

New York City
Department of Transportation

REVOCABLE CONSENT RULES

Title 34
Chapter 7
Rules of the City of New York

March 7, 2016

Due to recent legislative changes, certain cross references to the Administrative Code contained in these Rules may be inaccurate.

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**Section 7-01
Definitions**

Administrative Code. “Administrative Code” means the Administrative Code of the City of New York.

Charter. “Charter” means the New York City Charter.

Commissioner. "Commissioner" means the Commissioner of the Department of Transportation of the City of New York or his or her designee.

Department. "Department" means the Department of Transportation of the City of New York.

DCP. “DCP” means the Department of City Planning of the City of New York.

DoITT. “DoITT” means the Department of Information Technology and Telecommunications of the City of New York.

Improvement. "Improvement" means a tangible thing or object which may be installed on, over or under a street, or any private use of a street.

Public Service Corporation. "Public Service Corporation" means an entity subject to the jurisdiction of the Public Service Commission under the Public Service Law.

Revocable Consent. "Revocable consent" means a grant of a right, revocable at will, (1) to any person to construct and use for private use pipes, conduits and tunnels under, railroad tracks upon, and connecting bridges over inalienable property, (2) to an owner of real property or, with the consent of the owner, to a tenant of real property to use adjacent inalienable property for the purposes stated in section 7-04 hereof or as may be permitted by rules of DoITT, or (3) to a public service corporation for facilities ancillary to, but not within, a franchise granted prior to July 1, 1990.

ULURP. “ULURP” means the Uniform Land Use Review Procedure as set out in sections 197-c and 197-d of the Charter.

Section 7-02
Requirement to Obtain a Revocable Consent

With the exception of the city of New York and/or its agents, no person or entity shall install or maintain any of the improvements listed in section 7-04 of these rules without first obtaining a revocable consent from the Department. The Department shall not issue a revocable consent for any improvement which, in the judgment of DCP, has land use impacts or implications, unless such revocable consent has been reviewed and approved pursuant to ULURP. Revocable consents may not be assigned, transferred or otherwise conveyed without the prior written approval of the Commissioner.

**Section 7-03
DCP Review**

(a) The Department shall submit to DCP petitions for those improvements listed in §7-04(a) of these rules that do not meet the locational or dimensional standards in such section 7-04(a). The Department shall also submit to DCP all petitions for the following improvements: bridge, above-ground cable, guard booth, information sign/kiosk, parking area for private use, and above-ground pipe/fuel line.

(b) DCP shall review each petition submitted by the Department to determine whether or not a proposed revocable consent has land use impacts or implications and whether, as a result, ULURP applies, and shall notify the Department of its determination. The Department shall notify the petitioner of the determination by DCP regarding the applicability of ULURP and shall stay its final decision pending ULURP approval.

(c) If ULURP is required, the petitioner shall obtain information and application forms pertaining to ULURP from DCP and file a ULURP application with DCP in accordance with the rules governing ULURP.

(d) No revocable consent shall be granted by the Department if the application for such consent has been disapproved pursuant to ULURP. A revocable consent may be granted by the Department if the application for such consent has been approved pursuant to ULURP or if DCP determines the proposed improvement has no land use impacts.

(e) The Department shall submit to DCP for review any petition for a renewal or amendment for an improvement listed in section 7-04(a) of these rules where:

(1) such renewal or amendment includes a modification that does not meet a locational or dimensional standard in section 7-04(a) or increases the degree of non-compliance with such locational or dimensional standard; or

(2) such petition is for a bridge, above-ground cable, guard booth, information sign/kiosk, parking area for private use, above-ground pipe/fuel line, and the renewal or amendment includes a modification to the location or an increase in the dimension of such improvement; or

(3) such petition is for a renewal or amendment of a consent that was approved by the City Planning Commission for a specific term, and the renewal or amendment would extend the consent beyond the term approved by the Commission.

Section 7-04
Eligible Improvements; Standards; Annual Rates.

(a) The Commissioner may, in his or her discretion, grant, renew, modify, or rescind revocable consents for any of the improvements listed in this subdivision to be constructed or maintained on, over, or under City streets, in accordance with the requirements set forth in section 364 of the Charter. Except as otherwise provided, annual compensation for the improvements listed in this subdivision shall be as set forth herein and, unless otherwise provided, shall not increase during the term of the revocable consent.

(1) **Accessibility Lift to Provide Access for People with Disabilities**

(i) **Standard.**

The lift shall be stored at the building end of its run and shall include appropriate safety devices. The lift shall not extend more than five and one half feet in the direction of the curb from the base of the steps when in use. In no instance shall the lift or any portion thereof extend beyond the curblineline when in use.

(ii) **Annual rate.** \$25. The annual fee for an accessibility lift shall be in addition to the normal fee for a stoop or stairway.

(2) **Bench**

(i) **Standard.**

No bench shall be greater than six feet in length. Benches greater than four feet in length shall be designed to discourage people from reclining. Benches adjacent and parallel to the building shall be installed no more than six inches from the building face and, if multiple benches are installed, they shall be at least three feet apart. A bench which is not anchored to the sidewalk shall be placed against the building face during hours that the benefited property is open to the public and shall be stored inside the building when the building is closed.

(ii) **Annual rate.** \$150

(3) **Bridge**

(i) To be referred to DCP to determine whether the improvement has land use impacts.

(ii) **Annual rate.** See section 7-10. If the structure is not in use, the rate shall be 10% of the rate in effect pursuant to the formulas described in section 7-10.

(4) **Cable, above-ground**

(i) To be referred to DCP to determine whether the improvement has land use

impacts.

(ii) Annual rate. See section 7-10.

(5) **Cellar door, including stair**

(i) Standard. All cellar doors required by section 27-292(b) (4) of the Administrative Code shall be constructed pursuant to the requirements of the Administrative Code.

