

AN ACT

Codification
District of
Columbia
Official Code

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Construction Codes Approval and Amendments Act of 1986 to establish an electronic database containing the Construction Codes, to direct the Mayor to reform building permit and inspection practice, to require the adoption of a Building Rehabilitation Code modeled on the Nationally Applicable Recommended Rehabilitation Provisions, to establish the District of Columbia Building Rehabilitation Code Advisory Council, and to repeal Chapter 36 of Title 12A of the District of Columbia Municipal Regulations.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "HomeStart Regulatory Improvement Amendment Act of 2002".

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TITLE I. REGULATORY IMPROVEMENTS.

Sec. 101. The Construction Codes Approval and Amendments Act of 1986, effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1401 *et seq.*), is amended by adding new sections 4a, 6b, 6c, and 6d to read as follows:

"Sec. 4a. Construction Codes database.

New
§ 6-1403.01

"(a) The Mayor shall establish and maintain a searchable electronic database available through the Internet that, at a minimum, contains the Construction Codes Supplement, set forth in Title 12 of the District of Columbia Municipal Regulations, and any amendments made thereto, to the:

- "(1) BOCA National Building Code/1996;
- "(2) International Plumbing Code/1995;
- "(3) International Mechanical Code/1996;
- "(4) BOCA National Fire Prevention Code/1996;

"(5) BOCA National Property Maintenance Code/1996;
Code/1995;
"(6) Council of American Building Officials One and Two Family Dwelling
Code/1995;
"(7) National Fire Protection Association National Electrical Code/1996; and
"(8) Building Rehabilitation Code.

"(b) The Department of Consumer and Regulatory Affairs shall make the information in the database available to any person.

"Sec. 6b. Expedited Construction Documents Review Program.

New
§ 6-1405.02

"(a) For the purposes of this section and section 6c, the term:

"(1) "Construction documents" mean all drawings that, together with the specifications, describe the proposed building construction or renovation in sufficient detail and provide sufficient information to enable the Director to determine whether it complies with the Construction Codes.

"(2) "Construction permit application" means any application made to the Department for construction in private space.

"(3) "Department" means the Department of Consumer and Regulatory Affairs.

"(4) "Director" means the Director of the Department of Consumer and Regulatory Affairs, or his or her designee.

"(5) "District" means the District of Columbia.

"(6) "Expedited Construction Documents Review Program" or "Program" means the processing procedure for qualified construction permit applications and construction documents established by subsection (b) of this section.

"(7) "Peer Reviewer" means a person certified by the Director to conduct a third party review of one or more components of construction documents as described in section 6c.

"(b) The Mayor shall establish an Expedited Construction Documents Review Program to provide a separate processing procedure to expedite the District's review of qualified construction permit applications and construction documents; provided, that the application and documents meet the requirements of the Construction Codes. The Expedited Construction Documents Review Program shall incorporate by reference any requirements for third party reviews contained in subsection 108.1 of Title 12A of the District of Columbia Municipal Regulations (12A DCMR §108.1), and incorporate the expedited review procedures of section 6c, including pre-submission review by a Peer Reviewer. The Expedited Construction Documents Review Program shall include periodic detailed review by the Director of the documents recommended for submission by the Peer Reviewers.

"(c)(1) The Director shall appoint Peer Reviewers. Peer Reviewer applicants shall possess a valid license as an architect or professional engineer in the District pursuant to Subchapter I-B of Title 47 of the District of Columbia Official Code. The Mayor shall promulgate regulations to establish the requirements for certification of Peer Reviewers, including training and experience requirements, within 180 days of the effective date of the

HomeStart Regulatory Improvement Amendment Act of 2002, passed on 2nd reading on April 9, 2002 (Enrolled version of Bill 14-184).

"(2) When appointing a person as a Peer Reviewer, the Director shall:

"(A) Specify the construction permit applications and construction documents which the Peer Reviewer may review and recommend for submission; and

"(B) Assign a Peer Reviewer number to the person.

"(3) To maintain an appointment, a Peer Reviewer shall:

"(A) Maintain the license specified in paragraph (1) of this subsection and provide evidence thereof annually; and

"(B) Recommend for submission construction permit applications and construction documents which consistently meet the requirements of the Construction Codes.

"(4)(A) The Peer Reviewer appointment may be revoked by the Director for failure to comply with the requirements of this section or section 6c. The revocation shall be in writing and state the provision of this section or section 6c with which the Peer Reviewer has not complied.

"(B) The Peer Reviewer appointment may be reinstated if the Director determines that the basis for revocation of Peer Reviewer appointment has been remedied and the person possesses the license specified in paragraph (1) of this subsection.

