

1. (B04) 27-147 - Work without a permit

Example 2

Example 1

BUILDINGS
NOTICE OF VIOLATION AND HEARING

COMMISSIONER OF THE DEPARTMENT OF BUILDINGS
OF THE CITY OF NEW YORK, PETITIONER, AGAINST

Violation No. ENVIRONMENTAL CONTROL BOARD

Respondent: [Name] [Address] [City] [State] [Zip code]

Additional mailing to be sent (agent, care of, other): [Name] [Address] [City] [State] [Zip code]

Commissioner's Order to Correct Violations

Place of occurrence: [Address] [City] [State] [Zip code]

Construction type: [Type] [No. of stories] [Block] [Lot] [Occupancy at time of inspection] [Basis of violation]

Based upon the inspection of the premises and/or records of the Department, the undersigned has determined that you are in violation of the sections of law cited below, of Title 26 and/or 27 of the NYC Administrative Code, and the Zoning Resolution.

Computer No. 27-147

Violating conditions observed: WORK WITHOUT A PERMIT, WORK NOTED AT REAR YD. A WIDE DECK WAS CONSTRUCTED FULL WIDTH & LENGTH OF REAR YD. A WIDE DECK AT RIGHT SIDE YD. APPROX 14'x14'.

Remedy: OBTAIN A PERMIT

Resolution options: [] 26-126.1 (a)(3) Per day penalty for violation of section 27-118.1 is [] units added.

The Commissioner of the Department of Buildings orders that you correct these conditions and file a certificate of such correction.

Hearing information: [] If the Certificate of Correction (for a "cure") is not received by the date indicated to the left or is not approved by the Department or if YOU ARE CHARGED WITH A HAZARDOUS OR SECOND OFFENSE VIOLATION, YOU ARE REQUIRED TO APPEAR FOR A HEARING AT THE ENVIRONMENTAL CONTROL BOARD (ECB) ON: [] Hearing date [] at [] 10:30 AM [] 1:30 PM [] Other []

Environmental Control Board hearing locations: [] Queens, (718) 299-7300 - 144-05 94th Avenue, 1st fl. [] Manhattan, (212) 361-1400 - 65 John Street, 10th fl. [] Brooklyn, (718) 875-7428 - 253 Schenckman Street, 11th fl. [] Bronx, (718) 579-6844 - 1932 Arthur Avenue, 6th fl. [] Staten Island, (212) 361-1400 - 350 St. Marks Place, 1st fl.

Proceedings will be held under authority of the NYC Charter section 1404 and rules promulgated thereunder at 15 RCNY Chapter 31. This hearing is your opportunity to answer and defend against the allegations set forth above. If you do not appear, you will be held in default and subjected to maximum penalties.

For more information, To reschedule your hearing or inquire about the case status, call the Environmental Control Board at the numbers listed above. For information on certifying correction of this violation, read instructions on the Certificate of Correction form, call the Department of Buildings at 311, or go to www.nyc.gov/buildings.

Issuing officer's last name, first initial (print) [] I personally observed the violation(s) charged and/or verified their existence through review of departmental records.

Issuing officer's signature [] This statement is affirmed under penalty of perjury.

Supervisor's signature []

ECB-PC (Rev. 10/04)

Example 2

Computer Code: B04

Provision of Law: 27-147

Violating Conditions Observed: WORK WITHOUT A PERMIT. AS NOTED: AT THE BASEMENT OF A THREE STORIED TWO FAMILY BRICK FRAMED STRUCTURE WALLS HAVE BEEN ERECTED TO CREATE MULTIPLE ROOMING UNITS. A SHOWER EXIST SEPERATE FROM A TWO PIECE BATH WITH GAS STOVE @ THE KITCHEN AREA. NOTE: AT THE REAR GARAGE DOOR HAS BEEN REMOVED AND REPLACED WITH A RED BRICK WALL APPROX. 30'X10'

Remedy: OBTAIN A PERMIT IF FEASIBLE OR RETURN TO ORIGINAL CONDITION

Computer Code

Provision of Law

Violating Conditions Observed

Example 3

Computer Code: B-04

Provision of Law: 27-147

Violating Conditions Observed: WORK WITHOUT A PERMIT - WORK NOTED - ERECTED A REAR DECK - APPROX 20'-0 X 10'-0 8'-6" OFF THE GROUND. (4) FOUR STEEL COLLY COLUMNS, (2) TWO STEEL BEAMS, METAL FLOOR BOB PLASTIC RAILING - REAR ENTRANCE ONTO THE DECK.