(ii) Annual rate. See section 7-10.

(6) **Clock**

(i) Standard. The base shall be no more than 18 inches in diameter. The lowest portion of the clock face shall be at least eight feet above the sidewalk. The overall height of the clock shall not exceed 15 feet. The clockface shall be no more than two feet in diameter. Time shall be maintained accurately. The name or logo and address of the adjacent premises may be displayed on the clockface; however, the total display space shall be no greater than one third of the square footage of the clockface.

(ii) Annual rate. \$300

(7) **Conduit and underground cable**

(i) Standard. All conduits shall be underground.

(ii) Annual rate. See section 7-10.

(8) **Electrical socket**

(i) Standard. All electrical sockets shall be installed pursuant to the requirements of the New York City Department of Buildings.

(ii) Annual rate. \$25

(9) **Enclosure for trash receptacle, adjoining a building, for private use**

(i) Standard. The enclosure shall be of non-flammable construction and shall be rodent proof. The enclosure shall be between three feet and five feet high, except in areas in the Bronx, Queens, Brooklyn and Staten Island zoned for manufacturing, mixed-use (MX), special purpose districts which allow manufacturing, or for automotive or other heavy commercial uses (C8), where the enclosure shall be between three feet and ten feet high, and shall be securely

affixed to the sidewalk, fence, building, or other appropriate fixture.

(ii) Annual rate. The greater of \$5 per square foot of area, as projected onto a horizontal plane or \$25, except in areas zoned for manufacturing, where the annual rate shall be \$1 per square foot of area, as projected onto a horizontal plane.

(10) Fenced or walled-in area, including the enclosing structure, not used for planting or parking, including a fenced or walled-in area containing a drainage basin or a shopping cart storage area.

An area enclosed by a privately installed guard rail shall be deemed a fenced-in area and shall be subject to the standards below. Fences may be approved for no more than one year pursuant to the provisions in section 2-10(j) of Chapter 2 of this Title 34, provided the placement of such fences is for temporary security purposes.

(i) Standard.

(A) The fence shall be no fewer than three and no greater than four feet high in residential and commercial zoning districts and shall be no fewer than three and no greater than ten feet high in manufacturing zoning districts, as such zoning districts are set forth in the Zoning Resolution, except that athletic play field fences may extend as high as 15 feet. Smooth edged finials may be attached to fence posts up to a maximum height of four feet, six inches in residential or commercial zoning districts. No chisel points or spikes shall be included on fences shorter than eight feet, except as approved by the Landmarks Preservation Commission.

(B) The fence shall be constructed of non-flammable, non-wood material. The use of opaque material (such as masonry) is limited to the base of the fence up to 21 inches in height and to vertical columns spaced at least five feet apart. Solid or opaque materials may comprise no more than 35 percent of the total vertical area of the fence above any opaque base. For metal fences, picket interspaces shall measure between four and five and three quarters inches, and picket width may measure up to one inch wide. Chain-link, where approved, shall have a two inch mesh and shall not include screening. Barbed wire is permitted in manufacturing zoning districts only. Razor wire is prohibited.

(C) No sign shall be attached to a fence.

(ii) Annual rate.

(A) Except as provided in section 7-04(a)(10)(ii)(B), below, the first year's annual rate shall be the greater of \$1,500 or $(C \times L \times 0.16 \times A)$, as defined in section 7-10(a) of these rules, and subsequent years' rates shall be determined in accordance with section 7-10(c) of these rules.

(B) For non-commercial use connected to a residential building of six or fewer units, the greater of \$100 or $(C \times L \times 0.01 \times A)$, as defined in section 7-10(a) of these rules.

(11) **Flagpole**

- (i) Standard. The base shall be no larger than 18 inches in diameter and no fewer than 30 inches in height.
- (ii) Annual rate. None (pursuant to section 19-125(e) of the Administrative Code).

(12) **Guard booth**

- (i) To be referred to DCP to determine whether the improvement has land use impacts.
- (ii) Annual rate. See section 7-10.

(13) **Information sign or kiosk**

- (i) To be referred to DCP to determine whether the improvement has land use impacts.
- (ii) Annual rate. See section 7-10.

(14) **Litter receptacle for public use**

- (i) Standard. The litter receptacle shall be constructed of non-flammable, non-wood material and shall be securely affixed to the sidewalk or sufficiently heavy to prevent movement without considerable force. The minimum height of the receptacle shall be two feet, six inches, the maximum height shall be four feet and the maximum width shall be three feet, with an overall area not to exceed nine square feet. No side of the receptacle shall exceed three feet in width. The litter receptacle may include the grantee's logo and/or building or institution name no greater than one square foot in size, if the receptacle is adjacent to the named property.
- (ii) Annual rate. \$25

(15) **Overhead Building Projection in excess of that allowed by the Administrative Code**

- (i) Standard. Overhead building projections shall be permitted over the street provided the minimum height above the sidewalk is ten feet and the depth of the projection does not exceed three feet, ten inches, inclusive of any depth permitted by section 27-313(a) of the Administrative Code, to a height 30 feet above the sidewalk. Above 30 vertical feet the permitted depth shall be four feet ten inches, inclusive of any depth permitted by the Administrative Code. Except for architectural details such as cornices, brackets and belt courses, which may extend

across the full street frontage of a building, projections shall not have an aggregate width at any level of the building greater than 50 percent of the building frontage. Projections containing floor area shall be referred to DCP.

(ii) Annual rate. See section 7-10.

(16) Parking area for private use for non-residential property (if there is no charge to vehicle operator)

(i) To be referred to DCP to determine whether the improvement has land use impacts.

(ii) Annual rate. The first year's annual rate shall be the greater of \$600 or $(C \times L \times 0.36 \times A)$, as defined in section 7-10(a) of these rules, and subsequent years' rates shall be determined in accordance with section 7-10(c).

