

AN ACT

---

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

---

To require the Mayor to issue permits for the use of school facilities in a way that maximizes use of the school facilities while maintaining the quality of the school facilities and ensuring compliance with Internal Revenue Service rules governing tax-exempt bond financed property, to establish levels of priority for the use of school facilities when more than one individual or entity submits an application to use the same school facility for the same period of time, to permit an entity to apply for a waiver or reduction of permit, custodial, or security fees associated with the use of a school facility, to establish the DCPS School Facility Fund, and to establish a Community Use of School Facilities Task Force.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the “Ensuring Community Access to Recreational Spaces Act of 2018”.

Sec. 2. Definitions.

For the purposes of this act, the term:

- (1) “Community use” means the recreational use of school facilities without a permit by any member of the community.
- (2) “DCPS” means the District of Columbia Public Schools.
- (3) “High-need community” means a neighborhood cluster, as that term is defined in section 1102a(2E) of the School Based Budgeting and Accountability Act of 1998, effective June 21, 2014 (D.C. Law 20-114; D.C. Official Code § 38-2801.01(2E)), where at least 50% of school-aged children qualify for free or reduced-price school meals.
- (4) “School facility” means a field, playground, gymnasium, multipurpose room, and other area used for recreation under the control of DCPS.

Sec. 3. Use of school facilities; issuance of permits.

(a) School facilities shall be used according to the following order of priority:

- (1) Use of the school facility by the public school where the school facility is located;
- (2) Use of the school facility by DCPS;
- (3) Community use at times designated by the Mayor; and
- (4) Use of the school facility by permit holders.

**ENROLLED ORIGINAL**

(b)(1) The Mayor shall issue permits to applicants for the use of school facilities in a manner that maximizes use while maintaining the quality of the school facilities and ensuring compliance with Internal Revenue Service rules governing tax-exempt bond financed property.

(2) If more than one applicant submits a permit application to use the same school facility for the same period of time, the Mayor shall issue the permit according to the following order of priority:

(A) DCPS school program providers, including Adopt-a-School Program participants and School Partnership Fellows;

(B) Athletic programs organized by the Department of Parks and Recreation, District of Columbia public charter schools, or the District of Columbia State Athletic Association;

(C) Nonprofit organizations that principally serve District residents who are youths;

(D) Other nonprofit organizations that principally serve District residents;

(E) Individuals who are District residents or entities whose principal place of business is in the District; and

(F) Others.

(3) Where applicants for use of a particular school facility are of the same priority level under paragraph (2) of this subsection, the Mayor shall issue the permit to the applicant who submitted an application first.

(c) The Mayor may charge permit, custodial, or security fees associated with the use of a school facility.

**Sec. 4. Waiver or reduction of fees for the use of school facilities.**

(a) When applying for a permit under section 3, an entity may apply to the Mayor for a waiver or reduction of any permit, custodial, or security fee associated with the use of the school facility, if the entity:

(1) Is a nonprofit organization that is exempt from taxation under section 501(c)(3) or (4) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3) or (4));

(2) Certifies that the entity has Clean Hands pursuant to D.C. Official Code §§ 47-2862 and 47-2863;

(3) Certifies that at least 75% of the people who will benefit from the issuance of the permit are District residents; and

(4) Demonstrates financial hardship.

(b) Within 180 days after the effective date of this act, the Mayor shall make publicly available on the DCPS website an application for the fee waiver described in subsection (a) of this section.

**Sec. 5. Establishing the DCPS School Facility Fund.**

(a) There is established as a special fund the DCPS School Facility Fund (“Fund”), which shall be administered by the Mayor in accordance with subsection (c) of this section.

(b) Any fees collected for the use of school facilities pursuant to section 3(c) shall be deposited in the Fund.

(c)(1) Money in the Fund shall be used for the following purposes:

(A) 75% of the money shall be transferred to DCPS schools, according to the formula described in paragraph (3) of this subsection, for cleaning, maintaining, and repairing school facilities.

(B) 25% of the money shall be transferred to the Department of General Services to administer the permitting process for the use of school facilities.

(2) Money transferred pursuant to paragraph (1) of this subsection shall be transferred by October 1 and February 1 of each year.

(3) Money transferred to DCPS schools under paragraph (1)(A) of this subsection shall be distributed to individual DCPS schools in amounts that are proportionate to the number of permits issued for the use of that DCPS school’s school facilities.

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

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

(e) At least once per year, the Mayor shall provide an accounting of fees collected for each DCPS school pursuant to section 3(c), including the name and affiliation of each permit holder, to the principal of that DCPS school.

(f) The Mayor shall transmit an annual report to the Council, describing all fees collected pursuant to section 3(c), broken down by DCPS school and permit holder.

**Sec. 6. Community Use of School Facilities Task Force.**

(a) There is established a Community Use of School Facilities Task Force (“Task Force”). The Task Force shall:

(1) Identify the frequency and timing of community use;

(2) Identify existing barriers to community use;

(3) Identify, in coordination with the Department of General Services and the Office of the Chief Financial Officer, how any changes to the District’s permitting processes as it relates to tax-exempt bond financed property might jeopardize the tax-exempt status of the District’s bonds; and

(4) Develop recommendations to increase community use, including:

(A) When and for how long school facilities should be reserved for community use;

(B) Permissible types of community use;

(C) How to address existing barriers to community use; provided, that the Task Force shall not recommend shifting liability away from the District government for loss or injury resulting from community use;

(D) A list of any regulatory or statutory changes necessary to increase community use; and

(E) A list of all District property financed by tax-exempt bonds, an explanation of how proposed permitted uses of each property could violate Internal Revenue Service rules regarding tax-exempt bond financed property, and recommendations for how the Department of General Services and DCPS can ensure that the Department of General Services does not grant permits for proposed uses that could jeopardize the tax-exempt status of the District's bonds.

(b) The Task Force shall consult with organizations and individuals with experience in the fields of obesity, community health, personal or group liability insurance, and tort liability.

(c) The Task Force shall be composed of the following members:

(1) The Director of the Department of General Services, or the Director's designee;

(2) The Chancellor of District of Columbia Public Schools, or the Chancellor's designee;

(3) The Director of the Department of Parks and Recreation, or the Director's designee;

(4) The Executive Director of the Office on Aging, or the Executive Director's designee;

(5) The Chief Financial Officer, or the Chief Financial Officer's designee;

(6) Five community representatives appointed by the Mayor as follows:

(A) Three representatives from parent-teacher associations or organizations;

(B) One representative from a community-based recreational program serving high-need communities; and

(C) One representative from a District organization that provides recreational programming for children

(d) By October 1, 2019, the Task Force shall transmit a report to the Council that details the Task Force's findings and recommendations described in subsection (a) of this section.

#### Sec. 7. Rules.

The Mayor, pursuant to Title I of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), shall issue rules to implement the provisions of this act.

**ENROLLED ORIGINAL**

Sec. 8. Fiscal impact statement.

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

Sec. 9. Effective date.

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

---

Chairman  
Council of the District of Columbia

---

Mayor  
District of Columbia