

DISTRICT DEPARTMENT OF TRANSPORTATION

NOTICE OF FINAL RULEMAKING

The Director of the District Department of Transportation (“Department”), pursuant to the authority set forth in section 3(C) (coordinating and managing public space permits and records), section 5(3)(D)(i) (allocating and regulating on-street parking), section 5(4)(A) (reviewing and approving public space permit requests), section 6(b) (transferring the public right-of-way maintenance and parking management functions previously delegated to the Department of Public Works (“DPW”) under section III (F) of Reorganization Plan No. 4 of 1983, effective March 1, 1984, to the Department), and section 7 (transferring to the Director of the Department all transportation-related authority previously delegated to the DPW Director by Mayor’s Order 96-175, dated December 9, 1996) of the Department of Transportation Establishment Act of 2002 (“DDOT Establishment Act”), effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.03(3)(C), 50-921.04(a)(3)(Q), 50-921.04(a)(3)(E), 50-921.05(b) and 50-921.06), and the Electric Vehicle Public Infrastructure Expansion Amendment Act of 2018 (D.C. Law 22-78; D.C. Official Code § 50-921.23) hereby gives notice of the adoption of the following rulemaking to amend Chapters 24 (Stopping, Standing, Parking, and Other Non-Moving Violations) and 26 (Civil Fines for Moving and Non-Moving Infractions) of Title 18 (Vehicles and Traffic) and Chapter 2 (Rental of Public Space) and Chapter 33 (Public Right-of-Way Occupancy Permits) of Title 24 (Public Space and Safety) of the District of Columbia Municipal Regulations (DCMR).

This final rulemaking will clarify criteria for installation of electric vehicle charging stations in public space and authorize fining and towing of unauthorized vehicles parked in designated electric vehicle charging station parking spaces. It will also correct an error in Chapter 26 of Title 18 pertaining to the infraction of “Stopping, standing, or parking in a bicycle lane or shared use path.” This change will move this infraction to align with other non-moving infractions, rather than keeping it in the section for moving infractions.

A Notice of Proposed Rulemaking was published in the D.C. Register on February 21, 2020 at 67 DCR 1975, with a 30-day public comment period. A Second Notice of Proposed Rulemaking was published in the D.C. Register on October 9, 2020 at 67 DCR 11714, with a 30-day public comment period. The second proposed rulemaking removed provisions that prevented the installation of chargers on residential streets and the installation of more than two chargers per square block.

The District Department of Transportation thoroughly reviewed and considered all public feedback throughout this rulemaking process. DDOT received two (2) public comments on the second proposed rulemaking and no official resolutions from Advisory Neighborhood Commissions (ANC).

Public Comments

The two supportive commenters applauded the District’s efforts to expand electric vehicle (EV) charging infrastructure in the public right-of-way. Combined, the comments suggested that DDOT implement the following six (6) recommendations: 1) provide charging opportunities for residents

who lack off-street parking, and make such opportunities available near their homes, 2) require quarterly reporting on the charging stations' operations, 3) eliminate the meter fee of \$1 per hour and provide a grace period before the non-charging fee is assessed, 4) eliminate the fine for EVs that are not "plugged-in," 5) eliminate the \$2,400 annual permit fee, and 6) explore making EV charging available from streetlight infrastructure.

1. Provide Access to Chargers for Residents Without Off-Street Parking

DDOT's second proposed rulemaking removed a provision in the first notice of proposed rulemaking that would have prohibited the installation of EV chargers on residential streets with Residential Permit Parking (RPP) restrictions. The change in the second notice is intended to permit the installation of chargers closer to where current and future EV owners live.

2. Quarterly Report

In order to maintain a valid public space permit, DDOT will require that permit holders report information quarterly to the District in compliance with the Electric Vehicle Public Infrastructure Expansion Act of 2018 (D.C. Act 22-249). This report shall include data on energy usage, charging sessions, and customer payment methods.

3. Meter Fees

DDOT did not eliminate the \$1 per-hour parking meter fee because this is the existing cost to park at the current curbside electric vehicle charging stations. It also represents a \$1.30 discount from the hourly rate to park at a conventional parking meter.

DDOT will incorporate a twenty (20) minute grace period, before which the non-charging meter rate applies, into the terms and conditions of the public space permit. The purpose of the non-charging meter rate is to maximize the efficiency of a charging station by discouraging vehicles—no longer actively charging—from continuing to occupy the space. DDOT does not intend to unexpectedly and unfairly subject customers to the non-charging meter rate. Therefore, permit terms and conditions will require that the permit holder incorporate a twenty (20) minute grace period before this rate is assessed and communicate the battery power of the customer's vehicle in real-time via an application. This real-time communication provides customers with at least three benefits: they can charge their vehicle in a way that optimizes battery health, they can end the charging session before the non-charging meter rate applies, and they would know if the charging session were unexpectedly ended. This transparency and grace period should mitigate the concern that customers would be unexpectedly and unfairly charged a high cost while not charging.

