

STATE OF NEW YORK	
DEPT. OF PUBLIC SERVICE	
DATE	0-1-F 1276
CASE NO.	11/18/03
EX	62

Rules of the City of New York

Title 34 -- Department of Transportation

[begins at Page 12951 RCNY 5-31-98]

EXCERPTS:

Chapter 7

Revocable Consents

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§7-05 Action by the Department on Petition.

(a) 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 purposes or would otherwise not be in the best interests of the City.

(b) Except as provided in Subchapter 6 of Chapter 2 of Title 20 of the Administrative Code for sidewalk cafes, copies of petitions and plans shall be forwarded by the Department to other City agencies affected by the proposed consent for their review and comments. Notice of receipt of petitions shall be sent to community boards, borough presidents and Council members in whose districts or boroughs the consent is proposed to be located. Petitioners shall be given the opportunity to revise their petition or plan in order to resolve objections raised. If any objections exist, the Department shall inform the petitioner in writing of the objections and that review of the petition has been stayed until the objections indicated are resolved. If the objections are not resolved within six months from the date the petitioner is informed that review of the petition has been stayed, such petition may, in the discretion of the Department, be deemed to have been withdrawn. In addition, in accordance with the Uniform Land Use Review Procedures rules of the Department of City Planning, if applicable, a certification of completeness shall not be granted until all objections of the Department or any City agency have been resolved (see §7-07).

(c) The Department, before granting the consent, shall hold a public hearing on the terms and conditions of the proposed agreement memorializing the proposed consent. Such hearing shall be held in City Hall unless otherwise designated in the notices required hereunder. Prior to such hearing,

(1) a notice thereof and a summary of the terms and conditions of the proposed agreement shall be published in The City Record for at least 15 days, and

(2) a notice of such hearing, which notice shall indicate the place where copies of the proposed agreement may be obtained, shall be published at least twice at the expense of the petitioner in one daily newspaper designated by the Mayor which is published in the City and having a circulation in the borough or boroughs in which the affected property of the City is located and a weekly newspaper or newspapers designated by the Mayor which are published in the City and

have a circulation in the community district or districts in which the affected property of the City is located. If the revocable consent petition relates to property of the City located in more than one borough, notice of hearing in a weekly newspaper shall not be required; however, in that event, notice of hearing in two daily newspapers, and mailing by the petitioner, no later than fifteen (15) days immediately prior to the date of the public hearing, of such notice to the borough presidents and community boards and council members in whose districts the affected property of the City is located, is required.

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#### §7-07 Applicability of the Uniform Land Use Review Procedure.

(a) The Department shall forward to the Department of City Planning (DCP) a petition for a revocable consent. If DCP determines that a proposed revocable consent has land use impacts or implications and that, as a result, the Uniform Land Use Review Procedure ("ULURP") (§197-c of the Charter) applies, the Department shall notify the petitioner of DCP's determination. The petition may be forwarded to DCP before objections raised by the Department or other City agencies have been resolved; however, pursuant to the rules governing ULURP, these objections shall be resolved prior to the certification of completeness by DCP. If ULURP applies, the Department shall schedule the public hearing on the proposed agreement after the completion of ULURP.

(b) Upon direction of the Department, petitioner shall obtain information and application forms pertaining to ULURP from DCP, and file a ULURP application with DCP for any consent subject to ULURP in accordance with DCP's ULURP rules. Petitioners shall submit such additional number of copies of the petition and of the plan to the Department as may be required by DCP.

(c) This section shall not apply to petitions for sidewalk cafe consents, which are subject to the procedures contained in Subchapter 6 of Chapter 2 of Title 20 of the Administrative Code and any rules promulgated thereunder by the Department of Consumer Affairs.

#### §7-08 Petition Requirements.

(a) Petition form. A petition 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. Petitioner shall also submit eighteen (18) copies of the original petition, and, in the case of a new consent, if such consent has been determined to be subject to ULURP, petitioner shall submit an additional seven (7) copies. Additional copies of petitions and plans, and any requested supporting material, shall be supplied by petitioner at the request of the Department for above-ground structures, for the purpose of any Art Commission review.

(b) Business certificates. Petitioners for a new consent must submit a copy of any applicable business certificate, e.g. certificate of incorporation, partnership certificate. With respect to

petitions for assignments or transfers of consents, a copy of the business certificate of the assignee or transferee must be submitted.

(c) Plan requirements.

(1) Paper prints of a plan shall be submitted together with the petition, in the equivalent number of prints as are required for the petition form, including the original form. The plan prints shall each measure eighteen (18) inches by twenty-four (24) inches (or as otherwise required by the Department), shall be drawn to scale, and shall show the location of the property of the petitioner on both sides of the street and so marked with the block and lot numbers. The plan shall also show the building lines and curb lines, railroad tracks, and, if applicable, any electrical conduits, sewers and other substructures in the street or streets which may be affected in any manner by the proposed construction. Information shown on the plan as to surface and subsurface structures shall be obtained and verified by the petitioner. The location, character and dimensions of all such structures shall be accurately shown and indicated by dimensions on the plans submitted by the petitioner. Additional prints and/or revised plans shall be submitted by the petitioner as requested by the Department, the Art Commission, or other City agencies. The Department may require additional prints for renewals. The petitioner may request that copies of prints on file at the Department be provided by the Department if the petitioner is unable to provide such additional prints. The fee charged for such service shall not exceed the actual cost of reproducing such prints.

(2) 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 for a revocable consent within the lines of the streets shall be so indicated and plainly shown in red.

(3) Sections, longitudinal and transverse, shall also be drawn upon the plan to show the relative position of the existing structures in the street and the proposed new construction. Removals, if any, proposed to be made in the position of existing structures, conduits or pipe lines shall be clearly indicated by red dashed lines.

(4) The plan and sections shall also indicate in detail the method of construction, applicable technical codes, and character of the materials to be used in the proposed new construction. All distances and dimensions shall be plainly indicated and shall be given to locate the same with certainty. Any dimensions indicated in the petition should agree with those marked upon the plan. The plan must bear the seal of a Professional Engineer or Registered Architect licensed by the State of New York. A form signed by the petitioner shall be submitted authorizing the submission of the plan by the Registered Architect or Professional Engineer. The Department may waive the requirement of submission by a Professional Engineer or Registered Architect for minor improvements, such as planters, planted areas, trash and litter receptacles, or benches, where such submission is not otherwise required by law and where the petitioner has requested a waiver in writing indicating hardship.

(5) After technical review of the plan has been completed, and any objections thereto have been resolved, the petitioner shall furnish for the use of the Department the original tracing, drawn in ink, on mylar, and two mylar copies of the plan which shall subsequently be stamped "Approved" by the Department. The original tracing shall become the property of the

Department. Technical approval of the plan shall not be deemed approval or grant of a revocable consent.

(6) The plan shall also include the Professional Engineer's or Registered Architect's estimate of the cost to construct the proposed improvement, in addition to the Professional Engineer's or Registered Architect's estimate of the current cost to remove 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.

(7) Following the installation of any improvement for which a consent has been granted, a Professional Engineer or Licensed Land Surveyor representing the petitioner shall submit two (2) as-built mylar prints. These prints shall consist of the two (2) prints previously approved by the Department, with any deviations from the original plan shown by a double red line. These prints shall be signed and dated by the Professional Engineer or Licensed Land Surveyor designated by the petitioner with a certification which reads: "This drawing represents the as-built condition, where applicable, and shows the actual location of all subsurface structures uncovered during this installation."

