

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

NOTICE OF FINAL RULEMAKING

The Director of the Department of Consumer and Regulatory Affairs, pursuant to D.C. Official Code § 47-2851.20 (2005 Repl.), section 4(15) of the District of Columbia Consumer Protection Procedures Act (D.C. Law 1-76; D.C. Official Code § 28-3903(15))(2001), and D.C. Official Code § 47-2851.04(c)(1), hereby gives notice of the adoption of amendments to Title 16, Chapter 3 (Buying, Selling, and Financing Motor Vehicles) of the District of Columbia Municipal Regulations. This rulemaking adds a new section 314 to establish new regulations for the outdoor storage of motor vehicles.

A Notice of Emergency and Proposed Rulemaking was published in the *D.C. Register* on January 2, 2009 (56 DCR 1). No comments were received in response to that notice. A change has been made to define the term “lot” and to clarify that licensed auto wash businesses and driving schools are exempt under section 314.1(a).

This Notice of Final Rulemaking supersedes the emergency rulemaking adopted on December 23, 2008 and the final rules will be effective upon publication of this notice in the *D.C. Register*.

Title 16, Chapter 3 of the DCMR is amended to add new section 314 to read as follows:

314 Outdoor Storage of Motor Vehicles

314.1 For purposes of this section, the following definitions shall apply:

- (a) “Lot” means a lot recorded on the records of the Surveyor of the District of Columbia.
- (b) The phrase “outdoor storage of motor vehicles” shall mean keeping, on the same lot or at the same location, five (5) or more motor vehicles outside of a permanent garage or permanent building, for any purpose, including, but not limited to, for storage or display by a licensed dealer, but excluding:
 - (1) Keeping operational motor vehicles on a residential property for household use;
 - (2) Parking, at an establishment, of motor vehicles used by customers, employees, visitors, and other persons, to travel to and from the establishment;
 - (3) Parking, at an establishment, of operational motor vehicles that are owned or leased by the establishment and that are kept and regularly used by the establishment for the purpose of transporting passengers, goods, or equipment;

- (4) Parking of customers' motor vehicles at a licensed parking lot or by a licensed valet parking company;
 - (5) Storage of customers' motor vehicles at an establishment licensed to repair, service, or wash motor vehicles for customers;
 - (6) Storage of towed or repossessed motor vehicles as part of a licensed motor vehicle towing or repossession business;
 - (7) Storage of operational motor vehicles as part of a licensed motor vehicle leasing or rental business, or licensed driving school business; or
 - (8) Storage or display of motor vehicles by a dealer on a lot that the dealer uses primarily for the sale of new motor vehicles;
- (c) "Offered for retail sale" means offered individually for sale to the public, including to consumers, and made available to consumers for inspection; and
- (d) "Retail sale" means a sale that directly results from a motor vehicle being offered for retail sale.

314.2 No person shall engage in outdoor storage of motor vehicles except on a lot for which the person holds both:

- (a) A basic business license, with a Motor Vehicle Sales, Service, and Repair license endorsement, for a Motor Vehicle Dealer; and
- (b) A basic business license, with a Motor Vehicle Sales, Service, and Repair license endorsement, for a Used Car Lot.

314.3 The category license fee for a basic business license, with a Motor Vehicle Sales, Service, and Repair license endorsement, for a Used Car Lot, shall be \$1,000.00.

314.4 No person shall engage in outdoor storage of motor vehicles on a lot unless the person:

- (a) In addition to filing any other bond or security that may be required for applicable license categories other than Used Car Lot, has filed a bond or other security in the amount of one hundred thousand dollars (\$100,000) that, in all respects other than its dollar amount, complies with the provisions of 16 DCMR § 307;