Remedy: OBTAIN ~~PERMIT~~ PERMIT OR RESTORE PREMISES TO PRIOR LEGAL CONDITION

Provision of Law § 27-147 - When permits required.- No building construction or alteration work, foundation or earthwork, demolition or removal work, or plumbing work shall be commenced, and no signs or service equipment of the types listed in articles sixteen and seventeen of this subchapter shall be erected, installed, altered, repaired, or used, nor shall any service equipment of the types listed in article eighteen of this subchapter be used or operated, unless and until a written permit therefore shall have been issued by the commissioner. The provisions of this section shall not apply, however, to [minor alterations](#) and [ordinary repairs](#), as defined and delineated in article five of this subchapter or to work or equipment exempted from permit requirements under the provisions of sections [27-176](#), [27-179](#), [27-184](#), and [27-189](#) of this subchapter.

Background: Inspectors in the Buildings Department Construction Divisions' issue this type of violation. This violation is issued either as a result of a complaint, as a result of a scheduled inspection for an application, or as part of a review of previously issued violations. As a result it is the most common type of all Buildings Department violations adjudicated at the Environmental Control Board.

A violation that is not a second offense or hazardous violation may be “cured” (eligible for a zero penalty and no need to appear at a hearing) if corrected and proof of correction is properly submitted within thirty-five days of service of the violation.

Certification Criteria: To certify correction of this violation it is important that the Respondent review ALL of the conditions cited in the violation description. The violation description may reflect multiple conditions requiring multiple permits. For example, see **Example 2**, for which the violating conditions observed include:

Example 2

Computer No.	Provision of law	Violating conditions observed	<input type="checkbox"/> Hazardous	<input type="checkbox"/> Second offense Prior ECB violation #
B04	27-147	WORK WITHOUT A PERMIT: AS NOTED: AT THE BASEMENT OF A THREE STORIED TWO FAMILY BRICK FRAMED STRUCTURE WALLS HAVE BEEN ERECTED TO CREATE MULTIPLE ROOMING UNITS, A SHOWER EXIST SEPERATE FROM A TWO PIECE BATH WITH GAS STOVE @ THE KITCHEN AREA. NOTE: AT THE REAR GARAGE DOOR HAS BEEN REMOVED AND REPLACED WITH A RED BRICK WALL APPROX. 30'X10'		
Remedy: OBTAIN A PERMIT IF FEASIBLE OR RETURN TO ORIGINAL CONOITION				

- New walls in basement and at garage location
- Plumbing fixtures (bath, kitchen & shower)
- Gas line for stove
- Removal of garage door

Remedy: Correcting the observed conditions is not always a simple matter since it may require multiple types of legal approvals. For example, in **Example 1** the Inspector has listed two suggested remedies. Either obtain a permit or return the premises to the original condition.

1) If the permit option is selected: a permit must be submitted (issued subsequent to the date of violation) for **EVERY** condition observed. For **Sample 1** the Respondent would need to submit both a construction permit for the walls & removal of the garage door as well as a plumbing permit for the water and gas lines and the installation of fixtures. Obtaining a construction and plumbing permit requires the service of a NYS licensed architect or engineer as well as the services of construction tradespersons including a licensed master plumber. Since this work was done without a permit payment of additional civil penalty fees may be required before the issuance of a permit.

Certification Submission: Certificate of Correction + Buildings Department Plumbing and Gas permits (including payment of penalties) reflecting all the observed violation conditions. A separate Notarized statement is not required in this case.

