

# STATE OF NEW YORK

7936

2025-2026 Regular Sessions

## IN SENATE

May 14, 2025

Introduced by Sen. KAVANAGH -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

AN ACT to amend the vehicle and traffic law and the administrative code of the city of New York, in relation to the authorization of a surcharge for the issuance of permits relating to the obstruction or closure of a street or pedestrian plaza for construction purposes in a city having a population of one million or more and to the imposition of such surcharge

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The vehicle and traffic law is amended by adding a new  
2 article 44-D to read as follows:

### ARTICLE 44-D

#### AUTHORITY FOR IMPOSITION OF SURCHARGE ON A PERMIT ISSUED FOR OBSTRUCTING OR CLOSING THE STREET FOR CONSTRUCTION PURPOSES

##### Section 1711. Definitions.

7 1712. Establishment of surcharge for obstruction or closure of a  
8 street for construction activity.

9 1713. Application and exemptions.

10 1714. Administration and collection of surcharge.

11 1715. Limitations on assessment of surcharge.

12 1716. Judicial review.

13 § 1711. Definitions. As used in this article: 1. "Affordable housing  
14 unit" means a residential dwelling unit that must be affordable to resi-  
15 dents at or below a specific income level, provided that such level does  
16 not exceed one hundred sixty-five percent of the area median income,  
17 pursuant to statute, regulation, restrictive covenant or declaration, or  
18 pursuant to a regulatory agreement with a federal, state, or local  
19 government entity, public benefit corporation, or public housing author-  
20 ity.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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1 2. "Area median income" means the income limits as defined annually by  
2 the U.S. Department of Housing and Urban Development (HUD) for the New  
3 York, NY HUD Metro FMR Area (HMFA), as established in section three of  
4 the Housing Act of nineteen hundred thirty-seven, as amended.

5 3. "Dwelling unit" has the meaning ascribed to such term in the hous-  
6 ing maintenance code.

7 4. "Full obstruction" means the occupation of the entire length of a  
8 curb lane, vehicular travel lane, or sidewalk for construction-related  
9 activity where there is a permit issued to close such length to motor  
10 vehicles, pedestrians, or bicyclists.

11 5. "Partial obstruction" means the occupation of all or a portion of a  
12 length of a sidewalk for construction-related activity where there is a  
13 permit issued to provide a temporary pedestrian pathway, either in the  
14 curb lane, on the sidewalk, or within the building envelope of an adja-  
15 cent structure.

16 6. "Pedestrian plaza" means an area designated by the department of  
17 transportation in the city of New York for pedestrian circulation, use  
18 and enjoyment on property under the jurisdiction of such department  
19 including, but not limited to, property mapped as a public place or  
20 property within the bed of a roadway, and which may contain amenities  
21 such as tables, seating, trees, plants, lighting, bike racks, or public  
22 art.

23 7. "Person" means a natural person, co-partnership, firm, company,  
24 association, joint stock association, corporation or other like organ-  
25 ization.

26 § 1712. Establishment of surcharge for obstruction or closure of a  
27 street for construction activity. 1. Notwithstanding the provisions of  
28 any law to the contrary, every city having a population of one million  
29 or more, acting through its local legislative body, is hereby authorized  
30 and empowered to adopt, amend or repeal local laws imposing a surcharge  
31 within its territorial limits on the issuance of any permit relating to  
32 the obstruction or closure of a street or pedestrian plaza for the  
33 purpose of construction required for:

34 (a) Placing construction material on a street during working hours;

35 (b) Placing construction equipment other than cranes or derricks on a  
36 street during working hours;

37 (c) Temporarily closing a sidewalk;

38 (d) Constructing a temporary pedestrian walk in a roadway;

39 (e) Temporarily closing a roadway;

40 (f) Placing a shanty or trailer on a street;

41 (g) Crossing a sidewalk;

42 (h) Placing a crane or derrick on a street during working hours;

43 (i) Storing construction material on a street during non-working  
44 hours;

45 (j) Storing construction equipment on a street during non-working  
46 hours; or

47 (k) Other construction activity that requires the issuance of a permit  
48 by the department of transportation in a city having a population of one  
49 million or more for the obstruction or closure of a street or pedestrian  
50 plaza.

