

DEPARTMENT OF TRANSPORTATION

NOTICE OF ADOPTION on amendments to the rules relating to construction activity, underground street access covers, transformer vault covers and gratings, and excavation and restoration requirements.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE Commissioner of the Department of Transportation by subdivision (b) of Section 2903 of the New York City Charter, and Title 19 of the New York City Administrative Code, and in accordance with the requirements of Section 1043 of the New York City Charter, that the Department of Transportation hereby adopts amendments to sections 2-05, 2-07, and 2-11 of Chapter 2 of Title 34 of the Official Compilation of the Rules of the City of New York, the Highway Rules. These rules were first published on the City Record on December 27, 2010 and a public hearing was held on January 27, 2011 and continued on February 10, 2011. These rules shall take effect 30 days from the date hereof.

Matter underlined is new; matter in [brackets] is deleted.

Section 1. Paragraphs (3) and (8) of subdivision (d) of section 2-05 of Title 34 of the Rules of the City of New York are amended to read as follows:

(d) Conditions for the placement or storage of construction material and equipment (other than cranes) on the street.

(3) The name, address and telephone number of the owner shall be printed on two sides of each container used for construction debris. This requirement does not apply to convex containers (commonly referred to as shipping or cargo containers), which are not permitted on City streets unless otherwise authorized by the Commissioner.

- (8) Construction material or equipment shall not be stored or placed within:
- (i) five feet of railroad tracks;
 - (ii) three feet of any city-owned electrical systems equipment including, but not limited to, signal and lamp posts, ITS systems, cameras, panel and/or junction boxes, provided that access to the equipment is maintained at all times;
 - (iii) fifteen feet of hydrants or water sampling stations;
 - (iv) the area created by extending the building line to the curb (the "corner") or within the area from ten feet of either side of the corner (the "corner quadrant");
 - (v) any "No Standing" zone; or

(vi) stored at a height greater than five (5) feet, unless such construction material or equipment is a nondivisible load which exceeds five (5) feet in height, or unless otherwise authorized by the Commissioner.

§ 2. Paragraph (5) of subdivision (a) of section 2-07 of Title 34 of the Rules of the City of New York is amended to read as follows:

(a) General conditions.

(5) A permit is required to store material or equipment on the street during non-working hours whether or not the cover or grating opening is in a critical roadway. No such permit shall be required to store tool carts on the sidewalk. No tool cart shall be stored on a sidewalk unless a minimum passage of five feet is maintained on the sidewalk for pedestrians. No tool cart stored on a sidewalk or roadway shall obstruct any hydrant, water sampling station, bus stop or driveway. A permit is required to store tool carts on the roadway. All tool carts shall display the name, address and telephone number of the entity that placed them on the sidewalk or roadway.

§ 3. Paragraph (1) of subdivision (a) of § 2-11 of Chapter 2 of Title 34 of the Rules of the City of New York is amended to read as follows:

(a) Permit Required.

(1) No excavations shall be made in any street unless a Street Opening Permit is obtained.

(i) For plumbing work requiring a street opening or excavation, a Street Opening Permit will only be issued to [a licensed master plumber as defined in section 26-141 of the Administrative Code.] a business or businesses set forth on the plate issued to licensed master plumbers pursuant to 28-401.3 of the Administrative Code.

(A) The licensed master plumber shall be required to provide a valid New York City [licensed master plumber's certificate] plate issued by the New York City Department of Buildings indicating the master plumber business or businesses under which the licensed master plumber practices his or her trade, or a valid copy of the same. The licensed master plumber shall also present a copy of any documentation issued by the New York City Department of Environmental Protection regarding the plumbing work that is to be conducted. These items must be submitted to the Department before the Department approves the Street Opening Permit.

§5. Paragraph (7) of subdivision (e) of section 2-11 of Title 34 of the Rules of the City of New York is amended to read as follows:

(e) Excavation and Restoration Requirements.

(7) Storage of Materials

(i) A street opening permit includes permission to store construction materials in a designated area adjacent to the permitted worksite only during permitted hours. Storing materials after permitted hours shall require a separate permit.

§ 6. Subparagraph (vii) of paragraph (8) of subdivision (e) of section 2-11 of Title 34 of the Rules of the City of New York is amended to read as follows:

(e) Excavation and Restoration Requirements.

