

**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 (2008 Repl. & 2012 Supp.)) and Mayor's Order 2009-22, dated February 25, 2009; and the Director of the Department of Consumer and Regulatory Affairs (Director), pursuant to the authority set forth in Section 12 of the Green Building Act of 2006, effective March 8, 2007 (D.C. Law 16-234; D.C. Official Code § 6-1451.11 (2008 Repl. & 2012 Supp.)) (Green Building Act), Mayor's Order 2007-206, dated September 21, 2007, and Mayor's Order 2010-1, dated January 5, 2010, hereby give notice of the adoption of the following emergency rulemaking amending Subtitle A (Building Code Supplement) of Title 12 (D.C. Construction Codes Supplement of 2008) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking is necessitated by the immediate need to establish a transition provision for residential projects subject to Construction Codes regulations adopted pursuant to the Green Building Act. Specifically, this emergency rulemaking applies to privately-financed hotels and motels that were under development prior to August 2, 2013, when a revision to the Green Building Act regulations was published in the *D.C. Register* (60 DCR 11287), which revised the definition of "residential" for purposes of the Green Building Act and implemented regulations to exclude Group R-1 occupancies, a use group that includes hotels and motels.

This emergency rulemaking was adopted on September 9, 2013, 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 January 7, 2014.

The Chairperson and Director also hereby give notice of the intent to take final rulemaking action to adopt this amendment. Pursuant to Section 10(a) of the Act and Section 12(a) of the Green Building 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 13A (Green Building Act Requirements) of Subtitle A (Building Code Supplement) of Title 12 (D.C. Construction Codes Supplement of 2008) of the District of Columbia Municipal Regulations is amended as follows:**

*Insert new Section 1301.1.12 in the Building Code to read as follows.*

**1301.1.12 Transitory Provisions Applicable to Certain Projects.** Privately-financed Group R-1 *projects* shall be permitted to utilize the definition of *residential* in the *Green Building Act* regulations (Chapter 13A) adopted on November 14, 2012 and published in the *D.C. Register* on November 30, 2012 (59 DCR 13942) for the purposes specified in

Sections 1301.1.12.1 through 1301.1.12.3. Privately-financed Group R-1 *projects* that do not meet the requirements of Sections 1301.1.1.12.1, 1301.1.1.12.2, or 1301.1.1.12.3 are required to utilize the definition of *residential* in the *Green Building Act* regulations (Chapter 13A) in the emergency rulemaking adopted on and effective as of August 2, 2013 (60 DCR 11287).

**1301.1.12.1 Existing Valid Permit.** Work authorized by a permit issued on or before August 2, 2013 shall be allowed to be carried to completion.

**1301.1.12.2 Existing Filed Application.** Applications for permits for which the application filing deposit has been paid on or before August 2, 2013 shall be allowed to be processed to issuance of the permit, and any work authorized thereby shall be allowed to be carried to completion, under the definition of *residential* in effect on the date said applications were filed, subject to the following conditions:

1. Each such application shall have been filed accompanied by plans and other information conforming to Sections 106.1 and 106.1.1, sufficiently complete to allow processing of the permit without substantial change or deviation;
2. Each such permit shall be paid in full and taken out by the applicant within one year after August 2, 2013;
3. All work authorized by such permit shall be carried to completion under the terms of the permit; and
4. Permits granted under Section 1301.1.12.2 shall not be extended if permitted to expire, pursuant to Section 105.5, or if revoked pursuant to Sections 105.6 and 105.6.1.

**1301.1.12.3 Existing Design Contracts.** *Buildings* and other *structures* under contract for design on or before August 2, 2013, for which no permit applications have been filed, shall be allowed to be filed, processed to issuance of permit, and any work authorized thereby shall be allowed to be carried to completion, under the definition of *residential* in the implementing regulations (Chapter 13A) in force on November 30, 2012, subject to the following conditions:

1. The applicant shall file the permit application, accompanied by plans and other information conforming to Sections 106.1 and 106.1.1, sufficiently complete to allow processing of the permit without substantial change or deviation, within one year after August 2, 2013;
2. The applicant shall submit a copy of the design contract, with a notarized affidavit stating that the submitted copy is a true and accurate copy of the contract for the design of the *building* or other *structure*, that the contract was in effect on or before August 2, 2013, and that the design submitted

with the permit application was made under such contract;

3. The permit shall be obtained and the permit fee paid in full by the applicant within one year after the filing date;
4. All work authorized by such permit shall be carried to completion under the terms of the permit; and
5. Permits granted under Section 1301.12.1.3 shall not be extended if permitted to expire pursuant to Section 105.5, or if revoked pursuant to Sections 105.6 and 105.6.1.

All persons desiring to comment on these proposed regulations should submit comments in writing to Paul Waters, Construction Codes Coordinating Board Chairperson, Department of Consumer and Regulatory Affairs, 1100 Fourth Street, SW, Room 5100, Washington, D.C. 20024, or via e-mail at [paul.waters@dc.gov](mailto:paul.waters@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 DCRA website at <http://dcra.dc.gov> by going to the "About DCRA" tab, clicking on "News Room", and then clicking on "Rulemaking".