51 2. The rate of such surcharge shall be imposed based on a schedule  
52 that takes into consideration the geographical zone in which the permit  
53 is issued and in no case shall be:

54 (a) For a permit for the partial obstruction of a sidewalk, less than  
55 fifty cents or more than fifty dollars for up to and including ten line-  
56 ar feet of sidewalk per day;

1 (b) For a permit for the full obstruction of a sidewalk, less than  
2 twenty dollars or more than one thousand dollars for up to and including  
3 one hundred linear feet of sidewalk per day;

4 (c) For a permit for the full obstruction of a curb lane, less than  
5 ten dollars or more than one hundred dollars for up to and including ten  
6 linear feet of curb lane per day;

7 (d) For a permit for the full obstruction of a vehicular travel lane,  
8 less than two hundred dollars or more than two thousand dollars for up  
9 to and including one hundred linear feet of vehicular travel lane per  
10 day; and

11 (e) For a permit for the full obstruction of any portion of a pedes-  
12 trian plaza, less than ten cents or more than one dollar and twenty-five  
13 cents for up to and including ten square feet of pedestrian plaza per  
14 day.

15 3. Any local law enacted pursuant to this article may authorize a  
16 reduction of the surcharge imposed for the initial three hundred sixty-  
17 five days for which a permit has been issued, at a rate no more than:

18 (a) sixty percent of the surcharge due for days one through ninety;  
19 and

20 (b) forty percent of the surcharge due for days ninety-one through  
21 three hundred sixty-five.

22 4. Any local law enacted pursuant to this article may authorize a  
23 reduction of the surcharge imposed to the extent a permit is issued for  
24 construction relating to the creation or preservation of affordable  
25 housing units. Such reduction shall be in proportion to the percentage  
26 of affordable housing units created or preserved.

27 § 1713. Application and exemptions. 1. Surcharge to be in addition to  
28 monies owed. Any surcharge imposed under the authority of this article  
29 shall be in addition to any and all other fees or taxes authorized or  
30 imposed under any other provision of law. This article shall not be  
31 construed as limiting the power of any city, county or school district  
32 to impose any other fee or tax which it is authorized to impose under  
33 any other provision of law.

34 2. Any local law enacted pursuant to this article shall exempt from  
35 the surcharge authorized herein any permit issued to:

36 (a) The state of New York, or any of its agencies, instrumentalities,  
37 public corporations or political subdivisions where it is the permittee;

38 (b) The United States of America, and any of its agencies and instru-  
39 mentalities, insofar as it is immune from taxation where it is the  
40 permittee; or

41 (c) Any person where the construction for which such permit is issued  
42 relates to the creation or preservation of affordable housing units;  
43 provided that such affordable housing units constitute no less than  
44 fifty percent of the total number of dwelling units created or preserved  
45 by such construction.

46 § 1714. Administration and collection of surcharge. 1. The surcharge  
47 authorized by section seventeen hundred twelve of this article shall be  
48 administered and collected in such manner as may be provided in local  
49 laws with such amendments in respect to administration and collection as  
50 may be enacted, including through the commencement of actions and issu-  
51 ance of tax warrants in a manner consistent with the commencement of  
52 actions and issuance of warrants pursuant to subdivisions a, b and d of  
53 section 11-1614 of the administrative code of the city of New York.

54 2. Any local law enacted pursuant to this article shall require that  
55 the surcharge be paid to the agency issuing the permit prior to the

1 issuance or renewal of such permit for the term of such permit, in a  
2 form and manner determined by such agency.

3 3. Such surcharge shall not be refundable except where a reduction for  
4 such surcharge is authorized pursuant to subdivision four of section  
5 seventeen hundred twelve of this article and an application for such  
6 reduction is filed with the department of transportation no later than:  
7 (a) eighteen months after execution of: (i) an agreement with a federal,  
8 state or local government entity, public benefit corporation or public  
9 housing authority, relating to the creation or preservation of afforda-  
10 ble housing units; or (ii) a similar instrument; or (b) eighteen months  
11 after payment of such surcharge.