"Sec. 6c. Expedited construction documents review procedures.

New
§ 6-1405.03

"(a)(1) To participate in the Expedited Construction Document Review Program, a property owner or authorized agent shall notify the Department in the manner provided by regulation, stating:

(A) The name of the Peer Reviewer or Reviewers;

(B) That the Peer Reviewer is a certified Peer Reviewer pursuant to requirements set forth in section 6b(c)(1); and

(C) The components of the construction documents which will be reviewed, certified for compliance with the Construction Codes, and recommended for submission under the Program.

"(2) A property owner or authorized agent may elect to participate in the Program at any time until the Department has completed its review of the construction permit application and construction documents which have been submitted. A property owner or authorized agent who has previously elected not to participate in the Program may amend, in writing, its prior application to notify the Department that the property owner or authorized agent elects to utilize the Expedited Construction Documents Review Program. The property owner or authorized agent may elect either a full or partial review by a Peer Reviewer. The fee, if any, for the amended application shall be nominal.

"(b)(1) Before a property owner or authorized agent may submit construction documents or components of the construction documents to the Director for review and approval under the Expedited Construction Documents Review Program, the construction documents or

components of the construction documents shall be reviewed, certified for compliance with the Construction Codes, and recommended for submission by a Peer Reviewer.

"(2) The following components of construction documents may be reviewed by a Peer Reviewer before the submission of the construction documents to the Department:

- "(A) Architectural;
- "(B) Elevators;
- "(C) Structural;
- "(D) Mechanical;
- "(E) Plumbing;
- "(F) Electrical; and
- "(G) Fire and Life Safety.

"(3) A Peer Reviewer shall review only those components of the construction documents for which the Peer Reviewer is authorized by the Director under section 6b(c)(2)(A).

"(4) To qualify to work as a Peer Reviewer on a project, the Peer Reviewer shall not be controlled by the owner of the project (including any person or entity with an ownership interest in the project), the general contractor, the subcontractors, or any person or entity responsible for the design, construction, or management of the project. The Peer Reviewer shall not serve or have served on the same project as an advisor or consultant to the owner or the design team in connection with Construction Codes matters for which the Peer Reviewer is providing plan review and certification services, while at the same time providing those consulting services.

"(5) A person, or firm with which that person is affiliated as an owner or employee, who has performed any work for a project, including preparing design plans for any construction documents or components of construction documents, including architectural and structural plans, mechanical plans, plumbing plans, and electrical plans, shall not be eligible to serve as a Peer Reviewer for the project.

"(6) The Peer Reviewer shall not enter into a contract to review a project if he or she determines that there may be a conflict with the qualifications specified in paragraph (4) of this subsection. The Peer Reviewer shall notify the Director, for resolution, cases of doubtful interpretation. The Director may request advice in such cases from the Corporation Counsel or the Ethics Advisor of the Department. The Director shall resolve disputes on these matters and the decision of the Director shall be final.

"(7) The Peer Reviewer shall disclose any potential conflicts of interest that may arise at any time between the Peer Reviewer and the project or parties connected to the project.

"(8) The Peer Reviewer applying for certification shall provide a notarized sworn affidavit to the Director, attesting that the Peer Reviewer will remain independent of conflicts of interest as set forth in this section.

"(c)(1) Construction documents or the components of the construction documents which have been reviewed, certified for compliance with the Construction Codes, and recommended

for submission by a Peer Reviewer shall be reviewed by the Director on a priority basis.

"(2) If the Director is satisfied that the construction documents or the components of the construction documents conform with the requirements of the Construction Codes and all applicable laws, rules, and regulations, the Director shall approve the construction documents or components of the construction documents within 15 days of submission.

"(d) A Peer Reviewer shall review, certify for compliance with the Construction Codes, and recommend each component of the construction documents for submission to the Director.

"(e)(1)(A) Construction documents accepted by the Director for review under the Expedited Construction Documents Review Program shall contain a written certification by a Peer Reviewer, in a form promulgated by the Mayor. The certification shall contain:

- (i) An identification of the components reviewed (such as electrical or structural);
- (ii) The lot, square, and address of the project; and
- (iii) An affirmative statement by the Peer Reviewer that the recommendation for submission is based upon his or her professional knowledge and belief and it is in conformance with the applicable provisions of the Construction Codes.

(B) The Mayor shall promulgate, by regulation, the forms that shall be used by Peer Reviewers to comply with the requirements of this section. The Director shall review these completed forms for consistency and thoroughness.

