

OFFICE OF THE MAYOR

NOTICE OF PROPOSED RULEMAKING

The Mayor pursuant to the authority set forth in section 6(c) of the District of Columbia Smoking Restriction Act of 1979, effective September 28, 1979 (D.C. Law 3-22; D.C. Official Code, § 7-1705(c) (2001)), section 4921 of the Department of Health Functions Clarification Act of 2001, effective October 3, 2001 (D.C. Law 14-28; D.C. Official Code § 7-747), hereby gives notice of his intent to adopt the following amendments to Title 20, Chapter 21 of the District of Columbia Municipal Regulations, (DCMR) in not less than thirty (30) days from the date of publication of this notice in the *D.C. Register*. The proposed amendments would regulate smoking in places of employment and public places, specify the requirements for eligibility for exemptions or waivers from the prohibition of smoking in public places and places of employment, and harmonize existing smoking rules with the requirements for signage under the Department of Health Functions Clarification Amendment Act of 2006, effective April 4, 2006 (D.C. Law 16-90; D.C. Official Code § 7-741 *et seq.*) (2006 Supp.).

Pursuant to § 4921 of the Department of Health Functions Clarification Act of 2001, the proposed rules are being transmitted to the Council of the District of Columbia, and the proposed rules will not become effective until the expiration of the sixty (60) day period of Council review or upon approval by Council resolution, whichever occurs first, and publication of a notice of final rulemaking in the *D.C. Register*.

Title 20 DCMR (Environment) (February 1997) is amended to read as follows:

2100 PURPOSE AND GENERAL PROVISIONS

- 2100.1 The purpose of this chapter is to regulate smoking in public places and places of employment, as required by the District of Columbia Smoking Restriction Act of 1979, as amended, and the Department of Health Functions Clarification Act of 2001, as amended, (the "Acts").
- 2100.2 This chapter shall apply to the following places and entities as of 12:01 A.M. on January 2, 2007:
- (a) A brew pub;
 - (b) A club;
 - (c) A nightclub;
 - (d) A tavern; and
 - (e) The bar and bar area of a restaurant.

2101 PLACE OF EMPLOYMENT AND PUBLIC PLACE SMOKING POLICY

- 2101.1 Each place of employment and public place shall adopt a smoking policy that is consistent with the Acts and this chapter.
- 2101.2 An employer shall notify each employee, both orally and in writing, of the smoking policy for the place of employment.
- 2101.3 The employer's smoking policy shall apply to each person in the workplace, including a visitor.
- 2101.4 An employer shall post the written smoking policy in the place of employment in the same place as the Worker's Compensation notice or any similar employee notice.
- 2101.5 An employer shall prohibit smoking in the enclosed area of a place of employment, except as provided in § 2105.
- 2101.6 An employer may permit smoking in an outdoor area under his or her control, subject to the terms and conditions of any lease contract between the owner and the tenant.
- 2101.7 When an employer of an establishment that is a restaurant, tavern, club, brew pub, or nightclub permits smoking in an outdoor area, the employer shall ensure that no area designated for smoking encompasses an area where smoking is prohibited.
- 2101.8 **Repealed.**

2102 VENTILATION OF SMOKING AREA IN THE WORKPLACE

- 2102.1 For the purpose of applying the Acts to designated smoking areas permitted because the employer is exempt under D.C. Official Code § 7-743 or has obtained an economic hardship waiver under D.C. Official Code § 7-745, all buildings constructed before August 3, 1991, shall be deemed to be in compliance with the ventilation requirements of the District of Columbia Construction Codes, unless the building has undergone a renovation since August 3, 1991, that required a building permit.

2103 POSTING OF SIGNS IN PLACES OF EMPLOYMENT AND PUBLIC PLACES

- 2103.1 The requirements of this section shall supplement the requirements for the posting of warning signs pursuant to DCMR Title 12D, Fire Prevention Code Supplement, and the BOCA National Fire Prevention Code.

2103.2 When smoking is prohibited in a building by the building owner, the owner or the owner's agent shall conspicuously post signs that include the internationally recognized symbol for no smoking and read as follows:

"NO SMOKING UNDER PENALTY OF LAW. MAXIMUM FINE ONE THOUSAND DOLLARS (\$1,000)."