12 § 1715. Limitations on assessment of surcharge. Except in the case of  
13 a willfully false or fraudulent permit application with intent to evade  
14 the surcharge authorized by the provisions of this article, no assess-  
15 ment of additional surcharge shall be made with respect to the surcharge  
16 imposed under the authority of this article, after the expiration of  
17 more than three years from the date of the permit application or renewal  
18 thereof, provided, however, that where no such application has been  
19 filed, or where there has been a change relating to the use of the  
20 street or pedestrian plaza for which a permit has been issued that would  
21 increase the amount of surcharge liability, as provided by law, the  
22 surcharge may be assessed at any time. Where a person subject to the  
23 surcharge authorized by the provisions of this article makes a change or  
24 correction to a permit that has been issued, as provided by law, an  
25 assessment may be made at any time within two years after the applica-  
26 tion for such permit was filed. Any local law enacted pursuant to this  
27 article shall authorize enforcement remedies, including but not limited  
28 to the imposition of civil penalties in an amount no greater than ten  
29 percent of such surcharge where a person subject to the surcharge  
30 authorized by the provisions of this article fails to pay such surcharge  
31 by failing to submit the required permit application.

32 § 1716. Judicial review. Any final determination of the amount of any  
33 surcharge payable under this article shall be reviewable for error,  
34 illegality or unconstitutionality or any other reason whatsoever by a  
35 proceeding under article seventy-eight of the civil practice law and  
36 rules if application therefor is made to the supreme court within four  
37 months after the giving of the notice of such final determination,  
38 provided, however, that any such proceeding under article seventy-eight  
39 of the civil practice law and rules shall not be instituted by a person  
40 liable for such surcharge unless: 1. the amount of any surcharge sought  
41 to be reviewed, with such interest and penalties thereon as may be  
42 provided for by local law or regulation, shall be first deposited and  
43 there is filed an undertaking, issued by a surety company authorized to  
44 transact business in this state and approved by the superintendent of  
45 financial services of this state as to solvency and responsibility, in  
46 such amount as a justice of the supreme court shall approve to the  
47 effect that if such proceeding be dismissed or surcharge confirmed such  
48 liable person will pay all costs and charges which may accrue in the  
49 prosecution of such proceeding; or 2. at the option of such liable  
50 person, such undertaking may be in a sum sufficient to cover the  
51 surcharge, interest and penalties stated in such determination, plus the  
52 costs and charges which may accrue against such liable person in the  
53 prosecution of the proceeding, in which event the liable person shall  
54 not be required to pay such surcharge, interest or penalties as a condi-  
55 tion precedent to the application.

1 § 2. Title 11 of the administrative code of the city of New York is  
2 amended by adding a new chapter 32 to read as follows:

3 CHAPTER 32

4 SURCHARGE ON ISSUANCE OF A PERMIT FOR OBSTRUCTING OR CLOSING THE  
5 STREET FOR CONSTRUCTION PURPOSES

6 Section 11-3200 Applicability.

7 11-3201 Definitions.

8 11-3202 Surcharge for permit to obstruct or close the street for  
9 construction-related purposes.

10 11-3203 General powers of the commissioner of transportation.

11 11-3204 Presumption and burden of proof; payment of surcharge.

12 11-3205 Records to be kept.

13 11-3206 Exemptions.

14 11-3207 Determination of surcharge.

15 11-3208 Remedies exclusive.

16 11-3209 Proceedings to recover surcharge.

17 11-3210 Penalties and interest.

18 11-3211 Notices and limitations of time.

19 § 11-3200 Applicability. The provisions of this chapter shall only  
20 apply during any period in which a local law implementing article  
21 forty-four-D of the vehicle and traffic law is not in effect, except  
22 that any provision of this chapter relating to the collection, adminis-  
23 tration, or enforcement of a surcharge imposed pursuant to this chapter  
24 shall continue to be in effect during such period as it relates to such  
25 surcharge.