2) If the return to the original condition is selected: This option may be more problematic then it appears. The construction work may be removed without the issuance of a permit provided that there are no structural integrity issues associated with the conditions. However, all plumbing work, even the removal of illegal plumbing, must be performed by a licensed Master Plumber.

Certification Submission: Certificate of Correction + Notarized Sworn Statement indicating removal of constructions conditions + Either a plumbing permit (from Plumbing application or Alteration Repair Application) and EVIDENCE OF PAYMENT OF CIVIL PENALTIES or proof of a waiver of penalty (see next section)

3) Additional Remedy: If the building has been demolished then a demolition sign-off issued subsequent to the issuance of the violation or a New Building Application permit would be acceptable.

Work Without a Permit - Civil Penalties & Waivers Local Law 58/88

The most prevalent reason for the rejection of all *Work Without Permit* Certificate of Correction submissions is the failure to show proof that either civil penalties were paid for the permit or a waiver was granted. **AEU reviews and carefully scrutinizes every** *Work Without Permit* Certificate of Correction submission to ensure that this requirement is met (See AEU Review below).

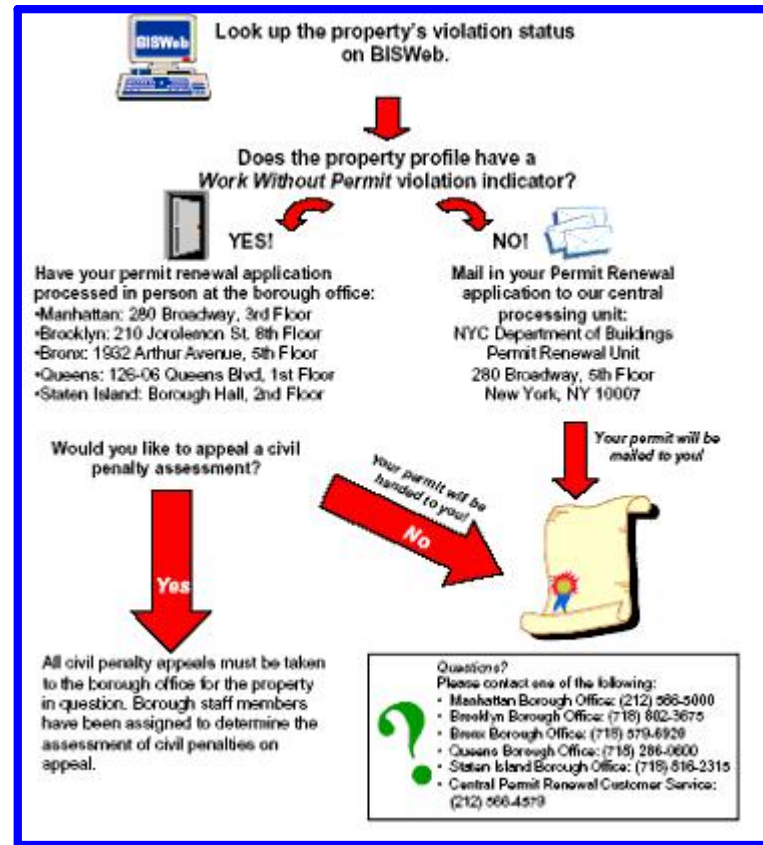
Civil Penalties are fines that are imposed as a result of violations for *Work Without Permit* under NYC Administrative Code [26-212.1](#) (*Local Law 58-1988*). These violations are issued for carrying out construction or other types of work without a valid permit. Once a violation for *Work Without Permit* is issued a permit cannot be issued for the same conditions until civil penalties have been resolved or a waiver granted (see Provision of Law below). To obtain or renew a permit for a property that has a *Work Without Permit* violation on record, the applicant should resolve the civil penalty in person at the appropriate borough office. The Central Permit Renewal Unit will process mail-in applications for properties without violations (See Civil Penalty Process graphic below).

