

New York City Department of Transportation

Notice of Adoption

NOTICE OF ADOPTION relating to the update of the New York City Department of Transportation's (DOT) civil penalty schedule reflecting changes in the law and recently adopted rule.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN the Commissioner of the New York City Department of Transportation (DOT) by Sections 1043 and 2903 of the New York City Charter and in accordance with the requirements of Section 1043 of the New York City Charter that DOT hereby amends Sections 3-01 of Chapter 3 of Title 34 of the Rules of the City of New York.

This rule was first published in the City Record on April 26, 2022 and a public hearing was held on May 26, 2022. DOT received no verbal or written comments from the public.

Statement of Basis and Purpose of Adopted Rule

The Commissioner of the New York City Department of Transportation is authorized to issue rules regarding parking and traffic operations and highway operations in the City pursuant to Sections 1043 and 2903 of the New York City Charter.

In response to the COVID-19 pandemic's devastating economic impact on the City's small businesses, Local Law 80 of 2021 (LL 80) provided civil penalty relief for small businesses from certain sanitation, health, transportation, consumer affairs, noise control and buildings violations. LL 80 set fixed penalties at the bottom of existing penalty ranges, lowered existing penalty ceilings (or sometimes sets a lower fixed amount), or lowered existing fixed penalties. In certain instances, LL 80 allowed a cure period for a first violation or eliminated the civil penalty for a first violation. LL 80 also repealed several requirements and prohibitions to provide relief for small businesses.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 amended its rules to update the penalty schedule to reflect changes to the law pursuant to LL 80.

Specifically, the rule updates 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).

DOT received no verbal or written comments to the proposed rule, thereby no changes were made to the proposed rule after the public hearing.

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.

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>(\$)</u>	<u>Default</u> <u>(\$)</u>
Admin. Code 19-108	Failure to have DOT permit on site or in field office	50	[150] <u>75</u>
<u>Admin. Code</u> <u>19-124(b)</u>	<u>Failure to abide by permit conditions</u>	<u>50</u>	<u>75</u>
<u>Admin. Code</u> <u>19-124(e)</u>	<u>Unlawful advertising on canopy</u>	<u>50</u>	<u>75</u>
<u>Admin. Code</u> <u>19-124.1(a)</u>	<u>Displaying or installing banners without DOT permit</u>	<u>150</u>	<u>450</u>
<u>Admin. Code</u> <u>19-124.1(c)</u>	<u>Unlawful advertising on banner</u>	<u>50</u>	<u>75</u>
<u>Admin. Code</u> <u>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</u> <u>19-125(c)</u>	<u>Improper placement of barber poles</u>	<u>50</u>	<u>150</u>

<u>Admin. Code</u> <u>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 <u>(OATH Code AD90)</u>	[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 <u>(OATH Code AD91)</u>	[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 <u>(OATH Code AD92)</u>	[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 rides</u>	<u>150</u>	<u>300</u>