4. Eliminate the Fine for EVs Not Plugged-in

DDOT did not remove this violation because this reflects the current policy at existing public charging stations and the transparency required of the charging station vendor should help address instances of charging vehicles being maliciously unplugged by a passerby

. The current policy at curbside chargers is "no parking except for electric vehicles while

charging.” This rulemaking amends the policy to read “while plugged-in” to give enforcement officers a visual indicator of a vehicle’s charging status and to prevent a vehicle being subject to a fine immediately

upon reaching a full charge.

The purpose of the violation and fine associated with parking a vehicle at a charging station while not actively charging is to maximize the use of the station. Data from existing stations show that approximately thirty percent (30%) of the time a vehicle is parked at a charger, it is not charging. The intent of this policy is to support active use of the station and enable officers to enforce the violation.

5. Eliminate Annual Permit Fee

DDOT did not eliminate the annual permit fee as it represents a 50% discount from the average meter revenue per space. DDOT calculates the cost of exclusive use of curbside spaces based on average meter revenue. In the District, average meter revenue per space is \$2,400. This permit provides access to two spaces for the cost of one.

6. Streetlight Charging

DDOT addressed streetlight charging in the second rulemaking. DDOT had explored in the past the possibility retrofitting streetlights to support EV charging and determined that such a retrofit is not feasible. Streetlights do not have a voltage high enough to support Level 2 charging and upgrading the infrastructure to do so would be cost prohibitive. In addition, retrofitting streetlights would not meet the requirements of the legislation that stations provide Level 2 charging, be capable of charging more than one vehicle simultaneously, and collect the required data to be included in the annual report.

No changes were made in response to comments. However, DDOT, on its own initiative made technical amendments to correct citation errors in Section 2601, PARKING AND OTHER NON-MOVING INFRACTIONS, of Title 18, VEHICLES AND TRAFFIC. Specifically, the DCMR citations for the infractions “no parking except for an electric vehicle while plugged in” and “plugged in electric vehicles remaining for more than four (4) hours” were updated to reflect the changes made in this rulemaking.

Pursuant to D.C. Official Code § 50-2301.05(a)(1)(2014 Repl.), the Mayor transmitted the proposed final rules to the Council, for the Council’s review of the proposed changes to the schedule of fines prescribed in Chapter 26, CIVIL FINES FOR MOVING AND NON-MOVING INFRACTIONS, of Title 18, VEHICLES AND TRAFFIC of the DCMR. These rules [were approved by the Council pursuant to Res._____/ deemed approved by the Council after the Council having taken no action within the 45-day review period].

The Director adopted the rules as final on [date to be inserted]. The rules will take effect upon publication of this notice in the D.C. Register

Title 18, VEHICLES AND TRAFFIC, is amended as follows:

Chapter 24, STOPPING, STANDING, PARKING, AND OTHER NON-MOVING VIOLATIONS, of

Section 2406, PARKING PROHIBITED BY POSTED SIGN, is amended as follows:

Subsections 2406.14 through 2406.17 are repealed.

Subsections 2406.21 through 2406.29 are added to read as follows:

2406.21 The Director is authorized to establish reserved on-street parking spaces for the exclusive use of charging electric vehicles (“electric vehicle charging spaces”) and to reserve space on the sidewalk and street for electric vehicle charging stations and associated equipment, through the issuance in accordance with 24 DCMR 226 of a Public Space Occupancy Permit to a charging station vendor.

2406.22 An electric vehicle charging space established pursuant to § 2406.21 shall not:

- (a) Extend more than twenty feet (20’) in length;
- (b) Be located where parking is currently prohibited including blocks with rush hour and snow emergency restrictions; or
- (c) Be located at a metered space reserved for individuals with disabilities, unless the metered space is relocated at the cost of the applicant and approved by DDOT.

2406.23 For every two (2) charging stations installed in the Central Business District by a charging station vendor, seven (7) charging stations, each serving at least two (2) spaces, must be installed outside the Central Business District by the charging station vendor until the charging station vendor has installed one (1) electric vehicle charging station, serving at least two (2) spaces, in each ward.

2406.24 A vendor’s permit application for its fifteenth (15th) or later charging station shall not be approved unless the vendor has installed and maintains one (1) electric vehicle charging station, serving at least two (2) spaces, in each ward.