2103.3 When posting signs pursuant to §2103.2, the building owner, or the owner's agent, shall conspicuously post signs at the entrance of the building, inside each elevator, and inside the building in sufficient number to give notice to the public of the law.

2103.4 If a building owner does not prohibit smoking and a tenant of the building owner permits smoking because it is exempt under D.C. Official Code § 7-743 or has obtained an economic hardship waiver under D.C. Official Code § 7-745, the owner or the owner's agent shall conspicuously post signs that include the internationally recognized smoking symbol and read as follows:

"NO SMOKING EXCEPT IN SMOKING AREAS. MAXIMUM FINE ONE THOUSAND DOLLARS (\$1,000)."

2103.5 When posting a sign pursuant to §2103.4 the building owner, or the owner's agent, shall conspicuously post signs at the entrance to the building, inside each elevator, and inside the building in sufficient number to give notice to the public of the law.

2103.6 An employer shall conspicuously post one of the following signs in a place of employment:

- (a) If the employer is not exempt under D.C. Official Code § 7-743 or has not obtained an economic hardship waiver under D.C. Official Code § 7-745, the employer shall conspicuously post signs that include the internationally recognized no-smoking symbol and read as follows:

"NO SMOKING UNDER PENALTY OF LAW. MAXIMUM FINE ONE THOUSAND DOLLARS (\$1,000)."; or

- (b) If the employer is exempt under D.C. Official Code § 7-743 or has obtained an economic hardship waiver under D.C. Official Code § 7-745, the employer shall conspicuously post signs that include the internationally recognized smoking symbol and read as follows:

"NO SMOKING EXCEPT IN SMOKING AREAS. MAXIMUM FINE ONE THOUSAND DOLLARS (\$1,000)."

- (d) Evidence that demonstrates that the place of employment or public place incurred an economic hardship because of eliminating smoking instead of other factors including evidence that the place of employment or public place:
- (1) Operated during the same number of hours;
 - (2) Was open the same number of days;
 - (3) Was open on the same high business days;
 - (4) Sold food and beverages from a menu similar in selection and cost;
 - (5) Maintained the same management and staffing strategy;
 - (6) Did not fail to respond to new competitors who entered the market;
 - (7) Maintained a similar or enhanced marketing strategy; and
- (e) A description of the actions the place of employment or public place plans to take to minimize the effects of smoking on non-smoking patrons or visitors as a result of a waiver.

2107.5

If the Board grants a waiver under this section for a restaurant, the Board shall require that the area where smoking is permitted shall not exceed twenty-five percent (25%) of the total indoor area. The Board may require additional conditions or restrictions that may be necessary to minimize the adverse effects of smoking consistent with the general purpose of D.C. Official Code § 7-741 *et seq.* including the following:

- (a) Prohibiting smoking near restrooms or commonly used pathways and entrances;
- (b) Requiring physical barriers or ventilation systems, or both, between smoking and non-smoking areas;
- (c) Requiring additional or differently sized signs to designate smoking and non-smoking areas; and
- (d) Taking additional measures to minimize employee exposure to secondhand smoke.

2107.6

The Board may grant a waiver for a period not to exceed three (3) years. The waiver shall be:

- (a) For a specific location and not transferable; and

- (b) For a specific applicant and not transferable to a new owner.
- 2107.7 An applicant aggrieved by a ruling of the Board may seek review before the Office of Administrative Hearings.
- 2107.8 The Director shall conduct periodic inspections to ensure that the holder of a waiver complies with the requirements of this section or any conditions or restrictions contained in the waiver.
- 2107.9 A public place or place of employment may be eligible to renew a waiver after the expiration of an existing waiver so long as an applicant for a renewal waiver can demonstrate to the Board by a preponderance of evidence that:
- (a) The place of employment or public place to which the Board has already granted a waiver has remained in compliance with the requirements of the waiver and has not admitted to or been found liable for two (2) or more notices of violation for violations of the waiver stipulations, the Acts, or this chapter during the duration of the waiver; and
- (b) The lapse of an economic hardship waiver would unfairly and unequivocally subject the public place or place of employment to substantial economic hardship that would be directly attributable to the requirements of this chapter and of this Act rather than extraneous factors as may be deemed by the Board.
- 2107.10 The Board may suspend or revoke a waiver upon finding that the holder of a waiver has violated a condition or restriction or has failed to comply with the requirements of this chapter or the Acts that have not been waived.
- 2107.11 The Board may make available, until July 1, 2007, a temporary economic hardship waiver for hotels, motels, and convention halls that scheduled events prior to April 4, 2006. To qualify for a temporary economic hardship waiver, a hotel, motel, or convention hall must present documentation to the Board that a contract or other agreement was entered into on or before April 4, 2006 for an event scheduled to take place after January 1, 2007. Eligible events must take place in enclosed areas that are separate from other areas accessible to the general public.
- 2108 DISTRIBUTION OF FREE CIGARETTES**
- 2108.1 No person, agent, or employee of any person shall, in the course of doing business, distribute any free cigarettes or other tobacco products to any person on any public street, public sidewalk, public park, playground, in a public building, other public property, or private property open to the public.

- 2103.7 The internationally recognized smoking and no-smoking symbols required for each of the signs described in this section shall be in a typeface that is at least as large as the largest lettering on the sign.
- 2103.8 The employer shall post the signs required by §2103.6 in the following places that are open to or used by employees or the public:
- (a) At an entrance to the place of employment; and
 - (b) On the interior of any non-smoking area so that they are visible to employees and the public.

- 2103.9 If the employer is exempt under D.C. Official Code § 7-743 or has obtained an economic hardship waiver under D.C. Official Code § 7-745, the employer shall conspicuously post in a designated smoking area a sign that states the following:

“SMOKING IN ACCORDANCE WITH EMPLOYER’S SMOKING POLICY ONLY, SMOKING CAUSES LUNG CANCER, HEART DISEASE, EMPHYSEMA, AND MAY CAUSE FETAL INJURY, PREMATURE BIRTH, AND LOW BIRTH WEIGHT IN PREGNANT WOMEN. MAXIMUM FINE ONE THOUSAND DOLLARS (\$1,000).”

2104 PLACES LICENSED TO SELL TOBACCO PRODUCTS

- 2104.1 It shall be unlawful for any person to sell, give, or furnish any tobacco products to any person younger than eighteen (18) years of age.
- 2104.2 Any person who sells any cigarette or other tobacco product who has reasonable cause to believe that a person who attempts to purchase the product is under twenty-five (25) years of age shall require that the purchaser present identification that indicates his or her age.
- 2104.3 The owner, manager, or other person in charge of any business licensed to sell cigarettes or any tobacco product under D.C. Official Code §47-2404 (2001), shall conspicuously post signs that state in letters not less than three-quarters of an inch (3/4 in.) in height as follows:

“NO PERSONS UNDER EIGHTEEN (18) YEARS OF AGE SHALL PURCHASE ANY CIGARETTE OR OTHER TOBACCO PRODUCT. THE UNITED STATES SURGEON GENERAL HAS ISSUED A WARNING THAT SMOKING CAUSES LUNG CANCER, HEART DISEASE, EMPHYSEMA, AND MAY COMPLICATE PREGNANCY. MAXIMUM CRIMINAL FINE ONE THOUSAND DOLLARS (\$1,000) AND NINETY (90) DAYS IN JAIL.”

2104.4 The owner, manager, or person in charge shall post the sign required by §2104.3 at the entrance to the business and on the interior of the business near all points of purchase.

2105 EXEMPTIONS

2105.1 The following places shall be exempt from the provisions of this chapter:

- (a) A retail store that has as its primary source of revenue the sale of tobacco products and smoking accessories, provided that:
 - (1) No more than twenty-five percent (25%) of the revenue the store generates is from non-tobacco products; and
 - (2) The store does not share space with any other establishment;
- (b) A tobacco bar;
- (c) An outdoor area of the following:
 - (1) A restaurant;
 - (2) A tavern;
 - (3) A club;
 - (4) A brew pub; or
 - (5) A nightclub;
- (d) A hotel room or motel room rented to one or more guests;
- (e) A medical treatment, research, or nonprofit institution where the activity of smoking is conducted for the purpose of medical research or is an integral part of a smoking cessation program; and
- (f) Upon the stage of a theatrical performance, provided that smoking is part of the theatrical production.

