) 14 DCMR § 1305 (failure to comply with a requirement concerning the posting of permissible occupancy rates);
- (qqq) 14 DCMR § 1304 (failure to comply with a requirement concerning the maximum permissible occupancy of hotel or motel rooms);
- (rrr) 14 DCMR § 1308 (failure to comply with a security requirement concerning high density use of hotel or motel rooms);
- (sss) 14 DCMR § 1307, 1309, or 1310 (failure to comply with a requirement concerning the high density use of hotel or motel rooms);
- (ttt) 14 DCMR § 1311 (failure to comply with a requirement concerning the high density use of hotel or motel bathroom facilities);
- (uuu) Violation of any provision of the Housing Regulations of the District of Columbia, 14 DCMR, Chapters 1 through 14, which provision is not cited elsewhere in this section, shall be a Class 3 infraction.

3305.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 14 DCMR § 401.1 (failure to provide required occupant access to common space);

- (b) 14 DCMR § 401.2 (failure to locate a watercloset, shower, or bathtub in a room so as to afford privacy);
- (c) 14 DCMR § 401.3 (failure to provide required occupant access to a bathroom or sleeping room);
- (d) 14 DCMR § 507 (failure to comply with a requirement concerning the ventilation of bathrooms);
- (e) 14 DCMR § 508 (failure to maintain a mechanical ventilation system in safe and good working condition or in constant operation);
- (f) 14 DCMR § 603 (failure to comply with a requirement concerning waterproof floors in toilets);
- (g) 14 DCMR § 604 (failure to comply with a requirement concerning access to bathrooms);
- (h) 14 DCMR § 605 (failure to comply with a requirement concerning electrical outlets);
- (i) 14 DCMR § 607.2 (failure to provide a required lock or key to a habitation door, or to maintain a lock in good repair);
- (j) 14 DCMR § 701.2 (failure to maintain a walkway in good repair, free of holes, and safe for walking purposes);
- (k) 14 DCMR § 702.3 (permitting to exist on premises a chimney which is not reasonable plumb);
- (l) 14 DCMR § 702.5 (failure to close a chimney opening which is not required);
- (m) 14 DCMR § 703 (failure to comply with a requirement concerning gutters or drainage);
- (n) 14 DCMR § 704.2 (failure to maintain exterior walls in a structurally sound condition);
- (o) 14 DCMR § 704.3 (failure to keep a masonry wall pointed);
- (p) 14 DCMR § 705.1 (failure to supply a window with window panes that are free of open cracks and holes);
- (q) 14 DCMR § 705.4 (permitting to exist on premises a door, transom, side light, skylight, door hinge, or door latch which is not in good condition);

- (r) 14 DCMR § 705.5 (failure to comply with a requirement concerning an exterior door);
- (s) 14 DCMR § 705.7 (failure to construct or maintain a basement hatchway so as to prevent the entrance of rodents, rain, or surface drainage water into a dwelling);
- (t) 14 DCMR § 706 (failure to comply with a requirement concerning interior walls, floors, or ceilings);
- (u) 14 DCMR § 708.6 or 708.10 (failure to provide a required balustrade or other guard);
- (v) 14 DCMR § 903.3 (failure to maintain an exit directional sign);
- (w) 14 DCMR § 1002 (failure to comply with a requirement concerning registration or room assignment);
- (x) 14 DCMR § 1004.1 (permitting food in a sleeping room to be kept in a container which is not vermin-proof);
- (y) 14 DCMR § 1005.1 (permitting the use of a sleeping room with inadequate ceiling clearance);
- (z) 14 DCMR § 1101 (failure to comply with a requirement concerning resident managers);
- (aa) 14 DCMR § 1102 (failure to comply with a requirement concerning registration or room assignment);
- (bb) 14 DCMR § 1105 (failure to comply with a requirement concerning room keys);
- (cc) 14 DCMR § 1108 (failure to comply with a lighting requirement);
- (dd) 14 DCMR § 1118.1 (failure to provide adequate lockers or dressing rooms);
- (ee) 14 DCMR § 1202.1 (failure to timely establish and maintain tenant register);
- (ff) 14 DCMR § 1203 (failure to comply with a requirement concerning the posting of building management information); or
- (gg) 14 DCMR § 1204.3 (failure to provide a secure, approved mail

receptacle).

3306 BUILDING INSPECTION DIVISION INFRACTIONS

3306.1 CONSTRUCTION INSPECTION INFRACTIONS

3306.1.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 12A DCMR 105.1, 105.1.15, 105.1.16, and 105.1.17 (working without a required permit);
- (b) 12A DCMR 105.1, 105.1.15.1, 105.1.16.1, and 105.1.17.1 (exceeding scope of permit);
- (c) 12A DCMR 115.1 (failure to remedy dangerous conditions or remove hazardous materials);
- (d) 12A DCMR 114.1 (failure to comply with terms of a ‘Stop Work Order’);
- (e) 12A DCMR 114.1 (unauthorized removal of a posted stop work order);
- (f) 12A DCMR 115.5 (failure to comply with terms of posted “Unsafe to Use” notice); or
- (g) International Property Maintenance Code 302.1 (exterior of property not in clean or sanitary condition).

3306.2 PLUMBING INSPECTION INFRACTIONS

The following abbreviations apply to this section:

IPC- International Plumbing Code

IPMC- International Property Maintenance Code

3306.2.1 Violation of the following provision shall be a Class 1 infraction:

- (a) IPC 114.3 (failure to comply with terms of a ‘Stop Work Order’);
- (b) IPC 120.1 (HVAC work performed by non-D.C. licensed mechanic);
- (c) IPMC 505.4 (hot water exceeds 120 degrees °F.);
- (d) 12A DCMR 114.1 (unauthorized removal of a posted stop work order);

- (e) 12A DCMR 119.4.4 (plumbing work performed by non-D.C. licensed plumber); or
- (f) 12A DCMR 105.1 (working without a permit).

3306.2.2 Violation of the following provisions shall be a Class 2 infraction:

- (a) 12F DCMR P-1101.2.2 (sump pump discharge into public space);
- (b) 12F DCMR 1101.2.2 (discharge of water from sump pump directly to adjacent property); or
- (c) IPC 802.1-4 (swimming pool water discharge into public/park space).

3306.2.3 Violation of the following provisions shall be a Class 3 infraction:

- (a) IPMC 506.2 (obstruction of drains);
- (b) IPMC 506.2 (plumbing system not maintained);
- (c) 12A DCMR 115.1 (mechanical system not maintained);
- (d) 12A DCMR 115.1 (downspout(s) not connected to terminals);
- (e) IPMC 506.2 (main sewer line obstructed).

3306.2.4 Violation of the following provisions shall be a Class 4 infraction:

- (a) IPMC 505.4 (no hot water at peak demand); or
- (b) IPC 604.7 (inadequate water pressure).

3306.3 ELECTRICAL INSPECTION INFRACTIONS

3306.3.1 Violation of the following provision shall be a Class 1 infraction:

- (a) 12A DCMR 105.1.14 (working without the required electrical permit);
- (b) 12A DCMR 105.1.14.1 (exceeding scope of permit);
- (c) 12A DCMR § 114A (failure to comply with terms of a Stop Work Order);
or
- (d) 12A DCMR 114.1 (unauthorized removal of a posted stop work order).

3306.4 BOILER INSPECTION INFRACTIONS

3306.4.1 Violation of the following provisions shall be a Class 1 infraction:

- (a) 12A DCMR § 114A (failure to comply with terms of a Stop Work Order);
- (b) 12A DCMR 114.1 (unauthorized removal of a posted stop work order);
- (c) 12E DCMR M-013.7 (failure to obtain a boiler Certificate of Inspection);
- (d) 12E DCMR M-1013.9.1 (violation of conditions of posted Unsafe to Use notice);
- (e) 12E DCMR M-1014.2.1 (failure to obtain a boiler installation permit);
- (f) 12E DCMR M- 1014.2.1 (no installations permit for boiler and/or unfired pressure vessels);
- (g) 17 DCMR 400.2 (operating engineering equipment without proper D.C. engineer's license); or
- (h) 12E DCMR M-1013.1.1 (alteration and repair of boilers without required permit).

3306.4.2 Violation of the following provisions shall be a Class 2 infraction:

- (a) 12E DCMR M-1014.9.2 (improper location or clearance of a boiler); or
- (b) 12E DCMR M-1016.1.2 (welder working without a D.C. certification).

3306.4.3 Violation of the following provision shall be a Class 3 infraction:

12E DCMR M-1013.8 (failure to make a timely repair, alteration, or cleaning, to a boiler specified in a notice of deficiency).

3306.4.4 Violation of the following provisions shall be a Class 4 infraction:

- (a) 12E DCMR M-1013.9.1 (improper boiler or pressure vessel operation);
- (b) 12E DCMR M-1013.9.1 (certificate of inspection not properly posted); or
- (c) 12A DCMR § 109 (denial of entry to boiler room).

3306.5 ELEVATOR INSPECTION INFRACTIONS

The following abbreviations apply to this section:

ASME- American Society of Mechanical Engineers

NFPA- National Fire Protection Association

3306.5.1 Violation of the following provisions shall be a Class 1 infraction:

- (a) 12A DCMR § 105A (installation of elevators, escalators, dumbwaiters, man lift(s), and other conveyors without a permit);
- (b) 12A DCMR § 114A (failure to comply with terms of a Stop Work Order);
- (c) 12A DCMR 114.1 (unauthorized removal of a posted stop work order).or
- (d) 12A DCMR 115.5 (failure to comply with terms of posted Unsafe to Use notice).

3306.5.2 Violation of the following provisions shall be a Class 2 infraction:

- (a) ASME A17.1- Rule 1001.1 (Failure to have semi-annual inspections performed);
- (b) ASME A17.1- Rule 1002.3 (failure to schedule five year governor speed and safety test);
- (c) ASME A17.1- Rule 101.1a and/or 101.3d (failure to provide required fire rated door at elevator machine room with self-closing and self-locking device);
- (d) ASME A17.1 -Rule 101.a, 101.3d (b) and/or 106.1d 4) (failure to provide a UL listed fire rated self-closing, self-locking, device at machine room door of elevators or pit doors);
- (e) ASME A17.1 –Rule 204.7a (failure to provide emergency light and bell operation); or
- (f) ASME A17.1 – Appendix 211 (failure to repair emergency phone on elevators).

3306.5.3 Violation of the following provisions shall be a Class 3 infraction:

- (a) ASME A17.1- Rule 1206.1h (failure to provide required class fire extinguisher in elevator machine room);
- (b) ASME A17.1- Rule 210.1e (3) (failure of elevator to level at floor);

- (c) ASME A17.1- Appendix (failure to post fire emergency instruction pictograph adjacent to each non-egress hall push button);
- (d) NFPA 70 §620-51(a) (main line disconnects unable to be locked in the off position);
- (e) ASME A17.1-Rule 1206.2a (failure to remove all materials not related to the operation from the pit); or

3306.5.4 Violation of the following provisions shall be a Class 4 infraction:

- (a) ASME A17.1- Rule 1206.2a (excessive lint and dust in hoist ways);
- (b) ASME A17.1- Rule 101.2 (non-related equipment in elevator machine room);
- (c) ASME A17.1- 211 (door closure button on elevators in disrepair); or
- (d) ASME A17.1-Rule 1206.2a (unclean elevator pits)

3307 BUILDING CONDEMNATION DIVISION INFRACTIONS

3307.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) Section 4 of An Act To create a board for the condemnation of insanitary buildings in the District of Columbia, approved May 1, 1906 (34 Stat. 158, ch. 2073; **D.C. Official Code § 6-904**) (permitting the occupancy of a condemned building without authorization by the Board for the Condemnation of Insanitary Buildings);
- (b) Section 5 of an Act To create a board for the condemnation of insanitary buildings in the District of Columbia (**D.C. Official Code § 6-905**) (failure to obtain any required permit when work is undertaken to repair, make habitable or demolish a condemned building.); or
- (c) Section 12 of An Act To create a board for the condemnation of insanitary buildings in the District of Columbia (**D.C. Official Code § 6-912**) (defacing, removing or concealing any copy of any order of condemnation which has been affixed to any condemned building).

3307.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) Section 11 of An Act To create a board for the condemnation of insanitary buildings in the District of Columbia (**D.C. Official Code § 6-911**)

(hindering, preventing or refusing to permit a lawful inspection of the premises.);

- (b) Section 3 of An Act To create a board for the condemnation of insanitary buildings in the District of Columbia (**D.C. Official Code § 6-903**) (failure to show cause within the time specified why such building or part of building should not be condemned);
- (c) Section 7 of An Act To create a board for the condemnation of insanitary buildings in the District of Columbia (**D.C. Official Code § 6-907**) (failure of the owner to cause such building to be put into a habitable and sanitary condition or to be demolished and removed within the time specified by the Board in the order of condemnation); or
- (d) Section 15 of an Act To create a board for the condemnation of insanitary buildings in the District of Columbia (**D.C. Official Code § 6-915**) (tenants or occupants neglecting or causing to exist unsanitary conditions which have led to the condemnation of a building.

**3308 RENTAL ACCOMMODATIONS AND CONVERSION DIVISION
INFRACTIONS**

3308.1 A violation of section 901 (b) of the Rental Housing Act of 1985, effective July 17, 1985 (D.C. Law 6-10; **D.C. Official Code § 42-3509.01 (b)**), or when based upon a violation of section 208 of the Rental Housing Act of 1985 (**D.C. Official Code § 42-3502.08 (a)(1)**) (increasing rent when not properly licensed), shall be a Class 1 infraction.

3308.2 A violation of Section 901 (b) of the Rental Housing Act of 1985 (**D.C. Official Code § 42-3509.01 (b)**), when based upon a violation of any of the following provisions, shall be a Class 2 infraction:

- (a) Section 205 (f) of the Rental Housing Act of 1985 (**D.C. Official Code § 42-3502.05(f)**) (failure to timely register);
- (b) Section 205 (g) of the Rental Housing Act of 1985 (**D.C. Official Code § 42-3502.05(g)**) (failure to file an amended registration form); or
- (c) Section 501 of the Rental Housing Act of 1985 (**D.C. Official Code § 42-3505.01**) (failure to comply with a requirement concerning evictions).

3309 DCRA FIRE PROTECTION DIVISION INFRACTIONS

The following abbreviations apply to this section:

IFC- International Fire Code
IBC- International Building Code
NFPA- National Fire Protection Association
IPMC- International Property Maintenance Code

3309.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 12G DCMR PM-§ 705,1 (failure to remedy dangerous conditions to remove hazardous materials);
- (b) 12A DCMR § 114A (failure to comply with terms of a ‘Stop Work Order’);
- (c) 12A DCMR § 114.1 (unauthorized removal of a posted stop work order);
- (d) IFC § 609.1 (failure to provide and maintain a ventilating hood or duct over commercial cooking appliances);
- (e) IFC § 609.2.2 (failure to provide an approved fire suppression system for existing food operations);
- (f) IBC § 709.3 (failure to maintain all required fire resistance rated doors or smoke barriers);
- (g) IFC § 901.6(failure to maintain in an operative condition at all times fire protection and life safety systems, devices, units, or service equipment.);
- (h) IFC § 906.1 (failure to provide fire extinguishers);
- (i) IFC § 1010.16.7 (failure to maintain in a safe condition and free of all obstructions the means of egress from each part of the building);
- (j) IBC § 1003.2.2.4 (overcrowding or admitting persons beyond the established posted occupants load);
- (k) IFC § 1011.2 (aisles, passageways or stairways are obstructed in such manner as to interfere with fire fighting access during hours when the building is open to the public);
- (l) IFC § 1010.5 (failure to provide adequate lighting for stairways, hallways and other means of egress); or
- (m) IBC § 1006.1 (exits fail to discharge directly at a public way or at a yard, court or open space of the required width and size to provide all occupants with a safe access to a public way).

3309.2

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

- (a) IPMC §302.1 (permitting the accumulation of waste paper, wood, hay straws, weeds, litter or combustible or flammable waste or rubbish of any kind);
- (b) IFC § 904.11 (failure to provide or maintain an automatic activation kitchen hood fire extinguishing system);
- (c) IFC § 904.11.1 (failure to provide or maintain a manual activation device for the hood fire extinguishing system);
- (d) NFPA70 §110.32 (failure to provide the required clearance between all electrical service equipment and storage);
- (e) IFC § 904.11.5 (failure to provide a sufficient number of portable fire extinguishers);
- (f) IFC § 906.2 or 12G DCMR § PM-705.2 (failure to maintain, test or recharge hand operated portable fire extinguishing equipment);
- (g) IFC § 1011.3 (storing combustible or flammable materials on any portion of an exit, elevator car, stairway, fire escape or other means of egress);
- (h) IBC § 1003.3.1.1 (door openings fail to meet the requirements of minimum width based upon occupant load);
- (i) IBC § 1003.1.9 (doors are not equipped with approved panic hardware);
- (j) IBC § 1003.3.1.2 (exit doors swing in the wrong direction);
- (k) 12E DCMR § M-1004.1 (failure to provide an oil burner emergency switch);
- (l) IBC § 1003.2.11.2 (failure to provide emergency lights, alarms or power back-up);
- (m) IBC § 1003.2.10.2 (permitting decorations, furnishings or equipment, which impairs the visibility of exit signs);
- (n) IBC § 1003.3.1.8.3 (failure to maintain self-closing and automatic doors or to provide a fire or smoke barrier);

- (o) IBC § 1003.2.2.5 (failure to conspicuously post sign stating the number of occupants permitted within such space for each place of assembly);
- (p) IBC § 1003.2.10.2 (failure to maintain exit signs in theaters or other places of public assembly); or
- (q) IBC § 805 (decorative materials are not non-combustible or flame resistant).

3309.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) IFC § 904.1 (extinguishing systems are not inspected and tagged);
- (b) IBC § 1003.2.10.2 or 12G DCMR § PM-702.6 (exit signs are not maintained or clearly illuminated at all times when the building is occupied); or
- (c) Any provision of the District of Columbia Construction Code Supplement of 2003 (12 DCMR), the 2000 International Property Maintenance Code, or the 2000 International Fire Code which is not cited elsewhere in this section shall be a Class3 infraction.

3310 HOUSING INSPECTION DIVISION NOISE INFRACTIONS

3310.1 Reserved

3310.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 2701.1 (causing or permitting sounds emanating from operations, activities or other sources under one's control to exceed the maximum noise level);
- (b) 20 DCMR § 2800.2 (using, operating, or permitting to be used any musical instrument device, loud speaker, sound amplifier, or other device in excess of the maximum noise level);
- (c) 20 DCMR § 2802.1 (permitting noise levels resulting from construction or demolition to exceed the maximum noise level);
- (d) 20 DCMR § 2803.2 (permitting noise to emanate from construction, excluding home repairs within residential, special purpose, or waterfront zone on any Sunday or legal holiday, or after 7:00 p.m., and before 7:00 a.m., on any weekday);

- (e) 20 DCMR § 2804.2 (permitting blasting with explosives on any Sunday or legal holiday or at nighttime on weekdays, without a special permit);
- (f) 20 DCMR § 2806.2 (operating or permitting the operation of any refuse collection vehicle in any residential, special purpose, or waterfront zone at nighttime on any day of the week);
- (g) 20 DCMR § 2810.1 (selling or offering to sell a new motor vehicle or motor cycle that is to be registered for use upon the public highway that exceeds the maximum noise levels; or
- (h) 20 DCMR § 2810.2 (failure of the manufacturer, distributor, importer or his or her designated agent to certify in writing to the Mayor that all motor vehicles or motorcycles sold by him or her in the District comply with the applicable maximum noise levels).

3310.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 2703.3 (permitting noise to emanate from railroad cars operated by the Washington Metropolitan Area Transit Authority to exceed the maximum noise level);
- (b) 20 DCMR § 2801.2 (permitting noise resulting from the use of any air conditioning, refrigerator, heat pump, fan, swimming pool equipment, or other mechanical equipment to exceed the maximum noise level);
- (c) 20 DCMR § 2811.5 (operating a motor vehicle equipped with an engine speed governor that generates a sound level in excess of the maximum noise level);
- (d) 20 DCMR § 2812.1 (modifying or altering the exhaust system of a motor vehicle or motorcycle in a manner that will amplify or increase the noise emitted by the vehicle in excess of the maximum noise level); or
- (e) 20 DCMR § 2812.2 (using, operating a motor vehicle or a motorcycle having an exhaust system that has been modified or altered in a manner that will increase the noise emitted by the vehicle above the maximum noise level);

3310.4 Violation of any provision of the District of Columbia Noise Control Regulations, 20 DCMR, Chapters 27 to 29, which provision or rule is not cited elsewhere in this section, shall be a Class 4 infraction.

3311 VACANT PROPERTY INFRACTIONS

3311.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) Section 6(a) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.06(a)**) (failure to initiate registration of a vacant building within 30 days after a building becomes vacant);
- (b) Section 6(a) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.06(a)**) (failure to complete registration of a vacant building within 120 days after a building becomes vacant);
- (c) Section 6(e) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District, effective April 27, 2001 (D.C Law 13-281; **D.C. Official Code § 42-3131.06(e)**) (failure to report change of name or address of owner within 30 days of occurrence);
- (d) Section 7(a) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.07(a)**) (failure to allow inspection of vacant building); or
- (e) Section 7(a)(5) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.07(a)(5)**) (making false statements or misrepresentations upon the registration application).

3311.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) Section 6(a) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.06(a)**) (failure to pay appropriate registration fees);
- (b) Section 6(b) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.06(b)**) (failure to apply for registration after exemption status expires);
- (c) Section 6(d) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.06(d)**) (failure to apply for new registration after registered building is transferred or otherwise conveyed);
- (d) Section 6(a) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official**

Code § 42-3131.06(a) (failure to maintain a vacant building in compliance with the requirements of D.C. Official Code § 42-3131.12);

- (e) Section 7(a) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.07(a)**) (failure to timely renew registration status);
- (f) Section 7(a)(2)(A) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.07(a)(2)(A)**) (vacant property is detrimental to the public health, safety and welfare);
- (g) Section 7(a)(2)(B) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.07(2)(B)**) (property unreasonably interferes with the reasonable and lawful use and enjoyment of other premises within the neighborhood);
- (h) Section 7(a)(2)(C) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.07(2)(C)**) (poses a hazard to police officers or fire fighters entering the building in an emergency);
- (i) Section 7(a)(3) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.07(3)**) (the building fails to comply with the Fire, Building and Housing code of the District); or
- (j) Section 8 of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.08**) (proceeding with an operation related to registration after notice of revocation issued).

3311.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) Section 12(1) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Code § 42-3131.12(1)**) (doors, windows, areaways, and other openings are not weather tight and secured against entry by birds, vermin, and trespassers; or missing or broken doors, windows and other openings are not covered with ½ inch CDX plywood that is weather protected, tightly fitted to the opening, and secured by screws or bolts);
- (b) Section 12(2) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.12(2)**) (the roof and flashing are not sound and tight, will

admit moisture, or are not drained to prevent dampness or deterioration in the walls or interior);

- (c) Section 12(3) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.12(3)**) (the building storm drainage system is not adequately sized and installed in an approved manner and functional);
- (d) Section 12(4) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.12(4)**) (the interior and/or exterior are not maintained in good repair, structurally sound, free from debris, rubbish and garbage, and sanitary so as not to threaten public health or safety);
- (e) Section 12(5) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.12(5)**) (the structural members are not free of deterioration and capable of safely bearing imposed dead and live loads);
- (f) Section 12(6) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.12 (6)**) (the foundation walls are not plumb, free from open cracks and breaks, or vermin proof);
- (g) Section 12(7) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.12(7)**) (the exterior walls are not free of holes, breaks, or loose and/or rotting materials, and exposed metal and wood surfaces are not protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint);
- (h) Section 12(8) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.12(8)**) (the cornices, belt courses, corbels, terra cotta trim, wall facings, and similar decorative features are not safe, anchored, and in good repair, and exposed metal and wood surfaces are not protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint);
- (i) Section 12(9) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.12(9)**) (all balconies, canopies, marquees, signs, metal awnings, stairways, fire escapes, standpipes, exhaust ducts, and similar features are not in good repair, anchored, safe and sound, and exposed metal and wood surfaces are not protected from the elements and against

decay or rust by periodic application of weather-coating materials, such as paint);

- (j) Section 12(10) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.12(10)**) (chimneys, cooling towers, smokestacks, and similar appurtenances are not structurally safe, sound, and in good repair, and exposed metal and wood surfaces are not protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint);
- (k) Section 12(11) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.12(11)**) (openings in sidewalks are not safe for pedestrian travel);
- (l) Section 12(12) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.12(12)**) (accessory and appurtenant structures such as garaged, sheds, and fences are not free from safety, health and fire hazards); or
- (m) Section 12(13) of An Act To provide for the abatement of nuisances in the District of Columbia by the Commissioners of said District (**D.C. Official Code § 42-3131.12(13)**) (the property on which a structure is located is not clean, safe, and sanitary and threatens the public health or safety).

3312 ZONING DIVISION INFRACTIONS

3312.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 11 DCMR § 3203 (failure to obtain a certificate of occupancy or use beyond scope of certificate of occupancy);
- (b) 11 DCMR § 3205 (failure to comply with conditions in Board of Zoning Adjustment or Zoning Commission orders); or
- (c) 11 DCMR § 2101.1 (failure to provide required parking).

3312.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 11 DCMR § 400.1 (failure to conform to height limitations for buildings allowed in residential districts);
- (b) 11 DCMR § 530.1 (failure to conform to height limitations for

buildings allowed in special purpose districts);

- (c) 11 DCMR § 930.1 (failure to conform to height limitations for buildings allowed in waterfront districts);
- (d) 11 DCMR § 630.1 (failure to conform to height limitations for buildings allowed in mixed-use districts);
- (e) 11 DCMR § 1203.1 (failure to conform to height limitations for buildings allowed in Capitol Interest Districts);
- (f) 11 DCMR § 770.1 (failure to conform to height limitations for buildings allowed in commercial districts);
- (g) 11 DCMR § 840.1 (failure to conform to height limitations for buildings allowed in industrial districts);
- (h) 11 DCMR § 2101.2 (failure to obtain Board of Zoning Adjustment approval prior to reducing required accessory parking);
- (i) 11 DCMR § 2115 (failure to comply with the size requirements for parking spaces for vehicles);
- (j) 11 DCMR § 2200.1 (failure to provide and/or maintain a loading berth, loading platform or service/delivery loading space);
- (k) 11 DCMR § 2303 (failure to keep parking lot free of refuse and debris); or
- (l) 11 DCMR § 2303.1(b) (failure to design a parking lot so that no vehicle or any part of a vehicle projects over the lot line or building line).

3312.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 11 DCMR § 203 (failure to obtain a home occupation permit, or use beyond scope of a home occupation permit).
- (b) 11 DCMR § 402 (failure to comply with limitations on floor area ratios allowed in residential districts);
- (c) 11 DCMR § 531 (failure to comply with limitations on floor area ratios allowed in special purpose districts):
- (d) 11 DCMR § 631 (failure to comply with limitations on floor area ratios allowed in mixed-use districts);

- (e) 11 DCMR § 771 (failure to comply with limitations on floor area ratios allowed in commercial districts);
- (f) 11 DCMR § 841 (failure to comply with limitations on floor area ratios allowed in industrial districts);
- (g) 11 DCMR § 931 (failure to comply with limitations on floor area ratios for buildings and structures in waterfront districts);
- (h) 11 DCMR § 1203.3 (failure to comply with limitations on floor area ratios allowed in Capitol Interest Districts);
- (i) DCMR § 2119.1 (failure to provide bicycle parking spaces when required);
- (j) 11 DCMR § 2117.3 (failure to stripe and line all required parking spaces);
- (k) DCMR § 2117.11 (failure to provide landscaping for parking spaces when required);
- (l) 11 DCMR § 2117.12 (failure to properly screen all open parking spaces when required);
- (m) DCMR § 2119.2 (failure to provide clean, secure and convenient bicycle facilities);
- (n) 11 DCMR § 2505 (failure to comply with requirements for the excavation of rock, clay, sand, or gravel for commercial purposes or the operation of a rock quarry); or
- (o) DCMR § 3203.3 or 12 DCMR § 118.1.4 (failure to conspicuously post a certificate of occupancy).

3312.4

Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 11 DCMR § 403 (failure to comply with limitations on lot occupancy allowed in residential district);
- (b) 11 DCMR § 532 (failure to comply with limitations on lot occupancy allowed in special purpose, waterfront district);
- (c) 11 DCMR § 634 (failure to comply with limitations on lot occupancy allowed in mixed-use district);
- (d) 11 DCMR § 772 (failure to comply with limitations on lot occupancy allowed in commercial district);

- (e) 11 DCMR § 932 (failure to comply with limitations on lot occupancy allowed in waterfront district);
- (f) 11 DCMR § 404 (failure to comply with limitations on rear yards allowed in residential districts);
- (g) 11 DCMR § 534 (failure to comply with limitations on rear yards allowed in special purpose districts);
- (h) 11 DCMR § 636 (failure to comply with limitations on rear yards allowed in mixed use districts);
- (i) 11 DCMR § 774 (failure to comply with limitations on rear yards allowed in commercial districts);
- (j) 11 DCMR § 842 (failure to comply with limitations on rear yards allowed in industrial districts);
- (k) 11 DCMR § 933 (failure to comply with limitations on rear yards allowed in waterfront districts);
- (l) 11 DCMR § 405 (failure to comply with limitations on side yards allowed in residential districts);
- (m) 11 DCMR § 535 (failure to comply with limitations on side yards allowed in special purpose districts);
- (n) 11 DCMR § 934 (failure to comply with limitations on side yards allowed in waterfront districts);
- (o) 11 DCMR § 775 (failure to comply with limitations on side yards allowed in commercial districts);
- (p) 11 DCMR § 843 (failure to comply with limitations on side yards allowed in industrial districts);
- (q) 11 DCMR § 533 (failure to comply with limitations on residential recreation space required in special purpose districts);
- (r) 11 DCMR § 635 (failure to comply with limitations on private residential recreation space allowed in mixed use districts);
- (s) 11 DCMR § 773 (failure to comply with limitations on residential recreation space allowed in commercial districts);

- (t) 11 DCMR § 2119.8 (failure to post a sign stating where bicycle parking spaces are located in the building when such spaces are required); or
- (u) 11 DCMR § 2504 (failure to comply with limitations on the removal of topsoil or sod).

