



Promulgation Details for 1 RCNY 102-01

This rule became effective on July, 1, 2008.

Since such date, one or more amendments have been made to this rule. Each rule amendment has its own effective date and Statement of Basis and Purpose.

Below you will find one or more rule amendments (the most recent appearing at the top), followed by the original rule.

The effective date of each amendment and the original rule can be found at the top of each "NOTICE OF ADOPTION OF RULE."

This rule has an effective date of 05-20-15.

NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the amendments to Section 102-01(j) of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding clarification of existing violations in the Department's rules by amending their sections of law and violation descriptions.

This rule was first published on February 19, 2015 and a public hearing thereon was held on March 25, 2015.

Dated: 4.13.15
New York, New York


Rick D. Chandler, P.E.
Commissioner

Statement of Basis and Purpose

Local Law 141 of 2013, which went into effect on December 31, 2014, amends the Administrative Code of the City of New York, the New York City Plumbing Code, the New York City Building Code, the New York City Mechanical Code and the New York City Fuel Gas Code.

Local Law 141 amended some requirements, added new requirements and renumbered existing sections of the affected codes. The following amendments to 1 RCNY § 102-01 add certain new violations contained in the NYC Construction Codes and Zoning Resolution, some of which were created by the enactment of Local Law 141. In addition, unrelated to Local Law 141, the Department of Buildings clarifies existing violations in its rules by amending their sections of law and violation descriptions. These violations relate to:

- the requirement to obtain a service equipment Certificate of Compliance prior to operation;
- the operation, maintenance, testing, and inspection of elevators and conveying systems, and the provision of notice when an elevator will be out of service due to repair work;
- the tampering, removing or defacing of a Stop Work Order or Vacate Order prior to its rescission by the Commissioner;
- failing to obey a Vacate Order;
- failing to conduct or file a final inspection of permitted work with the Department of Buildings;
- damaging or removing trees in a Special Natural Area District without certification, authorization or special permit; and
- the requirement to make readily available a scaffold training certificate card.

Finally, the Department of Buildings makes one change to correct a typographical error in a previously adopted Rule change regarding scaffold training certification violations.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and sections 28-201.2, 28-201.2.1, 28-201.2.2, and 28-202.1 of the New York City Administrative Code.

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.

Section 1. Subdivision (j) of section 102-01 of Title 1 of the Rules of the City of New York is amended by adding eight new violations relating to sections 28-116.2.4.2, 28-207.2.5, 28-207.4, 28-207.4.4, 28-304.6, and 28-304.10 of the New York City Administrative Code and section 105-20 of the New York City Zoning Resolution, and amending five existing violations relating to sections 27-185 and 28-301.1 of the New York City Administrative Code and sections 3314.4.6 of the 2008 Building Code and 3314.4.5.2 of the 2014 Building Code, to read as follows:

Section of Law	Classification	Violation Description
<u>28-116.2.4.2</u>	<u>Class 2</u>	<u>Failure to conduct or file a final inspection of permitted work with the Department.</u>
[27-185 & BC 3007.1] <u>28-116.4.1</u>	Class 2	Operation of [an elevator without equipment use permit or] service equipment <u>without Certificate of Compliance.</u>
<u>28-207.2.5</u>	<u>Class 1</u>	<u>Tampered with, removed or defaced a written posted Stop Work Order.</u>
<u>28-207.4</u>	<u>Class 1</u>	<u>Failure to obey a Vacate Order.</u>
<u>28-207.4.4</u>	<u>Class 1</u>	<u>Removed or defaced a written posted Vacate Order.</u>
[28-301.1] <u>28-304.1</u>	Class 1	Failure to maintain [building in code-compliant manner: service equipment – elevator per BC 3001.2; 27-987] <u>elevator or conveying system.</u>
[28-301.1] <u>28-304.1</u>	Class 2	Failure to maintain [building in code-compliant manner: service equipment – elevator per BC 3001.2; 27-987] <u>elevator or conveying system.</u>
[28-301.1] <u>28-304.1</u>	Class 3	Failure to maintain [building in code-compliant manner: service equipment – elevator per BC 3001.2; 27-987] <u>elevator or conveying system.</u>
<u>28-304.6</u>	<u>Class 1</u>	<u>Failure to inspect or test elevator or conveying system.</u>
<u>28-304.6</u>	<u>Class 2</u>	<u>Failure to inspect or test elevator or conveying system.</u>
<u>28-304.10</u>	<u>Class 2</u>	<u>Failure to provide notice of elevator to be out of service for alteration work.</u>
<u>ZR 105-20</u>	<u>Class 2</u>	<u>Damaged or removed a tree within a Special Natural Area District without certification, authorization or special permit.</u>
BC 3314.4.6 (2008 code) & BC [3314.4.5.2] <u>3314.4.5.8</u> (2014 code)	Class 2	Scaffold training [certification] <u>certificate card not readily available for inspection.</u>

This amendment has an effective date of 03-11-15.

NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the amendments to Sections 9-01, 9-02 (renumbered 104-20 and 104-21), 102-01 and 104-10 and the repeal of sections 9-03 and 9-04 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding licensed riggers and licensed sign hangers.

This rule was first published on December 9, 2014 and a public hearing thereon was held on January 9, 2015.

Dated: 1.30.15
New York, New York


Rick D. Chandler, P.E.
Commissioner

Statement of Basis and Purpose of Rule

The Department of Buildings (“Department”) is making the following changes to Title 1 of the Rules of the City of New York (“Rules”):

- amend and renumber sections 9-01 and 9-02; and
- repeal sections 9-03 and 9-04.

The Department is amending section 9-01, regarding supervisory responsibilities of licensed riggers, and section 9-02, regarding supervisory responsibilities of licensed sign hangers, by

- updating the sections to reflect changes made to the New York City Administrative Code (“Administrative Code”) by Local Law 141 of 2013 and renumbering them as sections 104-20 and 104-21, respectively;
- clarifying how foremen are designated; and,
- moving the process under which licensed riggers and sign hangers issue certificates of fitness for qualified scaffold users from section 9-03 of the Rules to new sections 104-20 and 104-21 in order to include this process within the context of licensee supervision of such work.

The Department is also repealing sections 9-03 and 9-04, as these provisions are, or will be, addressed elsewhere in the Administrative Code or the Rules.

- Section 9-03 concerns minimum qualifications for scaffold users. The substance of this rule is being moved to sections 104-20 and 104-21. Additionally, the training course requirements under this rule have been codified under Section 3314 of the New York City Building Code (“Building Code”) by Local Law 141 of 2013.
- Section 9-04 concerns the process and conditions under which the Department may revoke, suspend or not renew rigger and sign hanger licenses. The substance of this rule has already been codified under Article 401 of Chapter 4 of Title 28 of the Administrative Code and section 104-07 of Title 1 of the Rules.

The Department is also amending subdivision (j) of Section 102-01 to reflect the renumbering of Section 9-01 and paragraph (6) of subdivision (a) of Section 104-10 to reflect the repeal of Section 9-03.

The Department’s authority for these rules is found in sections 643 and 1043(a) of the New York City Charter, sections 28-404.1 and 28-415.1 of the Administrative Code, and section 3314 of the Building Code.

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.

Section 1. Section 9-01 of Title 1 of the Rules of the City of New York is renumbered 104-20 and is amended as follows:

§ [9-01] 104-20 Supervisory Responsibilities of a Licensed [Master or Special]Rigger.

(a) Applicability. [In accordance with section 26-172 of the Administrative Code, all rigging work, other than work exempted under section 26-173 of such code, must be performed by or under the supervision of a licensed special or master rigger. The rules in this section set forth the specific supervisory responsibilities of a licensed special or master rigger.]This section shall apply to all rigging work performed by or under the direct and continuing supervision of a licensed rigger pursuant to section 28-404.1 of the Administrative Code.

(b) Definitions.

[Rigging Foreman. “Rigging Foreman” shall mean an individual, male or female, designated by a licensed master or special rigger in accordance with subdivision i of this section. Such person shall have the qualifications set forth in subdivision h of this section.

Critical Picks. The term "critical picks" shall mean rigging operations involving loads that:

- (i) are at or above 95% of approved rated capacity of the crane or rigging equipment,
- (ii) are asymmetrical or have a wind sail area exceeding 500 square feet,
- (iii) may present a problem because of clearance, drift, or other interference,
- (iv) are fragile or of thin shell construction and are not provided with standard rigging ears,
- (v) require multiple cranes or derricks (tandem picks), or
- (vi) require out of the ordinary rigging equipment, methods or setup.]

(1) For the purposes of this section, the term “critical pick” shall have the same meaning as set forth in section 3302.1 of the Building Code.

(2) For the purposes of this section, the term “direct and continuing supervision” shall have the same meaning as set forth in section 28-401.3 of the Administrative Code.

(3) For the purposes of this section, the term “registered design professional” shall have the same meaning as set forth in section 28-101.5 of the Administrative Code.

(4) For the purposes of this section, the term “rigging foreman” shall mean an individual designated by a licensed rigger in accordance with subdivision (i) of this section. Such person shall have the qualifications set forth in subdivision (h) of this section. The term shall also refer to “suspended scaffold foreman” where such term is used in Chapter 33 of the Building Code.

(c) Planning. Except where the design prepared by a registered design professional is authorized by chapter 33 of the Building Code or as otherwise specifically provided in paragraph (2) of subdivision (g)[(2)] of this section, the licensee must personally plan the equipment set-up and operation of all rigging operations. This responsibility may not be delegated.

(d) Supervision of rigging operations other than critical picks and tower or climber crane erection, jumping, climbing or dismantling. Except as otherwise provided in subdivision [e] (e) of this section, [a] the licensee need not be personally on site during rigging operations provided that a rigging foreman designated by the licensee pursuant to subdivision [i] (i) of this section is continuously on site and [he or she] that such rigging foreman performs and/or manages the work under the [off site] off-site supervision of the licensee as follows:

- (1) the licensee and the rigging foreman at the work site are in frequent and direct contact with each other during the course of the rigging operation[.];
- (2) for work involving the use of cranes, derricks, work platforms, [suspension] suspended scaffolds, or other rigging setup where the safe founding or support of such equipment is a cause of concern (i.e. over sidewalks, roadways or yards where vaults or other subsurface structures exist; or where hooks or clamps are used on parapet walls to support hanging scaffolds, etc.), the licensee personally visits the work site to inspect and approve the rigging equipment founding and setup prior to commencement of rigging operations and each time the founding or support changes[.];
- (3) the licensee is readily available to provide [on site]on-site supervision should the need arise[.]; and,
- (4) the rigging foreman has in his or her possession at the work site the [“Certificate of License Record” of the licensee (tear-off)] “Designated Foreman Card” issued by the [D]department pursuant to subdivision (j) of this section, which shall be presented upon the demand of any authorized enforcement officer.

(e) Supervision of critical picks and tower or climber crane erection, jumping, climbing, or dismantling. The licensee must be continuously on site during critical picks and tower or climber crane erection, jumping, climbing, or dismantling, and must personally perform or personally supervise all [critical picks] such work. [Off site] Off-site supervision of [critical picks] such work is not permitted.

(f) Rigging Crew. Except as otherwise provided in subdivision (g) of this section, all members of the rigging crew must be [employees on the payroll of such licensee or where the license is used by the holder thereof for or on a behalf of a partnership, corporation or other business association as provided for in section 26-138(b) of the administrative code such members must be employees on the payroll of such partnership, corporation or business association.] under the direct and continuing supervision of the licensee.

(g) Specialty Crew. [Except as otherwise provided in this subdivision and except as provided for in section 26-138(b) of the administrative code, the licensee and/or a rigging foreman designated by a licensee may not perform or supervise rigging work for another person, corporation, partnership or business association. Where] Notwithstanding the provisions of section 28-401.17 of the Administrative Code, where rigging work is best handled by or requires crews of a specialty trade (e.g. handling hazardous materials or chemicals such as asbestos, or [climbing, erecting or dismantling tower cranes] tower or climber crane erection, jumping, climbing, or dismantling) the licensee and/or a rigging foreman designated by such licensee may perform or supervise work on behalf of a person, partnership, corporation or business association engaged in such specialty trade[,] by making an application on a form provided by the department subject to the following conditions:

- (1) the [Cranes and Derricks Division of the] department must approve the licensee's [written request] application for such proposed rigging operation[.];
- (2) the licensee must either plan the equipment setup and operation or be an active participant of the planning team[.];
- (3) for loads of [one thousand two hundred] two thousand pounds or more, [and] for all critical picks, and for tower or climber crane erection, jumping, climbing, or dismantling, the licensee must provide continuous [on site]on-site personal supervision to the rigging crew[.];
- (4) for loads below [one thousand two hundred] two thousand pounds and which are not critical picks, or which are not related to tower or climber crane erection, jumping, climbing, or dismantling, the licensee need not be on site if a rigging foreman designated by such licensee is continuously on site[and he or she manages]. The rigging foreman shall manage the work under the [off site] off-site supervision of the licensee in accordance with

the conditions set forth in [items (1), (2), (3), and (4) of] subdivision (d) of this section[.];

- (5) the licensee and/or his or her designated rigging foreman must have full authority to examine rigging hardware, to approve rigging setups, to mandate changes and to stop the job[.];
- (6) the licensee is responsible for all aspects of rigging safety on the job[.]; and
- (7) the licensee shall confirm that members of the specialty crew are insured to the minimum requirements specified in section [26-178] 28-401.9 of the [code] Administrative Code and are covered by worker's compensation [by] under the specialty crew's employer.

(h) Qualifications for designation as a rigging foreman.

- (1) An individual designated as a rigging foreman by a licensed special or master rigger shall:
 - (i) be an employee on the payroll and covered by the worker's compensation insurance of the licensee or the business association of the licensee[.];
 - (ii) be at least 18 years of age[.];
 - (iii) be able to read and write English[.];
 - (iv) be able to identify critical picks[.];
 - (v) be familiar with the relevant sections of Chapter 33 of the Building Code, OSHA safety standards as contained in 29 C.F.R. part 1926, and industry safety practices[.];
 - (vi) have been trained to react properly to mechanical malfunctions or adverse weather[.]; and
 - (vii) be able to evaluate the fitness of the rigging crew, including, where applicable, the issuance of a certificate of fitness pursuant to [section 9-03 of this chapter] subdivision (k) of this section.
- (2) An individual designated as a rigging foreman by a licensed special rigger shall, in addition to the qualifications set forth in the first paragraph [one] of this subdivision, have the following additional qualifications:
 - (i) [have] at least [1]one year's practical experience in the hoisting and rigging business[.]; and
 - (ii) [be able] the ability to explain the risks [incident] related to such business and precautions to be taken in connection therewith.
- (3) [a]An individual designated as a rigging foreman by a licensed master rigger shall, in addition to the qualifications set forth in the first paragraph [one] of this subdivision, have the following additional qualifications:
 - (i) [have] at least [5]five years of practical experience in the hoisting and rigging business; and

- (ii) [be]the knowledge [about] of and [be able] ability to explain the risks [incident] related to the following, where applicable to the particular job:
 - (A) rigging operations and precautions to be taken in connection therewith[.,];
 - (B) safe loads and computation thereof[.,];
 - (C) types and methods of rigging[.,]; and
 - (D) pertinent hardware such as ropes, cables, blocks, poles, derricks, sheerlegs and other tools used in connection with rigging operations.

(i) Designation of a Rigging Foreman. [Designation shall consist of the filing of written notification with the Department’s Licensing Division of]

(1) The licensed rigger must submit a notification of designation, on a form provided by the department, which includes the following information:

[(1)] (i) A list of all rigging [foreman] foremen employed by the licensee or by the business association of the licensee. Each rigging foreman’s full name, home address, and home phone number shall be included [on] as part of the list.

(ii) A photograph of any newly designated rigging foreman.

[(2)] (iii) The notification shall be signed and notarized by the licensee[.,] and shall contain his or her license number[and shall be on the business letterhead of the licensee or of the business association of the licensee].

(iv) The notification shall contain a representation by the licensee that all of the rigging [foreman] foremen designated by him or her have the qualifications specified in subdivision [h] (h) of this section.

(2) A newly designated rigging foreman cannot perform foreman duties until such notification is received by the department and the department has issued a “Designated Foreman Card” pursuant to subdivision (j), below.

(3) The list must be updated within two weeks of any change in the reported information relating to current designated [individuals] foremen or within [two weeks] one week of the termination of a designation. When a list is updated, a new notification listing all rigging foreman designated by the licensee shall be filed. The new notification shall be filed in a manner required by the department and shall contain the information set forth in [items (1) and (2)] subparagraphs (i), (ii), (iii) and (iv), above. The new list will supersede any earlier filed notification.

(4) The designation of one or more rigging foremen shall not detract from the licensee’s responsibility or liability, individually and/or through his business, for all aspects of rigging safety. This includes, but is not limited to, the actions of rigging foremen, rigging crews and specialty crews, if any.

(j) [Photo Identification Card] Designated Foreman Card.

- (1) The [licensee] department shall issue a [photo identification card (see Exhibit 1) to] “Designated Foreman Card” for each designated rigging foreman [designated by him or her with the licensee’s signature affixed thereto]. Such card and a photo identification card acceptable to the department shall be carried by the rigging foreman at all times while he or she is engaged in any of the duties requiring such designation and shall be presented upon the demand of any authorized enforcement officer.
- (2) It shall be the responsibility of the licensee to [retrieve the identification card] take possession of the “Designated Foreman Card” when such designation is terminated and return the card to the department. A designation shall be [terminated] terminable by the licensee at any time, including if:
 - [(1)] (i) the person leaves the employ of the licensee or the business [association of the licensee] associated with the license holder under section 28-401.17 of the Administrative Code;
 - [(2)] (ii) the licensee finds that the designee is not competently performing his or her duties; or
 - [(3)] (iii) the licensee finds that the designee has acted in an unsafe or irresponsible manner in performing his or her duties.

[(k) Responsibility. The designation of one or more rigging foreman shall not affect the licensee’s and/or business association’s responsibility or liability for all aspects of rigging safety including but not limited to the actions of rigging foreman, rigging crews and specialty crews, if any.]

(k) Certificate of Fitness for Scaffold Users. In addition to the training requirements of section 3314.4 of the Building Code, individuals who use a suspended scaffold under the direct and continuing supervision of the licensed rigger shall possess a certificate of fitness.

- (1) An individual issued a certificate of fitness must:
 - (i) be found capable of performing the scaffold work in a safe and responsible manner by the issuer at the time of issuance;
 - (ii) be able to communicate without difficulty with the supervising licensed rigger or rigging foreman; and
 - (iii) have been trained in accordance with section 3314.4 of the Building Code and possess a valid certificate card from the training provider evidencing successful completion of the training.
- (2) Certificates of fitness may be issued by the licensed master or special rigger and the rigging foreman designated pursuant to this section.
- (3) It shall be the sole responsibility of the licensee who issues the certificate of fitness, either personally or through a designated foreman, to ensure that the individual who receives the certificate meets the requirements of paragraph one of this subdivision for the particular job. It shall be the

licensee's responsibility to maintain written records and copies relating to whom and when certificates were issued, as well as each certificate holder's certificate card. If a person issued a certificate of fitness is later found to be unqualified or to have failed to use a suspended scaffold in a safe and workmanlike manner, it shall be the licensee's responsibility to rescind the certificate of fitness and to remove the individual from the job.

