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OFFICE OF THE  
SECRETARY

**MURIEL BOWSER**

MAYOR OCT - 1 2018

The Honorable Phil Mendelson  
Chairman  
Council of the District of Columbia  
1350 Pennsylvania Ave., NW, Suite 504  
Washington, D.C. 20004

Dear Chairman Mendelson:

Enclosed for consideration and approval by the Council of the District of Columbia is a proposed resolution entitled the "Child Development Homes Regulations Approval Resolution of 2018."

This resolution would approve a rulemaking which amends provisions in the 2013 District of Columbia Building Code, the 2013 District of Columbia Residential Code, and the 2013 District of Columbia Fire Code to ensure that the fire and life safety regulations for child development homes and expanded child development homes in the District of Columbia apply to those facilities that are operated in buildings with two dwelling units; revise a provision in the 2013 District of Columbia Plumbing Code to comply with the terms of a District of Columbia commitment to federal Environmental Protection Agency, in connection with a long-term control plan consent decree, to identify and repeal regulations and guidelines that might impede the development of green infrastructure in the District of Columbia; and revise provisions in the 2013 District of Columbia Building Code to clarify that applications vested under a prior edition of the Construction Codes (pursuant to Section 123, 12-A DCMR) have the same rights as issued permits. No comments were received during public comment period for this rulemaking.

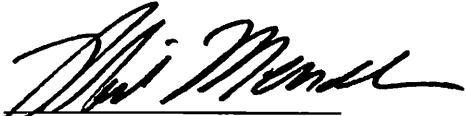
If you have any questions on this matter, please contact Melinda Bolling, Director, Department of Consumer and Regulatory Affairs, at (202) 442-8935.

Sincerely,

A handwritten signature in black ink that reads "Muriel Bowser".

Muriel Bowser

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Chairman Phil Mendelson  
at the request of the Mayor

A PROPOSED RESOLUTION

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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Chairman Phil Mendelson, at the request of the Mayor, introduced the following resolution, which was referred to the Committee on \_\_\_\_\_.

To approve the proposed rules to amend Title 12 (D.C. Construction Codes Supplement of 2013) of the District of Columbia Municipal Regulations.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Child Development Homes Regulations Approval Resolution of 2018.”

Sec. 2. Pursuant to Section 10 of the Construction Codes Approval and Amendments Act of 1986, effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409), the Council approves the proposed rules, published at 65 DCR 61, to amend Titles 12A, 12B, 12F and 12H of the District of Columbia Municipal Regulations.

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

Sec. 4. The Secretary of the Council shall transmit a copy of this resolution, upon its adoption, to the Director of the Department of Consumer and Regulatory Affairs.

Sec. 5. This resolution shall take effect immediately.

**DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS  
CONSTRUCTION CODES COORDINATING BOARD**

**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Chairperson of the Construction Codes Coordinating Board (Chairperson), pursuant to the authority set forth in Section 10 of the Construction Codes Approval and Amendments Act of 1986 (Act), effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1409 (2012 Repl.)) and Mayor's Order 2009-22, dated February 25, 2009, as amended, hereby gives notice of the adoption of the following emergency rulemaking amending Subtitles A (Building Code Supplement of 2013), B (Residential Code Supplement of 2013), F (Plumbing Code Supplement of 2013) and H (Fire Code Supplement of 2013) of Title 12 (Construction Codes Supplement of 2013) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking is necessitated by the immediate need to: (1) revise provisions in the 2013 District of Columbia Building Code, the 2013 District of Columbia Residential Code and the 2013 District of Columbia Fire Code to ensure that the fire and life safety regulations for child development homes and expanded child development homes in the District of Columbia apply to those facilities that are operated in dwelling units located within buildings containing one or two dwelling units which are not within the scope of the 2013 District of Columbia Residential Code; (2) revise a provision in the 2013 District of Columbia Plumbing Code to comply with the terms of a District of Columbia commitment to the federal Environmental Protection Agency, in connection with a long-term control plan consent decree, to identify and repeal regulations and guidelines that might impede the development of green infrastructure in the District of Columbia; and (3) to revise provisions in the 2013 District of Columbia Building Code to clarify that applications vested under a prior edition of the Construction Codes (pursuant to Section 123, 12-A DCMR) have the same rights as issued permits.