26 § 11-3201 Definitions. For purposes of this chapter, the following  
27 terms shall have the following meanings:

28 (a) Affordable housing unit. The term "affordable housing unit" means  
29 a residential dwelling unit that must be affordable to residents at or  
30 below a specific income level, provided that such level does not exceed  
31 one hundred sixty-five percent of the area median income, pursuant to  
32 statute, regulation, restrictive covenant or declaration, or pursuant to  
33 a regulatory agreement with a federal, state, or local government enti-  
34 ty, public benefit corporation or public housing authority.

35 (b) Area median income. The term "area median income" means the income  
36 limits as defined annually by the U.S. Department of Housing and Urban  
37 Development (HUD) for the New York, NY HUD Metro FMR Area (HMFA), as  
38 established in section three of the Housing Act of nineteen hundred  
39 thirty-seven, as amended.

40 (c) Central business district. The term "central business district"  
41 means the geographic area of the borough of Manhattan south of and  
42 inclusive of sixtieth street.

43 (d) Construction permit. The term "construction permit" means a permit  
44 issued by the department of transportation relating to the obstruction  
45 or closure of a street or pedestrian plaza for the purpose of  
46 construction that is required for:

- 47 (1) Placing construction material on a street during working hours;  
48 (2) Placing construction equipment other than cranes or derricks on a  
49 street during working hours;  
50 (3) Temporarily closing a sidewalk;  
51 (4) Constructing a temporary pedestrian walk in a roadway;  
52 (5) Temporarily closing a roadway;  
53 (6) Placing a shanty or trailer on a street;  
54 (7) Crossing a sidewalk;  
55 (8) Placing a crane or derrick on a street during working hours;

1 (9) Storing construction material on a street during non-working  
2 hours;

3 (10) Storing construction equipment on a street during non-working  
4 hours; or

5 (11) Other construction activity that requires the issuance of a  
6 permit by the department of transportation for the obstruction or  
7 closure of a street or pedestrian plaza.

8 (e) Dwelling unit. The term "dwelling unit" has the meaning ascribed  
9 to such term in the housing maintenance code.

10 (f) Full obstruction. The term "full obstruction" means the occupation  
11 of the entire length of a curb lane, vehicular travel lane, or sidewalk  
12 for construction-related activity where there is a permit issued to  
13 close such length to motor vehicles, pedestrians, or bicyclists.

14 (g) Partial obstruction. The term "partial obstruction" means the  
15 occupation of all or a portion of a length of a sidewalk for construc-  
16 tion-related activity where there is a permit issued to provide a tempo-  
17 rary pedestrian pathway, either in the curb lane, on the sidewalk, or  
18 within the building envelope of an adjacent structure.

19 (h) Pedestrian plaza. The term "pedestrian plaza" means an area desig-  
20 nated by the department of transportation as such for pedestrian circu-  
21 lation, use and enjoyment on property under the jurisdiction of the  
22 department including, but not limited to, property mapped as a public  
23 place or property within the bed of a roadway, and which may contain  
24 amenities such as tables, seating, trees, plants, lighting, bike racks,  
25 or public art.

26 (i) Roadway. The term "roadway" means that portion of a street  
27 designed, improved or ordinarily used for vehicular travel, exclusive of  
28 the shoulder and slope.

29 (j) Sidewalk. The term "sidewalk" means that portion of a street  
30 between the curb lines, or the lateral lines of a roadway, and the adja-  
31 cent property lines, but not including the curb, intended for the use of  
32 pedestrians.

33 § 11-3202 Surcharge for permit to obstruct or close the street for  
34 construction-related purposes. (a) A surcharge is imposed on the issu-  
35 ance of any construction permit.

