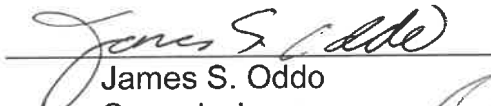


## NOTICE OF ADOPTION OF RULE

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the amendments to Section 102-04 of Subchapter B of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding waivers of a civil penalty.

This rule was first published on June 5, 2023 and a public hearing thereon was held on July 6, 2023.

Dated: 7/19/23  
New York, New York

  
James S. Oddo  
Commissioner



### Statement of Basis and Purpose of Rule

Section 102-04 of Title 1 of the Rules of the City of New York is amended to remove the civil penalty waiver provision for sidewalk sheds with expired permits. This amendment makes clear that civil penalties will be assessed for keeping a sidewalk shed up after the expiration of a valid permit. Pursuant to section 28-213.3 of the Administrative Code, before any sidewalk shed permit is issued or renewed, any penalty issued for maintaining a sidewalk shed after the permit has expired will have to be paid.

The Department expects that the threat of or actual issuance of violations for sheds with expired permits will result in more such sheds being dismantled and removed from City streets while still maintaining the necessary public protection.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and Article 213 of Chapter 2 of Title 28 of the New York City Administrative Code.

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

Paragraphs (5) and (10) of subdivision (d) of section 102-04 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York are amended to read as follows:

(d) *Waiver of civil penalty for work without a permit.* Notwithstanding any penalty waiver, a permit must be obtained for the unpermitted work. The Department may waive a civil penalty for work without a permit in the following instances:

(5) Where a fence, [shed or] scaffold [(or other temporary construction equipment)], excluding sidewalk sheds, was installed with a valid permit and the permit has expired.

(10) Where an owner of a business that employs fewer than one hundred employees has been issued a violation for unpermitted work and such owner has demonstrated, in a form and manner determined by the Department, that they are the owner of the business, except that such waiver does not apply to a sidewalk shed that was installed without a permit or installed with a valid permit and the permit has expired.