

Notice of Promulgation of Rule

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the Environmental Control Board by Section 1049-a of the New York City Charter, and in accordance with Section 1043(b) of the Charter, that the Environmental Control Board hereby promulgates the following rule. The rule was published in The City Record on August 13, 2010 and a Public Hearing was held on September 14, 2010.

Section 1. The Department of Transportation Penalty Schedule found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York is amended by adding a new charge immediately following the entry in that penalty schedule for Administrative Code section 19-128(a), "Installation/maintenance of public phone booth w/o license," to read as follows:

New matter is underlined.
Deleted material is in [brackets].

Section/Rule	Description	Penalty	Default
<u>19-133</u>	<u>Unauthorized projections and encroachments on City property</u>	<u>\$250</u>	<u>\$750</u>

Section 2. The Department of Transportation Penalty Schedule found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York is amended by adding a new charge immediately following the entry in that penalty schedule for 34 RCNY 2-09 (f)(4)(xiv), "Failure to install pedestrian ramp as per DOT drawings," to read as follows:

New matter is underlined.
Deleted material is in [brackets].

Section/Rule	Description	Penalty	Default
<u>34 RCNY 2-09 (f)(4)(xvi)</u>	<u>Failure to obtain DOT approval for distinctive sidewalk</u>	<u>\$250</u>	<u>\$750</u>

Section 3. The Department of Transportation Penalty Schedule found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York is amended by revising the entries below to read as follows:

New matter is underlined.
Deleted material is in [brackets].

Section/Rule	Description	Penalty	Default
19-102(i)	Use/opening of street w/o permit	\$ [800] <u>1,500</u>	\$ [2400] <u>5,000</u>
19-102(i)	Use/opening of protected street w/o permit	\$ [1,400] <u>1,800</u>	\$ [2400] <u>5,000</u>
19-107	Street closing w/o permit	\$ [1,200] <u>1,800</u>	\$ [3600] <u>5,000</u>

34 RCNY 2-11 (f)(4)(i)	No notice to DOT before start phase of work on protected street	\$ [250] <u>750</u>	\$ [750] <u>2,250</u>
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Statement of Basis and Purpose of Final Rule

The Environmental Control Board (ECB) held a Public Hearing on September 14, 2010 on amendments to ECB's Department of Transportation Penalty Schedule found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York. One member of the public attended the Public Hearing held on September 14, 2010. The individual gave brief testimony unrelated to the rule. No written comments were received.

The Environmental Control Board has amended its Department of Transportation Penalty Schedule found in Section 3-124 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York.

Sections 1 and 2 of the rule add two charges to the penalty schedule. The first charge is for a failure to remove unauthorized projections and encroachments for the city streets. These encroachments include ATMs, abandoned sidewalk cafes and fences. These encroachments create obstructions that inconvenience the public on a daily basis.

The second charge that has been added is for failing to obtain approval from the Department of Transportation (DOT) for a distinctive sidewalk. The addition of this charge will help protect the public from property owners who install sidewalks that do not meet the specifications required by the Department of Transportation and/or the New York City Public Design Commission.

Property owners who violate these codes may be given a notice to correct. This notice provides a thirty day grace period in which to correct the condition before a notice of violation is issued.

Section 3 of the rule includes a number of modifications to existing entries already contained in the penalty schedule. The penalties for three of the four codes set forth in this section have not been increased since they were established in 1994. The modifications are designed to have the dual effect of making contractors more consistent in their work and provide increased public safety and mobility. The monetary increases for these codes will serve as a deterrent to contractors who continually disregard Title 19 of the Administrative Code and DOT's Highway Rules, thus endangering public safety and impeding traffic mobility.

The increases will also serve as an incentive to contractors to take out permits because in the past, the penalties associated with violating the terms and conditions of a permit were higher than the penalties imposed for failing to secure a permit. These increases will bring the penalties for failing to secure a permit more in line with penalties associated with violating the terms and conditions of a permit.