- (4) The certificate of fitness must be issued in a form acceptable to the department and include the name of the holder, the date of the issuance, the name and license number of the licensee, the name, address, and telephone number of the licensee's company, and the signature of the issuer.
- (5) Such certificate of fitness, as well as the certificate card issued pursuant to 3314.4.5.8 of the Building Code, and photo identification of the certificate holder acceptable to the department, must be available on site for inspection.

(l) Failure to comply with [rules] rule. If [these] this rule [rules are] is not complied with, the Department may order that rigging operations stop, initiate disciplinary action against the licensee and/or contractor, and/or initiate proceedings for the impositions of fines or civil penalties.

§ 2. Section 9-02 of Title 1 of the Rules of the City of New York is renumbered 104-21 and is amended as follows:

§ [9-02]104-21 Supervisory Responsibilities of a Licensed [Master or Special] Sign Hanger.

(a) Applicability. [In accordance with section 26-182 of the Administrative Code, all sign hanging work, other than work exempted under section 26-184 of such code, must be performed by or under the supervision of a licensed sign hanger. The rules in this section set forth the specific supervisory responsibilities of a licensed special or master sign hanger.] This section shall apply to all sign hanging work performed by or under the direct and continuing supervision of a licensed sign hanger pursuant to section 28-415.1 of the Administrative Code.

(b) Definitions.

[Sign Hanging Foreman. The term "sign hanging foreman" shall mean an individual, male or female, designated by a licensed master or special sign hanger in accordance with subdivision h of this section. Such person shall have the qualifications set forth in subdivision g of this section.

Critical Picks. The term "critical picks" means sign hanging operations involving loads that:

- (i) are at or above 95% of approved rated capacity of the crane or rigging equipment,
- (ii) are asymmetrical or have a wind sail area exceeding 1500 square feet,
- (iii) may present a problem because of clearance, drift, or other interference,
- (iv) are fragile or of thin shell construction and are not provided with standard rigging ears,
- (v) require multiple cranes or derricks (tandem picks), or
- (vi) require out of the ordinary rigging equipment, methods or setup.]

(1) For the purposes of this section, the term “critical pick” shall have the same meaning as set forth in section 3302.1 of the Building Code.

(2) For the purposes of this section, the term “direct and continuing supervision” shall have the same meaning as set forth in section 28-401.3 of the Administrative Code.

(3) For the purposes of this section, the term “registered design professional” shall have the same meaning as set forth in section 28-101.5 of the Administrative Code.

(4) For the purposes of this section, the term “sign hanging foreman” shall mean an individual designated by a licensed sign hanger in accordance with subdivision (h) of this section. Such person shall have the qualifications set forth in subdivision (g) of this section.

(c) Planning. [The]Except where the design prepared by a registered design professional is authorized by chapter 33 of the Building Code, the licensee must personally plan the equipment set-up and operation of all sign hanging operations. This responsibility may not be delegated.

(d) Supervision of sign hanging operations other than critical picks. Except as otherwise provided in subdivision [e] (e) of this section, [a] the licensee need not be personally on site during sign hanging operations provided that a sign hanging foreman designated by the licensee pursuant to subdivision [h] (h) of this section is continuously on site and [he or she] that such sign hanging foreman performs and/or manages the work under the off-site supervision of the licensee as follows:

- (1) the licensee and the sign hanging foreman at the work site are in frequent and direct contact with each other during the course of the sign hanging operation[.,,];
- (2) for work involving the use of cranes, derricks, work platforms, [suspension] suspended scaffolds, or other rigging setup where the safe founding or support of such equipment is a cause of concern (i.e. over sidewalks, roadways or yards where vaults or other subsurface structures exist; or where hooks or clamps are used on parapet walls to support hanging

scaffolds, etc.), the licensee personally visits the work site to inspect and approve the [rigging] sign hanging equipment founding and setup prior to commencement of [rigging] sign hanging operations and each time the founding or support changes[.]; [and]

- (3) the licensee is readily available to provide [on site] on-site supervision should the need arise[.]; and
- (4) [T]the sign hanging foreman has in his or her possession at the work site the ["Certificate of License Record" of the licensee (tear off)] "Designated Foreman Card" issued by the [D]department pursuant to subdivision (i) of this section, which shall be presented upon the demand of any authorized enforcement officer.

(e) Supervision of critical picks. The licensee must be continuously on site during critical picks and must personally perform or personally supervise all critical picks. [Off site] Off-site supervision of critical picks is not permitted.

(f) Sign Hanging Crew. All members of the sign hanging crew must be [employees on the payroll of such licensee or, where the license is used by the holder thereof for or on behalf of a partnership, corporation or other business association as provided for in section 26-138(b) of the administrative code, such members must be employees on the payroll of such partnership, corporation or business association. Except as provided for in section 26-138(b) of the administrative code, the licensee and/or a sign hanging foreman designated by a licensee may not perform or supervise sign hanging work for another person, corporation, partnership or business association.] under the direct and continuing supervision of the licensee.

(g) Qualifications for designation as a sign hanging foreman.

- (1) An individual designated as a sign hanging foreman by a licensed special or master sign hanger shall:
 - (i) be an employee on the payroll and covered by the worker's compensation insurance of the licensee or the business association of the licensee[.];
 - (ii) be at least 18 years of age[.];
 - (iii) be able to read and write English[.];
 - (iv) be able to identify critical picks[.];
 - (v) be familiar with the relevant sections of Chapter 33 of the Building Code, OSHA safety standards as contained in 29 C.F.R. part 1926, and industry safety practices[.];
 - (vi) have been trained to react properly to mechanical malfunctions or adverse weather[.];
 - (vii) be able to evaluate the fitness of the sign hanging crew, including, where applicable, the issuance of a certificate of fitness pursuant to [section 9-03 of this chapter,] subdivision (j) of this section;

- (viii) be able to read plans and specifications relating to sign construction and erection, including supporting framework and other supports[,];
 - (ix) have a knowledge of the problems and practices of sign construction and hanging[,]; and
 - (x) be familiar with the equipment and tools used in sign installations.
- (2) An individual designated as a sign hanging foreman by a licensed special sign hanger shall, in addition to the qualifications set forth in the first paragraph [one] of this subdivision, have at least three years of practical experience in sign hanging work[,].
- (3) An individual designated as a sign hanging foreman by a licensed master sign hanger shall, in addition to the qualifications set forth in the first paragraph [one] of this subdivision, have at least five years of practical experience in sign hanging work[,].

(h) Designation of a Sign Hanging Foreman. [Designation shall consist of the filing of written notification with the Department’s Licensing Division of the following information:]

- (1) The licensed sign hanger must submit a notification of designation, on a form provided by the department, which includes the following information:
- ~~[(1)]~~ (i) A list of all sign hanging [foreman] foremen employed by the licensee or by the business association of the licensee. Each sign hanging foreman’s full name, home address, and home phone number shall be included [on] as part of the list.
 - (ii) A photograph of any newly designated sign hanging foreman.
 - ~~[(2)]~~ (iii) The notification shall be signed and notarized by the licensee[,] and shall contain his or her license number[and shall be on the business letterhead of the licensee or of the business association of the licensee].
 - (iv) The notification shall contain a representation by the licensee that all of the sign hanging [foreman] foremen designated by him or her have the qualifications specified in subdivision [g] (g) of this section.
- (2) A newly designated sign hanging foreman cannot perform foreman duties until such notification is received by the department and the department has issued a “Designated Foreman Card” pursuant to subdivision (i), below.
- (3) The list must be updated within two weeks of any change in the reported information relating to current designated [individuals] foremen or within [two weeks] one week of the termination of a designation. When a list is updated, a new notification listing all sign hanging foreman designated by such licensee shall be filed. The new notification shall be filed in the manner required by the department and shall contain the information set

forth in [items (1) and (2)] subparagraphs (i), (ii), (iii) and (iv), above. The new list will supersede any earlier filed notification.

- (4) The designation of one or more sign hanging foremen shall not detract from the licensee's responsibility or liability, individually or through his licensed business, for all aspects of sign hanging safety. This includes, but is not limited to, the actions of sign hanging foremen and sign hanging crews.

(i) [Photo Identification Card] Designated Foreman Card.

- (1) The [licensee] department shall issue a [photo identification card (see Exhibit 1) to] "Designated Foreman Card" for each designated sign hanging foreman [individual designated by him or her as a sign hanging foreman with the licensee's signature affixed thereto]. Such card and a photo identification card acceptable to the department shall be carried by the sign hanging foreman at all times while he or she is engaged in any of the duties requiring such designation and shall be presented upon the demand of any authorized enforcement officer.
- (2) It shall be the responsibility of the licensee to [retrieve the identification card] take possession of the "Designated Foreman Card" when such designation is terminated and return the card to the department. A designation shall be [terminated] terminable by the licensee at any time, including if:
- [(1)] (i) the person leaves the employ of the licensee or the business [association of the licensee,] associated with the license holder under section 28-401.17 of the Administrative Code;
- [(2)] (ii) the licensee finds that the designee is not competently performing his or her duties[.]; or,
- [(3)] (iii) the licensee finds that the designee has acted in an unsafe or irresponsible manner in performing his or her duties.

[(j) Responsibility. The designation of one or more sign hanging foreman shall not affect the licensee's and/or business association's responsibility or liability for all aspects of sign hanging safety including but not limited to the actions of sign hanging foremen and sign hanging crews.]

(j) Certificate of Fitness for Scaffold Users. In addition to the training requirements of section 3314.4 of the Building Code, individuals who use a suspended scaffold under the direct and continuing supervision of the licensed sign hanger shall possess a certificate of fitness.

- (1) An individual issued a certificate of fitness must:
- (i) be found capable of performing the scaffold work in a safe and responsible manner by the issuer at the time of issuance;
- (ii) be able to communicate without difficulty with the supervising licensed sign hanger or sign hanging foreman; and,

- (iii) have been trained in accordance with section 3314.4 of the Building Code and possess a valid certificate card from the training provider evidencing successful completion of the training.
- (2) Certificates of fitness may be issued by the licensed master or special rigger and the sign hanger foreman designated pursuant to this section.
- (3) It shall be the sole responsibility of the licensee who issues the certificate of fitness, either personally or through a designated foreman, to ensure that the individual who receives the certificate meets the requirements of paragraph one of this subdivision for the particular job. It shall be the licensee's responsibility to maintain written records and copies relating to whom and when certificates were issued, as well as each certificate holder's certificate card. If a person issued a certificate of fitness is later found to be unqualified or to have failed to use a suspended scaffold in a safe and workmanlike manner, it shall be the licensee's responsibility to rescind the certificate of fitness and to remove the individual from the job.
- (4) The certificate of fitness must be issued in a form acceptable to the department and include the name of the holder, the date of the issuance, the name and license number of the licensee, the name, address, and telephone number of the licensee's company, and the signature of the issuer.
- (5) Such certificate of fitness, as well as the certificate card issued pursuant to 3314.4.5.8 of the Building Code and photo identification of the certificate holder acceptable to the department, must be available on site for inspection.

(k) Failure to comply with rule[s]. If [these] this rule[s are] is not complied with, the [D]department may order that sign hanging operations stop, initiate disciplinary action against the licensee and/or contractor, and/or initiate proceedings for the impositions of fines or civil penalties.

§3. Sections 9-03 and 9-04 of Title 1 of the Rules of the City of New York, along with Appendix A, are REPEALED.

§4. Subdivision (j) of Section 102-01 of Title 1 of the Rules of the City of New York is amended to read as follows:

Section of Law	Classification	Violation Description

1 RCNY [9-01]104-20	Class 1	Licensed Rigger designated an unqualified foreman.
1 RCNY [9-01]104-20	Class 2	Licensed Rigger designated an unqualified foreman.

§5. Paragraph (6) of subdivision (a) of Section 104-10 of Title 1 of the Rules of the City of New York is amended to read as follows:

(6) Additional requirements.

(i) Where a licensed master rigger chooses to personally supervise the installation or use of a suspended scaffold, the licensee shall have completed all additional training required by section [9-03 of title 1 of the rules of the city of] 3314.4.5.3 of the New York City Building Code.

(ii) Where a licensed master rigger chooses to personally supervise the assembly, jump, or disassembly of a climber/tower crane, the licensee shall have completed all additional training required by section 3319.10 of the building code.

(iii) Where a licensed special rigger chooses to personally supervise the installation or use of a suspended scaffold, the licensee shall have completed all additional training required by section [9-03 of title 1 of the rules of the city of] 3314.4.5.3 of the New York City Building Code.

This amendment has an effective date of 12-19-14.

NEW YORK CITY DEPARTMENT OF BUILDINGS
NOTICE OF ADOPTION OF RULE AMENDMENT

NOTICE IS HEREBY GIVEN pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts amendments to Sections 12-01, 101-06, 101-07, 102-01, 104-08, 3500-01, and 3500-02 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding extending the effective dates of such rule sections.

This rule was first published on October 1, 2014. The Department did not hold a public hearing on the proposed rule amendment on the grounds that a hearing would have served no public purpose.

Dated: 11.10.14
New York, New York


Rick D. Chandler, P.E.
Commissioner

Statement of Basis and Purpose

Local Law 52 of 2014 changed the effective dates of amendments of the New York City Construction Codes pursuant to Local Law 141 of 2013 and certain other local laws as set forth in Local Law 52 from October 1, 2014 to December 31, 2014. These amendments together are commonly referred to as “the 2014 NYC Construction Codes”.

Therefore, the Department of Buildings (DOB) is amending rules previously adopted pursuant to the 2014 NYC Construction Codes to conform the effective dates of such rules to the new effective date of such code (December 31, 2014) as set forth in Local Law 52 of 2014.

In accordance with Section 1043(e)(iii) of the City Charter, DOB did not hold a public hearing on this rule amendment on the grounds that a hearing would have served no public purpose.

Further, in accordance with Section 1043(d)(4)(iii) of the City Charter, this rule is not subject to review pursuant to Section 1043(d) of same.

New material is underlined.

[Deleted material is in brackets.]

Section 1. Section 2 of the rule which repealed Section 12-01 of Chapter 12 of Title 1 of the Rules of the City of New York, regarding emergency power system requirements, as adopted on August 29, 2014, is amended to read as follows:

§2. This rule shall take effect on [October 1, 2014] December 31, 2014.

§2. Section 22 of the rule which promulgated Section 101-06 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York, regarding special inspectors and special inspection agencies, as adopted on August 1, 2014, is amended to read as follows:

§ 22. This rule amendment shall take effect on [October 1, 2014] December 31, 2014.

§3. Section 2 of the rule which promulgated Section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York, regarding pipe welder certifying agencies, as adopted on July 16, 2014, is amended to read as follows:

§2. This rule shall be effective on [October 1, 2014] December 31, 2014.

§4. Paragraphs (9) and (10) of Subdivision (i) of Section 102-01 of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York, regarding the classification of violations, as adopted on August 4, 2014, are amended to read as follows:

(9) 2008 code. References to the 2008 code pertain to the New York City Construction Codes effective on July 1, 2008 and any applicable subsequent amendments prior to [October 1, 2014] December 31, 2014.

(10) 2014 code. References to the 2014 code pertain to the amendments and additions to the New York City Construction Codes effective on [October 1, 2014] December 31, 2014 and any applicable subsequent amendments.

§5. Section 3 of the rule which promulgated Section 102-01 of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York, regarding the classification of violations, as adopted on August 4, 2014, is amended to read as follows:

§3. This rule shall take effect on [October 1, 2014] December 31, 2014.

§6. Section 104-08 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York, regarding the qualification of site safety managers and site safety coordinators, as adopted on September 11, 2014, shall take effect on December 31, 2014.

§7. Section 2 of the rule which promulgated Sections 3500-01 and 3500-02 of Chapter 3500 of Title 1 of the Rules of the City of New York, regarding ACI and ANSI reference standards, as adopted on August 29, 2014, is amended to read as follows:

§2. This rule takes effect on [October 1, 2014] December 31, 2014.

This amendment has an effective date of 10-01-14.

NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the amendments to Section 102-01 of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding the classification of violations.

This rule was first published on June 20, 2014 and a public hearing thereon was held on July 23, 2014.

Dated: 1/25/14
New York, New York



Thomas Fariello, R.A.
Acting Commissioner

Statement of Basis and Purpose of Rule

Local Law 141, which goes into effect on October 1, 2014, amends the Administrative Code of the City of New York, the New York City Plumbing Code, the New York City Building Code, the New York City Mechanical Code and the New York City Fuel Gas Code to bring these codes up to date with the 2009 editions of the International Building, Mechanical, Fuel Gas and Plumbing Codes.

Local Law 141 amended some requirements, added new requirements and renumbered existing sections of the affected codes. The amendments to rule 102-01 address the changes enacted by Local Law 141 by adding 2014 code sections and descriptions to the table of classifications and deleting some classifications that are not used or that could be combined with existing descriptions.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and sections 28-201.2, 28-201.2.1, and 28-202.1 of the New York City Administrative Code.

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.

Section 1. Subdivision (i) of section 102-01 of Title 1 of the Rules of the City of New York is amended by adding new paragraphs (9) and (10) to read as follows:

(9) 2008 code. References to the 2008 code pertain to the New York City Construction Codes effective on July 1, 2008 and any applicable subsequent amendments prior to October 1, 2014.

(10) 2014 code. References to the 2014 code pertain to the amendments and additions to the New York City Construction Codes effective on October 1, 2014 and any applicable subsequent amendments.

§2. Subdivision (j) of section 102-01 of Title 1 of the Rules of the City of New York is amended to read as follows:

Section of Law	Classification	Violation Description
[1 RCNY 9-03]	[Class 1]	[Licensed Rigger failed to ensure scaffold worker met minimum req.]
[1 RCNY 9-03]	[Class 2]	[Licensed Rigger failed to ensure scaffold worker met minimum req.]
27-369, [&] BC 1020.2 (2008 code), & BC 1023.2 (2014 code)	Class 1	Failure to provide unobstructed exit passageway.
27-371, [&] BC 715.3.7 (2008	Class 2	Exit door not self-closing.