(17) Pipe or fuel pipeline, above-ground

(i) To be referred to DCP to determine whether the improvement has land use impacts.

(ii) Annual rate. See section 7-10. If the grantee is not using the structure, the Department may set rates without reference to the formulas described in section 7-10.

(18) Planted area, including any surrounding fence or wall

(i) Standard. Live vegetation shall occupy 80 percent of the area. No vegetation may overhang a sidewalk beyond the boundary of the planted area, including any fence, unless the overhanging vegetation is at least eight feet above the adjacent sidewalk area. No rocks, timbers, wickets (hoops) or other trip hazards shall serve as a border. Any surrounding fence or wall shall conform to the standards provided in item (10), above.

(ii) Annual rate. The greater of \$2 per square foot of area, as projected onto a horizontal plane, or \$25

(19) Planters.

(i) Standard.

(A) The planter shall be no fewer than 18 and no greater than 48 inches high. The maximum area, measured at the planter's widest point, shall be 25 square feet, and the maximum dimension of the planter shall be five feet along the side which is perpendicular to the curb or eight feet along the side which is parallel to the curb. (Planters installed against the building face may be continuous.)

(B) If a planter is proposed to be placed above a sidewalk vault, a professional engineer shall certify that the sidewalk can support a 600-pound per square foot live load.

(C) No planter shall be constructed of wood. Wood cladding of other planter types is permitted if such cladding is fireproof and graffiti resistant. Concrete tubs, two inches thick, are recommended.

(D) The Department recommends the planting of small shrubs and flowers as they require less maintenance and are hardier than small trees. No woody growth shall overhang the edge of the planter. Suggested tree species for planters are: Crab Apples - (Florida Snow Drift); Euonymus Pateris (Shrub); Taxus O. Densifornius (Japanese Yew); Scotch Pine; Austrian Pine; Ilex Meserva; Cornus Mass (Cornelian Dogwood); Syringia Reticulata (Japanese Tree Lilac); Prunus Sargentii (Columnaris); Acer Ginnala (Amur Maple); Acer Truncatum; Viburnum Sieboldii (Tree Form Viburnum).

(E) Planters shall be maintained, shall contain live plants at all times and shall be kept free of debris and graffiti.

(ii) Annual rate. The greater of \$2 per square foot of area as projected onto a horizontal plane, or \$25 per planter.

(20) Post, pole or bollard not otherwise governed by permit procedures contained in section 19-125 of the Administrative Code

(i) Standard. The post, pole or bollard shall be no fewer than 30 inches high, no greater than 48 inches high, and no greater than 18 inches in diameter. If more than one post, pole or bollard is to be installed, they shall be at least four feet apart and shall not be joined with horizontal members. If a concrete-filled pipe design is used, it shall be capped or smoothed.

(ii) Annual rate.

(A) \$125 each, minimum of \$500 per consent.

(B) Post, pole or bollard adjacent to a building containing a marquee pursuant to a permit granted by the Department of Buildings, \$25 each, minimum of \$100 per consent.

(21) Public service corporation facility ancillary to, but not within, a franchise granted prior to July 1, 1990

(i) Standard. Refer to standards in this section for individual structures.

(ii) Annual rate. See section 7-10. When calculating the annual rate pursuant to this paragraph, "E" will be reduced by 15%. This rate shall not apply to revocable consents approved as provided in subdivision (b) of this section.

(22) Railroad tracks for private use

(i) Standard. Railroad tracks shall be located in an M or C8 zoning district outside any area improved for vehicular or pedestrian use, except that tracks may cross an existing or future driveway with the permission of the property owner served by such driveway.

(ii) Annual rate. The first year's annual rate shall be the greater of \$500 or $(C \times L \times 0.04 \times A)$, as defined in section 7-10(a) of these rules, and subsequent years' rates shall be determined in accordance with section 7-10(c).

(23) Ramp intended to provide access for people with disabilities

(i) Standard.

(A) The Department may grant a revocable consent for a ramp which extends more than 44 inches from the building line for buildings erected prior to December 6, 1969, including any additional steps attached or ancillary to the ramp structure made necessary by the creation of the ramp. (Section 27-308 of the Administrative Code permits ramps to extend up to 44 inches from the building line for such buildings.) (Buildings erected after December 6, 1969 must contain ramps within the property line.)

(B) In the case of buildings erected between December 6, 1969 and September 5, 1987, the Department may grant a revocable consent for a ramp which extends more than 44 inches from the building line if the ramp will make a primary entrance to the building accessible.

(C) The ramp shall conform to the standards of the Americans with Disabilities Act, 36 CFR Part 1191, and section 27-308 of the Administrative Code. A canopy may be erected above the ramp provided such canopy does not fully enclose the ramp and provided such ramp is adequately illuminated and complies with all other applicable regulations.

(ii) Annual rate. \$25

(24) Retaining Walls

(i) Standard. Retaining walls may be constructed only where warranted by existing grade or by a change in grade undertaken with prior approval by the Department of Buildings.

(ii) Annual rate. See section 7-10.

(25) Sidewalk plaque or logo

(i) Standard. The size of the logo or plaque shall not exceed nine square feet with a maximum dimension of three feet along any side. The plaque or logo shall be limited in design and content to a symbol or other element referring to or naming the adjoining property owner, a district organization, the district/neighborhood character, or consistent with an area-wide way-finding

graphic design system. The plaque or logo shall consist of material that provides a stable, firm and slip-resistant surface and shall be installed flush with the sidewalk surface.

(ii) Annual rate. \$300 per plaque or logo.

(26) Socket with removable poles, posts, or similar devices, including any connecting devices such as ropes, ribbons, horizontal poles, and the area thereby enclosed

(i) Standard. Sockets shall be flush with the sidewalk and fitted with spring-mounted flush covers. Posts or poles shall be no fewer than 30 inches and no greater than 48 inches high, including any connecting devices.