Title 16 DCMR is amended to add a new Chapter 34 to read as follows:

**CHAPTER 34 FIRE AND EMERGENCY MEDICAL SERVICES
(EMS) DEPARTMENT INFRACTIONS**

Secs.

3400 Administrative Procedures and Schedule of Fines Applicable
3401 Fire Prevention Code Infractions
3402 Security And Fire Alarms Systems Infractions

3400 ADMINISTRATIVE PROCEDURES AND SCHEDULE OF FINES
APPLICABLE

3400.1 The civil infractions set forth in this chapter are subject to the provisions of Chapter 31 (Administrative Procedures) and Chapter 32 (Schedule of Fines) of this Title.

3401 FIRE PREVENTION CODE INFRACTIONS

The following abbreviations apply to this section:
IFC- International Fire Code

3401.1 Violations of any of the following provisions of the Fire Prevention Code shall be a Class 1 Infraction:

- (a) 12H DCMR § F-102.3 (change in occupancy that will subject the structure to special provisions of the Fire Prevention Code or Building Code without approval of the code official);
- (b) 12H DCMR § F-107.1 (failure to obtain and maintain required permits on the premises, including operational or installation permits as described by 12H DCMR §§ F-107.9 and 107.10);
- (c) 12H DCMR § F-109.7 (obstructing operations of the Fire Department in connection with extinguishment or control of any fire, or action relating to other emergencies);
- (d) 12H DCMR § F-110.1 (failure to remedy dangerous conditions or remove hazardous materials);
- (e) 12H DCMR § F-110.1(1) (failure to remedy hazardous conditions liable to cause or contribute to the spread of fire in, or on, the premises, building or structure, or endangering life or property);

- (f) 12H DCMR § F-110.1(8) (failure to remedy hazardous conditions arising from defective or improperly installed equipment for handling or using combustible, explosive or otherwise hazardous materials);
- (g) 12H DCMR § F-110.2 (failure to maintain, on a structure, premises, or lot, the fire protection equipment, systems or devices, means of egress or safeguards required by Fire Prevention Code);
- (h) 12H DCMR § F-110.3 (failure to remedy unsafe conditions in a existing structure or vacant structure, or a deficiency in a means of egress);
- (i) 12H DCMR § F-111.2 (refusal to leave, or interference with the evacuation of other occupants or continuance of any operation after receiving an evacuation order);
- (j) 12H DCMR § F-112.2 (failure to comply with a notice of violation issued by the code official);
- (k) IFC § 311.2.1 (failure to secure exterior and interior openings of vacant premises);
- (l) 12H DCMR § F-603.4 (failure to prohibit the use of portable unvented heaters or fuel fired heating equipment in use Group A, E, I, R-1, R-2, R-3 and R-4);
- (m) 12H DCMR § F-604.1 (failure to maintain and inspect emergency and standby systems in accordance with ICC Electric Code, NFPA 110 and NFPA 111);
- (n) 12H DCMR F-904.1 (failure to inspect, test and maintain automatic fire-extinguishing systems (except sprinkler systems) in accordance with the International Fire Code and the applicable referenced standards);
- (o) 12H DCMR § F-1011.5 (failure to post occupant load);
- (p) 12H DCMR § F-1011.6 (permitting overcrowding or admitting persons beyond the established occupant load); or
- (q) 12H DCMR § F-3309.1.1 (engaging in the manufacturing, possession, storage, display, sale, setting off, or discharge of prohibited fireworks).

3401.2

Violations of any of the following provisions of the Fire Prevention Code shall be a Class 2 infraction:

- (a) 12H DCMR § F-307.5 (operating charcoal burners and other open-flame cooking devices on a balcony or within 10 feet of combustible construction);
- (b) 12H DCMR § F-308.3 (failure to obtain a permit for open flame use in an educational or assembly occupancy);
- (c) 12H DCMR § F-314.5.1 (failure to provide a fire prevention attendant in a temporary exhibit of an unsprinklered building);
- (d) IFC § 404.2 (failure to prepare and maintain a fire safety and evacuation plan in accordance with this section);
- (e) IFC § 405.5 (failure to maintain emergency evacuation drill records);
- (f) IFC § 406.3 (failure to ensure employees are provided with fire prevention, evacuation and fire safety training);
- (g) IFC § 505.1 (failure to provide approved, legible and visible building address or identification);
- (h) IFC § 508.5.4 (obstructing fire hydrants, department connections or other fire protection system control valves);
- (i) 12H DCMR § F-907.3.1.5.2 (failure to install approved single-station smoke alarms in existing dwelling units, congregate residences, and hotel and lodging house guestrooms); or
- (j) 12H DCMR § F-1012.1 (failure to maintain emergency escape windows operational).

3401.3

Violation of any of the following provisions of the Fire Prevention Code shall be a Class 3 infraction:

- (a) IFC § 605.3 (failure to provide and maintain required clearance in front of electrical service equipment);
- (b) IFC § 803.1.3 (obstruction of egress or exit access visibility by placement furnishings or other objects);
- (c) IFC § 906.1 (failure to provide portable fire extinguishers in required occupancies and locations); or
- (d) 12H DCMR § F-1012.2 (failure to ensure security bars, grilles and screens over emergency escape windows are releasable or removable from the inside without use of a key or tool).

- 3401.4 Violation of any the following provisions of the Fire Prevention Code shall be a Class 4 infraction:
- (a) IFC 304.1 (failure to prohibit the accumulation of prohibited waste);
 - (b) IFC 310.4 (removing, obscuring, defacing, mutilating or destroying “No Smoking” signs);
 - (c) IFC 803.3.2 (failure to limit artwork and teaching material to not more than 20 percent on walls of corridors in educational occupancies);
 - (e) IFC 804.1.1 (failure to prohibit display of natural cut trees in certain occupancies); or
 - (f) 12H DCMR F-1013.1 (failure to provide stair identification of interior and exterior doors connecting more than three stories).
- 3401.5 Violation of any provision of the Fire Prevention Code not otherwise listed in this section shall be a Class 5 infraction.

3402 SECURITY AND FIRE ALARM SYSTEMS INFRACTIONS

3402.1 Reserved

3402.2 Reserved

3402.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) Section 5(a) of the Security and Fire Alarm Systems Regulation Act of 1980, effective Sept. 26, 1980 (D.C. Law 3-107; **D.C. Official Code § 7-2804(a)**)(engaging in the business of an alarm dealer within the District of Columbia without an alarm dealer's license);
- (b) Section 6(a) of the Security and Fire Alarm Systems Regulation Act of 1980 (**D.C. Official Code § 7-2805(a)**) (acting as an alarm system agent within the District of Columbia without an alarm agent's license); or
- (c) Section 9(a) of the Security and Fire Alarm Systems Regulation Act of 1980 (**D.C. Official Code § 7-2808(c)**) (installing or maintaining an alarm system which does not have some safeguard which allows reasonable delay to halt or recall an accidental alarm activation before the alarm is communicated to the Metropolitan Police Department or the Fire and Emergency Medical Services Department).

3402.4

Violation of any of the following provisions shall be a class 4 infraction:

- (a) Section 4 of the Security and Fire Alarm Systems Regulation Act of 1980 (**D.C. Official Code § 7-2803**) (using any unapproved signaling device to transmit, or cause to be transmitted, a prerecorded message to report any fire, burglary, holdup or other emergency directly to the Metropolitan Police Department or the District of Columbia Fire and Emergency Medical Services Department);
- (b) Section 6(e) of the Security and Fire Alarm Systems Regulation Act of 1980 (**D.C. Official Code § 7-2805(e)**) (failing to display upon request a valid license identification card while installing, inspecting, maintaining, servicing or repairing an alarm system);
- (c) Section 7(a) of the Security and Fire Alarm Systems Regulation Act of 1980 (**D.C. Official Code § 7-2806(a)**) (failure of an alarm dealer to maintain and secure records);
- (d) Section 7(b) of the Security and Fire Alarm Systems Regulation Act of 1980 (**D.C. Official Code § 7-2806(b)**) (failure to maintain alarm agent user records as required by law);
- (e) Section 7(c) of the Security and Fire Alarm Systems Regulation Act of 1980 (**D.C. Official Code § 7-2806(c)**) (failure to post sign indicating alarm dealer);
- (g) Section 7(d) of the Security and Fire Alarm Systems Regulation Act of 1980 (**D.C. Official Code § 7-2806(d)**) (failure to adequately train or instruct employees);
- (h) Section 8(d) of the Security and Fire Alarm Systems Regulation Act of 1980 (**D.C. Official Code § 7-2807(d)**) (failure of user to maintain posted name of alarm agent or dealer);
- (i) Section 8(a) of the Security and Fire Alarm Systems Regulation Act of 1980 (**D.C. Official Code § 7-2807(a)**) (causing or permitting a false alarm);
- (j) Section 8(c) of the Security and Fire Alarm Systems Regulation Act of 1980 (**D.C. Official Code § 7-2807(c)**) (failure to maintain an alarm system in good working order or failing to promptly repair defects);
- (k) Section 8(d) of the Security and Fire Alarm Systems Regulation Act of 1980 (**D.C. Official Code § 7-2807(d)**) (failure of user to have person properly respond to scene when requested); or

- (1) Section 9 of the Security and Fire Alarm Systems Regulation Act of 1980 (**D.C. Official Code § 7-2808(a)**) (installing or maintaining a system by any person which creates an improper sound).

- (j) 22 DCMR § 3819.8 (assigning duties inconsistent with employee's license, job description, training and experience);
- (k) 22 DCMR § 3829.1 or 3829.2 (failure to provide oral or written notice of any serious illness, accident, or unusual incident);
- (l) 22 DCMR § 3829.4 (failure to notify an appropriate person in the case of the death of a resident); or
- (m) 22 DCMR §§ 3835.4, 3835.5, 3836.4, 3837.4, or 3838.5 (failure to comply with staffing requirements).

3501.2 Violation of the following provisions shall be a Class 2 infraction:

- (a) 22 DCMR §§ 3803.1, 3835.2, 3836.2, 3837.1 or 3838.3 (exceeding maximum occupancy);
- (b) 22 DCMR § 3803.5 (failure to make residence physically accessible);
- (c) 22 DCMR § 3806.1 or 3806.3 (failure to comply with heating and cooling requirements);
- (d) 22 DCMR § 3813.1 (failure to keep food handler certificate current or failure to apply nutrition and management principles);
- (e) 22 DCMR § 3813.2 (failure to promote residents' participation and skill development in menu planning, shopping, food storage, and kitchen maintenance);
- (f) 22 DCMR § 3813.3 to 3813.5 (failure to comply with meal service regulations);
- (g) 22 DCMR § 3813.6 (failure to provide clean, wholesome, and unspoiled food and drink);
- (h) 22 DCMR § 3822.1 (failure to keep confidential resident's record and any MHCRF records that contain information identifying residents);
- (i) 22 DCMR § 3823.3 (failure to keep resident's medication record inaccessible to other residents and visitors);
- (j) 22 DCMR § 3823.4 to 3823.10, or 3823.12 (improper administration of medications);

- (k) 22 DCMR § 3823.10 (failure to report and document medication errors, reactions or adverse responses);
- (l) 22 DCMR § 3823.11 (failure to document and report resident's refusal of medication);
- (m) 22 DCMR § 3824.1 or 3824.2 (failure to carry or provide proof of required insurance);
- (n) 22 DCMR § 3830.1 (failure to notify the CMHS and physician of change that may require relocating resident);
- (o) 22 DCMR § 3830.2 or 3820.3 (improper discharge, transfer or relocation of a resident);
- (p) 22 DCMR § 3830.4 (failure to readmit resident transferred from MHCRF within ninety (90) days);
- (q) 22 DCMR § 3830.5 (failure to hold bed for SSI resident admitted to public mental institution in which Medicaid is paying fifty percent (50%) or more of cost of care);
- (r) 22 DCMR § 3831.1 or 3831.2 (restraining or confining a resident);
- (s) 22 DCMR § 3833.1 to 3833.7 (failure to comply with service coordination, case management, and support services regulations);
- (t) 22 DCMR § 3835.1 or 3836.1 (failure to provide homelike setting in a Supported Residence or a Supported Rehabilitative Residence);
- (u) 22 DCMR §§ 3835.7, 3836.9, or 3837.7 (failure to have a Residence Director);
- (v) 22 DCMR § 3836.3 or 3837.2 (failure to provide specialized services or programming when necessary);
- (w) 22 DCMR § 3836.5 (failure to provide staff assistance with daily living activities, personal supervision, meals, lodging, and rehabilitative and specialized services);
- (x) 22 DCMR § 3836.6 (failure to provide consistent and therapeutic environment);
- (y) 22 DCMR § 3836.7 (failure to coordinate rehabilitation under the direction of the resident's designated treatment team);

- (z) 22 DCMR § 3837.5 (failure to provide staffing specialists according to special program needs);
- (aa) 22 DCMR §§ 3837.8 or 3838.6 (failure to have Residence Director or staff member present when residents are at the residence, or failure to provide clinical back-up services); or
- (bb) 22 DCMR § 3837.9 or § 3838.7 (failure of Residence Director of Intensive Residence or a Transitional Residence to meet requirements of § 3818 and appropriate experience requirements).

3501.3

Violation of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 3801.1 (failure to explain rights and responsibilities, provide a written statement of rights and responsibilities, or make available a copy of rights);
- (b) 22 DCMR §§ 3801.2, 3801.4, or 3827.4 (discrimination or reprisal against a resident);
- (c) 22 DCMR § 3801.3 (failure to provide resident and resident's legal representative a signed, written admission contract prior to admission);
- (d) 22 DCMR § 3801.5 (failure to provide resident a copy of grievance procedures);
- (e) 22 DCMR § 3801.6 (failure to provide resident privacy for provision of personal and medical care);
- (f) 22 DCMR § 3801.7 (failure to provide resident opportunity to participate in developing individual treatment plan);
- (g) 22 DCMR § 3801.8 (failure to provide resident adequate and humane treatment by competent and qualified staff);
- (h) 22 DCMR § 3801.9 (failure to inform resident of condition and progress);
- (i) 22 DCMR § 3801.10 (failure to keep resident's treatment record confidential);
- (j) 22 DCMR § 3801.11 (failure to provide resident the opportunity to meet with members of the treatment team);
- (k) 22 DCMR § 3801.12 (failure to provide resident periodic review of treatment plan);

- (l) 22 DCMR § 3801.13 to 3801.16 (failure to comply with resident's visitation and communication rights);
- (m) 22 DCMR § 3801.17 or 3801.18 (denying resident's right to refuse life sustaining treatment and execute advanced directives or the limited right to refuse psychiatric treatment and supportive services);
- (n) 22 DCMR § 3801.19, 3801.23, or 3801.24 (failure to provide resident access to authorized representatives, District government officials, or Long Term Care Ombudsman);
- (o) 22 DCMR § 3801.20 (failure to assist resident in registering and exercising right to vote);
- (p) 22 DCMR § 3801.21 (imposing a religious belief or practice on a resident);
- (q) 22 DCMR § 3801.22 (failure to provide resident opportunities to participate in social, religious and community activities);
- (r) 22 DCMR § 3801.25 (denying resident the right to manage his or her financial affairs);
- (s) 22 DCMR § 3801.26 (using residents as research subjects without resident's consent, or for research that does not comply with federal and District laws and regulations and DMH policy);
- (t) 22 DCMR § 3801.27 (requiring resident to perform unauthorized unpaid work);
- (u) 22 DCMR § 3801.28 (failure to comply with Title III of the Nursing Home and Community Residence Facility Residents' Protection Act of 1985 for transfers, discharges or relocations);
- (v) 22 DCMR § 3801.29 or 3801.30 (failure to have required rules or failure to provide resident with a copy of the MHCRF's rules);
- (w) 22 DCMR § 3801.31 (failure of resident to comply with MHCRF rules);
- (x) 22 DCMR § 3802.5 (failure to maintain pest control program and keep premises free from insects and rodents);
- (y) 22 DCMR § 3802.6 (failure to maintain readily available first aid supplies);
- (z) 22 DCMR § 3802.7 (failure to protect residents from asbestos hazards);

- (aa) 22 DCMR § 3802.8 (failure to equip, furnish and maintain residence in a comfortable, congenial home-like setting for residents and staff);
- (bb) 22 DCMR § 3802.9 (failure to provide adequate collection, storage, and removal of trash and refuse);
- (cc) 22 DCMR § 3802.10 (failure to screen windows during insect season);
- (dd) 22 DCMR § 3802.11 (failure to securely fasten carpets or use non-skid pads);
- (ee) 22 DCMR § 3802.12 (failure to keep hallways, porches, stairways, stairwells and basements free from obstructions);
- (ff) 22 DCMR § 3802.13 (failure to equip ramps and stairways with firmly secured handrails or banisters);
- (gg) 22 DCMR § 3802.14 (failure to use lead-free paint or remove old paint or plaster containing lead);
- (hh) 22 DCMR § 3802.15 (failure to design and maintain walls and floors to minimize accidents);
- (ii) 22 DCMR § 3802.16 (failure to have pets examined by licensed veterinarian or keep pet vaccinations current);
- (jj) 22 DCMR § 3804.1 to 3804.3 (failure to provide adequate lighting);
- (kk) 22 DCMR § 3805.1 or 3805.2 (failure to ensure that water supply and water distribution system conform to District laws and regulations, or failure to have adequate plumbing);
- (ll) 22 DCMR § 3806.4 (failure to clean functioning fireplace chimney annually);
- (mm) 22 DCMR § 3807.2, 3807.3, or 3807.7 (failure to provide adequate bedroom facilities);
- (nn) 22 DCMR § 3808.3 (failure to provide properly anchored grab bars or handrails in toilet and bathing areas when needed);
- (oo) 22 DCMR § 3813.7 (failure to provide fresh water and clean drinking glasses);
- (pp) 22 DCMR § 3813.8 (failure to provide assistance to eat when necessary);

- (qq) 22 DCMR § 3814.1 to 3814.4 (failure to comply with diet requirements);
- (rr) 22 DCMR § 3816.3 or 3816.4 (failure to safeguard and account for resident's personal articles);
- (ss) 22 DCMR § 3816.5, 3816.9, or 3816.10 (failure to comply with personal property and funds requirements);
- (tt) 22 DCMR § 3817.2 (failure to provide annual physician exams);
- (uu) 22 DCMR § 3817.3 (failure to include in resident's permanent record copies of medical examinations, physicians' reports, and physicians' recommendations for care);
- (vv) 22 DCMR § 3817.4 (failure to assist resident in making arrangements for medical or dental examinations when resident is unable to do so);
- (ww) 22 DCMR § 3818.1 to 3818.3 (failure to comply with training, experience, and credentials requirements for Residence Directors);
- (xx) 22 DCMR § 3818.4 (failure of Residence Director to complete minimum responsibilities);
- (yy) 22 DCMR § 3818.5 (failure to ensure adequate supervision when Residence Director is absent);
- (zz) 22 DCMR § 3819.2 (failure to have written personnel policy);
- (aaa) 22 DCMR § 3819.3 (failure to ensure that MHCRF staff have annual physical examinations);
- (bbb) 22 DCMR § 3819.4 (failure to maintain accurate personnel records);
- (ccc) 22 DCMR § 3819.10 or 3819.11 (failure to comply with volunteer and paid staff training and screening requirements);
- (ddd) 22 DCMR §§ 3820.1 to 3820.3, 3820.5, 3821.1 to 3821.3, or 3823.1 (failure to properly maintain records);
- (eee) 22 DCMR § 3820.4 (failure to notify agency of changes in occupancy level);
- (fff) 22 DCMR § 3820.6 (failure to investigate allegations of mistreatment and promptly report findings resulting from investigation);

- (ggg) 22 DCMR § 3820.7 (failure to make resident's financial records available for audit);
- (hhh) 22 DCMR § 3825.1 (failure to have written program statement with all required elements);
- (iii) 22 DCMR § 3827.1 (failure to admit and retain only those persons that can be safely and adequately cared for);
- (jjj) 22 DCMR § 3827.2 (disqualifying a person from placement because the person is not ambulatory, needs medication assistance, has active substance abuse, or needs limited or intermittent nursing care);
- (kkk) 22 DCMR § 3827.3 (failure to follow written admission criteria or present criteria to resident upon admission);
- (lll) 22 DCMR § 3827.5 (failure to provide written reasons for denying admission);
- (mmm) 22 DCMR § 3827.6 (refusal to make reasonable accommodations to admit resident who is deaf, blind, non-English speaking, or physically or mentally disabled);
- (nnn) 22 DCMR § 3827.7 to 3827.9, or 3827.11 (failure to comply with pre-admission medical assessment requirements);
- (ooo) 22 DCMR § 3829.3 (failure to have written emergency policies and procedures);
- (ppp) 22 DCMR § 3829.5 or 3829.6 (failure to follow procedures and laws regarding resident deaths); or
- (qqq) 22 DCMR § 3832.1 to 3832.5 (failure to comply with rehabilitation regulations).

3501.4 Violation of the following provisions shall be a Class 4 infraction:

- (a) 22 DCMR § 3802.1 (improper use of exterior name or logo);
- (b) 22 DCMR § 3802.2 (failure to properly maintain and provide access to green areas);
- (c) 22 DCMR § 3802.3 (locating MHCRF in area with noxious, hazardous smoke and fumes or with loud and irritating noises);

- (d) 22 DCMR § 3802.4 (failure to provide functional, safe, comfortable, and supportive environment);
- (e) 22 DCMR § 3807.4 (failure to keep beds three feet (3 ft.) or more from another bed or a radiator);
- (f) 22 DCMR § 3808.2 or 3808.4 (failure to provide adequate equipment or adequate privacy and safety in toilets and bathing facilities);
- (g) 22 DCMR § 3815.1 (failure to maintain interior and exterior in safe, clean, orderly, attractive and sanitary manner);
- (h) 22 DCMR § 3815.2 or 3815.4 to 3815.8 (failure to provide sufficient quantities of clean and sanitary linens, linen storage, or laundering facilities);
- (i) 22 DCMR § 3816.1 (improperly increasing fee for care);
- (j) 22 DCMR § 3816.2 (denying resident reasonable personal possessions and furnishings in living quarters);
- (k) 22 DCMR § 3816.6 (failure to copy and make available to residents the record required by § 3816.5);
- (l) 22 DCMR § 3816.11 (failure to encourage residents to wear their own clothing);
- (m) 22 DCMR § 3817.5 (failure to maintain a list of names and telephone numbers of residents' physicians); or
- (n) 22 DCMR § 3834.1 to 3834.4 (failure to comply with requirements regarding resident activities).

3502 MENTAL HEALTH PROVIDER CERTIFICATION INFRACTIONS

3502.1 Violation of the following provisions shall be a Class 1 infraction:

- (a) 22 DCMR § 3410.28(1) (failure to establish and comply with a medication policy governing the purchasing, receipt, storage, distribution, return, and destruction of medication, and failure of the policy to comply with applicable federal and District laws and regulations regarding the same);
- (b) 22 DCMR § 3416.1 (failure to utilize medication/somatic treatment services needed for effective mental health treatment); or

- (c) 22 DCMR § 3416.2 (failure to monitor the side effects of medication and adverse reactions and to provide education and direction for symptom and medication self-management).

3502.2

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

- (a) 22 DCMR § 3410.3 (failure to hire qualified personnel, and to comply with all applicable federal and District laws and regulations);
- (b) 22 DCMR § 3401.13 (failure to notify DMH immediately of any changes in its operation, changes in ownership or control, changes in service, changes in affiliation and referral arrangements);
- (c) 22 DCMR § 3402.1 (failure to offer rehabilitative or palliative services rendered by certified MHRS providers to eligible consumers who require such services);
- (d) 22 DCMR §§ 3402.3, 3410.7, and 3410.8 (failure to provide MHRS by a physician or a licensed practitioner of the healing arts, and qualified practitioners and credentialed staff, under the supervision of qualified practitioners, acting within their scope of practice as identified in § 3413);
- (e) 22 DCMR § 3402.7 (failure to use qualified practitioners who meet eligibility requirements described in § 3413 to render MHRS through DMH-certified MHRS providers);
- (f) 22 DCMR § 3402.8 (failure to provide service that is medically necessary, delivered by a DMH-certified MHRS provider as described in §§ 3410, 3411, and 3412, and qualified practitioners as identified in § 3413 in accordance with the approved individualized recovery plan (IRP) or individualized plan of care (IPC) and that meets other service specific standards);
- (g) 22 DCMR § 3402.10 (failure to ensure that all consumers have the right to file a grievance and receive notice of fair hearing rights);
- (h) 22 DCMR § 3403.2 (failure to ensure eligible consumers have a primary diagnosis on either Axis 1 or 2 of the DSM-IV);
- (i) 22 DCMR § 3404.2 (failure to obtain either prior authorization or re-authorization under § 3424 for required services described in §§ 3408.1 and 3424);
- (j) 22 DCMR § 3405.1 (failure to post the statement of consumer rights in strategic and conspicuous areas, and failure to provide a statement of

consumer rights and responsibilities to consumers consistent with federal and District regulations);

- (k) 22 DCMR § 3405.2 (failure to document and distribute the consumer rights statement to consumers during the intake process);
- (l) 22 DCMR § 3405.4 (failure to obtain written informed consent to treatment from consumers which complies with applicable federal and District laws);
- (m) 22 DCMR § 3405.5 (failure to obtain the release of mental health information from consumers and comply with the requirements of 42 CFR Part II governing the confidentiality and release of drug and alcohol treatment record);
- (n) 22 DCMR § 3405.7 (failure to incorporate advance instructions for mental health treatment, durable power of attorney for health care, and advance directives into the IRP/IPC planning process);
- (o) 22 DCMR § 3406.1 (failure to inform consumers of the full choices of MHRS providers, qualified practitioners and other mental health service providers available, including information about peer support and family support services and groups and how to access these services);
- (p) 22 DCMR § 3406.5 to 3406.7 (failure to inform consumers of the choice of providers of MHRS available in accordance with the MHRS provider's MH Consumer Choice Policy);
- (q) 22 DCMR §§ 3407, 3408.1 to 3408.20, and 3410.12 (failure to include all required elements in the IRP/IPC);
- (r) 22 DCMR §§ 3409.1 to 3409.9 (failure of each specified subprovider, and specialty provider to follow individual service specific plan (ISSP) development and implementation guidelines as specified if the IRP/IPC requires the consumer receive such service);
- (s) 22 DCMR § 3410.12 (failure to establish and comply with policies and procedures governing the coordination of the treatment planning process, including procedures for designing, implementing, reviewing, and revising each consumer's IRP/IPC and ISSPs that comply with the requirements of §§ 3407, 3408, 3409.9, and 3410.12);
- (t) 22 DCMR § 3410.15 (failure to establish and comply with policies and procedures for handling routine, urgent, and emergency situations);

- (u) 22 DCMR §§ 3410.16 to 3410.19 (failure to establish and comply with policies for clinical record documentation, security, and confidentiality of consumer and family information, clinical records retention, maintenance, purging and destruction, and for disclosure of consumer and family information, and informed consent that comply with applicable federal and District laws and regulations);
- (v) 22 DCMR § 3410.24 (failure to document how the provider respects consumers' and families' right to privacy and confidentiality when services are provided in natural settings);
- (w) 22 DCMR § 3410.26 (failure to establish and comply with anti-discrimination policies and procedures relative to hiring, promotion, and provision of services to consumers that comply with applicable federal and District laws and regulations);
- (x) 22 DCMR § 3410.27 (failure to establish and comply with a written Quality Improvement (QI) plan describing the objectives and scope of its QI program and requiring MHRS provider staff, consumer, and family involvement in the QI program);
- (y) 22 DCMR §§ 3410.28(a) to 3410.28(k) (failure to comply with the requirements for facilities management);
- (z) 22 DCMR § 3410.30 (failure to establish and comply with policies and procedures governing the retention, maintenance, purging and destruction of the provider's business records and failure to include all other required elements);
- (aa) 22 DCMR § 3410.31 (failure to comply with requirements for maintaining certification, provider status, and contracts);
- (bb) 22 DCMR § 3410.32 (failure to obtain and maintain minimum insurance coverage as required by District laws and regulation);
- (cc) 22 DCMR § 3410.37 (failure to operate according to all applicable federal and District laws and regulations relating to fraud and abuse in health care, the provision of mental health services, and the Medicaid program);
- (dd) 22 DCMR § 3410.38 (failure to comply with DMH approved plan for ensuring corporate compliance with applicable federal and District laws and regulations);
- (ee) 22 DCMR § 3410.42 (failure to manage information in compliance with the confidentiality requirements contained in applicable federal and District laws and regulations);

- (ff) 22 DCMR § 3410.43 (failure to establish and comply with a disaster recovery plan for maintaining the security of data and information);
- (gg) 22 DCMR § 3411.1 (failure of CSA to comply with the general certification standards described in § 3410);
- (hh) 22 DCMR § 3411.2 (failure of CSA to provide clinical managers and clinical management for consumers and to ensure the development/approval of IRPs/IPC);
- (ii) 22 DCMR § 3411.3 (failure of CSA to satisfy minimum staffing requirements);
- (jj) 22 DCMR § 3411.4 (failure of CSA to comply with clinical operations requirements);
- (kk) 22 DCMR § 3411.5 (failure of CSA to comply with service accessibility requirements);
- (ll) 22 DCMR § 3411.6 (failure of CSA to have a QI program directed by a QI Committee comprised of qualified practitioners that comply with § 3410.27);
- (mm) 22 DCMR § 3413.1 (failure to use qualified practitioners as authorized to provide MHRS);
- (nn) 22 DCMR § 3413.2 (failure to use qualified practitioners and credentialed staff with supervision as authorized);
- (oo) 22 DCMR § 3414.1 (failure to comply with service specific MHRS standards);
- (pp) 22 DCMR § 3414.2 (failure to provide covered core services);
- (qq) 22 DCMR § 3414.3 (failure to provide covered specialty services);
- (rr) 22 DCMR §§ 3415.1 to 3415.9 (failure to provide diagnostic/assessment services as required);
- (ss) 22 DCMR §§ 3416.3 to 3416.6 (failure to provide medication/somatic treatment services as required);
- (tt) 22 DCMR § 3417.1 (failure to provide counseling and psychotherapy services as defined);

- (uu) 22 DCMR § 3417.2 (failure to include skill building techniques as necessary to access community resources and support systems, interpersonal skills, and restoration or enhancement of the family unit and support of the family);
- (vv) 22 DCMR §§ 3418.1 to 3418.8 (failure to provide community support services as required);
- (ww) 22 DCMR §§ 3419.1 to 3419.6 (failure to provide crisis/emergency services as required);
- (xx) 22 DCMR §§ 3420.1 to 3420.8 (failure to provide rehabilitation services as required);
- (yy) 22 DCMR §§ 3421.1 to 3421.12 (failure to provide intensive day treatment services as required);
- (zz) 22 DCMR §§ 3422.1 to 3422.11 (failure to provide community- based interventions services as required);
- (aaa) 22 DCMR §§ 3423.1 to 3423.10 (failure to provide assertive community treatment as required; and
- (bbb) 22 DCMR § 3405.3 (failure to establish and comply with a well-publicized complaint and grievance system); or
- (ccc) Violation of any of the following requirements to become certified by the Department of Mental Health (DMH), as required by the Department of Mental Health Establishment Amendment Act of 2001, effective December 18, 2001 (D.C. Law 14-56; D.C. Official Code § 7-1131.01 *et seq.*), to provide mental health services in the District:
 1. 22 DCMR § 3400 (providing community based mental health rehabilitation services (MHRS) in the District without obtaining certification from DMH as a core services agency (CSA), subprovider or specialty provider of MHRS);
 2. 29 DCMR § 706 (operating Medicaid day treatment programs for consumers of mental health services and mental health supports without obtaining mental health certification from DMH);
 3. 29 DCMR § 800 (operating free standing mental health clinics without obtaining mental health certification from DMH);

4. 29 DCMR § 948 (operating a residential treatment center for children and youth without obtaining mental health certification from DMH); and
5. 29 DCMR § 4600 (operating mobile community outreach treatment teams without obtaining mental health certification from DMH).

