

**THE CITY OF NEW YORK
DEPARTMENT OF FINANCE**

NOTICE OF ADOPTION

Pursuant to the power vested in me as Commissioner of Finance by section 237 of the Vehicle and Traffic Law, sections 389(b) and 1043 of the New York City Charter and section 19-203 of the New York City Administrative Code, I hereby promulgate the within amendment to the Rules of the Commissioner of Finance relating to parking violations. This rule amendment was published in proposed form on December 19, 2013. A hearing for public comment was held on January 21, 2014.

S/S
Beth E. Goldman
Commissioner of Finance

STATEMENT OF BASIS AND PURPOSE

The Fleet Program of the New York City Department of Finance is a voluntary program that was established to assist companies with two or more commercial vehicles, used exclusively for the delivery of goods or services, in managing their parking summonses by providing them with weekly listings of new summonses issued to any of the company's vehicles with plates registered in the program. An enrolled company is allowed a period of forty-five days to resolve a summons by either paying the summons at a base fine, or by obtaining a hearing, without incurring penalties.

A company enrolled in the Fleet Program that makes expeditious pick-ups, deliveries and/or service calls may also enter into the Stipulated Fine Program. Companies enrolled in the Fleet Program that are not eligible for the Stipulated Fine Program may enter into the Commercial Abatement Program if they meet the criteria set out in this rule. In both the Stipulated Fine Program and the Commercial Abatement Program, the enrolled company agrees to waive the right to contest parking summonses and agrees to pay reduced parking fines provided in a contractual fine schedule.

These amendments update the rules relating to parking violations with respect to the Fleet Program, the Stipulated Fine Program, and the Commercial Abatement Program by:

- Removing the word "free" from the definition of the Fleet Program
- Amending the definition of "commercial organization" to clarify that it refers to business entities
- Adding definitions of "business entity," "long-term lease," "stipulated fine program" and "commercial abatement program"
- Changing from two to one the minimum number of vehicles that a company can enroll in the Fleet Program

- Clarifying that a company that is enrolled in the Fleet Program remains liable for any summons issued to an enrolled vehicle even if the vehicle is not registered to the company, until enrollment for the vehicle is terminated
- Clarifying that vehicles with either commercial or non-commercial license plates may be enrolled in the Fleet Program, but that only vehicles with commercial license plates can be enrolled in the Stipulated Fine Program or the Commercial Abatement Program
- Providing that leased vehicles can be enrolled in the Fleet Program only if the lease is a long-term lease and only if the lessor and lessee are business entities, not individuals
- Changing the date from which the 45-day period to resolve a parking summons begins, from the date of issuance of the computer-generated log of a company's summonses, to the Department of Finance system entry date for the summons
- Establishing that the failure of a company to satisfy summonses that have entered judgment status and total in the aggregate more than \$350 will result in termination of the company's enrollment in the Fleet Program
- Providing that a company may enroll in the Fleet Program only by executing an enrollment agreement using a form or format established by the Commissioner of Finance
- Establishing that if a company that is enrolled in the Stipulated Fine Program fails to satisfy summonses that enter judgment status, and total in the aggregate, including interest, more than \$350, the outstanding summonses will be subject to enforcement actions, the company will be responsible for the full unreduced fine amounts, the company will not be permitted to adjudicate any such outstanding summons, and the company's enrollment in the Stipulated Fine Program will be terminated
- Providing the schedule of penalties applicable to companies enrolled in the Stipulated Fine Program for the failure to pay a stipulated fine in a timely manner
- Adding a section that describes the Commercial Abatement Program, including eligibility criteria, terms of the program, and the consequences of a failure to pay fines in a timely manner.

The Department of Finance's authority for these rules is found in Vehicle and Traffic Law §237, New York City Administrative Code §19-203, and New York City Charter §§ 389(b) and 1043.

"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.

Matter underlined is new. Matter in brackets [] is to be deleted.

Amendments to Rules Relating to Parking Violations

Section 1. The definitions of "Commercial Organization" and "Fleet Program," as set forth in section 39-01 of Chapter 39 of Title 19 of the Rules of the City of New York, are

amended, and new definitions of "Business entity," "Commercial Abatement Program," "Long-term lease" and "Stipulated Fine Program" are added, in alphabetical order, to read as follows:

Business entity. "Business entity" means a corporation, partnership, organization or other entity engaged in business, but does not include an individual person or persons.

Commercial Abatement Program. "Commercial Abatement Program" means a voluntary enrollment program whereby commercial organizations that are enrolled in the Fleet Program and meet the eligibility criteria established in § 39-03.2 of these rules, but are not eligible for the Stipulated Fine Program pursuant to § 39-03.1 of these rules, waive their right to challenge parking summonses and agree to pay a reduced fine amount for each summons, pursuant to § 39-03.2 of these rules.

Commercial Organization. "Commercial Organization" means any business entity that is an owner or lessee of at least [two vehicles which are] one vehicle that is used exclusively for the delivery of goods or services.

