



MURIEL BOWSER
MAYOR

September 16, 2022

The Honorable Phil Mendelson
Chairman, Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
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 "Barber, Cosmetology, and Personal Grooming Facilities Fines Approval Resolution of 2022". This proposed resolution will approve proposed final rules that will amend the Department of Health (DOH) Infractions in Section 3624 of Title 16 of the District of Columbia Municipal Regulations by repealing the current Barber and Cosmetology Salon Operations Infractions chapter in its entirety and replacing it with a new Barber, Cosmetology, and Personal Grooming Facilities Infractions chapter that corresponds with the District's new Barber, Cosmetology, and Personal Grooming Facilities Regulations.

I urge the Council to take prompt and favorable action on the enclosed legislation.

Sincerely,

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

Muriel Bowser


Chairman Phil Mendelson
at the request of the Mayor

A PROPOSED RESOLUTION

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To approve proposed regulations to establish new fines for violations of the barber, cosmetology, and personal grooming facilities regulations.

RESOLVED, BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this resolution may be cited as the “Barber, Cosmetology, and Personal Grooming Facilities Fines Approval Resolution of 2022”.

Sec. 2. Pursuant to section 104(a)(1) of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985, (D.C. Law 6-42; D.C. Official Code § 2-1801.04(a)(1)), the Council approves the proposed final rules to amend Chapter 36 (Department of Health (DOH) Infractions) Title 16 (Consumers, Commercial Practices, and Civil Infractions) of the District of Columbia Municipal Regulations (DCMR) by establishing new fines for violations of the barber, cosmetology, and personal grooming facilities regulations, transmitted by the Mayor to the Council on _____ and published in the *D.C. Register* as proposed rules on December 10, 2021, at 68 DCR 13026.

Sec. 3. Transmittal.

The Secretary shall transmit a copy of this resolution, upon its adoption, to the Director of the Department of Health.

33 Sec. 4. Fiscal impact statement.

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

37 Sec. 5. Effective date.

38 This resolution shall take effect immediately.

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



Legal Counsel Division

MEMORANDUM

TO: Bryan Hum
Director
Office of Policy and Legislative Affairs

FROM: Brian K. Flowers
Deputy Attorney General
Legal Counsel Division

DATE: April 19, 2022

RE: Legal Sufficiency Certification of Draft Resolution, the “District of Columbia Barber, Cosmetology, and Personal Grooming Facilities Infractions Approval Resolution of 2022”
(AR-22-152)

This is to Certify that this Office has reviewed the above-referenced draft legislation and found it to be legally unobjectionable. If you have any questions, please do not hesitate to call me at 724-5524.

Brian K. Flowers

Brian K. Flowers

DEPARTMENT OF HEALTH

NOTICE OF FINAL RULEMAKING

The Interim Director of the Department of Health, pursuant to authority set forth in Sections 104 and 105 of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 (Act), effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code §§ 2-1801.04(a)(1) and 2-1801.05) (2016 Repl.), Section 4902 (a) and (b) 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(a)(10) and (b)) (2018 Repl.), and Mayor's Order 2004-46(2) and (3)(v), dated March 22, 2004, hereby gives notice of the adoption of amendments to Chapter 36 (Department of Health (DOH) Infractions) of Title 16 (Consumers, Commercial Practices, and Infractions) of the District of Columbia Municipal Regulations (DCMR).

The rules revise the schedule of fines for barber, cosmetology, and personal grooming facilities to correspond with the final rulemaking for Barber, Cosmetology, and Personal Grooming Facilities Regulations in Subtitle E of Title 25 of the DCMR published in the *D.C. Register* at 68 DCR 13026 on December 10, 2021.

A Notice of Proposed Rulemaking was published in the *D.C. Register* on May 27, 2022, at 69 DCR 006089. The Department did not receive any public comments and no changes were made by the Department to these rules.

