

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Motor Vehicles



PRIVILEGED AND CONFIDENTIAL
ATTORNEY-CLIENT COMMUNICATION

MEMORANDUM

TO: Anne Witt
Director
Department of Motor Vehicles

FROM: Corey Buffo /s/
General Counsel
Department of Motor Vehicles

SUBJECT: Guidance on Interpretation of the Residential Permit Parking Area
Amendment Act of 2002.

DATE: April 15, 2004

This is in response to your request for clarification as to the scope of Section 2(a) of the Residential Parking Permit Area Amendment Act of 2002¹ (“amendment”) and the circumstances under which it provides for the dismissal of parking tickets. This memo also briefly addresses a related memo (“GC’s memo”) from the General Counsel for the Council of the District of Columbia, addressed to Councilmember Carol Schwartz, dated January 20, 2004.

Section 2(a) of the amendment adds a new subsection, § 2411.19, to Title 18 (DCMR) suspending parking enforcement as follows:

Between the hours of 10:00 p.m. and 7:30 a.m., vehicles displaying a valid residential parking permit may park, within a designated residential permit parking zone, in the following manner:

- (a) Twenty-five feet (25 ft.) from the intersection;
- (b) In loading zones, except loading zones used by hotels; and
- (c) In entrances, except hospital entrances.

¹ D.C. Law 14-167, effective June 28, 2002 (49 DCR 4475).

18 DCMR § 2411.19. Thus, any ticket for a violation meeting the criteria established in paragraphs (a), (b) or (c), issued to a vehicle displaying a valid residential parking permit (“RPP”) sticker and parked in an RPP zone, during the time stated in the amendment, should be dismissed. To date, our records show that thirteen tickets were likely dismissed on the grounds provided by the amendment, with the tickets distributed almost equally under each of the three categories created by the above paragraphs. I will discuss each of the paragraphs, and the corresponding violations, in turn.

Paragraph (a): “Twenty-five feet (25 ft.) from the intersection”

I have concluded that paragraph (a) likely corresponds to 18 DCMR § 2405.2(c), which prohibits parking:

[w]ithin forty feet (40 ft.) of the intersection of curb lines of intersecting streets or within twenty-five feet (25 ft.) of the intersection of curb lines on the far (non-approach) side of a one-way street

To paraphrase, § 2405.2(c) prohibits curbside parking within 40 or 25 feet of an intersection, depending on whether that intersection includes a one-way street. I believe the intent of the Council in paragraph (a) is to allow parking 25 feet from the intersection where parking would otherwise be allowed only 40 feet from the intersection, thereby creating an additional 15 feet of parking. The DMV may wish to contact the District Department of Transportation (“DDOT”) for their interpretation of this provision.

While paragraph (a) could conceivably be read to correspond to all parking prohibitions in the area referenced, regardless of the type of prohibition, this could allow temporary parking in front of fire hydrants, driveways, and a host of other prohibited locations established by §§ 2405.2 and 2406, raising significant public safety concerns. Therefore, this does not appear likely to be the Council’s intent. It also runs counter to the statement in the GC’s memo that paragraph (a) corresponds to § 2405.2(c).

Turning to the issue of dismissing tickets under paragraph (a), a parking ticket must give a general description of the offense.² Accordingly, parking tickets were designed to contain spaces that the issuer must fill in identifying the violation alleged and the corresponding violation code. The ticket issuers’ list of violation codes cites the specific provision of Title 18 being violated, taken from the list of parking fines in Section 2601 of Title 18. A ticket for parking within 40 feet of an intersection in violation of § 2405.2(c) corresponds to the violation description “less than 40’ from the intersection,” violation code P025. Therefore, the only ticket that can be dismissed under paragraph (a) is a ticket citing violation code P025, “less than 40’ from the intersection”, but only if the person is not parked within 25 feet of that intersection. A respondent relying on paragraph (a) as a defense must not only satisfy the location, eligibility and time criteria of § 2411.19, but must also establish that they were not parked within 25 feet of the intersection.

² 18 DCMR § 3000.1 states: “[t]he Notice of Infraction. . . shall contain a general statement of the violation alleged”.

The GC's memo concluded that, pursuant to paragraph (a), "a parking ticket issued for a 'no parking anytime' infraction. . . is unenforceable" if it is based on § 2405.2(c). However, a ticket issued for parking in a "no parking anytime" zone cannot be based on § 2405.2(c). Tickets citing "no parking anytime," violation code P055, are based on § 4019, which states DDOT's general authority to post signs prohibiting parking after proper notice,³ or § 2400.4.⁴ In fact, if a ticket cited "no parking anytime" but was based on a violation of § 2405.2(c) it should be dismissed irrespective of the amendment.

Paragraph (b): "In loading zones, except loading zones used by hotels"

Paragraph (b) likely corresponds to 18 DCMR § 2402, which authorizes DDOT to establish loading zones. Thus, the tickets it covers are those issued for parking in a loading zone, violation code P031, "loading zones". A respondent relying on paragraph (b) as a defense must not only satisfy the location, eligibility and time criteria of § 2411.19, but must also establish that they were not parked in a hotel loading zone.

Paragraph (c): "In entrances, except hospital entrances"

Though paragraph (c) uses the word in, it likely corresponds to 18 DCMR § 2406.3, which prohibits parking in front of the entrances to a number of types of locations, including large restaurants, embassies, and apartment buildings. These violations are identified by violation code P199, "entrance to a designated building". A respondent relying on paragraph (c) as a defense must not only satisfy the location, eligibility and time criteria of § 2411.19, but must also establish that they were not parked in front of a hospital entrance.

Paragraph (c) might additionally correspond to § 2405.3(g), which prohibits parking "[i]n a manner to obstruct the entrance to any garage, parking lot or yard, coal chute, door, or gate used for service purposes." This, in turn, corresponds to violation code P015, "Entrance, obstructing". However, given the impact of parking in some of those places, even during the hours stated by the amendment, this might not be in accordance with the Council's intent. This too could be clarified by DDOT. Any reasonable interpretation by that agency, as the agency responsible for interpreting the language of the amendment, should be given deference by our hearing examiners.

CRB/crb

³ Originally, this notice needed to be published in the D.C. Register, but a recent amendment to the definition of "rule" in the Administrative Procedures Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 1-502) altered this requirement.

⁴ That subsection states: "If a highway includes two (2) or more separate roadways and traffic is restricted to one direction upon any such roadway, no person shall stand or park a vehicle upon the left-hand side of such one-way roadway unless signs are erected to permit such standing or parking."