

## New York City Department of Consumer Affairs

### **Notice of Public Hearing and Opportunity to Comment on Proposed Rules**

**What are we proposing?** The NYC Department of Consumer Affairs (“DCA”) is proposing to amend subdivision (a) and (b) of section 2-161 of Subchapter Q of Chapter 2 of Title 6 of the Rules of the City of New York, in relation to the Department’s regulation of Garages and Parking Lots. The proposed amendments will simplify compliance for garage and parking lot license applicants who have previously been approved for a license at same location; align license application requirements with the current practices of New York City; and remove references to outdated information.

**When and where is the Hearing?** The Department of Consumer Affairs will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 AM on Monday, February 12, 2018. The hearing will be in the Department of Consumer Affairs hearing room at 42 Broadway, 5th Floor, New York, NY 10004.

**How do I comment on the proposed rules?** Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the Department of Consumer Affairs through the New York City rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to [Rulecomments@dca.nyc.gov](mailto:Rulecomments@dca.nyc.gov).
- **Mail.** You can mail comments to Casey Adams, Deputy Director of City Legislative Affairs, New York City Department of Consumer Affairs, 42 Broadway, 8th Floor, New York, NY 10004.
- **Fax.** You can fax written comments to Casey Adams, Deputy Director of City Legislative Affairs, at (347) 788-4689.
- **By Speaking at the Hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling (212) 436-0095. You can also sign up in the hearing room before the hearing begins at 10:00 AM on February 12, 2018. You can speak for up to three minutes.

**Is there a deadline to submit comments?** Yes. You must submit any written comments to the proposed rule on or before 5:00 PM on Monday, February 12, 2018.

**What if I need assistance to participate in the Hearing?** You must tell the External Affairs Division if you need a reasonable accommodation of a disability at the Hearing. You must tell us if you need a sign language interpreter. You can tell us by mail at the address given above. You may also tell us by telephone at (212) 436-0095 or by email to [cadams@dca.nyc.gov](mailto:cadams@dca.nyc.gov). Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by 5:00 PM on Thursday, February 8, 2018.

This location has the following accessibility option(s) available: wheelchair accessible.

**Can I review the comments made on the proposed rules?** You can review the comments on the proposed rules made online by going to the website at <http://rules.cityofnewyork.us>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available to the public at the Department's External Affairs Division at 42 Broadway, 8<sup>th</sup> Floor, New York, NY 10004.

**What authorizes DCA to make this rule?** Sections 1043 and 2203(f) of the New York City Charter, and sections 20-104(b) and 20-330 of the New York City Administrative Code authorize the Department of Consumer Affairs to promulgate this proposed amended rule.

**Where can I find DCA's rules?** The Department of Consumer Affairs rules are in title 6 of the Rules of the City of New York.

**What laws govern the rulemaking process?** The Department of Consumer Affairs must meet the requirements of section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of section 1043 of the City Charter.

### **Statement of Basis and Purpose of Proposed Rule**

The NYC Department of Consumer Affairs (“DCA”) is proposing to amend subdivisions (a) and (b) of section 2-161 of Subchapter Q of Chapter 2 of Title 6 of the Rules of the City of New York, in relation to the Department’s regulation of Garages and Parking Lots. The proposed amendments will simplify compliance for garage and parking lot license applicants who have previously been approved for a license at same location; align license application requirements with the current practices of New York City; and remove references to outdated information.

These proposed rules would:

- Eliminate the requirement that a garage and parking lot license may not be issued “unless certificates have been forwarded to the commissioner by the Fire Department, the Department of Buildings, the Bureau of Gas and Electricity in the Department of General Services, and the Department of Ports and Trade when applicable; stating that the premises proposed to be licensed comply with all applicable laws and regulations.”
- Replace the certificate requirement with a self-certification from the applicant that “the premises proposed to be licensed comply with all applicable laws and regulations” and that the applicant is in compliance with all relevant local, state and federal laws.
- Eliminate references to the “Department of Ports and Trade” and “Certificates of Completion,” because they do not currently exist.
- Eliminate the requirement that the “maximum motor vehicle capacity of each garage and parking lot” be taken from an approved Certificate of Occupancy issued by the Department of Buildings.”
- Amend the rule as it relates to maximum motor vehicle capacity to provide that: (1) for applicants that will operate from previously licensed premises, DCA may use the maximum capacity from the previous license; and (2) for applicants that will operate from newly licensed premises, DCA shall require the applicant to provide documents to show the maximum motor vehicle capacity allowed by local, state or federal law, as applicable.

This amendment is being undertaken to reduce regulatory burdens, increase equity, support small business, and simplify and update content to help support public understanding and compliance.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

## Proposed Rule Amendment

Section 1. Subdivisions a and b of section 2-161 of subchapter Q of chapter 2 of title 6 of the Rules of the City of New York are amended as follows:

(a) Except within the discretion of the Commissioner, no license may be issued unless [certificates have been forwarded to the commissioner by the Fire Department, the Department of Buildings, the Bureau of Gas and Electricity in the Department of General Services, and the Department of Ports and Trade when applicable; stating] the applicant certifies, in such form and manner as determined by the Commissioner, that the premises proposed to be licensed comply with all applicable local, state and federal laws and regulations.

(b) The determination of the maximum motor vehicle capacity of each garage and parking lot, which shall appear on the face of the license, shall be made as follows: (1) for previously licensed premises, by adopting the maximum vehicle capacity as stated on the previous license document; and (2) for newly licensed premises and for previously licensed premises seeking an increase in maximum vehicle capacity from the previous license document, by requiring that the applicant submit documents to show the maximum vehicle capacity allowed by local, state or federal laws and regulations, as applicable. Both previously and newly licensed premises must certify, in such form and manner as determined by the Commissioner, that the maximum vehicle capacity being requested complies with local, state and federal laws and regulations, [approved Certificate of Occupancy issued by the Department of Buildings or on the approved Certificate of Completion issued by the Department of Ports and Trade, whichever is] as applicable.

**NEW YORK CITY LAW DEPARTMENT  
DIVISION OF LEGAL COUNSEL  
100 CHURCH STREET  
NEW YORK, NY 10007  
212-356-4028**

**CERTIFICATION PURSUANT TO  
CHARTER §1043(d)**

**RULE TITLE:** Amendment of Rules Governing Commercial Garages and Parking Lots

**REFERENCE NUMBER:** 2017 RG 110

**RULEMAKING AGENCY:** Department of Consumer Affairs

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN  
Acting Corporation Counsel

Date: January 3, 2018

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS  
253 BROADWAY, 10<sup>th</sup> FLOOR  
NEW YORK, NY 10007  
212-788-1400**

**CERTIFICATION / ANALYSIS  
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Amendment of Rules Governing Commercial Garages and Parking Lots**

**REFERENCE NUMBER: DCA-65**

**RULEMAKING AGENCY: Department of Consumer Affairs**

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Fiona Peach  
Mayor's Office of Operations

January 3, 2018  
Date