<u>code) & BC 715.4.8 (2014 code)</u>		
<u>27-383(b), [&] BC 403.16 (2008 code) & BC 403.5.5 (2014 code)</u>	Class 1	Failure to install <u>luminous egress or photoluminescent exit path marking</u> in a high-rise building.
<u>27-393, [&] BC 1019.1.7 (2008 code) & BC 1022.8 (2014 code)</u>	Class 2	Stair <u>and/or floor</u> identification signs missing and/or defective.
<u>27-509, [&] BC 3111.1 (2008 code) & BC 3112.1 (2014 code)</u>	Class 3	Fence exceeds permitted height.
<u>27-528, [&] BC 1024.1.3 (2008 code) & BC 1028.1.3 (2014 code)</u>	Class 2	Approved Place of Assembly plans not available for inspection.
<u>27-921(a), [&] PC 107.3 (2008 code) & PC 107.4 (2014 code)</u>	Class 1	Failure to have new or altered plumbing system tested.
<u>27-921(a), [&] PC 107.3 (2008 code) & PC 107.4 (2014 code)</u>	Class 2	Failure to have new or altered plumbing system tested.
<u>27-972(h), [&] BC 907.2.12.3 (2008 code) & BC 907.2.13.3 (2014 code)</u>	Class 2	Failure to install an acceptable two-way voice communication system with central station connection.
28-104.2.2	Class 2	Failure to provide approved/accepted [plans] <u>construction documents</u> at job site at time of inspection.
<u>28-118.3.2.1</u>	<u>Class 3</u>	<u>Address, block and/or lot, or metes and bounds of zoning lot contrary to Certificate of Occupancy.</u>
28-202.1	Class 1	Additional daily penalty for Class 1 violation of 28-210.1 [- 1 or 2 family converted to 4 or more families] <u>or 28-210.2.</u>
28-202.1	Class 1	Additional daily penalty for Class 1 violation of 28-210.3 – permanent dwelling offered/used/converted for other than <u>permanent-residential purposes.</u>
28-210.1	Class 1	[Residence altered for occupancy] <u>1- or 2-family residence converted to or maintained as a dwelling [from 1 or 2 families to] for 4 or more families.</u>
<u>28-210.1</u>	<u>Class 1</u>	<u>Multiple dwelling converted, maintained or occupied with 3 or more dwelling units than legally authorized by the C of O or official records.</u>

28-210.1	Class 2	Residence altered [for occupancy] as a dwelling for more than the <u>number of families</u> legally [approved number of families] <u>authorized by the C of O or official records.</u>
28-210.2	Class 1	<u>Industrial/manufacturing building converted, maintained or occupied for residential use for 3 or more dwelling units than legally authorized by the C of O or official records.</u>
28-210.2	Class 2	[Maintain or permit conversion of industrial] <u>Industrial/manufacturing [bldg to]building converted, maintained or occupied for residential use [w/out]contrary to the C of O/[code compliance] or official records.</u>
[28-210.2]	[Class 2]	[Plumbing work contrary to approved app'n/plans that assists/maintains convers'n of indust/manuf occupancy for resid use.]
[28-216.12.1] <u>28-217.1.1</u>	Class 2	Failure to submit required report of inspection of potentially compromised buildings.
[28-216.12.6] <u>28-217.16</u>	Class 1	Failure to immediately notify Department that building or structure has become potentially compromised.
28-301.1	Class 1	Failure to maintain building in code compliant manner: Lack of required number of means of egress for every floor per BC 1018.1 (2008 code); 27-366; BC 1021.1 (2014 code).
28-301.1	Class 1	Failure to maintain building in code-compliant manner: floor numbering signs missing and/or defective per BC 1019.1.7 (2008 code); 27-392; BC 1022.8 (2014 code).
28-301.1	Class 2	Failure to maintain building in code-compliant manner: floor numbering signs missing and/or defective per BC 1019.1.7 (2008 code); 27-392; BC 1022.8 (2014 code).
28-301.1	Class 2	Failure to maintain building in code-compliant manner: failure to provide non-combustible proscenium curtain or stage water curtain per BC 410.3.5; 27-546.
28-301.1	Class 1	Failure to maintain building in code-compliant manner: Improper exit/exit access doorway arrangement per BC 1014.2 (2008 code); 27-361; BC 1015.2 (2014 code).
BC 1704.21.1 (2008 code) & BC 1704.23.1 (2014 code)	Class 1	Failure to perform successful hydrostatic pressure test of sprinkler system.
BC 1704.22.1 (2008 code) & BC 1704.24.1 (2014 code)	Class 1	Failure to perform successful hydrostatic pressure test of standpipe system.
BC 1905.6.3.2 (2008 code) & BC 1905.6.3.3 (2014 code)	Class 2	Failure to comply with ASTM C31 standards for concrete cylinder test samples.

<u>BC 3301.1.3 (2014 code)</u>	<u>Class 1</u>	<u>Failure to comply with manufacturer specifications.</u>
<u>BC 3301.1.3 (2014 code)</u>	<u>Class 2</u>	<u>Failure to comply with manufacturer specifications.</u>
<u>BC 3301.7 (2014 code)</u>	<u>Class 1</u>	<u>Failure to maintain/display on site documents required by BC Chapter 33.</u>
<u>BC 3301.7 (2014 code)</u>	<u>Class 2</u>	<u>Failure to maintain/display on site documents required by BC Chapter 33.</u>
BC 3301.8	Class 1	Failure to promptly notify the Department of an accident or damage to adjoining property at construction/demolition site.
BC 3303.3 [& 27-1020](2008 code)	Class 2	Failure to post D.O.T. permit for street/sidewalk closing.
BC 3303.8.1	Class 1	Failure to provide standpipe or air pressurized alarm system for standpipe system during construction or demolition operation.
<u>BC 3304.12 (2014 code)</u>	<u>Class 1</u>	<u>Failure to perform slurry operations in accordance with section.</u>
<u>BC 3305.3.1.2.1 (2014 code)</u>	<u>Class 1</u>	<u>Failure to obtain registered design professional evaluation prior to using existing structure to support formwork loads.</u>
<u>BC 3305.3.2 (2014 code)</u>	<u>Class 1</u>	<u>No site-specific formwork design drawings present per 3301.7.</u>
<u>BC 3305.3.3.2 (2014 code)</u>	<u>Class 1</u>	<u>Failure to perform required formwork observation.</u>
<u>BC 3307.1.1 (2008 code) & BC 3307.4.6 (2014 code)</u>	Class 1	Prohibited Outdoor Advertising Company sign on sidewalk shed or construction fence
<u>BC 3307.1.1 (2008 code) & BC 3307.4.6 (2014 code)</u>	Class 2	Posting of unlawful signs, information, pictorial representation, business or advertising messages on protective structures
<u>BC 3307.3.1 (2008 code), [&] 27-1021(a) & BC 3307.6.2 (2014 code)</u>	Class 1	Failure to provide sidewalk shed where required.
<u>BC 3307.6.4 (2008 code) & BC 3307.6.4.11 (2014 code)</u>	Class 2	Sidewalk shed does not meet color specification.
<u>BC 3310.8.2 (2008 code) & BC 3310.8.2.1 (2014 code)</u>	Class 1	Site safety manager/coordinator failed to immediately notify the Department of conditions as required.
<u>BC 3314.1.1 (2008 code), [&] 27-1050.1 & BC 3314.4.1.5 (2014 code)</u>	Class 2	Failed to notify Department prior to [use/inst. off C-hooks/outrigger beams in connection with] installation or removal of Suspended Scaffold.

BC 3314.4.3.1 (2008 code), [&] 27-1045 & BC 3314.4.3 (2014 code)	Class 1	Failure to perform safe/proper inspection of suspended scaffold.
BC 3314.4.3.1 (2008 code), [&] 27-1045(b) & BC 3314.4.3.4 (2014 code)	Class 1	No record of daily inspection of Suspended Scaffold performed by authorized person at site.
BC 3314.4.5 (2008) & BC 3314.4.5.1 (2014)	Class 1	[Erected, dismantled repaired, maintained, modified or removed supported scaffold without a scaffold certificate of completion.] <u>Unqualified supervisor or worker performing work on scaffold.</u>
BC 3314.4.6 (2008) & BC 3314.4.5.2 (2014)	Class [1]2	[Use of supported scaffold without a scaffold user certificate. <u>Scaffold training certification card not readily available for inspection.</u>

§3. This rule shall take effect on October 1, 2014.

This amendment has an effective date of 01-17-14.

NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the amendments to subdivision j of section 102-01 of chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding the classification of violations for project information panels and construction site signs.

This rule was first published on October 9, 2013 and a public hearing thereon was held on November 14, 2013.

Dated:

Dec 10, 2013
New York, New York



Robert D. LiMandri
Commissioner

STATEMENT OF BASIS AND PURPOSE

This rule amendment is promulgated pursuant to the authority of the Commissioner of Buildings under sections 643 and 1043(a) of the New York City Charter and sections 28-201.2, 28-201.2.1, and 28-202.1 of the New York City Administrative Code.

On July 1, 2013, the Mayor signed Local Law 47 of 2013. This law requires contractors and building owners to consolidate required construction signage and permits into a single new standard in order to provide information that is more useful to the public and minimize the visual clutter of signage at construction sites.

The law repeals existing Section 3301.9 of the New York City Building Code, pertaining to required signage, and replaces it with a new Section 3301.9, detailing requirements for signs to be posted at construction or demolition sites.

The law also amends Section 3307.6.4 of the Building Code to require sidewalk sheds erected after July 1, 2013 to be painted hunter green and adds that same requirement for fences in Section 3307.7.2.

In order to enforce the new requirements under Sections 3301.9, 3307.1 and 3307.7, the rule modifies the following existing violations:

- 1 RCNY 27-03/Section 3307.1.1 (Building Code): “Prohibited sign on sidewalk shed or construction fence” will now reference only Section 3307.1.1 and read “Prohibited Outdoor Advertising Company sign on sidewalk shed or construction fence.”
- Section 28-105.11 of the Administrative Code: “Failure to post permit for work at premises” will now read “Failure to post or properly post permit for work at premises.”
- Section 3301.9 (Building Code)/Section 27-1009(c) (Admin Code): “Failure to provide/post sign(s) at job site pursuant to subsection” will delete the reference to Section 27-1009(c) and will now read “Project Information Panel/Sidewalk Shed Parapet Panel/Construction Sign not provided or not in compliance with section.”
- Section 3307.6 (Building Code)/Section 27-1021 (Admin Code): “Sidewalk shed does not meet code specifications” will delete the references to Section 27-1021 and Building Code Section 3307.6, will now reference Section 3307.1 of the Building Code, and will read “Pedestrian protection does not meet code specifications.”
- Section 3307.7 (Building Code)/Section 27-1021(c) (Admin Code): “Job site fence not constructed pursuant to subsection” will delete the reference to Section

27-1021(c) and will now read “Job site fence not constructed or maintained pursuant to subsection.”

In order to enforce the requirement that sidewalk sheds be hunter green in Section 3307.6.4 of the Building Code and to enforce the prohibition on the placement of unlawful signs on protective structures set out in Section 3707.1.1 of the Building Code, the rule amendment adds the following new violations:

- A class 2 violation of Section 3307.1.1 of the Building Code: “Posting of unlawful signs, information, pictorial representation, business or advertising messages on protective structures.”
- A class 2 violation of Section 3307.6.4 of the Building Code: “Sidewalk shed does not meet color specification.”

In order to effectively enforce the requirement under Section 3307.3 of the Building Code, that construction and demolition sites have pedestrian protection for sidewalks and walkways, the rule makes the following additional changes:

- Section 3307.3.1 (Building Code)/27-1021(a) (Admin Code): This charge is being deleted and will be replaced by the new Section 3307.3 charge listed below.
- A Class 1 violation of Section 3307.3 of the Building Code: “Failure to provide pedestrian protection for sidewalks and walkways.” This charge replaces and expands the current charge under Section 3307.3.1/Section 27-1021(a), which is being deleted. While this change is not strictly necessary to implement Local Law 47, it is being made because the current charge only addresses the failure to provide sidewalk shed protection. However, there may be instances where there is a failure to provide other types of pedestrian protection (not just sidewalk sheds) and this expanded charge will allow the Department to address that.

New matter is underlined. Matter in brackets is deleted.

Subdivision (j) of section 102-01 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, new entries relating to Sections BC 3307.1.1, BC 3307.3 and BC 3307.6.4 of the New York City Building Code, by amending the entries relating to Sections 28-105.11 of the New York City Administrative Code and BC 3301.9, BC 3307.6 and BC 3307.7 of the New York City Building Code and 1 RCNY 27-03, and by deleting the entry for BC 3307.3.1/AC 27-1021(a), as follows:

Section of Law	Classification	Violation Description
28-105.11	Class 2	Failure to post or properly post permit for work at premises
BC 3301.9 [& 27-1009 (c)]	Class 2	[Failure to provide/post sign(s) at the job site pursuant to subsection] <u>Project Information Panel/Sidewalk Shed Parapet Panel/Construction Sign not provided or not in compliance with section</u>
[BC 3307.6 & 27-1021(c)] <u>BC 3307.1</u>	Class 2	[Sidewalk shed] <u>Pedestrian protection</u> does not meet code specifications
[1 RCNY 27-03] <u>BC 3307.1.1</u>	Class 1	Prohibited <u>Outdoor Advertising Company</u> sign on sidewalk shed or construction fence
<u>BC 3307.1.1</u>	<u>Class 2</u>	<u>Posting of unlawful signs, information, pictorial representation, business or advertising messages on protective structures</u>
<u>BC 3307.3</u>	<u>Class 1</u>	<u>Failure to provide pedestrian protection for sidewalks and walkways</u>
[BC 3307.3.1 & 27-1021 (a)]	[Class 2]	[Failure to provide sidewalk shed where required]
<u>BC 3307.6.4</u>	<u>Class 2</u>	<u>Sidewalk shed does not meet color specification</u>
BC 3307.7 [& 27-1021 (c)]	Class 2	Job site fence not constructed <u>or maintained</u> pursuant to subsection

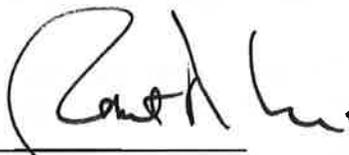
This amendment has an effective date of 03-29-13.

NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the amendments to Section 102-01 of Subchapter B of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding classification of violations for illegal conversion of dwelling units from permanent residences.

This rule was first published on January 2, 2013 and a public hearing thereon was held on February 1, 2013.

Dated: 2/20/13
New York, New York



Robert D. LiMandri
Commissioner

STATEMENT OF BASIS AND PURPOSE

These rule amendments are pursuant to the authority of the Commissioner of Buildings under sections 643 and 1043(a) of the New York City Charter and sections 28-201.2, 28-201.2.1, and 28-202.1 of the New York City Administrative Code, and in accordance with section 28-210.3 of the Administrative Code.

Local Law 45 of 2012 makes it illegal to use, occupy, convert, or offer or permit the use of a permanent residential apartment space for other than permanent residence purposes. Such illegal uses include but are not limited to converting a permanent residence into a short-stay hotel room. Local Law 45 also directs that illegal conversions that involve more than one residential unit or a second or subsequent violation by the same person at the same unit or multiple dwelling are to be classified as immediately hazardous (Class 1) violations.

The amendments:

- Add two new entries for violations of section 28-210.3: the first classifies a violation involving more than one unit or a second or subsequent violation as an immediately hazardous (Class 1) violation; the second classifies a first violation involving one dwelling unit as a major (Class 2) violation.
- Add a new, additional daily penalty for Class 1 violations of section 28-210.3.

“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.

New matter is underlined.

Subdivision (j) of section 102-01 of title 1 of the Rules of the City of New York is amended by adding, in numerical order, new entries relating to sections 28-202.1 and 28-210.3 of the New York City Administrative Code as follows:

Section of Law	Classification	Violation Description
<u>28-202.1</u>	<u>Class 1</u>	<u>Additional daily penalty for Class 1 violation of 28-210.3 - permanent dwelling offered/used/converted for other than permanent-residential purposes</u>
<u>28-210.3</u>	<u>Class 1</u>	<u>Permanent dwelling offered/used/converted for other than permanent-residential purposes</u>
<u>28-210.3</u>	<u>Class 2</u>	<u>Permanent dwelling offered/used/converted for other than permanent-residential purposes</u>

This amendment has an effective date of 10-13-12.

NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the addition of Section 103-07 to Subchapter C and the amendment of subdivision (j) of section 102-01 of subchapter B of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding requirements for audits and retrocommissioning.

This rule was first published on February 17, 2012 and a public hearing thereon was held on March 23, 2012.

Dated: 9/5/12
New York, New York



Robert D. LiMandri
Commissioner

Statement of Basis and Purpose

The following rule amendments are proposed pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter.

On December 28, 2009, the Mayor signed local law 87 requiring the owners of covered buildings, as defined in the law, including city-owned buildings, to perform energy audits and retrocommissioning and file energy efficiency reports with the department.

The law also requires the department to specify the information to be contained in the reports. The proposed rule sets out procedures for energy audits, retrocommissioning, and for filing energy efficiency reports. The proposed rule also establishes a penalty for failure to file an energy efficiency report, classifies such failure to file as a class 2 violation, and provides a process to challenge the penalty.

The proposed rule sets out qualifications for energy auditors and retrocommissioning agents along with registration requirements for those individuals who are not registered design professionals.

Section 1. Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new section 103-07 to read as follows:

§103-07 Energy audits and retro-commissioning of base building systems

(a) Purpose. This section sets forth the basic requirements for performing energy audits and retro-commissioning on certain buildings 50,000 square feet or more in floor area and submitting the associated Energy Efficiency

Report (“EER”) in accordance with article 308 of chapter 3 of title 28 of the administrative code, and establishes violations for failing to submit an EER.

(b) References. Article 308 of Chapter 3 of Title 28 of the New York City Administrative Code (“Article 308”); American Society of Heating, Refrigerating and Air-conditioning Engineers Inc. (“ASHRAE”) Procedures for Commercial Building Energy Audits, 2011 edition.

(c) Approved agency qualifications. Individuals with relevant experience are deemed approved agencies pursuant to this section for the purpose of conducting energy audits and retro-commissioning of base building systems.

(1) Energy auditor qualifications. The energy auditor performing or supervising the audit may not be on the staff of the building being audited and must meet the qualifications of either subparagraph (i) or (ii).

(i) The energy auditor must be a registered design professional, and the energy auditor or an individual under the direct supervision of the energy auditor must be one of the following:

(A) a New York State Energy Research and Development Authority- (NYSERDA) approved Flex Tech consultant;

(B) a Certified Energy Manager (CEM) or Certified Energy Auditor (CEA), certified by the Association of Energy Engineers (AEE);

- (C) a High-Performance Building Design Professional (HPBD) certified by ASHRAE;
- (D) a Building Energy Assessment Professional (BEAP) certified by ASHRAE; or
- (E) for audits of multifamily residential buildings only, a Multifamily Building Analyst (MFBA), certified by the Building Performance Institute (BPI).

(ii) The energy auditor must be an individual registered with the department and must be one of the following:

- (A) a Certified Energy Manager (CEM) or Certified Energy Auditor (CEA), certified by the Association of Energy Engineers (AEE);
- (B) a High-Performance Building Design Professional (HPBD) certified by ASHRAE;
- (C) a Building Energy Assessment Professional (BEAP) certified by ASHRAE; or
- (D) for audits of multifamily residential buildings only, a Multifamily Building Analyst (MFBA), certified by the Building Performance Institute (BPI).

(2) **Retro-commissioning agent qualifications.** The retro-commissioning agent performing or supervising the retro-commissioning may not be on the staff of the building being retro-commissioned and must meet the qualifications of either subparagraph (i) or (ii).

