

## **The 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 rules.

**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 Section 3-01 of Chapter 3 of Title 34 of the Rules of the City of New York.

This rule was first published on August 31, 2020 and a public hearing was held on October 1, 2020. DOT received written and verbal comments.

### **Statement of Basis and Purpose of Final 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.

Pursuant to Local Law 5 of 2018, the maximum civil penalty amounts relating to street construction, maintenance, repairs, obstructions and closures were increased significantly, particularly where public safety is involved. Accordingly, DOT is increasing certain penalty amounts for violations adjudicated at the Office of Administrative Trials and Hearings. The increased penalties are expected to increase compliance with the Department's rules and thereby promote public safety in the street construction and maintenance process.

Specifically, the rule:

- increases the penalty amounts of 9 current violations;
- adds 7 new penalties to reflect recently adopted rules and changes to the law; and
- provides clearer, more concise language in describing the penalties.

The DOT penalty schedule is being updated to increase penalty amounts, update descriptions, and add new penalties for the following: New York City Administrative Code sections 19-109, 19-121, 19-122, 19-123, 19-124, 19-147, 19-159.4, 19-170, as well as sections 2-02, 2-05, 2-07, 2-09, 2-11 and 2-20 of Title 34 of the Rules of the City of New York.

In response to the comments received, DOT compared some of the proposed penalty amounts with those penalty amounts that are currently in place for similar violations. Accordingly, the following changes were made to the proposed rule, which are reflected in the adopted rules:

- Decreased the proposed penalty amount for failure to post “Steel Plates Ahead” or “Raise Plow” sign from \$750 to \$500.
- Decreased the proposed penalty amount for failure to obtain DOT permit for any changes to, or installation of, temporary construction, parking or regulatory signs and supports from \$1500 to \$750.
- Decreased the proposed penalty amount for installation of an overhead shunt or wrap-around shunt without a DOT permit from \$750 to \$500.
- Decreased the proposed penalty amount for installation of street shunt without a DOT permit from \$1200 to \$750.

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:

<b><u>Section</u></b>	<b><u>Description</u></b>	<b><u>Penalty (\$)</u></b>	<b><u>Default (\$)</u></b>
Admin. Code 19-109(a)	Failure to provide adequate protection to <u>persons and/or property</u> at worksite	1,200	3,600
Admin. Code 19-121(a)	<u>Obstruction of any portion of street with [Construction] construction materials/equipment [stored on street] without DOT permit</u>	750	2,250
Admin. Code 19-121(b)(2)	Debris/construction materials obstructing [gutters/sidewalk, etc.] <u>sidewalks, gutters, crosswalks, and driveways without DOT permit</u>	250	750
Admin. Code 19-121(b)(3)	Construction material/equipment without proper [reflective] markings <u>capable of producing a warning glow</u>	250	750
Admin. Code 19-121(b)(4)	Material/equipment without name, [&] address, <u>and telephone number</u> of owner	100	300
Admin. Code 19-121(b)(7)	Obstruction of fire hydrant or bus stop <u>or other area with construction material or equipment, which would impair safety or convenience of public</u>	500	1,500
Admin. Code 19-122	<u>Failure to remove [Sand/dirt/rubbish/debris] sand, dirt, rubbish, or debris [not removed] from site within 7 days</u>	250	750
Admin. Code 19-123	<u>Placement of [Commercial] commercial refuse container [stored] on the street without DOT permit</u>	750	2,250
Admin. Code 19-124(a)	<u>Erect or maintain [Canopy] canopy over the sidewalk without DOT permit</u>	100	300
Admin. Code 19-147(d)	Failure to replace loose, slippery or broken utility maintenance hole (manhole) covers, castings, <u>and other street hardware</u>	250	750
<u>Admin. Code 19-159.4</u>	<u>Failure to equip concrete mixer truck driven in or through the city of New York with chute closure device during the transport of liquid concrete</u>	<u>1,000</u>	<u>3,000</u>
<u>Admin. Code 19-170(c)(3)</u>	<u>Parking a tractor-trailer combination, tractor, truck trailer or semi-trailer on a residential street from 9pm to 5am (FIRST OFFENSE)</u>	<u>400</u>	<u>400</u>