(ii) Annual rate. The first year's annual rate shall be the greater of \$750 or $(C \times L \times 0.16 \times A)$, as defined in Section 7-10(a) of these rules, where A is the area of the enclosed area, and subsequent years' rates shall be determined in accordance with section 7-10(c).

(27) Stoop, step, ramp, vestibule or other entrance detail extending beyond limits set in Articles 8 and 9 of Subchapter 4 of Chapter 1 of Title 27 of the Administrative Code, other than a ramp described in section 7-04(a)(23) hereof or a stoop or other improvement described in section 7-04(a)(29) hereof

(i) Standard. Such structures shall be constructed pursuant to the requirements of the New York City Department of Buildings and shall have a maximum width of eight feet and shall extend as far as such structures on adjacent buildings.

(ii) Annual rate. See section 7-10.

(28) Stoop or any other improvement eligible for a revocable consent pursuant to these rules and adjacent to a building which is located within a designated New York City historic district or which is a designated New York City Landmark.

(i) Standard. No revocable consent shall be granted for such a structure located in a designated New York City historic district or attached to a designated New York City landmark building without the prior written approval of the Landmarks Preservation Commission pursuant to Chapter 3 of Title 25 of the Administrative Code. Refer to standards in this section for individual structures.

(ii) Annual rate. \$25 for residential buildings with fewer than six units. For all other buildings, see the appropriate paragraph of this subdivision.

(29) Street lamp or light fixture

(i) Standard. Street lamps or light fixtures which replace or augment existing lighting shall be placed and illuminated as approved by the Department's Division of Street Lighting. The base shall be no greater than 18 inches in diameter. Hours of illumination shall coincide with those of the City's street lights.

(ii) Annual rate. \$150

(30) Tunnel

(i) Standard. All tunnels and related structures shall be constructed underground or within the adjacent building pursuant to the requirements of the New York City Department of Buildings.

(ii) Annual rate. See section 7-10. If the structure is not in use, the rate shall be 10% of the rate in effect pursuant to the formulas described in section 7-10.

(31) Vault extending beyond the curbline or underground improvement not otherwise governed by license procedures contained in section 19-117 of the Administrative Code

(i) Standard. All vaults shall be constructed underground pursuant to the requirements of the New York City Department of Buildings.

(ii) Annual rate. See section 7-10.

(32) Any improvement listed in section 7-04 for which a consent is proposed to be granted where the grantee has filed an application concerning the subject property pursuant to section 4-105 of the Administrative Code, or any improvement listed in section 7-04 of these rules where the construction of such improvement was funded 50 percent or more by a City agency.

(i) Standard. Refer to standards listed above for individual structures.

(ii) Annual rate. The Department may set rates for such consents without reference to the formulas described in § 7-10; such rates shall be set forth in the agreements memorializing the consents.

(33) Any improvement listed in section 7-04 which has been approved for use for security purposes by the New York City Police Department.

(i) Standard. Refer to standards listed above for individual structures.

(ii) Annual rate. None.

(iii) This paragraph shall not be construed to apply to any improvement(s) listed in paragraph 35 of subdivision (a) of Section 7-04 of Title 34 of these

Rules.

(34) Upon approval by the Public Design Commission, any work of art that is fully integrated into an improvement listed in section 7-04.

(i) Standard. Such an improvement with an integrated art element must adhere to the standards listed in this section for individual structures.

(ii) Annual rate. 50% reduction to the annual rate listed in this section for individual structures.

(35) Portions of the street used in connection with loading docks, bays or other like facilities for loading and unloading of goods and materials of or for the use of foreign, domestic or multinational governmental entities, where, in the judgment of the New York City Police Department, the location of such facility is necessary due to security concerns applicable to such entity.

(i) To be referred to DCP to determine whether the improvement has land use impacts.

(ii) Annual rate. An amount determined by the Department to be adequate compensation.

(36) Bicycle racks.

(i) Standard. All bicycle racks shall be installed in compliance with the general conditions in Section 7-06 of this title. A request that adheres to minimum clearances may nonetheless be denied by the department if the bicycle rack would interfere with the safe passage of pedestrians.

(ii) Annual rate. \$25

(37) Any improvement that has been certified by a New York State Licensed Professional Engineer as a component of a flood mitigation system as defined in Section 2-10 of this title.

(i) Standard.

(A) The Department may grant a revocable consent for flood mitigation system components. Except in the case of a public service corporation facility, a revocable consent will only be granted to a petitioner:

(a) for the protection of a building or portion of a building under this paragraph where such building or portion of a building was erected prior to January 8, 2015 or where a lawful building permit was issued by the Department of Buildings for the erection of such

building prior to January 8, 2016; or

(b) for the protection of a building or portion of a building located within an area of special flood hazard, as such term is defined in section G201.2 of Appendix G of the New York City Building Code.

(B) Such improvements shall be designed and constructed in compliance with the requirements of the New York City Department of Buildings and any other applicable requirements of or terms and conditions of approvals issued by other City entities. The Department will consult with the New York City Department of Environmental Protection and any other agency the Department deems necessary or desirable regarding an application for a revocable consent for flood mitigation system components prior to its approval of such application.

(ii) Fee. \$2,000. This fee shall apply to the initial revocable consent application and shall not apply to renewal applications so long as the design of the improvement has not changed.

(b) Other improvements approved by the Board of Estimate. Revocable consents that were granted by the Board of Estimate prior to July 1, 1990 for private improvements which are not listed in subdivision (a) above may be renewed, amended, or revoked by the Commissioner in his or her sole discretion, provided that any renewal or amendment shall be submitted to DCP when required pursuant to section 7-03 of these rules. In each year of such consent, the annual rate shall increase by the average of the Consumer Price Index for All Urban Consumers in New York and New Jersey published by the U.S. Department of Labor's Bureau of Labor Statistics ("CPI") increase for the ten years prior to the date of the renewal of the consent. For consents granted pursuant to this subdivision to public service corporations, their annual rate increase shall be reduced by 15%.

