

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Rules Governing Land Use Permits in Watershed

REFERENCE NUMBER: 2011 RG 055

RULEMAKING AGENCY: Department of Environmental Protection

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: November 2, 2011

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1526**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

**RULE TITLE: Amendment of Rules Governing Land Use Permits in Watershed
REFERENCE NUMBER: DEP-2
RULEMAKING AGENCY: DEP**

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Provides a cure period.

/s/ Francisco Navarro
Mayor's Office of Operations

November 1, 2011
Date



**DEPARTMENT OF ENVIRONMENTAL PROTECTION
NOTICE OF PUBLIC HEARINGS**

Subject: Opportunity to Comment on the proposed repeal and re-promulgation of Chapter 17 of Title 15 of the Rules of the City of New York: Rules for the Issuance of Revocable Land Use Permits for the Occupation and Use of City Property

The proposed re-promulgation of the rules would be pursuant to the authority of DEP as set forth in §1043(a) of the New York City Charter, and §§24-302 and 24-315 and of the New York City Administrative Code.

<u>LOCATION</u>	<u>DATE</u>	<u>TIME</u>
Belleayre Mountain Discovery Lodge 181 Galli Curci Road Highmount, NY 12441	12/19/2011 (Monday)	7:00 pm - 9:00 pm
Putnam County Bureau of Emergency Services 112 Old Route 6 Carmel, NY 10512	12/20/2011 (Tuesday)	7:00 pm - 9:00 pm
1 Lefrak City Plaza 59-17 Junction Boulevard 19 th floor – Enclave C Flushing, NY 11373	12/21/2011 (Wednesday)	3:00 pm - 5:00 pm

Contact: Melissa Siegel
(718) 595-7418

Instructions

If you are interested in pre-registering to speak, you should give written notice by mail to:

Melissa Siegel
Department of Environmental Protection
Bureau of Legal Affairs
59-17 Junction Blvd., 19th floor
Flushing, NY, 11373-5108

or by electronic mail to nycrules@dep.nyc.gov. Please include a telephone number where you can be reached during normal working hours.

Preference in order of testimony will be given to those who pre-register.

You can speak for up to five minutes.

If you need a sign language interpreter or other form of reasonable accommodation for disability, please notify Ms. Siegel at least ten days before the hearing.

- You can also register in person to testify at the hearings:
- until 8:30 pm at the
- until 4:30 pm at 1 Lefrak City Plaza.

If you wish to submit written comments you may submit them to Ms. Siegel by either regular mail or electronic mail to the addresses above. You must submit written comments by 5:00 pm on January 13, 2012.

You can get a copy of the proposed rules at the Department of Environmental Protection, Bureau of Legal Affairs, 59-17 Junction Blvd., 19th floor, Flushing, NY, 11373-5108 and at www.nyc.gov/dep.

Written comments and transcripts of the public hearings will be available for public inspection within a reasonable time after receipt of a request at either of the addresses above, between 10:00 am and 4:00 pm at the Department of Environmental Protection, Bureau of Legal Affairs, 59-17 Junction Blvd., 19th floor, Flushing, NY, 11373-5108.

The language to be deleted is bracketed (*[deletion]*) and the new parts to be added are underlined (*addition*).

Statement of Basis and Purpose:

New York City owns land in New York State’s Delaware, Dutchess, Greene, Orange, Putnam, Schoharie, Sullivan, Ulster, Westchester and Orange Counties. The City’s reservoirs, which supply water for its residents and businesses, are located on these lands. It is the duty of the Commissioner of the Department of Environmental Protection (“DEP”) to preserve the purity of all waters from which any part of the city water supply is drawn, and to protect such supply and the lands adjacent to them from injury or nuisance. Where consistent with watershed protection needs, the DEP may allow local businesses, not-for-profit organizations and government agencies to use these lands for a variety of purposes including the siting of utilities and water quality improvement projects, ingress and egress to and from private property over City property for various reasons such as driveways and temporary access, road repairs and fund-raising events. DEP issues revocable land use permits for these activities.

