

The following Notice of Adoption to promulgate amendments to the rule regarding parking lots and garages was published in the *City Record* on page 4306 on December 15, 2009. The amendments become effective January 14, 2010.

## NOTICE OF ADOPTION

Notice of Adoption of Amendments to Rule to Regarding Parking Lots and Garages.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of the Department of Consumer Affairs by Section 20-104(b) of Chapter 1, and Section 20-331 of Chapter 2, Title 20 of the Administrative Code of the City of New York and in accordance with the requirements of Section 1043 of the New York City Charter that the Department promulgates and adopts amendments to an existing rule regarding parking lots and garages.

These amendments were proposed and published on November 6, 2009. The required public hearing was held on December 7, 2009.

Material being deleted is shown below in brackets and material being be added is underlined.

### RULE

Section 1. The title of section 2-161 of title 6 of the Rules of the City of New York and paragraph (1) of subdivision (d), paragraph (1) of subdivision (f) and paragraph (1) of subdivision (i) of section 2-161 are amended to read as follows:

#### §2-161 [**Certification by Agencies**] **Operation of Parking Lots and Garages.**

(d) (1) The number and types of insurance policies carried by the applicant for a license, must be set forth on the face of the application and must be reasonably adequate, in the opinion of the Commissioner, to protect the public, which policies shall include coverage for legal liability[, for operations including] resulting from operation on the licensed premises of vehicles and bicycles owned by the licensee [and owned] or by third persons, for injury or [damages] damage to person or property and garage keepers liability, in the sum of not less than \$100,000 for personal injury to any one person and \$300,000 for personal injury to two or more persons and \$25,000 for [damages] damage to property.

(f) (1) (i) Motor vehicles shall not be stored or parked by licensees on public streets, avenues, highways, or public places except when permission is given by the customer in a written agreement which is signed by the customer.

(ii) Bicycles shall not be stored or parked by licensees on public streets, avenues, highways, or public places.

(i) (1) Every applicant for a license shall file with his application a schedule of rates showing the prices charged for hourly, daily, weekly, and monthly parking or storage of motor vehicles and bicycles, and all other rates charged therefor.

§2. Subparagraphs (ii) and (vi) of paragraph (2) of subdivision (g) of section 2-161 of title 6 of the Rules of the City of New York are amended, and subparagraphs (viii) and (ix) are added, to read as follows:

(ii) Separate signs, having reverse color schemes placed in juxtaposition to each other, shall be used when DAY and NIGHT Rates differ, provided that the DAY Rate sign (black letters on white background) shall be so marked that a motorist parking his vehicle or a bicyclist parking his bicycle when DAY Rates are in effect may, from said schedule, readily and easily determine his total charges should he remove his vehicle or bicycle when NIGHT Rates (white letters and numerals on black background) are in effect.

For Example:

---

DAY RATES	NIGHT RATES
Enter 7 A.M. to 6 P.M.:	Enter 6 P.M. to 2 A.M.:
Up to 1 hour: \$	Up to 1 hour: \$
Up to 2 hours: \$	Up to 2 hours: \$
etc.	etc.,
Maximum to 6 P.M.: \$	Maximum to 2 A.M.: \$

---

One of the following may be used, (whichever policy the Licensee adopts) under the last line of the "DAY Rates" sign.

For Example:

---

Either  
After 6 P.M.\$ ..... for  
each additional hour or part thereof.  
Maximum to 2 A.M.: \$ .....

Or  
After 6 P.M.—NIGHT RATES apply.  
(See attached specimen "No. II")

---

(vi) Each licensee shall also post conspicuously at the public entrance or entrances to the garage or parking facility or, when impossible, in immediate proximity thereto, a separate sign composed of letters and numerals of the same dimensions and specifications as hereinabove set forth, stating the name, address, license number of the Licensee, the licensed capacity of said premises, the minimum number of bicycle parking spaces in said premises, and the business hours thereof.

(viii) Licensees required to provide space for parking bicycles shall post the rate schedules for rates the licensee is authorized to charge for parking bicycles in the same manner as required for posting the rate schedule for vehicles. The signs for the rate schedule applicable to each type of

conveyance shall be clearly marked as DAY or NIGHT RATES for VEHICLES or DAY or NIGHT RATES for BICYCLES, as appropriate.

(ix) The rates initially posted for parking bicycles on or after the effective date of Local Law Number 51 for the year 2009 by licensees required to provide space for parking bicycles by such law shall remain in effect without having been filed with the Commissioner until January 14, 2010, provided such licensee files such rates with the Commissioner prior to such date. No rate shall be in effect thereafter unless a rate change is implemented as provided by law and this subchapter.

§3. Subdivisions (h), (j), (n), paragraph (4) of subdivision (r), and subdivision (s) of section 2-161 of title 6 of the Rules of the City of New York are amended to read as follows:

(h) (1) In the event the maximum capacity of a licensed parking lot or garage has been reached, a sign composed of letters at least six inches in height, must be posted at the public entrance of such garage or parking lot, stating, "Capacity full."