(c) Compliance with requirements. All improvements for which a revocable consent is granted shall comply with the general conditions in section 7-06 of these rules.

Section 7-05

Revocable Consents for Telecommunications Purposes

Petitions for revocable consents for telecommunications purposes shall be reviewed and may be granted by DoITT, subject to approval by the Department and review by DCP, where appropriate. Petitions for such consents shall be filed with the Department and shall be forwarded by the Department to DoITT for processing. Petitioners shall submit any additional information which may be required by DoITT.

Section 7-06

General Conditions

(a) **Advertising Prohibited.** No advertising shall appear on any improvement which is the subject of a revocable consent agreement.

(b) **Maintenance.** Graffiti shall be removed within seven days of appearance. Art Commission approved colors shall be used and maintained. Sidewalks fronting the entire property must be in good condition, without violations or illegal encroachments.

(c) **Clearances for Above-Ground Structures.**

(1) **Corner Clearance Policy.** No revocable consent will be granted for above-ground structures located within the corner quadrant (the area ten feet from either side of the area created by extending the building line to the curb) pursuant to Executive Order #22 of 4/13/95, as amended.

(2) Improvements shall be at least 18 inches from the curb line (front face of curb).

(3) **Clear path.** A straight unobstructed path (“clear path”) for pedestrian circulation on the sidewalk shall remain after the installation of the improvement. The minimum width of the clear path shall be the greater of eight feet or one-half of the sidewalk width. The minimum width of the clear path shall be the greater of ten and one-half feet or one-half of the sidewalk width where a bench, information kiosk or bicycle rack with bicycles parallel to the curb or a queuing area enclosed by poles abuts the clear path. The minimum width of the clear path shall be the greater of 12 1/2 feet or one-half of the sidewalk width where a bicycle rack with bicycles perpendicular to the curb abuts the clear path. The clear path shall be maintained for 15 feet to either side of the improvement. When possible, the improvement shall abut, be aligned with, or be located between other major obstructions such as subway entrances, bus stop shelters, newsstands, and sidewalk cafés.

(4) Improvements shall not be located under fire escapes.

(5) (i) The following minimum distances shall be required between the revocable consent improvement and the specified element or object, except as otherwise specified herein:

Subway Entrance (open side)	15'
Sidewalk Cafés	15'
Newsstand	15'
Bus Stop (with/without shelter)	15'

Fire Hydrant/Standpipe	10'
Driveway	10'
Bicycle Rack (including all bicycles)	8'
Street Tree	5'
Bench	5'
Principal Building Entrance	5'
Ramp intended to provide access for people with disabilities	5'
Subway Entrance (closed end or side)	5'
Public Telephone	5'
Planters on the sidewalk not adjacent to the building façade	5'
Mail Box	4'
Street Lights	4'
Parking Meters	4'
Edge of Tree Pit	3'
Street Signs	3'
Utility Hole Covers, Cellar Doors, Areaways	3'
Transformer Vault, Sidewalk Grates	3'
All Other Legal Street Furniture	5'

(ii) Benches, information kiosks, litter receptacles, mail boxes, planters and public telephones may be located in an aligned grouping with a reduced minimum clearance between them of three feet. Other structures may be incorporated into such groupings provided the minimum clearances in subparagraph (i) above are provided. In no case shall such groupings extend for a length greater than 30 feet along the sidewalk. The listed elements may also be combined, without separation, into a single structure provided the overall length of such unitary structure and any other of the listed elements outside the grouping or unitary structure shall be no more than 15 feet. In no case shall a grouping or unitary structure be less than 15 feet from another grouping or unitary structure.

(d) Waiver.

- (1) Where strict compliance with these rules shall create undue hardship, the Commissioner may waive or modify these rules, in specific cases, except where prohibited by law, if in his/her opinion, the public health, safety and general welfare will not be endangered thereby. The petitioner shall request such waiver in writing and shall provide any information requested by the Department which may assist the Commissioner in his or her determination.
- (2) Notwithstanding the above provisions, prior to waiving the standards rules related to the location or dimensions of improvements, the Department shall refer the proposed change to DCP for review.

Section 7-07**Application Requirements**

- (a) **Petition form.** An application for a new revocable consent or for a renewal, modification, assignment or rescission of an existing revocable consent shall be made on a petition form obtained from the Department, and shall be signed by the petitioner or a person authorized to enter into binding agreements on behalf of the petitioner. In the case of a new consent, the petitioner shall submit the original plus ten copies of the completed form; in the case of a renewal, modification, assignment or rescission, petitioner shall submit the original plus five copies.
- (b) **Business Certificates.** The petitioner shall submit a copy of any applicable business certificate, such as a certificate of incorporation or partnership certificate. With respect to petitions for an assignment or transfer of a revocable consent, the petitioner shall submit a copy of the business certificate of the assignee or transferee.
- (c) **Plans.**
- (1) Paper or mylar prints of a plan shall be submitted in the equivalent number of prints as are required for the petition form. Each plan print shall measure 18 by 24 inches unless otherwise authorized by the Department.
 - (2) The plan shall bear the seal of a Professional Engineer or Registered Architect licensed by the State of New York.
 - (3) The plan shall be drawn to scale and shall indicate the block and lot number of the property of the petitioner. The plan shall indicate in detail the method of construction, applicable technical information, and the materials to be used. A title box shall be placed on the right hand side of each sheet containing the words "Plan Showing Location of Proposed (structure type) to be Constructed in (name of street), Borough of (borough), to Accompany Application of (petitioner's name), dated (petition date), to the Department of Transportation of the City of New York" and shall indicate the date it was prepared and any subsequent revisions.
 - (4) All details of existing structures shall be shown in standard line thickness. All proposed new construction and existing structures which are the subject of the petition shall be plainly shown in red. Proposed removals or relocations, if any, of existing conduits, pipes lines, or other structures shall be clearly indicated by red dashed lines.