The purposes of the proposed repeal and re-promulgation of the Rules for the Issuance of Revocable Land Use Permits for the Occupancy or Use of City Property include:

- to provide a more user-friendly format;
- to clarify the application process;
- to establish a new section that covers the term and renewal of the Revocable Land Use Permit;
- to establish a category of applicants for which the application and permit fees will be waived, and remove the Commissioner’s discretion to waive fees only for entities that provide services to NYC-owned facilities;
- to require that permittees supply a surety bond when siting major infrastructure improvements on City property. The surety bond will cover the cost of any repairs or remediation made necessary by:
 - a permittee’s use of City property; and
 - the removal of such improvements and restoration of the property in case the permittee abandons those improvements after DEP revokes or terminates the permit.

The proposed rule also allows DEP the opportunity to perform such repairs, remediation or removal itself based on the nature and location of the repair, remediation or removal at issue.

- to provide 30 days’ notice prior to revocation to give the permittee the opportunity to resolve the problem underlying the proposed revocation;
- to reorganize the fee schedule into table format and to differentiate between Commercial and Non-Commercial fees to make the fee schedule easier to understand; and

- to adjust the annual fees to reflect Cost of Living Adjustments since 2005 (as provided in the January 21, 1997 New York City Memorandum of Agreement.)

Rules for the Issuance of Revocable Land Use Permits for the Occupation or Use of City Property

§1. It is proposed that Chapter 17 of Title 15 of the Rules of the City of New York, relating to the issuance of permits for the occupancy or use of City property, be REPEALED, and re-promulgated to read as follows:

§17-01 Scope and Purpose.

The following rules apply to any permitted occupation or use of New York City property (lands, water bodies, reservoirs and infrastructure) in the counties of Delaware, Dutchess, Greene, Orange, Putnam, Schoharie, Sullivan, Ulster, and Westchester. These rules are for the benefit of municipalities, utilities, government agencies, organizations exempt from federal taxation pursuant to 26 U.S.C.A. §501(c)(3), individuals and commercial enterprises who may want to access or to occupy City owned property. The New York City Department of Environmental Protection is the City agency designated as the issuing authority for Revocable Land Use Permits (“Permits”).

§17-02 Definitions.

- (a) **Commercial Use.** “Commercial Use” means a use which is undertaken primarily for the purpose of making a profit. Commercial Use does not include use by any utility company.
- (b) **Commissioner.** “Commissioner” means the Commissioner of the New York City Department of Environmental Protection or a Deputy Commissioner authorized to act for such Department pursuant to law.
- (c) **Cost of Living Adjustment (“COLA”).** “Cost of Living Adjustment (COLA)” means an annual adjustment in wages to offset a change (usually a loss) in purchasing power, as measured by the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) from the third quarter of one year to the third quarter of the next, as published by the U.S. Bureau of Labor Statistics.
- (d) **Low-Impact Uses.** “Low-impact uses” mean those uses with little or no soil, vegetation, stream, or wetland disturbances and no siting of impervious surfaces or structures. The term “low-impact uses” does not include any alterations that would increase the rate or volume of stormwater runoff.
- (e) **Property Value.** “Property Value” means the assessed value (land only) of property adjacent to or similar to the City property subject to a Permit, in proportion to the acreage of City property subject to a Permit, adjusted by the New York State equalization rate.
- (f) **Public Corporation.** “Public Corporation” means a municipal corporation, a district corporation or a public benefit corporation, as defined in Section 66 of the General Construction Law.

- (g) **Reimbursement of Taxes.** “Reimbursement of taxes” means the reimbursement of actual real property taxes and assessments paid by the City of New York, and includes the total assessed value, if any, paid by the City of New York for the acreage of City property that is subject to a Permit.
- (h) **Rural Electric Cooperative.** “Rural Electric Cooperative” means any corporation organized under the New York State Rural Electric Cooperative Law.

§17-03 Applications and Application Fees.

- (a) Applications may be obtained from the DEP website, from any authorized DEP employee or on request by calling DEP at (914) 742-2076. Prior to submission of the application, applicants must discuss their Permit request at the telephone number above with a staff member of the Land Use Permit Office or any other authorized DEP employee. Applications may then be hand-delivered to an authorized DEP employee or submitted by United States Postal Service (USPS) mail to:

NYC Department of Environmental Protection
Land Use Permit Office
465 Columbus Avenue
Valhalla, NY 10595

Notification of the availability of internet application submission will be posted on the DEP website.