36 (b) The rate of such surcharge shall be: (1) For a construction permit  
37 for the partial obstruction of a sidewalk, five dollars for up to and  
38 including ten linear feet of sidewalk per day, except for in the central  
39 business district, where the rate shall be ten dollars for up to and  
40 including ten linear feet of sidewalk per day;

41 (2) For a construction permit for the full obstruction of a sidewalk,  
42 two hundred dollars for up to and including one hundred linear feet per  
43 day, except for in the central business district where the rate shall be  
44 four hundred dollars for up to and including one hundred linear feet per  
45 day;

46 (3) For a construction permit for the full obstruction of a curb lane,  
47 fifteen dollars for up to and including ten linear feet of curb lane per  
48 day, except for in the central business district where the rate shall be  
49 thirty-five dollars for up to and including ten linear feet per day;

50 (4) For a construction permit for the full obstruction of a vehicular  
51 travel lane, three hundred dollars for up to and including one hundred  
52 linear feet of vehicular travel lane per day, except for in the central  
53 business district where the rate shall be seven hundred dollars for up  
54 to and including one hundred linear feet of vehicular travel lane per  
55 day; and

1 (5) For a construction permit for the full obstruction of any portion  
2 of a pedestrian plaza, thirty cents for up to and including ten square  
3 feet of vehicular travel lane per day, except for in the central busi-  
4 ness district where the rate shall be sixty cents for up to and includ-  
5 ing ten square feet of pedestrian plaza per day.

6 (c) Such rate shall be reduced for the initial three hundred sixty-  
7 five days for which the construction permit has been issued as follows:

8 (1) sixty percent of the surcharge due for days one through ninety;  
9 and

10 (2) forty percent of the surcharge due for days ninety-one through  
11 three hundred sixty-five.

12 (d) Such rate shall be reduced in proportion to the percentage of  
13 affordable housing units created or preserved.

14 § 11-3203 General powers of the commissioner of transportation. The  
15 commissioner of transportation is hereby authorized and empowered:

16 (a) To make, adopt and amend rules and regulations appropriate to the  
17 carrying out of this chapter and the purposes thereof;

18 (b) To prescribe methods for determining the construction permits  
19 issued or the length or area of street or pedestrian plaza obstructed;

20 (c) To require construction contractors, construction managers, design  
21 engineers, or other persons, as applicable, to maintain records with  
22 respect to streets and pedestrian plazas obstructed, and to furnish any  
23 information with respect thereto upon request to the commissioner of  
24 transportation;

25 (d) To assess, determine and readjust the surcharge imposed under this  
26 chapter;

27 (e) (1) To administer oaths and take affidavits, or to cause the  
28 employees or officers of the department of transportation to administer  
29 oaths and affidavits in relation to any matter or proceeding in the  
30 exercise of their powers and duties under this chapter; and

31 (2) To subpoena and require the attendance of witnesses and the  
32 production of books, papers and documents to secure information perti-  
33 nent to the performance of such commissioner's duties pursuant to this  
34 chapter and of the enforcement of this chapter and to examine them in  
35 relation thereto, and to issue commissions for the examination of  
36 witnesses who are out of the state or unable to attend before such  
37 commissioner or excused from attendance;

38 (f) To remit penalties but not interest; and to compromise disputed  
39 claims in connection with the surcharge hereby imposed; and

40 (g) To delegate the functions hereunder to an assistant commissioner  
41 or deputy commissioner of transportation or to any employee or employees  
42 of such commissioner.

43 § 11-3204 Presumption and burden of proof; payment of surcharge. (a)  
44 If a street or pedestrian plaza is obstructed without the issuance of a  
45 valid construction permit, or if a street or pedestrian plaza is  
46 obstructed beyond the area or beyond the time period authorized in a  
47 construction permit, in a manner that would subject such obstruction to  
48 the surcharge described in section 11-3202 of this chapter, there shall  
49 be a rebuttable presumption that such obstruction is subject to the  
50 surcharge. If an obstruction is observed beyond the time period in which  
51 such obstruction was authorized in a construction permit, there shall be  
52 a rebuttable presumption that such obstruction occurred continuously  
53 until such observation. If an obstruction is observed beyond the area in  
54 which such obstruction was authorized in a construction permit, there  
55 shall be a rebuttable presumption that such obstruction occurred contin-  
56 uously from the point at which such construction permit authorized any

1 obstruction. Such presumption shall prevail until the contrary is estab-  
2 lished and the burden of proving the contrary shall be upon the person  
3 to whom the construction permit is issued. Such surcharge shall be due  
4 against the person to whom the construction permit is issued, or if no  
5 such permit was issued, against the person creating such obstruction.  
6 Any person under contract with such person for the performance of work  
7 or other activity creating such obstruction shall also be liable for  
8 such surcharge.