(2) In the event that all available bicycle parking spaces are occupied, a sign composed of letters at least six inches in height, must be posted at the public entrance of such garage or parking lot, stating, "Bike Parking Capacity Filled."

(j) No contract, agreement, lease, receipt, rule or regulation made or issued by any licensee with or to a person who parks or stores a motor vehicle or bicycle in a garage or parking lot operated by such licensee, shall exempt such licensee from liability for damage or loss caused by the negligence of such licensee or any employee of such licensee.

(n) Licensee is not permitted to use a customer's vehicle or bicycle under any circumstances whatsoever except when indispensably necessary to the operation of the business conducted by the licensee in connection with the incidental movement of vehicles or bicycles solely for the purpose of storage.

(r) (4) Whenever an auxiliary time clock is required to be provided as set forth hereinabove, a sign shall be conspicuously posted directly above or adjacent to the clock stating:

---

"CUSTOMER'S TIME CLOCK. THIS CLOCK MAY BE USED BY  
CUSTOMER TO STAMP TIME ON PARKING RECEIPT WHENEVER  
CASHIER CANNOT STAMP RECEIPT IMMEDIATELY UPON CUSTOMER'S  
ARRIVAL TO PICK UP CAR OR BICYCLE"

---

Said statement shall be on a sign or placard at least 12 inches by 18 inches in dimension and shall have letters thereon not less than 1 inch high.

(s) Licensees shall take reasonable care to prevent damage to or loss of a customer's vehicle, bicycle or personal property. Licensees must also respond in writing within 30 days to all written

notices of claim from consumers. A licensee's failure to meet its obligations under this subdivision (s) will subject it to an order to pay damages to the affected party.

§4. Section 2-161 of title 6 of the Rules of the City of New York is amended by adding new subdivisions (t) and (u), to read as follows:

(t) A licensee shall be in compliance with sections 25-80, 36-70 and 44-60 of the zoning resolution regarding bicycle parking for the purpose of exempting licensees from the requirements of subdivisions (a) through (f) of section 20-327.1 of the administrative code of the city of New York only if such licensee files with the Department an affidavit affirming it is in full compliance with the requirements specified such sections of the zoning resolution.

(u) A licensee who is granted a waiver from compliance with the requirements of section 20-327.1 of the administrative code of the city of New York as provided by section 20-327.1 (a) (3) of such code shall post a sign in letters at least four inches high adjacent to the public entrance to its parking garage or lot stating "Bike Parking Not Required by Law." Such licensee shall have a copy of the waiver available on premises and shall display it on request.

**Statement of basis and Purpose:** Section 20-104 (b) of the Administrative Code of the City of New York confers on the Commissioner the power to promulgate rules necessary to carry out his or her powers and duties, and to require adequate disclosure by those engaged in licensed activities of both the terms and conditions under which they perform licensed activity...and adequate disclosure of applicable local...law pertinent to consumers' interests regarding the conduct of activities licensed under chapter two. Section 20-330 of the Administrative Code authorizes the Commissioner to promulgate such rules as may be necessary to carry out the provisions of subchapter 18 of such chapter governing parking lots and garages. Local Law Number 51 for the Year 2009 amended such subchapter to require that, unless exempted by such Local Law, the operators of parking lots and garages with an authorized capacity of 100 or more motor vehicles provide a specified number of spaces for parking bicycles, and that such operators post signs prescribed by rules promulgated by the Commissioner describing the rates to be charged for parking bicycles.

The Department amends the applicable provisions of section 2-161 of Chapter 2 of Title 6 of the Rules of the City of New York that prescribe requirements which operators of parking lots and parking garages must follow relating to the parking of motor vehicles. Since those operators who will be required to park bicycles must adhere to the same requirements as apply to the parking of vehicles, the Department amends the provisions of the rule by expanding these requirements to cover the parking of bicycles whenever applicable, including the posting of rate signs for bicycles. Because operators would be unable to make their initial rate filing 60 days in advance to be in effect on the effective date of the law, the Department authorizes such operators to charge such rates for parking of bicycles on the effective date of the law and file with the Department within 60 days after the effective date of this rule. This will enable operators to initiate compliance with their obligation to begin parking bicycles upon the effective date of the law.

Finally, the Department is specifying that an operator, in order to establish that it is exempt from the requirements for parking bicycles as prescribed in Local Law 51 on the basis of compliance with section 25-80, 36-70 and 44-60 of the Zoning Resolution, such operator shall

file with the Department an affidavit affirming its compliance with the applicable provisions of the Zoning Resolution. This will enable the Department to readily identify the operators that qualify for such exemption. The Department also requires that licensees who have obtained a waiver pursuant to section 20-237.1 (a) (3) of the Administrative Code be required to post a sign that bicycle parking is not available at such facility, ensuring that consumers are informed that the facility is not required to provide parking spaces for bicycle. This will avoid confusion about whether a facility is in compliance with the law.