- (b) All applications for Permits must be accompanied by a non-refundable application fee of twenty-five dollars (\$25.00) payable to the order of “The City of New York” by money order or check unless such fee is waived pursuant to Section 17-07(c). Notification of the availability of payment by credit card will be posted on the DEP website.
- (c) Applications must contain all materials related to the Permit request, including but not limited to detailed plans, sketches, maps and surveys that show the areas of the proposed uses and adjacent City property boundaries. If DEP deems necessary, the applicant will be required to provide additional plans, engineering drawings or other documents.
- (d) Permit fees are set forth in Section 17-07.

§17-04 Term and Renewal.

- (a) The issuance and renewal terms of the permits shall not exceed five (5) years. Permits may be renewed for additional five (5) year terms upon DEP’s approval of an updated application for renewal, and any additional plans, engineering drawings or documents required by DEP. DEP will send Permit renewal applications to permittees.
- (b) If a Permit is not renewed, use of City property must cease at the conclusion of the term of the Permit. The property must be restored to DEP’s satisfaction within thirty (30) days of the date of the expiration of the Permit. DEP will determine, based on the nature and location of the area requiring restoration, whether DEP or the former permittee will perform such restoration. The former permittee is responsible for all restoration costs regardless whether the permittee or DEP performs such restoration. If DEP allows the permittee to undertake the restoration, failure to complete such restoration to the satisfaction of DEP may result in the exercise of any legal remedies available to DEP.

§17-05 Conditions.

All Permits will include standard conditions and may also include special conditions specific to the use of the City property, as deemed necessary. The permittee must sign an acknowledgment before a Notary Public accepting all conditions including Permit fees set forth by DEP as a requirement of Permit issuance.

§17-06 Right of Entry.

DEP reserves the rights of its employees, contractors and other persons approved by DEP to enter City property at any time for any purpose without notice to, or permission of, the permittee.

§17-07 Permit Fees and Waivers.

- (a) Except as set forth in subdivision (c) of this section, Permit fees for all Permits are equal to the greater of the total amount determined in accordance with subdivision (e) of this section or \$25.00.
- (b) DEP will invoice all renewable Permits annually. Payment is due within 30 days of the invoice date.
- (c) DEP will waive application fees and Permit fees for Permits in connection with the following:
 - (1) DEP-funded or supported projects or projects servicing DEP facilities;
 - (2) Projects for highway purposes in which adjacent City land is needed for work within existing municipal rights of way and/or easements;
 - (3) Projects or uses by a Public Corporation, federal or state agency that involve Low-Impact Uses and water-quality improvement projects such as, but not limited to, the following:
 - replacing a failing culvert to reduce flooding,
 - emergency road repairs or installation of ground water monitoring wells to assess contamination.
 - Such projects shall not include improvements that are likely to increase the tax assessment of City land;
 - (4) Projects or uses by a Public Corporation, federal or state agency that involve certain Low-Impact Uses related to recreation such as, but not limited to, the following:
 - hiking,
 - snowshoeing,
 - cross-country skiing,
 - bird watching,
 - educational programs, and,
 - nature study and interpretation;
 - (5) Projects or uses by a Public Corporation, federal or state agency, or a utility providing a public benefit, on property where the City has determined to grant an easement to the permittee for such project or use;
 - (6) Court-ordered uses of City property;

- (7) Projects or uses by a Public Corporation, federal or state agency or any organization exempt from federal taxation pursuant to 26 U.S.C.A. §501(c)(3) that involve Low Impact Uses of limited duration such as, but not limited to, the following:
- nature or natural resources studies,
 - fund-raising events,
 - posting and removal of temporary signs or markers for an event, and
 - temporary storage or staging; and
- (8) Emergency use of City property by a Public Corporation, federal or state agency or any organization exempt from federal taxation pursuant to 26 U.S.C.A. §501(c)(3) to respond to an imminent threat to the health and safety of humans, or to respond to a substantial imminent threat to water quality or to property. DEP must be notified by telephone and questions about the emergency must be answered on the business day following the date of the emergency.
- (d) Application and Permit fees shall not be waived for any projects that include requests for Commercial or individual uses.
- (e) The schedule of Permit fees is listed below. These Permit fees shall be adjusted by the Cost of Living Adjustment:

Category

Permit Fee

Access over City Property

This includes, but shall not be limited to, temporary or permanent physical access ways such as driveways, logging roads and construction entranceways.