- (b) Has designated a registered agent who engages in the business of providing registered agent services from an office in the District of Columbia;
- (c) Is the only person holding a basic business license for the lot, other than persons holding Motor Vehicle Salesman licenses for the lot;
- (d) Keeps, in a secure location on the lot, the books and records of each of the lot's licensed establishments, and makes such books and records available for immediate inspection by the Director at any time during regular business hours;
- (e) Includes the following in the books and records kept on the lot:
 - (i) The purchase and sale records, vehicle titles, transfers of ownership, and dealer tags, and
 - (ii) For a period of two (2) years following the sale or disposal of a motor vehicle that was stored or displayed outdoors on the lot, records showing the motor vehicle's make, model, and vehicle identification number (VIN), the dates that outdoor storage or display of the motor vehicle on the lot commenced and ended, whether the motor vehicle was disposed of through a retail sale on the lot or in some other way, the name and address of any purchaser of the motor vehicle, the date and terms of any purchase of the motor vehicle, and a copy of the Federal Trade Commission Buyers Guide for the purchase of the motor vehicle;
- (f) Provides copies of any records required by § 314.6(e)(ii) to the Director, within fourteen (14) days of a written request mailed by the Director to the person's designated registered agent; and
- (g) During any six (6) month period, ensures that at least seventy (70) percent of the disposals of motor vehicles that have been stored or displayed outdoors on the lot are through retail sales on the lot, unless, during the six (6) month period in question, there are fewer than seven (7) disposals of motor vehicles that have been stored or displayed outdoors on the lot.

314.5 Any person who engages in outdoor storage of motor vehicles shall store the motor vehicles on a lot and in spaces meeting the following requirements:

- (a) The lot shall be located in a C-M or M zoning district;
- (b) The lot shall have an office, with desk, chairs, and filing space, in a permanent building of at least two hundred fifty (250) square feet, with

heating, electricity, and a bathroom connected to the District's water and sewer lines;

- (c) The lot shall maintain a permanent sign, visible from the lot entrance, showing the name of the establishment and its hours of operation;
- (d) Each automobile space shall be a minimum of nine (9) feet in width and nineteen (19) feet in length, and the space boundaries shall be clearly marked with painted lines;
- (e) Any adjoining public or private space shall be protected from vehicular encroachment by curbs, guard rails, or fencing, that prevent vehicles on the lot from protruding over any lot boundary;
- (f) The areas of the lot used for storing or moving motor vehicles shall be paved and maintained;
- (g) The lot shall be landscaped with live trees and shrubs that cover an area equal to at least five (5) percent of the lot's paved area; and
- (h) The areas of the lot used for storing motor vehicles shall be screened from all contiguous residential property by a solid brick or stone wall at least twelve (12) inches thick and forty-two (42) inches high or by evergreen hedges or evergreen growing trees that are thickly planted and maintained and that are at least forty-two (42) inches in height when planted.

314.6 Any person who engages in outdoor storage of motor vehicles on a lot shall observe the following conditions:

- (a) The lot shall normally be open to the public during regular business hours, which shall be at least thirty (30) hours a week;
- (b) Each motor vehicle stored or displayed outdoors, unless being held for customer pickup following a retail sale, shall be offered for retail sale, except that up to four (4) motor vehicles, or one (1) motor vehicle per two thousand (2,000) square feet of lot space, whichever is greater, may be stored outdoors while being prepared for sale or other disposal;
- (c) Each motor vehicle being offered for retail sale shall display a completed Federal Trade Commission Buyers Guide with "implied warranties only" disclosures, in accordance with the Federal Trade Commission's Used Car Rule, 16 CFR Part 455, and shall be in running condition;
- (d) The title for each motor vehicle that is stored or displayed outdoors shall identify the person as the owner, except that a motor vehicle being held for

customer pickup following a retail sale may show the customer as the owner;

- (e) All holders of Motor Vehicle Salesman licenses for the lot shall be employees of the person who holds the Motor Vehicle Dealer license and the Used Car Lot license for the lot;
- (f) All Motor Vehicle Salesman licenses issued for the lot shall be designated as "Seller Only" licenses, except that up to one (1) Motor Vehicle Salesman license per three thousand (3,000) square feet of lot space may be designated as a "Buyer and Seller" license;
- (g) No motor vehicle parts or trash shall be stored outdoors on the lot, unless stored off the ground in secured containers; and
- (h) No disassembled or junk vehicles shall be stored outdoors on the lot.