In accordance with sections 104(a)(1) of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985, (D.C. Law 6-42; D.C. Official Code § 2-1801.04(a)(1)), these final rules were transmitted by the Mayor on XXXX XXX, 2022, to the Council for the Council's approval through the Barber, Cosmetology, and Personal Grooming Facilities Infractions Fines Approval Resolution of 2022 (Prop. Res 24-XXX). The final rules were deemed approved by the Council on XXXX XXX, 2022.

These rules were adopted by the Interim Director as final on XXXXXX XX, 2022 and will take effect immediately upon publication of this notice in the *D.C. Register*.

Section 3624 of Chapter 36, DEPARTMENT OF HEALTH (DOH) INFRACTIONS, of Title 16 DCMR, CONSUMERS, COMMERCIAL PRACTICES, AND INFRACTIONS, is amended to read as follows:

3624 BARBER, COSMETOLOGY, AND PERSONAL GROOMING FACILITIES INFRACTIONS

3624.1 [Reserved]

3624.2 Violations of any of the following provisions shall be a Class 2 infraction:

- (a) Owning, operating, or managing a barber, cosmetology, or personal grooming facility or performing a cosmetic procedure without a valid

license issued by the Mayor in violation of 25-E DCMR §§ 600.1 and 614.2(a);

- (b) Owning, operating, or managing a barber, cosmetology, or personal grooming facility without a valid Certificate of Occupancy in violation of 25-E DCMR §§ 600.3 and 614.2(c);
- (c) Owning, operating, or managing a barber, cosmetology, or personal grooming facility or performing cosmetic procedures with an expired or suspended license in violation of 25-E DCMR §§ 600.2 and 614.2(b);
- (d) Operating a barber, cosmetology, or personal grooming facility in violation of a Notice of Closure/Summary Suspension, Revocation, Suspension, Warnings, or other directives issued by the Department as specified in 25-E DCMR §§ 600, 609.6(a) and (b), 614.1(a) through (p), 614.2(a) through (k), 615.1, 616.3, 617.4, 701.1, 705.1, 707.1, 711.1, 712.1, and 712.2;
- (e) Employing or allowing unlicensed personnel to provide barbering, cosmetology, or personal grooming services in violation of 25-E DCMR §§ 200.1(a), 600.4, and 614.2(d);
- (f) Employing or allowing a barber, cosmetologist, or personal groomer with an expired or suspended license to provide barbering, cosmetology, or personal grooming services in violation of 25-E DCMR §§ 200.1(a), 600.5 and 614.2(e);
- (g) Employing or allowing personnel under eighteen (18) years of age to provide barbering, cosmetology, or personal grooming services in violation of 25-E DCMR §§ 200.1(b);
- (h) Employing or allowing personnel to provide barbering, cosmetology, or personal grooming services without required training in violation of 25-E DCMR §§ 200.1(c);
- (i) Operating a barber, cosmetology, or personal grooming facility without a person-in-charge who is on duty and on the premises during all hours of operation in violation of 25-E DCMR §§ 200.2 and 614.2(f);
- (j) Operating a barber, cosmetology, or personal grooming facility without a licensed barber, cosmetologist, or personal groomer who is on duty and on the premises during all hours of operation in violation of 25-E DCMR §§ 200.3 and 614.2(g);
- (k) Failing to use only single-use disposable sharps, gloves, and cleansing products in connection with cosmetic procedures in violation of 25-E DCMR § 200.4;