<u>Admin. Code 19-170(c)(3)</u>	<u>Parking a tractor-trailer combination, tractor, truck trailer or semi-trailer on a residential street from 9pm to 5am (SECOND OR SUBSEQUENT OFFENSE WITHIN SIX MONTHS)</u>	<u>800</u>	<u>800</u>
34 RCNY 2-05(d)(10)	Failure to provide space <u>within the storage area</u> for loading [&] <u>and</u> unloading of <u>construction materials</u> [on the roadway]	250	750
34 RCNY 2-05(d)(16)	Failure to [house] <u>carry overhead [cables/hoses/wires] equipment hoses, cables, or wires across the sidewalk with 14 feet minimum clearance [on the sidewalk]</u>	250	500
34 RCNY 2-05(i)(1)	Crossing sidewalk <u>for the delivery or removal of any construction material or equipment on the street by vehicle or motorized equipment where there is no approved drop curb (driveway) [with a motorized vehicle] without DOT permit</u>	250	500
34 RCNY 2-07(a)(2)	[Opening a utility access cover without an authorization number] <u>Failure to obtain an emergency number if opening an underground street access cover to perform emergency work during an embargo.</u>	1,500	5,000
34 RCNY 2-07(b)(2)	Failure to repair defective street condition found within an area extending 12 inches outward from the perimeter of the cover/grating	[250] <u>750</u>	[750] <u>2,250</u>
34 RCNY 2-09 (f)(4)(xiv)	Except as in NYC Administrative Code § 19-152, failure to install pedestrian ramp as per DOT drawings	[400] <u>1,500</u>	[1,000] <u>4,500</u>
34 RCNY 2-11(e)(10)(ii)	Failure to properly place and ramp plating and decking <u>a minimum of 12 inches beyond the edge of the trench</u>	1,200	3,600
34 RCNY 2-11(e)(10)(v)	Failure to post “Steel Plates Ahead” or “Raise Plow” sign; [failure to countersink plates flush with roadway]	[250] <u>500</u>	[750] <u>1,500</u>
<u>34 RCNY 2-11(e)(10)(v)</u>	<u>Failure to countersink plates flush with roadway</u>	<u>1,000</u>	<u>3,000</u>
34 RCNY 2-11(e)(10)(vi)	Failure to use [skid resistant] plating and/or decking <u>that is skid-resistant in its entirety on roadway</u>	1,000	[5,000] <u>3,000</u>
34 RCNY 2-11 (e)(12)(ix)	Failure to obtain DOT permit for any changes to, or installation of, temporary roadway pavement markings [and temporary construction, parking or regulatory signs and supports]	750	1,000

<u>34 RCNY 2-11 (e)(12)(ix)</u>	<u>Failure to obtain DOT permit for any changes to, or installation of, temporary construction, parking or regulatory signs and supports</u>	<u>750</u>	<u>2,250</u>
34 RCNY 2-11(e)(12)(ix)	Failure to restore in kind all roadway pavement markings[, and any parking or regulatory signs or supports]	[750] <u>1,500</u>	[1,000] <u>4,500</u>
<u>34 RCNY 2-11(e)(12)(ix)</u>	<u>Failure to restore in kind any parking or regulatory signs or supports</u>	<u>1,500</u>	<u>4,500</u>
<u>34 RCNY 2-11(e)(12)(xiii)</u>	<u>Failure to provide smooth riding surface free of defects in the final completed wearing course</u>	<u>750</u>	<u>2,250</u>
34 RCNY 2-11(g)(1)(ii)	Doing non-emergency work with an emergency authorization number	[1,000] <u>2,000</u>	[3,000] <u>6,000</u>
34 RCNY 2-11(g)(2)(i)	Failure to begin emergency work within 2 hours after authorization	[250] <u>1,000</u>	[750] <u>3,000</u>
34 RCNY 2-11(g)(2)(viii)	Failure to apply for DOT permit within two business days of [emergency work] <u>receiving an emergency permit number</u>	[250] <u>750</u>	[750] <u>2,250</u>
34 RCNY 2-20 (b) (2)	Installation of an overhead <u>shunt</u> or wrap-around shunt without a DOT permit	[250] <u>500</u>	[500] <u>1,500</u>
<u>34 RCNY 2-20 (b) (2)</u>	<u>Installation of street shunt without a DOT permit</u>	<u>750</u>	<u>2,250</u>