This emergency rulemaking was adopted on October 18, 2017, to become effective immediately. This emergency rulemaking will remain in effect for up to one hundred twenty (120) days from the date of effectiveness and will expire on February 16, 2018.

To clearly show the changes being made to the Construction Codes Supplement, additions are shown in underlined text and deletions are shown in ~~striktthrough~~ text.

The process for submitting comments on the proposed rulemaking is detailed on the final page of this Notice.

The Chairperson also hereby gives notice of the intent to take final rulemaking action to adopt this amendment. Pursuant to Section 10(a) of the Act, the proposed amendment will be submitted to the Council of the District of Columbia for a forty-five (45) day period of review, and final rulemaking action will not be taken until the later of thirty (30) days after the date of publication of this notice in the *D.C. Register* or Council approval of the amendment.

**Chapter 1, ADMINISTRATION AND ENFORCEMENT, of Title 12-A DCMR, BUILDING CODE SUPPLEMENT OF 2013, is amended as follows:**

**Section 101, GENERAL, is amended as follows:**

Insert a new Section 101.2.5 in the 2013 District of Columbia Building Code to read as follows:

**101.2.5 Home Day Care in Group R-3 Buildings.** Day care homes in Group R-3 dwellings shall comply with Appendix M of the Residential Code or meet the corresponding provisions of the Building Code.

Amend Section 101.3.3.1 in the 2013 District of Columbia Building Code to read as follows:

**101.3.3.1 Home Day Care.** Appendix M of the Residential Code shall apply to home day care in detached one- and two-family dwellings or townhouses within the scope of the Residential Code or in R-3 dwellings, including Child Development Homes where oversight is provided by the Office of the State Superintendent of Education or a successor agency, where

- ~~1. The home day care is provided in dwelling units within (1) detached one and two family dwellings or townhouses within the scope of the Residential Code;~~
- ~~2. The home day care is legally operated as a home occupation under the Zoning Regulations.~~

**Section 102, APPLICABILITY, is amended as follows:**

Revise Section 102.6 of the 2013 District of Columbia Building Code to read as follows:

**102.6 Continuation of Legal Use and Occupancy.** The legal use and occupancy of any structure existing on the effective date of the Construction Codes, or for which a permit has already been approved, or, pursuant to Section 123, an application vested under a prior edition of the Construction Codes, shall be permitted to continue without change.

**Exceptions:**

1. Provisions of the Building Code, the Property Maintenance Code, or the Fire Code that are specifically required to be applied retroactively.
2. Provisions of the Construction Codes deemed necessary by the code official, as defined in Section 103.1 of the Building Code, for the general safety, health and welfare of the occupants and the public.

**Section 308, INSTITUTIONAL GROUP I, of Chapter 3, USE AND OCCUPANCY CLASSIFICATION, is amended as follows:**

Amend Section 308.6.3 in the 2013 District of Columbia Building Code to read as follows:

**308.6.3 Five or fewer persons receiving care.** A facility having five or fewer persons receiving *custodial care* in a facility other than a dwelling unit within the scope of Section 308.6.4 shall be classified as part of the primary occupancy.

Strike Section 308.6.4 in the 2013 District of Columbia Building Code in its entirety and insert new Section 308.6.4 in its place to read as follows:

**308.6.4 Persons receiving custodial care in a dwelling unit.** A facility providing custodial care in a *dwelling unit* within either (1) a detached one- or two-family *dwelling* or townhouse within the scope of the *Residential Code* or (2) an R-3 *dwelling*, shall comply with Appendix M of the *Residential Code*.