2105.2 A place shall not be exempt under § 2505.1(a), (b), or (e) until it establishes, to the satisfaction of the Director, Department of Health (hereinafter, Director) that it satisfies the revenue requirements to qualify for the exemption or is engaged in an activity that qualifies the place for an exemption. After the Director determines that a place qualifies for an exemption via an audit of the place's financial records, the Director may issue a certificate of exemption to that place. The certificate issued under this subsection shall be valid for not longer than three (3) years and shall not be transferable to another location or another owner. The Director shall have the right to perform annual audits of an exempted business's financial records. If a business fails to qualify for the exemption during any calendar year while the exemption is valid, the exemption certificate of that business shall expire immediately.

2105.3 A conditional certificate of exemption, valid for not longer than ninety (90) days may be made available to a place of employment or public place prior to an audit by the Director if that place asserts, under penalty of perjury, that it meets the revenue requirements or is engaged in an activity that qualifies it for an exemption. During the term of the conditional certificate of exemption, the Director shall audit the place's records and deliver a written decision on the status of the exemption. If an audit validates a place's exemption, that place shall be subject to the requirements of exemptions under § 2105.2. If an audit fails to validate a conditional certificate of exemption, the Director may revoke the conditional certificate of exemption, and the place shall be subject to the requirements of § 2100. If the Director fails to deliver a decision about a conditional certificate of exemption within ninety (90) days, the conditional certificate of exemption shall be extended for thirty (30) day increments until the Director makes that determination.

2106 SMOKING BAN REVIEW BOARD

2106.1 The Smoking Ban Review Board (hereinafter the "Board") is hereby established.

2106.2 The Board is delegated the Mayor's authority to review the applications of places of employment and public places that seek economic hardship waivers under § 2107 of this Title, and grant economic hardship waivers consistent with the requirements § 2107.

2106.3 The Mayor shall appoint no fewer than five (5) representatives to the Board. The Board shall include:

- (a) The Director of the Department of Health or the Director's designee;
- (b) The Deputy Mayor for Planning and Economic Development or the Deputy Mayor's designee;
- (c) A representative for the hospitality industry;

- (d) A representative for the public health or medical community; and
 - (e) A member of the public.
- 2106.4 The Mayor may alter the composition of the Board by rules.
- 2106.5 All Board Members shall be residents of the District of Columbia. After notice, the Mayor shall remove any Member for failure to establish or maintain residency in the District of Columbia.
- 2106.6 The Mayor shall appoint the Chairperson of the Board (hereinafter "Chairperson"). The Chairperson shall preside at all meetings of the Board at which he or she is present, and shall perform such other duties as may be required of him or her by the Board.
- 2106.7 The Board shall receive administrative assistance from the staff of DOH's Tobacco Control Program.
- 2106.8 Regular meetings of the Board shall be held not less than once every thirty (30) days at such time and place as the Chairperson shall determine. If there are no agenda items for a meeting, the Chairperson may cancel a regular meeting until such time as he or she deems appropriate.
- 2106.9 At least ten (10) days in advance of each regular meeting of the Board, notice shall be given to each Member and to the public. Notice of a meeting of the Board shall specify the date, time, and place of a meeting.
- 2106.10 Special meetings of the Board may be called at the discretion of the Chairperson or at the request of the Mayor. At least forty-eight (48) hours in advance of each special meeting of the Board, notice shall be given to each Member and to the public.
- 2106.11 A majority of Members shall constitute a quorum for the transaction of business at any meeting of the Board.
- 2106.12 At the discretion of the Chairperson, any or all Members may participate in a meeting of the Board by means of telephone conference or by any means of communication by which all persons participating in the meeting are able to hear one another, and such participation shall constitute presence in person at the meeting.
- 2106.13 A vacancy in membership shall be filled as quickly as possible. A proxy representative may serve on the Board until such time as the Mayor appoints a permanent Member to the Board.