(5) The plan shall show the building lines and curb lines, railroad tracks, and, if applicable, any electrical conduits, sewers and other substructures in the street which may be affected in any manner by the proposed construction. All such information shall be obtained and verified by the petitioner. The location, character and dimensions of all such structures and substructures shall be accurately shown and indicated by dimensions on the plan.

(6) The plan shall include longitudinal and transverse sections to show the relative position of the existing structures in the street and the proposed new construction.

(7) The applicant shall provide photographs of the existing conditions and may be required to provide photo simulations of the proposed structure and its surroundings as they would appear after installation.

(8) The plan shall also include the Professional Engineer's or Registered Architect's estimate of the current cost to remove or deactivate the proposed improvement and restore all sidewalks and pavements to current Department standards for new construction. Alternatively, the cost of removal may be provided on a separate sheet of paper provided that it is signed and sealed by a Professional Engineer or Registered Architect.

(9) Following the installation of any improvement for which a consent has been granted, the petitioner shall submit to the Department two copies of a plan indicating the "as built" condition. Such plan shall include any changes approved by the Department, with any deviations from the original plan shown by a double red line. Such plan shall be signed, sealed and dated by a Professional Engineer, Registered Architect or a Licensed Land Surveyor and shall include a certification which reads: "This drawing represents the as-built condition and shows the actual location of all subsurface conditions uncovered during this installation."

(d) Pedestrian Congestion. The Department may require a petitioner to submit additional information concerning pedestrian density and volume as well as the width of the usable pedestrian path at the site of a proposed revocable consent structure. The Department may require that such information include a pedestrian flow analysis conducted according to the performance standards described in the Transportation Research Board's Highway Capacity Manual chapter on pedestrian flow.

(e) Additional Copies and Information. Upon the request of the Department, the petitioner shall provide additional copies of the petition and/or plan. The petitioner shall also provide any additional supporting information requested by the Department or by DCP, where referral has been made to DCP.

(f) Waiver of Plan Requirements. For petitions concerning minor improvements, such as planters, trash and litter receptacles, or benches, the Department may waive the requirement that the plan be prepared by a Professional Engineer or Registered Architect where such submission is not otherwise required by law, and where the petitioner has requested a waiver in writing.

(g) **Exception.** The requirements of this section shall not apply to revocable consents for public service corporation facilities ancillary to, but not within, a franchise, if the revocable consent covers multiple structures whose locations are not known at the time of the granting of the consent. Plans for each such structure shall be submitted prior to construction and shall meet the requirements of Chapter 2 of Title 34 of the Rules of the City of New York.

Section 7-08

Filing Fees

(a) General Information. Filing fees for petitions shall be submitted with the petition form and any required plans or supporting documents. Filing fees shall be non-refundable.

(b) Specified Improvements. The filing fees listed in this paragraph shall apply to petitions for the following specified types of improvement: accessibility lift; bench; enclosure for trash receptacle; litter receptacle; planted area; planter; ramp intended to provide access for people with disabilities; stoop or step; or any improvement which has been approved by the Landmarks Preservation Commission:

(1) initial petition	\$100.00
(2) renewal	100.00
(3) modification	100.00
(4) assignment or transfer	100.00
(5) rescission	100.00

(c) All other improvements, except for improvements approved for use for security purposes by the New York City Police Department.

(1) initial petition	750.00
(i) initial petition with a Special Street Plan Type F application with proof of payment of a fee in excess of \$650.00	100.00
(2) renewal	500.00
(3) modification	
(i) contractual	375.00
(ii) structural	550.00
(4) assignment or transfer	200.00
(5) rescission	375.00

(d) Improvements approved for use for security purposes by the New York City Police Department. Filing fees shall not apply to any improvements approved for use for security purposes by the New York City Police Department.

Section 7-09

Action by the Department

- (a) The Department shall, within 30 calendar days of receipt of a complete petition for a revocable consent, forward a copy of such petition to: the Borough President for the borough in which the proposed improvement is to be located; all Community Boards in whose districts the proposed improvement is to be located; DCP, if required to do so pursuant to section 7-03; and all other City agencies affected by the proposed consent. The Department shall allow 30 calendar days for the Borough President, Community Board, and other affected agencies to comment on the petition.
- (b) The Department shall inform the petitioner in writing of all objections. Review of the petition shall be stayed until all objections are resolved. The petitioner shall be given the opportunity to revise the petition or plan in order to resolve the objection(s). If any objection has not been resolved within 90 days from the date the petitioner was informed of the latest objection, such petition may, in the discretion of the Department, be deemed to have been withdrawn.
- (c) Prior to granting any revocable consent or renewal or modification to the location or an increase in the dimension of an improvement, the Department shall hold a public hearing on the terms and conditions of the proposed revocable consent agreement. Notice of such hearing shall be published by the Department at the expense of the petitioner in accordance with section 371 of the Charter.
- (d) Notwithstanding the foregoing, the Department may deny a petition for a revocable consent without a hearing if, in the sole judgment of the Commissioner, the grant of such consent would interfere with the use of the inalienable property of the City (including streets and sidewalks) for public purpose or would otherwise not be in the best interest of the City.
- (e) The revocable consent agreement shall be filed by the Department with the appropriate County Clerk.

Section 7-10

Annual Rate Schedule for Revocable Consent Improvements

For all improvements that do not have an annual rate set forth in section 7-04(a), the annual rate of compensation for the first year of the term of each revocable consent shall be calculated in accordance with the following:

(a) Definitions and Variables.

“A” means the maximum area of the improvement for which a consent has been or is proposed to be granted, as projected onto a horizontal plane (the “footprint”).