Provision of Law: [§26-212.1](#) Civil penalty for work without a permit.-

- (a) Whenever any work for which a permit is required pursuant to section 26-207 or section 27-147 of this code has been performed without such permit, a civil penalty shall be imposed as provided in this section.
- (b) In cases where work has been performed without a permit on a one-family or two-family dwelling such civil penalty shall equal two times the amount of the fee payable for such permit pursuant to this article. Provided, however, that where only part of such work has been performed without such permit, such civil penalty shall be reduced proportionately according to the amount of such work still to be performed at the time a permit is issued. Provided further, however, that such civil penalty shall not be less than one hundred dollars. No civil penalty shall be imposed if the work for which a permit is required was completed prior to the effective date of this section.
- (c) In the case of other work performed without a permit, such civil penalty shall be ten times the amount of the fee payable for such permit pursuant to this article. Provided, however, that where only part of such work has been performed without such permit, such civil penalty shall be reduced proportionately according to the amount of such work still to be performed at the time a permit is issued. Provided further, however, that such civil penalty shall not be less than five hundred dollars. No civil penalty shall be imposed if the work for which a permit is required was completed prior to the effective date of this section.
- (d) Such civil penalty and such permit fee shall be payable by the owner of the building on which such work is performed.
- (e) Any claim that work described in subdivision (a) of (e) this section was done prior to January first, nineteen hundred eighty-nine shall be supported by an affidavit and supporting data.
- (f) No permit shall be issued for any work described in subdivision (a) of this section until the civil penalty assessed pursuant to this section has been paid.

****Local Law 58-1988.**

Civil Penalty Process



(source: [Civil penalties fact sheet](#))

The “Work Without A Permit” notification will appear in the violations section on the bottom left hand side of the Property Profile page on BISweb.

	Total	Open
Complaints	6	0
Violations-DOB	45	13
Violations-ECB	14	3

This property has 1 open ECB or DOB “Work Without A Permit” Violations and may be subject to DOB civil penalties upon application for a permit. After obtaining the permit, a certificate of correction must be filed on the ECB violations.

The payment of the civil penalty is completed at the borough office when an applicant files for the permit. The applicant submits an approved folder to the permit clerk along with a

- [PW-2 form](#), signed by contractor and notarized
- [PW-3 form](#) (cost affidavit), signed by contractor and notarized
- A check for thirty-five dollars (final microfilming fee).

The permit clerk checks for fees due and valid insurance prior to producing the permit and any other fees due, including balances and civil penalties for work without a permit, must be paid prior to permit issuance. See [How to File an Application & Get a Permit](#) for more information. For the filing of plumbing work, payments for civil penalties for ARA's may be made the same day.

Note: No eFile applications can be made if civil penalties exist. See [Facts You Should Know about eFiling](#).

Waivers of Civil Penalties

According to Local Law 58 of 1988 DOB issues civil penalties if work was done without a permit after 1989. Work done without a permit before 1989 is exempt from civil penalties. To determine if you qualify for this exemption you should first review the [§33-01 Exemption from Civil Penalties Imposed Pursuant to Administrative Code §26-212.1 \(Work Performed Without a Permit\)](#) (see below).

CHAPTER 33 EXEMPTIONS FROM CIVIL PENALTIES

[§33-01 Exemption from Civil Penalties Imposed Pursuant to Administrative Code §26-212.1 \(Work Performed Without a Permit\)](#)

(a) *Acceptance of waiver request.*

(1) If a violation is issued for work in progress after January 1, 1989, no claim of exemption from a civil penalty imposed pursuant to Administrative Code §26-212.1 will be considered.

(2) If a building owner claims exemption from such penalty on the grounds [*sic*] that all work was completed prior to January 1, 1989, such claim must be substantiated by an affidavit and supporting data.

(3) Partial exemption from such penalty may be claimed on the grounds [*sic*] that a building owner applies for a permit subsequent to the commencement of work for which such permit is required but prior to the completion of such work. Such owner may claim exemption from such penalty for that part of such work which is completed after such permit is issued. Such claim shall be filed at the time of application for such permit and shall be substantiated by an affidavit and supporting data.

(b) Burden of proof.

