DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF FINAL RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to the authority set forth in D.C. Official Code §§ 47-2832.01, 47-2851.12, and 47-2851.20, hereby gives notice of the adoption of a new Chapter 6 (Parking Facilities and Valet Parking) of Title 24 of the District of Columbia Municipal Regulations. This rulemaking amends the parking facilities and parking facilities attendant rules to establish requirements for valet parking companies. In addition, it amends the name of the chapter.

Proposed regulations were published in a Notice of Proposed Rulemaking on October 10, 2008, in the *D.C. Register* at 55 DCR 10338. In response to comments received, the regulations were revised to: (1) change references from "parking lot" to "parking facility"; (2) require proof of sufficient insurance, rather than a bond; (3) modify application requirements for a parking facility license; (4) revise construction and fire safety requirements; (5) eliminate license requirement for valet parking attendants; and (6) clarify business practice requirements.

A second Notice of Proposed Rulemaking was published on July 31, 2009, in the *D.C. Register* at 56 DCR 6053. One comment was received, but no changes have been made.

These final rules will be effective upon publication of this notice in the *D.C. Register.*

24 DCMR Chapter 6 is amended to read as follows:

CHAPTER 6 PARKING FACILITIES AND VALET PARKING

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600 Administration and Enforcement
601 Insurance
602 Parking Facility License
603 Application for Parking Facility License
604 Transfer and Modification of Licenses
605 Construction, Fire Safety, Fencing, Driveways, and Paving
606 Inspection of Premises
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600. ADMINISTRATION AND ENFORCEMENT

600.1 No person, firm, corporation, co-partnership, association, trustee, or administrator shall engage in any of the businesses designated in this chapter without first having obtained the appropriate license or licenses under this chapter.

600.2 All licenses shall be issued by the Director of the Department of Consumer and Regulatory Affairs (Director) or the Director's designee.

600.3 Any license issued under this chapter may be suspended or revoked by the Director for failure of the licensee to comply with the laws or regulations applicable to the licensed business under this chapter.

600.4 Any violation of any of the provisions of this chapter shall subject the offender to the penalties prescribed in D.C. Official Code § 47-2846 (2001) and Title 16, Chapter 32 of the District of Columbia Municipal Regulations.

600.5 Any person who makes any false or misleading statement in the filing of any information required under this chapter shall be subject to the penalties prescribed in D.C. Code § 47-2846 (2001) and may have his or her license suspended or revoked by the Director.

601. INSURANCE

601.1 Prior to issuance of a license, an applicant for a parking facility license or a valet parking license shall furnish to the Director a certificate of insurance, issued by an insurer authorized to do business in the District, evidencing umbrella coverage of a minimum of two million dollars ($2,000,000).

601.2 Each licensee shall give, in writing, advance notice to the Director prior to the cancellation or lapse of the policy. The licensee shall maintain the insurance required under this chapter in full force and effect for the duration of the license period.

601.3 Violation of this section shall be grounds for the Director to suspend or revoke the license.

602. PARKING FACILITY LICENSE

602.1 Owners or managers of any premises, or parts of any premises, where vehicles of any description are stored or kept for other people, for profit or gain, shall obtain a license and pay a license fee, except as provided in § 602.2; such businesses shall also obtain all other business licensure as required by law or regulation. Any parking facility licensee that operates valet parking services, as defined in § 613.1, shall also obtain a valet parking license, as provided in § 613.

602.2 In cases where a person or business operates parking facilities in multiple locations, each parking facility location shall require a separate license.

602.3 Where the area of a parking facility is five hundred square feet (500 $ft.^2$) or less, the provisions of this chapter shall not apply.

602.4 Where the area of a parking facility is more than five hundred square feet (500 $ft.^2$), the owner or manager of the parking lot shall obtain a license and pay a license fee.

602.5 Each license shall be valid for two (2) years and shall expire at the end of the license period.

602.6 Where more than one (1) of the designations of parking facilities is conducted or operated by any one (1) person, the license fee shall be paid for each type of business designation.

602.7 Each licensee shall comply with all applicable traffic laws and parking regulations when providing parking facility services.