"(2) The Peer Reviewer number, the District Architect's or Engineer's License number, and the Peer Reviewer's signature shall be included with the certification set forth in paragraph (1) of this subsection.

"(f) The Director shall maintain a tracking system to monitor the recommendations of the Peer Reviewers and the consistency with which construction documents recommended by them conform to the applicable provisions of the Construction Codes.

"(g) This section shall not relieve a person who prepares and submits construction documents of any obligations or liabilities, otherwise existing under law, and shall not relieve the District of its obligation to review all construction documents in the manner otherwise prescribed by law.

"Sec. 6d. Third party inspections.

"(a) The Mayor shall allow third party inspectors to certify the work performed pursuant to a building permit.

"(b) The Mayor shall promulgate rules to establish the minimum requirements for third party inspectors, including training and experience requirements, within 180 days of the effective date of the HomeStart Regulatory Improvement Amendment Act of 2002, passed on 2nd reading on April 9, 2002 (Enrolled version of Bill 14-184).

"(c) A person, or a firm with which that person is affiliated as an owner or employee, who has performed any work for a project for which the property owner or the authorized agent has elected to use third party inspectors, including inspectors of architectural and structural

New
§ 6-1405.04

plans, mechanical plans, plumbing plans, and electrical plans, shall not be eligible to serve as a third party inspector for any component on the project."

TITLE II. BUILDING REHABILITATION CODE.

Sec. 201. The Construction Codes Approval and Amendments Act of 1986, effective March 21, 1987 (D.C. Law 6-216; D.C. Official Code § 6-1401 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 6-1401) is amended as follows:

Amend
§ 6-1401

(1) A new paragraph (3A) is added to read as follows:

"(3A) "Building Rehabilitation Code" means the Building Rehabilitation Code adopted pursuant to section 10a."

(2) Paragraph (4) is amended by striking the phrase "Model Codes," and inserting the phrase "Model Codes, the Building Rehabilitation Code," in its place.

(3) New sections 10a and 10b are added to read as follows:

"Sec. 10a. Building Rehabilitation Code.

New
§ 6-1410

"(a) For purposes of this section and section 10b, the term:

"(1) "Addition" means an increase in:

"(A) Building area;

"(B) Aggregate floor area;

"(C) Height; or

"(D) Number of stories of a building or structure.

"(2) "Alteration" means the:

"(A) Reconfiguration of any space;

"(B) Addition or elimination of any door or window;

"(C) Reconfiguration or extension of any system; or

"(D) Installation of any additional equipment.

"(3) "Change of occupancy" means a change in the purpose or level of activity within a structure that involves a change in application of the requirements of the BRC.

"(4) "Construction permit application" means any application made to DCRA for construction in private space.

"(5) "BRC" means the Building Rehabilitation Code.

"(6) "DCRA" means the Department of Consumer and Regulatory Affairs.

"(7) "District of Columbia Building Rehabilitation Code Advisory Council" or "Rehabilitation Council" means the 19-member board appointed by the Mayor to advise the Mayor on the development, adoption, and revisions to the BRC, as well as other related matters set forth in section 10b.

"(8) "Existing building" means any building or structure that was erected and occupied or issued a certificate of occupancy at least one year before a construction permit application for that building or structure was made to DCRA.

"(9) "Reconstruction" means the:

"(A) Reconfiguration of a space which affects an exit or element of the egress access shared by more than a single occupant;

"(B) Reconfiguration of a space such that the work area is not permitted to be occupied because existing means of egress and fire protection systems, or their equivalent, are not in place or continuously maintained; or

"(C) Extensive modifications.

"(10) "Rehabilitation" means any construction work undertaken in an existing building that includes repair, renovation, modification, reconstruction, change of occupancy, or addition.

"(11)(A) "Renovation" means the:

"(i) Change, strengthening, or addition of load bearing elements;

or

"(ii) Refinishing, replacing, bracing, strengthening, upgrading, or extensive repair of existing materials, elements, components, equipment, or fixtures.

"(B) The term "renovation" shall not include:

"(i) Reconfiguration of space; or

"(ii) Interior and exterior painting.

"(12) "Repair" means the patching, restoration, or minor replacement of materials, elements, components, equipment, or fixtures for the purpose of maintaining these materials, elements, components, equipment, or fixtures in good or sound condition.