(1) The burden of proof is on the owner claiming such exemption.

(2) Supporting data shall consist of one or more of the following:

(i) dated receipt or cancelled check showing payment for work completed or materials delivered;

(ii) signed contract specifying dates by which work is to be completed;

(iii) affidavits from contractors or building supply warehouses concerning the subject illegal work;

(iv) written estimates proposed by contractors prior to commencement of the subject illegal work;

(v) dated photographs of the subject property;

(vi) proof of compliance with Workers' Compensation Law insurance requirements;

(vii) a survey of the subject property made prior to January 1, 1989; [*sic*]

(viii) any other documents deemed acceptable by the Commissioner.

(3) While no one of the above-listed documents will be deemed dispositive, appropriate weight will be accorded to the application in its entirety, taking into account the particular facts and circumstances on a case-by-case basis.

(c) Where to file.

All claims for exemptions pursuant to these regulations must be submitted in writing to the Borough Superintendent of the appropriate borough office. The Borough Superintendent will review the claim and supporting documents and will advise the claimant of the decisions of the Department.

A request for the a waiver must be submitted to the Borough Office and contain these requirements. All requests for waivers of or reduction in the civil penalty for work without a permit violations must be accompanied by at least four (4) photos of the area and an [L-2 Affidavit of Registered Architect or Professional Engineer](#).

See also:

- [Tips for Easier and Faster Permit Renewal](#)
- [OPPN 3/02](#) [OPPN 2/02](#) [OPPN 01/01](#)
- [OPPN 1/93](#)
- [OPPN1/96](#)
- [Alteration Repair Application \(ARA\) / Permit Renewal: Same Day Services](#)
- [Alteration Repair Applications](#), [Permit Renewal Unit](#)
- [ARA Civil penalty fees](#)
- [ECB Violations](#)

AEU Review

Upon the receipt of a *Work Without Permit* Certificate of Correction, submission AEU will compare the observed conditions contained in the description part of the violation to the permit. If it determines that the permit covers ALL of the conditions, AEU will check the application number in BISweb to see if a civil penalty was paid. If there is no record of this penalty fee and there is no record of a waiver the submission will be rejected. This information can be reviewed by the public online as well.

A. To see if there are any work without permit violations on a property:

- 1) Access the [Building Information Search](#) screen on BISweb and enter an address

[BIS Menu](#) | [Bldg Info Search](#)

[FAQs](#) | [Glossary](#) | Feb 23, 2006



NYC Department of Buildings
Building Information Search

[Property Search](#) | [Complaints /Violations](#) | [Applications](#) | [Boiler Search](#)
[Gas Service](#) | [Power Authorizations](#) | [Elevator Devices](#)

Your Last 10 Searches

No searches have been recorded from this computer. If this message does not disappear, you may have cookies disabled, or you may need to refresh this page.

Search by Property

1

Pick a Borough

House No:

Street:

GO

2

Pick a Borough

Block:

Lot:

GO

3

Building Identification Number (BIN):