**Appendix M, HOME DAY CARE, of Title 12-B DCMR, RESIDENTIAL CODE SUPPLEMENT OF 2013, is amended as follows:**

**Section M101, GENERAL, is amended as follows:**

Amend Section AM101.1, Appendix M of the 2013 District of Columbia Residential Code to read as follows:

**M101.1 General.** This appendix shall apply to ~~a home~~ day care facilities (a) operated within ~~existing~~ detached one- and two-family *dwelling*s and townhouses within the scope of the *Residential Code* and in dwelling units within R-3 dwellings, and (b) occupied by persons of any age who receive custodial care (i) for less than 24 hours per day (ii) provided by individuals other than parents or guardians or relatives by blood, marriage, or adoption (iii) in a place other than the home of the person cared for. Appendix M does not apply to the following:

1. Day care facilities that are classified as Group E or Group I-4 under the *Building Code*.
2. Adult day care where any of the clients is incapable of self-preservation, unless such persons are cared for in rooms located on a *level of exit discharge* serving such rooms and each room has an exit door directly to the exterior.
3. A child day care facility within a *dwelling unit* that is located in a multi-family building classified as an R-2 occupancy.

**Section M103, MEANS OF EGRESS, is amended as follows:**

Strike Section M103.1.6, Appendix M of the 2013 District of Columbia Residential Code in its entirety and insert new Section AM103.1.6 in its place to read as follows:

**M103.1.6 Dwellings with Three or More Stories.** Home day care shall not be provided above the second story in *dwellings* with three or more stories.

**Exception:** The third story is allowed to be used for home day care where the *dwelling* is equipped throughout with an automatic sprinkler system in accordance with Section R313 and the third story is provided with a means of *exit access* and a means of escape in compliance with Section R310.

**Chapter 11, STORM DRAINAGE, of Title 12-F DCMR, PLUMBING CODE SUPPLEMENT OF 2013, is amended as follows:**

**Section 1115, RAINWATER COLLECTION AND DISTRIBUTION SYSTEMS, is amended as follows:**

Amend Section 1115.11.1 of the 2013 District of Columbia Plumbing Code to read as follows:

**1115.11.1 Collection surface.** Rainwater shall be collected only from above-ground impervious roofing surfaces constructed from *approved* materials. Collection of water from vehicular parking, pedestrian, or other surfaces shall be prohibited except where the water is used exclusively for landscape irrigation or where water quality treatment measures that are adequate for any *non-potable* water the end use have been approved. ~~Overflow and bleed-off pipes from roof-mounted appliances including but not limited to evaporative coolers, water heaters and solar water heaters shall not discharge onto rainwater collection surfaces.~~

**Chapter 3, GENERAL REQUIREMENTS, of Title 12-H DCMR, FIRE CODE SUPPLEMENT OF 2013, is amended as follows:**

**Section 319, DAY CARE FACILITIES IN DWELLING UNITS, is amended as follows:**

Amend Section 319.2 in the 2013 District of Columbia Fire Code to read as follows:

**319.2 Day care homes in 1- or 2-family homes or townhouses.** Day care facilities that are operated in *dwelling units* within existing detached one- and two-family *dwellings* and townhouses within the scope of the *Residential Code*, or within R-3 *dwellings*, shall comply with the fire safety provisions in Appendix K. Appendix K does not apply to the following:

- ~~1. Day care facilities in a *dwelling unit* which is not the primary residence of the person operating the facility;~~

1. Day care facilities that are classified as Group E or Group I-4 under the *Building Code*.
2. Adult day care where any of the clients are *incapable of self-preservation*, unless such persons are cared for in rooms located on a *level of exit discharge* serving such rooms and each room has an *exit* door directly to the exterior.

**Appendix K, HOME DAY CARE, is amended as follows:**

**Section K101, GENERAL, is amended as follows:**

*Amend Section K101.1 of Appendix K in the 2013 District of Columbia Fire Code to read as follows:*

**K101.1** **General.** This appendix shall apply to home day care facilities (a) operated in *dwelling units* within existing detached one- and two-family *dwelling units* and townhouses within the scope of the *Residential Code* or *within R-3 dwellings*, and (b) occupied by persons of any age who receive custodial care (i) for less than 24 hours per day (ii) provided by individuals other than parents or guardians or relatives by blood, marriage, or adoption, and (iii) in a place other than the home of the person cared for. Appendix K does not apply to the following:

1. Day care facilities that are classified as Group E or Group I-4 under the *Building Code*.
2. Adult day care where any of the clients is *incapable of self-preservation*, unless such persons are cared for in rooms located on a *level of exit discharge* serving such rooms and each room has an *exit* door directly to the exterior.
3. A child day care facility within a *dwelling unit* that is located in a multi-family building classified as an R-2 occupancy.