Fleet Program. "Fleet Program" means a [free] voluntary enrollment program whereby commercial organizations receive computer-generated hearing logs and can schedule hearings in the Parking Violation Bureau's (PVB's) Commercial Adjudication Unit (CAU) pursuant to §39-03 of these rules.

Long-term lease. "Long-term lease" means a lease for a term of one year or more.

Stipulated Fine Program. "Stipulated Fine Program" means a voluntary enrollment program whereby commercial organizations that make expeditious pick-ups, deliveries and/or service calls and that are enrolled in the Fleet Program and meet the eligibility criteria established in § 39-03.1 of these rules, waive their right to challenge parking summonses and agree to pay a reduced fine amount for each summons, pursuant to §39-03.1 of these rules.

§ 2. Subdivisions (b), (c), (f), (i) and (m) of Section 39-03 of Chapter 39 of Title 19 of the Rules of the City of New York are amended, and a new subdivision (o) is added, to read as follows:

(b) The company's fleet must consist of [two or more vehicles] at least one vehicle.

(c) Plates may be commercial or non-commercial and must be registered with the Department of Motor Vehicles under the company's name and address upon enrollment and all times during enrollment. A vehicle leased by a long-term lease by the company from a lessor that is a business entity may be enrolled; provided, however, that if not registered by the company then the lease agreement must be in the name of the company or a subsidiary/parent and the registrant must consent in writing to designate the company as its agent to receive notices of violation, notices of impending default in [judgement] judgment, and other PVB notices as if the registrant itself had been served. At PVB's request, the company must supply copies of the registrations, lease agreements and other information. Failure to meet these requirements may result in the deletion of plates and/or termination of the company's enrollment in the Fleet Program without prior notice.

(f) Within 45 days from the [issuance of the computer-generated log (the "155")] Department of Finance system entry date for the summons, the company must pay the fine for each summons it does not contest. [Upon entry of a Not Guilty plea, the Fleet Program manager shall schedule a hearing date for such summonses. If the scheduled hearing is inconvenient, the company may contact the Fleet Program manager within two work days after receipt of the notice of the scheduled hearing, and] If the company wishes to contest a summons at an in-person hearing, the company must request a hearing, in accordance with § 39-08 of this chapter, and be prepared to arrange to appear at such hearing, within 45 days from the [date of issuance of the PVB computer-generated hearing log (the "155") for a hearing] Department of Finance system entry date for the summons.

(i) As an alternative to requesting an in-person hearing, a company may enter an appearance within 14 days after [issuance of the PVB computer-generated log (the "155")] the Department of Finance system entry date for the summons and thereafter either pay the fine for each summons it does not contest or submit its evidence to obtain a mail adjudication within 45 days after [issuance of the PVB computer-generated log (the "155")] the Department of Finance system entry date for the summons.

(m) Failure to satisfy summonses [which] that enter judgment status [within three months of the date of entry], where such judgment(s) total in the aggregate, including interest, more than \$350, or comply with the procedural requirements of this §39-03 [may], will result in termination of the company's enrollment in the Fleet Program.

(o) A company may enroll in the Fleet Program only by executing an enrollment agreement using a form or in a format established by the Commissioner of Finance.

§ 3. Section 39-03.1 of Chapter 39 of Title 19 of the Rules of the City of New York is amended to read as follows:

§39-03.1 Program of Stipulated Fines for Vehicles Enrolled in the Fleet Program.

(a) Agreement; waiver of right to contest notices of violation. Notwithstanding any inconsistent provision of §39-05 of these rules, the Commissioner of Finance may enter into agreements with the owners of vehicles with commercial plates enrolled in the Fleet Program for the payment of stipulated fines in accordance with a reduced fine schedule for parking violations set forth in the agreement ("stipulated fine amounts"). Such stipulated [fines] fine amounts shall not apply to enrolled vehicles unless the owner of such vehicles enters into a written agreement with the Commissioner, in advance, in which the owner agrees to waive the right to contest all notices of violation issued against such owner's enrolled vehicles during a stated period of time and to pay the stipulated [fines] fine amounts for all such violations. [Such] This waiver includes any right to challenge or otherwise contest any such summonses that have become due and payable at the unreduced full amount pursuant to the enforcement provisions set forth in the agreement and in subdivision (e) of this section.

(b) Eligibility for Stipulated Fine Program. To be eligible for the Stipulated Fine Program, the owner must own or lease one or more commercial vehicles enrolled in the Fleet Program that make expeditious pick-ups, deliveries and/or service calls.