603. APPLICATION FOR PARKING FACILITY LICENSE

603.1 No license for a parking facility issued under the provisions of this chapter shall be issued until application is made to the Department of Consumer and Regulatory Affairs (Department), upon a form furnished by the Director.

603.2 Each application shall be signed by the owner or manager of each business and shall correctly set forth the information required on the application form.

603.3 Each applicant shall correctly state the following:

(a) The ownership and location of the premises, or the parts of the premises, to be used for the storage and keeping of vehicles;

(b) The area in square feet ($ft.^2$) to be used in the business;

(c) For surface parking lots, a description of any curbing or fencing to be maintained as required under § 605 of this chapter; and

(d) Any other information deemed necessary and appearing on the application form that is provided.

603.4 Each application shall be accompanied by a Certificate of Occupancy issued for the property to be used by the applicant. Applicants for surface parking lots shall additionally provide a plat showing the size and area of the land, as prepared by the District Surveyor.

603.5 Where fences, copings, driveways, or other uses of public space are required, they must meet the requirements of and be permitted by the District Department of Transportation.

603.6 An applicant who is not a resident of the District of Columbia shall, as a condition to the issuance of a license, employ as his or her agent a person who is a resident of the District or who has a place of business in the District, and upon whom may be served all notices and court processes in connection with or arising out of the licensee's business operation.

The designated agent shall certify on the application that he or she has agreed to act as an agent for the licensee.

603.7 The appointment or employment of an agent shall be maintained during the period of time for which a license is issued; whenever any change is made in the appointment or employment of the agent required by this section, the licensee shall deliver to the Director a written notice of the change not less than five (5) days after the change.

603.8 The Director, upon finding that an agent designated by a licensee in accordance with the requirements of this section is not, after reasonable search, to be found in the District for the purpose of serving the licensee any notice or process required to be served, may institute a proceeding for the suspension or revocation of the license issued to the licensee; and notice of the suspension or revocation shall be effective if mailed to the last known address of the licensee appearing in the Department's records.

604. TRANSFER AND MODIFICATION OF LICENSES

604.1 Upon any change in the ownership, management, or mailing address of the licensed business, the parking facility licensee shall immediately notify the Director of that fact.

604.2 The new owner, resident general agent, or attorney, as the case may be, shall be responsible for the conduct of the business after a change in ownership or management and shall, in a timely manner, file a new application with the Director.

605. CONSTRUCTION, FIRE SAFETY, FENCING, DRIVEWAYS, AND PAVING

605.1 Parking facilities shall at all times comply with the fire prevention laws and regulations of the District of Columbia.

605.2 No frame structure shall be erected, constructed, or maintained upon any surface parking lot or ground that is more than forty square feet (40 $ft.^2$) in area. Any such structures shall comply with District Construction Codes requirements.

605.3 No license shall be issued for any surface parking lot or ground abutting public space, not including public alleys, unless the division line between the public space and the surface parking lot or ground is marked by the coping or fence required under this section.

605.4 The coping or fence required under this section for surface parking lots shall be built entirely on private property and the licensee shall apply for the necessary permitting.

605.5 Coping shall consist of a regulation eight inch (8 in.) coping made of concrete.

605.6 Fencing shall be of an approved design, not less than two feet six inches (2 ft. 6 in.) in height; and may be made of cable, bar, wire, or chain construction with concrete, iron, pipe, or wood posts.

605.7 Failure to erect or maintain the coping or fence for surface parking lots required under this section shall be a violation of this chapter.

605.8 All curb cuts and driveways shall meet the specifications of and be permitted by the District Department of Transportation.

605.9 Businesses abutting on one (1) street shall be limited to two (2) driveways, and businesses abutting on two (2) or more streets shall be limited to three (3) driveways.

605.10 Lots and grounds paved with impervious material shall be graded and provided with approved drains so that no drainage will flow across the sidewalk.

605.11 No paving on public space shall be done without first obtaining permit from the District Department of Transportation.

606. INSPECTION OF PREMISES

606.1 Licensed premises shall be open during business hours to inspection by authorized agents of the District government.

606.2 No person shall obstruct or interfere with any District agent when the agent is on official inspection business.

607. PARKING OF VEHICLES

607.1 At the time of the acceptance of the motor vehicle for parking in or upon a licensed premise, the licensee shall supply a claim check or receipt to the person leaving the vehicle for storage.