(i) The retro-commissioning agent must be a registered design professional, a certified Refrigerating System Operating

Engineer, or a licensed High Pressure Boiler Operating Engineer. In addition, the retro-commissioning agent or an individual under the direct supervision of the retro-commissioning agent must be one of the following:

- (A) a Certified Commissioning Professional (CCP) certified by the Building Commissioning Association (BCA);
- (B) a Certified Building Commissioning Professional (CBCP) certified by the AEE;
- (C) an Existing Building Commissioning Professional (EBCP) as certified by the AEE;
- (D) a Commissioning Process Management Professional (CPMP) certified by ASHRAE; or
- (E) an Accredited Commissioning Process Authority Professional (ACPAP) approved by the University of Wisconsin.

(ii) The retro-commissioning agent performing or supervising the retro-commissioning must be an individual registered with the department and must be one of the following:

- (A) a Certified Commissioning Professional (CCP) certified by the Building Commissioning Association (BCA);
- (B) a Certified Building Commissioning Professional (CBCP) certified by the AEE;
- (C) an Existing Building Commissioning Professional (EBCP) as certified by the AEE; or
- (D) a Commissioning Process Management Professional (CPMP) certified by ASHRAE.

(3) Registration.

- (i) General. An energy auditor or a retro-commissioning agent who is not a registered design professional must register with the department in accordance with the provisions of this paragraph. No such energy auditor or retro-commissioning agent may perform audits or retro-commissioning without a current registration.
- (ii) Form and manner of registration. An application for registration must be submitted in a form and manner determined by the commissioner, including electronically, and the applicant must provide such information as the commissioner may require.
- (iii) Certifications. All energy auditors or retro-commissioning agents who register with the department must obtain and maintain a current certification from one of the entities listed in subparagraph (ii) of paragraph (1) or subparagraph (ii) of paragraph (2) of this subdivision, as applicable. The certification must be presented to the department upon request.
- (iv) Registration term. The term of an initial registration is three (3) years, beginning on the applicant's birthday following the date of registration, and may be renewed for additional three- (3) year periods after such initial registration.
- (v) Registration and renewal fees. Fees will be those set forth in section 101-03 of these rules.
- (vi) Renewals. A renewal application must be submitted between sixty (60) and ninety (90) days prior to the expiration date of the registration and must be accompanied by proof that the auditor or agent has, during the one (1) year period immediately preceding renewal, maintained a current certification as set forth in this rule.

(vii) Other applicable provisions. The provisions of sections 28-401.6, 28-401.8 and 28-401.19 of the Administrative Code shall apply to energy auditors and retro-commissioning agents registered pursuant to this paragraph.

(d) Energy Audit Procedures. An energy audit must be performed on the base building systems of a covered building prior to filing an energy efficiency report. The scope of such energy audit must be at a minimum equivalent to the procedures described for a Level 2 Energy Survey and Analysis in accordance with *Procedures for Commercial Building Energy Audits*, 2011 edition, published by the American Society of Heating, Refrigerating and Air-conditioning Engineers, Inc. (ASHRAE). The building's operations and maintenance staff must be consulted at the start of and during the energy audit process in order to establish the current facility requirements.

(e) Contents of Energy Audit Report. An audit report must be prepared for the owner that is at a minimum equivalent to the report prescribed by *ASHRAE Procedures for Commercial Building Energy Audits*, 2011 edition, and must include the information required by §28-308.2 of the Administrative Code. Such report must be retained by the owner in accordance with subdivision (j) of this section. The energy auditor must certify that the audit satisfies the requirements of §28-308.2 of the Administrative Code and this rule.

(f) Retro-commissioning procedures. The base building system components subject to retro-commissioning as per §28-308.3 of the Administrative Code must be assessed in accordance with §28-308.3 of the Administrative Code, including the testing protocols, master list of findings and repairs and deficiencies corrected, and this section. Deficiencies found in the assessment must be corrected as required by this subdivision. Notwithstanding the particular provisions of this subdivision, where less than ninety percent of components tested in the

initial sample set is found to be satisfactory, corrections may be made to all similar system components without further testing. The building's operations and maintenance staff must be consulted at the start of and during the retro-commissioning process in order to establish the current facility requirements.

(1) Operating protocols, calibration, and sequencing.

(i) Heating, ventilation, and air conditioning (HVAC) system temperature and humidity set points and setbacks. All major system components, such as chillers, boilers, cooling towers, air handlers, or pumps, must be tested to verify that such system set points and setbacks are appropriate to the current facility requirements. Where set points and setbacks require correction, the condition must be corrected and noted on the retro-commissioning report.

(ii) HVAC sensors.

(A) All critical sensors that are part of a control sequence and have direct control of a major piece of equipment such as a chiller, boiler, pump, or air handling unit of capacity greater than 5,000 cubic feet per minute must be tested for proper calibration. Where sensors require correction, the condition must be corrected and noted on the retro-commissioning report.

(B) For monitoring sensors that measure air flow or temperature but are not part of a control sequence, a sample set constituting ten percent of all monitoring sensors, but in no event fewer than ten individual

sensors, must be tested for proper calibration. If more than ninety percent of the sample set is found to be satisfactory, then no further sampling is required for the purposes of the retro-commissioning report. If less than ninety percent of the sample set is found to be satisfactory, then all monitoring sensors serving base building systems must be tested for proper calibration. Where sensors require correction, the condition must be corrected and noted on the retro-commissioning report.

- (iii) **HVAC controls.** All control sequences and critical controls that are part of a control sequence of a major piece of equipment such as a chiller, boiler, pump, or air handling unit of capacity greater than 5,000 cubic feet per minute must be checked for proper function. Proper function may be determined from interviews with facility staff, through trend analysis, field observation or dedicated data loggers. Where controls require correction, the condition must be corrected and noted on the retro-commissioning report.

- (iv) **Load distribution.** Fans, boilers, and pumps that are designed to run in parallel on major systems greater than ten horsepower must be tested for proper load distribution across the individual components. Where load distributions require correction, the condition must be corrected and noted on the retro-commissioning report.

- (v) **Ventilation rates.** A sample set constituting ten percent of all outdoor air intakes, but in no event fewer than three outdoor air intakes, must be measured to verify that the flow

rates are appropriate for the current facility requirements. If more than ninety percent of the sample set is found to be appropriate, then no further sampling is required for the purposes of the retro-commissioning report. If less than ninety percent of the sample set is found to be appropriate, then all outdoor air intakes serving base building systems must be measured. Where flow rates require correction, the condition must be corrected and noted on the retro-commissioning report.

(vi) **System automatic reset functions.** For each piece of major equipment, such as chillers, boilers, cooling towers, air handlers, or pumps, at least one energy-related reset function based on temperature or pressure must be tested to verify that the reset function is functioning properly. Where the reset function requires correction, the condition must be corrected and noted on the retro-commissioning report.

(vii) **Adjustments to oversized or undersized equipment.** Only major equipment, such as chillers, boilers, cooling towers, air handlers, or pumps, serving base building systems must be required to be adjusted to perform as efficiently as possible for the current facility requirements. Where the equipment requires correction, the condition must be corrected and noted on the retro-commissioning report.

(viii) **Simultaneous cooling and heating.** A sample set constituting ten percent of the HVAC system air handling units must be tested to verify that simultaneous heating and cooling is not occurring, unless intended. If the entirety of the sample set is found to be without unintended simultaneous

heating and cooling, then no further sampling is required for the purposes of the retro-commissioning report. If any portion of the sample set is found to have unintended simultaneous heating and cooling, then all base building air handling units must be tested for unintended simultaneous heating and cooling. Where unintended simultaneous cooling and heating is occurring, the condition must be corrected and noted on the retro-commissioning report.

(ix) **HVAC System Economizer controls.** The economizer controls serving all major air handling units with a minimum air circulation capacity of 5,000 cubic feet per minute must be tested for proper functionality through trends or functional testing. Where the economizer controls are found to require correction, the condition must be corrected and noted on the retro-commissioning report.

(x) **HVAC distribution balancing.** All major systems that include chillers, boilers, cooling towers, air handlers, or pumps, must be tested for proper balance for current facility requirements. A major system as used in this subparagraph means a system that serves more than 10,000 square feet. If the system is found to be out of balance, the condition must be corrected and noted on the retro-commissioning report. System balancing may only be performed by an individual certified in the testing and balancing of HVAC systems by the National Environmental Balancing Bureau (NEBB), the Testing, Adjusting and Balancing Bureau (TABB), or the Associated Air Balance Council (AABC).

Exceptions:

1. if the HVAC distribution has been tested and balanced within the twelve months prior to the reporting date of the retro-commissioning report, then the records of such testing and balancing must be included in the retro-commissioning report and no further testing and balancing will be required.
2. if the HVAC distribution has been tested and balanced within the sixty months prior to the reporting date of the retro-commissioning report, then no further testing and balancing is required, provided that all of the following conditions are satisfied:
 - 2.1. Space configurations have not been altered to affect the HVAC system since the prior testing and balancing; and
 - 2.2. no new equipment has been installed and no existing equipment has been removed during the sixty months since the prior testing and balancing; and
 - 2.3. if the major systems are controlled by a Building Management System (BMS), the BMS is monitoring or controlling all relevant equipment; and
 - 2.4. if the system is controlled by a BMS, more than ninety percent of the remote sensors, control valves, and control dampers are monitored or controlled by the BMS; and
 - 2.5. no piece of equipment is under manual control; and

- 2.6. fewer than ten percent of the diffusers in the system require replacement; and
- 2.7. if the system utilizes a Variable Air Volume (VAV) system, fewer than ten percent of the VAV terminal units are under manual control; and
- 2.8. if the system utilizes economizers, all economizers and economizer controls are fully functioning; and
- 2.9. the system supply air and water temperatures satisfy the current facility requirements.

3. If an HVAC system is out of balance but corrective work would be so extensive that it would require a work permit from the department, the condition need not be corrected in connection with the retro-commissioning but may be recommended for examination in connection with the energy audit.

(xi) **Light levels.** A sample set constituting ten percent of the area served by base building lighting systems must be tested to verify that the lighting levels are appropriate for the current facility requirements. The sample set should include areas of different uses. If more than ninety percent of the sample set is found to be within fifteen percent of current facility required lighting levels for a given area, then no further sampling is required for the purposes of the retro-commissioning report. If less than ninety percent of the sample set is found to be within fifteen percent of current facility required lighting levels, then all areas served by the base building lighting system must be tested. Where the

light levels are found to require correction, the condition must be corrected and noted on the retro-commissioning report.

(xii) **Lighting sensors and controls.** A sample set constituting ten percent of the area served by base building lighting systems must be checked to verify that the lighting sensors and controls are functioning properly. The sample set should include areas of different uses. If more than ninety percent of the sample set is found to be served by properly functioning sensors and controls, then no further sampling is required for the purposes of the retro-commissioning report. If less than ninety percent of the sample set is found to be served by deficient sensors and controls, then all areas served by the base building lighting system must be checked to verify that the lighting sensors and controls are functioning properly. Where lighting sensors and controls are found to require correction, the condition must be corrected and noted on the retro-commissioning report.

(xiii) **Domestic hot water heater temperature settings.** All major hot water heaters serving base building systems must be visually checked to verify that the temperature settings are accurate and are appropriate for the current facility requirements. Where a given base building system is served by multiple domestic hot water heaters, a sample set constituting ten percent of such heaters, but in no event fewer than three domestic hot water heaters, must be visually checked to verify that the temperature settings are appropriate. If more than ninety percent of the sample set is found to be appropriate, then no further sampling is required

for the purposes of the retro-commissioning report. If less than ninety percent of the sample set is found to be satisfactory, then all domestic hot water heaters must be visually checked to verify that the temperature settings are appropriate. Where the temperature settings are found to require correction, the condition must be corrected and noted on the retro-commissioning report.

(xiv) **Water pumps.** All water pumps greater than ten horsepower, excluding fire pumps, must be tested to verify that the devices are functioning to meet the current facility requirements. Where a pump is found to require correction, the condition must be corrected and noted on the retro-commissioning report.

(xv) **Water leaks.**

(A) All boilers and roof tanks must be visually checked to verify that they are not leaking water.

(B) For water distribution lines and makeup water lines including steam distribution, a sample set constituting ten percent of the areas where such lines are exposed must be visually checked to verify that no leaks are present. If the entirety of the sample set is found to be without water leaks, then no further sampling is required for the purposes of the retro-commissioning report. If any portion of the sample set is found to be leaking, then all areas where such water lines are exposed must be visually checked.

(C) For plumbing fixtures, such as faucets, toilets, and showerheads, served by base building systems, a sample set constituting ten percent of the fixtures must be visually checked to verify that they are without water leaks. If the entirety of the sample set is found to be without water leaks, then no further sampling is required for the purposes of the retro-commissioning report. If any portion of the sample set is found to be leaking, then all fixtures must be visually checked. All system water leaks identified must be repaired, and the condition must be noted on the retro-commissioning report.

(2) **Cleaning and repair.**

(i) **HVAC equipment.** A visual inspection of all accessible HVAC equipment, including vents, ducts, coils, valves, and soot bins must be visually checked for cleanliness where required for proper operation. If within the scope of the visual inspection the equipment is found to require cleaning, then that equipment must be cleaned, and the condition must be noted on the retro-commissioning report.

(ii) **Filter cleaning and replacement.** A sample set constituting ten percent of filters must be visually checked to verify cleanliness and tested to confirm that the filter is within the manufacturer's recommended pressure drop differential. The retro-commissioning agent must confirm with facility maintenance staff that a replacement protocol is in place for the replacement of filters according to the pressure drop differential or at least as frequently as the manufacturer's

recommendation. Where such protocol is not in place, the lack of protocol must be noted as a deficiency to be corrected, and a satisfactory protocol must be developed in order to correct such deficiency and noted on the retro-commissioning report.

(iii) **Light fixture cleanliness.** A sample set constituting ten percent of the area served by base building lighting systems must be visually checked to verify that light fixtures serving such areas are clean. If more than ninety percent of the sample set is found to be clean, then no further sampling is required for the purposes of the retro-commissioning report. If less than ninety percent of the sample set is found to be clean, then all areas served by the base building lighting system must be visually checked to verify that the lighting fixtures are clean. Lighting fixtures requiring cleaning must be cleaned and the condition must be noted on the retro-commissioning report.

Exception: Cleaning of lighting fixtures throughout a building for the purposes of retro-commissioning is not required where there is regular maintenance of fixtures and the condition of fixtures is such that gains in energy efficiency from extensive cleaning would be minimal.

(iv) **Operating conditions of motors, fans and pumps.** A visual inspection of all motors, fans, or pumps, 5 horsepower and greater, and associated belts, pulleys, and bearings must be performed to determine that such components are in good operating condition. Where any motor, fan, or pump is found to require correction, the condition must be corrected and noted on the retro-commissioning report.

(v) Steam traps.

(A) The retro-commissioning agent must confirm with facility maintenance staff that a protocol is in place for the testing of steam traps and replacement of non-functional steam traps. Where such protocol is not in place, the lack of protocol must be noted as a deficiency to be corrected. A satisfactory protocol must be developed in order to correct such deficiency and noted on the retro-commissioning report.

(B) A sample set constituting ten percent of all steam traps in areas served by base building system must be tested to verify operation. If more than ninety percent of the sample set is found to be functioning properly, then no further sampling is required for the purposes of the retro-commissioning report. If less than ninety percent of the sample set is found to be functioning properly, then all areas served by the base building steam system must be tested to verify that the steam traps are operational. All steam traps found to be functioning improperly must be replaced, repaired or rebuilt, and the condition must be noted on the retro-commissioning report.

(vi) **Manual override remediation.** The retro-commissioning agent must confirm with facility maintenance staff that a protocol for the remediation of the issues causing manual overrides has been developed. Where such protocol is not in place, the lack of protocol must be noted as a deficiency

to be corrected, and a satisfactory protocol must be developed in order to correct such deficiency, and the condition must be noted on the retro-commissioning report.

- (vii) **Boilers tuned for optimal efficiency.** A combustion efficiency test must be conducted for each boiler serving a base building system, and the boiler must be tuned and cleaned to perform at optimal efficiency for the current facility requirements.

However, if the boiler has been tested and tuned within the twelve months prior to the reporting date of the retro-commissioning report, then the records of such tuning must be included in the retro-commissioning report, and no further testing and tuning will be required.

- (viii) **Pipe insulation.** All exposed hot and chilled water and steam pipes three inches in diameter and greater and pipe fittings must be visually checked for insulation. Where any such pipes are found not to be insulated, they must be insulated in accordance with the *New York City Energy Conservation Code* and noted on the retro-commissioning report.

Exception: Insulation with asbestos. Existing insulation with asbestos containing materials found to be in need of replacement or repair shall not be required to be removed or replaced for the purposes of the retro-commissioning report. The condition must be noted on the retro-commissioning report and correction of such condition is not required.

(ix) **Sealants and weather stripping.** A visual inspection must be conducted in a sample set constituting ten percent of all accessible locations to confirm that sealants and weather stripping are installed and in good condition. If any portion of the sample set is found to require correction, then all accessible locations must be visually inspected. Where any sealant or weather stripping is found to require correction, the condition must be corrected and noted on the retro-commissioning report.

Exception: Sealants and weather stripping with asbestos. Sealants and weather stripping with asbestos containing materials shall not be required to be removed or replaced for the purposes of the retro-commissioning report. The condition must be noted on the retro-commissioning report and correction of such condition is not required.

(x) **Training and documentation.** On-site documentation in accordance with §28-308.3(3) of the Administrative Code must be verified and noted on the retro-commissioning report. Verification of training of critical operations and maintenance staff must be noted on the retro-commissioning report.

(g) **Contents of retro-commissioning report.** In accordance with §28-308.3.1 of the Administrative Code, the retro-commissioning agent must prepare and certify a retro-commissioning report that satisfies the requirements of §28-308.3 of the Administrative Code and this rule. Such report must be retained by the owner in accordance with subdivision (j) of this section.

(h) Contents of Energy Efficiency Report. An Energy Efficiency Report in accordance with §28-308.5 of the Administrative Code must be submitted to the department in accordance with §28-308.4 of the Administrative Code on forms prescribed by the department.

(i) Multiple buildings.

(1) Multiple buildings on a lot. Two or more buildings on a lot that constitute a covered building in accordance with §28-308.1 of the Administrative Code are subject to an energy audit and retro-commissioning of base building systems as follows:

(i) Multiple buildings on a covered lot that are equipped with base building systems that are wholly separate from each other are subject to the requirements for an EER for each individual building.

(ii) Multiple buildings on a covered lot that share base building systems are subject to the requirements for an EER for each grouping of buildings that share base building systems.

(2) Multiple buildings on multiple tax lots that share systems. Two or more buildings on more than one tax lot that share base building systems are subject to the requirements for an EER for each grouping of buildings that share base building systems.

(3) Buildings on different blocks with shared base building systems. Two or more buildings on separate blocks that constitute a covered building in accordance with §28-308.1 of the Administrative Code are subject to the requirements for an EER for each grouping of buildings that share base building systems. The due date for the EER will be in the calendar year with a final digit

that is the same as the last digit of the block number that is highest or with respect to a city building as defined in §28-308.1 of the Administrative Code in accordance with the schedule of the Department of Citywide Administrative Services.