9 (b) For the purpose of proper administration of this chapter and to  
10 prevent evasion of the surcharge authorized under this chapter, the  
11 surcharge authorized by this chapter shall be due prior to issuance of a  
12 construction permit. The payment shall be made by the person to whom the  
13 construction permit is issued and shall be paid to the department of  
14 transportation in accordance with rules of such department.

15 (c) The surcharge shall not be refundable, except where a reduction  
16 for such surcharge is authorized pursuant to subdivision (d) of section  
17 11-3202 of this chapter and an application for such reduction is filed  
18 with the department of transportation no later than: (1) eighteen months  
19 after execution of: (i) an agreement with a federal, state or local  
20 government entity, public benefit corporation, or public housing author-  
21 ity, relating to the creation or preservation of affordable housing  
22 units; or (ii) a similar instrument; or (2) eighteen months after  
23 payment of such surcharge.

24 § 11-3205 Records to be kept. Every person to whom a construction  
25 permit has been issued shall keep records in such form and manner as the  
26 commissioner may by rule require. Such records shall be preserved for a  
27 period of three years from the date of issuance of such construction  
28 permit. Such records shall be available for inspection and examination  
29 upon demand by the commissioner of transportation or the commissioner's  
30 duly authorized agent or employee.

31 § 11-3206 Exemptions. The surcharge imposed pursuant to the authority  
32 of section 11-3202 of this chapter shall not be imposed on any  
33 construction permit issued to:

34 (a) The state of New York, or any of its agencies; instrumentalities,  
35 public corporations or political subdivisions where it is the permittee;

36 (b) The United States of America, and any of its agencies and instru-  
37 mentalities, insofar as it is immune from taxation where it is the  
38 permittee; or

39 (c) Any person where the construction for which such permit is issued  
40 relates to the creation or preservation of affordable housing units  
41 provided that such affordable housing units constitute no less than  
42 fifty percent of the total number of dwelling units created or preserved  
43 by such construction.

44 § 11-3207 Determination of surcharge. If a surcharge required by  
45 section 11-3202 of this chapter is not paid, or if the amount of the  
46 surcharge that is paid is incorrect or insufficient, the amount of  
47 surcharge due shall be determined by the commissioner of transportation  
48 from such information as may be obtainable, and, if necessary, such  
49 surcharge may be estimated on the basis of factors determined by the  
50 commissioner of transportation, in accordance with the presumptions set  
51 forth in subdivision (a) of section 11-3204 of this chapter. Notice of  
52 such determination shall be given to the person liable for the payment  
53 of the surcharge. Such determination shall finally and irrevocably fix  
54 the surcharge unless the person against whom it is assessed, within  
55 ninety days after giving notice of such determination, shall apply to  
56 the hearing officer at the department of transportation for a hearing,

1 or unless the commissioner of transportation on their own motion shall  
2 redetermine the same. After such hearing, the commissioner of transpor-  
3 tation's determination shall be reviewable for error, illegality or  
4 unconstitutionality or any other reason whatsoever by a proceeding under  
5 article seventy-eight of the civil practice law and rules if application  
6 therefor is made to the supreme court within four months after giving of  
7 the notice of such determination. A proceeding under article seventy-  
8 eight of the civil practice law and rules shall not be instituted  
9 unless: (a) the amount of any surcharge sought to be reviewed, with  
10 penalties and interest thereon, if any, shall be first deposited with  
11 the commissioner of transportation and there shall be filed with the  
12 commissioner of transportation an undertaking, issued by a surety compa-  
13 ny authorized to transact business in this state, and approved by the  
14 superintendent of insurance of this state as to solvency and responsi-  
15 bility, in such amount as a justice of the supreme court shall approve  
16 to the effect that if such proceeding be dismissed or the surcharge  
17 confirmed, the petitioner will pay all costs and charges which may  
18 accrue in the prosecution of the proceeding; or (b) at the option of the  
19 applicant such undertaking filed with the commissioner of transportation  
20 may be in a sum sufficient to cover the surcharges, penalties and inter-  
21 est thereon stated in such determination plus the costs and charges  
22 which may accrue against it in the prosecution of the proceeding, in  
23 which event the applicant shall not be required to deposit such  
24 surcharges, penalties and interest as a condition precedent to the  
25 application.