607.2 Each claim check or receipt shall be distinctly numbered to correspond with a coupon that shall be placed upon the motor vehicle during the time the vehicle is stored.

607.3 Each claim check shall show on its face the following:

(a) The personal or business name of the licensee; and

(b) The street address of the premise where the vehicle is stored; or

(c) A claim number the licensee can rely upon to determine the location where the vehicle is stored.

607.4 On premises not having motor vehicle servicing facilities, or that use overflow premises for storage, a notice or sign shall be placed in a conspicuous location notifying the public of the fact that vehicles are stored off-premises.

607.5 No vehicle shall be parked or caused to be parked so that it or any part of it is on or projects over public space, except as provided in Chapter 2 of this Title.

608. OPERATING REQUIREMENTS

608.1 Each parking facility licensed under this chapter shall be kept free from broken glass and other objects that could cut or damage the tires on vehicles parked at the facility.

608.2 At all times, licensees shall keep sidewalks, parkings, or any public space immediately abutting the licensed premises, free and clear of dirt, gravel, mud, stones, grease, and oil.

608.3 No person soliciting another to park an automobile shall solicit in such manner as to create a traffic hazard, or obstruct or interfere with the free passage of pedestrians or vehicles.

608.4 Any parking facility that operates a manlift or any similar device, or allows any employee to utilize such a device on the premises of the parking facility, shall ensure that:

(a) The device is properly licensed;

(b) The parking facilities' employees are properly trained in the use of the device; and

(c) Operation of the device is in compliance with applicable District laws and regulations.

609. PARKING FACILITY SIGNS AND NOTICE OF PARKING FEES

609.1 In all areas other than those zoned only for residential use, each licensee shall place and maintain a legible and conspicuous sign that is clearly visible at every entrance to the licensed premises. Each sign shall state the name of the licensee and the hours of the day and night during which the premises are open and attended for the storage of vehicles; and it shall comply with all applicable regulations in force in the District of Columbia.

609.2 Each sign shall also state, in a clearly visible manner, the hourly and daily rates charged for the storage of vehicles on the paid premises.

609.3 No licensee shall charge, or permit to be charged, any greater fee than is posted at the time of entry. Rates applicable to weekly or monthly contracts, however, need not be posted.

609.4 The provisions of this section shall also apply to parking facilities located in residential zones, except that each sign shall conform to the sign regulations applicable to residential zones.

610. PARKING FACILITY ATTENDANTS

610.1 Except as permitted in § 610.2, any person employed to park or supervise the parking of automobiles in a parking facility, or who parks or supervises the parking of automobiles in a parking facility, must possess a parking facility attendant's license and pay a license fee.

610.2 The owner or operator of a parking facility, or the owner's duly authorized agent, may employ an individual who does not hold a parking facility attendant's license, but who does hold a valid motor vehicle operator's license, to park or supervise the parking of automobiles for not more than seventy-two (72) hours before the submission by the attendant of an application to the Director, and upon the issuance by the Director of a receipt prescribed in this section.

610.3 Each license shall be valid for two (2) years.

610.4 The licensee shall carry the license issued under this section on his or her person at all times while engaged in the licensed occupation.

610.5 The licensee shall exhibit his or her license on demand to any customer of the parking lot, or to any authorized representative of the District government.

610.6 The license issued to any individual may be revoked at any time in accordance with the terms of D.C. Official Code § 47-2844 (2001).

610.7 No person shall be issued a parking facility attendant's license unless he or she possesses a valid motor vehicle operator's license.

610.8 No person shall operate a motor vehicle under the authority of a parking facility attendant's license unless the person also has been issued, and has in his or her possession at the time of operating the motor vehicle, a valid motor vehicle operator's license.

610.9 While providing parking facility services, each licensee shall wear a uniform that identifies the licensee as working for a parking lot company.

