

## **The New York City Department of Transportation**

### **Notice of Adoption**

**NOTICE OF ADOPTION** relating to misuse and fraudulent use of authorized parking permits.

**NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN** the Commissioner of the New York City Department of Transportation (DOT) by Sections 1043 and 2903 of the New York City Charter and in accordance with the requirements of Section 1043 of the New York City Charter, that DOT hereby amends Section 4-08 of Chapter 4 of Title 34 of the Rules of the City of New York.

This rule was first published on April 10, 2018 and a public hearing was held on May 22, 2018. Written comments were received.

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

The Commissioner of the New York City Department of Transportation (DOT) is authorized to promulgate rules regarding parking and traffic operations in the City by Section 2903(a) of the New York City Charter. The rules that DOT is seeking to amend are contained within Chapter 4 of Title 34 of the Rules of the City of New York, relating to “Traffic Rules and Regulations.”

The purpose of these rule amendments is to make clear that misuse of certain parking permits is a violation of DOT rules.

The amendments to Chapter 4 of Title 34 are detailed more specifically below:

- Section 4-08(o)(3) is amended to clarify eligibility for agency-authorized permits.
- Section 4-08(o)(3) is amended to add a violation for misuse of an agency-authorized parking permit as a separate violation of DOT rules.
- Section 4-08(o)(3) is amended to add a violation for use of a fraudulent parking permit as a separate violation of DOT rules.

The New York City Department of Transportation’s authority for these rules is found in section 1043 and 2903(a) of the New York City Charter.

The specific reference to government owned vehicles in the proposed rule was deleted because it is unnecessary and confusing. Department traffic and parking rules apply to all motor vehicles except where there are specific exceptions.

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.

**Section 1. Paragraph (3) of subdivision (o) of Section 4-08 of Chapter 4 of Title 34 of the Rules of the City of New York is amended to read as follows:**

**(3) [Yearly] Agency-authorized permits for parking in contradiction to rules on city streets.**

[Yearly] Agency-authorized permits are issued [on dates determined] by the Department of Transportation or any other agency authorized by the Department. Permits may be issued to non-profit organizations [needing to park in contradiction to parking rules] for certain essential purposes such as medical services, blood delivery and human services programs and to governmental agencies and officials for governmental purposes. Permits may be issued when the vehicle is essential to the performance of [their] organizational functions. [These organizations generally are medical, blood, government and human services programs.] Such permits shall be displayed [so that they are] in a place where it is visible through the vehicle’s windshield only when a vehicle is parked in areas specified on the permit or electronically linked to the permit unless the permit is affixed to the vehicle by the department or an agency authorized by the department.

**(i) Parking permitted.** Parking with [yearly] agency-authorized permits and the display of a permit in the windshield of a vehicle or, where applicable, a permit affixed to the vehicle by the department is permitted in areas specified on or [programmed into] electronically linked to the permit and may include some or all of the following:

- (A) Parking meters.
- (B) Truck loading and unloading zones.
- (C) No Standing/Parking Except Authorized Vehicles or Authorized Vehicle Only, when the organization or agency named on the permit [matches] is indicated on the signs, and
- (D) "No Parking" areas.

**(ii) Parking not permitted.** Parking with [yearly] and display of agency-authorized permits in the windshield of a vehicle or, where applicable, a permit affixed to the vehicle by the department or any agency authorized by the department is not permitted at:

- (A) "No Standing" areas.
- (B) "No Stopping" areas.
- (C) Fire hydrants.
- (D) Bus stops.
- (E) Areas on the roadway side of a vehicle stopped, standing, or parked at the curb (i.e., Double parking).
- (F) Driveways.
- (G) Bridges and highways.[, and]
- (H) Areas where a traffic hazard would be created.
- (I) Carshare parking space(s).

**(iii) Duration.** [Yearly] Agency-authorized permits are issued for the minimum hours and days essential for the activity. Such permits are issued on an annual basis on dates

determined by the Department of Transportation. [The Commissioner or his/her designee may, at his/her discretion, issue, extend or revoke these permits.]

**(iv) Misuse and fraudulent use of parking permits.** A violation of this sub-paragraph (iv) will be issued in addition to any other violation issued for parking in contravention of posted signs or written regulations. It shall be unlawful:

(A) to display an agency-authorized permit in the windshield of a vehicle or, where applicable, a permit affixed to the vehicle by the department or any agency authorized by the department and park with the intent to avoid compliance with posted signs or written regulations. In any proceeding relating to the violation of this provision such intent shall be implied where:

1. the permit displayed in the windshield of the vehicle or, where applicable, the permit affixed to the vehicle by the department or any agency authorized by the department does not authorize parking in such space in contravention of posted signs or written regulation.
2. the permit is displayed on a vehicle other than the one described in the permit
3. the permit displayed in the windshield of the vehicle is copied, altered, or displayed in a manner that obscures the locations to which it applies.
4. the permit displayed in the windshield of the vehicle or where applicable the permit affixed to the vehicle by the department or any agency authorized by the department is expired, suspended or revoked.

(B) to display a fraudulent parking permit in the windshield of a vehicle and park in contravention of posted signs or written regulations. For the purposes of this section, a fraudulent parking permit may be a counterfeit of a Department-issued permit, resemble an official Department permit or contain language falsely purporting to authorize parking in areas restricted by posted signs or written regulations.

**(v) Revocation of an agency-authorized permit.** The Commissioner or their designee may, at their discretion, revoke or suspend agency-authorized permits.

(A) Notice. Except as otherwise provided herein prior to revocation or suspension the permit holder will be notified of the proposed suspension or revocation and the grounds and may appeal such determination in accordance with item (B) within 15 days after the date set forth in such notice. If no appeal is filed within such 15 day period such revocation or suspension shall be effective upon the conclusion of the time for appeal. If an appeal is filed within such 15 day period such revocation or suspension shall be effective upon notice of the determination of the appeal unless such determination is in favor of the permittee. Notwithstanding the foregoing where the Commissioner finds that the continued use of an agency-authorized permit is a danger to public safety, such revocation or suspension shall be effective immediately upon the date of notice of the suspension or revocation of such permit. Grounds for revocation or suspension will include:

1. Three or more violations of this subdivision (o);
2. Any violation of Administrative Code § 19-166; or
3. Unpaid parking or traffic violations associated with the license plate or individual permit holder in excess of \$350.

(B) Appeal. A permit holder may appeal the determination to revoke or suspend an agency-authorized permit in writing within fifteen (15) days after the date of a notice provided in accordance with item (A) in the manner described in such

notice. The Department will respond to the appeal within sixty (60) days except that where the revocation or suspension was effective immediately upon the date of such notice the Department shall respond to such appeal within fifteen (15) days.

**(vi) Refusal to issue or renew an agency-authorized permit.** The commissioner or their designee may refuse to issue or renew an agency-authorized permit for any of the grounds set forth in subparagraph (v) that apply to the revocation or suspension of such permit.