- Each 300 feet in length, or part thereof, for widths less than or equal to 10 feet, Non-Commercial uses \$95.03
- Each 300 feet in length, or part thereof, additional fee per foot of width over 10 feet, Non- Commercial uses \$19.00
- Each 300 feet in length, or part thereof, for widths less than or equal to 10 feet, Commercial Uses \$190.08
- Each 300 feet in length, or part thereof, additional fee per foot of width over 10 feet, Commercial Uses \$38.03
- General access over City property other than driveways (one-time Permit fee) \$100.00

Fencing

- Each 300 feet, or part thereof, Non-Commercial uses \$95.03
- Each 300 feet, or part thereof, Commercial Uses \$190.08

Walkways

- Non-Commercial uses \$95.03
- Commercial Uses \$190.08

Bridges

- Bridges or crossings for access/driveways or walkways for Non-Commercial use \$95.03
- Bridges or crossings for access/driveways or walkways for Commercial Use \$190.08

Commuter Parking

- Paved or unpaved surfaces 33⅓% of gross receipts derived from commuter parking fees plus reimbursement of taxes

Non -Commuter Parking

- Municipal / Organizations Exempt from Federal Taxation – paved or unpaved surfaces Reimbursement of taxes

- Commercial Uses – paved or unpaved surfaces 10% of property value of area used plus reimbursement of taxes

Signs including supports

- Non-Commercial uses \$25.00

Subsurface Sewage Treatment Systems (SSTS)

- Individual sewage treatment systems serving single family homes \$190.08
- All other subsurface sewage treatment systems \$380.14

Drainage Pipe/Culvert Pipes

- Each 10 feet in length, or part thereof, for each 1 inch in diameter of pipe \$1.67

Water Pipes

- Pipes for private use, each 300 feet in length, or part thereof, any size diameter \$95.03
- Pipes for Commercial Use, each 300 feet in length, or part thereof, any size diameter \$190.06

Water Connection/Pump Houses (Public use)

- Each connection, plus cost for pipes and appurtenances plus reimbursement of taxes \$475.27
- A separate Water Supply Agreement with specific costs for water withdrawal may also be required

Subsurface Utilities or Facilities (Public Service Corp.)

- Each 10 feet in length, or part thereof, for each 1 inch in diameter of pipe \$1.67

Dry Wells

- Each \$47.53

Manholes and other Underground Structures

- Per cubic foot \$2.65

Utility Installation Charge for Utility Poles (One-time Permit fee)

- Each pole, including anchor \$11.39

Utility Poles and Supports for Utility Poles

- Each pole \$7.55
- Each support, guy wire, pull, anchor or other appurtenance \$7.55

Utility Attachments to Another Utility’s Existing Permitted Pole(s)

- Each attachment \$2.26

Utility Structures (Transformers and switching substations, small substations, gas metering connections and treatment chambers, etc.)

- Less than or equal to 5,000 square feet \$950.62
- Greater than 5,000 and less than or equal to 10,000 square feet \$1,901.26
- Greater than 10,000 and less than or equal to 15,000 square feet \$2,851.86
- Greater than 15,000 and less than or equal to 20,000 square feet \$3,802.49
- Greater than 20,000 and less than or equal to 30,000 square feet \$4,753.13
- Greater than 30,000 square feet \$5,703.76

Other Utility Uses

• <u>Interface Cabinets (Telephone), each</u>	<u>\$38.03</u>
• <u>Telephone Platforms, each</u>	<u>\$76.03</u>
• <u>Utility Pedestals and Slabs, each</u>	<u>\$47.53</u>
• <u>Shield Wires, each</u>	<u>\$19.00</u>