611. APPLICATION FOR PARKING FACILITY ATTENDANT'S LICENSE

611.1 Any individual desiring a parking facility attendant's license shall correctly provide, upon a form prescribed by the Director, the following information:

(a) The applicant's full name and address;

(b) The applicant's color of hair and eyes;

(c) The applicant's date of birth and sex;

(d) The number and date of expiration of the applicant's motor vehicle operator's license; and

(e) A statement of whether the applicant has ever been convicted of a felony or misdemeanor.

611.2 Each applicant shall include with his or her application a copy of the applicant's police record from the jurisdiction in which he or she resides on the date of the application, which is certified by the chief of police of that jurisdiction.

611.3 On receipt of the application, the Director shall issue to the applicant a receipt, certifying that the application has been received.

611.4 Upon the approval of the application by the Director, the Director shall issue to the applicant a license for two (2) years.

611.5 When an applicant for a parking attendant's license has submitted his or her application and has been issued the receipt by the Director, as provided for in this section, that receipt shall have the full force and effect of a license until the Director either issues the license or denies the application. The Director may require additional information or documentation necessary to determine the applicant's fitness to receive a license and may deny a license to an applicant who fails to provide the required information or supporting documentation.

611.6 In addition to those grounds otherwise outlined by law or regulation, the Director shall have the authority to deny, revoke, or suspend the license if the applicant or licensee:

(a) Fails to meet or maintain the qualifications for licensure as outlined in this chapter; or

(b) If the Director finds that the applicant or licensee shows a disregard for safety, property, welfare of an individual, or the general public, or is otherwise unfit to work as a parking lot facility attendant.

612. NON-DRIVING PARKING FACILITY ATTENDANTS

612.1 Notwithstanding the requirements of § 610.9 of this section, the Director may waive the requirement that the applicant possess a valid motor vehicle operator's license when an application is accompanied by the following:

(a) An affidavit from the owner or operator of the parking facility at which the applicant is to be employed stating that the applicant will, under no circumstances, be required or allowed to operate a motor vehicle while he or she is employed as a parking attendant in that establishment; and

(b) An affidavit from the applicant stating that the applicant will not operate any motor vehicle while he or she is employed as a parking attendant.

612.2 Any parking facility attendant subject to § 612.1 shall have clearly indicated on his or her license information identifying the attendant as a person not authorized to operate a motor vehicle in the course of his or her employment.

612.3 The operation of a motor vehicle in the course of employment by a parking facility attendant subject to § 612.1 shall constitute a violation of this chapter. Conviction of this violation shall constitute grounds for the revocation of the license issued to the attendant.

612.4 A parking facility attendant subject to § 612.1 shall submit a new application for a parking facility attendant's license if the terms of employment of the parking facility attendant require him or her to operate a motor vehicle.

613. VALET PARKING LICENSE

613.1 Owners or managers of businesses that take a vehicle in public space and park it, for profit or gain, shall obtain a license and pay a license fee (such fee is separate from any fees required by the District Department of Transportation pursuant to Chapter 16 of Title 24 of the District of Columbia Municipal Regulations). Any valet parking licensee that operates a parking facility, as defined in § 602.1, shall also obtain a parking facility license, as provided in § 602; provided, that a parking facility licensee shall not be required to obtain a valet parking license for services provided by the parking facility licensee's parking attendants.

613.2 Each license shall be valid for two (2) years, shall be good only for the specific designation on the license, and shall expire at the end of the license period.

613.3 Each licensee shall comply with all applicable traffic laws and parking regulations when providing valet parking services.

614. APPLICATION FOR VALET PARKING LICENSE

614.1 No license for valet parking issued under the provisions of this chapter shall be issued until application is made to the Department of Consumer and Regulatory Affairs, upon a form furnished by the Director.

614.2 Each application shall be signed by the owner or manager of each business and shall correctly set forth the information required on the application form.

614.3 No license shall be issued unless the applicant certifies that he or she has reviewed applicable District zoning laws and regulations and the applicant's business is not required to obtain a Certificate of Occupancy.

614.4 An applicant who is not a resident of the District of Columbia shall, as a condition to the issuance of a license, employ as his or her agent a person who is a resident of the District or who has a place of business in the District, and upon whom may be served all notices and court processes in connection with or arising out of the licensee's business operation. The designated agent shall certify on the application that he or she has agreed to act as an agent for the licensee.