(j) Record retention. Owners of covered buildings as defined in § 28-308.1 of the Administrative Code must maintain the Energy Audit Report required by §28-308.2.1 of the Administrative Code and the Retro-commissioning Report required by §28-308.3.1 of the Administrative Code as proof of energy audits and retro-commissioning as required in Article 308. Such records must be retained for eleven years from the required submission date and must be made available to the department upon request.

(k) Fees. Owners of covered buildings must pay a filing fee as provided in §101-03 of these rules.

(l) Extension of time to file report.

(1) An owner may apply for an extension of time to file an energy efficiency report if, despite good faith efforts, the owner is unable to complete the required energy audit and retro-commissioning prior to the due date of the report, for reasons other than financial hardship of the building. The application must be on a form provided by the department and must be filed by October 1 of the year in which the report is due.

(2) An owner may apply for annual extensions of time to file an energy efficiency report based on the financial hardship of the building. The application must be on a form provided by the department and must be filed by October 1 of the year in which the report is due and by October 1 of every subsequent year for which an extension is requested.

(m) Violation and penalty. Failure to submit an EER is a Major (Class 2) violation which may result in a penalty of \$3,000 in the first year and \$5,000 for each additional year until the EER is submitted to the department. The department will not accept any outstanding EER submission if outstanding penalties are not paid in full.

(n) Challenge to violations.

(1) An owner may challenge a violation issued pursuant to this section by providing:

(i) proof from the Department of Finance that the building in question is not a “covered building” as defined in section 28-308.1 of the Administrative Code; or

(ii) proof of early compliance with the filing requirements pursuant to section 28-308.7 of the Administrative Code; or

(iii) proof that the building is less than ten years old at the start of its first assigned calendar year; or

(iv) proof that the base building systems underwent substantial rehabilitation within the preceding ten years; or

(v) proof that the owner was granted an extension of time to file the report.

(2) Such challenge must be made in writing on a form provided by the Department within thirty days from the postmark date of the violation served by the Department.

§2. Subdivision (j) of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, a new entry relating to Section 28-308.4 of the New York City Administrative Code as follows:

Section of Law	Classification	Violation Description
<u>28-308.4</u>	<u>Class 2</u>	<u>Failure to file an energy efficiency report in accordance with section 28-308.4 or 28-308.7</u>

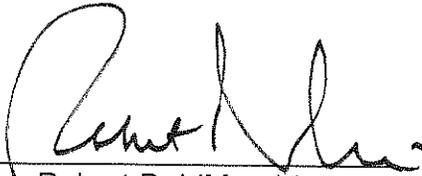
This amendment has an effective date of 07-18-12.

NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the amendments to section 102-01 of subchapter B of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding classification of violations for concrete washout water and unsafe façades.

This rule was first published on May 2, 2012 and a public hearing thereon was held on June 1, 2012.

Dated: June 11, 2012
New York, New York



Robert D. LiMandri
Commissioner

STATEMENT OF BASIS AND PURPOSE

The rule amendments are pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter and Article 302 of the Administrative Code.

The amendments:

- Change the title of the section to reflect new classifications of violations.
- Add a new charge for violation of Local Law 70 of 2011 governing concrete washout water, which will take effect on July 1, 2012. This local law regulates wastewater generated from the rinsing of equipment used to mix, transport, convey, and/or place concrete. The failure to perform proper concrete washout procedures would damage the City's environment, sewers and drains.
- Add a new charge when a registered design professional fails to immediately notify the Department when there is an unsafe condition in a façade. When the Department is not immediately notified, the unsafe conditions may present a risk to public safety. The amendment would classify this charge as an Immediately Hazardous (Class 1) violation.
- Add a new charge for failure to secure public safety when there is an unsafe condition in a façade. When unsafe conditions are reported by the registered design professional to the Department and the owner, the owner must take immediate steps to remedy the conditions and take required measures to protect the public from the unsafe conditions. The Department believes that the lack of these safety measures presents an immediate danger to the public. Therefore, the amendment would classify this charge as an Immediately Hazardous (Class 1).
- Add a new charge for removal of public protection from unsafe façade without approval from the Department. Where required safety measures are already in place for unsafe façades, Department rules require Department permission before removing the protection to ensure public safety.

“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.

New matter underlined; deleted matter is [in brackets].

Section 1. The title of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

§102-01 Violation [reclassification] classification and certification of correction.

§2. Subdivision (j) of section 102-01 is amended by adding, in numerical order, new entries relating to Sections 28-302.3 and 28-302.5 of the New York City Administrative Code and BC 3303.15 of the New York City Building Code, as follows:

Section of Law	Classification	Violation Description
<u>BC 3303.15</u>	<u>Class 2</u>	<u>Failure to perform proper concrete washout water procedures</u>
<u>28-302.3</u>	<u>Class 1</u>	<u>Failure to immediately notify the department of unsafe façade condition(s)</u>
<u>28-302.5</u>	<u>Class 1</u>	<u>Failure to take required measures to secure public safety – unsafe façade</u>
<u>1 RCNY 103-04(b)(5)(iii)</u>	<u>Class 2</u>	<u>Removal of public protection from unsafe façade without approval from the department</u>

This rule has an effective date of 02-12-12.

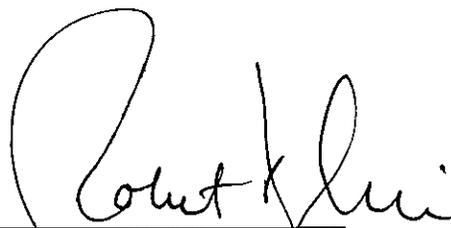
NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the amendment to Section 102-01 of subchapter B or Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding the classification of violations under the New York City Electrical Code, Chapter 3 of Title 27 of the New York City Administrative Code.

This rule was first published on October 26, 2011 and a public hearing thereon was held on December 1, 2011.

Dated: January 5, 2012

New York, New York



Robert D. LiMandri
Commissioner

STATEMENT OF BASIS AND PURPOSE

Statutory Authority

The following rule amendments are adopted pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter.

Pursuant to Local Law 39 of 2011, under Section 27-3021.2 of the New York City Administrative Code ("Administrative Code"), the Department may use any enforcement actions available to it under Chapter 2 of Title 28 of the Administrative Code for violations of the provisions of the New York City Electrical Code (Chapter 3 of Title 27 of the Administrative Code). The portion of Local Law 39 of 2011 amending Section 27-3021.2 will become effective March 1, 2012.

The Rule

The rule amendments create violations for 35 different types of common Electrical Code conditions that Department of Building inspectors find in the field. These violations will discourage illegal work and provide incentives to electricians and others in the industry to comply with the standards and requirements of the Electrical Code. Currently Department of Building inspectors can only note that a condition must be corrected but cannot issue a violation to compel correction. This rule will also bring the electrical trade in line with the plumbing, mechanical, and construction trades which are all currently subject to violations.

The Department assigned a classification to each violation based on its seriousness. Under subsection (b) of the Rule the classifications are:

- (1) Immediately Hazardous Violation (Class 1):** Where the condition poses an immediately hazardous threat that severely affects life, health, safety, property, or the public interest, so as to warrant immediate corrective action.
- (2) Major Violation (Class 2):** Where the condition poses a threat that affects life, health, safety, property, or the public interest but does not warrant immediate corrective action.
- (3) Lesser Violation (Class 3):** Where the condition is neither an immediately hazardous nor a major violation.

Where there is more than one severity classification for the same charge, the issuing officer will determine which severity level to charge based on the condition observed.

Specifically, the amendments:

- Reference the Electrical Code and its provisions for the purposes of issuing ECB violations. The Electrical Code is contained in Chapter 3 of Title 27 of the NYC Administrative Code.

The administrative infractions are listed under their respective Administrative Code Section, 27-3XXX.

- Create a new subdivision of technical infractions

The technical infractions are listed under a new subdivision of “EC” infractions. In 2001, the Department first adopted the National Fire Protection Association’s NFPA 70 National Electrical Code (also known as the “National Electrical Code”) and then created NYC-specific amendments. Section 27-3025 of the NYC Administrative Code (also known as the “New York City amendments to the National Electrical Code”), together with the National Electrical Code, are also known as the “Electrical Code Technical Standards.”

- Create classifications and descriptions for the more common violations of the Electrical Code.

Section 1. Paragraph (2) of subdivision (i) of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York is amended and a new paragraph (8) is added, to read as follows:

(2) Chapter 1 of Title 27 of the NYC Administrative Code (also known as the “1968 Building Code”) and Chapter 3 of the same (also known as the “Electrical Code”). References to these chapters of title 27 of the NYC Administrative Code begin with “27-“ (for example, “27-371”). The citation “27-Misc.” refers to provisions of Title 27 that are not specifically designated elsewhere in the table.

(8) Electrical Code Technical Standards. References to sections of the National Fire Protection Association NFPA 70 National Electrical Code as adopted and/or amended by New York City begin with “EC” (for example, “EC 250.14”). The citation “EC-Misc” refers to provisions of the Electrical Code Technical Standards that are not specifically designated elsewhere in the table.

§ 2. Subdivision (j) of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, new entries relating to the NYC Electrical Code, as follows:

Section of Law	Classification	Violation Description
<u>27-3017</u>	<u>Class 1</u>	<u>Performed unlicensed electrical work.</u>

<u>27-3018(b)</u>	<u>Class 1</u>	<u>Electrical work without a permit.</u>
<u>27-3018(b)</u>	<u>Class 2</u>	<u>Electrical work without a permit.</u>
<u>27-3018(b)</u>	<u>Class 3</u>	<u>Electrical work without a permit.</u>
<u>27-3018(b)</u>	<u>Class 3</u>	<u>Failure to conspicuously post electrical work permit while work is in progress.</u>
<u>27-3018(b)</u>	<u>Class 1</u>	<u>Electrical work does not conform to approved submittal documents/amendments.</u>
<u>27-3018(b)</u>	<u>Class 2</u>	<u>Electrical work does not conform to approved submittal documents/amendments.</u>
<u>27-3018(b)</u>	<u>Class 3</u>	<u>Electrical work does not conform to approved submittal documents/amendments.</u>
<u>27-3018(i)</u>	<u>Class 2</u>	<u>Installed more than the authorized number of electric meters.</u>
<u>EC-Misc</u>	<u>Class 1</u>	<u>Miscellaneous violation of the Electrical Code Technical Standards.</u>
<u>EC-Misc</u>	<u>Class 2</u>	<u>Miscellaneous violation of the Electrical Code Technical Standards.</u>
<u>EC-Misc</u>	<u>Class 3</u>	<u>Miscellaneous violation of the Electrical Code Technical Standards.</u>
<u>EC 110.12</u>	<u>Class 3</u>	<u>Failure to close unused openings (knockouts) in outlet/panel box.</u>
<u>EC 110.14(A)</u>	<u>Class 2</u>	<u>Failure to properly connect conductors to terminals</u>
<u>EC 110.2(A)</u>	<u>Class 1</u>	<u>Unapproved/unsafe/unsuitable electrical equipment, apparatus, materials, devices, appliances or wiring in use</u>
<u>EC 110.2(A)</u>	<u>Class 2</u>	<u>Unapproved/unsafe/unsuitable electrical equipment, apparatus, materials, devices, appliances or wiring in use</u>
<u>EC 110.2(B)</u>	<u>Class 2</u>	<u>Constructed electrical installation without required commissioner's approval per section.</u>
<u>EC 110.2</u>	<u>Class 2</u>	<u>Failure to use approved conductors and/or equipment.</u>
<u>EC 110.2</u>	<u>Class 3</u>	<u>Failure to use approved conductors</u>

		<u>and/or equipment.</u>
<u>EC 110.25</u>	<u>Class 1</u>	<u>Electrical closet not dedicated to electrical distribution equipment only.</u>
<u>EC 110.25</u>	<u>Class 2</u>	<u>Electrical closet not dedicated to electrical distribution equipment only.</u>
<u>EC 110.25</u>	<u>Class 3</u>	<u>Electrical closet not dedicated to electrical distribution equipment only.</u>
<u>EC 110.26</u>	<u>Class 2</u>	<u>Failure to provide/maintain sufficient access/work space about electrical equipment.</u>
<u>EC 210.12(B)</u>	<u>Class 2</u>	<u>Failure to provide Arc-fault circuit interrupter (AFCI) protection in dwelling units.</u>
<u>EC 210.52(A)</u>	<u>Class 3</u>	<u>Failure to provide proper spacing between receptacle outlets.</u>
<u>EC 210.8</u>	<u>Class 2</u>	<u>Failure to install Ground-fault circuit interrupter (GFCI) protection as required.</u>
<u>EC 230.72(A)</u>	<u>Class 1</u>	<u>Failure to properly group/label disconnects.</u>
<u>EC 230.72(A)</u>	<u>Class 2</u>	<u>Failure to properly group/label disconnects.</u>
<u>EC 240.3</u>	<u>Class 1</u>	<u>Failure to provide adequate circuit overcurrent protection device per table</u>
<u>EC 240.3</u>	<u>Class 2</u>	<u>Failure to provide adequate circuit overcurrent protection device per table</u>
<u>EC 240.3</u>	<u>Class 3</u>	<u>Failure to provide adequate circuit overcurrent protection device per table</u>
<u>EC 240.4</u>	<u>Class 1</u>	<u>Failure to protect conductor(s) against overcurrent per EC.</u>
<u>EC 240.4</u>	<u>Class 2</u>	<u>Failure to protect conductor(s) against overcurrent per EC.</u>
<u>EC 240.21</u>	<u>Class 2</u>	<u>Tap conductors not in compliance with section.</u>
<u>EC 250.4</u>	<u>Class 1</u>	<u>Failure to ground electrical systems</u>
<u>EC 250.4</u>	<u>Class 1</u>	<u>Failure to properly bond electrical systems.</u>
<u>EC 250.4</u>	<u>Class 2</u>	<u>Failure to properly bond electrical systems.</u>
<u>EC 250.4</u>	<u>Class 3</u>	<u>Failure to properly bond electrical systems</u>
<u>EC 250.4</u>	<u>Class 2</u>	<u>Failure to provide adequate grounding of electrical systems.</u>
<u>EC 250.64</u>	<u>Class 1</u>	<u>Failure to install grounding electrode conductor in accordance with section.</u>
<u>EC 300.10</u>	<u>Class 2</u>	<u>Fail to provide effective electrical</u>

		<u>continuity for metal raceways/enclosures/cable armor.</u>
<u>EC 300.11</u>	<u>Class 2</u>	<u>Failure to secure/support raceways/cable assemblies/boxes/cabinets/fittings.</u>
<u>EC 314.23</u>	<u>Class 3</u>	<u>Failure to secure electrical device enclosure per section requirement</u>
<u>EC 314.25</u>	<u>Class 2</u>	<u>Failure to provide cover/faceplate/lampholder/luminaire canopy for electrical outlet.</u>
<u>EC 358.12</u>	<u>Class 2</u>	<u>Prohibited use of electrical metallic tubing (EMT).</u>
<u>EC 358.30</u>	<u>Class 2</u>	<u>Failure to properly secure/support electrical metallic tubing (EMT)</u>
<u>EC 408.4</u>	<u>Class 3</u>	<u>Failure to provide required circuit directory/identification.</u>
<u>EC 410.30</u>	<u>Class 2</u>	<u>Luminaires and Lampholders not installed in an approved manner.</u>
<u>EC 590.4(G)</u>	<u>Class 2</u>	<u>Improper splicing of temporary wiring</u>
<u>EC 590.4(J)</u>	<u>Class 1</u>	<u>Failure to provide proper support for temporary wiring.</u>
<u>EC 590.4(J)</u>	<u>Class 1</u>	<u>Failure to protect temporary wiring from improper contact per section.</u>

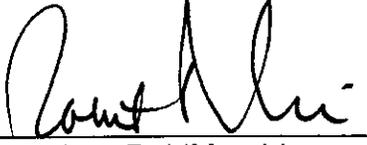
This rule has an effective date of 12-10-11.

NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the amendment to subdivision j of section 102-01 of subchapter B of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding classification of violations for expired permits.

This rule was first published on September 16, 2011 and a public hearing thereon was held on October 19, 2011.

Dated: 11/2/11
New York, New York



Robert D. LiMandri
Commissioner

STATEMENT OF BASIS AND PURPOSE

These rule amendments are pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter.

The amendments:

- Delete the charge relating to expired permits. Whenever construction work is found to be ongoing and the permit has expired, the appropriate charge is a violation of §28-105.1 for “work without a permit.” Since this charge already exists in this rule, the proposed amendment to delete “work without a permit: expired permit” will remove an inaccurate violation description.
- Add a new charge for temporary construction equipment (e.g., fence, sidewalk shed, scaffold, temporary railing, catch platform) with an expired work permit. This charge will be used if the equipment is found to be at a work site and the permit has expired. This type of violation had previously been charged as work “without a permit - expired permit.” However, this new charge would be a more accurate way to enforce the requirement that an active permit must be maintained for temporary construction equipment during the entire time that the equipment remains at a work site.

Subdivision (j) of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York is amended by deleting one classification and adding, in numerical order, a new entry relating to Section BC 105.8.2 of the New York City Building Code, as follows:

Section of Law	Classification	Violation Description
[28-105.1]	[Class 2]	[Work without a permit: Expired permit.]
<u>BC 105.8.2</u>	<u>Class 2</u>	<u>Temporary Construction Equipment on Site – Expired Permit.</u>

This amendment has an effective date of 10-28-10.

NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the amendments to section 102-01 of subchapter B of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding violation reclassification.

This rule was first published on August 12, 2010 and a public hearing thereon was held on September 14, 2010.

Dated: 9/16/10
New York, New York



Robert D. LiMandri
Commissioner

Subdivision (j) of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, new entries relating to Section 28-105.1 of the New York City Administrative Code as follows:

Section of Law	Classification	Violation Description
<u>28-105.1</u>	<u>Class 1</u>	<u>Work After Hours Without a Variance Permit contrary to 28-105.12.5.</u>
<u>28-105.1</u>	<u>Class 2</u>	<u>Work After Hours Without a Variance Permit contrary to 28-105.12.5</u>

Statement of Basis and Purpose

The foregoing rule amendments are promulgated pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter. The amendment to subdivision (j) of Section 102-01 of the Department’s rules relating to working after hours without a After Hours Work Variance permit is being made so that the Department may effectively enforce compliance with the noise control code, specifically Sections 24-222 and 24-223 of the New York City Administrative Code. Such violations, more often than not, are a nuisance to quality of life throughout the City. In addition, such work often seeks to evade regular monitoring efforts of the Department and other enforcement agencies, thereby posing varying degrees of threat to life, health, safety and the public interest.

This amendment has an effective date of 10-18-10.

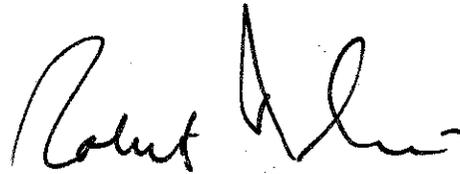
NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the amendments to section 102-01 of subchapter B of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding violation reclassification.

This rule was first published on July 26, 2010 and a public hearing thereon was held on August 26, 2010.

