

The New York City Department of Transportation

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? This proposed rule would amend the New York City Department of Transportation's (DOT) civil penalty schedule to reflect changes in the law pursuant to Local Law 80 of 2021.

When and where is the hearing? DOT will hold a public hearing on the proposed rule online. Members of the public may access and participate in this hearing online or by telephone. The virtual public hearing will take place on Thursday, May 26, 2022 at 10AM.

Join through Internet:

- To join the hearing via your browser either click on the following URL link or copy and paste it into your browser's address bar.
- Join Zoom Meeting using the following information:
<https://zoom.us/j/98365575547?pwd=SWpCTU5ENkRqb25EdHhvMXIYOEFpQT09>

Meeting ID: 983 6557 5547

Password: 738025

- Then follow the prompts.
- If you have low bandwidth or inconsistent Internet connection, we suggest you use the phone option below for the hearing.

Join via phone only:

- To join the meeting only by phone, use the following information to connect:

Phone: 1-929-205-6099

Meeting ID: 983 6557 5547

Password: 738025

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to DOT through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to rules@dot.nyc.gov.

- **Mail.** You can mail comments to: Vincent Maniscalco, Assistant Commissioner, New York City Department of Transportation, 55 Water Street, 7th Floor, New York, NY 10041.
- **Fax.** You can fax comments to Assistant Commissioner Vincent Maniscalco at 212-839-8867.

By speaking at the hearing. Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by emailing rules@dot.nyc.gov by May 25, 2022 and including your name and affiliation. While you will be given an opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign up in advance. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes, the deadline to submit comments is Thursday, May 26, 2022 at 5PM.

Do you need assistance to participate in the hearing? You must tell the DOT Office of the General Counsel if you need a reasonable accommodation of a disability during the hearing. You must tell us if you need a sign language interpreter. You can tell us by e-mailing at rules@dot.nyc.gov by May 19, 2022.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, copies of all comments submitted online, copies of all written comments, and a summary of oral comments concerning the proposed rule will be available through the DOT Freedom of Information Law (FOIL) Office, 55 Water Street, 4th Floor, New York, NY 10041.

What authorizes DOT to make this rule? Sections 1043 and 2903 of the New York City Charter authorize DOT to make this proposed rule. This proposed rule was not included in DOT's regulatory agenda for this fiscal year because it was not contemplated when DOT published the agenda.

Where can I find DOT's rules? DOT's rules are in Title 34 of the Rules of the City of New York.

What rules govern the rulemaking process? DOT must meet the requirements of Section 1043 of the New York City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the New York City Charter.

Statement of Basis and Purpose of Proposed Rule

The New York City Department of Transportation (DOT) is proposing to amend its rules to implement Local Law 80 of 2021 (LL 80). In response to the COVID-19 pandemic's devastating economic impact on the City's small businesses, LL 80 provides civil penalty relief for small businesses from certain sanitation, health, transportation, consumer affairs, noise control and buildings violations. LL 80 sets fixed penalties at the bottom of existing penalty ranges, lowers existing penalty ceilings (or sometimes sets a lower fixed amount), or lowers existing fixed penalties. In certain instances, LL 80 allows a cure period for a first violation or eliminates the civil penalty for a first violation. LL 80 also repeals several requirements and prohibitions to provide relief for small businesses.

Among many changes, LL 80 set low maximum civil penalty amounts relating to DOT permit, banner, hand truck, and canopy violations; decreased the civil penalty amount for certain newsrack violations; and created opportunities to cure for certain violations set forth in Title 19 of the New York City Administrative Code (Administrative Code). Accordingly, DOT is seeking to amend its rules to update the penalty schedule to reflect changes to the law pursuant to LL 80.

Specifically, the proposed rule would update the penalty schedule to:

- implement the penalty amounts for violations of the following Administrative Code provisions: 19-124(b), 19-124(e), 19-124.1(a), 19-124.1(c), 19-125(a), 19-125(c), 19-127, and 19-136(j); and
- decrease penalty amounts for violations of the following Administrative Code provisions: 19-108, 19-128.1(c)(2), 19-128.1(d), and 19-128.1(e)(1).

Sections 1043 and 2903 of the New York City Charter authorize DOT to make these proposed rules.

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.