- 2106.14 An affirmative vote of a majority of the Members present at a meeting at which a quorum exists shall be required for any valid Board action.
- 2106.15 By the following January 31 of each year that the Board has at least one regular or special meeting, the Board Members and staff shall produce a report detailing the following:
- (a) The number of applications received under the requirements of § 2107 of this Title;
 - (b) The types of public places or places of employment seeking a waiver under § 2107 of this Title;
 - (c) The specific provision of D.C. Law 16-90; D.C. Official Code § 7-741 *et seq.* from which applicants sought waivers; and
 - (d) A summary of the Board's decisions on all applications received under § 2107 of this Title including information about:
 - (1) The number of applications that resulted in approval of a waiver;
 - (2) The number of applications that resulted in the denial of a waiver; and
 - (3) The nature of the Board's decisions to deny waiver applications.
- 2106.16 The Mayor may dissolve the Board at a date that he or she deems appropriate.

2107 ECONOMIC HARDSHIP WAIVER

- 2107.1 The Board may, after April 1, 2007, grant a place of employment or a public place an economic hardship waiver from the requirements of this chapter provided that:
- (a) The place of employment or public place was in existence on or before January 1, 2007;
 - (b) The place of employment or public place has not admitted to or been found liable for two (2) or more notices of violation for violations of the Acts or this chapter during the previous one (1) year;
 - (c) The place of employment or public place demonstrates undue financial hardship by a reduction in sales tax receipts for food and beverages of five percent (5%) or more for three (3) consecutive months after January 1, 2007, as compared to the same three (3) month period during the previous two (2) years before January 1, 2007; and

(d) The place of employment or public place demonstrates one or more of the following:

- (1) Sales revenues that fail to reach reasonably expected or anticipated levels for three (3) consecutive months after January 1, 2007 as compared to the same three (3) month period during the previous two (2) years before January 1, 2007;
- (2) Significantly reduced staffing levels for three (3) consecutive months after January 1, 2007, as compared to the same three (3) month period during the previous two (2) years before January 1, 2007;
- (3) Significantly reduced food and materials purchases for three (3) consecutive months after January 1, 2007, as compared to the same three (3) month period during the previous two (2) years before January 1, 2007; or
- (4) Significantly reduced alcohol sales for three (3) consecutive months after January 1, 2007, as compared to the same three (3) month period during the previous two (2) years before January 1, 2007;

2107.2 If the place of employment or public place has not operated for a period of two (2) years before January 1, 2007, it shall demonstrate the requirements of § 2106.1 by comparing a period of three (3) consecutive months during which the place of employment or public place has operated smoke-free to the three (3) month period immediately preceding January 1, 2007.

2107.3 To receive an economic hardship waiver a place of employment or a public place shall submit an economic hardship waiver application to the Board. In not more than ten (10) business days, the Board shall return an incomplete application and inform the applicant of the information necessary to complete the application. The Board shall issue a final decision regarding an application, in writing, not later than sixty (60) days after receipt of a complete application. The written decision shall state the reasons for granting or denying the application.

2107.4 An application for an economic hardship waiver shall include the following information:

- (a) The specific provision(s) from which a place of employment or public place is seeking a waiver;
- (b) A description of the efforts the place of employment or public place has made to operate profitably while smoke-free;
- (c) Exact copies of proprietary sales information, District sales tax statements, and operational data for each three (3) month period described in § 2106.1 used to demonstrate an economic hardship;

2108.2 A person may distribute free cigarettes or other tobacco products only under the following circumstances:

- (a) At a tobacco store to persons eighteen (18) years of age or older,
- (b) At a convention to persons eighteen (18) years of age or older, or
- (c) At a conference catering to persons eighteen (18) years of age or older.