GO

4

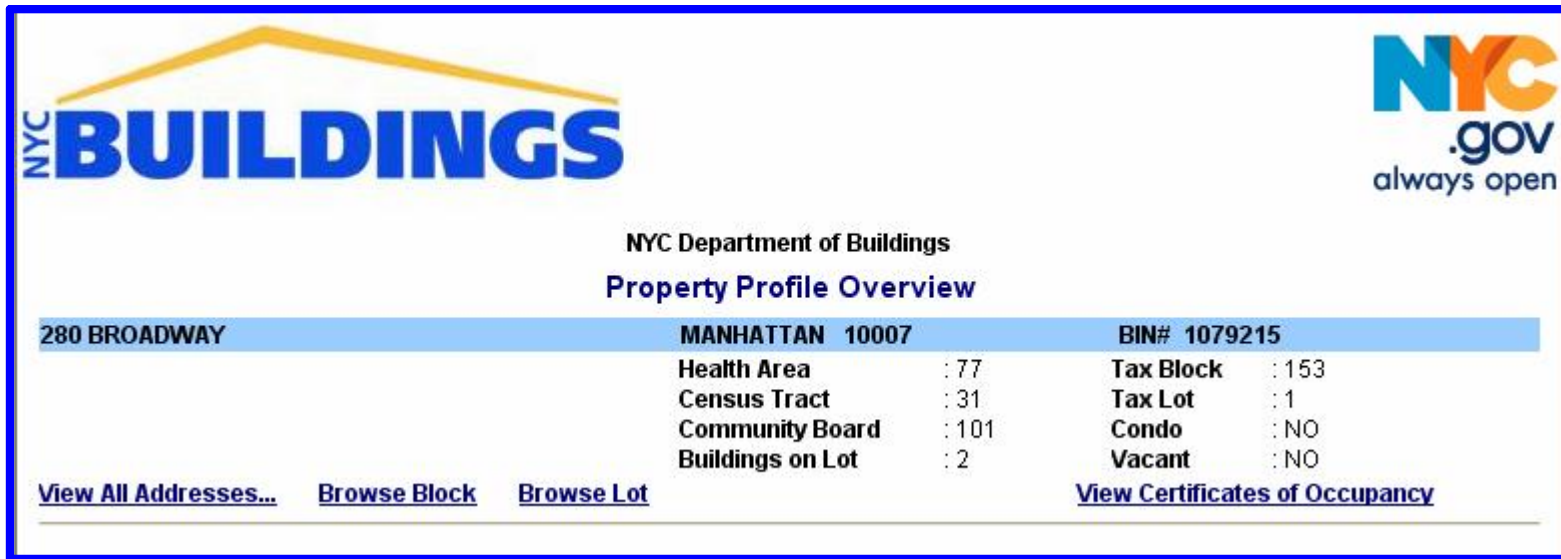
Pick a Borough

Block:

Lot (optional):

GO

2) Review the Property profile screen



NYC BUILDINGS

NYC Department of Buildings

Property Profile Overview

280 BROADWAY	MANHATTAN 10007	BIN# 1079215
Health Area	: 77	Tax Block : 153
Census Tract	: 31	Tax Lot : 1
Community Board	: 101	Condo : NO
Buildings on Lot	: 2	Vacant : NO

[View All Addresses...](#) [Browse Block](#) [Browse Lot](#) [View Certificates of Occupancy](#)

3) View any open ECB "Work Without A Permit" violations

	Total	Open
Complaints	6	0
Violations-DOB	45	13
Violations-ECB	14	3
This property has <u>1 open ECB "Work Without A Permit"</u> Violations and may be subject to DOB civil penalties upon application for a permit. After obtaining the permit, a certificate of correction must be filed on the ECB violations.		
Jobs/Filings	76	
PRA / ARA Jobs	2	
Total Jobs	78	
Actions	278	

B. To view if civil penalties were imposed on any application:

1. Access the [Building Information Search](#) screen on BISweb

BIS Menu | Bldg Info Search FAQs | Glossary Feb 23, 2006

NYC BUILDINGS

NYC Department of Buildings
Building Information Search

[Property Search](#) | [Complaints / Violations](#) | [Applications](#) | [Boiler Search](#)
[Gas Service](#) | [Power Authorizations](#) | [Elevator Devices](#)

Your Last 10 Searches
 No searches have been recorded from this computer. If this message does not disappear, you may have cookies disabled, or you may need to refresh this page.

Search by Property

1 Pick a Borough House No: Street: GO

2 Pick a Borough Block: Lot: GO

3 Building Identification Number (BIN): GO

Browse Block and Lot

4 Pick a Borough Block: Lot (optional): GO

2. Enter the application number on **9** or the permit # on **10**

 Doc Number (optional): GO; 10. Permit Number: GO."/>

Application Searches

9 BIS Job Number: Doc Number (optional): GO

10 Permit Number: GO

3. Select [Fee / Accounting Overview](#)

NYC Department of Buildings

Application Data

Premises: 274 BROADWAY MANHATTAN		Filed At: 57 CHAMBERS STREET
Job No: 103714768	Document: 01 OF 1	Job Type: A2 ALTERATION TYPE 2
		BIN: 1079215 Block: 153 Lot: 1