Proposed Rule Amendment

Section 1. Section 3-01 of Title 34 of the Rules of the City of New York is amended to read as follows:

CHAPTER 3

PENALTY SCHEDULE

§ 3-01. Department of Transportation Penalty Schedule.

All citations are to the Administrative Code of the City of New York or to this Title.

Except as otherwise noted or provided in the relevant rule or law, a second or subsequent violation is a violation by the same respondent of the same provision of law, with a date of occurrence within 6 months of the date of occurrence of the previous violation.

When a respondent is found to be in violation of any of the following provisions of the Administrative Code or this Title, any civil penalty recommended by the Hearing Officer under 48 RCNY, § 6-17(c)(3), any default penalty imposed pursuant to 48 RCNY § 6-20(b) and subject to § 1049-a(d)(1)(d) of the Charter, and any civil penalty imposed for admissions of violation(s) pursuant to 48 RCNY §6-09(a) or late admissions pursuant to 48 RCNY § 3-17 will be imposed in accordance with the following penalty schedule:

<u>Section</u>	<u>Description</u>	<u>Penalty (\$)</u>	<u>Default (\$)</u>
Admin. Code 19-108	Failure to have DOT permit on site or in field office	50	[150] <u>75</u>
<u>Admin. Code 19-124(b)</u>	<u>Failure to abide by permit conditions</u>	<u>50</u>	<u>75</u>
<u>Admin. Code 19-124(e)</u>	<u>Unlawful advertising on canopy</u>	<u>50</u>	<u>75</u>
<u>Admin. Code 19-124.1(a)</u>	<u>Displaying or installing banners without DOT permit</u>	<u>150</u>	<u>450</u>
<u>Admin. Code 19-124.1(c)</u>	<u>Unlawful advertising on banner</u>	<u>50</u>	<u>75</u>
<u>Admin. Code 19-125(a)</u>	<u>Failure to obtain permit or revocable consent for flagpole socket/lamppost</u>	<u>150</u>	<u>300</u>
<u>Admin. Code 19-125(c)</u>	<u>Improper placement of barber poles</u>	<u>50</u>	<u>150</u>
<u>Admin. Code 19-127</u>	<u>Failure to properly label hand truck</u>	<u>50</u>	<u>75</u>
Admin. Code 19-128.1(c)(2)	Failure to notify DOT of required newsrack information for: 1 - 99 racks	[375] <u>250</u>	[500] <u>250</u>

Admin. Code 19-128.1(d)	Failure to maintain/provide required indemnification/ insurance information for: 1 - 99 racks	[375] <u>250</u>	[500] <u>250</u>
Admin. Code 19-128.1(e)(1)	Failure to inaccurately certified graffiti-removal info for: 1 - 99 racks (OATH Code AD90)	[375] <u>250</u>	[500] <u>250</u>
Admin. Code 19-128.1(e)(1)	Failure to maintain accurate logs/records as per subsection for: 1 - 99 racks (OATH Code AD91)	[375] <u>250</u>	[500] <u>250</u>
Admin. Code 19-128.1(e)(1)	Failure to provide maintenance logs/records as per subsection for: 1 - 99 racks (OATH Code AD92)	[375] <u>250</u>	[500] <u>250</u>
<u>Admin. Code</u> <u>19-136 (j)</u>	<u>Improper placement or maintenance of coin-operated</u> <u>rides</u>	<u>150</u>	<u>300</u>

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

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

RULE TITLE: Amendment of DOT Penalty Schedule

REFERENCE NUMBER: DOT-66

RULEMAKING AGENCY: Department of Transportation

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) Local Law 80 (LL80) sets fixed penalties at the bottom of existing penalty ranges, lowers existing penalty ceilings (or sometimes sets a lower fixed amount), or lowers existing fixed penalties. In certain instances, LL 80 allows a cure period for a first violation or eliminates the civil penalty for a first violation. LL 80 also repeals several requirements and prohibitions to provide relief for small businesses.

/s/ Francisco X. Navarro
Mayor's Office of Operations

April 13, 2022
Date

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

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

RULE TITLE: Amendment of DOT Penalty Schedule

REFERENCE NUMBER: 2022 RG 031

RULEMAKING AGENCY: Department of Transportation

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: April 13, 2022