314.7

Violation of this section shall be cause for denial, suspension, or revocation of a basic business license, with a Motor Vehicle Sales, Service, and Repair license endorsement, for a Used Car Lot.

DISTRICT OF COLUMBIA DEPARTMENT OF TRANSPORTATION

NOTICE OF FINAL RULEMAKING

The Interim Director of the Department of Transportation, pursuant to the authority of section 5(4)(A), 6(b) and (c) and 7 of the Department of Transportation Establishment Act of 2002, effective May 21, 2002 (D.C. Law 14-137; D.C. Official Code §§ 50-921.04(4)(A), 50-921.05(b) and (c), and 50-921.06), and sections 603 and 604 of the Fiscal Year 1997 Budget Support Act of 1996, effective April 9, 1997 (D.C. Law 11-198, D.C. Official Code §§ 10-1141.03 and 10-1141) and Mayor’s Order 96-175 (December 9, 1996), hereby gives notice of the adoption of the following amendments to Title 24, of the *District of Columbia Municipal Regulations* which creates a new list of fees for public space permits, and revises the public utility exemptions from public space rental fees.

A notice of proposed rulemaking on this issue was published in the *D.C. Register* on January 16, 2009 at 56 DCR 614. One comment was received from the public. The Department reviewed the comment but did not make any substantive changes to the rulemaking. The commenter requested that the fee for DDOT to inspect paving restoration be cancelled or postponed. However, this rulemaking simply increases the fee from thirty-five dollars (\$35) an hour to fifty dollars (\$50) an hour. The fee has been enforced in the past and DDOT intends to continue to assess that inspection fee, but at a higher rate. These rules shall become effective on publication in the D.C. Register.

Title 24, PUBLIC SPACE AND SAFETY, Chapter 2, RENTAL OF PUBLIC SPACE, Section 225, PUBLIC SPACE PERMIT FEES, is amended as follows:

A. Subsection 225.1 is amended to read as follows:

225.1 The following schedule of fees shall apply to public space permits:

Description of Permit	Permit Fee
(a) Administrative:	
Application Fee (New or Renewal)(Public Utilities Exempt)	\$50.00
(b) Temporary Occupancy:	
(1) Residential Moving Trucks (2 days maximum)	\$ 34.00
(2) Man Hole Access (each occurrence)	\$ 85.00
(3) Man Hole Access (Annual Permit)	\$2,585.00
(4) Ladders and scaffolding:	Permit Fee
	Per Month
Ladders and scaffolding placed in public space on public sidewalks, alleys or at commercial properties (see § 225.2 of this title)	\$ 50.00
(5) Receptacles for construction debris (e.g., Dumpsters TM) placed in public space in areas zoned CR, C-1 through C-5, CM, M, SP-1 and SP-2, and W-1 through W-3:	Permit Fee
	Per Month
Months 1, 2, & 3	\$ 75.00
Months 4 & 5	\$100.00

Month 6 or more	\$150.00
(6) Receptacles for construction debris (e.g., Dumpsters TM) placed in public space in areas zoned R-1 through R-5:	Permit Fee
	Per Month
Months 1, 2, & 3	\$ 75.00
Months 4 & 5	\$125.00
Month 6 or more	\$200.00
Other Temporary Occupancy	\$ 50.00

(c) Fair Market Component of Permit Fee for Temporary Occupancy in Excess of Thirty (30) Calendar Days as applied to paragraphs (d) through (k) of this subsection (Public Utilities Exempt):

(1) Public Space Use Fee (Central Business District):

	Fee/Sq-Ft/Day
Parking Lane	Fee established for prohibiting parking in DCMR Title 18 Section 2407.20 and 2407.21
1 st Travel Lane	\$ 0.040
2 nd Travel Lane and Each Add'l	\$ 0.080
Alley	\$ 0.020
Sidewalk	\$ 0.030

(2) Public Space Use Fee (Other than Central Business District):