Dated: _____

9/9/10
New York, New York



Robert D. LiMandri
Commissioner

Section 1. Subdivision (j) of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York is amended by moving the entry for ZR 42-543 from between the entries for RS 6-1 and ZR 22-00 to immediately following the entry for ZR 42-53.

§2. Subdivision (j) of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new entry for section ZR 11-62 of the New York City Zoning Resolution immediately following the entry for RS 6-1 and immediately preceding the entry for ZR 22-00, and by adding a new entry for miscellaneous sections of the Zoning Resolution at the end of the table, as follows:

Section of Law	Classification	Violation Description
<u>ZR 11-62</u>	<u>Class 2</u>	<u>Violation of discretionary Zoning conditions on privately owned public space.</u>
<u>Misc ZR</u>	<u>Class 2</u>	<u>Misc. violation of condition on as of right privately owned public space.</u>

Statement of Basis and Purpose

The foregoing rule amendments are promulgated pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter. The amendment to subdivision (j) of Section 102-01 of the Department’s rules addresses compliance with the NYC Zoning Resolution as it relates to Privately Owned Public Spaces (POPS). The Department of City Planning (DCP) authorizes the creation of POPS in exchange for additional floor area in certain buildings within the City’s high-density commercial and residential districts. These areas typically contain some visual and functional amenities for the public use and enjoyment, and are designed to provide additional light, air, green space and breathing room in the densest areas of the City. Tougher enforcement of these provisions is being sought to protect the public’s right to these areas.

In addition, reference to ZR 42-543 is being relocated to keep the table in numerical order.

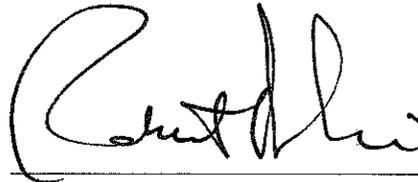
This amendment has an effective date of 06-28-10.

NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the amendments to section 102-01 of subchapter B of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding violation reclassification.

This rule was first published on April 8, 2010 and a public hearing thereon was held on May 11, 2010.

Dated: 5-19-10
New York, New York



Robert D. LiMandri
Commissioner

Section 1. Subparagraph (i) of paragraph (2) of subdivision (f) of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(2) Aggravated penalties of the second order. Aggravated penalties of the second order (“Agg. II”) shall be imposed in the following instances:

(i) When the respondent or defendant is found in violation of any law or rule enforced by the Department where the violation of law is accompanied by or results in an accident, or poses a substantial risk thereof; is accompanied by, or results in a fatality or serious injury, or poses a substantial risk thereof; or where the violating condition affects a significant number of people; or

§2. Subdivision (j) of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, new entries relating to Sections 5-02 and 101-07 of Title 1 of the Rules of the City of New York, Section 28-406.1 of the New York City Administrative Code, and New York City Building Code Sections 903.6, 905.11, 1704.4, and 1905.6.3.2, as follows:

Section of Law	Classification	Violation Description
<u>1 RCNY 5-02</u>	<u>Class 2</u>	<u>Failure to meet the requirements of licensing/identification/qualification as required by 1 RCNY 5-02.</u>
<u>1 RCNY 101-07</u>	<u>Class 2</u>	<u>Failure of approved agency to comply with requirements of 1 RCNY 101-07.</u>
<u>28-406.1</u>	<u>Class 1</u>	<u>Unlicensed concrete testing activity.</u>
<u>BC 1704.4</u>	<u>Class 2</u>	<u>Failure to perform special inspections and verifications for concrete construction as required by section and Table 1704.4.</u>
<u>BC 1905.6.3.2</u>	<u>Class 2</u>	<u>Failure to comply with ASTM C31 standards for concrete cylinder test samples.</u>

Section of Law	Classification	Violation Description
<u>BC 903.6</u>	<u>Class 2</u>	<u>Failure to paint dedicated sprinkler piping/valves in accordance with section.</u>
<u>BC 903.6</u>	<u>Class 2</u>	<u>Failure to provide/maintain painting certification of sprinkler and combination sprinkler/standpipe systems in accordance with section.</u>
<u>BC 905.11</u>	<u>Class 2</u>	<u>Failure to paint dedicated standpipe/valves in accordance with section.</u>
<u>BC 905.11</u>	<u>Class 2</u>	<u>Failure to provide/maintain painting certification of standpipe and combination sprinkler/standpipe systems in accordance with section.</u>

Statement of Basis and Purpose

The foregoing rule amendments are promulgated pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter. The Department is amending the definition of an Aggravated II condition found in Subparagraph (i) of paragraph (2) of subdivision (f) of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York. The intent of this amendment is to include in the Aggravated II definition conditions that pose significant potential risks of serious injuries or fatalities but may not have resulted in such serious injuries or fatalities.

The amendment to subdivision (j) of Section 102-01 of the Department's rules relating to concrete testing results from the Department's intent to better enforce the law and rules related to the monitoring of concrete operations within the City of New York. Recently, serious allegations of inappropriate conduct against concrete testing laboratories have resulted in criminal convictions. The Department is increasing its oversight of these companies and their operations throughout the City.

The amendments to subdivision (j) of Section 102-01 of the Department's rules regarding painting of standpipes and sprinklers result from the enactment of Local Law 58 of 2009 which became effective on March 2, 2010.

Local Law 58 amends the Building Code by adding new sections 903.6, which governs the painting of dedicated sprinkler piping and requires that such painting be certified as completed in accordance with the law, and 905.11, which governs the painting of dedicated standpipe and handles of valves, and requires that such painting be certified as completed in accordance with the law.

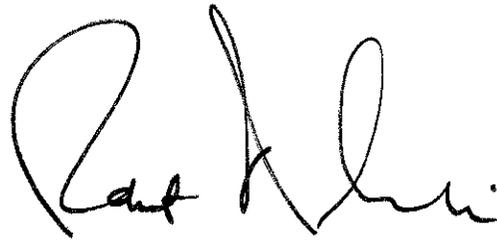
This amendment has an effective date of 05-30-10.

NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the amendments to section 102-01 of subchapter B of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding violation reclassification.

This rule was first published on March 9, 2010 and a public hearing thereon was held on April 12, 2010.

Dated: 4/20/2010
New York, New York



Robert D. LiMandri
Commissioner

Subdivision (j) of Section 102-01 of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, new entries relating to New York City Building Code Sections 1704.21, 1704.22 and 3303.8 to read as follows:

Section 1

Section of Law	Classification	Violation Description
<u>BC 1704.21.1</u>	<u>Class 1</u>	<u>Failure to perform successful hydrostatic pressure test of sprinkler system.</u>

Section of Law	Classification	Violation Description
<u>BC 1704.22.1</u>	<u>Class 1</u>	<u>Failure to perform successful hydrostatic pressure test of standpipe system.</u>

Section 2

Section of Law	Classification	Violation Description
<u>BC 3303.8.1</u>	<u>Class 1</u>	<u>Failure to provide air pressurized alarm system for standpipe system during construction or demolition operation.</u>

Section of Law	Classification	Violation Description
<u>BC 3303.8.1</u>	<u>Class 1</u>	<u>Failure to conduct proper planned removal from service of standpipe system and/or standpipe air pressurized alarm.</u>

Statement of Basis and Purpose

The foregoing rule amendment is promulgated pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter. In accordance with the below, the Department is adding these new infractions to Subdivision (j) of 1 RCNY 102-01 and the Department's Penalty Schedule in order to adequately and effectively enforce the applicable local laws.

Section 1

The amendment to Section 102-01 of the Department's rules results from the enactment of Local Law 63 of 2009, which took effect on February 4th, 2010, and amended BC 1704.21 and 1704.22. The local law requires successful hydrostatic pressure testing of new and altered sprinkler and standpipe systems for buildings. Hydrostatic pressure tests will help ensure the integrity of these systems during construction or demolition operations.

Section 2

The amendments to Section 102-01 of the Department's rules result from the enactment of Local Law 64 of 2009 which took effect on February 4th, 2010, and amended BC 3303.8 by adding a new section BC 3303.8.1 requiring air pressurized alarm systems for dry standpipe systems during construction and demolition operations. An air pressurized alarm system will quickly alert workers, authorities and emergency responders whenever there is a compromise of the standpipe system.

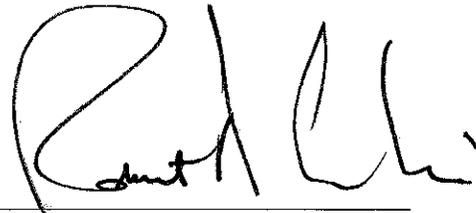
This amendment has an effective date of 03-14-10.

NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the amendments to section 102-01 of subchapter B of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding violation reclassification.

This rule was first published on December 28, 2009 and a public hearing thereon was held on February 1, 2010.

Dated: 2/4/10
New York, New York


Robert D. LiMandri
Commissioner

Subdivision (j) of Section 102-01 of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, new entries relating to New York City Administrative Code Section 28-116.1 and Building Code Section 3303.7.3 to read as follows:

Section 1

Section of Law	Classification	Violation Description
<u>28-116.1</u>	<u>Class 2</u>	<u>Failure of permit holder to provide inspection access to and/or expose ongoing construction or work on an active and permitted worksite.</u>

Section 2

Section of Law	Classification	Violation Description
<u>BC 3303.7.3</u>	<u>Class 1</u>	<u>Smoking at construction/demolition site.</u>

Section of Law	Classification	Violation Description
<u>BC 3303.7.3</u>	<u>Class 2</u>	<u>Smoking at construction/demolition site.</u>

Section of Law	Classification	Violation Description
<u>BC 3303.7.3</u>	<u>Class 2</u>	<u>Failure to post No Smoking signs at construction/demolition sites per Fire Code.</u>

Statement of Basis and Purpose

The foregoing rule amendment is proposed pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter. In accordance with the below, the Department proposes to add these new infractions to Subdivision (j) of 1 RCNY 102-01 and the Department's Penalty Schedule in order to adequately and effectively enforce the related laws.

Section 1

The amendment to Section 102-01 of the Department's rules results from the inadequacy and/or omission of penalties that exist where Department inspectors are denied access to observe ongoing work at active construction sites. Without penalties specific to the provision, Section 116.1 of Title 28 cannot be effectively enforced.

Department inspectors are often denied access to ongoing work at construction sites during random visits designed to ensure that work is being performed in accordance with the code and within the scope of the permit. These denials of access often go without penalty, potentially conceal illegal work and often require subsequent follow-up inspections or other enforcement mechanism, such as a Stop Work Order, in order to compel an inspection.

The intent of the new infraction is to create a disincentive to a permit holder's denial of access to Department inspections of ongoing work on an active permit.

Section 2

The amendments to Section 102-01 of the Department's rules result from the enactment of Local Law 36 of 2009 which was enacted on June 29, 2009 and became effective on August 28, 2009.

Local Law 36 of 2009, which prohibits smoking at construction sites, amends BC Section 3303 of the New York City Building Code by adding a new section BC 3303.7.3, prohibiting smoking at all construction and demolition sites, and requires "No Smoking" signs to be posted in accordance with the provisions of Section 310 of the New York City Fire Code and any rules promulgated thereunder.

It is well established that construction and demolition sites are dangerous places where flammables and combustible materials and substances are often stored and used. Over the years, smoking has been identified as the root cause of many construction fires. The Department's intention is to make a clear statement to the construction industry that smoking is dangerous and intolerable at construction and demolition sites.

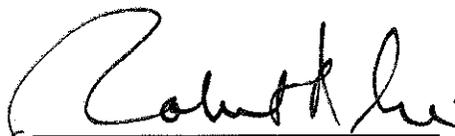
In furtherance of the many outreach and enforcement efforts which have been ongoing at these sites throughout the City over the past, the Department is adding three new infractions to the Penalty Schedule. Such violations will be issued to the general contractor, subcontractor or permit holder in charge and control of the construction or demolition site.

NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter and Sections 28-201.2, 28-202.1, and 28-204.2 of the New York City Administrative Code, that the Department of Buildings hereby amends Subchapter B and Section 102-01 of Chapter 100 of Title 1 of the Rules of the City of New York, relating to the classification of violations, establishment of daily and monthly penalties for certain of those violations, and processes for certifying their correction before the Department.

This rule was first published on July 8, 2009 and a public hearing thereon was held on August 10, 2009.

Dated: 12/8/09
New York, New York


Robert D. LiMandri
Commissioner

Section 1. Subparagraph (i) of paragraph (2) of subdivision (f) of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(2) Aggravated penalties of the second order. Aggravated penalties of the second order (“Agg. II”) shall be imposed in the following instances:

- (i) When the respondent or defendant is found in violation of any law or rule enforced by the Department where the violation of law is accompanied by or results in an accident, or poses a substantial risk thereof; is accompanied by, or results in a fatality or serious injury; or where the violating condition affects a significant number of people; or

Section 2. Subdivision (j) of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, new entries relating to Administrative Code secs. 28-502.2, 28-502.2.1, 28-502.2.2, 28-502.5 and 1 RCNY 49-03, to read as follows:

Section of Law	Classification	Violation Description
<u>28-502.2</u>	<u>Class 1</u>	<u>Outdoor Advertising Company engaged in outdoor advertising business without a valid registration.</u>

Section of Law	Classification	Violation Description
<u>28-502.2.1</u>	<u>Class 1</u>	<u>Outdoor Advertising Company failed to submit complete/accurate information as prescribed in 1 RCNY Chapter 49</u>

Section of Law	Classification	Violation Description
<u>28-502.2.2</u>	<u>Class 1</u>	<u>Outdoor Advertising Company failed to post, renew or replenish bond or other form of security.</u>

Section of Law	Classification	Violation Description
<u>28-502.5</u>	<u>Class 1</u>	<u>Outdoor Advertising Company failed to post required information at sign location</u>

Section of Law	Classification	Violation Description
<u>1 RCNY 49-03</u>	<u>Class 1</u>	<u>Outdoor Advertising</u>

		<u>Company failed to comply with Commissioner’s sign-related Order.</u>
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Section 3. Subdivision (j) of section 102-01 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, new entries relating to Administrative Code secs. 28-415.1 and 28-105.12.1, Misc – ZR and Misc – Title 28, to read as follows:

Section of Law	Classification	Violation Description
<u>28-415.1</u>	<u>Class 1</u>	<u>Hoisting, lowering, hanging, or attaching of outdoor sign not performed or supervised by a properly licensed sign hanger</u>

Section of Law	Classification	Violation Description
<u>28-105.12.1</u>	<u>Class 2</u>	<u>Outdoor sign permit application contrary to Code and ZR requirements</u>

Section of Law	Classification	Violation Description
<u>Misc – ZR</u> <u>Misc – Title 28</u>	<u>Class 1</u>	<u>Misc outdoor sign violation of ZR and/or Building Code</u>

Section of Law	Classification	Violation Description
<u>Misc – ZR</u> <u>Misc – Title 28</u>	<u>Class 2</u>	<u>Misc outdoor sign violation of ZR and/or Building Code</u>

Statement of Basis and Purpose of Rule

The amendments to Section 102-01 of the Department's rules derive from two sources: (1) Department determination of modifications required in light of several months of enforcement of the new codes in relation to the classification of Aggravated penalties of the second order; (2); additional infractions needed for registration of Outdoor Advertising Companies. Specific explanations follow:

Section 1. This section amends the definition of an Aggravated II condition. Currently, an Aggravated II condition is defined when the Respondent is "found in violation of any law or rule enforced by the Department where the violation is accompanied by or results in a fatality or serious injury or where the violating condition affects a significant number of people;". The intent of this amendment is to include in the Aggravated II definition, conditions that pose significant potential risks of accidents, serious injuries or fatalities but may not have resulted in such accidents, serious injuries or fatalities.

Section 2. This section adds as infractions various violations regarding Outdoor Advertising Companies (OAC) as defined in Article 502 of Section 28 of the New York City Administrative Code and in Title 1 RCNY §49.

Because of litigation brought by plaintiff OAC's that has recently been dismissed, enforcement against arterial signs and illuminated panel signs was stayed for over 2 years. Assuming no further action is taken by the plaintiffs, the scope of signs subject to Buildings Department enforcement will increase dramatically. Complete OAC registration and sign inventories will now be submitted to the Department of Buildings for review and OACs will be required to identify every sign they operate throughout the City. This section reflects the most common violations anticipated to be issued as a result of the dismissal of the federal lawsuits and lifting of the stay of enforcement.

This section adds three infractions for violations of various subsections associated with §28-502.2 relate to the failure to register, provide the prescribed registration information and the appropriate security. This section's proposal to add an infraction for violation of §28-502.5 relates to the requirements on the sign itself, and the 1 RCNY 49-03 infraction is needed to ensure that Commissioner's orders specifically related to signs (for removal, etc) are followed.

Section 3. This section adds as infractions various violations regarding sign hangers as defined in Article 415 of Section 28 of the New York City Administrative Code and in other applicable sections of the Administrative Code and New York City Zoning Resolution.

The Department of Buildings has been observing the erection of illegal signage more than ever. At times, the sign hangers are licensed by the Department, but often they are unlicensed. The §28-415.1 entry contains an infraction code to be issued to (1) an unlicensed sign hanger or (2) to a sign hanger who exceeds his/her license classification

(master sign hangers may hang any size sign, however, special sign hangers may only attach a signs not exceeding 150 square feet or 1200 lbs). The Miscellaneous infraction codes will apply to licensed sign hangers who install illegal signage. The penalty levels are intended to counter income generated from these illegal signs.

It has further come to the Department's attention that special sign hangers are filing permit applications for signs that exceed their classification. In such instances, they either illegally sub-contract the work to someone else, or install the sign without regard to their classification. In addition, the Department has become aware of the "rubber stamping" of several sign permit applications. The typical case involves the submission of an application by a sign hanger, but in reality, that applicant is not involved with the sign hanging at all, someone is merely using his/her name and license number and outsourcing the work to a cheaper, unlicensed sign hanger instead. The §28-105.12.1 entry contains infraction codes for permit applicants who file out of their class of sign hanger license or install signs in the wrong zoning district, on the wrong type of façade, or engage in rubber stamping.

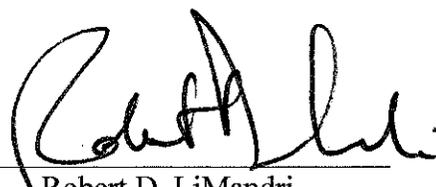
This rule has an effective date of 01-11-10.

NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the amendments to section 102-01 of subchapter B of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding violation reclassification.

This rule was first published on October 21, 2009 and a public hearing thereon was held on November 23, 2009.

Dated: 12-2-2009
New York, New York



Robert D. LiMandri
Commissioner

Subdivision (j) of Section 102-01 of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, new entries relating to New York City Administrative Code Sections 28-504.3, 28-504.3(2), 28-504.6, and 28-504.7, to read as follows:

Section of Law	Classification	Violation Description
<u>28-504.3</u>	<u>Class 2</u>	<u>Failure to complete/implement/amend bicycle access plan or provide request for exception.</u>

Section of Law	Classification	Violation Description
<u>28-504.3(2)</u>	<u>Class 2</u>	<u>Failure to implement the terms and conditions of bicycle access plan/letter of exception as prescribed in 34 RCNY 2-19.</u>

Section of Law	Classification	Violation Description
<u>28-504.6</u>	<u>Class 2</u>	<u>Failure to post a bicycle access plan/letter of exception/notice of availability of plan/letter.</u>

Section of Law	Classification	Violation Description
<u>28-504.7</u>	<u>Class 2</u>	<u>Failure to timely file bicycle access plan or amendment with DOT as prescribed in 34 RCNY 2-19.</u>

Statement of Basis and Purpose

The foregoing rule amendment is promulgated pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter.