**Section K103, MEANS OF EGRESS, is amended as follows:**

*Strike Section K103.1.6, Appendix K of the 2013 District of Columbia Fire Code in its entirety and insert new Section K103.1.6 in its place to read as follows:*

**K103.1.6 Dwellings with three or more stories.** Day care shall not be provided above the second story in *dwelling units* with three or more stories.

**Exception:** The third story is allowed to be used for day care where the *dwelling unit* is equipped throughout with an automatic sprinkler system in accordance with Section R313 of the *Residential Code* or Section 903.2.8 of the *Fire Code*, as

applicable, and the third story is provided with a means of *exit access* and a means of escape in compliance with Section R310 of the *Residential Code*.

All persons desiring to comment on these proposed regulations should submit comments in writing to Jill Stern, Chairperson, Construction Codes Coordinating Board, Department of Consumer and Regulatory Affairs, 1100 Fourth Street, S.W., Room 5100, Washington, D.C. 20024, or via e-mail at [jill.stern@dc.gov](mailto:jill.stern@dc.gov), not later than thirty (30) days after publication of this notice in the *D.C. Register*. Persons with questions concerning this Notice of Proposed Rulemaking should call (202) 442-4400. Copies of the proposed rules can be obtained from the address listed above. A copy fee of one dollar (\$1.00) will be charged for each copy of the proposed rulemaking requested. Free copies are available on the website of the District of Columbia Office of Documents and Administrative Issuances at:  
<http://www.dcregs.dc.gov/Gateway/IssueList.aspx>.




Government of the District of Columbia  
Office of the Chief Financial Officer



Jeffrey S. DeWitt  
Chief Financial Officer

**MEMORANDUM**

**TO:** The Honorable Phil Mendelson  
Chairman, Council of the District of Columbia

**FROM:** Jeffrey S. DeWitt  
Chief Financial Officer 

**DATE:** July 19, 2018

**SUBJECT:** Fiscal Impact Statement – Child Development Homes Regulations  
Approval Resolution of 2018

**REFERENCE:** Draft Resolution provided to the Office of Revenue Analysis on July 17,  
2018

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**Conclusion**

Funds are sufficient in the fiscal year 2018 budget and fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the resolution.

**Background**

The resolution approves proposed rulemaking<sup>1</sup> by the Department of Consumer and Regulatory Affairs that updates building standards for child development facilities in residential dwelling units, changes rainwater collection rules to align with federal standards, and clarifies that permit applications vested under the prior versions of construction codes have the same rights as issued permits.

**Financial Plan Impact**

Funds are sufficient in the fiscal year 2018 budget and fiscal year 2019 through fiscal year 2022 budget and financial plan to implement the resolution. The rules will require Department of Consumer and Regulatory Affairs to perform safety reviews and inspections of child development facilities in homes, but the agency expects this can be done within current resources. The other rule changes have no impact.

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<sup>1</sup> Emergency rulemaking was adopted on October 18, 2017 and expired on February 16, 2017. Currently approved but not-yet-published rulemaking will extend the emergency rules to August 9, 2018.

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE ATTORNEY GENERAL



LEGAL COUNSEL DIVISION

**MEMORANDUM**

**TO:** Alana Intrieri  
Executive Director  
Office of Legislative Support


**FROM:** Janet M. Robins  
Deputy Attorney General  
Legal Counsel Division

**DATE:** August 30, 2018

**SUBJECT:** Legal Sufficiency Review of the Proposed "Child Development Homes Regulations Approval Resolution of 2018" for the Third Emergency Rulemaking to Amend Title 12 of the District of Columbia Municipal Regulations  
(AR-17-403-F)

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**This is to Certify that** this Office has reviewed the above-referenced legislation and has found it to be legally sufficient. If you have questions regarding this certification, please do not hesitate to contact me at 724-5524.

  
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Janet M. Robins