2109 PENALTIES AND FINES

2109.1 Any person who fails to comply with any of the applicable provisions of this chapter shall, upon conviction, be punished as follows:

- (a) Any person smoking in a posted "NO SMOKING" area, disfiguring or removing a "NO SMOKING" sign, or failing to post warning signs as set forth in this Chapter shall, upon conviction, be punishable by a fine of not less than one hundred dollars (\$100) nor more than one thousand (\$1,000) for a first offense; and not less than two hundred dollars (\$200) nor a more than one thousand dollars (\$1,000) for each subsequent offense;
- (b) Each person found covering, removing, disfiguring, or otherwise destroying any sign posted under the provisions of this Chapter shall, upon conviction, be fined five hundred dollars (\$500).
- (c) Each person who fails to post or maintain "No Smoking" signs as required by this chapter shall be punished by a fine not to exceed five hundred dollars (\$500). Each day that the violation continues shall constitute a separate offense and the penalties provided in this paragraph shall be applicable to each offense.
- (d) Each employer or person who manages a public place who fails to warn a smoker observed to be smoking in violation of the Acts and as required by this chapter, shall be punished by a fine not to exceed five hundred dollars (\$500). Each day that the violation continues shall constitute a separate offense and the penalties provided in this paragraph shall be applicable to each offense.

2109.2 Hearings or adjudication of violations under this chapter shall be conducted pursuant to D.C. Official Code § 2-1801.01 *et seq.*, (2001).

2109.3 Pursuant to D.C. Official Code § 22-1320(c), any person licensed to sell tobacco products who violates § 2104.1 or 2104.2 of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred

dollars (\$500) or less than one hundred dollars (\$100), or imprisoned not more than thirty (30) days, or both, for the first offense.

2109.4 Pursuant to D.C. Official Code § 22-1320(c), any person who commits a subsequent violation of §2104.1 or 2104.2 shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than one thousand dollars (\$1,000) or less than five hundred dollars (\$500), or imprisoned not more than ninety (90) days, or both.

2109.5 Pursuant to D.C. Official Code § 7-1731(b), any person who violates §2107.1 of this chapter shall, upon conviction, be fined not less than two hundred fifty dollars (\$250) for each violation.

2299 DEFINITIONS

Acts – D.C. Law 3-22, the District of Columbia Smoking Restriction Act of 1979 (D.C. Official Code § 7-1701 *et seq.*) and D.C. Law 16-90, the Department of Health Functions Clarification Amendment Act of 2001, as amended (D.C. Official Code § 7-741 *et seq.*).

Bar area of a restaurant – the area immediately adjacent to the bar in a restaurant where there are no dining tables or that is primarily the area where persons of legal drinking age consume alcoholic beverages purchased at the bar.

Employee - the license holder, person in charge, person having supervisory or management duties, person on the payroll, volunteer, or person performing work under contractual agreement at a place of employment.

Enclosed area – the space between a floor and ceiling that is enclosed on all sides by solid walls, windows, or doors, exclusive of doorways, that extend from the floor to the ceiling, regardless of whether windows or doors are open.

Existing building – a building that was built, under construction, or had a building permit issued on or before August 3, 1991.

Place of employment – an enclosed area under the control of a public or private employer that employees normally frequent during the course of employment, including work areas, employee lounges, restrooms, conference rooms, classrooms, employee cafeterias, hallways, and vehicles owned by a private employer, if the vehicle is used by more than one person. This term does not apply to a private residence unless it is used as a child development center, adult day care facility, or health care facility.

Public place – an enclosed area to which the public is invited or in which the public is permitted, including banks, educational facilities, health care facilities, Laundromats, public transportation facilities, reception areas, restaurants, retail

food production and marketing establishments, nightclubs, retail service establishments, retail stores, shopping malls, sports arenas, taverns, theaters, and waiting rooms. This term does not apply to a private residence unless it is used as a child development center, adult day care facility, or health care facility.

Smoking – the act of burning a cigar, cigarette, pipe, or any other matter or substance that contains tobacco.

Tobacco bar – a restaurant, tavern, brew pub, club, or nightclub that generates ten percent (10%) or more of its total annual revenue from the on-site sale of tobacco products, excluding sales from vending machines, or the rental of on-site humidors.

Tobacco product(s) – any product made from or containing any percentage of the dried processed leaves of the plant genus *nicotiana* or any byproduct thereof used primarily for the purpose of smoking.