[Items Required](#) | [Plumbing Insp](#) | [Doc / Plans Received](#) | [Schedule A](#) | [Schedule B](#) | [All Permits](#) | [Document Overview](#)
[Plan Exam Overview](#) | [Fee / Accounting Overview](#) | [C/O Application Summary](#)

4. Select [Payment History](#)

NYC Department of Buildings

Fee / Accounting Overview

Page: 1 of 1



Premises: 274 BROADWAY MANHATTAN		BIN: 1079215 Block: 153 Lot: 1	
Job No: 103714768	Document No: 01	Job Type: A2 - ALTERATION TYPE 2	NON FEE EXEMPT

JOB / WORK LEVEL OVERVIEW				ACCOUNTING OVERVIEW			
WORK		ESTIMATED AMOUNT	MINIMUM PAY AMOUNT	ACTUAL AMOUNT PAID	FOR	NUMBER OF PAYMENTS	AMOUNT PAID
STATUS	SFX						
A - PRE-FILED		\$243.00	\$243.00	\$0.00	A2		

[Payment History](#) | [Cost Overview](#)

5. Confirm Work Without Permit Civil Penalty transaction type

[BIS Menu](#) | [Bldg Info Search](#) | [Application Data](#) | [Fee Overview](#) | [Payments](#) | [Back](#)
[FAQs](#) | [Glossary](#)
Feb 15, 2006

NYC Department of Buildings
Job Payment History

Page: 1 of 1

Premises: 280 Broadway Manhattan
BIN: 1079215 Block: 153 Lot: 1

Job Number: 1000000X
Job Type: A2 - ALTERATION TYPE 2
Total Estimated Fee: \$100.00

INVOICE	PAYMENT TYPE	DOC	TRANSACTION TYPE	DATE	AMOUNT	VIOL NUM
1xxxxxx	CHECK	01	FILING BALANCE - ALT2	09/21/2005	\$100.00	
2xxxxxx	CHECK	01	PAYMENT - ASBESTOS	09/21/2005	\$15.00	
3xxxxxx	CHECK	01	WORK W/O PERMIT (CIVIL PENALTY)	09/21/2005	\$1,000.00	
4xxxxxx	CHECK	01	PAYMENT - MICROFILMING	11/02/2005	\$35.00	

If you have any questions please review these [Frequently Asked Questions](#), the [Glossary](#), or call the 311 Citizen Service Center by dialing 311 or (212) NEW YORK outside of New York City.

[BIS Menu](#) | [Bldg Info Search](#) | [Application Data](#) | [Fee Overview](#) | [Payments](#) | [Back](#)

[Department of Buildings Home Page](#) • [NYC.gov Home Page](#) • [Mayor's Office](#)
[City Agencies](#) • [Services](#) • [News and Features](#) • [City Life](#) • [Contact Us](#) • [Search](#)

After-Hour Work Variances

The Department of Buildings has the authority to issue After-Hour Work Variances, which permits construction work to be performed outside of the normal work hours. Normal work hours are Monday to Friday 7:00AMm to 6:00PM as per §24-224, of the New York City Administrative Code.

Requests for After Hour Work Variances are submitted weekly to the Borough Commissioners for the review and approval. An After-Hour Work Variance is granted if the Department of Buildings determines that the work being performed may pose a danger to the public and may be more safely performed when there is less pedestrian traffic or reduced manpower at a construction site, which in most areas is typically during the off hours. Typically, the Department also issues After-Hour Work Variances for work that requires the use of heavy construction equipment, such as a crane or hoist.

Performing work on the weekends or after 6:00pm during the week without an After-Hour Work Variance is a violation.

Exemptions

An After-Hour Work Variance is not required to perform construction activities in one and two family homes as long as that work is performed between the hours of 10am and 4:00pm and the site is more than 300 feet from a house of worship.