The proposed amendments to Section 102-01 of the Department's rules result from the enactment of Local Law 52 of 2009, which was signed into law on August 13, 2009 and takes effect on December 11, 2009.

Local Law 52 amends Chapter 5 of Title 28 of the New York City Administrative Code by adding a new Article 504 relating to bicycle access in office buildings. The new Article 504 applies to buildings, "the main occupancy of which is offices, that (i) are in existence on the effective date of this article, or for which a permit has been issued but which have not yet been completed, and (ii) have a freight elevator that either complies with ASME 17.1 with regard to the carrying of passengers on freight elevators, as referenced in chapter thirty-five of the New York city building code, or is operated by a freight elevator operator, and (iii) are not subject to the bicycle parking provisions of sections 25-80, 36-70 and 44-60 of the zoning resolution of the city of New York." The law presumes that "if a freight elevator is available for carrying freight, it is available for carrying bicycles."

The Department and the Department of Transportation ("DOT") will jointly enforce this new law. The Commissioner of Buildings has delegated authority to DOT to enforce the provisions of Article 504. DOT inspectors will issue violations using the Building Department's forms and penalty structure.

In accordance with the changes made by Local Law 52, the Department proposes to add four new infractions to Subdivision (j) of 1 RCNY 102-01 and the Department's Penalty Schedule in order to adequately and effectively enforce this new law. In addition, prior to the effective date of Local Law 52, DOT plans to promulgate 34 RCNY 2-19, which will outline a plan for the implementation of this law.

NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with section 1043 of the Charter and Sections 28-201.2, 28-202.1, and 28-204.2 of the New York City Administrative Code, that the Department of Buildings hereby amends Subchapter B and Section 102-01 of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding the classification of violations, establishment of daily and monthly penalties for certain of those violations, and processes for certifying their correction before the Department.

This rule was first published on February 5, 2009 and a public hearing thereon was held on March 10, 2009.

Dated: 3/23, 2009
New York, New York



Robert D. LiMandri
Commissioner

Section 1. The entries in section 102-01(j) of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York relating to BC 3314.4.5 and Administrative Code sec. 26-204.1(a) are amended to read as follows:

Section of Law	Classification	Violation Description
BC 3314.4.5 [& 26-204.1 (a)]	Class 1	Erected, dismantled repaired, maintained, modified or removed supported scaffold without a scaffold certificate of completion.

Section of Law	Classification	Violation Description
[BC 3314.4.5 & 26-204.1 (a)]	[Class 2]	[Erected, dismantled repaired, maintained, modified or removed supported scaffold without a scaffold certificate of completion.]

Section of Law	Classification	Violation Description
BC 3314.4.6 [& 26-204.1 (c)]	Class 1	Use of supported scaffold without a scaffold user certificate.

Section of Law	Classification	Violation Description
[BC 3314.4.6 & 26-204.1 (c)]	[Class 2]	[Use of supported scaffold without a scaffold user certificate.]

Section 2. Section 102-01(j) of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, new entries relating to Administrative Code secs. 28-216.12.1 and 28-216.12.6, to read as follows:

Section of Law	Classification	Violation Description
<u>28-216.12.1</u>	<u>Class 2</u>	<u>Failure to submit required report of inspection of potentially compromised buildings</u>

Section of Law	Classification	Violation Description
<u>28-216.12.6</u>	<u>Class 1</u>	<u>Failure to immediately notify Department that building or structure has become potentially compromised</u>

Section 3. Section 102-01(j) of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding three new entries relating to BC 3303.4 and Administrative Code sec. 27-1018, following the existing entry relating to such sections, to read as follows:

Section of Law	Classification	Violation Description
<u>BC 3303.4 & 27-1018</u>	<u>Class 1</u>	<u>Failure to maintain adequate housekeeping per section requirements.</u>

Section of Law	Classification	Violation Description
<u>BC 3303.4.5 & 27-1018</u>	<u>Class 1</u>	<u>Unsafe storage of materials during construction or demolition.</u>

Section of Law	Classification	Violation Description
<u>BC 3303.4.6 & 27-1018</u>	<u>Class 1</u>	<u>Unsafe storage of combustible material and equipment.</u>

Section 4. Section 102-01(j) of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, new entries relating to Administrative Code secs. 28-305.4.4, 28-305.4.6 and 28-305.4.7.3, to read as follows:

Section of Law	Classification	Violation Description
<u>28-305.4. 4</u>	<u>Class 2</u>	<u>Failure to submit required report of condition assessment of retaining wall</u>

Section of Law	Classification	Violation Description
<u>28-305.4.6</u>	<u>Class 1</u>	<u>Failure to immediately notify Department of unsafe condition observed during condition assessment of retaining wall.</u>

Section of Law	Classification	Violation Description
<u>28-305.4.7.3</u>	<u>Class 2</u>	<u>Failure to file an amended condition assessment acceptable to Department indicating correction of unsafe conditions.</u>

Section 5. Section 102-01(j) of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, a new entry relating to BC 3310.9.1, to read as follows:

Section of Law	Classification	Violation Description
<u>BC 3310.9.1</u>	<u>Class 1</u>	<u>No concrete safety manager present at site where at least 2,000 cubic feet of concrete will be poured.</u>

Section 6. Section 102-01(j) of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, entries relating to subdivisions (20) and (21) of Administrative Code sec. 28-110.1, to read as follows:

Section of Law	Classification	Violation Description
<u>28-110.1(20)</u>	<u>Class 1</u>	<u>Failure to provide evidence of workers attending construction & safety course</u>

Section of Law	Classification	Violation Description
<u>28-110.1(21)</u>	<u>Class 1</u>	<u>Failure to conduct workers' site-specific safety orientation program per site safety plan.</u>

Section 7. Section 102-01(j) of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, entries relating to BC 3319.8, BC 3319.8.2, BC 3319.8.3, BC 3319.8.4, BC 3319.8.4.2, BC 3319.8.6, BC 3319.8.7 and BC 3319.8.8, to read as follows:

Section of Law	Classification	Violation Description
<u>BC 3319.8</u>	<u>Class 1</u>	<u>Failure to provide erection, jumping, climbing, dismantling plan for tower/climber crane.</u>

Section of Law	Classification	Violation Description
<u>BC 3319.8.2</u>	<u>Class 1</u>	<u>Failure to conduct a safety coordination meeting.</u>

Section of Law	Classification	Violation Description
<u>BC 3319.8.3</u>	<u>Class 1</u>	<u>Failure to conduct a pre-jump safety meeting.</u>

Section of Law	Classification	Violation Description
<u>BC 3319.8.4</u>	<u>Class 1</u>	<u>Failure to notify the Department prior to pre-jump or safety coordination meeting.</u>

Section of Law	Classification	Violation Description
<u>BC 3319.8.4.2</u>	<u>Class 1</u>	<u>Failure to provide time schedule indicating erection, jumping, climbing or dismantling of crane.</u>

Section of Law	Classification	Violation Description
<u>BC 3319.8.6</u>	<u>Class 1</u>	<u>No meeting log available.</u>

Section of Law	Classification	Violation Description
<u>BC 3319.8.7</u>	<u>Class 1</u>	<u>Failure to file a complete and acceptable tower/climber Installation Report per BC 3319.8.7</u>

Section of Law	Classification	Violation Description
<u>BC 3319.8.8</u>	<u>Class 1</u>	<u>Erection, jumping, climbing, dismantling operations of a tower or climber crane not in accordance with 3319.8.8</u>

Section 8. Section 102-01(j) of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, a new entry relating to Administrative Code sec. 28-105.11, to read as follows:

Section of Law	Classification	Violation Description
<u>28-105.11</u>	<u>Class 2</u>	<u>Failure to post permit for work at premises.</u>

Section 9. Section 102-01(j) of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new entry relating to Administrative Code sec. 28-105.12.2, prior to all other entries relating to that provision, and by amending the final entry relating to Administrative Code sec. 28-105.12.2, to read as follows:

Section of Law	Classification	Violation Description
<u>28-105.12.2</u>	<u>Class 1</u>	<u>Work does not conform to approved construction</u>

		<u>documents and/or approved amendments</u>
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Section of Law	Classification	Violation Description
28-105.12.2	Class 1	Outdoor Ad Co sign is contrary [compliance with] to construction documents.

Section 10. Section 102-01(j) of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, a new entry relating to Administrative Code sec. 28-201.1, to read as follows:

Section of Law	Classification	Violation Description
<u>28-201.1</u>	<u>Class 1</u>	<u>Unlawful acts. Failure to comply with commissioner’s order</u>

Section 11. The first entry in section 102-01(j) of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York relating to Administrative Code sec. 28-202.1 and the first entry in such section relating to Administrative Code sec. 28-210.1 are amended to read as follows:

Section of Law	Classification	Violation Description
28-202.1	Class 1	Additional daily penalty for Class 1 violation of 28-210.1 - 1 or 2 family converted to [greater than 4 family] <u>4 or more families.</u>

Section of Law	Classification	Violation Description
28-210.1	Class 1	Residence altered for occupancy as a dwelling from 1 or 2 families to [greater than 4 families] <u>4 or more families.</u>

Section 12. Section 102-01(j) of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new entry relating to Administrative Code sec. 28-211.1, following the existing entry relating to such section, to read as follows:

Section of Law	Classification	Violation Description
<u>28-211.1</u>	<u>Class 1</u>	<u>Filed a certificate of</u>

		<u>correction or other related materials containing material false statement(s).</u>
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Section 13. Section 102-01(j) of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding two entries relating to Administrative Code sec. 28-301.1, following all existing entries relating to such section, to read as follows:

Section of Law	Classification	Violation Description
<u>28-301.1</u>	<u>Class 1</u>	<u>Failure to maintain building in code compliant manner: Lack of required number of means of egress for every floor per BC 1018.1; 27-366.</u>

Section of Law	Classification	Violation Description
<u>28-301.1</u>	<u>Class 2</u>	<u>Failure to maintain building in code compliant manner: Exhaust discharge closer than 10 feet from building openings per RS 13 (2-2.1.4); MC 401.5.2</u>

Section 14. The entries in section 102-01(j) of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York relating to Administrative Code secs. 28-405.1 and 28-408.1 are amended, and an entry relating to chapter 4 of Title 28 of the Administrative Code is added, to read as follows:

Section of Law	Classification	Violation Description
[28-405.1]	[Class 2]	[Supervision or use of power-operated hoisting machine without a Hoisting Machine Operator's license.]

Section of Law	Classification	Violation Description
28-408.1	[Class 2] <u>Class 1</u>	Performing unlicensed plumbing work without a master plumber license

Section of Law	Classification	Violation Description
<u>Misc.</u>	<u>Class 1</u>	<u>Illegally engaging in any</u>

<u>Chapter 4 of Title 28- Unlicensed Activity</u>		<u>business or occupation without a required license or other authorization.</u>
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Section 15. Section 102-01(j) of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new entry relating to BC 3307.3.1 and Administrative Code sec. 27-1021(a), following the existing entry relating to such sections, to read as follows:

Section of Law	Classification	Violation Description
<u>BC 3307.3.1& 27-1021(a)</u>	<u>Class 2</u>	<u>Failure to provide sidewalk shed where required.</u>

Section 16. Section 102-01(j) of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding, in numerical order, new entries relating to BC 3301.8 and BC 3310.8.2, to read as follows:

Section of Law	Classification	Violation Description
<u>BC 3301.8</u>	<u>Class 1</u>	<u>Failure to promptly notify the Department of an accident at construction/demolition site</u>

Section of Law	Classification	Violation Description
<u>BC 3310.8.2</u>	<u>Class 1</u>	<u>Site safety manager/coordinator failed to immediately notify the Department of conditions as required.</u>

Section 17. Section 102-01(j) of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new entry relating to ZR 22-00, following the existing entry relating to such section, to read as follows:

Section of Law	Classification	Violation Description
<u>ZR 22-00</u>	<u>Class 3</u>	<u>Illegal use in residential district.</u>

Section 18. The provision of section 102-01(j) of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York relating to Administrative Code sec. 28-303.7 is deleted, as follows:

Section of Law	Classification	Violation Description
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[28-303.7]	[Class 2]	[Failure to file complete boiler inspection report.]
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Statement of Basis and Purpose of Rule

The amendments to Section 102-01 of the Department's rules derive from a number of sources: (1) new penalties imposed by the City Council since enactment of Local Law 33 of 2007 and Local Law 8 of 2008, the NYC Construction Codes and their completion legislation; (2) Department determinations of modifications required in light of the first several months of enforcement of the new codes; and (3) correction of inadvertent errors. Specific explanations follow:

Section 1. Local Law 24 of 2008, effective July 1, 2008, made permitting or causing someone to erect, repair, maintain, modify, remove or use a supported scaffold without the required training an immediately hazardous or Class 1 violation. Section 1 reflects that change by proposing to delete the Class 2 designation for this infraction from the Buildings Classification Table. It also proposes to delete the reference to Title 26 since it was repealed as part of enactment of the new Construction Codes.

Section 2. Local Law 33 of 2008, effective February 9, 2009, defines a new class of potentially compromised buildings and imposes notification and inspection requirements on owners of such buildings.

Section 3. Local Law 34 of 2008, effective August 12, 2008, made violations of building code sections 3303.4.5 and 3303.4.6, regarding storage of materials during construction or demolition and storage of combustible material and equipment, immediately hazardous or Class 1. That required that the Class 2 designation for violation of BC 3303.4 be supplemented by a Class 1, a proposed change reflected in Section 3. The two new charges are proposed to be included in this section, which addresses the Class 1 conditions regarding the storage of materials and combustible materials at construction and demolition sites.

Section 4. Local Law 37 of 2008, effective February 9, 2009, makes owners of certain retaining walls responsible for periodic assessment and reporting of their conditions. It also requires correction of unsafe conditions identified in the assessment.

Section 5. Local Law 40 of 2008, effective January 1, 2009, requires a concrete safety manager on construction sites where a minimum of 2,000 cubic yards of concrete will be poured. The new charge set forth in Section 5, BC 3310.9.1, is proposed as a means of enforcing the requirement that "a concrete safety manager shall be designated by the concrete contractor at those sites where the concrete portion of the project involves the pouring of a minimum of 2,000 cubic yards of concrete or such lesser amount as the commissioner may determine by rule."

Section 6. Local Law 41 of 2008, effective December 2, 2008, requires an enhanced site safety plan for any project for which Building Code Chapter 33 requires a site safety plan. This plan must include a statement (1) that workers have successfully completed a

course in construction safety and (2) that workers have attended a site-specific safety orientation program. Moreover, workers must all be able to show evidence of satisfying the training requirement. The proposed violations reflected in Section 6 will be issued when either the workers did not attend or where there is no evidence that the workers attended these required courses/programs.

Section 7. Local Law 46 of 2008, effective December 22, 2008, codifies a number of Department practices put in place after the crane collapse on East 51st Street, Manhattan March 15, 2008. It requires submission to the Department of a plan for the erection, jumping, climbing and dismantling tower or climber cranes and details the items that must be included in such a plan. It further prescribes certain meetings at the site, including a safety coordination and pre-jump safety meetings, specifies the topics of such meetings, and calls for the Department to be notified of them. The law requires an engineer to inspect and certify a tower or climber crane prior to jumping or climbing, imposes new standards during erection, jumping, climbing and dismantling operations, and requires preparation and maintenance of certain schedules and logs.

Section 8. This section's proposal to add as an infraction a violation of §28-105.11 for failing to post a work permit reflects an entry that was not included in the original classification table, but that is necessary because this condition occurs with regularity.

Section 9. The Department proposes to add in Section 9 an additional Classification Level 1 to the pre-existing Classification level Class 2 and Class 3 for violation of the general requirement of Section 28-105.12.2, failure to conform to construction documents. Upon a review of the classification table by the Inspector Units and other Department safety personnel, it was determined that a Classification 1 level was needed for the most egregious situations/violations of public safety. These include situations where a deviation from the approved plans results in the highest level of risk to workers and the public. In addition, this section clarifies a separate infraction (established for data tracking purposes) for violation of Section 28-105.12.2 by an outdoor advertising company.

Section 10. This section reflects the Department's determination that a Class 1 violation is needed for those situations where a failure to comply with a Commissioner's order in violation of Administrative Code section 28-201.1 poses a risk to public safety.

Section 11. This section is intended to correct an error in the description of violations for Administrative Code §28.202.1 and §28-210.1. According to §28-201.2.1, "A violation of section §28-210.1 in which a building legally approved for occupancy as a one family or two-family dwelling (as set forth in the certificate of occupancy or if no certificate of occupancy is required, as evidenced by official records) is illegally converted to or maintained as a dwelling for occupancy by *four or more families*" (emphasis added) is an Immediately Hazardous or Class 1 violation. Section 11 corrects the language in the original rule that inadvertently characterized the infraction as altering a dwelling for 1 or 2 families to "greater than 4 families," properly including four family dwellings in this charge.

Section 12. The Department proposes to add a new Class 1 violation of Administrative Code section 28-211.1 to distinguish the filing of false documents associated with an ECB certificate of correction from other types of false documents filed with the Department, such as plan and permit applications and cyclical inspection filings. The Department audits certificates of correction separately from plans and permit applications, and accordingly maintains separate sets of figures for false filings related to those documents.

Section 13. This section's proposal to add violations of Administrative Code §28-301.1 for failing to provide the required number of means of egress for every floor and for improperly locating an exhaust discharge reflects entries that were not included in the original classification table, but that are necessary because these conditions occur with regularity.

Section 14. This section makes corrections to certain licensing infractions by eliminating license-specific infractions in favor of a general description of unlicensed or unauthorized activity. It is simpler and more efficient for the Department to enforce its licensure requirements by means of a single, general violation. This section also eliminates the Class 2 option for unlicensed plumbing work.

Section 15. This section provides for a Class 2 designation for "Failure to provide a sidewalk shed where required", an option that the Department has determined is needed for those situations where the risk to public safety is less than a Class 1.

Section 16. This section reflects the Department's determination that two new charges are needed to enforce BC Section 3301.8 and BC Section 3310.8.2. Section 3301.8 requires that "[t]he department shall be notified promptly, in accordance with the circumstances, of all accidents at construction or demolition sites." Section 3310.8.2 sets forth certain conditions for which, during the routine performance of his/her job, the Site Safety Manager and/or Coordinator must immediately notify the Department. These conditions include unsafe or unlicensed crane operations and accidents involving the public, or private or public property.