3505.3 Violation of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR §3401.4 (failure to allow an on-site survey to be conducted at the time of certification application or certification renewal, or at any other time and failure to allow access to all records necessary to verify compliance with certification standards);
- (b) 22 DCMR § 3402.9 (failure to ensure that all consumers have a free choice of MHRS providers and free choice of qualified practitioners delivering services through a DMH-certified MHRS provider, as described in § 3406);
- (c) 22 DCMR § 3403.3 (failure to ensure that persons with a primary substance abuse diagnosis only are not receiving MHRS);
- (d) 22 DCMR § 3410.21 (failure to make language interpreters available as needed for persons who do not use English as a first language or use a non-primary language for communication);
- (e) 22 DCMR § 3410.22 (failure to ensure supervision by an interpreter certified by the National Registry of Interpreters for the Deaf and ongoing training in sign language interpreting);
- (f) 22 DCMR § 3410.23 (failure to provide or utilize a TTY communication line (or an equivalent)
- (g) 22 DCMR §§ 3401.1 and 3401.15 (failure to renew certification at least ninety (90) days prior to the termination of current certification);
- (h) 22 DCMR § 3410.1 (failure to maintain a certificate of good standing to conduct business in the District of Columbia);
- (i) 22 DCMR § 3411.11 (failure of CSA to submit or update IRP/IPC information to the DMH contract management system at least every ninety (90) days); or
- (j) 22 DCMR §§ 3412.1 to 3412.10, and 3412.13 to 3412.17 (failure of subprovider or specialty provider to comply with specified provider requirements).

3502.4

Violation of the following provisions shall be a Class 4 infraction:

- (a) 22 DCMR § 3410.2 (failure to maintain the MHRS clinical operations policies and procedures as required);
- (b) 22 DCMR § 3410.4 (failure to establish and comply with policies and procedures for the selection or hiring of staff);
- (c) 22 DCMR § 3410.5 (failure to establish and comply with the requirement to have written job descriptions for all positions including the job responsibilities and reporting relationships);
- (d) 22 DCMR § 3410.6 (failure to establish and comply with the policies and procedures on periodic evaluation of clinical and administrative staff performance);
- (e) 22 DCMR § 3410.9 (failure to orientate staff on the MHRS during the first three (3) months of employment and on an ongoing basis);
- (f) 22 DCMR § 3410.10 (failure to establish and comply with the annual training plan for staff);
- (g) 22 DCMR § 3410.25 (failure to provide an in-service training program for all staff regarding sensitivity to cultural issues, increasing cultural competence of all staff, and treating consumers with dignity and respect);
- (h) 22 DCMR § 3410.33 (failure to establish and comply with policies and procedures governing billing and payment according to the certification standards);
- (i) 22 DCMR § 3410.34 (failure to submit claims for consumers within ninety (90) days of the date of service, or thirty (30) days after a secondary or third party payer has adjudicated a claim for this service);
- (j) 22 DCMR § 3410.35 (failure to establish a sliding fee schedule covering each of the MHRS and not impose additional charges for services beyond Medicaid payment);
- (k) 22 DCMR § 3411.7 (failure of CSA to make a play area available for children in the waiting room area);
- (l) 22 DCMR § 3411.8 (failure of CSA to have a full-time controller, chief financial officer, or a designated individual responsible for executing or overseeing the financial operations of the CSA);

- (m) 22 DCMR § 3411.9 (failure of CSA to have an annual audit by a CPA firm or failure to submit the audit to DMH within one hundred-twenty (120) days after close of the CSA's fiscal year);
- (n) 22 DCMR § 3411.10 (failure of CSA to enter into an affiliation agreement with its subproviders and/or specialty providers that specifies the responsibilities of the parties);
- (o) 22 DCMR § 3411.13 (failure of CSA to have an affiliated provider policy, subcontractor policy, consumer and family education policy, on-call system policy and outreach policy, reviewed and approved by DMH);
- (p) 22 DCMR § 3412.11 (failure of a subprovider or specialty provider with total annual revenues exceeding three hundred thousand dollars (\$ 300,000) to have an annual audit by a certified public accounting firm in accordance with generally accepted auditing standards and to submit a copy of the audit report ninety (90) days after the end of its fiscal year);
- (q) 22 DCMR § 3412.12 (failure of a subprovider or specialty provider with total annual revenues less than three hundred thousand dollars (\$ 300,000) to submit a financial statement reviewed by an independent certified public accounting firm one hundred twenty (120) days after the end of its fiscal year); or
- (r) 22 DCMR § 3401.7 (failure to describe the action to be taken and the timeframes for correcting the areas of non-compliance and to submit a written plan of correction within ten (10) working days after receipt of the written statement of non-compliance).

3502.5 Violation of any provision of the Mental Health Rehabilitation Services Provider Certification Standards, 22 DCMR, Chapter 34, in which the provision or rule is not cited elsewhere in this chapter, shall be a Class 4 infraction.

Title 16 DCMR is amended to add a new Chapter 36 to read as follows:

CHAPTER 36 DEPARTMENT OF HEALTH (DOH) INFRACTIONS

Secs.

3600	Administrative Procedures and Schedule of Fines Applicable
3601	Health Practice Infractions
3602	Child Care and Child Placing Infractions
3603	Health Facility and Community Residence Facility Infractions
3604	Tissue Bank Infractions
3605	Group Homes for Mentally Retarded Persons Infractions
3606	Hospital Infractions
3607	Nursing Facility Infractions
3608	Home Care Agency Infractions
3609	Background Checks for Health Care Workers Infractions
3610-3614	Reserved
3615	Pharmacy and Medical Devices Infractions
3616	Controlled Substances Infractions
3617-3619	Reserved
3620	Food and Food Operations Infractions
3621	Swimming Pool and Spa Operations Infractions
3622	Public Bath Infractions
3623	Mattresses Infractions
3624	Barber Shop and Cosmetology Salon Operations Infractions
3625	Massage Establishment Infractions
3626-329	Reserved
3630	Vector Control and Animal Disease Prevention Infractions
3631-336	Reserved
3637	Air Quality Infractions
3638-3643	Reserved
3644	Water Quality Infractions
3645	Aquatic Animal Protection and Fishing Infractions
3646	Soil Erosion, Sediment Control and Storm Water Management Infractions
3647-369	Reserved
3650	Toxic Substances Infractions
3651	Underground Storage Tank Infractions
3652	Hazardous Waste Infractions
3653-3661	Reserved
3662	Lead Based Paint Abatement and Control Infractions

3600 ADMINISTRATIVE PROCEDURES AND SCHEDULE OF FINES APPLICABLE

3600.1 The civil infractions set forth in this chapter are subject to the provisions of Chapter 31 (Administrative Procedures) and Chapter 32 (Schedule of Fines) of this Title.

3601 HEALTH PRACTICE INFRACTIONS

3601.1 Violation of the following provision shall be a Class 1 infraction:

Section 501 of the District of Columbia Health Occupations Revision Act of 1985, effective Mar. 25, 1986 (D.C. Law 6-99; **D.C. Official Code § 3-1205.01**) (practicing medicine, acupuncture, chiropractic, registered nursing, practical nursing, dentistry, dental hygiene, dietetics, nutrition, nursing home administration, occupational therapy, optometry, pharmacy, physical therapy, podiatry, psychology, social work, as a physician's assistant or as an occupational therapy assistant without a license).

3601.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) Section 901 of the District of Columbia Health Occupations Revision Act of 1985 (**D.C. Official Code § 3-1209.01**) (practicing naturopathy or naturopathic healing without a certificate of registration);
- (b) Section 902 of the District of Columbia Health Occupations Revision Act of 1985 (**D.C. Official Code § 3-1209.02**) (engaging in the practice of dance therapy or recreation therapy without a certificate of registration); or
- (c) Section 101 of the District of Columbia Health Occupations Revision Act of 1985 (**D.C. Official Code § 3-1210.01**) (practicing a health occupation, other than one enumerated in D.C. Official Code § 3-1205.01, without a license).

3601.3 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) Section 513(a) of the District of Columbia Health Occupations Revision Act of 1985 (**D.C. Official Code § 3-1205.13(a)**) (failure to display license conspicuously in any and all places of business or employment of the licensee); or
- (b) Section 513(b) of the District of Columbia Health Occupations Revision Act of 1985 (**D.C. Official Code § 3-1205.13(b)**) (failure to notify the board of any changes of address of the place of residence or place of business or employment within 30 days after the change of address).

3602**CHILD CARE AND CHILD PLACING INFRACTIONS**

3602.1

Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 29 DCMR § 301.1 (operating a child development facility without a license);
- (b) 29 DCMR § 301.3 (failure to have a separate license for each facility located at different premises); or
- (c) 29 DCMR § 1600.4 (failure of a child placing agency to have an office and staff within the District of Columbia).

3602.2

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

- (a) 29 DCMR § 306.1(c) (committing, aiding, abetting, or permitting fraud, gross negligence, abuse, assault, or another illegal act in the operation of a child development facility);
- (b) 29 DCMR § 311 (failure to permit authorized officials to enter and inspect);
- (c) 29 DCMR § 315.3 (failure to have a qualified director in charge of a child development center);
- (d) 29 DCMR § 315.4 (failure to have a qualified teacher in charge of a group at a child development center);
- (e) 29 DCMR § 330.8 (failure of a child development center to maintain all exits properly equipped);
- (f) 29 DCMR § 1601 (failure to comply with provisions concerning incorporation and operation of a child placing agency);
- (g) 29 DCMR § 1603.1 (failure to employ a qualified executive director);
- (h) 29 DCMR § 1608.1 (establishing fees not in accordance with fee-setting regulations);
- (i) 29 DCMR § 1608.4 (failure to provide client with written estimate of cost of services);
- (j) 29 DCMR § 1608.5 (accepting money or another item of value beyond the established fees for services);

- (k) 29 DCMR § 1613, except § 1613.9 (failure to employ sufficient and qualified professional staff or failure of professional staff to fulfill specified responsibilities);
- (l) 29 DCMR § 1614.3 (failure to employ qualified professional staff on a contract basis);
- (m) 29 DCMR § 1619.1 (failure to develop a written case plan on a child);
- (n) 29 DCMR § 1619.4 (failure to secure written authorization to place a child before accepting that child for placement);
- (o) 29 DCMR § 1619.5 (failure to secure written authorization to provide medical care before accepting that child for placement);
- (p) 29 DCMR § 1620.1 (failure to conduct an adoptive home study);
- (q) 29 DCMR § 1623.1 (failure to establish that a child is legally free for adoption or legally able to enter the District of Columbia for adoption before placing that child for adoption);
- (r) 29 DCMR § 1628.6 (failure to secure written consent to place a child before accepting that child for placement);
- (s) 29 DCMR § 1628.7 (failure to secure written consent to provide medical care before accepting that child for placement);
- (t) 29 DCMR § 1628.10 (encouraging a birth parent to surrender a child by coercion, promise of financial aid or other consideration, or making acceptance for casework services contingent upon surrender);
- (u) 29 DCMR § 1638.2 (using an unlicensed foster home for the placement of a child);
- (v) 29 DCMR § 1639.1 (failure to conduct a foster home study); or
- (w) 29 DCMR § 1644.3 (failure to provide or ensure the provision of health care for a foster child in the agency's care).

3602.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 29 DCMR § 301.9 (transfer of child development facility license to another person or place without government approval);

- (b) 29 DCMR § 301.10 (refusal to return license after suspension, revocation, non-renewal, or voluntary closure);
- (c) 29 DCMR § 302 (failure to comply with application requirements);
- (d) 29 DCMR § 304.4 (failure to inform of change in operation, program, or services which may affect licensure);
- (e) 29 DCMR § 315.1 (failure of child development center director to be physically present at least one-third of the time when children are at the center);
- (f) 29 DCMR § 315.2(a) (failure of child development center director to select and supervise qualified staff to ensure provision of required child development program);
- (g) 29 DCMR § 315.2(d) (failure of child development center director to develop an approved plan for emergencies, fire evacuation, and staff illness);
- (h) 29 DCMR § 315.2(e) (failure of child development center director to designate a teacher to be responsible for center operation in the director's absence);
- (i) 29 DCMR § 315.2(g) (failure of child development center director to ensure adult supervision of the children);
- (j) 29 DCMR § 315.5 (failure to have a qualified assistant teacher in charge of a group at a child development center);
- (k) 29 DCMR § 315.10 (failure of child development center to have sufficient staff to maintain sanitation and safety standards);
- (l) 29 DCMR § 316.1 (exceeding maximum permissible size of a group in a child development center);
- (m) 29 DCMR § 316.2 (failure of child development center to provide 2 staff members as specified for each group);
- (n) 29 DCMR § 317.1 (failure of child development center to provide adequate daily program as specified);
- (o) 29 DCMR § 318.4 (failure of child development center to consider parental information concerning a child's nutritional needs);

- (p) 29 DCMR § 320.1 (failure of child development home caregiver to supervise and administer home);
- (q) 29 DCMR § 320.7 (failure of child development home caregiver to cooperate with government officials in implementing child development program);
- (r) 29 DCMR § 325 (failure to comply with health requirements for children and/or staff);
- (s) 29 DCMR § 327 (failure to comply with building and environmental requirements);
- (t) 29 DCMR § 328.1 (failure to provide suitable outdoor play space free from hazardous conditions);
- (u) 29 DCMR § 329.1 (failure to provide adequate toilet and lavatory facilities as specified);
- (v) 29 DCMR § 329.4 (failure to provide soap and either individual towels or disposable paper towels in bathroom);
- (w) 29 DCMR § 330, except 330.8 (failure to comply with safety and health requirements for facility premises);
- (x) 29 DCMR § 1600.2 (failure of a child placing agency to develop and make available a written statement of purpose, philosophy and program, including a description of services provided);
- (y) 29 DCMR § 1600.3 (failure to provide a description of the geographical area served or intended to be served);
- (z) 29 DCMR § 1602 (failure to comply with requirements concerning establishment and composition of board of directors);
- (aa) 29 DCMR § 1603, except § 1603.1 (failure to comply with requirements concerning responsibilities of board of directors);
- (bb) 29 DCMR § 1605 (failure to maintain and document sufficient funding);
- (cc) 29 DCMR § 1606 (failure to maintain financial records and establish an accounting system);
- (dd) 29 DCMR § 1607 (failure to have financial records audited annually by an independent Certified Public Accountant);

- (ee) 29 DCMR § 1608.2 (failure to comply with requirements concerning agency policies on fees);
- (ff) 29 DCMR § 1608.3 (failure to make agency policies on fees available for public inspection);
- (gg) 29 DCMR § 1609 (failure to comply with requirements concerning office space);
- (hh) 29 DCMR § 1610 (failure to comply with requirements concerning personnel policies);
- (ii) 29 DCMR § 1611 (failure to comply with requirements concerning personnel records);
- (jj) 29 DCMR § 1612.3 (failure to perform a criminal background check on a prospective employee who will have direct contact with children or clients);
- (kk) 29 DCMR § 1617 (failure to comply with requirements concerning adoptive services recruitment, application, and information);
- (ll) 29 DCMR § 1618 (failure to comply with requirements concerning intake for adoptive services);
- (mm) 29 DCMR § 1619, except §§ 1619.1, 1619.4, and 1619.5 (failure to comply with requirements concerning case plan services, content, and information);
- (nn) 29 DCMR § 1620, except § 1620.1 (failure to comply with requirements concerning adoptive home study services, content, information, and re-evaluation);
- (oo) 29 DCMR § 1621 (failure to comply with requirements concerning notification regarding adoption application);
- (pp) 29 DCMR § 1622 (failure to comply with requirements concerning services for adoptive parents);
- (qq) 29 DCMR § 1623, except § 1623.1 (failure to comply with requirements concerning adoption pre-placement responsibilities);
- (rr) 29 DCMR § 1624 (failure to comply with requirements concerning adoption post-placement responsibilities);

- (ss) 29 DCMR § 1625 (failure to comply with requirements concerning maintenance of adoption records);
- (tt) 29 DCMR § 1626.2 (failure to provide a required report to a court concerning a petition for adoption);
- (uu) 29 DCMR § 1628.3 (failure to provide birth parents with information concerning ramifications of adoption);
- (vv) 29 DCMR § 1630 (failure to comply with requirements concerning severance of parental rights);
- (ww) 29 DCMR § 1633 (failure to comply with requirements concerning adoption placement considerations);
- (xx) 29 DCMR § 1635 (failure to comply with requirements concerning interstate placement);
- (yy) 29 DCMR § 1636 (failure to comply with requirements concerning international adoption services, policies, and information);
- (zz) 29 DCMR § 1637 (failure to comply with requirements concerning maintenance of records);
- (aaa) 29 DCMR § 1638, except § 1638.2 (failure to comply with general requirements concerning foster care);
- (bbb) 29 DCMR § 1639, except § 1639.1 (failure to comply with requirements concerning foster home study services, content and information);
- (ccc) 29 DCMR § 1640 (failure to comply with requirements concerning notification regarding foster care application);
- (ddd) 29 DCMR § 1641 (failure to comply with requirements concerning foster parent training);
- (eee) 29 DCMR § 1643 (failure to comply with requirements concerning agency responsibilities in foster care); or
- (fff) 29 DCMR § 1644, except § 1644.3 (failure to comply with requirements concerning supervision of children in foster care).

3602.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 29 DCMR § 301.7 (failure to post child development facility license conspicuously on the facility premises);

- (b) 29 DCMR § 305.2 (failure to submit renewal application timely)
- (c) 29 DCMR § 315.2(c) (failure of child development center director to ensure compliance with applicable codes and regulations);
- (d) 29 DCMR § 315.2(f) (failure of child development center director to ensure provision of in-service training to volunteers);
- (e) 29 DCMR § 315.2(h) (failure of child development center director to develop a plan for parent involvement);
- (f) 29 DCMR § 315.6 (failure of child development center to ensure that teacher performs required duties);
- (g) 29 DCMR § 315.7 (failure of child development center to ensure that assistant teacher performs required duties);
- (h) 29 DCMR § 315.9 (failure of child development center to ensure that aide performs required duties);
- (i) 29 DCMR § 316.3 (failure of child development center to obtain approval for mixed-age group or to comply with child:adult ratio applicable to youngest child in group);
- (j) 29 DCMR § 316.4 (failure of child development center to obtain approval for change in child:adult ratio);
- (k) 29 DCMR § 317, except § 317.1 (failure to comply with individual child development center daily program requirements);
- (l) 29 DCMR § 318, except § 318.4 (failure of child development center to comply with meal and snack requirements);
- (m) 29 DCMR § 320.3 (failure of child development home caregiver to ensure compliance with applicable codes and regulations);
- (n) 29 DCMR § 320.4 (failure of child development home caregiver to conduct food handling, preparation and service in an adequate manner);
- (o) 29 DCMR § 320.5 (failure of child development home caregiver to develop an approved plan for emergencies, including designation of a responsible adult substitute caregiver);
- (p) 29 DCMR § 320.6 (failure of child development home caregiver to develop a plan for parent involvement);

- (q) 29 DCMR § 321 (failure to comply with child development home daily program requirements);
- (r) 29 DCMR § 322 (failure of child development home to comply with equipment and supply requirements);
- (s) 29 DCMR § 326 (failure to comply with recordkeeping requirements for children and/or employees);
- (t) 29 DCMR § 328.2 (failure to provide adequate outdoor play space);
- (u) 29 DCMR § 328.3 (failure to provide adequate indoor program space);
- (v) 29 DCMR § 329.2 (failure to provide block or step when needed for toilets and lavatories);
- (w) 29 DCMR § 329.3 (failure to provide toilet training chairs and to maintain in a sanitary manner);
- (x) 29 DCMR § 329.5 (failure to provide a drinking fountain or individual clean cups for drinking);
- (y) 29 DCMR § 1604 (failure of a child placing agency to maintain a current agency organizational table);
- (z) 29 DCMR § 1612, except § 1612.3 (failure to comply with requirements concerning applicants for employment);
- (aa) 29 DCMR § 1613.9 (failure of office staff to fulfill responsibilities);
- (bb) 29 DCMR § 1615 (failure to comply with requirements concerning volunteers);
- (cc) 29 DCMR § 1616 (failure to comply with requirements concerning student interns);
- (dd) 29 DCMR § 1626.4 (failure to provide copy of adoption decree to other agency involved in adoption);
- (ee) 29 DCMR § 1628, except §§ 1628.3, 1628.6, 1628.7, and 1628.10 (failure to comply with general requirements concerning social services related to child placing);
- (ff) 29 DCMR § 1629 (failure to comply with requirements concerning notice to actual and possible birth parents);

- (gg) 29 DCMR § 1631 (failure to comply with requirements concerning paternity affidavits);
- (hh) 29 DCMR § 1632 (failure to comply with requirements concerning efforts to locate birth parents);
- (ii) 29 DCMR § 1634 (failure to refer unsuccessful child or client to other adoption agencies, services, and exchanges); or
- (jj) 29 DCMR § 1642 (failure to comply with requirements concerning foster care placement considerations).

3603 HEALTH FACILITY AND COMMUNITY RESIDENCE FACILITY INFRACTIONS

3603.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 22 DCMR § 3102.1 (operating a health care or community residence facility without a license);
- (b) Section 201 of the D.C. Ambulatory Surgical Treatment Center Licensure Act, effective Apr. 6, 1978 (D.C. Law 2-66; 24 DCR 6836) (operating an ambulatory surgical treatment center without a license);
- (c) 22 DCMR § 2602.1 (operating a maternity center without a license).

3603.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 22 DCMR § 3101.1 (failure to allow an authorized official to enter and inspect a health care or community residence facility);
- (b) 22 DCMR § 3101.3 (failure to give authorized official access to records necessary to determine compliance);
- (c) 22 DCMR § 3105.2 (failure to allow authorized official to enter and investigate complaints);
- (d) 22 DCMR § 3102.9 (transfer of a license to another person or place without government approval);
- (e) 22 DCMR § 3401.4 (failure of a community residence facility to ensure that a resident has an annual medical exam);

- (f) 22 DCMR § 3401.5 (failure of a large facility as specified to retain a physician to advise and handle emergencies);
- (g) 22 DCMR § 3402.1 (failure to provide sufficient staff);
- (h) 22 DCMR § 3404.3 (failure to ensure that medical care is secured for a resident in case of serious illness or accident);
- (i) 22 DCMR § 3404.4 (failure to secure medical care from backup physician if primary physician is unavailable);
- (j) 22 DCMR § 3405.1 (failure to notify sponsor or physician when resident's condition deteriorates to need ongoing nursing care);
- (k) 22 DCMR § 3405.2 (providing nursing care for longer than 72 hours or without appropriate physical environment or professional services);
- (l) 22 DCMR § 3405.3 (failure to notify when unable to obtain appropriate medical care for a resident);
- (m) 22 DCMR § 3405.6 (failure to notify physician and/or obtain assistance when a resident may do harm to self or others);
- (n) 22 DCMR § 3406.7 (failure to ensure that residents are not harassed or abused);
- (o) 22 DCMR § 3415.6 (failure to ensure that staff do not employ abuse);
- (p) 22 DCMR § 3427.3 (failure to ensure that water supply is automatically controlled not to exceed 110 degrees Fahrenheit);
- (q) Section 303 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure of an ambulatory surgical treatment center to comply with requirements concerning professional staffing);
- (r) Section 305 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure to comply with requirements concerning post-operative care);
- (s) Section 401 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure to comply with requirements concerning supplies, equipment, and medication);

- (t) Section 501 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure to allow government inspectors access to facility records);
- (u) Section 502(a) of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (performing a surgical procedure requiring general anesthesia without the immediate medical direction of a licensed and qualified anesthesiologist);
- (v) Section 502(b) of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure to report to the OCC a referral wherein a fee was charged);
- (w) Section 502(c) of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (sharing a fee for a service or a referral with a physician, person, agency or clinic);
- (x) 22 DCMR § 2604.7 (failure of a maternity center to permit entry and inspection by government inspectors);
- (y) 2 DCMR § 2609.12 (failure to provide, maintain, and document maintenance of emergency, diagnostic, and sterilization equipment);
- (z) 22 DCMR § 2613.5 (failure to have a qualified OB/GYN as Director of Medical Affairs or failure of Director of Medical Affairs to carry out responsibilities);
- (aa) 22 DCMR § 2613.6 (failure to have a certified nurse-midwife as Director of Midwifery Services if such services are offered);
- (bb) 22 DCMR § 2614.5 (failure to have a patient in labor attended by a certified nurse-midwife or a physician with special training in obstetrics at all times from admission through immediate post-partum);
- (cc) 22 DCMR § 2614.6 (failure to have two attendants present at every birth, one of whom is a physician or CNM, and both of whom are certified in adult CPR and neonatal CPR);
- (dd) 22 DCMR § 2614.7 (failure to have qualified personnel on duty at all times when patients are admitted, including a licensed nurse-midwife and/or a board-certified physician either on the premises or on call);
- (ee) 22 DCMR § 2614.11 (failure to have a written practice agreement with an OB/GYN and a pediatrician or neonatologist for 24-hour consultation and referral or transfer to hospital if needed);

- (ff) 22 DCMR § 2614.12(b) (failure to have a written transfer agreement with a hospital for transfer of patients no longer "low risk");
- (gg) 22 DCMR § 2614.13 (failure to provide adequate emergency transportation services);
- (hh) 22 DCMR § 2615.3 (failure to have sufficient qualified personnel to perform the services offered);
- (ii) 22 DCMR § 2616.1 (admitting an individual for labor and delivery who is not "low risk" as specified);
- (jj) 22 DCMR § 2617.1 (failure to conduct an evaluation of a patient admitted while in labor);
- (kk) 22 DCMR § 2619 (failure to comply with requirements concerning discharge planning and postpartum care);
- (ll) 22 DCMR § 2620.2 (use of general or regional anesthesia, or use of systemic analgesia without a physician's or CNM's determination, or use of anesthesia for episiotomy not in accordance with facility practice guidelines); or
- (mm) Section 301 of the Nursing and Community Residence Facility Residents' Protections Act of 1985, effective Apr. 18, 1986 (D.C. Law 6-108; D.C. Official Code § 44-1003.01) (discharge, transfer or relocation of a resident of a long-term care facility for reasons other than those specified).