	Fee/Sq-Ft/Day
Parking Lane	Fee established for prohibiting parking in DCMR Title 18 Section 2407.20 and 2407.21
1 st Travel Lane	\$ 0.030
2 nd Travel Lane and Each Add'l	\$ 0.060
Alley	\$ 0.015
Sidewalk	\$ 0.020

(d) Fixture(s) and Paving (in Parking):

	Permit Fee
	For First Thirty (30)
	Calendar Days
	(Additional Time May Require Fair Market Component)
Fence	\$ 50.00
Fence w/Brick Piers	\$ 75.00
Retaining Wall	\$ 75.00
Planter Box (each)	\$ 75.00
Coping	\$ 75.00
Steps	\$ 75.00
Over-Height Fence or Wall	\$135.00
Minor Repair of Fence, Wall or Paving	\$ 50.00
Minor Paving (less than 150 sq ft)	\$ 75.00

(e) Fixture(s) and Paving (other):

	Permit Fee For First Thirty (30) Calendar Days (Additional Time May Require Fair Market Component)
Pay Phone (each)	\$ 75.00
Street Furniture	\$135.00
Raised Planter Box(s) on Sidewalk	\$135.00
Moveable Planter Box(s) on Sidewalk	\$135.00
Bollards	\$135.00
Sign(s)	\$135.00
Canopy Sockets	\$ 75.00
Minor Paving (less than 150 sq ft)	\$ 75.00
Repair/Replace Existing Driveway	\$ 75.00
Close Existing Driveway	\$ 75.00
New Residential Driveway	\$ 75.00
New Commercial Driveway	\$135.00
New Circular Driveway	\$135.00
Sidewalk Paving (up to 300 linear ft)	\$135.00
Curb & Gutter (up to 300 linear ft)	\$135.00
Alley Paving/Roadway Paving (up to 300 linear ft)	\$135.00
Resurface Roadway (up to 300 linear ft)	\$ 75.00
Subsurface Fuel Tank (each – new or replacement)	\$250.00
Other Fixture(s) or paving in public space	\$135.00

(f) Building Projections:

	Permit Fee For First Thirty (30) Calendar Days (Additional Time May Require Fair Market Component)
Porches & Steps (each)	\$ 75.00
Areaway (each)	\$ 75.00
Window Well (each)	\$ 75.00
Bay Window (each)	\$ 75.00
Projections Requiring Exception from Building Code (See 12A- 3202.4) (each)	\$135.00

(g) Grading:

	Permit Fee For First Thirty (30) Calendar Days (Additional Time May Require Fair Market Component)
Roadways, sidewalks and alleys	\$.00

(h) Trees and Landscaping:

**Permit Fee
For First Thirty (30)
Calendar Days
(Additional Time May Require
Fair Market Component)**

Public Space Tree(s) (plant)	\$ 0.00
Public Space Tree(s) (remove)	\$ 100.00
Hedge(s) (plant)	\$ 75.00
Other Landscaping (Commercial)	\$ 75.00
Street Tree (s) (pruning)	\$ 75.00
Tree Space (s) (Not part of sidewalk paving permit)	\$ 75.00
Tree Fence (s)	\$ 50.00

(i) Minor Excavation:

**Permit Fee
For First Thirty (30)
Calendar Days
(Additional Time May Require
Fair Market Component)**

Test Pits, Boring & Cores (single)	\$ 50.00
Test Pits, Boring & Cores (Each Add'l)	\$ 20.00
Monitor Wells (single)	\$135.00
Monitor Wells (Each Add'l)	\$ 20.00
Conduit Relocation (up to 10 linear Ft)	\$ 50.00
Other Minor Excavation (up to 100 sq ft and not requiring sheeting & shoring)	\$ 85.00
House Service (each premise)	
Water/Fire Connection/Abandonment/Repair – up to 2 inch pipe size	\$ 50.00
Water Meter Pit and associated Pipe up to 2 inches	\$ 50.00
Gas Connection/Abandonment/Repair	\$ 50.00
Electric Connection/Abandonment/Repair	\$ 50.00
Communication Connection/Abandonment/Repair	\$ 50.00
Sanitary Sewer Connection/Abandonment/Repair – up to 4 inch pipe size	\$ 85.00
Storm Sewer Connection/Abandonment/Repair – up to 4 inch pipe size	\$ 85.00