(8) Backfill and Compaction

(vii) The permittee shall be required to [furnish the Department with] supply a tester certified by a professional engineer, or certified by other methods as authorized by the Commissioner, on all street openings to perform compaction tests. The permittee shall also be required to maintain copies of all in-process compaction reports certified by a Professional Engineer as to the compliance with [the requirement of] the aforementioned backfill requirements set forth within this section. [This] The certified compaction report shall be [submitted along with the cutform for every tenth street opening permit issued to the permittee or as directed by the Commissioner.] maintained for every street opening and shall be available upon request by the Commissioner for the duration of the guarantee period.

§ 7. Subparagraph (vi) of paragraph (10) of subdivision (e) of Section 2-11 of Title 34 of the Rules of the City of New York is amended and new subparagraph (vii) is added, to read as follows:

(e) Excavation and Restoration Requirements.

(10) Plating and Decking

(vi) All plating and decking shall have a skid-resistant surface equal to or greater than the adjacent existing street or roadway surface [, but in no event less than a New York State skid resistance number of 0.36].

(vii) All plating and decking must be removed from the roadway and/or sidewalk after completion of the final restoration or prior to the expiration of the permit.

§ 8. Subparagraph (vi) of paragraph (11) of subdivision (e) of Section 2-11 of Title 34 of the Rules of the City of New York are amended and a new subparagraph (viii) is added, to read as follows:

(e) Excavation and Restoration Requirements.

(11) Base

(vi) At no time will asphalt other than binder be permitted as a base course, unless otherwise authorized by the Commissioner. Binder shall be installed and compacted in a maximum of four (4") inch lifts.

(viii) All hot asphalt binder based restorations or any form of temporary restoration must be flush with the surrounding pavement until the wearing course is installed. Binder based restorations must be removed to a depth of two (2") inches prior to installing the wearing course.

§ 9. Subparagraphs (x) and (xi) of paragraph (12) of subdivision (e) of section 2-11 of Title 34 of the Rules of the City of New York are amended to read as follows:

(e) Excavation and Restoration Requirements.

(12) Wearing Course

(x) Final (permanent) restorations shall be completed [within ten (10) working days of the] prior to the expiration of the permit. During winter months, temporary asphalt and pavement markings shall be placed at the expiration of the permit and maintained until such time as the final restoration may be completed.

(xi) For trenches on protected streets, six inches (6") of base and six inches (6") of the wearing course shall be cut back on both sides of the trench. For trenches on non-protected streets, six (6") inches of the wearing course shall be cut back on [both] all sides of the trench, provided, however, [that] the total cut [is] must be a minimum of eighteen inches (18") wide.

§ 10. Paragraph (13) of subdivision (e) of section 2-11 of Title 34 of the Rules of the City of New York is amended by adding a new subparagraph (vi), to read as follows:

(e) **Excavation and Restoration Requirements.**

(13) Concrete Pavements

(vi) All restorations shall conform with the latest version of Department standard details 1042A, 1042B or 1042C, as determined by the Department.

§ 11. Paragraph (4) of subdivision (f) of section 2-11 of Title 34 of the Rules of the City of New York is amended to read as follows:

(f) Excavations And Street Openings In Protected Streets.

No street opening activity shall be allowed, except for emergency work or as authorized by the Commissioner, in a protected street for a period of five years from the completion of the street improvement. In addition to this subdivision (f), all provisions of § 2-11 shall apply to protected streets.

(4) Restorations

(i) No backfill of any opening or excavation on a protected street shall be performed unless the permittee notifies the Department at least two hours prior to the scheduled start time for the backfill except as otherwise authorized by the Commissioner. All notifications for any restoration phase on protected streets must be made through the Department's web site (www.nyc.gov/dot). Such notifications will result in the generation of a confirmation number, which is required for every protected street opening permit obtained. In no case shall the permittee commence the backfill prior to the scheduled start time. For the base and wearing course, the permittee shall fax its daily paving schedule to the Department prior to commencing work. In addition, during the backfill and compaction phase of the work, permittees must provide, on site, a certified compaction tester from an approved laboratory or a licensed certified tester to test that the compaction of the backfill is in accordance with the Department's rules and specifications.

(ii) The Department may inspect any phase of the work, including but not limited to, initial excavation, backfill and compaction, performance of required cut backs, and final restoration.

(iii) A certification issued by a New York State licensed professional engineer shall be provided to the Department within thirty days of completion of work on protected streets. The certification shall state that the type of work performed was as described in the permit application, and

that all phases of the restoration were performed in accordance with Department rules and specifications. Upon demand by the Department or as directed by the Commissioner, the permittee shall furnish copies of in-process compaction reports certified by a Professional Engineer as to the compliance with the backfill requirements set forth within this section. All records must be kept by the permittee and made available to the Department for the duration of the guarantee period.