Aerial, Buried, or Submarine Electric Cable

• <u>Each 300 feet in length, or part thereof, for each wire transmitting less than or equal to 5,000 volts</u>	<u>\$76.03</u>
• <u>Each 300 feet in length, or part thereof, for each wire transmitting more than 5,000 volts and less than or equal to 13.2 kilovolts</u>	<u>\$114.06</u>
• <u>Each 300 feet in length, or part thereof, for each wire transmitting 13.2 kilovolts or more</u>	<u>\$152.06</u>

Transmission Lines

• <u>Each circuit transmitting less than 345 kilovolts</u>	<u>\$638.71</u>
• <u>Each circuit transmitting 345 kilovolts or more</u>	<u>\$821.24</u>
• <u>Additional Permit fees for Aqueduct Crossings</u> <u>10% of property value of area used plus reimbursement of taxes</u>	

Small Transformers and Regulators

• <u>Each unit transmitting less than or equal to 13.2 kilovolts</u>	<u>\$76.03</u>
• <u>Each unit transmitting more than 13.2 kilovolts and less than or equal to 34.5 kilovolts</u>	<u>\$152.06</u>
• <u>Each unit transmitting more than 34.5 kilovolts</u>	<u>\$228.09</u>

Other Electric

• <u>Anodes and Rectifiers, each</u>	<u>\$38.03</u>
• <u>Splice Boxes, each</u>	<u>\$7.59</u>

Aerial, Buried, or Submarine Cable, other than Electric

• <u>Each 300 feet in length, or part thereof, for each wire</u>	<u>\$76.03</u>
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Aerial, Buried, or Submarine Fiber Optic Cable (any size)

• <u>Each 300 feet in length, or part thereof, for each wire</u>	<u>\$76.03</u>
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Ducts (Electric, Telephone, etc.)

• <u>Each 300 feet in length, or part thereof, for each duct, 8 inches or less in diameter</u>	<u>\$76.03</u>
• <u>Each 300 feet in length, or part thereof, for each duct, greater than 8 inches in diameter</u>	<u>\$152.06</u>

Municipal Maintenance/Organizations Exempt from Federal Taxation

• <u>Site maintenance and/or repair</u>	<u>\$25.00</u>
• <u>General municipal use for official business</u>	<u>\$25.00</u>

Natural Resource Extraction

• <u>Agricultural Uses such as planting/harvesting crops and livestock (per acre)</u>	<u>\$5.00</u>
• <u>Harvesting hay (per acre)</u>	<u>\$2.50</u>
• <u>Brush-hogging (flat Permit fee)</u>	<u>\$50.00</u>

Recreation

• <u>High-impact uses that call for major physical improvement (e.g. ball fields, soccer fields) by municipalities or organizations exempt from federal taxation</u>	<u>Reimbursement of taxes</u>
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- Moderate-impact uses and related structures (e.g. paved trails, snowmobiles trails, horse trails) \$30.00
- Low-Impact Uses and related small-scale amenities such as informational kiosks \$25.00

Wall Breaks (One-time Permit fee)

- This includes removing/opening sections of City walls for access or other uses as needed \$95.03

Investigatory Work for a period not to exceed one (1) year (One-time Permit fee)

- Flat rate for any test borings, wells, pits, etc. (regardless of quantity) \$475.27
- Each structure for storage (trailers, sheds, gas tanks, etc.) \$190.08

Investigatory Work for a period to exceed one (1) year

- Additional annual Permit fee for investigatory work exceeding one (1) year \$100.00

Staging Area (One-time Permit fee)

- Flat Rate \$190.08

Miscellaneous

- Dry Hydrants \$34.68
- Street Poles and Lights (each) \$10.00
- Other Non-Commercial uses (Permit fee double for commercial use):
 - Less than or equal to 5,000 square feet \$250.00
 - Greater than 5,000 and less than or equal to 10,000 square feet \$500.00
 - Greater than 10,000 and less than or equal to 15,000 square feet \$1,000.00
 - Greater than 15,000 and less than or equal to 20,000 square feet \$1,500.00
 - Greater than 20,000 and less than or equal to 30,000 square feet \$2,000.00
 - Greater than 30,000 square feet \$2,500.00