3603.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 3102.7 (failure of a health care or community residence facility to inform of a change in operation, program or services that might affect licensure);
- (b) 22 DCMR § 3102.8 (failure to return license upon suspension, revocation, non-renewal, forfeiture, or discontinuation of operation);
- (c) 22 DCMR § 3102.18 (failure to meet minimum requirements for insurance);
- (d) 22 DCMR § 3103.9 (failure to submit a plan of correction in relation to an initial licensure inspection);
- (e) 22 DCMR § 3104.5 (failure to submit a plan of correction in relation to a renewal licensure inspection);

- (f) 22 DCMR § 3105.4 (failure to submit a plan of correction in relation to a complaint investigation inspection);
- (g) 22 DCMR § 3400 (failure of a community residence facility to comply with requirements concerning the Residence Director);
- (h) 22 DCMR § 3401.3 (failure to obtain proof that a resident has a medical exam within 30 days before admission and annually thereafter);
- (i) 22 DCMR § 3402.3 (failure to ensure that each employee has a pre-employment medical exam and obtains an annual health certificate);
- (j) 22 DCMR § 3403 (failure to comply with requirements concerning admission policies);
- (k) 22 DCMR § 3404.1 (failure to obtain and maintain proof of a resident's annual medical exam);
- (l) 22 DCMR § 3404.5 (failure to notify a resident's sponsor and/or next of kin of a serious illness or accident);
- (m) 22 DCMR § 3404.7 (failure to promptly notify a resident's physician and sponsor and/or next of kin of the resident's death);
- (n) 22 DCMR § 3404.8 (failure to permit a physician to determine and pronounce a resident's death or failure to permit investigation of a resident's death);
- (o) 22 DCMR § 3405.4 (failure to comply with requirements concerning transfer and discharge);
- (p) 22 DCMR § 3405.5 (imposing a curfew or preventing a resident from leaving the facility);
- (q) 22 DCMR § 3406, except § 3406.7 (failure to comply with requirements concerning residents' rights);
- (r) 22 DCMR § 3407 (failure to comply with requirements concerning residents' personal property);
- (s) 22 DCMR § 3411 (failure to comply with requirements concerning residents' records);
- (t) 22 DCMR § 3412 (failure to comply with requirements concerning confidentiality of records);

- (u) 22 DCMR § 3415, except § 3415.6 (failure to comply with requirements concerning restraint, confinement, and behavior modification);
- (v) 22 DCMR § 3416 (failure to comply with requirements concerning medication storage and disposal);
- (w) 22 DCMR § 3417 (failure to comply with requirements concerning dietary services);
- (x) 22 DCMR § 3418 (failure to comply with requirements concerning therapeutic diets);
- (y) 22 DCMR § 3420 (failure to comply with requirements concerning rehabilitation);
- (z) 22 DCMR § 3421 (failure to comply with requirements concerning housekeeping, sanitation, maintenance, and laundry);
- (aa) 22 DCMR § 3422 (failure to comply with requirements concerning social services);
- (bb) 22 DCMR § 3423.1 (failure of a large facility as specified to employ a qualified resident activities specialist);
- (cc) 22 DCMR § 3424.1 (failure to locate within easy walking distance of public transportation);
- (dd) 22 DCMR § 3424.2 (failure to provide transportation);
- (ee) 22 DCMR § 3424.3 (failure to locate away from noise);
- (ff) 22 DCMR § 3424.4 (failure to locate away from noxious or hazardous vapors);
- (gg) 22 DCMR § 3425 (failure to comply with structural requirements or to notify when altering physical structure of facility);
- (hh) 22 DCMR § 3427, except 3427.3 (failure to comply with requirements concerning water supply);
- (ii) 22 DCMR § 3428 (failure to comply with requirements concerning heat, ventilation, and insulation);
- (jj) 22 DCMR § 3431 (failure to comply with requirements concerning bedrooms);

- (kk) 22 DCMR § 3432 (failure to comply with requirements concerning bathrooms);
- (ll) 22 DCMR § 3442 (failure to comply with requirements concerning insurance);
- (mm) Section 203 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure of an ambulatory surgical treatment center to comply with requirements concerning insurance coverage);
- (nn) Section 301 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure to comply with requirements concerning facility governance and procedures);
- (oo) Section 302 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure to comply with requirements concerning administrative operation and responsibility);
- (pp) Section 304 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure to comply with requirements concerning pre-operative care);
- (qq) Section 306 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure to comply with requirements concerning recordkeeping and reporting);
- (rr) Section 402 of the D.C. Ambulatory Surgical Treatment Center Licensure Act (D.C. Law 2-66; 24 DCR 6836) (failure to comply with requirements concerning environmental conditions and maintenance);
- (ss) 22 DCMR § 2600.8 (failure of a maternity center to comply with requirements concerning newborn infant screening);
- (tt) 22 DCMR § 2602.3 (failure to specify on an application the care to be offered or other information requested);
- (uu) 22 DCMR § 2605.1 (relocation of center without government approval);
- (vv) 22 DCMR § 2608 (failure to comply with requirements concerning design, construction, and safety);
- (ww) 22 DCMR § 2609, except § 2609.12 (failure to comply with requirements concerning facilities and equipment);

- (xx) 22 DCMR § 2611.1 (installation or use of a nonconforming fixture, appurtenance, material, or method without governmental approval);
- (yy) 22 DCMR § 2612 (failure to comply with requirements concerning environmental services and infection control);
- (zz) 2 DCMR § 2613.1 (failure to identify who has authority and responsibility for overall policy and fiscal management);
- (aaa) 22 DCMR § 2613.2 (failure to develop an organizational plan or to appoint a qualified Director and Director of Medical Affairs);
- (bbb) 22 DCMR § 2614.1 (failure to develop, implement, or review Practice Guidelines for normal and emergency care);
- (ccc) 22 DCMR § 2614.2 (failure to develop, implement, or review Practice Guidelines for standards of services provided);
- (ddd) 22 DCMR § 2614.3 (failure to have Practice Guidelines adequately address the scope and conduct of maternity care provided);
- (eee) 22 DCMR § 2614.4 (failure to have Practice Guidelines for intrapartum care developed by the Director, Director of Medical Affairs, and Director of Midwifery Services, or failure to have these guidelines include all specified elements);
- (fff) 22 DCMR § 2614.8 (failure to develop and implement policies and procedures, including all specified elements);
- (ggg) 22 DCMR § 2614.9 (failure to develop and implement a quality assurance plan);
- (hhh) 22 DCMR § 2614.10 (failure to evaluate and revise the quality assurance plan or to document and make available facility actions relevant thereto);
- (iii) 22 DCMR § 2614.12(a) (failure to have written policies and procedures for emergencies);
- (jjj) 22 DCMR § 2615, except § 2615.3 (failure to comply with personnel health, training, and recordkeeping requirements);
- (kkk) 22 DCMR § 2616.2 (failure to inform a patient of risks and benefits or to obtain informed consent);
- (lll) 22 DCMR § 2616.3 (failure to include specified elements, including all District of Columbia requirements, on the patient consent form);

- (mmm) 22 DCMR § 2617, except § 2617.1 (failure to comply with requirements concerning patient records);
- (nnn) 22 DCMR § 2618 (failure to comply with requirements concerning antepartum care and recordkeeping);
- (ooo) 22 DCMR § 2620, except § 2620.2 (failure to comply with requirements concerning medication);
- (ppp) 22 DCMR § 2621 (failure to comply with requirements concerning medical records and reporting); or
- (qqq) Section 302 of the Nursing and Community Residence Facility Residents' Protections Act of 1985 (**D.C. Official Code § 44-1003.02**) (failure to provide a notice of transfer or discharge from a long-term care facility, and procedures for contesting same, to a resident and to his or her representative as required by law).

3603.4

Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 22 DCMR § 3102.2 (failure of a health care or community residence facility to submit an initial application timely);
- (b) 22 DCMR § 3102.4 (failure of a health care or community residence facility to submit a renewal application timely);
- (c) 22 DCMR § 3402.2 (failure of a community residence facility to develop and to make available its personnel policies);
- (d) 22 DCMR § 3402.4 (failure to maintain accurate personnel records);
- (e) 22 DCMR § 3402.5 (failure to maintain complete personnel records);
- (f) 22 DCMR § 3404.2 (failure to communicate periodically with a resident's sponsor, if any);
- (g) 22 DCMR § 3410 (failure to comply with requirements concerning administrative records);
- (h) 22 DCMR § 3413 (failure to develop a program statement);
- (i) 22 DCMR § 3423, except § 3423.1 (failure to comply with requirements concerning resident activities);
- (j) 22 DCMR § 3424.6 (using a misleading or improper name);

- (k) 22 DCMR § 3426 (failure to comply with lighting requirements);
- (l) 22 DCMR § 3430 (failure to comply with architectural and space requirements);
- (m) 22 DCMR § 2602.5 (failure of a maternity center to submit an initial application or a renewal application timely);
- (n) 22 DCMR § 2604.5 (failure to frame and post license conspicuously);
- (o) 22 DCMR § 2605.3 (failure to notify of change in ownership or name);
- (p) 22 DCMR § 2613.3 (failure to post names comprising governing entity and organizational chart in an area available to patients);
- (q) 22 DCMR § 2616.4 (failure to provide an orientation program including all specified elements);
- (r) 22 DCMR § 2616.5 (failure to develop policies for visits with families and other support persons);
- (s) Section 302(d) of the Nursing and Community Residence Facility Residents' Protections Act of 1985 (**D.C. Official Code § 44-1003.02(d)**) (failure to provide timely, complete or correct notice of a transfer or discharge from a long-term care facility, and procedures for contesting same, to a resident and his or her representative);
- (t) Section 304 of the Nursing and Community Residence Facility Residents' Protections Act of 1985 (**D.C. Official Code § 44-1003.04**) (failure to discuss a transfer, discharge, or relocation with the resident and his or her representative, or failure to offer counseling concerning the action); or
- (a) Section 311 of the Nursing and Community Residence Facility Residents' Protections Act of 1985 (**D.C. Official Code § 44-1003.11**) (failure to provide each resident, his or her representative, and the Long-Term Care Ombudsman correct, timely notice when the facility is closing because of an adverse action by the Mayor or is voluntarily closing).

3604 TISSUE BANK INFRACTIONS

- 3604.1 Violation of the following provision shall be a Class 1 infraction:
- 22 DCMR § 301.1 (operating a tissue bank without a license).

- 3604.2 Violation of any of the following provisions shall be a Class 2 infraction:
- (a) 22 DCMR § 300.3 (failure to manage and operate a tissue bank in accordance with good medical and public health practice);
 - (b) 22 DCMR § 302.1 (failure to have a physician as director and operator of the bank);
 - (c) 22 DCMR § 302.2 (failure to maintain a roster of authorized persons and to establish policies and procedures for operation of the bank);
 - (d) 22 DCMR § 302.4 (failure of a hospital licensee to designate a physician as director and operator of the bank);
 - (e) 22 DCMR § 303 (failure to comply with requirements concerning tissue acquisition, tissue withdrawal, and recordkeeping);
 - (f) 22 DCMR § 304 (failure to comply with physical and sanitary requirements);
 - (g) 22 DCMR § 305.2 (failure to cooperate in an inspection); or
 - (h) 22 DCMR § 306.1 (transporting tissue without the required record).

- 3604.3 Violation of any of the following provisions shall be a Class 3 infraction:
- (a) 22 DCMR § 301.4 (failure to sign and certify application for license);
 - (b) 22 DCMR § 302.3 (failure to provide policies and procedures for inspection upon request); or
 - (c) 22 DCMR § 302.6 (failure to notify of change in operator).

- 3604.4 Violation of the following provision shall be a Class 4 infraction:
- 22 DCMR § 301.10 (failure to frame and post license).

**3605 GROUP HOMES FOR MENTALLY RETARDED PERSONS
INFRACTIONS**

3605.1 Reserved

- 3605.2 Violation of any of the following provisions shall be a Class 2 infraction:
- (a) 22 DCMR § 3502.6 (denial of meals as a form of punishment);

- (b) 22 DCMR § 3509.9 (employing staff with a history of abuse, neglect, exploitation, or conviction of a sexual or violent crime);
- (c) 22 DCMR § 3520 (failure to comply with requirements concerning professional services);
- (d) 22 DCMR § 3521 (failure to comply with requirements concerning habilitation and training); or
- (e) 22 DCMR § 3523 (failure to observe and protect client's rights).

3605.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 3500.1 (failure to comply with general provisions regarding pharmacies and pharmaceuticals);
- (b) 22 DCMR § 3500.2 (failure to demonstrate understanding that D.C. Law 6-137 governs care and rights of mentally retarded persons);
- (c) 22 DCMR § 3501.1 (failure to provide home-like atmosphere and least restrictive yet safe setting);
- (d) 22 DCMR § 3501.3 (failure to locate within easy walking distance of transportation or to provide transportation);
- (e) 22 DCMR § 3501.4 (failure to locate away from noise and hazardous or noxious conditions);
- (f) 22 DCMR § 3501.6 (failure to provide tempered glass and to conspicuously mark sliding doors or panels);
- (g) 22 DCMR § 3501.10 (failure to provide social and recreational space);
- (h) 22 DCMR § 3501.11 (failure to provide adequate community space);
- (i) 22 DCMR § 3502, except 3502.6 (failure to comply with requirements concerning meal service and dining areas);
- (j) 22 DCMR § 3503.1 (failure to provide sufficient square footage in bedroom or exceeding allowable bedroom occupancy);
- (k) 22 DCMR § 3503.2 (failure to keep beds sufficiently apart from each other and from radiators);
- (l) 22 DCMR § 3503.3 (failure to provide required bedroom furniture or bedding);

- (m) 22 DCMR § 3503.5 (failure to provide sufficient storage space in bedroom);
- (n) 22 DCMR § 3503.7 (failure to designate bedroom for bedroom use only);
- (o) 22 DCMR § 3503.8 (failure to provide adequate bathroom space and fixtures);
- (p) 22 DCMR § 3503.9 (failure to provide adequate appliances and equipment in bathroom);
- (q) 22 DCMR § 3504 (failure to comply with requirements concerning housekeeping, sanitation, and/or maintenance);
- (r) 22 DCMR § 3506 (failure to comply with program statement requirements);
- (s) 22 DCMR § 3507 (failure to comply with requirements concerning policies and procedures);
- (t) 22 DCMR § 3508 (failure to comply with requirements concerning administrative support, residents' funds, and/or insurance);
- (u) 22 DCMR § 3509.1 (failure to develop and distribute personnel policies);
- (v) 22 DCMR § 3509.2 (failure to develop and distribute job descriptions);
- (w) 22 DCMR § 3509.6 (failure to ensure that employee has and passes health examination prior to employment and annually thereafter);
- (x) 22 DCMR § 3509.7 (failure to ensure that employee's initial health exam is done within 90 days prior to employment);
- (y) 22 DCMR § 3509.8 (failure to obtain physician's documentation that employee with positive test for communicable disease is receiving needed follow-up care);
- (z) 22 DCMR § 3510 (failure to comply with requirements concerning staff training);
- (aa) 22 DCMR § 3511 (failure to comply with requirements concerning direct care staff ratios);
- (bb) 22 DCMR § 3513 (failure to comply with requirements concerning administrative records);

- (cc) 22 DCMR § 3514 (failure to comply with requirements concerning resident records);
- (dd) 22 DCMR § 3515 (failure to comply with requirements concerning confidentiality of records);
- (ee) 22 DMCR § 3516 (failure to develop and make available policies concerning admission, transfer, and discharge);
- (ff) 22 DCMR § 3517 (failure to comply with requirements concerning admission policies and procedures, health screening and recordkeeping);
- (gg) 22 DCMR § 3518 (failure to comply with requirements concerning discharge and transfer policies and procedures and recordkeeping);
- (hh) 22 DCMR § 3519 (failure to comply with requirements concerning emergencies and unusual incidents); or
- (ii) 22 DCMR § 3522 (failure to comply with requirements concerning medications).

3605.4

Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 22 DCMR § 3500.3 (using an improper name or logo on the exterior of the facility);
- (b) 22 DCMR § 3501.5 (failure to supply window curtains, shades or blinds, clean and in good repair);
- (c) 22 DCMR § 3501.7 (failure to show that facility can provide outside recreational activities);
- (d) 22 DCMR § 3501.8 (failure to provide access to and encourage full utilization of space);
- (e) 22 DCMR § 3501.9 (failure to locate restricted space in the most remote portions of the facility);
- (f) 22 DCMR § 3503.4 (failure to provide employee with copy of job description);
- (g) 22 DCMR § 3503.10 (failure to provide required supplies in bathroom);

- (h) 22 DCMR § 3509.3 (failure to discuss contents of job description with employee periodically);
- (i) 22 DCMR § 3509.4 (failure to provide employee with copy of job description);
- (j) 22 DCMR § 3509.5 (failure to update job description and review it with employee); or
- (k) 22 DCMR § 3512 (failure to comply with general recordkeeping requirements).

3606 HOSPITAL INFRACTIONS

3606.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 22 DCMR § 2002.1 (operating a hospital without a license);
- (b) 22 DCMR § 2101.2 (failure to have the medical staff of each service under the direction and supervision of a qualified physician specialist);
- (c) 22 DCMR § 2101.4 (failure to provide adequate medical staff);
- (d) 22 DCMR § 2105 (failure to have physicians available as specified or failure to have each patient under the care of a physician);
- (e) 22 DCMR § 2112, except § 2112.13 and § 2112.14 (failure to comply with requirements concerning adequacy, direction, qualifications and duties of nursing staff);
- (f) 22 DCMR § 2200.1 (failure to have the anesthesia service under the direction of an anesthesiologist);
- (g) 22 DCMR § 2200.2 (failure to have an anesthesiologist or nurse-anesthetist present or on call at all times);
- (h) 22 DCMR § 2202.1 (failure to have the emergency room under the direction and supervision of a physician);
- (i) 22 DCMR § 2202.2 (failure to have qualified professional staff available for duty in the emergency room);
- (j) 22 DCMR § 2203.1 (failure to have the maternity and newborn service under the direction and supervision of an obstetrician and a pediatrician);

- (k) 22 DCMR § 2203.6 (failure to provide sufficient nursing staff for the maternity and newborn service);
- (l) 22 DCMR § 2205, except § 2205.6 (failure to comply with requirements concerning the adequacy, direction, supervision and qualifications of the medical service physicians and nursing staff);
- (m) 22 DCMR § 2206.1 (failure to have the pediatric service and the pediatric nursing service under the supervision and direction of a pediatrician and a qualified nurse as specified);
- (n) 22 DCMR § 2207.1 (failure to have the psychiatric service under the supervision and direction of a psychiatrist);
- (o) 22 DCMR § 2207.2 (failure to have the psychiatric nursing service under the supervision and direction of a qualified nurse as specified);
- (p) 22 DCMR § 2207.3 (failure to have qualified personnel in charge of the psychiatric ward);
- (q) 22 DCMR § 2208.1 (failure to have the radiological and radioisotope services under the direction of a radiologist and a physician);
- (r) 22 DCMR § 2208.2 (failure to have personnel available to provide x-ray service);
- (s) 22 DCMR § 2210.1 (failure to have the surgical service under the direction and supervision of a surgeon);
- (t) 22 DCMR § 2210.2 (failure to have the surgical nursing service under the direction and supervision of a qualified nurse as specified);
- (u) 22 DCMR § 2210.3 (failure to have the surgical operating suite under the direction of a qualified nurse as specified);
- (v) 22 DCMR § 2210.4 (failure to provide adequate nursing personnel in the operating suite);
- (w) 22 DCMR § 2210.5 (failure to provide qualified and trained nursing personnel as specified for the surgical service);
- (x) 22 DCMR § 2211.1 (failure to have a qualified person as specified in charge of the outpatient service);
- (y) 22 DCMR § 2211.2 (failure to have each outpatient clinical service under the supervision of a qualified physician specialist);

- (z) 22 DCMR § 2211.3 (failure to provide adequate facilities and personnel for each outpatient service);
- (aa) 22 DCMR § 2212.1 (failure to have the laboratory service under the direction of a pathologist or other qualified physician);
- (bb) 22 DCMR § 2212.2 (failure to provide competent personnel for the laboratory service);
- (cc) 22 DCMR § 2213.1 (failure to have an on-site pharmacy service operated by or under the direction and supervision of a pharmacist);
- (dd) 22 DCMR § 2213.2 (failure to have a pharmacy available for the hospital's use at all times); or
- (ee) 22 DCMR § 2203 (failure to comply with requirements concerning electrical power and back-up power).

3606.2

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

- (a) 22 DCMR § 2000.3 (failure to manage and operate a hospital in accordance with good medical and public health practice);
- (b) 22 DCMR § 2004.4 (transferring a license to another licensee or premises without government approval);
- (c) 22 DCMR § 2005.1 (moving to another premises without government approval);
- (d) 22 DCMR § 2011.3 (installing or using a nonconforming fixture, appurtenance, material or method without government approval);
- (e) 22 DCMR § 2100 (failure to comply with requirements concerning governing body and administration);
- (f) 22 DCMR § 2101.1 (failure to comply with requirements concerning medical staff and bylaws);
- (g) 22 DCMR § 2102.1 (failure to ensure that each direct patient care staff member has a health examination before employment and annually thereafter as specified);
- (h) 22 DCMR § 2102.4 (failure to obtain a signed health professional's report of a direct care staff member's health examination);

- (i) 22 DCMR § 2102.5 (failure to maintain, and to make available for inspection, a report of a direct care staff member's health examination);
- (j) 22 DCMR § 2103.1 (failure to ensure that each direct patient care staff member who is absent from duty because of illness obtains certification that he or she can return to duty before returning to duty);
- (k) 22 DCMR § 2103.2 (failure to obtain, maintain, and make available for inspection a direct care staff member's certification that he or she can return to duty);
- (l) 22 DCMR § 2106 (failure to comply with requirements concerning separate care units and isolation of patients);
- (m) 22 DCMR § 2107 (failure to comply with requirements concerning long-term and convalescent care);
- (n) 22 DCMR § 2108 (failure to comply with requirements concerning restraint and seclusion of patients);
- (o) 22 DCMR § 2109.1 (failure to comply with requirements concerning medical history and examination of newly admitted patients);
- (p) 22 DCMR § 2110 (failure to comply with requirements concerning medication and treatment);
- (q) 22 DCMR § 2112.3 (failure to have the Director of Nursing participate in establishment of policies and procedures for the nursing service);
- (r) 22 DCMR § 2112.4 (failure to establish a plan of authority, including duties and responsibilities, for the nursing service);
- (s) 22 DCMR § 2113 (failure to comply with requirements concerning medical services and facilities);
- (t) 22 DCMR § 2200, except § 2200.1 and § 2200.2 (failure to comply with requirements concerning the anesthesia service);
- (u) 22 DCMR § 2201 (failure to comply with requirements concerning communicable disease);
- (v) 22 DCMR § 2202.5 (failure to make a record of each patient cared for in the emergency room, containing all elements as specified);

- (w) 22 DCMR § 2203, except §§ 2203.1, 2203.6, and 2203.13 through 2203.16 (failure to comply with requirements concerning the maternity and newborn service);
- (x) 22 DCMR § 2206.2 (failure to separate pediatric care units from other patient care units and to use them only for infants, children and adolescents);
- (y) 22 DCMR § 2206.3 (failure to ensure that pediatric patients are within view of nursing stations and corridors);
- (z) 22 DCMR § 2206.6 (failure to provide a newborn isolation unit for the pediatric service);
- (aa) 22 DCMR § 2206.8 (failure to locate adolescent patients as far away as practicable from infants and younger children);
- (bb) 22 DCMR § 2207, except §§ 2207.1, 2207.2, and 2207.3 (failure to comply with requirements concerning the psychiatric service);
- (cc) 22 DCMR § 2208.4 (failure to establish a Radiation Protection Committee composed and with duties as specified);
- (dd) 22 DCMR § 2208.6 (failure to provide facilities for the detection and measurement of radiation exposures and dosages);
- (ee) 22 DCMR § 2208.7 (failure to provide walls, equipment, and supplies as required to protect persons subjected to radiation);
- (ff) 22 DCMR § 2210, except §§ 2210.1 through 2210.5 (failure to comply with requirements concerning the surgical service);
- (gg) 22 DCMR § 2211, except §§ 2211.1, 2211.2, and 2211.3 (failure to comply with requirements concerning the outpatient service);
- (hh) 22 DCMR § 2212, except §§ 2212.1 and 2212.2 (failure to comply with requirements concerning the laboratory service);
- (ii) 22 DCMR § 2213, except §§ 2213.1 and 2213.2 (failure to comply with requirements concerning the pharmacy service);
- (jj) 22 DCMR § 2214, except § 2214.3 (failure to comply with requirements concerning the social service department);
- (kk) 22 DCMR § 2215.1 (failure to have a qualified person in charge of the central sterile supply service);

- (ll) 22 DCMR § 2215.2 (failure to provide adequate facilities, services and personnel for the central sterile supply service);
- (mm) 22 DCMR § 2216 (failure to comply with requirements concerning the medical records service);
- (nn) 22 DCMR § 2220 (failure to comply with requirements concerning ancillary services);
- (oo) 22 DCMR § 2300.1 (performing construction, addition, alteration or major repair without government approval);
- (pp) 22 DCMR § 2301, except § 2301.2 (failure to comply with requirements concerning equipment and facilities maintenance and control of sepsis and infection);
- (qq) 22 DCMR § 2302 (failure to comply with requirements concerning facility construction and storage of gases);
- (rr) 22 DCMR § 2304.5 (failure to provide running hot water at above 140 degrees Fahrenheit where required); or
- (ss) 22 DCMR § 2304.9 (failure to provide knee, elbow, or foot controlled water valves as required).

3606.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 2002.8 (failure to notify of change in nonresident licensee's agent, manager, or attorney-in-fact);
- (b) 22 DCMR § 2004.5 (failure to frame and post license as required);
- (c) 22 DCMR § 2006.2 (failure to notify of change in ownership, name or location and to submit new application in connection therewith);
- (d) 22 DCMR § 2101.3 (failure to ensure that all persons working in the hospital are familiar with applicable regulations);
- (e) 22 DCMR § 2102, except §§ 2102.1, 2102.4, and 2102.5 (failure to comply with requirements concerning the content of a direct patient care staff member's health examination);
- (f) 22 DCMR § 2103.4 (failure to comply with immunization requirements);

- (g) 22 DCMR § 2109.2 (failure to maintain records, other than medical records, as required);
- (h) 22 DCMR § 2111 (failure to comply with requirements concerning sterilization and laundering);
- (i) 22 DCMR § 2202.3 (failure to provide adequate work area in emergency room as specified);
- (j) 22 DCMR § 2202.4 (failure to provide privacy screening in emergency room as specified);
- (k) 22 DCMR § 2205.5 (failure of medicine service to make resources available for electrocardiograms);
- (l) 22 DCMR § 2206.5 (failure to provide a play room or play area readily available to each patient care unit within the pediatric service);
- (m) 22 DCMR § 2206.7 (failure to provide sufficient and adequately equipped single-occupancy rooms for the pediatric service);
- (n) 22 DCMR § 2208.3 (failure to provide special devices for obstetric roentgenography);
- (o) 22 DCMR § 2208.5 (failure to prominently post radiation protection policies and procedures);
- (p) 22 DCMR § 2214.3 (failure to provide adequate private space within the social services department);
- (q) 22 DCMR § 2215, except § 2215.1 and § 2215.2 (failure to comply with general requirements concerning the central sterile supply service);
- (r) 22 DCMR § 2301.2 (failure to comply with general sanitation and maintenance requirements);
- (s) 22 DCMR § 2304, except § 2304.5 and § 2304.9 (failure to comply with requirements concerning water facilities); or
- (t) 22 DCMR § 2305 (failure to comply with requirements concerning refuse disposal facilities).

3606.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 22 DCMR § 2002.5 (failure to submit an initial or renewal license application timely);

- (b) 22 DCMR §§ 2203.13 through 2203.16 (failure to comply with requirements concerning formula rooms and formula preparation for the maternity and newborn service); or
- (c) 22 DCMR § 2206.4 (failure to provide formula storage and warming facilities within the pediatric service).

3607 NURSING FACILITY INFRACTIONS

3607.1 Violation of the following provision shall be a Class 1 infraction:

22 DCMR § 3203.1 (operating a nursing facility without a license).

3607.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 22 DCMR § 3200.1 (failure to comply with requirements concerning a provision in the federal regulations);
- (b) 22 DCMR § 3205 (failure to comply with requirements concerning insurance coverage);
- (c) 22 DCMR § 3207 (failure to comply with requirements concerning physician services and medical supervision);
- (d) 22 DCMR § 3208 (failure to comply with requirements concerning nursing services and Director of Nursing);
- (e) 22 DCMR § 3209 (failure to comply with requirements concerning nursing services supervision);
- (f) 22 DCMR § 3210 (failure to comply with requirements concerning licensed nursing coverage);
- (g) 22 DCMR § 3211 (failure to comply with requirements concerning nursing personnel);
- (h) 22 DCMR § 3212 (failure to comply with requirements concerning temporary nursing personnel);
- (i) 22 DCMR § 3213 (failure to comply with requirements concerning restorative nursing care);
- (j) 22 DCMR § 3215 (failure to comply with requirements concerning ventilator care services);

- (k) 22 DCMR § 3216 (failure to comply with requirements concerning use of restraints);
- (l) 22 DCMR § 3217.6 (failure to ensure that infection control policies are implemented and that environmental services are in compliance);
- (m) 22 DCMR § 3217.8 (failure to report communicable disease);
- (n) 22 DCMR § 3222 (failure to comply with requirements concerning immunizations);
- (o) 22 DCMR § 3223 (failure to comply with requirements concerning rehabilitative services);
- (p) 22 DCMR § 3224 (failure to comply with requirements concerning pharmaceutical services and supervision);
- (q) 22 DCMR § 3225 (failure to comply with requirements concerning physician orders for medications);
- (r) 22 DCMR § 3226 (failure to comply with requirements concerning administration of medication);
- (s) 22 DCMR § 3227 (failure to comply with requirements concerning labeling and storage of medication);
- (t) 22 DCMR § 3235.5 (failure to provide emergency power generator when life support system is used);
- (u) 22 DCMR § 3235.6 (failure to provide emergency power for elevators); or
- (v) 22 DCMR § 3236.4 (failure to maintain water temperature between 95 and 110 degrees Fahrenheit).