"(b) The Mayor shall issue rules to adopt the BRC, which shall be modeled on the Nationally Applicable Recommended Rehabilitation Provisions developed by the United States Department of Housing and Urban Development or the International Existing Building Code developed by the International Code Council. The Mayor shall submit the proposed rules to the Council for its review within 360 days of the effective date of the HomeStart Regulatory Improvement Amendment Act of 2002, passed on 2nd reading on April 9, 2002 (Enrolled version of Bill 14-184). The Council shall have 90 days, exclusive of Saturdays, Sundays, holidays, and days of Council recess, in which to review and affirmatively approve the BRC. If the Council does not approve the BRC, it shall be deemed disapproved.

"(c) The BRC shall, at a minimum:

"(1) Maintain a level of safety consistent with existing codes and provide for multiple categories of work with multiple compliance standards;

"(2) Be enforceable by the Mayor using existing enforcement procedures;

"(3) Apply to repair, renovation, modification, reconstruction, change of occupancy, and addition to an existing building; and

"(4) Provide for an expedited review process for proposed amendments to the BRC submitted by the Council or another source.

"(d) Within 180 days after the adoption of the BRC and any subsequent amendments thereto, the Mayor shall propose amendments to make the Construction Codes consistent with

the BRC.

"(e) The Mayor, in cooperation with the District of Columbia Building Rehabilitation Code Advisory Council, shall review the BRC and propose amendments at least every 3 years.

"(f) To enable the electronic database established under section 4a to remain current, the Rehabilitation Council shall submit an amendment to DCRA at least 15 days before the effective date of the amendment.

"Sec. 10b. Establishment of the District of Columbia Building Rehabilitation Code Advisory Council.

New
§ 6-1411

"(a) The Mayor shall establish the District of Columbia Building Rehabilitation Code Advisory Council consisting of the following members from among whom the Mayor shall designate a Chair:

"(1) The Director of Housing and Community Development, or his or her designee;

"(2) The Director of the DCRA, or his or her designee;

"(3) The Chief of the Fire and Emergency Medical Services Department, or his or her designee;

"(4) The Chair of the Historic Preservation Review Board, or his or her designee;

"(5) The Chair of the Mayor's Committee on Persons with Disabilities, or his or her designee;

"(6) The Chair of the Building Code Advisory Committee established by Mayor's Order 89-257, November 7, 1989, who shall serve as an ex-officio member; and

"(7) Fourteen members appointed by the Mayor, as follows:

"(A) Four representatives of the building trades who are directly involved or have experience in code setting or enforcement, including plumbers; electricians; heating, ventilation, air-conditioning, and refrigeration contractors; and boiler operators;

"(B) Two architects practicing in the District whose practice involves a significant portion of rehabilitation projects;

"(C) A professional engineer;

"(D) Two contractors specializing in rehabilitation construction;

"(E) A commercial and industrial building owner or developer;

"(F) A multifamily building owner or developer; and

"(G) Three members of the general public.

"(b)(1) The members shall serve a 4-year term; provided, that for the initial appointments under subsection (a)(6) of this section, ½ of the members shall be appointed for 2-year terms.

"(2) A member may continue to serve after the expiration of his or her term until a successor is appointed.

"(3) A member appointed to fill a vacancy, or after a term has begun, shall serve only for the remainder of the term and until a successor is appointed.

"(4) Appointed members shall serve no more than 2 terms.

"(5) Members shall serve without compensation and shall be reimbursed for reasonable expenses.

"(c) The Rehabilitation Council shall:

"(1) Advise the Mayor on the development, adoption, and revisions to the BRC;

"(2) Develop, to the extent possible, the BRC to avoid increased costs to the District arising from implementation of the BRC; and

"(3) Provide, to the extent District funds are available, training on the BRC for District personnel responsible for administering the BRC and for public and private construction-related professionals.

"(d) DCRA shall provide administrative and staff services to the Rehabilitation Council."

Sec. 202. Repealer.

(a) Chapter 36 of Title 12A of the District of Columbia Municipal Regulations (12A DCMR § 3600 *et seq.*), is repealed.

DCMR

(b) This section shall apply as of the earlier of the effective date of the Building Rehabilitation Code promulgated pursuant to section 10a of the Construction Codes Approval and Amendments Act of 1986, passed on 2nd reading on April 9, 2002 (Enrolled version of Bill 14-184), or the adoption by the Mayor of the 2003 International Existing Building Code -- Final Draft, published by the International Code Council, Inc.

TITLE III. IMPLEMENTATION.

Sec. 301. 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.*), the Mayor may issue rules to implement the provisions of this act.

Note,
§§ 6-1403.01,
6-1405.02 - 6-
1405.04, 6-
1401, 6-1410,
6-1411

Sec. 302. Fiscal impact statement.

The Council adopts the fiscal impact statement 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. 303. 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

ENROLLED ORIGINAL

24, 1973 (87 Stat. 831; 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