(c) Failure to pay fines. The agreement described in subdivision (a) of this section shall further provide that if the owner fails to [pay the stipulated fines for all violations when due in accordance with such agreement, the agreement shall be null and void and of no further force and effect and the notices of violation issued against such enrolled vehicles that are outstanding shall be subject to the provisions of this chapter and the penalties set forth in this chapter to the same extent and in the same manner as if such agreement had not been in effect] satisfy summonses that enter judgment status, where such judgment(s) total in the aggregate, including interest, more than \$350: (1) such summonses shall be subject to enforcement action pursuant to the provisions of this title and applicable law, including but not limited to the imposition of all fines and penalties provided for in subdivision (e) of this section; (2) the owner will be removed from the Stipulated Fine Program and Fleet Program; and (3) the agreement will be null and void with respect to all future summonses, and future summonses will be subject to the penalties provided in § 39-07 of these rules to the same extent and in the same manner as if such agreement had not been in effect.

(d) Discretion of Commissioner. Enrollment in this program shall be voluntary and shall be subject to termination at the discretion of the Commissioner. This program shall be established and shall remain in effect at the pleasure of the Commissioner.

(e) Penalties for failure to pay stipulated fine amounts in a timely manner. Notwithstanding any other provision of this chapter: (1) The failure to pay the stipulated fine amount within 45 days after the Department of Finance system entry date for the summons will result in a penalty of \$10.00.

(2) The continued failure to pay the stipulated fine amount for an additional 45 days beyond the period stated in paragraph (1) of this subdivision will result in a further penalty of \$20.00 in addition to the penalty provided in paragraph (1) of this subdivision.

(3) The continued failure to pay the stipulated fine amount for an additional 45 days beyond the period stated in paragraph (2) of this subdivision will result in a further penalty of \$30 in addition to the penalties provided in paragraphs (1) and (2) of this subdivision.

(4) The continued failure to pay the stipulated fine amount for an additional 7 days beyond the period stated in paragraph (3) of this subdivision will result in the entry of a judgment against the owner in the original unreduced fine amount as provided in § 39-05 of these rules, plus the penalties provided in paragraphs (1), (2) and (3) of this subdivision.

§ 4. Chapter 39 of Title 19 of the Rules of the City of New York is amended by adding a new section 39-03.2 to read as follows:

§ 39-03.2 Program of Commercial Abatements for Vehicles Enrolled in the Fleet Program.

(a) Agreement; waiver of right to contest notices of violation. Notwithstanding any inconsistent provision of § 39-05 of these rules, the Commissioner of Finance may enter into agreements with the owners of vehicles with commercial plates enrolled in the Fleet Program that are not eligible for the Stipulated Fine Program under § 39-03.1 of these rules, for the payment of fines in accordance with a reduced fine schedule for parking

violations set forth in the agreement (“commercial abatement fine amounts”). Such commercial abatement fine amounts will not apply to enrolled vehicles unless the owner of such vehicles enters into a written agreement with the Commissioner, in advance, in which the owner agrees to waive the right to contest all notices of violation issued against such owner’s enrolled vehicles during a stated period of time and to pay the commercial abatement fine amounts for all such violations. This waiver includes any right to challenge or otherwise contest any such violations that have become due and payable at the unreduced full amount pursuant to the enforcement provisions set forth in the agreement and in subdivision (d) of this section.

(b) Failure to pay fines. The agreement described in subdivision (a) of this section shall further provide that if the owner fails to satisfy summonses that enter judgment status, where such judgment(s) total in the aggregate, including interest, more than \$350: (1) such summonses will be subject to enforcement action pursuant to the provisions of this title and applicable law, including but not limited to the imposition of all fines and penalties provided for in subdivision (d) of this section; (2) the owner will be removed from the Commercial Abatement Program and Fleet Program; and (3) the agreement will be null and void with respect to all future summonses, and future summonses will be subject to the penalties provided in § 39-07 of these rules to the same extent and in the same manner as if such agreement had not been in effect.

(c) Discretion of Commissioner. Enrollment in this program is voluntary and will be subject to termination at the discretion of the Commissioner. This program is established and will remain in effect at the pleasure of the Commissioner.

(d) Penalties for failure to pay commercial abatement fine amounts in a timely manner. Notwithstanding any other provision of this chapter: (1) The failure to pay the commercial abatement fine amount within 45 days after the Department of Finance system entry date for the summons will result in a penalty of \$10.00.

(2) The continued failure to pay the commercial abatement fine amount for an additional 45 days beyond the period stated in paragraph (1) of this subdivision will result in a further penalty of \$20.00 in addition to the penalty provided in paragraph (1) of this subdivision.

(3) The continued failure to pay the commercial abatement fine amount for an additional 45 days beyond the period stated in paragraph (2) of this subdivision will result in a further penalty of \$30 in addition to the penalties provided in paragraphs (1) and (2) of this subdivision.

(4) The continued failure to pay the commercial abatement fine amount for an additional 7 days beyond the period stated in paragraph (3) of this subdivision will result in the entry of a judgment against the owner in the original unreduced fine amount as provided in § 39-05 of these rules plus the penalties provided in paragraphs (1), (2) and (3) of this subdivision.