26 § 11-3208 Remedies exclusive. The remedies provided by section 11-3207  
27 of this chapter shall be the exclusive remedy available to any person  
28 for the review of liability for the surcharge imposed by section 11-3202  
29 of this chapter; and no determination or proposed determination of  
30 surcharge shall be enjoined or reviewed by an action for declaratory  
31 judgment, an action for money had and received or by any action or  
32 proceeding other than a proceeding in the nature of a certiorari  
33 proceeding under article seventy-eight of the civil practice law and  
34 rules; provided, however, that such person may proceed by declaratory  
35 judgment if such person institutes suit within thirty days after a defi-  
36 ciency assessment is made and pays the amount of the deficiency assess-  
37 ment to the commissioner of transportation prior to the institution of  
38 such suit and posts a bond for costs as provided in section 11-3207 of  
39 this chapter.

40 § 11-3209 Proceedings to recover surcharge. (a) Whenever any person to  
41 whom a construction permit has been issued fails to pay the correct and  
42 sufficient surcharge, penalty or interest imposed by this chapter as  
43 therein provided, the commissioner of transportation shall notify the  
44 commissioner of finance of all relevant records determined necessary by  
45 the commissioner of finance to facilitate collection of such surcharge.  
46 The corporation counsel shall, upon the request of the commissioner of  
47 finance bring or cause to be brought an action to enforce the payment of  
48 the same on behalf of the city of New York in any court of the state of  
49 New York or of any other state or of the United States. If, however, the  
50 commissioner of finance in their discretion believes that any such  
51 person is about to cease business, leave the state or remove or dissi-  
52 pate the assets out of which the surcharge, penalty or interest might be  
53 satisfied, and that any such surcharge, penalty or interest will not be  
54 paid when due, the commissioner of finance may declare such surcharge,  
55 penalty or interest to be immediately due and payable and may issue a  
56 warrant immediately.

1 (b) As an additional or alternate remedy, the commissioner of finance  
2 may issue a warrant, directed to the city sheriff commanding the city  
3 sheriff to levy upon and sell the real and personal property of the  
4 person liable for the surcharge, which may be found within the city, for  
5 the payment of the amount thereof, with any penalties and interest, and  
6 the cost of executing the warrant, and to return such warrant to the  
7 commissioner of finance and to pay to the commissioner of finance the  
8 money collected by virtue thereof within sixty days after the receipt of  
9 such warrant. The city sheriff shall within five days after the receipt  
10 of the warrant file with the county clerk a copy thereof, and thereupon  
11 such clerk shall enter in the judgment docket the name of the person  
12 mentioned in the warrant and the amount of the surcharge, penalties and  
13 interest for which the warrant is issued and the date when such copy is  
14 filed. Thereupon the amount of such warrant so docketed shall become a  
15 lien upon the title to and interest in real and personal property of the  
16 person against whom the warrant is issued. The city sheriff shall then  
17 proceed upon the warrant, in the same manner, and with like effect, as  
18 that provided by law in respect to executions issued against property  
19 upon judgments of a court of record, and for services in executing the  
20 warrant the city sheriff shall be entitled to the same fees, which such  
21 city sheriff may collect in the same manner. In the discretion of the  
22 commissioner of finance a warrant of like terms, force and effect may be  
23 issued and directed to any officer or employee of the department of  
24 finance, and in the execution thereof such officer or employee shall  
25 have all the powers conferred by law upon sheriffs, but shall be enti-  
26 tled to no fee or compensation in excess of the actual expenses paid in  
27 the performance of such duty. If a warrant is returned not satisfied in  
28 full, the commissioner of finance may from time to time issue new  
29 warrants and shall also have the same remedies to enforce the amount due  
30 thereunder as if the city had recovered judgment therefore and execution  
31 thereon had been returned unsatisfied.