3607.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 3201 (failure to comply with requirements concerning administrative management);
- (b) 22 DCMR § 3202 (failure to comply with requirements concerning personnel policies);
- (c) 22 DCMR § 3203, except § 3203.1 (failure to comply with requirements concerning licenses and administrative records);

- (d) 22 DCMR § 3206 (failure to comply with requirements concerning resident care policies);
- (e) 22 DCMR § 3214 (failure to comply with requirements concerning in-service education for nursing personnel);
- (f) 22 DCMR § 3217, except § 3217.6 and § 3217.8 (failure to comply with requirements concerning infection control);
- (g) 22 DCMR § 3218 (failure to comply with requirements concerning dietary supervision);
- (h) 22 DCMR § 3219 (failure to comply with requirements concerning dietary services);
- (i) 22 DCMR § 3220 (failure to comply with general dietary requirements);
- (j) 22 DCMR § 3221 (failure to comply with requirements concerning dietary management and records);
- (k) 22 DCMR § 3228 (failure to comply with requirements concerning podiatry services);
- (l) 22 DCMR § 3229 (failure to comply with requirements concerning social services);
- (m) 22 DCMR § 3230 (failure to comply with requirements concerning resident activities);
- (n) 22 DCMR § 3231 (failure to comply with requirements concerning medical records);
- (o) 22 DCMR § 3232 (failure to comply with requirements concerning incident reporting);
- (p) 22 DCMR § 3233 (failure to comply with requirements concerning grievances);
- (q) 22 DCMR § 3234 (failure to comply with environmental requirements);
- (r) 22 DCMR § 3235, except § 3235.5 and § 3235.6 (failure to comply with requirements concerning electrical systems);
- (s) 22 DCMR § 3236, except § 3236.4 (failure to comply with requirements concerning water supply and distribution);

- (t) 22 DCMR § 3237 (failure to comply with requirements concerning sewage and solid waste disposal);
- (u) 22 DCMR § 3238 (failure to comply with requirements concerning heating and cooling);
- (v) 22 DCMR § 3239 (failure to comply with requirements concerning ventilation and exhaust);
- (w) 22 DCMR § 3240 (failure to comply with requirements concerning acoustical insulation and noise reduction);
- (x) 22 DCMR § 3241 (failure to comply with requirements concerning elevators);
- (y) 22 DCMR § 3242 (failure to comply with requirements concerning walls, ceilings, floors and finishes);
- (z) 22 DCMR § 3243 (failure to comply with requirements concerning ramps, stairs, and corridors);
- (aa) 22 DCMR § 3244 (failure to comply with requirements concerning outdoor space);
- (bb) 22 DCMR § 3245 (failure to comply with requirements concerning nursing unit design);
- (cc) 22 DCMR § 3246 (failure to comply with requirements concerning resident bedrooms);
- (dd) 22 DCMR § 3247 (failure to comply with requirements concerning resident toilets and bathrooms);
- (ee) 22 DCMR § 3248 (failure to comply with requirements concerning refreshment stations);
- (ff) 22 DCMR § 3249 (failure to comply with requirements concerning resident recreation and social areas);
- (gg) 22 DCMR § 3250 (failure to comply with requirements concerning food service areas);
- (hh) 22 DCMR § 3251 (failure to comply with requirements concerning therapy service areas);

- (ii) 22 DCMR § 3252 (failure to comply with requirements concerning resident shopping and grooming areas);
- (jj) 22 DCMR § 3253 (failure to comply with requirements concerning public and staff facilities);
- (kk) 22 DCMR § 3254 (failure to comply with requirements concerning laundry areas);
- (ll) 22 DCMR § 3255 (failure to comply with requirements concerning housekeeping and maintenance);
- (mm) 22 DCMR § 3256 (failure to comply with requirements concerning housekeeping and maintenance services);
- (nn) 22 DCMR § 3257 (failure to comply with requirements concerning pest control);
- (oo) 22 DCMR § 3258 (failure to comply with requirements concerning general safety and inspection);
- (pp) 22 DCMR § 3259 (failure to comply with requirements concerning fire and emergency preparedness);
- (qq) 22 DCMR § 3264 (failure to comply with requirements concerning physical structure and construction); or
- (rr) 22 DCMR § 3265 (failure to comply with requirements concerning wheelchair and handicapped access).

3608 HOME CARE AGENCY INFRACTIONS

3608.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 22 DCMR § 3900.2 (operating a home care agency without a license);
- (b) 22 DCMR § 3900.3 (failure of existing agency to apply for licensure within time specified).

3608.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 22 DCMR § 3900.4 (failure to provide at least one required service);
- (b) 22 DCMR § 3900.5 (failure to maintain an operating office within the District of Columbia and to staff that office at least 8 hours per day, Monday through Friday);

- (c) 22 DCMR § 3900.6 (failure to maintain required records within District of Columbia office or to produce records for inspection as specified);
- (d) 22 DCMR § 3900.8 (failure to comply with other applicable federal and District laws and rules);
- (e) 22 DCMR § 3901 (failure to comply with insurance requirements);
- (f) 22 DCMR § 3904 (failure to have a qualified Director or failure of Director to carry out responsibilities);
- (g) 22 DCMR § 3907.8 (knowingly permitting an employee under the influence of drugs or alcohol or carrying a communicable disease to provide home care services);
- (h) 22 DCMR § 3907.9 (failure to ensure that an employee is properly licensed, certified, or registered to provide services);
- (i) 22 DCMR § 3908.3 (failure to properly evaluate a request for home care services);
- (j) 22 DCMR § 3914.1 (failure to develop a patient plan of care);
- (k) 22 DCMR § 3914.2 (failure to obtain physician approval of patient plan of care);
- (l) 22 DCMR § 3916.1 (failure to periodically review, evaluate, and report to physician on skilled care services);
- (m) 22 DCMR § 3916.3 (failure to provide skilled services in accordance with plan of care);
- (n) 22 DCMR § 3917 (failure to comply with requirements concerning skilled nursing services);
- (o) 22 DCMR § 3918 (failure to comply with requirements concerning psychiatric nursing services);
- (p) 22 DCMR § 3919 (failure to comply with requirements concerning monitoring services);
- (q) 22 DCMR § 3920, except § 3920.5 (failure to comply with requirements concerning intravenous therapy services); or

- (r) 22 DCMR § 3924 (failure to comply with requirements concerning restrictions on service to patients requiring special care).

3608.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 3903 (failure to establish a governing body or failure of governing body to comply with specified requirements);
- (b) 22 DCMR § 3905 (failure to develop, implement, and make available policies and procedures);
- (c) 22 DCMR § 3906 (failure to comply with requirements concerning contractor agreements);
- (d) 22 DCMR § 3907.2 (failure to maintain accurate and complete personnel records);
- (e) 22 DCMR § 3907.4 (failure to maintain personnel records within District of Columbia office or to produce records for inspection as specified);
- (f) 22 DCMR § 3907.6 (failure to verify that new employee has been screened for and is free of communicable disease);
- (g) 22 DCMR § 3907.7 (failure to ensure that employee is screened for and certified free of communicable disease annually);
- (h) 22 DCMR § 3907.10 (failure to document professional qualifications of employee or care provider);
- (i) 22 DCMR § 3908.3 (failure to comply with requirements concerning admission policies, procedures and recordkeeping);
- (j) 22 DCMR § 3909 (failure to comply with requirements concerning discharge, transfer or referral);
- (k) 22 DCMR § 3910 (failure to comply with requirements concerning records retention and disposal);
- (l) 22 DCMR § 3911 (failure to comply with requirements concerning clinical records);
- (m) 22 DCMR § 3914, except § 3914.1 and § 3914.2 (failure to comply with requirements concerning content of patient plan of care);
- (n) 22 DCMR § 3915 (failure to comply with requirements concerning home health aide and personal care aide services);

- (o) 22 DCMR § 3916.2 (failure to develop and implement policies for documentation of coordination of skilled services);
- (p) 22 DCMR § 3920.5 (failure to comply with policies and procedures requirements for intravenous therapy);
- (q) 22 DCMR § 3921 (failure to comply with requirements concerning nutritional support services);
- (r) 22 DCMR § 3922 (failure to comply with requirements concerning occupational therapy services);
- (s) 22 DCMR § 3923 (failure to comply with requirements concerning physical therapy services);
- (t) 22 DCMR § 3925 (failure to comply with requirements concerning speech language pathology services); or
- (u) 22 DCMR § 3926 (failure to comply with requirements concerning social services).

3608.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 22 DCMR § 3900.7 (failure to post license conspicuously);
- (b) 22 DCMR § 3907.1 (failure to have and make available written personnel policies as specified);
- (c) 22 DCMR § 3907.5 (failure to permit employee to review personnel records);
- (d) 22 DCMR § 3907.11 (failure to ensure that employee or contract worker presents valid agency identification before entering patient's home);
- (e) 22 DCMR § 3912 (failure to comply with requirements concerning patient rights and responsibilities); or
- (f) 22 DCMR § 3913 (failure to comply with requirements concerning complaint process).

**3609 BACKGROUND CHECKS FOR HEALTH-CARE WORKERS
INFRACTIONS**

3609.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 22 DCMR § 4701.1(a) (employing or using the contract services of a person convicted of a listed offense);
- (b) 22 DCMR § 4705.1 (employing or using the contract services of a person convicted of a listed offense);
- (c) 22 DCMR § 4701.1(b) (employing or using the contract services of a person listed on the Nurse Aide Abuse Registry);
- (d) 22 DCMR § 4703.2 (continuing to employ or use the contract services of a current staff member if a background check reveals a conviction for a listed offense); or
- (e) 22 DCMR § 4705.2 (employing or using the contract services of a person convicted of a listed misdemeanor offense unless the specified requirements for employment are met).

3609.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 22 DCMR § 4701.2 (failure to obtain a criminal background check and/or a Nurse Aide Abuse Registry check before employing or using the contract services of a covered person);
- (b) 22 DCMR § 4704.1(d) (failure to maintain documentation of an employee's criminal background check results);
- (c) 22 DCMR § 4704.1(e) (failure to maintain documentation of an employee's Nurse Aide Abuse Registry check results); or
- (d) 22 DCMR § 4705.3 (failure to verify whether a person convicted of a misdemeanor meets the specified requirements for employment).

3609.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 4701.5 (failure to obtain a complete criminal background check as specified before employing an individual);
- (b) 22 DCMR § 4704.2 (improper disclosure of criminal background check records);
- (c) 22 DCMR § 4704.3 (failure to manage recordkeeping and disclosure of Nurse Aide Abuse Registry information in compliance with the Abuse Registry rules);

- (d) 22 DCMR § 4704.4 (failure to maintain an employee’s criminal background records for 1 year following the end of that person’s employment).

3609.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 22 DCMR § 4701.3 (failure to inform an applicant of the background check requirement, or to obtain the information necessary for the performance of the check, before offering employment);
- (b) 22 DCMR § 4704.1(a) (failure to maintain documentation of an employee’s date of hire);
- (c) 22 DCMR § 4704.1(b) (failure to maintain documentation of the date a background check was requested for an employee);
- (d) 22 DCMR § 4704.1(c) (failure to maintain documentation of the date the background check results for an employee were received);
- (e) 22 DCMR § 4704.1(f) (failure to maintain documentation of any sworn statements submitted by an employee related to his or her background check); or
- (f) 22 DCMR § 4704.1(g) (failure to maintain documentation of any action taken by the employer facility as a result of information obtained from a background check).

3610-3614 RESERVED

3615 PHARMACY AND MEDICAL DEVICES INFRACTIONS

3615.1 Violation of any of the following provisions of D.C. Official Code § 47-2885.01 *et seq.* (Operation of Pharmacy) shall be a Class 1 infraction:

- (a) D.C. Official Code § 47-2885.03(d) (operating, maintaining, opening or establishing a pharmacy within the District of Columbia without a license or registration issued by the Mayor);
- (b) D.C. Official Code § 47-2885.03(f) (using or having upon it, or displaying within it, or affixing or using in connection with it, a sign bearing the word or words “pharmacy,” “apothecary,” “drugstore,” “druggist,” or any word or words of similar or like import which tends to indicate that the practice of pharmacy is being conducted in the establishment or institution);

- (c) D.C. Official Code § 47-2885.08(c) (using a pharmacy license for a location other than the one specified on the license);
- (d) D.C. Official Code § 47-2885.09(d) (failure to report a burglary or damage to a pharmacy or its contents by fire, flood, or other cause; or dispensing, selling, or giving away a drug or other merchandise damaged by fire, flood, or other cause prior to approval);
- (e) D.C. Official Code § 47-2885.10(a)(2) (furnishing false or misleading information to the Mayor, failing to furnish information requested by the Mayor);
- (f) D.C. Official Code § 47-2885.10(a)(3) (selling or offering for sale an adulterated or misbranded drug or device); or
- (g) D.C. Official Code § 47-2885.12) (failure to comply with provision governing the bulk sale or transfer of drugs or medical devices).

3615.2 Violation of any of the following provisions of D.C. Official Code § 47-2885.01 *et seq.* (Operation of Pharmacy) shall be a Class 2 infraction:

- (a) D.C. Official Code § 47-2885.08(b) (failure to renew a pharmacy license);
- (b) D.C. Official Code § 47-2885.08(d) (transferring a pharmacy license);
- (c) D.C. Official Code § 47-2885.08(f) (failure to surrender a pharmacy license when a change of proprietorship occurs);
- (d) D.C. Official Code § 47-2885.09(b) (failure of pharmacist on duty to control all professional aspects of the practice of pharmacy, or allowing any usurpation, in reference or impairment of the exercise of professional judgment of the pharmacist on duty by a non-pharmacist proprietor or personnel);
- (e) D.C. Official Code § 47-2885.09(c)(1) (failure of pharmacist on duty to securely enclose a pharmacy area to prevent unauthorized access to pharmacy areas and to prevent the diversion of drugs stored in pharmacy areas);
- (f) D.C. Official Code § 47-2885.09(c)(2) (failure to substantially construct the pharmacy and any storage area for prescription drugs outside of the pharmacy);
- (g) D.C. Official Code § 47-2885.09(c)(3) (failure of pharmacist on duty to securely lock and restrict access to pharmacy area to unauthorized persons);

- (h) D.C. Official Code § 47-2885.09(c)(4) (failure to keep the key or keys to the pharmacy areas under the control or in the possession of the pharmacist on duty or the proprietor of the pharmacy);
- (i) D.C. Official Code § 47-2885.10(a)(1) (failure to notify Mayor of a conviction of a felony or violation of a law or regulation of the District of Columbia or the United States relating to drugs by a person named in the application for pharmacy licensure);
- (j) D.C. Official Code § 47-2885.11(a)(1) (pharmacy personnel actively engaged in any work, which includes contact with any merchandise or drugs in a pharmacy or the care of dispensing, manufacturing, or storage facilities, in a pharmacy who is affected by, or is believed by the Mayor, upon reasonable grounds to be infected by a communicable disease, or to be a carrier of a communicable disease in any capacity dispensing, manufacturing, or storing merchandise or drugs when infected with a communicable disease);
- (k) D.C. Official Code § 47-2885.11(a)(2) (intentionally permitting a person to engage in work activities while infected with a communicable disease);
- (l) D.C. Official Code § 47-2885.11(b)(1) (working in any capacity in a pharmacy when infected with a boil, infectious wound, sore or an acute respiratory infection);
- (m) D.C. Official Code § 47-2885.11(b)(3) (working in any capacity in a pharmacy when suffering from chronic alcoholism);
- (n) D.C. Official Code § 47-2885.11(b)(4) (working in any capacity in a pharmacy without following hygienic work practices);
- (o) D.C. Official Code § 47-2885.13(a) (failure to store drugs under conditions specified on the label of the original container and in accordance with applicable District of Columbia or federal laws or regulations);
- (p) D.C. Official Code § 47-2885.13(a) (selling or dispensing drugs after the expiration date designated on the label of the original container, and in accordance with applicable District of Columbia or federal laws or regulations);
- (q) D.C. Official Code § 47-2885.13(b) (selling drugs designated as "sample");

- (r) D.C. Official Code § 47-2885.13(c) (placing in stock for reuse or resale a drug which has been returned after leaving the pharmacy, except manufacturer packaged unit dose or unit of use drugs which have been unopened and unaltered);
- (s) D.C. Official Code § 47-2885.14 (failure of pharmacy to dispense a drug in a suitable container appropriately labeled for subsequent administration to, or use by an individual entitled to the drug);
- (t) D.C. Official Code § 47-2885.14 (failure of pharmacy to dispense a drug, except to inpatients of a licensed hospital, with the following information included on the label of the container: (1) the name and strength of the drug, when applicable unless otherwise directed by the prescribing practitioner, (2) the name and address and telephone number of the pharmacy filing the prescription, (3) the prescription number, (4) the date of issuance and the name of the prescriber, (5) directions for use, (6) the name of the individual for whom the prescription is written, and (7) other information and labeling which may be required by any District of Columbia or federal laws or regulations);
- (u) D.C. Official Code § 47-2885.16 (refusing to allow entry into any pharmacy or drug outlet for the purpose of making inspections to determine compliance with this chapter or with other laws or regulations applicable to the practice of pharmacy, at reasonable times); or
- (v) 22 DCMR §§ 1908.1 through 1908.8 (performing professional services under unsanitary conditions).

3615.3 Violation of any of the following provisions of D.C. Official Code § 47-2885.15 (Pharmacy Records – All Prescriptions) shall be a Class 2 infraction:

- (a) D.C. Official Code § 47-2885.15(a) and § 47-2885.15(c) (failure to maintain in every pharmacy, or in the establishment or institution where a pharmacy is located, a suitable book, file, or other easily retrievable record, for a period of not less than two (2) years for every prescription compounded dispensed at the pharmacy for inspection, during regular business hours);
- (b) D.C. Official Code § 47-2885.15(b)(1) and § 47-2885.15(c) (failure to maintain in every pharmacy, or in the establishment or institution where a pharmacy is located, bound volumes recording the information required by law or regulation concerning the over-the-counter sales of those drugs which are listed in Schedule V established or amended pursuant to the federal Comprehensive Drug Abuse Prevention and Control act of 1970 (21 U.S.C. § 801 et seq). for inspection, during regular business hours);

- (c) D.C. Official Code § 47-2885.15(b)(2)(A) and § 47-2885.15(c) (failure to maintain a bound volume containing similar information concerning each sale of hypodermic syringes, needles, or other medical devices which may be used in the administration of controlled substances for inspection, during regular business hours);
- (d) D.C. Official Code § 47-2885.15(b)(2)(B) and § 47-2885.15(c) (failure to maintain a bound volume containing similar information concerning each sale of gelatin capsules and glassine envelopes in quantities sufficient to indicate an intention to use such items in the distribution of controlled substances for inspection, during regular business hours);
- (e) D.C. Official Code § 47-2885.15(b)(2)(C); and § 47-2885.15(c) (failure to maintain a bound volume containing similar information concerning each sale of diluents or adulterants, such as lactose or quinine, in quantities sufficient to indicate an intention to use such substances for the illegal distribution or dispensing of any controlled substance for inspection, during regular business hours); or
- (f) Section 6 of An Act Relating to the adulteration of foods and drugs in the District of Columbia, approved Feb. 17, 1898 (30 Stat. 247, Ch. 25; D.C. Official Code § 48-106) (failure to furnish a sufficient sample of any drug or article of food for analysis).

3615.4 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) Sections 1006a (a)(1) through (a)(6) and (a)(8) of the District of Columbia Health Occupations Revision Act of 1985, as added April 26, 1994 (D.C. Law 10-102; **D.C. Official Code § 3-1210.06a (a)(1) through (a)(6); and § 3-1210.06a.(a)(8)**) (failing to consult with medical assistance recipient or caregivers who presents an original prescription order for outpatient drugs);
- (b) Section 1006a (c)(1) of the District of Columbia Health Occupations Revision Act of 1985 (**D.C. Official Code § 3-1210.06a (c)(1)**) (failure to document the refusal for a consultation by a Medical Assistance Recipient or Caregiver);
- (c) D.C. Code § 47-2885.09(a) (failure to post his or her license in a conspicuous place while on duty);
- (d) (D.C. Code § 47-2885.09(a) (failure to conspicuously display on the outside of the pharmacy the hours that the pharmacy is open for business);
- (e) D.C. Code § 47-2885.09(c)(1) (failure to securely enclose the pharmacy areas);

- (f) D.C. Code § 47-2885.09(c)(2); and § 47-2885.09(c)(3) (failure to substantially construct, securely lock, or restrict access to the pharmacy and any areas where prescription drugs are stored to pharmacists, the proprietor, or persons authorized by a pharmacist with the consent of the proprietor);
- (g) Section 3 of the District of Columbia Prescription Drug Price Information Act effective Sept. 10, 1976 (D.C. Law 1-81; **D.C. Official Code § 48-801.03**) (failure to post current selling price for the 100 most commonly used prescription drugs and related data); or
- (h) 22 DCMR § 1909.3 (failure to post conspicuously in the vicinity of the pharmacy practice area: the pharmacy license, federal and District controlled substances registrations, licenses of pharmacists on duty, certificate of occupancy; and certificates of registration of pharmacy interns).

3616

CONTROLLED SUBSTANCES INFRACTIONS

3616.1

Violation of any of the following provisions shall be a Class 1 infraction:

- (a) D.C. Official Code § 47-2885.15(a) and § 47-2885.15(c) (failure to maintain in every pharmacy, or in the establishment or institution where a pharmacy is located, a suitable book, file, or other easily retrievable record, for a period of not less than two (2) years for every prescription compounded dispensed at the pharmacy for inspection, during regular business hours);
- (b) D.C. Official Code § 47-2885.15(b)(1) and § 47-2885.15(c) (failure to maintain in every pharmacy, or in the establishment or institution where a pharmacy is located, bound volumes recording the information required by law or regulation concerning the over-the-counter sales of those drugs which are listed in Schedule V established or amended pursuant to the federal Comprehensive Drug Abuse Prevention and Control act of 1970 (21 U.S.C. § 801 et seq. for inspection, during regular business hours);
- (c) D.C. Official Code § 47-2885.15(b)(2)(A) and § 47-2885.15(c) (failure to maintain in every pharmacy, or in the establishment or institution where a pharmacy is located, bound volumes recording the information required by law or regulation concerning hypodermic syringes, needles, or other medical devices for inspection, during regular business hours);
- (d) D.C. Official Code § 47-2885.15(b)(2)(B) and § 47-2885.15(c) (failure to maintain in every pharmacy, or in the establishment or institution where a pharmacy is located, bound volumes recording the information required by

law or regulation concerning gelatin capsules for inspection, during regular business hours);

- (e) D.C. Official Code § 47-2885.15(b)(2)(C) and § 47-2885.15(c) (failure to maintain in every pharmacy, or in the establishment or institution where a pharmacy is located, bound volumes recording the information required by law or regulation concerning diluents of adulterants for inspection, during regular business hours);
- (f) 22 DCMR § 1007.1 (using a controlled substances registration for a location other than the one specified on the registration);
- (g) 22 DCMR § 1502.1 (failure of registrant to keep records, maintain inventories and file reports in conformance with the requirements of federal law, including the requirements prescribed under 21 CFR, Part 1304);
- (h) 22 DCMR § 1503.1 (failure of pharmacies to maintain invoices, prescription files, and other records required by federal and District of Columbia laws and regulations);
- (i) 22 DCMR § 1503.2 (failure of medical, dental, and veterinary practitioners to maintain invoices, prescription files, and other records required by federal and District of Columbia laws and regulations);
- (j) 22 DCMR § 1503.3 (failure of manufacturers and distributors (including wholesalers) to maintain invoices received and distributed and other records required by federal and District of Columbia laws and regulations);
- (k) 22 DCMR § 1505.1 (failure to retain all records required by 22 DCMR, Chapter 15 for a period of at least two (2) years);
- (l) 22 DCMR § 1913.1 (failure of registrant (pharmacy, hospital, clinic, ambulatory surgery center or any other medical treatment facility or establishment) to dispense a controlled substance on an outpatient basis without a label affixed to the container with the information as specified in subsections 1913.1(a) through (g); or
- (m) 22 DCMR § 1920.1 (failure of registrant to immediately report to the Department a burglary, robbery, thief, loss, or damage involving due to fire, flood, or other causes).

3616.2 Violation of any of the following provisions of 22 DCMR Chapters 13 and 15 (Schedule I or II – DEA Order Forms) shall be a Class 1 infraction:

- (a) 22 DCMR § 1305.7 (failure to obtain original prescriptions within 72 hours for emergency oral orders); or
- (b) 22 DCMR § 1504.1 (failure of registrant to distribute controlled substances in Schedule I and II to another registrant only pursuant to an order form).

3616.3 Violation of any of the following provisions of 22 DCMR Chapter 13 (Schedules III, IV, and V – DEA Order Forms) shall be a Class 1 infraction:

- (a) 22 DCMR § 1310.1 (filling or refilling a prescription for controlled substance listed in Schedule III, IV, or V more than 6 months after the date on which prescription was issued);
- (b) 22 DCMR § 1310.2 (refilling a prescription for controlled substance more than 5 times);
- (c) 22 DCMR § 1314.1(b) (dispensing a controlled substance listed in Schedule II, III, IV, or V without a prescription to a purchaser at retail in a quantity greater than 240cc (8 oz.) or 48 dosage unit of any controlled substance containing opium to same purchaser in 48 hour period without prescription); or
- (d) 22 DCMR § 1314.1(b) (dispensing a controlled substance listed in Schedule II, III, IV, or V without a prescription to a purchaser at retail in a quantity greater than 120cc (4 oz.) or 24 dosage unit of any controlled substance to same purchaser in 48 hour period without prescription).

3617-3619 RESERVED

3620 FOOD & FOOD OPERATIONS INFRACTIONS

3620.1 Reserved

3620.2 Reserved

3620.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 25 DCMR § 200.3 or § 200.4 (failure of licensee to employ a full-time person in charge who is present at the food establishment during all hours of operation);
- (b) 25 DCMR § 200.3 or § 200.4 (failure of licensee to employ a full-time person in charge who is a certified food manager recognized by the Department);

- (c) 25 DCMR § 3210.1 (failure to minimize the presence of rodents on the premises, as specified in §§ 3210.1(a) through (d));
- (d) 25 DCMR § 4409.1 (operating a food establishment with an interruption of water service resulting in insufficient capacity to meet water demands throughout the establishment);
- (e) 25 DCMR § 4409.1 (operating a food establishment with extensive fire damage that affects the establishment's ability to operate in compliance with the Food Code);
- (f) 25 DCMR § 4409.1 (operating a food establishment with a sewage backup);
- (g) 25 DCMR § 4409.1 (operating a food establishment with an extended interruption of electrical service that affects the establishment's ability to operate in compliance with the Food Code);
- (h) 25 DCMR § 4409.1 (operating a food establishment with serious flood damage affecting the establishment's ability to operate in compliance with the Food Code);
- (i) 25 DCMR § 4409.1 (misuse of poisonous or toxic materials in a food establishment);
- (j) 25 DCMR § 4409.1 (operating a food establishment with gross insanitary occurrence or condition that may endanger public health including, but not limited to, heavy infestation of vermin);
- (k) 25 DCMR § 4409 (operating a food establishment with circumstances that may endanger public health including, but not limited to, no hot water, or incorrect hot and cold holding temperatures for potentially hazardous foods that do not comply with the Food Code and cannot be corrected during the course of the inspection);
- (l) 25 DCMR § 4300.1 (operating a food establishment without a valid license issued by the Mayor, unless exempted under 25 DCMR § 99);
- (m) 25 DCMR § 4402.1 (failure to allow access to DOH during the food establishment's hours of operation and other reasonable times as determined by DOH, for one or more purposes identified in subsection § 4402.1(a) through (c));

- (n) Section 1 of An Act Relating to the adulteration of foods and drugs in the District of Columbia, approved February 17, 1898 (30 Stat. 246; **D.C. Official Code § 48-101**) (selling, exchanging, or delivering, or having in his or her custody or possession with the intent to sell or exchange, or expose or offer for sale or exchange, any article of food or drug which is adulterated within the meaning of this chapter);
- (o) Section 8 of An Act Relating to the adulteration of foods and drugs in the District of Columbia, effective May 2, 2002 (D. C. Law 14-116; **D.C. Official Code § 48-108**) (hindering, obstructing, or in any way interfering with any inspector, or other authorized personnel of DOH in the performance of his duty in carrying out the provisions of Food, Chapter 1-Adulteration); or
- (p) Section 4a (a) or (b) of the District of Columbia Smoking Restriction Act of 1979, effective March 29, 1988 (D.C. Law 7-100; **D.C. Official Code § 7-1703.01(a) or §7-1703.01(b)**) (failure to designate a non-smoking area in a restaurant with a capacity of 50 or more).