2406.25 An electric vehicle charging station shall:

- (a) Be located outside of a tree box;
- (b) Be located ten feet (10’) or more from a fire hydrant;
- (c) Be located twenty-five feet (25’) or more from a marked or unmarked intersection;

- (d) Be located so that it does not protrude into a roadway or a bike lane;
- (e) Be so located as to ensure compliance with the minimum pedestrian clearance widths as set forth in the District Department of Transportation Design and Engineering Manual; and
- (f) Display the contact information of the vendor to report any issues.

2406.26 Electric vehicle supply equipment placed on a sidewalk that supplies an on-street electric vehicle charging station shall not interfere with the minimum pedestrian clearance widths as set forth in the District Department of Transportation Design and Engineering Manual;

2406.27 Cords, cables, and connector equipment of a charging station shall not be placed in such a manner as to extend across the path of travel within the sidewalk or walkway whether or not in use by an electric vehicle.

2406.28 The following rules shall apply to the use by the public of electric vehicle parking spaces and charging stations and violation of this subsection shall be subject to the fines set forth in 18 DCMR §2601:

- (a) Parking in electric vehicle charging spaces is permitted only for electric vehicles and plug-in hybrids and only in accordance with the guidelines provided on the charging station.
- (b) An electric vehicle may park in an electric vehicle charging space only while the vehicle is plugged in to the charging station.
- (c) An electric vehicle may park in an electric vehicle charging space for no more than a total of four (4) hours between 9:00 a.m. and 8:00 p.m. on any calendar day.
- (d) A vehicle occupying an electric vehicle charging space shall pay any applicable charging fee required by the charging station vendor.
- (e) In addition to all other applicable fees, a person parking a vehicle an electric vehicle charging space shall be assessed a one dollar (\$1.00) per hour fee for the use of public space while charging the vehicle and ten dollars (\$10.00) per hour while not charging between 9:00 a.m. and 8:00 p.m. on any calendar day.

Title 18 of the DCMR, VEHICLES AND TRAFFIC, is amended as follows:

Chapter 26, CIVIL FINES FOR MOVING AND NON-MOVING INFRACTIONS, is amended as follows:

Section 2600, CIVIL FINES FOR MOTOR VEHICLE MOVING INFRACTIONS, is amended as follows:

Subsection 2600.1 is amended as follows:

The following infraction under the category of “Right-of-way,” is repealed:

Stopping, standing, or parking a vehicle in a bicycle lane or shared use path \$150.00
[§ 2405.1]

Section 2601, PARKING AND OTHER NON-MOVING INFRACTIONS, is amended as follows:

The chart set forth in subsection 2601.1 is amended as follows:

The section labeled “INFRACTION (Regulatory/Statutory Citation)” is amended as follows:

The following row is inserted after the row labeled “Barricade, in front of [§ 2405.2(h)]”:

Bicycle lane or shared use path, stopping, standing, or parking a vehicle in [§ 2405.1]	\$150.00
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The infraction “No parking except for an electric vehicle while being charged [§ 2406.14]” is amended to read as follows:

No parking except for an electric vehicle while plugged in [§§ 2406.28 (a), 2406.28 (b),]	\$100.00
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The following row is inserted after the row labeled “Parallel, fail to park (except where permitted) [§ 2400.1]”:

Plugged in electric vehicle remaining for more than four (4) hours between 9:00 a.m. and 8:00 p.m. Monday through Sunday at an on-street parking space reserved for charging vehicles [§ 2406.28 (c)]	\$30.00
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The following row is repealed:

Vehicle remaining for more than four (4) hours between 6:00 a.m. and 10:00 p.m. Monday through Saturday at an on-street parking space reserved for charging vehicles [§ 2406.16]	\$ 100.00
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Title 24 of the DCMR, PUBLIC SPACE AND SAFETY, is amended as follows:

Chapter 2, RENTAL OF PUBLIC SPACE, is amended as follows:

Section 225, Public Space Permit Fees, is amended as follows:

Subsection 225.1 is amended by amending paragraph (r) to read as follows:

(r) Charging station:

Installation of charging station- reserving the equivalent of 2 parking spaces for electric vehicles	\$2,400/year
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Chapter 33, PUBLIC RIGHT-OF-WAY OCCUPANCY PERMITS, of Title 24 DCMR, PUBLIC SPACE AND SAFETY, is amended as follows:

Section 3399, DEFINITIONS, is amended as follows:

Subsection 3399.1 is amended as follows:

The following definitions are added after the definition of “Dockless vehicle operating company”:

Electric vehicle - a vehicle that is propelled by an electric motor and is capable of being recharged from an external source of electricity.

Electric vehicle charging station - a publicly accessible facility or equipment that is located in the public right-of-way, including any public space in the District, and is used to charge the battery or other energy storage device of an electric vehicle.