(iv) Permittees shall be responsible for the proper repair of the street opening or excavation for a period of three years from the date of completion or for the duration of the protected street guarantee period, whichever is longer.

(v) All restorations shall conform with the latest version of Department standard details 1042A [and], 1042B or 1042C, as determined by the Department.

(vi) Where street openings cannot be confined to within 8 feet of the curb line, including the required cut back, and/ or within the sidewalk area, full curb to curb roadway restoration shall be required where protected street status has been in effect for 18 months or less, unless otherwise directed by the Commissioner.

(vii) The permanent restoration shall be flushed with the surrounding pavement on all sides of the restoration. In the event a permanent restoration pavement installed in violation of the provisions of subparagraph (i) of this paragraph (4) settles more than two inches (2") below the surrounding existing surface during the life of the guarantee period, this shall be deemed a failure of the backfill compaction, in which case, the permittee shall remove all of the failed backfill, down to the subsurface facility, and install new, properly compacted backfill.

STATEMENT OF BASIS AND PURPOSE OF RULES

The Commissioner of Transportation is authorized to promulgate rules regarding streets and highways in the City pursuant to § 2903 of the New York City Charter and Title 19 of the New York City Administrative Code. These rules are being amended to achieve several purposes: to enhance and clarify existing rules; to enhance vehicular and pedestrian safety, and to provide methods of enforcement for the rules. Finally, these amendments will better protect the City's investment in miles of roadways throughout the five boroughs.

Subdivision (d) of § 2-05 is being amended to add that permittees are prohibited from placing convex containers on the street. Subdivision (d) is also being amended to

state that construction materials or equipment cannot be placed within fifteen feet of water sampling stations of the Department of Environmental Protection, and cannot be stored higher than five feet unless such construction material or equipment is a nondivisible load, or unless authorized by the Commissioner. This will prevent these items from blocking water sampling stations and from blocking vehicular traffic from the view of drivers.

§ 2-07 is being amended to prohibit storage of tool carts on the sidewalk and the roadway, and to prohibit tool carts from blocking water sampling stations.

Paragraph (1) of subdivision (a) of § 2-11 is being amended to bring the Department's rules in compliance with changes to the New York City Administrative Code. Section 26-241 of the Administrative Code, which previously defined a licensed master plumber as a partnership, corporation, or other business association, was repealed. It was replaced with section 28-401.3, which defines a licensed master plumber as an individual. The Department prefers to continue the current method of issuing street opening permits to plumbing businesses and not individuals. Thus, the Department is revising this rule in order to remain in compliance with the Administrative Code and to ensure the continuation of current permitting practices.

Paragraph (7) of subdivision (e) of § 2-11 is being amended to clarify that contractors must secure a separate permit in order to store construction materials at the work site at any time other than during the working hours stated on the permit.

Paragraph (8) of subdivision (e) of § 2-11 is being amended to reflect the restoration requirements on all roadways, to ensure that compaction is performed as per Department requirements, to clarify that permittees must generate compaction reports for each street opening, and to require permittees to keep such reports for the life of the guarantee period.

Paragraph (10) of subdivision (e) of § 2-11 is being amended to require the removal of plating and decking after completion of the final restoration or prior to the expiration of the permit, and to remove the skid resistant coefficient of .36.

Paragraph (11) of subdivision (e) of § 2-11 is being amended to ensure that restorations result in a smooth and level roadway surface for motorists, pedestrians and bicyclist so as to minimize trip hazards.

Paragraph (12) of subdivision (e) of § 2-11 is being amended to minimize confusion generated by prior requirements permitting contractors to complete work within ten days of permit expiration. During the ten-day period, the original permit and all associated stipulations are void, allowing contractors to perform paving work at any day, time and location and providing the Department with no enforceable restrictions against such work. The amendment will prevent contractors from performing restorations at a day or time that would likely result in traffic delays.

Paragraph (13) of subdivision (e) of § 2-11 is being amended to standardize restoration requirements on concrete pavement or reconstructed roadways.

Subdivision (f) of § 2-11 is being amended to assist permittees in obtaining protected street confirmation numbers in an expedited manner, to require that permittees maintain compaction reports throughout the guarantee period, and to require a flush surface for all phases of the restoration on protected streets.