“Benefited Property” means the real property which is adjacent to the improvement for which a revocable consent has been or is proposed to be granted, and which is benefited by the improvement.

“C” means 100 percent plus the percent change (plus or minus) in the Consumer Price Index for All Urban Consumers in New York and New Jersey published by the U.S. Department of Labor’s Bureau of Labor Statistics (“CPI”) on July 1 of the year for which the revocable consent annual rate is being calculated, compared to the CPI on July 1, 2003.

“E” means the standard escalating factor, which shall be a percentage equal to the average annual percentage increase in the CPI for the ten years immediately preceding the year for which the standard escalating factor is being determined; the Department shall determine the standard escalating factor on July 1 of the year to be applied to all consents granted or renewed between that July 1 and the next succeeding June 30, inclusive.

“L” means the Current Transitional Assessed Value¹ or the Actual Assessed Value, whichever is lower, of the Benefited Property, in its unimproved state (in dollars and cents per square foot); provided, however, that if there is more than one Benefited Property, “L” shall be equal to the average of the Current Transitional Assessed Values of all the Benefited Properties in their unimproved states (in dollars and cents per square foot). Note: For cables contained within conduit owned by another entity, L=0.

“M” means the applicable multiplier. For pipes and conduits with up to 25 square feet in cross-sectional area, the applicable multiplier is 0.04. For all other improvements, the applicable multiplier is 0.08.

“Minimum Annual Charge” shall be assessed as follows: For improvements having a maximum cross-sectional area greater than four square feet, the Minimum Annual Charge shall be \$3,000. For improvements having a maximum cross-sectional area of four square feet or less, the Minimum Annual Charge is \$1,500, except that pipes and conduits having an outside diameter of

¹ Current Actual or Transitional Value, whichever is less.

three inches or less (inclusive of any protective sheath or casing) shall be assessed a Minimum Annual Charge of \$750.

“R1” means the rate of compensation for the first year of the revocable consent agreement which shall be determined in accordance with section 7-10(b), below.

“V” means the rate (in dollars and cents) obtained from Table A relating to the volume occupied by the improvement. For improvements exceeding nine feet in height, the computation will be made in units up to nine feet in height and then added together.

(b) Rate for First Year. R1 shall equal $C [V + (L \times M \times A)]$, or the Minimum Annual Charge, whichever is greater.

(c) Rate for Each Subsequent Year.

second year = $R1 + (E \times R1)$

third year = $R1 + (2E \times R1)$

fourth year = $R1 + (3E \times R1)$

fifth year = $R1 + (4E \times R1)$

sixth year = $R1 + (5E \times R1)$

seventh year = $R1 + (6E \times R1)$

eighth year = $R1 + (7E \times R1)$

ninth year = $R1 + (8E \times R1)$

tenth year = $R1 + (9E \times R1)$

(d) Consents granted on or prior to June 30, 1991. For those consents granted on or before June 30, 1991 which provide for annual fees to be computed based upon the rate schedule currently in effect, annual compensation shall equal R1 as calculated pursuant to section 7-10(b).

(e) Revenue. All revocable consent revenue shall be collected by the Department.