- (l) Employing or allowing personnel under eighteen (18) years of age to provide facial hair threading, eyelash extension, eyebrow tinting, or similar personal grooming services in violation of 25-E DCMR § 200.5;
- (m) Employing or allowing personnel to provide facial hair threading, eyelash extension, eyebrow tinting, or similar personal grooming services in a facility not regulated by the DCRA Board of Barber and Cosmetology without the required training or with expired training certifications in violation of 25-E DCMR § 200.6(a) and (b);
- (n) Operating a facial hair threading, eyelash extension, eyebrow tinting, or similar personal grooming facility not regulated by the DCRA Board of Barber and Cosmetology without a trained person-in-charge who is on duty and on the premises during all hours of operation at each facility in violation of 25-E DCMR §§ 200.7 and 614.2(f);
- (o) Operating without following procedures to prevent contamination from personnel in violation of 25-E DCMR §§ 200.8, and 201.2 through 201.4;
- (p) Operating without following procedures to prevent contamination by not using single-use, multi-use, and disposable items in violation of 25-E DCMR §§ 200.8, and 202.1 through 202.6;
- (q) Operating without following procedures to prevent contamination by not using disinfecting procedures in violation of 25-E DCMR §§ 200.8, and 203.1 through 203.14;
- (r) Operating without following procedures to prevent contamination by not placing contaminated, reusable instruments or equipment in a labeled covered container containing an EPA-registered bactericidal, viricidal and fungicidal until cleaned and disinfected in accordance with the manufacturer's instructions in violation of 25-E DCMR §§ 200.8, 203.2, 203.3, and 614.1(l);
- (s) Operating a facility without EPA-registered disinfectants or evidence that an EPA-registered disinfectant is not being used properly to thoroughly clean implements and equipment after each client in violation of 25-E DCMR §§ 200.8, 203.5(a)-(d), 203.10(a), 203.14, 306.13, 502.3(b), 502.4, 502.5(a) and (b), 502.6(a)-(c), 502.7(a)-(c), 503.1(l), and 614.2(j);
- (t) Failing to properly sterilize reusable implements, instruments, or equipment in accordance with manufacturer's instructions in an FDA-listed sterilizer in violation of 25-E DCMR §§ 200.8, 203.8, and 203.10(a) and (b);
- (u) Failing to follow procedures for the proper handling and disposal of biohazard and infectious waste in violation of 25-E DCMR §§ 200.8, 204.1, 204.2, and 204.3;

- (v) Operating without following procedures to prevent contamination by not using disinfecting procedures in violation of 25-E DCMR §§ 200.8, and 203.11 through 203.14;
- (w) Operating without following procedures to prevent contamination by not using disinfecting procedures in violation of 25-E DCMR §§ 200.8, 206.1 through 206.10, and 404.4(a) and (b);
- (x) Operating without following procedures to ensure reusable instruments are cleaned by gloved personnel prior to sterilization in violation of 25-E DCMR §§ 200.8, and 207.1(a) and (b);
- (y) Operating with serious flood damage that affects a barber, cosmetology, or personal grooming facility in violation of 25-E DCMR §§ 102.1(g)(3) and 614.1(b);
- (z) Operating with an unapproved plumbing systems or plumbing system supplying potable water that may result in cross-connection contamination of the potable water system in violation of 25-E DCMR §§ 102.1(g)(3), 305.1(b) and (c), and 614.1(f);
- (aa) Operating a barber, cosmetology, or personal grooming facility without hot water or incorrect hot water temperatures that cannot be corrected during the course of the inspection in violation of 25-E DCMR §§ 200.8, 206.3, 305.1(a), 306.1, 306.3, 306.5, 306.12, and 614.1(e);
- (bb) Operating a barber, cosmetology, or personal grooming facility with no water, or an unplanned water outage, or insufficient water capacity in violation of 25-E DCMR §§ 305.1(e) and 614.1(d);
- (cc) Operating a nail salon or nail workstations within a cosmetology or personal grooming facility that provides manicure and/or pedicure services without being equipped with an independent exhaust or mechanical ventilation system at the source capture system and recirculated into any space in violation with 25-E DCMR § 309.5, 309.6, and 309.7;
- (dd) Operating a barber, cosmetology, or personal grooming facility with a heating, ventilating, or air conditioning system that does not prevent the make-up air intake or exhaust vents from contaminating environmental surfaces, single-use items, clean and disinfected linen, or reusable implements/instruments, or equipment in violation of 25-E DCMR § 310.1 and 310.2;
- (ee) Operating a barber, cosmetology, or personal grooming facility with gross insanitary occurrence or condition that may endanger public health

including but not limited to an infestation of vermin in violation of 25-E DCMR § 614.1(m);