The following Permit Fees shall apply to Rural Electric Cooperatives

Access/Driveways

- Each 300 feet in length, or part thereof, for widths less than or equal to 10 feet \$39.62
- Each 300 feet in length, or part thereof, additional Permit fee per foot of width over 10 feet \$7.92

Fencing

- Each 300 feet in length, or part thereof \$39.62

Manholes and Other Underground Structures

- Per cubic foot \$.95

Utility Installation Charge for Utility Poles (One-time Permit fee)

- Each pole, including anchor \$4.75

Utility Poles and Supports for Utility Poles

- Each pole \$3.17
- Each support, guy wire, anchor, pull or other appurtenance \$3.17

Utility Attachments to Another Utility's Existing Permitted Pole(s)

- Each attachment \$.95

Utility Structure (Transformers and switching substations, small substations, gas metering connections and treatment chambers, etc.)

• <u>Less than or equal to 5,000 square feet</u>	<u>\$396.34</u>
• <u>Greater than 5,000 and less than or equal to 10,000 square feet</u>	<u>\$792.66</u>
• <u>Greater than 10,000 and less than or equal to 15,000 square feet</u>	<u>\$1,189.00</u>
• <u>Greater than 15,000 square feet and less than or equal to 20,000 square feet</u>	<u>\$1,585.33</u>
• <u>Greater than 20,000 square feet and less than or equal to 30,000 square feet</u>	<u>\$1,981.67</u>
• <u>Greater than 30,000 square feet</u>	<u>\$2,378.00</u>

Aerial, Buried or Submarine Electric Cable

• <u>Each 300 feet in length, or part thereof, for each wire transmitting less than or equal to 5,000 volts</u>	<u>\$31.70</u>
• <u>Each 300 feet in length, or part thereof, for each wire transmitting more than 5,000 volts and less than 13.2 kilovolts</u>	<u>\$47.56</u>
• <u>Each 300 feet in length, or part thereof, for each wire transmitting 13.2 kilovolts or more</u>	<u>\$63.40</u>

Transmission Lines

• <u>Each circuit transmitting less than 345 kilovolts</u>	<u>\$266.30</u>
• <u>Each circuit transmitting 345 kilovolts or more</u>	<u>\$342.40</u>
• <u>Additional Permit fees for Aqueduct Crossings</u>	<u>In addition to applicable circuit fees, 10% of property value of area used plus reimbursement of taxes</u>

Small Transformers and Regulators

• <u>Each unit transmitting less than or equal to 13.2 kilovolts</u>	<u>\$31.70</u>
• <u>Each unit transmitting more than 13.2 kilovolts and less than or equal to 34.5 kilovolts</u>	<u>\$63.40</u>
• <u>Each unit transmitting more than 34.5 kilovolts</u>	<u>\$95.10</u>

Ducts

• <u>Each 300 feet of length, or part thereof, for each duct, 8 inches or less in diameter</u>	<u>\$31.70</u>
• <u>Each 300 feet of length, or part thereof, for each duct, greater than 8 inches in diameter</u>	<u>\$63.40</u>

Other

• <u>Anodes and Rectifiers, each</u>	<u>\$15.86</u>
• <u>Splice Boxes, each</u>	<u>\$3.17</u>
• <u>Utility Pedestals and Slabs, each</u>	<u>\$19.83</u>
• <u>Shield Wires, each</u>	<u>\$7.92</u>

§17-08 Damage to Persons or Property.

(a) The permittee shall indemnify and save the City harmless from all damages resulting from injury to persons or property arising from the use of City land, structures or other property under this Permit. Insurance policies naming the City, together with its officials and employees and the New York City Water Board as additional insureds must be provided as follows:

- All individuals and Not-for-Profit Organizations: Personal or General Liability or Homeowners' Insurance with minimum limits of \$500,000;
- All Commercial entities: Commercial General Liability Insurance with minimum limits of \$2,000,000 per occurrence, \$5,000,000 aggregate;
- All Utilities and Municipalities: Commercial General Liability Insurance with minimum limits of \$2,000,000 per occurrence, \$5,000,000 aggregate.