3620.4

Violation of any of the following provisions of 25 DCMR Chapters 2 through 5 (Subtitle B: Management and Personnel) shall be a Class 4 infraction:

- (a) 25 DCMR § 201 (failure to demonstrate knowledge);
- (b) 25 DCMR § 300.1 (failure of licensee to require food employees and food employee applicants to report to the person in charge information about their health and activities as they relate to diseases that are transmissible through food);
- (c) 25 DCMR § 301.1 (failure to exclude a food employee from a food establishment when the food employee is diagnosed with an infectious agent specified in § 300.3);
- (d) 25 DCMR § 301.2 (failure to restrict a food employee from working with exposed food, clean equipment, utensils, linens, and unwrapped single-service and single-use articles when the food employee is suffering from a symptom specified in § 300.4, or has a stool that yields a specimen culture that is positive for *Salmonella Typhi*, *Shigella spp.*, or *Escherichia coli 0157:H7*);
- (e) 25 DCMR § 301.3 (failure to exclude a food employee working with a highly susceptible population when the employee is experiencing symptoms, conditions or history of illness specified in § 300.4);
- (f) 25 DCMR § 301.4(a) (failure to exclude a food employee who is jaundiced from the food establishment when the onset of jaundice

occurred within seven (7) calendar days of the licensee being put on notice of the employee's symptoms);

- (g) 25 DCMR § 301.4(b) (failure to exclude a food employee who is jaundiced from a food establishment that serves a highly susceptible population when the onset of jaundice occurred more than seven (7) calendar days of the licensee being put on notice of the employee's symptoms);
- (h) 25 DCMR § 301.4(c) (failure to restrict a food employee who is jaundiced from activities specified in § 301.2 when the food establishment does not serve a highly susceptible population);
- (i) 25 DCMR § 500.1 (except as specified in § 500.2, failure to prohibit an employee from eating, drinking, or using any form of tobacco in areas where the contamination of exposed food, clean equipment, utensils, linens, unwrapped single-service and single-use articles, or other items needing protection can result);
- (j) 25 DCMR § 501.1 (failure to prohibit food employees who are experiencing persistent sneezing, coughing, or runny nose that causes discharges from the eyes, nose, or mouth from working with exposed food, clean equipment, utensils, linens, or unwrapped single-service or single-use articles); or
- (k) 25 DCMR § 503.1 (except as specified in § 503.2, failure to prohibit food employees from caring for, or handling animals that are allowed on the premises of a food establishment pursuant to §§ 3214.2(b) through (e)).

3620.5 Violation of any of the following provisions of 25 DCMR Chapters 6 through 13 (Subtitle C: Food) shall be a Class 4 infraction:

- (a) 25 DCMR § 600 or 25 DCMR §§ 700 through 706 (prohibited sale of, use of, or offer for sale of food that is from an unapproved source);
- (b) 25 DCMR § 707.1 through § 707.5 (receiving potentially hazardous food that is not at the required temperature);
- (c) 25 DCMR § 708.1 (receiving food that contains unapproved additives or additives that exceed amounts specified in 21 CFR 170 through 180; 21 CFR 181 through 186; and 9 CFR Subpart C Section 424.21(b));
- (d) 25 DCMR § 709.1 (receiving shell eggs that are not clean and sound and that exceed the restricted egg tolerances for U.S. Consumer Grade B as specified in 7 CFR Part 56, and 9 CFR Part 590);

- (e) 25 DCMR §§ 710.1 through 710.4 (receiving egg and milk products that are not pasteurized as specified by the USDA at 21 CFR 135; and 21 CFR 133);
- (f) 25 DCMR § 711.1 (receiving food packages that are not in good condition so that the food is exposed to adulteration or potential contaminants);
- (g) 25 DCMR § 712.1 (receiving ice for use as a food or a cooling medium that is not made from drinking water);
- (h) 25 DCMR §§ 714.1 through 714.3 (receiving shellstock in containers that do not bear legible source identification tags or labels that are affixed by the harvester and each dealer that depurates, ships, or reships the shellstock, as specified in the Food Code);
- (i) 25 DCMR § 717.1 (except as specified in section § 717.3, failure to ensure that shellstock tags remain attached to the container in which the shellstock was received until the container is empty);
- (j) 25 DCMR § 717.2 (failure to retain shellstock tags or labels for ninety (90) calendar days from the date the container is emptied using an approved record keeping system that keeps the tags or labels in chronological order correlated to the date when, or dates during which, the shellstock are sold or served);
- (k) 25 DCMR § § 800.1 (failure to prevent food employees from contaminating ready-to-eat food with his or her bare hands as specified in sections §§ 800.1 through 800.4);
- (l) 25 DCMR § 801.1 (failure to prevent food employees from contaminating food by using a utensil more than once to taste food that is to be sold or reserved);
- (m) 25 DCMR § 802.1 (failure to protect food from cross contamination as specified in subsections §§ 802.1(a) through (h));
- (n) 25 DCMR § 804.1 (failure to substitute pasteurized eggs or egg products for raw shell eggs in the preparation of foods as specified in subsections §§ 804.1(a) through (b));
- (o) 25 DCMR § 805.1 (failure to protect food from contamination that may result from the addition of unsafe or unapproved food or color additives, or unsafe or unapproved levels of approved food and color additives);
- (p) 25 DCMR § 805.2 (failure to protect food from contamination by employees applying sulfiting agents to fresh fruit and vegetables intended

for raw consumption or to a food considered to be a good source of vitamin B₁, or employees serving or selling food, except for grapes, that is treated with sulfiting agents before receipt by the food establishment);

- (q) 25 DCMR § 809.1 (failure to prevent contamination of food through contact with equipment and utensils that are not cleaned as specified in Chapter 19 and sanitized as specified in Chapter 20 of the Food Code);
- (r) 25 DCMR §§ 822.1 through 822.3 or 25 DCMR §§ 823.1 through 823.2 (failure to protect food from contamination by consumers);
- (s) 25 DCMR §§ 900.1 through 900.4 (failure to cook raw animal foods such as eggs, fish, meat, poultry, and foods containing raw animal foods at required temperatures and holding times);
- (t) 25 DCMR § 901.1 (failure to properly cook raw animal foods in a microwave as specified in subsections § 901.1(a) through (d));
- (u) 25 DCMR § 903.1 (except as specified in section § 903.2, failure to freeze throughout raw, raw-marinated, partially cooked, or marinated-partially cooked fish other than molluscan shellfish at required temperatures and time controls);
- (v) 25 DCMR §§ 906.1 through 906.5 (except as provided, failure to heat ready-to-eat foods or to reheat potentially hazardous foods for hot holding at required temperatures and time controls);
- (w) 25 DCMR § 1003 through 1006 (failure to comply with required temperatures and time controls for cooling methods for hot and cold holding and for food display);
- (x) 25 DCMR § 1007.1 through 1007.6 (failure to clearly date mark at the time of preparation ready-to-eat, potentially hazardous foods held refrigerated at required temperatures and time controls for more than twenty-four (24) hours);
- (y) 25 DCMR § 1008 (failure to discard ready-to-eat, potentially hazardous foods, prepared and held refrigerated at required temperatures and time controls for more than twenty-four (24) hours, which was not consumed within the time specified in section § 1008);
- (z) 25 DCMR § 1009 (failure to comply with requirements when using time as a public health control);
- (aa) 25 DCMR § 1010.1 or 25 DCMR § 4102 (failure to obtain a variance before smoking food as a flavor enhancement, curing food, brewing

alcoholic beverages, using food additives or adding components such as vinegar as a method of food preservation rather than as a method of flavor enhancement or to render a food so that it is not potentially hazardous);

- (bb) 25 DCMR § 1010.2 or 25 DCMR §4102 (failure to obtain a variance before packaging food using a reduced oxygen method of packaging except as specified in section 1011 where a barrier to *Clostridium botulinum* in addition to refrigeration exists, before custom processing animals that are for personal use as food and not for sale or service in a food establishment, or before preparing food by another method that is determined by the Department to require a variance);
- (cc) 25 DCMR § 1011.1 (failure to ensure that there are at least two (2) barriers in place to control the growth and toxin formation of *Clostridium botulinum* where a food establishment packages foods using a reduced oxygen method of packaging and *Clostridium botulinum* is identified as a microbiological hazard in the final packaged form);
- (dd) 25 DCMR § 1011.2; and 25 DCMR § 4205.1(d) (failure to have a HACCP Plan and maintain specific information as required where a food establishment packages foods using a reduced oxygen packaging methods and *Clostridium botulinum* is identified as a microbiological hazard in the final packaged form);
- (ee) 25 DCMR § 1105.1 (except as specified in §§ 900.3, 900.4 and 1300.1(d), failure to notify consumers of the potential health risks associated with eating animal food that is raw, undercooked, or not otherwise processed to eliminate pathogens where the food establishment offers such foods in ready-to-eat form or as a raw ingredient in another ready-to-eat food);
- (ff) 25 DCMR § 1200.1 (failure to discard or recondition food that is unsafe, adulterated, or not honestly presented as specified in section 600);
- (gg) 25 DCMR § 1200.2 (failure to discard food that is not from an approved source as specified in §§ 700 through 706);
- (hh) 25 DCMR § 1200.3 (failure to discard ready-to-eat food that may have been contaminated by an employee who has been restricted or excluded as specified in § 301);
- (ii) 25 DCMR § 1200.4 (failure to discard food that is contaminated by food employees, consumers, or other persons through contact with their hands, bodily discharges, such as nasal or oral discharges, or other means); or

- (jj) 25 DCMR § 1300 (failure of food establishment that serves a highly susceptible population to comply with specialized requirements for serving, re-serving or offering food for sale).

3620.6

Violation of any of the following provisions of 25 DCMR Chapters 14 through 22 (Subtitle D: Equipment, Utensils, and Linen) shall be a Class 4 infraction:

- (a) 25 DCMR §1400.1 or 25 DCMR § 1411 (failure to use utensils and food-contact surfaces of equipment, and single-service and single-use articles that meet the requirements of §§ 1400.1 and 1411 as specified in §§ 1400.1(a) through (e));
- (b) 25 DCMR § 1403.1 (improper use of copper and copper alloy such as brass in contact with acidic food that has a pH below six (6) such as vinegar, fruit juice, or wine or for a fitting or tubing installed between a backflow prevention device and a carbonator, except as specified in § 1403.2);
- (c) 25 DCMR § 1404.1 (improper use of galvanized metal for utensils or food-contact surfaces or equipment that are used in contact with acidic food that has a pH below (six) 6 such as vinegar, fruit juice or wine);
- (d) 25 DCMR § 1501.1 (improper use of food temperature measuring devices with sensors or stems constructed of glass, except that thermometers with glass sensors or stems that are encased in a shatterproof coating such as candy thermometers may be used);
- (e) 25 DCMR § 1502.1 (failure to use multi-use food-contact surfaces that are smooth, free of breaks, open seams, cracks, chips, pits, and similar imperfections; free of sharp internal angles, corners, and crevices; and that have smooth welds and joints);
- (f) 25 DCMR § 1502.2 (failure to use multi-use food-contact surfaces that are accessible for cleaning and inspection by one of the methods specified in § 1502.2(a) through (c));
- (g) 25 DCMR § 1523.1 (use of a machine vending potentially hazardous food that is not equipped with an automatic control that prevents the machine from vending food if there is a power failure, mechanical failure, or other condition that results in an internal machine temperature that cannot maintain food temperatures as specified in the Food Code until the machine is serviced and restocked with food that has been maintained at temperatures specified in the Food Code);

- (h) 25 DCMR § 1810.1 (failure to maintain the temperature of the water at 77°C (171°F) or above when immersion in hot water is used for sanitizing equipment in a manual operation);
- (i) 25 DCMR § 1813.1 (failure to use a chemical sanitizer in a sanitizing solution for a manual or mechanical operation at exposure times specified in § 2002.2 that is listed in 21 CFR 178.1010—sanitizing solutions, and that is used in accordance with the EPA-approved manufacturer’s label use instructions);
- (j) 25 DCMR § 1813.2 (failure to use a chlorine solution that has a minimum temperature based on the concentration and pH of the solutions listed in the chart);
- (k) 25 DCMR § 1813.3 (failure to use an iodine solution as specified in §§ 1813.3(a) through (c));
- (l) 25 DCMR § 1813.4 (failure to use a quaternary ammonium compound solution as specified in subsections 1813.4(a) through (c));
- (m) 25 DCMR § 1817.1 (failure of food establishment operating without facilities specified in the Food Code for cleaning and sanitizing kitchenware and tableware to provide only single-use kitchenware, single-service articles, and single-use articles for use by food employees and single-service articles for use by consumers);
- (n) 25 DCMR § 1900.1 (failure to keep equipment food-contact surfaces, and utensils clean to sight and touch);
- (o) 25 DCMR § 1900.2 (failure to keep food-contact surfaces of cooking equipment and pans free of encrusted grease deposits, and other soil accumulations);
- (p) 25 DCMR § 1900.3 (failure to keep nonfood-contact surfaces of equipment free of an accumulation of dust, dirt, food residue, and other debris);
- (q) 25 DCMR §§ 1901.1 through 1901.5 (failure to clean equipment food-contact surfaces, and utensils as specified);
- (r) 25 DCMR §§ 1910.1 through 1910.3 (failure to meet the requirements for cleaning and refilling empty containers intended to be cleaned and refilled); or

- (s) 25 DCMR §§ 2001 through 2002 (failure to sanitize equipment, food-contact surfaces, and utensils before use after cleaning at the required temperature and hold time, frequency, and methods).

3620.7

Violation of any of the following provisions of 25 DCMR Chapters 23 through 27 (Subtitle E: Water, Plumbing, and Waste) shall be a Class 4 infraction:

- (a) 25 DCMR § 2300.1, 25 DCMR § 2302.1, or § 25 DCMR § 2304.1 (use of drinking water from a system other than the District of Columbia public water system or other approved sources);
- (b) 25 DCMR § 2301.1 (failure to flush and disinfect drinking water system before placing it in service after construction, repair, or modification and after an emergency situation, such as a flood, that may introduce contaminants to the system);
- (c) 25 DCMR § 2304.2 (failure to use nondrinking water for nonculinary purposes only);
- (d) 25 DCMR § 2305.1 (failure to use a water source and system that is of sufficient capacity to meet the water demands of the food establishment);
- (e) 25 DCMR § 2305.2 (failure to use a hot water generation and distribution systems that are of sufficient capacity to meet peak hot water demands throughout the food establishment);
- (f) 25 DCMR § 2400.1 (use of a plumbing system and hoses conveying water that are not constructed and repaired with approved materials according to the accepted code of practice);
- (g) 25 DCMR § 2400.2 (use of a water filter that is not made of safe materials);
- (h) 25 DCMR § 2401.1 (use of a plumbing system that is not designed, constructed, and installed according to the accepted code of practice);
- (i) 25 DCMR § 2403.1 (failure to use an air gap between the water supply inlet and the flood level rim of the plumbing fixture, equipment, or nonfood equipment that is at least twice the diameter of the water supply inlet and that is not less than twenty-five millimeters (25mm) or one inch (1in.));
- (j) 25 DCMR §§ 2406 through 2407 (failure to provide hand washing lavatories for employees' use as specified in § 2411, in accordance with accepted code of practice);

- (k) 25 DCMR § 2409.1 (failure to install a plumbing system that precludes backflow of a solid, liquid, or gas contaminant into the water supply system at each point of use at the food establishment, as specified in § 2409.1);
- (l) 25 DCMR §§ 2411.1 through 2411.7 (failure to locate a hand washing lavatory to allow convenient use by employees in food preparation, food dispensing, and ware washing areas and in, or immediately adjacent to, toilet rooms);
- (m) 25 DCMR § 2415.1 (operating with a prohibited cross-connection by connecting a pipe or conduit between the drinking water system and a nondrinking water system or a water system of unknown quality);
- (n) 25 DCMR §§ 2417.1 through 2417.2 (failure to clean and maintain a reservoir that is used to supply water to a device such as a defogger in accordance with manufacturer's specifications or in accordance with the procedures specified in § 2712.2, whichever is more stringent);
- (o) 25 DCMR § 2418.1 (failure to maintain and operate a plumbing system in good repair in accordance with the accepted code of practice);
- (p) 25 DCMR § 2510.1 (failure to flush and sanitize a water tank, pump, and hoses before being placed in service after construction, repair, modification, and periods of nonuse);
- (q) 25 DCMR §2602 (prohibited use of a direct connection between the sewage system and a drain originating from equipment in which food, portable equipment, or utensils are placed, excepted as specified in §§ 2602.2 and 2602.3);
- (r) 25 DCMR § § 2604.1 (failure to convey sewage to the point of disposal through an approved sanitary sewage system or other system, including use of sewage transport vehicles, waste retention tanks, pumps, pipes, hoses, and connections that are constructed, maintained, and operated in accordance with the accepted code of practice);
- (s) 25 DCMR § 2607.1 (failure to dispose of sewage through an approved facility that is a public sewage treatment plant or an individual sewage disposal system that is sized, constructed, maintained, and operated in accordance with the accepted code of practice); or
- (t) 25 DCMR § 2607.2 (failure of a food establishment that is served by a sanitary sewer and conducting any activity or activities which generate food wastes to have and use one (1) or more food waste grinders that are conveniently located near each such activity and which have adequate capacity to dispose of all readily grindable food waste produced).

3620.8 Violation of any of the following provisions of 25 DCMR Chapters 28 through 32 (Subtitle F: Physical Facilities) shall be a Class 4 infraction:

- (a) 25 DCMR § 3204.1 (improper use of food preparation sinks, hand washing lavatories, and ware washing equipment to clean maintenance tools, to prepare or hold maintenance materials, or the disposal of mop water and similar liquid wastes);
- (b) 25 DCMR § 3210.2 (failure to maintain copies of the food establishment's professional service contract and service schedule, which documents the information specified in §§ 3210.1(a) through (c));
- (c) 25 DCMR § 3214.1 (failure to prohibit live animals on the premises, except as specified in §§ 3214.2 and 3214.3); or
- (d) 25 DCMR §§ 3214.2 through 3214.3 (failure to prevent the contamination of food, clean equipment, utensils, linens, or unwrapped single-service and single-use articles from live animals permitted on the premises as specified in § 3214.2(a) through (d)).

3620.9 Violation of any of the following provisions of 25 DCMR Chapters 33 through 35 (Subtitle G: Poisonous or Toxic Materials) shall be a Class 4 infraction:

- (a) 25 DCMR § 3300.1 (use of containers of poisonous or toxic materials and personal care items that do not bear a legible manufacturer's label);
- (b) 25 DCMR § 3301.1 (failure to identify clearly and individually with the common name of the material working containers used for storing poisonous or toxic materials, such as cleaners and sanitizers taken from bulk supplies);
- (c) 25 DCMR § 3400.1 (failure to properly store poisonous or toxic materials so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles as specified in §§ 3400.1(a) and (b));
- (d) 25 DCMR § 3401.1 (failure to allow on the premises of a food establishment only those poisonous or toxic materials that are required for the operation and maintenance of the food establishment);
- (e) 25 DCMR §§ 3402.1 through 3402.3 (use of poisonous or toxic materials in violation of D.C. pesticide laws and regulations and the Food Code);
- (f) 25 DCMR § 3403.1 (improper use of container previously used to store poisonous or toxic materials to store, transport, or dispense food);

- (g) 25 DCMR § 3404.1 (applying chemical sanitizers and other chemical antimicrobials to food-contact surfaces that do not meet the requirements of 21 CFR 178.1010 – Sanitizing Solutions);
- (h) 25 DCMR § 3405.1 (use of chemicals to wash or assist in the peeling of raw, whole fruits and vegetables that do not meet the requirements of the Food Code);
- (i) 25 DCMR § 3406.1 (use of chemicals as boiler water additives that do not meet the requirements of 21 CFR 173.310 – Boiler Water Additives);
- (j) 25 DCMR § 3407.1(a) through (e) (use of drying agents used in conjunction with sanitization that contain components not listed in this section);
- (k) 25 DCMR § 3408.1 (use of lubricants that do not meet the requirements specified in 21 CFR 178.3570);
- (l) 25 DCMR § 3409 (use of restricted use pesticides that do not meet the requirements specified in 40 CFR part 152 Subpart I – Classification of Pesticides);
- (m) 25 DCMR § 3410 (use of rodent bait that is not contained in a covered, tamper-resistant bait station);
- (n) 25 DCMR § 3411 (use of tracking powder pesticide);
- (o) 25 DCMR § 3412.1 (except as provided, allowing in a food establishment medicines not necessary for the health of the employees);
- (p) 25 DCMR § 3412.2 or 25 DCMR § 3414 (failure to properly label, store, and locate medicines and first aid supplies for employees’ use to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles);
- (q) 25 DCMR § 3413.1 (failure to meet the requirements for storing refrigerated medicines belonging to employees or to children in a day care center as specified in § 3413);
- (r) 25 DCMR § 3500.1 (failure to store and display for retail sale poisonous or toxic materials so they cannot contaminate food, equipment, utensils, linens, and single-service and single-use articles as specified in §§ 3500.1(a) through (b)); or

- (s) 25 DCMR § 4104.2 (failure to comply with the HACCP Plan and procedures submitted as the basis for a variance, as specified in §§ 4104.2(a) and 4104.2(b)(1) through (4)).

3620.10 Violation of any provision of the District of Columbia Food Code Regulations (25 DCMR Chapters 1 through 99), which is not cited elsewhere in this section, shall be a Class 5 infraction.

3621 SWIMMING POOL & SPA OPERATIONS INFRACTIONS

3621.1 Reserved

3621.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 22 DCMR § 6400.2 (failure to submit construction documents for approval before constructing, installing or enlarging a swimming pool or appurtenances thereto);
- (b) 22 DCMR § 6400.5 (a) (failure to obtain a proper license to operate a swimming pool or spa);
- (c) 22 DCMR § 6400.5 (d) (failure to obtain a pesticide operator or pesticide applicator license, permit or certificate before operating a swimming pool or spa);
- (d) 22 DCMR § 6400.7 (employing a person at a swimming pool or spa having a disease in a stage which is communicable or likely to become so);
- (e) 22 DCMR § 6400.11 (failure to secure an unopened pool by a locked gate, fence or door);
- (f) 22 DCMR § 6401.1 (failure to have a swimming pool or spa operator on duty at the facility or able to reach the facility within thirty (30) minutes);
- (g) 22 DCMR § 6401.2 (failure to have a valid swimming pool or spa operator permit before serving as a swimming pool or spa operator);
- (h) 22 DCMR § 6402.1 (failure to provide an adequate number of lifeguards);
- (i) 22 DCMR § 6402.4 (failure to follow an approved Swimming Pool Child Safety Plan);
- (j) 22 DCMR § 6402.5 (failure to follow an approved Spa Child Safety Plan);

- (k) 22 DCMR § 6402.11 (failure to keep bathers out of the water during the lifeguard's absence);
- (l) 22 DCMR §§ 6403.2 (a)-(b) (failure to post required warning signs for bathers);
- (m) 22 DCMR § 6408.17 (operating a swimming pool that is contaminated);
- (n) 22 DCMR § 6411.3 (operating a swimming pool or spa that has not passed inspection by the Department); or
- (o) 22 DCMR § 6411.6 (operating a swimming pool or spa for which the operating license has been summarily suspended).

3621.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 6401.4 (failure to have swimming pool or spa operator permits readily accessible to the Department);
- (b) 22 DCMR § 6402.13 (failure to have evidence of the on-duty lifeguard's qualifications readily accessible to the Department);
- (c) 22 DCMR §§ 6403.1 (a) through (h) (failure to post required rules for admission to the swimming pool);
- (d) 22 DCMR §§ 6403.3 (a) through (j) (failure to post required rules for admission to the spa);
- (e) 22 DCMR § 6403.5 (failure to provide a clock or other time-keeping device for bathers using a spa);
- (f) 22 DCMR § 6404.3 (failure to provide minimum bather preparation facilities);
- (g) 22 DCMR § 6404.4 (failure to provide appropriate water temperature at showerheads);
- (h) 22 DCMR § 6404.5 (failure to provide water for cleaning or personal hygiene from the District of Columbia public water system);
- (i) 22 DCMR § 6404.6 (failure to provide soap in a non-glass dispenser unit);
- (j) 22 DCMR § 6404.7 (failure to provide an unbreakable mirror over each lavatory or a supply of toilet tissue at each toilet);

- (k) 22 DCMR § 6404.9 (failure to provide the required feminine hygiene products);
- (l) 22 DCMR § 6404.10 (failure to provide clean and dry bathing suits and towels to bathers that are stored in a sanitary manner);
- (m) 22 DCMR § 6405.1 (failure to separate eating and drinking areas from the swimming pool or spa);
- (n) 22 DCMR § 6405.2 (failure to provide food and beverages in nonbreakable containers);
- (o) 22 DCMR § 6405.3 (failure to provide for adequate garbage and refuse collection at a facility housing a swimming pool or spa);
- (p) 22 DCMR §§ 6406.1 (a) through (q) (failure to meet minimum equipment and facility safety standards);
- (q) 22 DCMR §§ 6407.1 (a) through (h) (failure to have the required first aid and lifesaving equipment available on the premises);
- (r) 22 DCMR § 6408.2 (failure to maintain adequate turnover of the swimming pool or spa waters);
- (s) 22 DCMR § 6408.4 (failure to maintain adequate filtration of the swimming pool or spa waters);
- (t) 22 DCMR § 6408.5 (failure to maintain adequate overflow facilities for the swimming pool or spa);
- (u) 22 DCMR § 6408.6 (failure to maintain adequate swimming pool or spa water temperatures);
- (v) 22 DCMR § 6408.7 (failure to maintain sufficient clarity of the swimming pool or spa waters);
- (w) 22 DCMR § 6408.8 (failure to prevent the presence of sunken debris, algae dirt, filter media or filter aids in the swimming pool or spa);
- (x) 22 DCMR § 6408.10 (failure to maintain sufficient acidity/alkalinity of the swimming pool or spa waters);
- (y) 22 DCMR § 6408.11 (failure to use disinfectant and chemical feeders at swimming pools or spas);

- (z) 22 DCMR § 6408.12 (use of products in a swimming pool or spa that are not approved by the United States EPA or the Mayor);
- (aa) 22 DCMR § 6408.13 (failure to use a pesticide in a manner that is consistent with the labeling of the pesticide or consistent with the restrictions imposed on the use of the pesticide by the United States EPA or the Mayor);
- (bb) 22 DCMR § 6408.15 (failure to maintain the appropriate residuals for cyanuric acid, if used);
- (cc) 22 DCMR § 6408.18 (failure to close a facility for a minimum of twenty (20) minutes to allow for proper disinfection after fecal matter is introduced into the swimming pool or spa);
- (dd) 22 DCMR § 6409.1 (failure to use a chemical test kit);
- (ee) 22 DCMR §§ 6409.2 (a) through (o) (failure to record required information on operational logs);
- (ff) 22 DCMR § 6409.6 (failure to report to the Director, within three (3) days of the incident, injury at a swimming pool or spa that results in death or that requires resuscitation or admission to a hospital);
- (gg) 22 DCMR § 6409.7 (failure to report waterborne illness contracted at a swimming pool or spa to the Director within twenty-four (24) hours of management's knowledge of the incident);
- (hh) 22 DCMR § 6410.1 (making an unapproved direct mechanical connection between the potable water supply and the swimming pool or spa that is not protected against backflow and back-siphonage in a manner approved by the Mayor); or
- (ii) 22 DCMR § 6410.3 (failure to discharge backwash or drainage waters of a swimming pool or spa into a sanitary sewer through an approved air gap or other means approved by the Mayor).

3621.4 Violation of any provision of the swimming pools and spas regulations, 22 DCMR Chapter 64, which is not cited elsewhere in this section, shall be a Class 4 infraction.

3622 PUBLIC BATHS INFRACTIONS

3622.1 Reserved

3622.2 Reserved

3622.3 Violation of the following provision shall be a Class 3 infraction:

- (a) D.C. Official Code § 47-2812 (owning or managing an establishment where public baths are supplied to transients without a license).

3623 MATTRESS INFRACTIONS

3623.1 Reserved

3623.2 Violation of the following provision shall be a Class 2 infraction:

- (a) D.C. Official Code § 47-2818 (operating a mattress establishment without a license).

3623.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 115.3 (failure to keep any material used in the manufacture or renovation of mattresses in a clean place);
- (b) 22 DCMR § 115.4 (failure to maintain a finished mattress free of dampness and dirt); or
- (c) 22 DCMR § 115.12 (using an improper material for the manufacture or renovation of a mattress).

3623.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 22 DCMR § 115.5 (possession of a mattress which does not have a tag or label required by law);
- (b) 22 DCMR §§ 115.7 or 115.11 (use of an improper tag or label on a mattress);
- (c) 22 DCMR § 115.8 (failure to submit a tag or label to the Department for approval); or
- (d) 22 DCMR § 115.10 (failure to obtain approval from the Director for sterilization methods used on mattresses).

3623.5 Violation of any provision of An Act to regulate within the District of Columbia the manufacture, renovation and sale of mattresses, approved July 3, 1926 (44 Stat. 838; **D.C. Official Code § 8-501 *et seq.***), which is not cited elsewhere in this section, shall be a Class 5 infraction.

**3624 BARBERSHOP & COSMETOLOGY SALON OPERATIONS
INFRACTIONS**

3624.1 Reserved

3624.2 Reserved

3624.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) D.C. Official Code § 47-2809 (operating a barbershop or beauty parlor without a license);
- (b) 17 DCMR § 3701.9 (engaging in the practice of barbering or cosmetology when suffering from a known infectious or contagious disease unless the licensee takes appropriate precautions and uses safeguards that prevent the spread of the disease to the public);
- (c) 17 DCMR § 3702.1 (a) through (g) (operating a barbershop or beauty parlor without a license or certificate of registration);
- (d) 17 DCMR § 3702.2 (engaging in the practice of barbering or cosmetology before the issuance of all required licenses);
- (e) 17 DCMR § 3702.2 (owning a salon or shop before the issuance of all required licenses);
- (f) 17 DCMR § 3702.2 (operating a salon or shop before the issuance of all required licenses);
- (g) 17 DCMR §3716.1 (operating a salon or shop without first having obtained the appropriate business licenses, registrations, and/or certificates, except as specified in § 3721); or
- (h) 17 DCMR § 3727.1 (failure to permit an inspection of the premises).

3624.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 17 DCMR § 3716.7 (operating a salon or shop without a licensed manager on duty at all times during operating hours, except as specified in section 3721); or
- (b) 17 DCMR § 3718.1 through 3718.18 (failure to comply with minimum equipment requirements in violation of public health regulations).