- (ff) Failing to minimize or eliminate the presence of insects, rodents, or other pests on the premises of a barber, cosmetology, or personal grooming facility premises in violation of 25-E DCMR §§ 403.4, 403.5, and 614.1(o); and
- (gg) Failing to allow access to Department representatives during the facility's hours of operation and other reasonable times as determined by the Department or hindering, obstructing, or in any way interfering with any inspector or authorized Department personnel in the performance of his or her duty in violation of 25-E DCMR §§ 609.1(a)-(d), 609.2, 609.3(a)-(c), and 614.2(i).

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

- (a) Using ultraviolet (UV) light to disinfect or sterilize equipment or instruments in violation of 25-E DCMR §§ 200.8 and 203.4;
- (b) Failing to individually pack sterilized non-single use, non-disposable instruments in peel packs in violation of 25-E DCMR §§ 200.8, and 203.7 (a)-(d);
- (c) Operating without a written Infection Prevention and Exposure Control Plan in violation of 25-E DCMR §§ 200.8 and 205.1(a)-(g);
- (d) Failing to maintain a procedural manual on the premises of a barber, cosmetology, or personal grooming facility at all times in violation of 25-E DCMR § 211.1 and 211.2;
- (e) Failing to maintain required records for review by the Department upon request in violation of 25-E DCMR §§ 203.10(c), 205.3, 208.1(d), (e), and (f), 209.1, 212.5, 212.9, and 609.3(a)-(c);
- (f) Failing to report a diagnosed infections or allergic reactions resulting from a cosmetic procedure to the Department within twenty-four (24) hours of its occurrence, knowledge of the occurrence, or customer generated complaint. in violation of 25-E DCMR § 212.2 and 212.3;
- (g) Failing to maintain required records or log books containing the dates and times of all pedicure cleaning and disinfection which is kept in the pedicure area for review by the Department upon request in violation of 25-E DCMR § 502.8;

- (h) Operating a barber, cosmetology, or personal grooming facility with mechanical and ventilation systems that are not properly designed, constructed, installed, or maintained in violation of 25-E DCMR §§ 102.1(g)(2), 308.2, 308.3, 308.4, 309.1 through 309.4, and 614.1(k);
- (i) Operating a barber, cosmetology, or personal grooming facility with a cross-connection between the potable water and non-potable water distribution systems, including but not limited to landscape irrigation, air conditioning, heating, or fire suppression system in violation of 25-E DCMR § 614.1(h);
- (j) Operating a barber, cosmetology, or personal grooming facility with a back siphonage event in violation of 25-E DCMR §§ 102.1(g)(3) and 614.1(i);
- (k) Operating a barber, cosmetology, or personal grooming facility with a sewage backup or sewage that is not disposed of in an approved and sanitary manner in violation of 25-E DCMR §§ 102.1(g)(3), 305.1(b), and 614.1(g);
- (l) Operating a facility in the absence of potable water supplied under pressure, in a quantity which, in the opinion of the Director of Health, is capable of meeting the needs of the facility in violation of 25-E DCMR §§ 102.1(g)(3), 305.1(a) and (e), 306.1, 306.3, and 614.2(k);
- (m) Operating a barber, cosmetology, or personal grooming facility with toilet facilities or sinks that are not properly designed, constructed, installed, or maintained in violation of 25-E DCMR §§ 102.1(g)(3), 308.1, 400.1, and 614.1(j);
- (n) Operating with extensive fire damage that affects a barber, cosmetology, or personal grooming facility in violation of 25-E DCMR §§ 102.1(g)(4) and 614.1(a);
- (o) Operating with the loss of electrical power to the critical systems of a barber, cosmetology, or personal grooming facility in violation of 25-E DCMR §§ 102.1(g)(5) and 614.1(c);
- (p) Operating a barber, cosmetology, or personal grooming facility without at least one (1) commercial service sink with hot and cold running water for custodial purposes only in violation of 25-E DCMR § 306.1 and 306.7;
- (q) Failing to comply with § 306.1, 306.7, 306.9, and 306.13 in violation of 25-E DCMR § 306.14;
- (r) Failing to comply with § 306.1, 306.7, 306.9, and 306.13 in violation of 25-E DCMR § 306.15(a) and (b);

