

## DEPARTMENT OF TRANSPORTATION

### Notice of Adoption of the Rule Regarding Permit Bonds.

**NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE** Commissioner of the Department of Transportation by subdivision (b) of Section 2903 of the New York City Charter, Title 19 of the Administrative Code, and in accordance with the requirements of Section 1043 of the New York City Charter, that the Department of Transportation hereby adopts amendments to subparagraphs (i) and (ii), and adopts new subparagraphs (iii) and (iv), to subdivision (a), paragraph (4), Section 2-02 of Chapter 2 of Title 34 of the Official Compilation of the Rules of the City of New York, the Highway Rules. This rule was first published on July 27, 2007. This rule shall take effect 30 days from the date hereof.

### STATEMENT OF BASIS AND PURPOSE OF RULE

The Commissioner of Transportation is authorized to promulgate rules regarding streets and highways in the City pursuant to Section 2903(b) of the New York City Charter and Title 19 of the New York City Administrative Code.

The rule is being amended to systematically phase in higher bond amounts and to accommodate an orderly transition for the permittees and the surety industry to the bond requirements. DOT intends to reduce the penal amounts for the required permit bonds until July 1, 2008. The Department believes that this bond requirement is commensurate with the risk of potential damage to City streets occasioned by street openings and excavations.

This rule is further being amended to allow permittees securing permits for building operations and construction activity (except sidewalk construction) that do not require a street opening to submit a bond to the Department in a lower amount. This distinction recognizes that street openings have the potential to cause greater damage to City streets than most other permitted activities; thus, permittees performing such work must submit a bond that adequately covers this risk. If a permittee performs building operation and construction activity (except sidewalk construction) and additionally must perform a street opening, the Department will require that permittee to submit a bond in the amount required for street openings.

Subparagraphs (i) and (ii) of paragraph (4) of subdivision (a) of § 2-02 of Title 34 of the Rules of the City of New York are amended, and new subparagraphs (iii) and (iv) are added, to read as follows:

- (4) Permit bonds.
  - (i) A permit bond shall be submitted by all permittees to the permit office at the time of permit issuance to cover all costs and expenses that may be incurred by the City as a result of the activity for which the permit is issued or for the

purpose of otherwise safeguarding the interests of the City. The permit bond shall be in the form prescribed by the Department. Such permit bonds described above shall cover all permitted activities described herein.

- (ii) [Such] For a permit bond submitted for the purpose of performing street openings and excavations pursuant to section 2-11 of these rules, such permit bond shall be submitted in the amount of \$10,000.00 for a single location within the City of New York per calendar year, [\$50,000] \$25,000.00 for two to fifty locations within the City of New York per calendar year, and [\$100,000.00] \$50,000.00 for fifty-one to one hundred locations within the City of New York per calendar year. Permittees who are issued permits for more than one hundred locations per calendar year shall submit a permit bond in the amount of [\$250,000.00] \$100,000.00. [Such permit bonds described above shall cover all permitted activities, including, but not limited to, street excavations and obstructions.]
- (iii) Effective July 1, 2008, for a permit bond submitted pursuant to subparagraph (ii) above, such permit bond shall be submitted in the amount of \$10,000.00 for a single location within the City of New York per calendar year, \$50,000.00 for two to fifty locations within the City of New York per calendar year, and \$100,000.00 for fifty-one to one hundred locations within the City of New York per calendar year. Effective July 1, 2008, permittees who are issued permits for more than one hundred locations per calendar year shall submit a permit bond in the amount of \$250,000.00.
- (iv) For permits with the exception of those set forth in subparagraph (ii) above and sidewalk construction permits issued pursuant to section 2-09 of these rules, a permit bond shall be submitted in the amount of \$5,000 for a single location within the City of New York per calendar year or in the amount of \$25,000 for multiple locations within the City of New York per calendar year. In the event that a permittee will also secure street opening and excavation permits within the City of New York during the same calendar year, the permittee's compliance with subparagraph (ii), or effective July 1, 2008 with subparagraph (iii), above shall be sufficient to demonstrate compliance with this section.