(j) Major Excavation:

**Permit Fee
For First Thirty (30)
Calendar Days
(Additional Time May Require
Fair Market Component)**

Regulator Stations, above and below ground, and associated appurtenances installation or removal (each)	\$135.00
Washington Gas and Light – System	\$ 85.00

Monitoring/Telemetric Equipment installation or removal (each)	
Washington Gas and Light – Non-Emergency maintenance related excavations such as for cathodic protection activities, encapsulations, other O & M activities (each)	\$ 85.00
Gas Service Connection/Abandonment/Repair (each)	\$ 85.00
Electric Service Connection/Abandonment/Repair only	\$ 85.00
Electric Service Connection/Abandonment/Repair and associated Manhole and Conduit (each)	\$135.00
Transformer Vault and associated Manhole and Conduit (each)	\$250.00
Water/Fire Connection/Abandonment/Repair (each – over 2 inch pipe size)	\$ 85.00
Water Meter Manhole and associated piping(each)	\$135.00
Fire Hydrant Installation/Repair/Removal (each)	\$ 85.00
Sanitary/Storm Sewer Connection/Abandonment/Repair (each – over 4 inch pipe size)	\$135.00
Sanitary/Storm Sewer Manhole (each)	\$135.00
Communication Manhole (each)	\$135.00
Utility or Communication Excavation for Pipe, Conduit or Cable (each 200 linear feet or portion thereof)	\$135.00
Sheeting and Shoring (each 100 linear feet or portion thereof)	\$135.00
Abandonment or Removal of Subsurface Fuel Tank or Vault (each)	\$135.00

(k) Overhead Electrical/Communication:

**Permit Fee
For First Thirty (30)
Calendar Days
(Additional Time May Require
Fair Market Component)**

Install/Remove/Replace Overhead Electrical/Communication Wire	
Up to 300 linear feet	\$ 50.00
Each additional 300 linear feet or portion thereof	\$ 20.00
Install/Remove/Replace Utility/Communication Pole with or without Guy Wire	
First Pole	\$ 50.00
Each Additional Pole	\$ 20.00
Install/Remove/Replace Guy Wire for Utility/Communication	

Pole	
First Guy Wire	\$ 50.00
Each Additional Guy Wire	\$ 20.00

(l) Moving Overweight, Over-length, or Over-width equipment (excluding permits issued to the federal government):	Permit Fee
Single Trip (each)	\$ 30.00
Round Trip (each)	\$ 50.00

(m) Miscellaneous:	Permit Fee
	Per Month
All miscellaneous permits primarily benefitting the applicant	\$ 50.00

(n) Inspection Fee:	Fee per Hour
Additional fee for any needed inspection of paving, repairing or altering of public space	\$ 50.00/hr

(o) Public Space Abutting Business (see § 201.1 of this title):	One-Time Permit Fee
Use of public space by operators of abutting businesses	\$139.00

B. Subsection 225.6 is amended to read as follows:

225.6 No permit fee shall be charged to a public utility, as that term is defined in Section 2 of the Underground Facilities Protection Act of 1980, effective March 4, 1981 (DC Law 3-129, DC Official Code § 34-2701), for the following:

- (a) Work done exclusively for the District to service District owned fixtures;
- (b) Work done exclusively for District buildings and connections to the buildings;
- (c) Changes in existing structures made at the request of, or on order from the Mayor of the District;
- (d) For mains, conduits, or other structures laid or repaired in advance of new paving purely to avoid cuts, therein and as a result of notification to the permittee from the District that paving is contemplated;
- (e) Work done under contract for the District;
- (f) Work done to repair damages caused by construction done by the District or by a contractor for the District; or
- (g) Work done exclusively for agencies of the United States Government.