3624.5 Violation of any provision of District of Columbia Barber and Cosmetology Regulations, 17 DCMR, Chapter 37, which is not cited elsewhere in this section, shall be a Class 5 infraction.

3625 MASSAGE ESTABLISHMENT INFRACTIONS

3625.1 Violation of the following provision shall be a Class 1 infraction:

D.C. Official Code § 47-2811 (operating a massage establishment, Turkish, Russian, or medicated bath, without a license).

3626-3629 RESERVED

3630 VECTOR CONTROL AND ANIMAL DISEASE PREVENTION INFRACTIONS

3630.1 Reserved

3630.2 Reserved

3630.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 22 DCMR § 107.1(a) (failure to comply with an order to provide vent stoppage of any rat-infested building or other structure or part thereof);
- (b) 22 DCMR § 107.1(b) (failure to comply with an order to remove trash or refuse from the premises which may provide rat harborage);
- (c) 22 DCMR § 107.1(c) (failure to comply with an order to protect food and garbage from rats); or
- (d) Section 908(c) of the Rodent Control Act of 2000, effective October 19, 2000 (D.C. Law 13-172; **D.C. Official Code § 8-2101.01 et seq.**)(failure to comply with an order to remove debris from public or private property).
- (e) 22 DCMR § 107.4 (refusing to permit or interfering with inspections to determine the prevalence of rats);
- (f) Section 908(b) of the Rodent Control Act of 2000 (**D.C. Official Code § 8-2101.01 et seq.**) (failure of an owner to comply with an order to take appropriate abatement measures if signs of past rodent harborage are found upon transfer or change of occupancy of real property);

- (g) Section 908(c) of the Rodent Control Act of 2000 (**D.C. Official Code § 8-2101.01 *et seq.***) (failure to use a licensed and certified pest controller to abate existing rodent populations due to the accumulation of debris on public or private property);
- (h) Section 908(c) of the Rodent Control Act of 2000(**D.C. Official Code § 8-2101.01 *et seq.***) (failure to use a licensed and certified pest controller to abate existing rodent populations found upon transfer or change of occupancy of real property);
- (i) 21 DCMR § 707.9 (failure to properly store grease held for recycling or disposal);
- (j) 21 DCMR § 707.11 (failure to keep waste container lids closed at all times other than when the container is being filled or emptied); or
- (k) 22 DCMR § 107.1(d) (failure to comply with an order to exterminate rats on the premises of buildings or other structures).

3630.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) Section 908(c) of the Rodent Control Act of 2000(**D.C Official Code § 8-2101.01 *et seq.***) (failure to comply with an order to keep grass or weeds cut to a height of less than eight (8) inches); or
- (b) 21 DCMR § 707.10 (failure to keep commercial trash compactor free of spilled waste).

3630.5 Violation of the following provision shall be a Class 5 infraction:

21 DCMR § 707.12 (failure to store pet food or bird seed in a rodent-proof container or remove uneaten food or feed remaining on the ground after birds and pets have been fed).

3631-3636 RESERVED

3637 AIR QUALITY INFRACTIONS

3637.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR § 107.1 (failure to have operative or effective air pollution control device);
- (b) 20 DCMR § 200.1 (failure to obtain air pollution construction or modification permit);

- (c) 20 DCMR § 200.2 (failure to obtain air pollution operation permit);
- (d) 20 DCMR § 205.1 (failure to comply with New Source Performance Standards);
- (e) 20 DCMR § 401.7 (failure to timely submit an emergency episode abatement plan);
- (f) 20 DCMR § 401.10 (failure to comply with emergency abatement plan);
- (g) 20 DCMR § 501.1 (failure to install/maintain/operate monitor or provide monitoring information);
- (h) 20 DCMR § 501.2 (failure to conduct ambient monitoring);
- (i) 20 DCMR § 501.3 (failure to comply with ambient monitoring requirements);
- (j) 20 DCMR § 502.10 (failure to comply with specification(s) for monitoring and recording equipment);
- (k) 20 DCMR § 602 (failure to comply with incinerator operating standards);
- (l) 20 DCMR § 603.1 (failure to comply with PM emission limits);
- (m) 20 DCMR § 603.3 (adding diluted air to the exhaust gas stream to avoid compliance with PM standards);
- (n) 20 DCMR § 720.1 (distributing or manufacturing consumer products that exceed VOC limits);
- (o) 20 DCMR § 724.1 (consumer products containing specified ozone depleting compounds);
- (p) 20 DCMR § 725.4 (distributing or manufacturing consumer products containing methylene chloride, perchloroethylene, or trichloroethylene);
- (q) 20 DCMR § 726.1 (distributing or manufacturing consumer products which contain specified toxic air contaminants);
- (r) 20 DCMR § 727.1 (distributing or manufacturing uncertified charcoal lighter material);
- (s) 20 DCMR § 732.9 (failure to comply with ACP agreement);

- (t) 20 DCMR § 750.1 (distributing or manufacturing an AIM coating that exceeds specified VOC content);
- (u) 20 DCMR § 750.5 (applying an AIM coating that exceeds VOC limit);
- (v) 20 DCMR § 750.6 (applying an AIM rust preventative coating that exceeds VOC limit);
- (w) 20 DCMR § 800.1 (failure to properly and timely notify of asbestos abatement);
- (x) 20 DCMR § 800.3 (failure to comply with the requirements for obtaining an asbestos abatement permit or license);
- (y) 20 DCMR § 800.5 (failure to apply for or renew an asbestos abatement permit or license);
- (z) 20 DCMR § 800.6 (failure to provide asbestos worker protection);
- (aa) 20 DCMR § 800.7 (failure to implement asbestos abatement control measures);
- (bb) 20 DCMR § 801.1 (purchasing, selling, offering for sale, storing, transporting or using fuel oil which contains more than one percent (1%) sulfur);
- (cc) 20 DCMR § 802.1 (purchasing, selling, offering for sale, storing, transporting or using coal which contains more than one percent (1%) sulfur);
- (dd) 20 DCMR § 803.1 (failure to comply with sulfur emission limit);
- (ee) 20 DCMR § 803.3 (adding diluted air to the exhaust gas stream to avoid compliance with SO₂ standards);
- (ff) 20 DCMR § 804.1 (failure to comply with NO_x standard for fuel burning equipment);
- (gg) 20 DCMR § 805.1 (failure to comply with NO_x regulations);
- (hh) 20 DCMR § 805.4(a) (failure to comply with combustion turbine emission standards);
- (ii) 20 DCMR § 805.4(d) (failure to maintain continuous compliance at all times);

- (jj) 20 DCMR § 805.5(b) (failure to comply with NO_x emission rates on a calendar day average);
- (kk) 20 DCMR § 805.5(c) (failure to comply with NO_x emission rates);
- (ll) 20 DCMR § 805.5(e) (failure to maintain continuous compliance at all times);
- (mm) 20 DCMR § 805.6(a) (failure to comply with NO_x emission rates);
- (nn) 20 DCMR § 805.6(c) (failure to maintain continuous compliance at all times);
- (oo) 20 DCMR § 805.7(b) (failure to reduce emissions as required by RACT emission control plan);
- (pp) 20 DCMR § 805.7(c) (failure to maintain continuous compliance at all times, or failure to install and operate a CEM); or
- (qq) 20 DCMR § 805.8 (failure to adjust combustion process).

3637.2

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

- (a) 20 DCMR § 107.2 (failure to provide notice of control equipment shutdown);
- (b) 20 DCMR § 107.3 (failure to comply with an air pollution control notice);
- (c) 20 DCMR § 107.4 (installation or use of any article, machine, equipment, device or contrivance which conceals an air pollution emission);
- (d) 20 DCMR § 202.2(b) (failure to observe permit terms or conditions);
- (e) 20 DCMR § 301.1 (failure to timely submit a complete permit application or renewal);
- (f) 20 DCMR § 301.3(h) (failure to adhere to compliance plan);
- (g) 20 DCMR § 302.1(c) (failure to maintain monitoring data/support information or to submit emission reports);
- (h) 20 DCMR § 303.2 (operating after the time required to submit a timely and complete new permit application);

- (i) 20 DCMR § 303.8 (failure to follow renovation and termination procedures);
- (j) 20 DCMR § 500.1 (failure to file written reports);
- (k) 20 DCMR § 500.2 (failure to maintain/provide records regarding emissions);
- (l) 20 DCMR § 502.1 (failure to conduct air pollutant emission tests);
- (m) 20 DCMR § 502.2 (failure to provide sampling facility/fuel sample);
- (n) 20 DCMR § 502.5 (failure to perform NO_x, SO₂ or PM test accordingly);
- (o) 20 DCMR § 502.6 (failure to properly test for sulfur);
- (p) 20 DCMR § 600.1 (failure to comply with PM standard for fuel-burning equipment);
- (q) 20 DCMR § 600.7 (blowing soot from coal fired boiler between 4 p.m. and 10 a.m.);
- (r) 20 DCMR § 601.1 (selling/installing/using rotary cup burner);
- (s) 20 DCMR § 601.2 (selling/using fuel oil in rotary cup burner);
- (t) 20 DCMR § 606.1 (visible emission from stationary source);
- (u) 20 DCMR § 606.2 (visible emission from fuel-burning equipment);
- (v) 20 DCMR § 606.3 (failure to maintain/operate equipment);
- (w) 20 DCMR § 606.5 (failure to train/supervise personnel);
- (x) 20 DCMR § 700.2 (failure to comply with photochemically reactive solvent discharge rates);
- (y) 20 DCMR § 700.3 (failure to comply with non-photochemically reactive discharge rates);
- (z) 20 DCMR § 701 (failure to store petroleum liquid properly);
- (aa) 20 DCMR § 703.1 (failure to maintain/operate terminal vapor recovery system);

- (bb) 20 DCMR § 704.1 (failure to transfer volatile organic compounds or gasoline from delivery vessel to stationary source container as prescribed);
- (cc) 20 DCMR § 704.2 (Stage I vapor recovery system does not include a return line or condensation system);
- (dd) 20 DCMR § 704.4(a) (tank truck not refilled at facility with ninety percent (90%) vapor recovery system);
- (ee) 20 DCMR § 704.4(b) (failure to conduct annual tank truck leak test);
- (ff) 20 DCMR § 704.4(d) (failure to remove failed tank truck from service);
- (gg) 20 DCMR § 704.6 (operating delivery system/vessels with a vapor or liquid leakage);
- (hh) 20 DCMR § 705.1 (failure to use prescribed equipment during the transfer of gasoline to any vehicular fuel tank from any stationary storage container);
- (ii) 20 DCMR § 709.1 (manufacturing, mixing, storing, using or applying cutback asphalt between April 1st and September 30th);
- (jj) 20 DCMR § 710.1 (failure to operate in compliance with printing and engraving regulations);
- (kk) 20 DCMR § 710.4 (using inks exceeding the VOC limits);
- (ll) 20 DCMR § 710.6 (using control devices with less than ninety percent (90%) VOC reduction efficiency);
- (mm) 20 DCMR § 710.10 (failure to prevent leaking);
- (nn) 20 DCMR § 710.11 (failure to properly store or dispose any solvent-containing material);
- (oo) 20 DCMR § 718.3 (application of coatings exceeding VOC limits);
- (pp) 20 DCMR § 718.5 (failure to use a proper application technique);
- (qq) 20 DCMR § 731 (failure to comply with testing methods and maintain accurate records for consumer products);
- (rr) 20 DCMR § 739 (failure to follow portable fuel container and spout testing procedures);

- (ss) 20 DCMR § 754 (failure to comply with testing methods for AIM products);
- (tt) 20 DCMR § 800.4(b) (failure to properly notify resilient floor covering removals);
- (uu) 20 DCMR § 805.3(a) (failure to timely submit and receive approval for an emission control plan prior to implementation of NO_x RACT); or
- (vv) 20 DCMR § 805.7(e) (failure to perform tests that demonstrate NO_x compliance).

3637.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 200.6 (failure to submit permit applications on the correct forms or supply necessary data and information);
- (b) 20 DCMR § 301.2 (failure to submit relevant facts or correct inaccurate information submitted in a permit application);
- (c) 20 DCMR § 303.3 (operating after the time required to submit a timely and complete renewal permit application);
- (d) 20 DCMR § 502.4 (failure to submit test reports);
- (e) 20 DCMR § 605.1(e) (failure to control fugitive dust from demolition activity);
- (f) 20 DCMR § 605.1(f) (failure to control fugitive dust from removal of demolition debris);
- (g) 20 DCMR § 605.1(g) (failure to control fugitive dust from loading dusty material or sandblasting);
- (h) 20 DCMR § 605.1(h) (failure to control fugitive dust from stockpile of dusty material);
- (i) 20 DCMR § 605.2 (failure to control fugitive dust from other specified activities);
- (j) 20 DCMR § 710.9 (failure to close VOC containing vessel when not in use);
- (k) 20 DCMR § 727.3 (failure to submit relevant or correct information regarding charcoal lighter material);

- (l) 20 DCMR § 730 (failure to comply with reporting requirements for consumer products);
- (m) 20 DCMR § 732.8 (failure to maintain ACP records);
- (n) 20 DCMR § 736 (failure to maintain spill-proof system);
- (o) 20 DCMR § 743 (failure to follow cold cleaning procedures);
- (p) 20 DCMR § 744 (failure to follow batch vapor cleaning procedures);
- (q) 20 DCMR § 745 (failure to follow in-line vapor cleaning procedures);
- (r) 20 DCMR § 746.1(b) - (g) (failure to follow Airless Airtight cleaning operations);
- (s) 20 DCMR § 747 (failure to meet alternative compliance requirements);
- (t) 20 DCMR § 753 (failure to properly submit AIM coating reports);
- (u) 20 DCMR § 800.9 (failure to timely notify building occupants of impending asbestos abatement);
- (v) 20 DCMR § 805.3(b) (failure to submit notification to comply with § 805.8);
- (w) 20 DCMR § 805.4(b)(1) (failure to maintain in a logbook dates and hours of turbine operation);
- (x) 20 DCMR § 805.7(d) (failure to maintain records); or
- (y) 20 DCMR § 900.1 (idling engine for more than three (3) minutes).

3637.4

Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 20 DCMR § 604.1 (open burning);
- (b) 20 DCMR § 605.1 (failure to minimize fugitive dust emissions);
- (c) 20 DCMR § 605.1(a) (failure to control fugitive dust from unpaved road/roadway/parking lot);
- (d) 20 DCMR § 605.1(b) (failure to control fugitive dust from paved road/roadway/parking lot);

- (e) 20 DCMR § 605.1(c) (failure to control fugitive dust from vehicle transporting dusty material);
- (f) 20 DCMR § 605.1(d) (failure to control fugitive dust from dirty vehicle);
- (g) 20 DCMR § 605.3 (failure to comply with soil erosion and sedimentation control regulations);
- (h) 20 DCMR § 704.4(e) (failure to post leak test certificate on tank truck);
- (i) 20 DCMR § 704.4(f) (loading/unloading tank truck with no certificate);
- (j) 20 DCMR § 705.6 (failure to comply with requirements for a vapor balance system);
- (k) 20 DCMR § 705.7 (failure to maintain/operate balance system);
- (l) 20 DCMR § 705.8 (refueling with nozzle not designed to automatically shutoff when tank is full);
- (m) 20 DCMR § 705.10 (failure to maintain/operate Stage II vapor recovery system);
- (n) 20 DCMR § 705.12 (failure to post operating instructions/warnings for Stage II vapor recovery system);
- (o) 20 DCMR § 705.13 (failure to install/certified vapor control systems/components per required standards);
- (p) 20 DCMR § 706.2 (failure to install/operate solvent recovery dryer or equivalent);
- (q) 20 DCMR § 706.3 (failure to install/operate solvent filtration system);
- (r) 20 DCMR § 706.4 (failure to minimize emissions from stored still waste);
- (s) 20 DCMR § 706.5 (failure to repair solvent leak);
- (t) 20 DCMR § 706.11 (failure to conduct weekly leak inspection);
- (u) 20 DCMR § 707.1(a) (failure to properly operate a perchloroethylene dryer facility);
- (v) 20 DCMR § 718.4 (failure to provide documentation of VOC content);

- (w) 20 DCMR § 718.8 (failure to comply with housekeeping, pollution, and training measures);
- (x) 20 DCMR § 727.5 (failure to timely notify regarding change in charcoal lighter material);
- (y) 20 DCMR § 728.1 (failure to properly label floor wax strippers);
- (z) 20 DCMR § 732.2 (failure to submit ACP agreement);
- (aa) 20 DCMR § 732.4 (failure to properly submit ACP application);
- (bb) 20 DCMR § 732.10 (failure to comply with surplus reduction regulations);
- (cc) 20 DCMR § 733.1 (failure to submit CARB Innovative Product exemption for consumer products);
- (dd) 20 DCMR § 740.1 (failure to submit Innovation Product exemption for portable fuel containers and spouts);
- (ee) 20 DCMR § 746.1(a) (failure to properly record vapor cleaning);
- (ff) 20 DCMR § 748 (failure to accurately record and monitor solvent cleaning operations);
- (gg) 20 DCMR § 750.4 (failure to close AIM container when not in use);
- (hh) 20 DCMR § 752 (failure to properly label AIM coatings);
- (ii) 20 DCMR § 901.1 (visible emission for more than ten (10) seconds from vehicle); or
- (jj) 20 DCMR § 903.1 (emitting odorous/other air pollutant).

3637.5 Violation of any of the following provisions shall be a Class 5 infraction:

- (a) 20 DCMR § 718.7 (failure to properly clean spray gun);
- (b) 20 DCMR § 729 (failure to properly label consumer products);
- (c) 20 DCMR § 732.15 (failure to notify of ACP modifications);
- (d) 20 DCMR § 738 (failure to properly label portable fuel containers and spouts).

3637.6 Violation of any provision of of the Air Quality Control Regulations, 20 DCMR Chapters 1 through 9, which provision or rule is not cited elsewhere in this section, shall be a Class 4 infraction.

3638-3643 RESERVED

3644 WATER QUALITY INFRACTIONS

3644.1 Violation of Section 3 of the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; **D.C. Official Code § 8.103.02**) (discharge of pollutants to the waters of the District without a permit) shall be a Class 1 infraction.

3644.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) Section 7(a) of the Water Pollution Control Act of 1984 (**D.C. Official Code § 8.103.06(a)**) (discharging corrosive, flammable or explosive material into a sewer);
- (b) Section 8(e) of the Water Pollution Control Act of 1984 (**D.C. Official Code § 8.103.07(e)**) (discharging used motor oil into a sewer); or
- (c) 21 DCMR § 1407.1 (the use of any herbicide or chemical to control submerged aquatic vegetation without approval).

3644.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) Section 7(m) of the Water Pollution Control Act of 1984 (**D.C. Official Code § 8.103.06(m)**) (discharging sanitary sewage, wash or process water, oil laden bilge water, refuse or litter from a watercraft);
- (b) Section 8(d) of the Water Pollution Control Act of 1984 (**D.C. Official Code § 8.103.07(d)**) (discharging oil, gasoline, anti-freeze, acid or other hazardous substance, pollutant or nuisance material into a public space);
- (c) Section 17(b)(1) of the Water Pollution Control Act of 1984 (**D.C. Official Code § 8.103.16(b)(1)**) (making a false statement in an application, record, report, plan, or other document filed under the Water Pollution Control Act); or
- (d) 21 DCMR § 1401.3 (harvesting, cutting, removing, or eradication of submerged aquatic vegetation without plan approval).

3645 AQUATIC ANIMAL PROTECTION AND FISHING INFRACTIONS

3645.1 Reserved

3645.2 Violation of the following provision shall be a Class 2 infraction:

19 DCMR § 1503.1(a) (introducing a species of fish or other aquatic organism not indigenous to the District of Columbia into the waters of the District of Columbia).

3645.3 Violation of the following provision shall be a Class 3 infraction:

19 DCMR § 1503.1(e) (capturing, harassing, harming or failing to return to the waters immediately any organism listed as a threatened or endangered species).

3645.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 19 DCMR § 1502.1 (taking of a fish or any other aquatic organism for sale or profit);
- (b) 19 DCMR § 1503.1(b) (possession of a fish which is under the minimum legal size);
- (c) 19 DCMR § 1503.1(c) (possessing more of a particular species of fish than is allowed by law);
- (d) 19 DCMR § 1503.1(d) (possessing fish with prescribed weight, from which the heads and tails have been removed);
- (e) 19 DCMR § 1503.1(f) (use of explosives, chemicals, firearms or electricity to take or injure fish or aquatic organisms);
- (f) 19 DCMR § 1503.1(h) (taking fish illegally);
- (g) 19 DCMR § 1503.1(i) (taking, catching or possessing striped bass or hybrid striped bass); or
- (h) 19 DCMR § 1506.1 (angling for striped bass or hybrid striped bass).

3645.5 Violation of any of the following provisions shall be a Class 5 infraction:

- (a) 19 DCMR § 1501.1 (fishing without a license);
- (b) 19 DCMR § 1501.3 (failure to display license upon request);

- (c) 19 DCMR § 1501.4 (collecting fish for scientific purposes without a permit);
- (d) 19 DCMR § 1501.5 (fishing without a valid license);
- (e) 19 DCMR §§ 1501.2 through 1502.7 (fishing with unauthorized equipment or methods); or
- (f) 19 DCMR § 1503.1(g) (taking, catching or possessing a sturgeon).

3646 SOIL EROSION AND SEDIMENT CONTROL AND STORM WATER MANAGEMENT INFRACTIONS

3646.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 21 DCMR § 502.6 (failure to comply with stop work order for land disturbing activity); or
- (b) 21 DCMR § 532.4(d) (failure to comply with stop work order for storm water management).

3646.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 21 DCMR § 502.1 (failure to obtain a building permit before engaging in any earth movement or land disturbing activity that requires an approved erosion and sedimentation plan); or
- (b) 21 DCMR § 526.1 (engaging in any earth movement or land disturbing activity without instituting appropriate storm water management measures).

3646.3 Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 21 DCMR § 504.1 (failure to correct erosion);
- (b) 21 DCMR § 505.3 (failure to notify the Department timely of completion of land disturbing activity);
- (c) 21 DCMR § 506.2 (failure to comply with an approved erosion and sedimentation plan);
- (d) 21 DCMR § 529.1 (failure to comply with storm water management criteria before developing any land);

- (e) 21 DCMR § 529.2 (failure to comply with minimum storm water run-off control requirements);
- (f) 21 DCMR § 530.1 (failure to establish measures for the management of storm water run-off);
- (g) 21 DCMR § 531.1 (failure to submit a storm water management plan);
- (h) 21 DCMR § 532.4(a) (failure to comply with the conditions of the storm water management plan);
- (i) 21 DCMR § 532.4(b) (failure to comply with conditions upon which a waiver was granted);
- (j) 21 DCMR § 532.4(c)(failure to comply with approved construction plan);
- (k) 21 DCMR § 532.4(e) (failure to implement measures to avoid immediate danger in a downstream area);
- (l) 21 DCMR § 533.2 (failure to notify the Department twenty-four (24) hours before beginning construction of any on-site or off-site storm water management facility);
- (m) 21 DCMR § 533.4 (beginning scheduled storm water management work before authorized Department representative inspects and approves work previously completed);
- (n) 21 DCMR § 533.5 (failure to promptly correct in the manner specified any portion of the work that does not comply with the approved plans);
- (o) 21 DCMR § 534.2 (failure to comply with requirements for proper and timely maintenance and repair of storm water management facility);
- (p) 21 DCMR § 535.1 (failure to comply with specifications and designs of the District of Columbia Storm Water Management Guidebook);
- (q) 21 DCMR § 538.1(e) (failure to limit grading to areas of workable size so as to limit the duration of exposure of disturbed and unprotected areas);
- (r) 21 DCMR § 538.1(f) (failure to strip, stockpile and stabilize topsoil; failure to protect stockpiled material with mulch or temporary vegetation);
- (s) 21 DCMR § 538.1(g) (failure to control runoff by diverting or conveying it safely through the areas with structural measures);

- (t) 21 DCMR § 538.1(h) (failure to provide appropriate erosion and sediment control structures before or during the first phase of land grading);
- (u) 21 DCMR § 538.1(i) (failure to seed/sod and mulch debris basins, diversions, waterways and related structures immediately after they are built);
- (v) 21 DCMR § 538.1(j) (failure to provide sediment traps to protect inlets or storm sewers below silt producing areas);
- (w) 21 DCMR § 538.1(k) (failure to establish temporary cover by seeding or mulching graded areas);
- (x) 21 DCMR § 538.1(l) (failure to stabilize all streets and parking areas within thirty (30) days of final grading, with base course crushed stone);
- (y) 21 DCMR § 539.4 (failure to place adequate erosion control measures before and during exposure);
- (z) 21 DCMR § 539.5 (creating period of exposure exceeding one hundred twenty (120) days);
- (aa) 21 DCMR § 539.6 (failure to provide temporary or permanent stabilization during or after rough grading);
- (bb) 21 DCMR § 539.9 (failure to protect all cut and fill slopes against storm water runoff);
- (cc) 21 DCMR § 541.2 (failure to place excavated material on uphill side of trenches); or
- (dd) 21 DCMR § 543.3 (failure to provide erosion and sediment control plan).

3646.4

Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 21 DCMR § 538.2 (failure to apply appropriate conservation practices on first disturbed section of land before opening up another);
- (b) 21 DCMR § 539.1 (failure to apply erosion and sediment control measures to erodible material exposed by project activity);
- (c) 21 DCMR § 539.2 (failure to limit grading to only those areas involved in current construction activities);
- (d) 21 DCMR § 539.3 (failure to protect all exposed, unprotected areas within a minimum amount of time);

- (e) 21 DCMR § 539.8 (exposing more than seven hundred fifty thousand square feet (750,000 sq. ft.) of area).
- (f) 21 DCMR § 539.10 (failure to protect cut and fill slopes in five foot (5 ft.) vertical increments);
- (g) 21 DCMR § 540.1 (failure to protect rough graded rights-of-way (for roads or utilities) with interceptor dikes no more than three hundred feet (300 ft.));
- (h) 21 DCMR § 540.2 (failure to use temporary diversion dikes or flumes to carry runoff down fill slopes to suitable outlet);
- (i) 21 DCMR § 540.3 (failure to install permanent drainage and diversion structures after completing rough grading);
- (j) 21 DCMR 541.1 (creating more than five hundred feet (500 ft.) of open trench);
- (k) 21 DCMR 542.1 (failure to install gutters and downspouts in a timely manner);
- (l) 21 DCMR 542.2 (failure to dissipate velocity of water from downspouts or pipe it directly to storm drains);
- (m) 21 DCMR 542.3 (failure to retain as much natural vegetation on site as practicable or failure to limit removal of vegetation to that necessary for landscaping or construction); or

3646.5 Violation of any provision of the District of Columbia Soil Erosion and Sedimentation and Storm Water Management Regulations (21 DCMR, Chapter 5), that is not cited elsewhere in this section, is a Class 4 infraction.

3647-3649 RESERVED

**3650 TOXIC SUBSTANCES DIVISION (PESTICIDE PROGRAM)
INFRACTIONS**

3650.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR § 2200.1 (manufacture, sale, shipment, use, or application of pesticide not registered with the United States Environmental Protection Agency (EPA));

- (b) 20 DCMR § 2207.12 (impersonating a federal, state, or District inspector or official);
- (c) 20 DCMR § 2211.1 (disposing, storing, or discarding any pesticide container or rinsate in a manner that causes injury to humans); or
- (d) 20 DCMR § 2211.3 (handling, transporting, storing, displaying or distributing a pesticide in a way that endangers humans, the environment, food, feed, or any product).

3650.2

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

- (a) 20 DCMR § 2200.3 (distribution of pesticide not registered with the District of Columbia Department of Health);
- (b) 20 DCMR § 2205.5 (improper use of a public applicator license);
- (c) 20 DCMR §§ 2207.1 or 2210.1 (use of a pesticide in a manner inconsistent with its labeling, or in violation of imposed restriction);
- (d) 20 DCMR § 2207.2 (making a pesticide recommendation that is inconsistent with the labeling or in violation of imposed restriction);
- (e) 20 DCMR §§ 2207.3 or 2207.9 (falsifying, refusing, or neglecting to maintain or make available required records);
- (f) 20 DCMR § 2207.4 (use of fraud or misrepresentation in applying for a certificate or license);
- (g) 20 DCMR § 2207.6 (making a false or fraudulent claim that misrepresents the effect of a pesticide or method to be utilized in its application);
- (h) 20 DCMR §§ 2207.7 or 2210.2 (applying an ineffective or improper pesticide, or operating faulty or unsafe equipment);
- (i) 20 DCMR § 2207.8 (using or supervising the use of a pesticide in a faulty, careless, or negligent manner);
- (j) 20 DCMR § 2207.10 (aiding, abetting, or conspiring to evade pesticide laws);
- (k) 20 DCMR § 2207.11 (making a fraudulent or misleading statement during or after an inspection of a pest infestation);
- (l) 20 DCMR § 2207.13 (distributing an adulterated pesticide);

- (m) 20 DCMR § 2207.14 (failure to register a pesticide in the District of Columbia);
- (n) 20 DCMR § 2208.1 (distributing any pesticide or device that is misbranded);
- (o) 20 DCMR § 2208.6 (failure to provide registration number on pesticide labels as assigned under § 7 of FIFRA, 7 USC § 136e);
- (p) 20 DCMR §§ 2208.8 or 2208.14 (failure to comply with a provision concerning pesticide labeling);
- (q) 20 DCMR § 2210.5 (failure to apply a pesticide so as to prevent harmful effects to the environment);
- (r) 20 DCMR § 2210.8 (permitting an inspection for wood-destroying pests by a pesticide operator who is not licensed in the “Wood Destroying Organisms” subcategory);
- (s) 20 DCMR § 2211.1 (disposing, storing, or discarding any pesticide container or rinsate in a manner that causes injury to vegetation, crops, livestock, wildlife, or pollinating insects, or that pollutes any water or water way);
- (t) 20 DCMR § 2215.1 (performing fumigation without being a licensed applicator or without supervision by a licensed applicator);
- (u) 20 DCMR §§ 2215.2, 2215.9, or 2215.10 (failure to comply with a requirement for introducing a fumigant);
- (v) 20 DCMR § 2215.3 (failure to notify the nearest fire station and the Director prior to fumigation);
- (w) 20 DCMR § 2215.5 (failure to post warning signs for fumigation);
- (x) 20 DCMR § 2215.7 (failure to provide a guard during fumigation);
- (y) 20 DCMR §§ 2300.1 or 2300.2 (purchasing, using, or supervising the use of a restricted use pesticide without a license);
- (z) 20 DCMR §§ 2400.1 or 2400.4 (failure to obtain an operator or applicator license);
- (aa) 20 DCMR § 2400.2 (permitting the use of any pesticide by persons who are not certified or registered);

- (bb) 20 DCMR § 2400.3 (licensed operator permitting the use of restricted pesticides by persons who are not certified or registered);
- (cc) 20 DCMR § 2400.5 (transferring a pesticide operator license from one business to another);
- (dd) 20 DCMR § 2502.2 (violating a "stop sale, use or removal" order);
- (ee) 20 DCMR §§ 2508.1 to 2508.3, 2508.5 to 2508.7, or 2508.11 to 2508.13 (failure to comply with a record keeping or reporting requirement); and
- (ff) 20 DCMR §§ 2509.1 or 2509.3 (failure to maintain or provide records on restricted use pesticides); or
- (gg) 20 DCMR § 2509.4 (selling or transferring any restricted use pesticide to any person other than a licensed applicator).