In lieu of such insurance policies, municipal permittees may provide proof of self-insurance in an amount satisfactory to DEP and municipal and Commercial entities may provide other forms of

undertakings, such as, but not limited to, letters of credit in amounts satisfactory to DEP. All permittees must provide proof of insurance, self-insurance or other undertaking annually.

- (b) The permittee shall be required to furnish a surety bond in a minimum amount of \$250,000 in favor of the City of New York to be continued during the period that City property is occupied by the permittee for siting major improvements or infrastructure, including, but not limited to, the following:
- water connections,
 - pump stations,
 - filtration plants, and
 - other improvements of a similar nature.

The purpose of such bond is to cover the cost of any repairs or remediation necessitated by the permittee's use of City property or for removal of permittee's improvements remaining on City property after Permit revocation or termination and restoration of the property to its original conditions after such removal. Such bond shall be continued in force by the permittee until City property is cleared of all encumbrances placed there by permittee and shall not limit in any way the liability of the permittee for damage to life or property resulting from the use or occupancy of City property.

- (c) In the event any City infrastructure or lands are damaged by the permittee's use of City property, DEP will determine, based on the nature and location of the damage, whether DEP or the permittee will perform such repair. Regardless of whether DEP or the permittee performs such repairs, the permittee shall be responsible for any and all costs for such repairs to the satisfaction of DEP. If DEP allows the permittee to undertake such repairs, failure to complete these repairs to the satisfaction of DEP may result in revocation of the Permit and any additional legal remedies available to DEP.
- (d) In case of emergency, insurance verification must be submitted to DEP within ten (10) business days of the date of emergency Permit issuance.

§17-09 Revocation.

Permits are revocable at the will of the Commissioner upon thirty (30) days' written notice of the proposed revocation, except in the case of emergencies that present immediate risks to water quality, City infrastructure(s) or to the health of employees or members of the public. Reasons for revocation include, but are not limited to, the following:

- violation by the permittee of any regulation or condition(s) of the Permit,
- failure to pay Permit fees,
- failure to maintain improvement or structure allowed by such Permit,
- failure to provide proof of insurance, and
- DEP's need to use its land for water supply operations.

Such revocation, other than for DEP's need to use its land for water supply purposes, may be cured by the permittee within the thirty (30) day written notice period. Failure by DEP to revoke a Permit shall not prohibit DEP from exercising any other legal remedies available.

§17-10 Permittee's Improvements to be Removed and City Property Restored on Notice of Permit Revocation or Permit Termination.

Upon Permit revocation, any improvements belonging to the permittee must be removed from City property, at the permittee's expense, within thirty (30) days of such revocation unless otherwise authorized by DEP in writing. The property must be restored by the permittee or DEP in accordance with Section 17-08(c) of these Rules within thirty (30) days of revocation or as otherwise agreed upon. Any improvement(s) remaining on City property beyond thirty (30) days of the written notice shall be considered abandoned and title to such improvement(s) shall become vested in the City, at the City's option. Should the City elect to take title, the improvement(s) shall be disposed as the Commissioner may direct in lieu of any other procedure for the disposition of abandoned property required or permitted by law, and the former permittee waives any right to assert a claim against DEP pursuant to the provisions of the New York State Personal Property Law, Abandoned Property Law or any such other procedure. DEP shall seek reimbursement for any costs incurred for the removal of any such improvement(s) and shall also seek forfeiture of any bond provided.

§17-11 Title of Property.

Title and ownership of all City property, including all natural resources above, on and beneath the property, such as, but not limited to, minerals, soils, trees and metals upon, in or under the land shall remain and be vested in the City of New York. Removal of City resources from any Permitted location, unless approved in writing in advance by DEP, is strictly prohibited and will be prosecuted to the fullest extent of the law.

§17-12 Unenforceability.

If any clause, sentence, paragraph, subdivision, section, rule or part of this chapter shall be adjudged by any court or competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, rule or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§17-13 Repeal.

These rules are intended to repeal those rules entitled Issuance of Temporary Permits for the Occupation of City Property, effective September 2, 2001; provided, however, that with respect to Permits issued before the effective date of these rules, all restrictions, conditions and requirements upon the permittee contained in the earlier rules shall remain in effect until such Permit is renewed, cancelled, terminated or revoked.