Persons desiring to comment on these proposed rules should submit comments in writing to the Department of Health, Office of the General Counsel, 825 North Capitol Street, N.E., 4th Floor, Washington, D.C. 20002, no later than thirty (30) days after the date of publication of this notice in the D.C. Register. Copies of these proposed rules and related information may be obtained between 9:00 A.M. and 5:30 P.M. at the address stated above.

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1333 H STREET, N.W., SUITE 200, WEST TOWER
WASHINGTON, D.C. 20005

NOTICE OF PROPOSED RULEMAKING

TELEPHONE TARIFF 06-9, IN THE MATTER OF THE APPLICATION OF VERIZON
WASHINGTON, DC INC. FOR AUTHORITY TO AMEND THE LOCAL EXCHANGE
SERVICES TARIFF, P.S.C.-D.C.-NO. 202

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to D.C. Official Code Section 2-505,¹ of its intent to act upon the Application of Verizon Washington, DC Inc. ("Verizon DC")² in the above-captioned matter in not less than 30 days from the date of publication of this Notice of Proposed Rulemaking ("NOPR") in the *D.C. Register*.

2. On November 21, 2006, Verizon DC filed an Application requesting authority to amend the following tariff pages:

LOCAL EXCHANGE SERVICES TARIFF, P.S.C.-D.C.-NO. 202

Section 2, 7th Revised Page 2

8th Revised Page 3

1st Revised Page 8

3. In its Application, Verizon proposes to increase the monthly recurring rates for Business Message Rate Line from \$15.00 to \$16.50 (10%) and Business Message Units from \$.094 to \$.103 (10%). Verizon also states that it is grandfathering the Business Message 24-month Optional Term Agreement rate of \$12.30. Finally Verizon asserts that, beginning April 1, 2007, any new customers who subscribe to the 24-month option will be charged a rate of \$13.50.

4. The complete text of the tariff is on file with the Commission. Copies of the Application and the existing tariff may be reviewed at the Office of the Commission Secretary, 1333 H Street, N.W., 7th Floor, East Tower, Washington, D.C. 20005, between the hours of 9:00 a.m. and 5:30 p.m., Monday through Friday. A copy of the Application is available upon request, at a per-page reproduction cost.

5. Verizon has requested expedited review of this Application under Chapter 35 of the Commission's rules. Comments on the proposed tariff revision must be made in writing to Dorothy Wideman, Commission Secretary, at the above address. All comments must be received within 30 days of the date of publication of this NOPR in the *D.C. Register*. Persons

¹ D.C. Official Code, § 2-505.

² TT06-07, *In the Matter of the Application of Verizon Washington, DC Inc. For Authority to Amend the Local Exchange Services Tariff, P.S.C.-D.C. - No. 202 ("TT06-9")*, Letter from J. Henry Ambrose of Verizon Washington, D.C. Inc. to Dorothy Wideman, Commission Secretary, filed November 21, 2006.

wishing to file reply comments may do so no later than 35 days from the date of publication of this NOPR in the *D.C. Register*. Once the comment period has expired, the Commission will take final rulemaking action on Verizon DC's Application.

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE PROPOSED RULEMAKING

The Director of the District Department of Transportation (DDOT), pursuant to the authority in sections 3(b), 5(3)(D), and 6(b) and (c) of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.02(b), 50-921.04(3)(D), and 50-921.05(b) and (c)), and section 6(a)(1), 6(a)(6), and 6(b) of the District of Columbia Traffic Act, 1925, approved March 3, 1925 (43 Stat. 1121; D.C. Official Code § 50-2201.03(a)(1), (a)(6), and (b)), hereby gives notice of the intent to take final rulemaking action to adopt the following amendments to Chapters 24, 26, and 99 of Title 18 of the D.C. Municipal Regulations (DCMR) in not less than ten (10) days from the date of publication of this notice in the *D.C. Register*. The purpose of the amendments, which have been approved by the Director of the Department of Public Works, is to establish regulations for parking in metered loading zones.