- (s) Operating a barber, cosmetology, or personal grooming facility without at least one (1) hand sink that is used for handwashing in violation of 25-E DCMR § 306.2;
- (t) Failing to display gender-neutral signs on the door that read "Restroom," or have a universally recognized picture/symbol indicating that persons of any gender may use each restroom in violation of 25-E DCMR § 307.1 and 307.2(a) and (b);
- (u) Operating a nail salon or nail workstations within a, cosmetology, or personal grooming facility that provides manicure and/or pedicure services without an independent source capture system exhaust and mechanical ventilation system located at each nail station with an interlocking exhaust system and light switch that is fully operational when nail station activities are occurring in violation of 25-E DCMR § 309.6;
- (v) Failing to provide toilet facilities that are conveniently located and accessible to personnel and staff without going outside the building during all hours of operation in violation of 25-E DCMR § 400.2;
- (w) Failing to maintain toilet system in good repair in violation of 25-E DCMR § 400.3(a)-(c);
- (x) Failing to maintain the premises of a barber, cosmetology, or personal grooming facility free of unnecessary items and litter in violation of §§ 402.1 through 402.6, 403.1, 403.2(a)-(c), 403.3, and 614.1(n);
- (y) Operating a barber, cosmetology, or personal grooming facility with a pet or other live animal on the premises, except for fish tanks and service animals, in violation of 25-E DCMR §§ 403.6 and 614.1(p);
- (z) Failing to hire a D.C. licensed pest exterminator/contractor in violation of 25-E DCMR § 404.1(a)-(c);
- (aa) Failing to hire a D.C. licensed solid waste contractor in violation of 25-E DCMR § 404.2(a) and (b);
- (bb) Failing to hire a D.C. licensed environmental Biohazard Waste Disposal Company in violation of 25-E DCMR § 404.3(a) and (b);
- (cc) Failing to hire a D.C. licensed Linen Service Company in violation of 25-E DCMR § 404.4(a) and (b);
- (dd) Serving food without a valid food establishment license approved by the Department of Health, except for foods and beverages specified in section 500.1, in violation of 25-E DCMR § 500.2;

- (ee) Providing barbering, cosmetology, or personal grooming services without required supplies in sufficient quantities and required standard equipment in violation of 25-E DCMR § 500.3(a)–(z);
- (ff) Providing barbering services without required supplies and standard equipment in violation of 25-E DCMR § 501.1, 501.2, 501.3, 501.4, and 501.5(a)–(g);
- (gg) Providing manicuring and pedicuring services without required supplies and safety equipment in accordance with the U.S. Occupational Safety and Health Administration (OSHA) respiratory protection program requirements standard equipment in violation of 25-E DCMR § 502.1 through 502.8;
- (hh) Providing electrology services without required supplies and standard equipment in violation of 25-E DCMR § 503.1(a)–(x); and
- (ii) Providing facial hair threading, eyelash extensions, eyebrow tinting, and similar trending cosmetology services without required supplies and standard equipment in violation of 25-E DCMR § 504.1 and 504.2(a)–(k).

3624.4

Violations of any provision of the Barber, Cosmetology, and Personal Grooming Facilities Regulations in Title 25-E of the DCMR not cited in this Schedule of Fines shall be Class 4 Infractions.