614.5 The appointment or employment of an agent shall be maintained during the period of time for which a license is issued; whenever any change is made in the appointment or employment of the agent required by this section, the licensee shall deliver to the Director a written notice of the change not less than five (5) days after the change.

614.6 The Director, upon finding that an agent designated by a licensee in accordance with the requirements of this section is not, after reasonable search, to be found in the District for the purpose of serving the licensee any notice or process required to be served, may institute a proceeding for the suspension or revocation of the license issued to the licensee; and notice of the suspension or revocation shall be effective if mailed to the last known address of the licensee appearing in the Department's records.

615. TRANSFER AND MODIFICATION OF LICENSES

615.1 Upon any change in the ownership, management, or mailing address of a licensed valet parking business, the licensee shall immediately notify the Director of that fact.

615.2 The new owner, resident general agent, or attorney, as the case may be, shall be responsible for the conduct of the business after a change in ownership or management and shall, in a timely manner, file a new application with the Director.

616. VALET PARKING OF VEHICLES

616.1 At the time of the acceptance of the motor vehicle for valet parking, the licensee shall supply a claim check or receipt to the person leaving the vehicle for valet parking.

616.2 Each claim check or receipt shall be distinctly numbered to correspond with a coupon that shall be placed upon the motor vehicle's dashboard during the time the vehicle is valet parked.

616.3 Each claim check or receipt shall show, on its face, the personal or business name of the licensee.

616.4 For each vehicle that has been valet parked by the licensee, the licensee shall store the keys of that vehicle in a secure manner and location.

616.5 No motor vehicle shall be parked or caused to be parked so that it is parked in a public space not zoned for the parking of motor vehicles, or in a manner proscribed by the District Department of Transportation in Title 24, Chapter 16 of the District of Columbia Municipal Regulations.

617. VALET PARKING SIGNS AND NOTICE OF VALET PARKING FEES

617.1 Each licensee shall place and maintain a legible and conspicuous sign that complies with the requirements of the District Department of Transportation, as provided for in Title 24, Chapter 16 of the District of Columbia Municipal Regulations.

617.2 Each sign shall state the fees charged for the valet parking of motor vehicles.

617.3 No licensee shall charge, or permit to be charged, any greater fee than is posted.

618. PENALTIES

618.1 Each licensee shall be liable for all penalties provided for violation of any of the provisions of this chapter, whether the violations are committed by the licensee or the licensee's agent or employee.

618.2 Pursuant to D.C. Official Code § 47-2846, any person violating any provision of this chapter shall, upon conviction, be fined not more than three hundred dollars ($300) or imprisoned for not more than thirty (30) days, or both.

618.3 Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of this regulation pursuant to titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985. Adjudication of any infraction of this regulation shall be pursuant to titles I-III of the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985.

619. NOTICE OF PROPOSED ACTION AND APPEAL RIGHTS

619.1 If the Department proposes to deny, suspend or revoke a license, a written notice shall be provided to the applicant or licensee, which states the proposed action and the basis for the proposed action.

619.2 The notice required under § 619.1 shall advise the applicant or licensee of the right to request a hearing within ten (10) business days (excluding Saturdays, Sundays, and legal holidays) from the date of the service of the notice.

619.3 The notice shall advise that the action proposed or recommended will be taken at the expiration of ten (10) calendar days after service of the notice unless an appeal is taken.

619.4 The notice shall be:

(a) Served personally upon the applicant or licensee, or the applicant or licensee's agent; or

(b) Sent by first class mail to the home or business address of the applicant or licensee, or the applicant or licensee's agent, appearing on the application or license.

619.5 A notice that is returned by the post office for reason of refusal of the addressee to accept delivery, or incorrect address, is deemed to have been properly served on the addressee by mail.

619.6 An applicant may not file a separate application during the appeal process.

620. HEARINGS AND APPEAL

620.1 Any licensee on whom a notice has been served pursuant to § 619 may file a written notice of appeal with the Office of Administrative Hearings (OAH).

620.2 All hearings and appeals shall be conducted pursuant to the regulations promulgated by OAH. Any stay of an OAH decision that results in the revocation of a license shall be issued pursuant to the procedures set forth by OAH.