The DDOT Director finds good cause for the shortened notice and comment period based upon the following:

The practice of cruising for loading zone parking spaces by motorists increases congestion and makes it unsafe for both pedestrian and vehicular traffic. The rulemaking is necessary to preserve public safety by prohibiting vehicles from unnecessarily occupying loading zones for prolonged periods of time, thus making them unavailable for other vehicles which need the zones to load or unload items. It is necessary to adopt the rules in less than (30) thirty days so that the rules can be in effect in anticipation of the holiday season, when increased traffic from commercial deliveries, shoppers and tourists creates a congested downtown environment. DDOT will initially implement this program in the K Street downtown business district. Prior to adoption of these rules, DDOT will send notice of the new program to the businesses in the area and to the commercial trucking industry.

Chapter 24 (Stopping, Standing, Parking, and Other Non-Moving Violations) of Title 18 (Vehicles and Traffic) DCMR, is amended as follows:

Subsection 2402.5 is amended to read as follows:

2402.5 Unless otherwise indicated by signage, loading zones shall be occupied only so long as is reasonable for loading or unloading, and only commercial vehicles loading materials in such zones shall be parked parallel and adjacent to the curb. Where signs are posted, designated loading zones may be occupied by a particular vehicle for up to a maximum of two (2) hours.

New subsections 2402.8 through 2402.12 are added to read as follows:

2402.8 When parking in a multi-space parking meter loading zone, the operator of a motor vehicle shall, immediately after parking, pay for the amount of loading or

unloading time desired. If a receipt is issued by the multi-space parking meter, the motor vehicle driver shall place the receipt face up on the passenger side of the dashboard of the vehicle so that it is clearly visible through the windshield of the vehicle. The vehicle may then occupy the space up to the time limit indicated on the receipt, but in no case for longer than two (2) hours.

2402.9 No person shall park a motor vehicle in a multi-space parking meter loading zone longer than the time required to load or unload the vehicle.

2402.10 Except as provided in § 2402.11, a vehicle shall be considered illegally parked if:

(a) A multi-space parking meter indicates overtime parking with respect to the parking metered loading zone in which the vehicle is parked;

(b) The expiration time indicated on the parking meter receipt displayed on the vehicle has lapsed;

(c) The vehicle does not display a receipt in the manner required by § 2402.8; or

(d) The vehicle does not display a receipt.

2402.11 Parking metered loading zones may be used without charge during times when the time for parking in the metered loading zone is unrestricted

2402.12 Except for parking metered loading zones served by parking meters that issue receipts, the unexpired time in a parking metered loading zone, which is unoccupied, may be used by another vehicle without depositing payment. A commercial vehicle displaying a receipt issued by a multi space parking meter may park in any unoccupied parking metered loading zone that is served by a parking meter that issues receipts and that is signed to indicate that payment is required, until the expiration time shown on the parking meter receipt has lapsed.

Chapter 26 (Civil Fines for Moving and Non-Moving Infractions) of Title 18 DCMR is amended as follows:

Section 2601.1 is amended by adding the following infractions and fines to the section entitled "Meter":

The expiration time indicated on the parking meter receipt displayed on the vehicle has lapsed [§2402.10(b)]	\$50.00
Failure to display multi-space parking meter receipt [§ 2402.10(d)]	\$50.00
Failure to display multi-space parking meter receipt properly [§ 2402.10 (c)]	\$50.00
Overtime parking in a loading zone [§ 2402.10(a)]	\$50.00

Chapter 99 (Definitions) of Title 18 DCMR is amended as follows:

Section 9901 is amended to add the following definition:

Multi-Space Parking Meter Loading Zone – a designated and marked off section of a public roadway within the marked boundaries of which a vehicle may be temporarily parked to load or unload and the use of which is regulated through the use of a multi-space parking meter.

All persons interested in commenting on the subject matter in this proposed rulemaking action may file comments in writing not later than ten (10) days after the publication of this notice in the *D.C. Register*. Comments should be sent to the District Department of Transportation, Traffic Services Administration, 2000 14th Street, N.W., 7th Floor, Washington, D.C. 20009. Copies of the proposed rules may be obtained at the above address during the hours of 9:00 a.m. to 5:00 p.m., Monday through Friday.