3650.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR § 2200.5 (using or revealing for one's own advantage information relating to the formula of a pesticide registered with the Department);
- (b) 20 DCMR § 2207.5 (refusing or neglecting to comply with a limitation or restriction on a certificate or license);
- (c) 20 DCMR § 2208.5 (offering for sale a pesticide under the name of another pesticide or imitation of another pesticide);
- (d) 20 DCMR § 2210.6 (applying a pesticide when the wind velocity will cause the pesticide to drift beyond the target area);
- (e) 20 DCMR § 2210.7 (displaying or offering for sale a pesticide in a container which is damaged or has a damaged or obscure label);
- (f) 20 DCMR § 2212.1 (failure to inform an employee of the hazards and the proper use of preventive steps when applying pesticides);
- (g) 20 DCMR § 2212.2 (failure to provide safety equipment and protective clothing);
- (h) 20 DCMR § 2212.3 (failure to inform an employee of reentry requirements and provide protective clothing or apparatus if premature reentry is necessary);

- (i) 20 DCMR § 2300.1 (purchase, use, or supervision of use of restricted use pesticide by unlicensed person);
- (j) 20 DCMR § 2311.1 (applying a pesticide without the supervision of a licensed certified applicator);
- (k) 20 DCMR §§ 2403.3, 2403.6, or 2403.7 (failure to comply with liability insurance requirements);
- (l) 20 DCMR § 2507.3 (failure to renew a license on or before the first day of any licensure period);
- (m) 20 DCMR § 2508.10 (failure to report significant pesticide accidents or incidents when required to do so by the Director); or
- (n) 20 DCMR § 2509.2 (failure to provide copies to the Director of the records required by § 2509.1).

3650.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 20 DCMR § 2204.1 (application of a pesticide by an unregistered employee);
- (b) 20 DCMR §§ 2204.4 or 2204.5 (failure to register an employee who works under the direct supervision of a licensed, certified applicator within thirty (30) days of employment);
- (c) 20 DCMR § 2208.4 (failure to comply with a package, container, or wrapping requirement);
- (d) 20 DCMR § 2210.3 (use of a pesticide container for a purpose other than containing the original product);
- (e) 20 DCMR § 2210.4 (failure to provide an effective anti-siphon device for equipment);
- (f) 20 DCMR §§ 2300.18, 2300.19, 2400.8, or 2400.9 (failure to post or make accessible for inspection a license or permit);
- (g) 20 DCMR § 2306.4 (failure of applicator to submit the applicator's credentials and license to the employing pesticide operator after termination of employment);
- (h) 20 DCMR § 2306.5 (failure to notify the Director of the termination of an employee or return a terminated employee's license and credentials to the Director);

- (i) 20 DCMR § 2311.7 (failure to have pesticide labels at work site);
- (j) 20 DCMR § 2400.6 (failure to surrender a pesticide operator's license within ten (10) days of termination); or
- (k) 20 DCMR § 2402.4 (failure to notify the Director when supervision by a licensed certified applicator is not available).

3650.5 Violation of any provision of the Pesticide Operations Act of 1977, effective April 18, 1978 (D.C. Law 2-70, as amended; **D.C. Official Code §§ 8-401 to 8-419**), or the implementing rules in 20 DCMR Chapters 22 through 25 which is not cited elsewhere in this section, shall be a Class 5 infraction.

3651 UNDERGROUND STORAGE TANK INFRACTIONS

3651.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR §§ 5700.1(a), 5701.1, 5701.2, or 5701.3 (installation of petroleum UST which does not meet new UST system performance standards, including cathodic protection);
- (b) 20 DCMR §§ 5700.1(b) or (c), or 5800.1(a) or (d) (failure to properly upgrade or permanently close existing petroleum UST by December 22, 1998);
- (c) 20 DCMR §§ 5700.3, 5702.1, 5702.2, or 5702.3 (installation of hazardous substance UST that does not meet UST system performance standards for hazardous substances including cathodic protection);
- (d) 20 DCMR §§ 5700.3, 5700.4, or 5800.2 (failure of existing hazardous substance UST to meet required tank performance standards or permanent closure requirements by December 22, 1994);
- (e) 20 DCMR §§ 6201.1, 6201.3, or 6201.5 (failure of responsible party to take immediate action to contain and clean up any spill or overflow);
- (f) 20 DCMR §§ 6201.2 (failure of responsible party to report spill or overflow to Director and to Fire Chief as required);
- (g) 20 DCMR §§ 6202.1, 6202.2, 6202.3, 6202.6, or 6212.3 (failure to notify Director and Fire Chief of release or suspected release from UST as required);

- (h) 20 DCMR §§ 6202.7 or 6203.3 (failure to investigate and confirm suspected release in accordance with required procedures);
- (i) 20 DCMR § 6203.2 (failure to repair, replace, or upgrade system after leak determined);
- (j) 20 DCMR § 6203.7(a) (failure to identify and mitigate any fire, explosion or vapor hazards upon confirmation of release);
- (k) 20 DCMR § 6203.7(b) (failure to take immediate action to prevent any further release into the environment);
- (l) 20 DCMR § 6203.9 (failure of responsible party to empty regulated substance from UST system in the event of a suspected UST system failure);
- (m) 20 DCMR § 6203.9(c) (failure of responsible party to monitor and mitigate hazards caused by vapors or free product in subsurface structures);
- (n) 20 DCMR § 6203.12 (failure to investigate to determine presence of free product);
- (o) 20 DCMR §§ 6204.1, 6204.2, or 6206.3 (failure to properly remove free product in accordance with requirements);
- (p) 20 DCMR § 6204.3 (failure to treat, discharge, recycle or dispose of free product in accordance with law);
- (q) 20 DCMR § 6204.5 (failure to handle flammable substances in safe manner to prevent fire or explosion);
- (r) 20 DCMR §§ 6205.1 6205.2, or 6205.4(b) (failure to perform complete site assessment and submit report within time required);
- (s) 20 DCMR §§ 6207.1, 6207.2, 6207.3, 6207.4, 6207.5 (failure to submit a corrective action plan (CAP) which meets requirements within time frame required);
- (t) 20 DCMR § 6207.10 (failure to implement CAP within thirty (30) days of approval, or in accordance with schedule);
- (u) 20 DCMR § 6301.3, (failure of responsible party to conduct monitoring, testing or corrective action as required);

- (v) 20 DCMR §§ 6301.5 or 5602.1 (refusal of owner or operator or other responsible party to cooperate with inspections, monitoring or testing conducted by Director);
- (w) 20 DCMR § 6700.10, 6700.11, or 6700.12 (failure of petroleum UST owner to demonstrate required financial responsibility for taking corrective action and compensating third parties for damages caused by accidental releases); or
- (x) 20 DCMR § 6701.1 (failure of owner to utilize acceptable mechanism(s) to demonstrate financial responsibility).

3651.2

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

- (a) 20 DCMR §§ 5600.1, 5600.2, or 5600.3 (failure to submit notification of underground storage tank (UST) in accordance with requirements and within prescribed time period);
- (b) 20 DCMR §§ 5602.4(d) or 6103.2 (failure to maintain records of site investigation conducted at permanent closure);
- (c) 20 DCMR § 5602.8 (failure to maintain records for required period);
- (d) 20 DCMR § 5603.2 (failure to provide notice to Director of date and time of installation, removal, abandonment, repair, or upgrade);
- (e) 20 DCMR § 5604.1 (seller's failure to notify real property purchaser in writing of existence or removal of UST);
- (f) 20 DCMR § 5700.1(c) (tank installed after December 22, 1988, and before November 12, 1993, does not meet federal new tank performance standards);
- (g) 20 DCMR § 5700.9 (tank not properly designed and constructed in accordance with approved code of practice);
- (h) 20 DCMR § 6004.2 (pressurized piping not equipped with automatic line leak detector);
- (i) 20 DCMR §§ 5701.4, 5701.5, 5701.6, 5702.4, 5703.4, 5703.5, or 5703.6 (secondary containment systems improperly designed, constructed, installed);
- (j) 20 DCMR § 5703.1 (new heating oil tank does not meet performance standards including cathodic protection requirements);

- (k) 20 DCMR §§ 5704.1, 5704.2, or 5704.3 (UST piping not properly constructed in accordance with code of practice, or not cathodically protected);
- (l) 20 DCMR § 5704.5 (failure to secondarily contain pressurized underground piping and piping for hazardous substance USTs);
- (m) 20 DCMR § 5706.1 (new UST system not properly installed in accordance with approved code of practice);
- (n) 20 DCMR § 5706.2 (UST installer/installation not certified);
- (o) 20 DCMR § 5706.4 (installation not inspected and approved by Director and Fire Chief);
- (p) 20 DCMR § 5902.9 (failure to maintain records of each repair for operating life of repaired UST);
- (q) 20 DCMR § 5903 (UST system incompatible with substance stored therein);
- (r) 20 DCMR §§ 6000.1 or 6000.3 (owner/operator fails to employ an approved method of release detection);
- (s) 20 DCMR § 6000.6 (release detection system not capable of detecting release from any portion of system as required);
- (t) 20 DCMR § 6000.7 (failure to properly install, calibrate, operate, or maintain release detection system);
- (u) 20 DCMR § 6002.2 (failure of owner/operator of hazardous substance UST to provide release detection which meets requirements);
- (v) 20 DCMR § 6100.7 (failure to empty tank, open vent lines, and cap lines within ninety (90) days of temporary closure);
- (w) 20 DCMR § 6101.4 (failure to follow accepted code of practice in meeting closure requirements);
- (x) 20 DCMR §§ 6101.5, or 6101.8 (failure to empty tank and properly dispose of contents prior to removal or change in service);
- (y) 20 DCMR § 6101.6 (failure to remove tank from ground or obtain variance);

- (z) 20 DCMR § 6101.12 (failure to treat or properly dispose of excavated contaminated soils within thirty (30) days);
- (aa) 20 DCMR § 6102.2 (failure of responsible party for out-of-service UST to comply with directive to close UST and assess the excavation zone as required);
- (bb) 20 DCMR § 6207.6 (failure of responsible party to prepare site specific health and safety plan for on-site work in compliance with OSHA requirements);
- (cc) 20 DCMR § 6301.6 (failure of responsible party to comply with request for submission of records, documents or information); or
- (dd) Section 10(d) or (g) of the District of Columbia Underground Storage Tank Management Act of 1990, effective March 8, 1991 (D.C. Law 8-242; D.C. Official Code § 8-113.09(d) or (g)) (failure to comply with a final compliance order or final cease and desist order).

3651.3

Violation of any of the following provisions shall be a Class 3 infraction:

- (a) 20 DCMR §§ 5600.2 or 5600.7 (failure to include required information on notification form or to update as required);
- (b) 20 DCMR §§ 5601.2, 5601.5, 5601.10 (failure to register UST or to renew registration);
- (c) 20 DCMR §§ 5601.12 or 5601.14 (deposit of regulated substance in unregistered UST);
- (d) 20 DCMR §§ 5601.13 or 5601.14 (dispensing regulated substance from unregistered UST);
- (e) 20 DCMR § 5603.1 (failure to submit written notice to Director of installation, removal, abandonment, repair, or upgrade of UST five (5) business days in advance);
- (f) 20 DCMR § 5603.3 (failure to provide notice to Director and Fire Chief of emergency removal or repair);
- (g) 20 DCMR § 5603.4 (failure to obtain UST Branch approval of plans and specifications for UST installation or upgrade);
- (h) 20 DCMR §§ 5603.6 or 5603.7 (failure to provide timely notice of tightness test to Director and Fire Chief);

- (i) 20 DCMR § 5803 (failure of owner or operator to use required spill and overfill prevention equipment);
- (j) 20 DCMR § 5706.5 (failure to perform precision test upon installation of UST as required);
- (k) 20 DCMR §§ 5801.2, 5801.3 (failure to properly install or periodically inspect internal lining);
- (l) 20 DCMR § 5801.5 (UST not properly upgraded by cathodic protection);
- (m) 20 DCMR § 5802.1 (failure to upgrade metal piping with required cathodic protection);
- (n) 20 DCMR § 5900 (failure to comply with spill and overfill control requirements);
- (o) 20 DCMR § 5901 or 5704.1 (failure to comply with operation and maintenance requirements for UST system corrosion protection to prevent releases);
- (p) 20 DCMR §§ 5902.1 or 5902.2 (failure of owner or operator to use proper techniques, materials for repairs and to follow code of practice);
- (q) 20 DCMR § 6000.9 (manufacturer/installer performance claims not in writing or incomplete);
- (r) 20 DCMR § 6000.10 (release detection system not capable of accurately detecting leak rate);
- (s) 20 DCMR § 6001.1 (failure of owner/operator to maintain required records);
- (t) 20 DCMR § 6003.3 (failure to monitor tank every thirty (30) days for release as required);
- (u) 20 DCMR § 6003.5 (secondary containment system not checked for release every thirty (30) days);
- (v) 20 DCMR §§ 6004.1, 6004.3, or 6004.4 (failure of owner or operator of petroleum UST to regularly monitor underground piping as required for release);
- (w) 20 DCMR § 6005.1 (failure to perform monthly product inventory control);

- (x) 20 DCMR § 6006 (failure to follow proper procedures for manual tank gauging);
- (y) 20 DCMR § 6007 (failure to conduct proper tank tightness testing);
- (z) 20 DCMR § 6008 (automatic tank gauging does not meet requirements);
- (aa) 20 DCMR § 6009 (vapor monitoring method does not meet requirements);
- (bb) 20 DCMR § 6010 (ground-water monitoring does not meet requirements);
- (cc) 20 DCMR § 6011 (interstitial monitoring does not meet requirements);
- (dd) 20 DCMR § 6012 (alternative method of release detection does not meet performance requirements);
- (ee) 20 DCMR §§ 6004.2 and 6004.5 (failure of release detection for petroleum UST piping to meet performance requirements);
- (ff) 20 DCMR § 6100.4 (failure to notify Director and Fire Chief of temporary closure of UST within seven (7) days);
- (gg) 20 DCMR § 6100.8 (failure to permanently close UST within twelve (12) months after temporary closure);
- (hh) 20 DCMR § 6101.3 (failure to notify Director and Fire Chief of permanent closure or change in service);
- (ii) 20 DCMR § 6101.8 (failure to fill tank with inert solid material when variance granted);
- (jj) 20 DCMR §§ 6101.9 or 6101.15 (failure to conduct site assessment of excavation zone before permanent closure or change in service);
- (kk) 20 DCMR § 6203.7(d) (failure to notify Director and Fire Chief of confirmation of release);
- (ll) 20 DCMR § 6206.6 (failure to submit free product removal report);
- (mm) 20 DCMR §§ 6205.3 or 6207.5 (failure to prepare and follow site-specific Quality Assurance/Quality Control plan prior to conducting site activities for site assessment or corrective action);
- (nn) 20 DCMR § 6207.10 (initiation of remediation without notifying Director, complying with conditions imposed by Director);

- (oo) 20 DCMR § 6207.12 (failure to monitor, evaluate, and report results of implementing CAP in accordance with required schedule);
- (pp) 20 DCMR § 6207.15 (failure to submit one-year evaluation of CAP effectiveness);
- (qq) 20 DCMR § 6207.16 (failure of responsible party to remove equipment and ensure that wells are closed down, removed, grouted and sealed);
- (rr) 20 DCMR §§ 6701.7, 6702.9, or 6715.4 (failure of owner to obtain and submit current evidence of financial responsibility to Director within thirty (30) days after owner receives notice of incapacity of assurance provider);
- (ss) 20 DCMR §§ 6702.1 through 6702.7 (failure of owner to maintain records of financial assurance mechanisms as required);
- (tt) 20 DCMR § 6702.8 (failure of owner to submit evidence of financial responsibility to Director within thirty (30) days after identifying a release from UST);
- (uu) 20 DCMR §§ 6706.4, 6706.5, 6706.6, or 6715.2 (failure of guarantor to meet financial test criteria and send required notices to owner);
- (vv) 20 DCMR §§ 6703.6, 6714.6, or 6715.5 (failure of owner to notify Director of failure to obtain alternate assurance);
- (ww) 20 DCMR § 6714.2 or 6714.3 (termination of financial assurance mechanism without proper notice to owner); or
- (xx) 20 DCMR § 6715.1 (failure to notify the Director of bankruptcy).

3651.4 Violation of any of the following provisions shall be a Class 4 infraction:

- (a) 20 DCMR § 5600.9 (failure to file notification with Director after purchase of existing UST);
- (b) 20 DCMR § 5600.13 (failure to ensure that installer certifies proper installation);
- (c) 20 DCMR § 5601.15 (failure to notify UST owner or lessee of notification requirements);
- (d) 20 DCMR § 5601.11 (no registration certificate available for inspection);
- (e) 20 DCMR § 5601.15 (failure to notify UST purchaser or registration requirements);

- (f) 20 DCMR § 5602.5 (records unavailable for inspection at UST site);
- (g) 20 DCMR § 5602.6 (records not readily available for inspection);
- (h) 20 DCMR § 5602.7 (failure to deliver closure records to Director when required);
- (i) 20 DCMR § 6700.8 or 6702.10 (failure to file Certification of Financial Responsibility within required time); or

3651.5 Violation of any provision of the District of Columbia Underground Tank Management Act of 1990, effective March 8, 1991 (D.C. Law 8-242, as amended; **D.C. Official Code §§ 8-113.01 to 8-113.12**), or the D.C. Underground Storage Tank Regulations, 20 DCMR, Chapters 55-67, which is not cited elsewhere in this section, shall be a Class 4 infraction.

3652 HAZARDOUS WASTE INFRACTIONS

3652.1 Violation of any of the following provisions shall be a Class 1 infraction:

- (a) 20 DCMR § 4002.1(refusal of generator, transporter, or owner or operator of Treatment, Storage or Disposal (TSD) facility to allow entry by Director or designee for inspection as required);
- (b) Section 8 of the District of Columbia Hazardous Waste Management Act of 1977, effective March 16, 1978 (D.C. Law 2-64; **D.C. Official Code § 8-1307**) or 20 DCMR § 4003.1 (refusal of generator, transporter, or owner or operator of TSD facility to allow Director or designee to inspect premises, obtain samples, or inspect and copy records or test results);
- (c) 20 DCMR § 4003.5 (failure or refusal of generator, transporter, or owner or operator of TSD facility to conduct monitoring, testing, or take corrective action as directed);
- (d) 20 DCMR § 4015.1 (refusal of generator, transporter, or owner or operator of TSD facility or property owner to permit Director or designee to enter to respond to release or take corrective action);
- (e) 20 DCMR § 4200.10 (failure of person who generates a solid waste to determine if the waste is a hazardous waste);
- (f) 20 DCMR §§ 4200.12 or 4200.13 (failure of generator to obtain EPA identification number prior to treatment, storage, disposal, transportation, or offer for transportation of hazardous waste);

- (g) 20 DCMR § 4300.7 (failure of transporter to obtain EPA identification number);
- (h) 20 DCMR §§ 4301.9 or 4301.10 (failure of transporter to deliver entire quantity of hazardous waste accepted to designated facility, alternate designated facility, or next designated transporter, or to contact generator for further instructions);
- (i) 20 DCMR § 4302.1 (failure of transporter to properly notify authorities of discharge during transport, to take immediate actions to protect human health and the environment, or to clean up discharge as required);
- (j) 20 DCMR § 4400.3 (management or disposal of hazardous waste by underground injection, incineration, land treatment, landfills, or surface impoundment);
- (k) 20 DCMR §§ 4401.1 and 4402.3 (failure by facility owner or operator to apply for an EPA identification number in accordance with the Department notification procedures);
- (l) 20 DCMR § 4404.1 (failure by facility owner or operator to inspect the facility for malfunctions and deterioration, operator errors, and discharges which may be causing, or may lead to release of hazardous waste);
- (m) 20 DCMR § 4600.5, or 4600.6 (failure to have required storage, treatment, or disposal facility permit);
- (n) Section 4(a) of the District of Columbia Hazardous Waste Management Act of 1977 (**D.C. Official Code § 8-1303(a)**) or 20 DCMR § 4613.2 (failure to comply with permit condition); or
- (o) 20 DCMR §§ 4901.6(e), 4903.13(a), 4903.16(h), or 4901.13(h) (failure of used oil generator, used oil transporter, owner or operator of used oil transfer facility, or used oil processor / re-refiner to respond to used oil discharge).

3652.2 Violation of any of the following provisions shall be a Class 2 infraction:

- (a) 20 DCMR § 4003.4 (failure of generator, transporter, or owner or operator of TSD facility to submit records, documents, or responses to Director within fourteen (14) days of request);
- (b) 20 DCMR § 4102.6 (accumulation of hazardous waste by small quantity generator on-site for more than one hundred eighty (180) days or in excess of six hundred (600) kilograms or one (1) kilogram of acutely hazardous waste);

- (c) 20 DCMR § 4201.1 (failure of generator to prepare a manifest for transport);
- (d) 20 DCMR § 4201.2 (failure of generator to designate a facility which is permitted to handle waste on manifest);
- (e) 20 DCMR § 4201.3 (failure of generator to designate alternate facility or instruct transporter to return waste, where transporter cannot deliver to designated facility);
- (f) 20 DCMR §§ 4201.10(c) or 4203.1 (failure of generator to keep a copy of each manifest on-site for the required period of time);
- (g) 20 DCMR § 4202.1 (failure of generator to package hazardous waste in accordance with applicable USDOT Regulations prior to transport);
- (h) 20 DCMR § 4202.2 (failure of generator to label hazardous waste in accordance with applicable USDOT Regulations prior to transport);
- (i) 20 DCMR §§ 4202.3 or 4202.4 (failure of generator to mark hazardous waste in accordance with applicable USDOT Regulations prior to transport);
- (j) 20 DCMR § 4202.5 (failure of generator to placard hazardous waste in accordance with applicable USDOT Regulations prior to transport);
- (k) 20 DCMR § 4202.6 (accumulation of hazardous waste by generator for more than ninety (90) days);
- (l) 20 DCMR § 4202.7(c) (failure to clearly mark accumulation start date on each container);
- (m) 20 DCMR § 4202.7(d) (accumulation of hazardous waste without labeling containers with the words "hazardous waste");
- (n) 20 DCMR § 4202.7(e) (accumulation of hazardous waste without meeting personnel training requirements of 20 DCMR § 4405, preparedness and prevention requirements of 20 DCMR § 4409, or contingency plan and emergency procedures of 20 DCMR § 4410); or
- (o) 20 DCMR § 4203.5 (failure to submit a complete Biennial Report by the specified period of time).

3652.3

Violation of any provision of the District of Columbia Hazardous Waste Management Act of 1977, effective March 16, 1978 (D.C. Law 2-64, as amended);

D.C. Official Code §§ 8-1301 to 8-1314 (2001)), or the District of Columbia Hazardous Waste Regulations, 20 DCMR chapters 40 through 54, which is not cited elsewhere in this section, shall be a Class 3 infraction.

3653-3661 RESERVED

3662 LEAD-BASED PAINT ABATEMENT AND CONTROL INFRACTIONS

3662.1 Reserved

3662.2 Violation of the following provisions shall be a Class 2 infraction:

- (a) Section 4(a)(3) of the Lead Based Paint Abatement and Control Act of 1996, effective April 9, 1997 (D.C. Law 11-221; **D.C. Official Code § 8-115.03(a)(3)**) (providing training to others for lead-based paint activities without accreditation);
- (b) Section 4(b) of the Lead Based Paint Abatement and Control Act of 1996 (**D.C. Official Code § 8-115.03(b)**) (applying lead-based paint or glaze to a surface);
- (c) Section 4(c) of the Lead Based Paint Abatement and Control Act of 1996 (**D.C. Official Code § 8-115.03(c)**) (selling, offering for sale, delivering, transferring, or possessing with intent to sell, deliver, or transfer an article intended for use by children that has lead-based paint or glaze applied);
- (d) Section 6(a) or (b) of the Lead Based Paint Abatement and Control Act of 1996 (**D.C. Official Code § 8-115.05(a) or (b)**) (failure to obtain certification before conducting a lead-based paint activity);
- (e) Section 7(a) of the Lead Based Paint Abatement and Control Act of 1996 (**D.C. Official Code § 8-115.06(a)**) (failure to obtain accreditation for each training course or review course offered);
- (f) Section 8(a) of the Lead Based Paint Abatement and Control Act of 1996 (**D.C. Official Code § 8-115.07(a)**) (failure to obtain a permit before conducting lead-based paint abatement);
- (g) 40 CFR 745.227(e)(6)(i), incorporated by reference in 20 DCMR § 806.1 (open-flame burning or torching of lead-based paint during an abatement);
- (h) 40 CFR 745.227(e)(6)(ii), incorporated by reference in 20 DCMR § 806.1 (machine sanding or grinding, or abrasive blasting or sandblasting of lead-based paint during an abatement, without High Efficiency Particulate Air (HEPA) exhaust control);

- (i) 40 CFR 745.225(e)(6)(iii), incorporated by reference in 20 DCMR § 806.1 (dry scraping of lead-based paint during an abatement, except in conjunction with heat guns or around electrical outlets, or when totaling no more than two (2) square feet in any one room, hallway, or stairwell or totaling no more than twenty (20) square feet on exterior surfaces);
- (j) 40 CFR 745.227(e)(6)(iv), incorporated by reference in 20 DCMR § 806.1 (operating a heat gun on lead-based paint during an abatement at one thousand one hundred degrees Fahrenheit (1100° F) or above); or
- (k) 40 CFR 745.227(e)(8), incorporated by reference in 20 DCMR § 806.1 (failure to perform or complete required post-abatement clearance procedures).

3662.3 Violation of Section 9 of the Lead Based Paint Abatement and Control Act of 1996 (**D.C. Official Code § 8-115.08**)(record-keeping requirements) shall be a Class 3 infraction.

3662.4 Violation of any provision of the Lead-Based Paint Abatement and Control Act of 1996, effective April 9, 1997 (D.C. Law 11-221, as amended; **D.C. Official Code §§ 8-115.01 to 8-115.14** (2001 & Supp. 2003)), or the Lead Control Rules, 20 DCMR § 806, that is not cited elsewhere in this section shall be a Class 4 infraction.

Title 16 DCMR is amended to add a new Chapter 38 to read as follows:

CHAPTER 38 HISTORIC PRESERVATION OFFICE INFRACTIONS

Secs.

3800 Administrative Procedures and Schedule of Fines Applicable
3801 Historic Preservation Office Infractions

3800 ADMINISTRATIVE PROCEDURES AND SCHEDULE OF FINES
APPLICABLE

3800.1 The civil infractions set forth in this chapter are subject to the provisions of Chapter 31 (Administrative Procedures) and Chapter 32 (Schedule of Fines) of this Title.

3801 OFFICE OF HISTORIC PRESERVATION INFRACTIONS

3801.1 Reserved

3801.2 Violations of any of the following provisions shall be a Class 2 infraction:

- (a) Sections 5, 6 and 7 of the Historic Landmark and Historic District Protection Act of 1978, effective, March 3, 1979 (D.C. Law 2-144; **D.C. Official Code §§ 6-1104, 6-1105, 6-1107**) (failure to comply with the permit review procedures for demolition, alteration, or construction of buildings or structures in historic districts or which are themselves historic landmarks);
- (b) 10A DCMR § 410 and § 411 (failure to comply with terms or conditions of approval by the Historic Preservation Office, Historic Preservation Review Board, or Mayor's Agent); and
- (c) Section 5b (a) of the Historic Landmark and Historic District Protection Act of 1978, effective April 27, 2001 (D.C. Law 13-281; **D.C Official Code § 6-1104.02(a)**) (failure to protect a historic building or structure from demolition by neglect).

3801.3 Violation of the following provision shall be a Class 3 infraction:

- (a) Section 5a (a) of the Historic Landmark and Historic District Protection Act of 1978 (**D.C Official Code § 6-1104.01(a)**) (failure to protect a historic building or structure against decay and deterioration).