32 (c) The commissioner of finance, if such commissioner finds that the  
33 interests of the city will not thereby be jeopardized, and upon such  
34 conditions as the commissioner of finance may require, may release any  
35 property from the lien of any warrant or vacate such warrant for unpaid  
36 surcharges, penalties and interest filed pursuant to subdivision (b) of  
37 this section, and such release or vacating of the warrant may be  
38 recorded in the office of any recording officer in which such warrant  
39 has been filed. The clerk shall thereupon cancel and discharge as of the  
40 original date of docketing the vacated warrant.

41 § 11-3210 Penalties and interest. (a) Any person failing to pay any  
42 surcharge to the commissioner of transportation within the time required  
43 by this chapter shall be subject to a penalty of five percent of the  
44 amount of surcharge due; plus interest at the rate of one percent of  
45 such surcharge for each month of delay excepting the first month after  
46 such surcharge became due; but the commissioner of transportation if  
47 satisfied that the delay was excusable, may remit all or any part of  
48 such penalty, but not interest at the rate of six percent per year. Such  
49 penalties and interest shall be paid and disposed of in the same manner  
50 as other revenues from this chapter. Unpaid penalties and interest may  
51 be enforced in the same manner as the surcharge imposed by this chapter.

52 (b) Any person failing to keep the records required by subdivision (c)  
53 of section 11-3203 of this chapter, shall, in addition to the penalties  
54 herein or elsewhere prescribed, be subject to a civil penalty in an  
55 amount up to one hundred dollars per day from the date on which a deter-  
56 mination has been made that any such person failed to keep any such

1 records until the date on which such records are provided, provided that  
2 such period shall be no greater than three years. It shall not be any  
3 defense to an action under this subdivision that the failure to keep the  
4 records was unintentional or not willful.

5 (c) The certificate of the commissioner of transportation to the  
6 effect that a surcharge has not been paid or that information has not  
7 been supplied pursuant to the provisions of this chapter, shall be  
8 presumptive evidence thereof.

9 (d) Any person failing to submit the required permit application for a  
10 construction permit and who fails to pay the surcharge authorized by the  
11 provisions of this chapter, shall, in addition to the penalties herein  
12 or elsewhere prescribed, be subject to a civil penalty in an amount no  
13 greater than ten percent of such surcharge.

14 § 11-3211 Notices and limitations of time. (a) Any notice authorized  
15 or required under the provisions of this chapter may be given by mailing  
16 the same to the person for whom it is intended in a postpaid envelope  
17 addressed to such person at the address given in the construction permit  
18 issued to such person pursuant to the rules of the city of New York or,  
19 if no permit has been issued to such person, then to such address as may  
20 be obtainable. The mailing of such notice shall be presumptive evidence  
21 of the receipt of the same by the person to whom addressed. Any period  
22 of time which is determined according to the provisions of this chapter  
23 by the giving of notice shall commence to run from the date of mailing  
24 of such notice.

25 (b) The provisions of the civil practice law and rules or any other  
26 law relative to limitations of time for the enforcement of a civil reme-  
27 dy shall not apply to any proceeding or action taken by the city to  
28 levy, appraise, assess, determine or enforce the collection of any  
29 surcharge or penalty provided by this chapter. However, except in the  
30 case of a willfully false or fraudulently obtained construction permit  
31 with intent to evade the surcharge, no assessment of additional  
32 surcharge shall be made after the expiration of more than three years  
33 from the date of the issuance of a construction permit or the renewal  
34 thereof; provided, however, that where no construction permit has been  
35 issued, or where there has been a change relating to the use of the  
36 street for which a construction permit has been issued that would  
37 increase the amount of the surcharge, any additional surcharge may be  
38 assessed at any time.

39 § 3. Any local law enacted pursuant to the authority of section one of  
40 this act shall designate an agency to adopt rules and regulations to  
41 implement the provisions of such section.

42 § 4. This act shall take effect immediately, except that section two  
43 of this act shall take effect January 1, 2028.