Table A

Length in Feet	Cross-Section Area						
	Up to 1.4 Sq. ft.	1.4 to 4 Sq. ft.	4 to 20 Sq. ft.	20 to 81 Sq. ft.	81 to 162 Sq. ft.	162 to 243 Sq. ft.	Smaller Pipes up to 3"
Up to 100'	\$13.90 Per Ft.	\$27.83 Per Ft.	\$34.78 Per Ft.	\$41.72 Per Ft.	\$69.56 Per Ft.	\$83.48 Per Ft.	\$7.26 Per Ft.
100' - 150'	\$1,390 + \$8.17 Per Ft. Over 100 ft.	\$2,783 + \$16.35 Per Ft. Over 100 ft.	\$3,478 + \$20.43 Per Ft. Over 100 ft.	\$4,172 + \$24.51 Per Ft. Over 100 ft.	\$6,956 + \$40.87 Per Ft. Over 100 ft.	\$8,348 + \$49.04 Per Ft. Over 100 ft.	\$726 + \$4.26 Per Ft. Over 100 ft.
150' - 200'	\$1,799 + \$7.72 Per Ft. Over 150 ft.	\$3,600 + \$15.45 Per Ft. Over 150 ft.	\$4,499 + \$19.30 Per Ft. Over 150 ft.	\$5,397 + \$23.16 Per Ft. Over 150 ft.	\$9,000 + \$38.62 Per Ft. Over 150 ft.	\$10,800 + \$46.34 Per Ft. Over 150 ft.	\$939 + \$4.03 Per Ft. Over 150 ft.
200' - 250'	\$2,185 + \$7.29 Per Ft. Over 200 ft.	\$4,373 + \$14.59 Per Ft. Over 200 ft.	\$5,464 + \$18.23 Per Ft. Over 200 ft.	\$6,555 + \$21.87 Per Ft. Over 200 ft.	\$10,931 + \$36.46 Per Ft. Over 200 ft.	\$13,117 + \$43.76 Per Ft. Over 200 ft.	\$1,140 + \$3.80 Per Ft. Over 200 ft.
250' - 300'	\$2,549 + \$6.83 Per Ft. Over 250 ft.	\$5,102 + \$13.67 Per Ft. Over 250 ft.	\$6,376 + \$17.08 Per Ft. Over 250 ft.	\$7,649 + \$20.49 Per Ft. Over 250 ft.	\$12,754 + \$34.16 Per Ft. Over 250 ft.	\$15,305 + \$41.00 Per Ft. Over 250 ft.	\$1,330 + \$3.56 Per Ft. Over 250 ft.
300' - 350'	\$2,891 + \$6.40 Per Ft. Over 300 ft.	\$5,786 + \$12.81 Per Ft. Over 300 ft.	\$7,230 + \$16.00 Per Ft. Over 300 ft.	\$8,673 + \$19.20 Per Ft. Over 300 ft.	\$14,462 + \$32.01 Per Ft. Over 300 ft.	\$17,355 + \$38.42 Per Ft. Over 300 ft.	\$1,508 + \$3.34 Per Ft. Over 300 ft.
350' - 400'	\$3,211 + \$5.94 Per Ft. Over 350 ft.	\$6,426 + \$11.89 Per Ft. Over 350 ft.	\$8,030 + \$14.85 Per Ft. Over 350 ft.	\$9,633 + \$17.82 Per Ft. Over 350 ft.	\$16,062 + \$29.71 Per Ft. Over 350 ft.	\$19,276 + \$35.66 Per Ft. Over 350 ft.	\$1,675 + \$3.10 Per Ft. Over 350 ft.
400' - 450'	\$3,508 + \$5.70 Per Ft. Over 400 ft.	\$7,021 + \$11.41 Per Ft. Over 400 ft.	\$8,772 + \$14.25 Per Ft. Over 400 ft.	\$10,524 + \$17.10 Per Ft. Over 400 ft.	\$17,548 + \$28.51 Per Ft. Over 400 ft.	\$21,059 + \$34.22 Per Ft. Over 400 ft.	\$1,830 + \$2.97 Per Ft. Over 400
450' - 525'	\$3,793 + \$5.21 Per Ft. Over 450 ft.	\$7,591 + \$10.43 Per Ft. Over 450 ft.	\$9,485 + \$13.03 Per Ft. Over 450 ft.	\$11,379 + \$15.63 Per Ft. Over 450 ft.	\$18,973 + \$26.06 Per Ft. Over 450 ft.	\$22,770 + \$31.28 Per Ft. Over 450 ft.	\$1,979 + \$2.72 Per Ft. Over 450 ft.
525' - 600'	\$4,183 + \$4.75 Per Ft. Over 525 ft.	\$8,373 + \$9.48 Per Ft. Over 525 ft.	\$10,462 + \$11.85 Per Ft. Over 525 ft.	\$12,551 + \$14.22 Per Ft. Over 525 ft.	\$20,928 + \$23.71 Per Ft. Over 525 ft.	\$25,116 + \$28.45 Per Ft. Over 525 ft.	\$2,183 + \$2.47 Per Ft. Over 525 ft.
600' - 30,000'	\$4,540 + \$4.33 Per Ft. Over 600 ft.	\$9,084 + \$8.66 Per Ft. Over 600 ft.	\$11,351 + \$10.83 Per Ft. Over 600 ft.	\$13,618 + \$12.99 Per Ft. Over 600 ft.	\$22,706 + \$21.66 Per Ft. Over 600 ft.	\$27,249 + \$25.99 Per Ft. Over 600 ft.	\$2,368 + \$2.26 Per Ft. Over 600 ft.
For More Than 30,000'	\$134,440 + \$2.82 Per Ft. Over 30,000 ft.	\$268,884 + \$5.64 Per Ft. Over 30,000 ft.	\$336,251 + \$7.05 Per Ft. Over 30,000 ft.	\$403,318 + \$8.46 Per Ft. Over 30,000 ft.	\$672,506 + \$14.11 Per Ft. Over 30,000 ft.	\$806,949 + \$16.93 Per Ft. Over 30,000 ft.	\$70,168 + \$1.47 Per Ft. Over 30,000 ft.

Statement of Basis and Purpose of Proposed Rule

Public service corporations, such as railroads, gas, water, and electric light companies, serve basic public needs. A revocable consent is the grant of a right by the Department of Transportation ("DOT"), on behalf of the City of New York, to construct and maintain private improvements on, over or under the City's streets and sidewalks.

Pursuant to section 364 of the New York City Charter, DOT may grant a revocable consent to a public service corporation ("PSC") for facilities that are ancillary to, but not within, a franchise. An example is a Con Edison transformer vault, many of which exist on public property, and for which Con Edison pays a fee to DOT for occupying public property.

Because PSCs provide valuable services to New York City and are already regulated by the Public Service Commission, DOT proposes to decrease by 15% the annual rate increase charged for revocable consents granted to PSCs for facilities ancillary to, but not within, a franchise.

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.

Proposed Rule

Section 1. Paragraph 21 of subdivision a of section 7-04 of title 34 of the Rules of the City of New York is amended to read as follows:

(ii) Annual rate. See section 7-10. When calculating the annual rate pursuant to this paragraph, "E" will be reduced by 15%. This rate shall not apply to revocable consents approved as provided in subdivision (b) of this section.

§ 2. Subdivision b of section 7-04 of title 34 of the Rules of the City of New York is amended to read as follows:

(b) Other improvements approved by the Board of Estimate. Revocable consents that were granted by the Board of Estimate prior to July 1, 1990 for private improvements which are not listed in subdivision (a) above may be renewed, amended, or revoked by the Commissioner in his or her sole discretion, provided that any renewal or amendment shall be submitted to DCP when required pursuant to section 7-03 of these rules. In each year of such consent, the annual rate shall increase by the average of the Consumer Price Index for All Urban Consumers in New York and New Jersey published by the U.S. Department of Labor's Bureau of Labor Statistics ("CPI") increase for the ten years prior to the date of the renewal of the consent. For consents granted

pursuant to this subdivision to public service corporations, their annual rate increase shall be reduced by 15%.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Amendment of Revocable Consent Rules

REFERENCE NUMBER: 2015 RG 093

RULEMAKING AGENCY: Department of Transportation

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: October 19, 2015

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment of Revocable Consent Rules

REFERENCE NUMBER: DOT-29

RULEMAKING AGENCY: DOT

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco X. Navarro
Mayor's Office of Operations

October 20, 2015
Date