Section 17. Section 17 is directed to the enforcement of restrictions set forth in the Zoning Resolution on parking by commercial vehicles in residential zoning districts. Currently, such restrictions are enforced under ZR 22-00, a general provision regarding illegal uses in residential districts, and under ZR 25-41, a more specific parking provision. Both provisions are often cited for the same type of violation. However, the general charge carries only a Class 2 designation, while the more specific charge carries both a Class 2 and a Class 3 designation, making it possible for respondents with the same violation to be charged and assessed disparate penalties. Adding a Class 3 designation for the general charge removes this potential inconsistency.

Section 18. This section reflects the Department's determination to delete as unnecessary the infraction code for failure to file a complete boiler inspection report.

This rule has an effective date of 07-01-08.



NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts the addition of Subchapter B and Section 102-01 to Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding the classification of violations, establishment of daily and monthly penalties for certain of those violations, and processes for certifying their correction before the Department.

This rule was first published on March 12, 2008 and a public hearing thereon was held on April 14, 2008.

Dated: May 19, 2008
New York, New York

Robert D. LiMandri
Acting Commissioner

Section 1. Subchapter A of Chapter 13 of Title 1 of the Rules of the City of New York, relating to adjudications by the Environmental Control Board, is hereby REPEALED.

Section 2. Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new subchapter B and section 102-01, to read as follows:

Subchapter B
Enforcement

§102-01 Violation reclassification and certification of correction.

(a) Pursuant to section 28-204.1 of the Administrative Code, any person who shall violate or fail to comply with any provision or provisions of law enforced by the Department or with any order issued pursuant thereto shall be liable for a civil penalty that may be recovered in a proceeding before the Environmental Control Board (“ECB”). Such proceeding shall be commenced by service of a notice of violation (“NOV”) returnable before the board. Such notice of violation may be issued by employees of the Department or of other city agencies designated by the Commissioner and may be served by such employees or by a licensed process server.

(b) Classification of violations. For purposes of classifying violations pursuant to section 28-201.2 of the Administrative Code, the following terms shall have the following meanings:

(1) **IMMEDIATELY HAZARDOUS VIOLATION.** Immediately hazardous violations are those specified as such by the New York City Construction Codes, or those where the violating condition poses a threat that severely affects life, health, safety, property, the public interest, or a significant number of persons so as to warrant immediate corrective action, or, with respect to outdoor advertising, those where the violation and penalty are necessary as an economic disincentive to the continuation or the repetition of the violating condition. Immediately hazardous violations shall be denominated as Class 1 violations.

(2) **MAJOR VIOLATION.** Major violations are those specified as such by the New York City Construction Codes or those where the violating condition affects life, health, safety, property, or the public interest but does not require immediate corrective action, or, with respect to outdoor advertising, those where the violation and penalty are appropriate as an economic disincentive to the continuation or the repetition of the violating condition. Major violations shall be denominated as Class 2 violations.

(3) **LESSER VIOLATION.** Lesser violations are those where the violating condition has a lesser effect than an immediately hazardous (Class 1) or major violation (Class 2) on life, health, safety, property, or the public interest. Lesser violations shall be denominated as Class 3 violations.

(c) Correction and certification of correction.

(1) Each NOV issued by the Commissioner shall contain an order of the Commissioner directing the respondent to correct the condition constituting the violation and to file a certification with the Department that the condition has been corrected

(2) The following violation cannot be certified as corrected prior to a hearing before ECB. The respondent must appear at the hearing prior to the submission of the certification to the Department:

(i) A violation for filing a false certification;

(3) The required certification shall be completed on the form issued with the NOV or obtained from the Department in accordance with the instructions contained therein.

(4) The respondent must appear at the ECB hearing for all violating conditions unless those charges are cured or a pre-hearing stipulation is offered, timely accepted by the respondent, and approved in writing by ECB. Where more than one violation of law is listed on the same NOV, the respondent may submit a single certification covering one or all of the violating conditions.

(5) The certification shall be signed by one with personal knowledge of the correction of the violating condition and notarized by a notary public or commissioner of deeds.

(6) The certification shall be accompanied by true and legible copies of any and all documentary proof of compliance.

(7) The completed certification must be returned to the Department at the address provided on the City's website, NYC.gov.

(8) For violations classified as Class 3 or for those Class 2 violations eligible for a cure, respondents may avoid a hearing by submitting a certification of correction acceptable to and received by the Department no later than forty days from the date of the Commissioner's order to correct set forth in the NOV. For violations classified as Class 1, a certification acceptable to the Department must be received by the Department forthwith.

(9) Failure to submit an acceptable certification for all violating conditions indicated on the NOV on a Department of Buildings form within the time period prescribed in paragraph (8) of this subdivision shall require the respondent to appear at a hearing at ECB on the date indicated on the NOV. If no certificate of correction is received within the time period prescribed in paragraph (8) of this subdivision, the respondent is also subject to issuance of a violation for failure to certify correction and the imposition of civil penalties as defined in Title 28-202.1.

(d) Mitigated and zero penalties. Mitigated or zero penalties are available in the following circumstances under the following conditions.

(1) Cure.¹ An eligible violation may be cured by correction before the first scheduled hearing date at ECB. All violations that are designated as Class 3 violations are eligible for cure. Some, but not all, types of violations that are designated as Class 2 violations are eligible for cure. Those types of Class 2 violations that are eligible for cure will be indicated within the ECB Buildings Penalty Schedule found in Chapter 31 of Title 15 of the Rules of the City of New York (“ECB Buildings Penalty Schedule”). In order to cure, a certificate of correction acceptable to the Department must be filed at the Department within forty days from the date of the Commissioner’s order to correct set forth in the NOV. A cure constitutes an admission of the violation; dispenses with the need for a hearing at ECB; constitutes a predicate violation for subsequent violations; and, consistent with the provisions of Section 28-204.2, and with the provisions of the ECB Buildings Penalty Schedule, results in a zero penalty. A violation that has been charged as an Aggravated II violation is never eligible for a cure, even if there is a “Yes” in the “Cure” column in the ECB Buildings Penalty Schedule for that violation description.

(2) Stipulation. An eligible violation may be subject to stipulation where the Commissioner offers to the respondent a stipulation prior to or at a hearing to extend the time for compliance upon such terms and conditions as the Commissioner prescribes. Violations that are eligible for stipulation are indicated as such on the ECB Buildings Penalty Schedule. The respondent must admit the violation subject to stipulation and agree to correct it and file an acceptable certification of correction with the Department. The stipulation may be signed and submitted to ECB either before the first scheduled hearing date at ECB or else *on* the first scheduled hearing date but prior to any actual hearing on that date., in which case it is considered a **pre-hearing stipulation**, or may be entered into at the first ECB hearing in which case it is considered a **hearing stipulation**. A reduced penalty will be imposed in connection with a pre-hearing stipulation in an amount indicated for the charge in question in the ECB Buildings Penalty Schedule. Specifically, the penalty imposed for that violation will be half of the penalty amount (rounded to the nearest dollar) of the penalty amount that would otherwise have been imposed at a hearing for that particular violation. In connection with a stipulation entered into at a hearing, a hearing penalty will be imposed in an amount indicated for the charge in question in the ECB Buildings Penalty Schedule. A stipulation, whether a pre-hearing stipulation or a hearing stipulation, gives the respondent seventy-five days from the first scheduled hearing date within which to correct the violation and file a certificate of correction, failing which any reduced penalty that may have been imposed in connection with a pre-hearing stipulation will be adjusted to the standard hearing penalty set forth in the ECB Buildings Penalty Schedule. A stipulation is effective only if it is approved by ECB. A pre-hearing stipulation dispenses with the need for a hearing at ECB. No stipulation shall take effect unless, in the case of a pre-hearing stipulation, it is offered by the Department prior to the first scheduled hearing date, signed by respondent prior to the first scheduled hearing date and approved by ECB in writing, or unless, in the case of a hearing stipulation, it is offered by the Department at the hearing, accepted by the respondent at that hearing, and is approved in writing by ECB. A violation that has been charged as an Aggravated II violation is never eligible for a stipulation, even if there is

¹ Section 28-204.2 of the Administrative Code provides for a zero penalty for Lesser violations that are corrected within the prescribed, or cure, period. For purposes of this rule, certain Major violations will also be treated as eligible for cure to the extent that section 28-202.1 of the Administrative Code specifies no minimum penalty for such violations.

a “Yes” in the “Stipulation” column in the ECB Buildings Penalty Schedule for that violation description.

(3) Mitigation. An eligible violation may be subject to mitigation where the respondent proves at the hearing that the condition was corrected prior to the first scheduled hearing date at ECB. Violations that are eligible for mitigation are indicated as such on the ECB Buildings Penalty Schedule. A penalty is imposed on mitigations in accordance with the ECB Buildings Penalty Schedule. If a mitigated penalty is imposed, that penalty will be half of the penalty amount of the penalty amount that would otherwise have been imposed at a hearing for that particular violation. An acceptable certificate of correction must thereafter be filed at the Department. A violation that has been charged as an Aggravated II violation is never eligible for mitigation, even if there is a “Yes” in the “Mitigation” column in the ECB Buildings Penalty Schedule for that violation description.

(e) Certificate of correction review procedures.

(1) The Department shall review all certificates and accompanying documentation to determine their acceptability.

(2) The Department shall notify the respondent if the certification is accepted or rejected and, if rejected, the reasons for the rejection and the documents necessary to correct the problem. .

(3) Corrected certifications must be received by the Department no later than the close of business forty days from the date of the Commissioner’s order to correct set forth in the NOV.

(f) Aggravated penalties. Aggravated penalties shall be imposed in accordance with the ECB Buildings Penalty Schedule and with the following provisions. Notice of aggravated penalties shall either be set forth in the NOV or otherwise provided to the respondent prior to the date of the first scheduled hearing at ECB.

(1) Aggravated penalties of the first order. Aggravated penalties of the first order (“Agg. I”) shall be imposed when evidence establishes the same condition or the same charge under the New York City Construction Codes or the predecessor charge under the laws in effect prior to July 1, 2008 in a prior enforcement action against the same owner or responsible party during the previous three years.

(2) Aggravated penalties of the second order. Aggravated penalties of the second order (“Agg. II”) shall be imposed in the following instances:

(i) When the respondent or defendant is found in violation of any law or rule enforced by the Department where the violation of law is accompanied by or results in a fatality or serious injury or where the violating condition affects a significant number of people; or

- (ii) Where the respondent or defendant refuses to give the Department requested information necessary to determine the condition of a building or site; or
- (iii) Where the respondent or defendant has a history of non-compliance with laws or rules enforced by the Department at one or more locations, including but not limited to a pattern of unreasonable delays in correcting violations, a pattern of failing to obey Stop Work Orders, filing false documents, or multiple defaults.
- (iv) For purposes of this section, “in violation” shall mean to be adjudged in violation of any law or rule enforced by the Department following a hearing, to admit the charge, or to sign a stipulation agreement either at or before a hearing before any administrative or judicial tribunal. Failure to appear at a hearing leading to entry of a default order or judgment shall also be deemed a finding “in violation.”

(g) Additional Daily and Monthly Penalties. Additional daily penalties may be imposed in connection with certain continuing and uncorrected Class 1 violations. Additional monthly penalties may be imposed in connection with certain continuing and uncorrected Class 2 violations. If the Department seeks such penalties in connection with a particular Class 1 or Class 2 charge, that will be indicated on the NOV. Such daily or monthly penalties, if applicable, are in addition to the set, flat-amount penalty that also is indicated in the ECB Buildings Penalty Schedule as applicable to the type of violation in question taking into account the classification level and Aggravated level of the particular violation. Imposition of such additional daily and monthly penalties is authorized pursuant to Section 28-202.1 of the New York City Administrative Code.

(1) Accrual of Daily Penalties. Daily penalties, if applicable, will accrue at the rate of \$1,000 per day for a total of forty-five days running from the date of the Commissioner’s order to correct set forth in the NOV, unless the violating condition is proved by the respondent at the hearing to have been corrected prior to the end of that forty-five day period, in which case the daily penalties will accrue for every day up to the date of that proved correction.

(2) Accrual of Monthly Penalties. Monthly penalties, if applicable, accrue at the rate of \$250 per month for a total of one month running from the date of the Commissioner’s order to correct set forth in the NOV, unless the violating condition is proved by the respondent at the hearing to have been corrected prior to the end of a month period.

(h) Applicability. On and after July 1, 2008 any work performed without a required permit will be presumed subject to enforcement under the New York City Construction Codes. Thus, the option afforded by 28-101.4 to use the either the 1968 Building Code or the New York City Construction Codes applies only to work for which an application is filed with the Department. If and when the work is the subject of an application to legalize, the option will be available once again.

(i) Legal References. The legal references referred to in the table below that reflects the classification of violations include the following:

(1) Title 28 of the New York City (NYC) Administrative Code. References to Title 28 of the NYC Administrative Code begin with “28-“ (for example, “28-201.1). The citation “28-Misc.” refers to provisions of Title 28 that are not specifically designated elsewhere in the table.

(2) Title 27 of the NYC Administrative Code (also known as the “1968 Building Code”). References to title 27 of the NYC Administrative Code begin with “27-“ (for example, “27-371”). The citation “27-Misc.” refers to provisions of Title 27 that are not specifically designated elsewhere in the table.

(3) The “New York City Construction Codes,” which consist of:

- The New York City plumbing code (PC)
- The New York City building code (BC)
- The New York City mechanical code (MC)
- The New York City fuel gas code (FGC).

References to these New York City Construction Codes are designated by the various abbreviations set out above (for example, “BC3010.1”). The citations “BC-Misc.”, “PC-Misc.”, “MC-Misc.” and “FGC-Misc.” refer to provisions of the New York City building, plumbing, mechanical or fuel gas codes that are not specifically designated elsewhere in the table.

(4) Appendices to the New York City Construction Codes. The New York City Construction Codes include all enacted appendices. Administrative Code §28-102.6. References to Appendices are cited by using the abbreviation for the particular Construction Code followed by the applicable Appendix letter (for example, “H”) followed by the applicable section number (for example, “BC H103.1”).

(5) The NYC Zoning Resolution (ZR) and the Rules of the City of New York (RCNY). References to the Zoning Resolution and to the Rules of the City of New York are designated by the abbreviations “ZR” and “RCNY” (for example, “ZR25-41”; “1 RCNY9-01”). The citations “1 RCNY-Misc.” and “ZR-Misc.” refer to provisions of 1 RCNY or the Zoning Resolution that are not specifically designated elsewhere in the table.

(6) Reference Standards that pertain to Title 27 of the NYC Administrative Code (RS). References to the Reference Standards are designated by the abbreviation set out above (for example, “RS-16”). The citation “RS-Misc.” refers to Reference Standards that are not specifically designated elsewhere in the table.

(7) Citations to the New York City Construction Codes. Whenever a section or subdivision of the New York City Construction Codes is cited or referred to,

subordinate consecutively numbered subdivisions or paragraphs of the cited provision are deemed to be included in such reference unless the context or subject matter requires otherwise.

(j) Classification of particular violations. Particular violations shall be classified as indicated in the following table:

<u>Section of Law</u>	<u>Classification</u>	<u>Violation Description</u>
<u>1 RCNY-Misc, RS-Misc</u>	<u>Class 1</u>	<u>Miscellaneous violations.</u>
<u>1 RCNY-Misc, RS-Misc</u>	<u>Class 2</u>	<u>Miscellaneous violations.</u>
<u>1 RCNY-Misc, RS-Misc</u>	<u>Class 3</u>	<u>Miscellaneous violations.</u>
<u>1 RCNY 27-03</u>	<u>Class 1</u>	<u>Prohibited sign on sidewalk shed or construction fence.</u>
<u>1 RCNY 9-01</u>	<u>Class 1</u>	<u>Licensed Rigger designated an unqualified foreman.</u>
<u>1 RCNY 9-01</u>	<u>Class 2</u>	<u>Licensed Rigger designated an unqualified foreman.</u>
<u>1 RCNY 9-03</u>	<u>Class 1</u>	<u>Licensed Rigger failed to ensure scaffold worker met minimum req.</u>
<u>1 RCNY 9-03</u>	<u>Class 2</u>	<u>Licensed Rigger failed to ensure scaffold worker met minimum req.</u>
<u>27-185 & BC 3007.1</u>	<u>Class 2</u>	<u>Operation of an elevator without equipment use permit or service equipment Certificate of Compliance.</u>

<u>27-228.5</u>	<u>Class 2</u>	<u>Failure to file an Architect/Engineer report certifying exit/directional signs are connected to emergency power source/storage battery equipment.</u>
<u>27-369 & BC 1020.2</u>	<u>Class 1</u>	<u>Failure to provide unobstructed exit passageway.</u>
<u>27-371 & BC 715.3.7</u>	<u>Class 2</u>	<u>Exit door not self-closing.</u>
<u>27-382 & BC 1006.3</u>	<u>Class 2</u>	<u>Failure to provide power for emergency exit lighting.</u>
<u>27-383(b) & BC 403.16</u>	<u>Class 1</u>	<u>Failure to install photoluminescent exit path marking in a high-rise building.</u>
<u>27-391 & BC 3002.3</u>	<u>Class 2</u>	<u>Emergency signs at elevator call stations missing, defective or non-compliant with section requirements.</u>
<u>27-393 & BC 1019.1.7</u>	<u>Class 2</u>	<u>Stair identification signs missing and/or defective.</u>
<u>27-509 & BC 3111.1</u>	<u>Class 3</u>	<u>Fence exceeds permitted height.</u>
<u>27-528 & BC 1024.1.3</u>	<u>Class 2</u>	<u>Approved Place of Assembly plans not available for inspection.</u>
<u>27-901(z)(1) & PC 301.6</u>	<u>Class 2</u>	<u>Piping installed in elevator/counterweight hoistway.</u>
<u>27-904 & FGC 406.6.2</u>	<u>Class 1</u>	<u>Gas being supplied to building without inspection and certification by DOB.</u>

<u>27-904 & FGC 406.6.2</u>	<u>Class 2</u>	<u>Gas being supplied to building without inspection and certification by DOB.</u>
<u>27-921(a) & PC 107.3</u>	<u>Class 1</u>	<u>Failure to have new or altered plumbing system tested.</u>
<u>27-921(a) & PC 107.3</u>	<u>Class 2</u>	<u>Failure to have new or altered plumbing system tested.</u>
<u>27-972(h) & BC 907.2.12.3</u>	<u>Class 2</u>	<u>Failure to install an acceptable two-way voice communication system with central station connection.</u>
<u>27-Misc. 28- Misc. BC - Misc</u>	<u>Class 1</u>	<u>Miscellaneous violations.</u>
<u>27-Misc. 28- Misc. BC - Misc</u>	<u>Class 2</u>	<u>Miscellaneous violations.</u>
<u>27-Misc. 28- Misc. BC - Misc</u>	<u>Class 3</u>	<u>Miscellaneous violations.</u>
<u>28-104.2.2</u>	<u>Class 2</u>	<u>Failure to provide approved/accepted plans at job site at time of inspection.</u>
<u>28-105.1</u>	<u>Class 2</u>	<u>Failed to obtain a temporary construction permit prior to installation/use of sidewalk shed.</u>
<u>28-105.1</u>	<u>Class 1</u>	<u>Work without a permit.</u>
<u>28-105.1</u>	<u>Class 2</u>	<u>Work without a permit.</u>
<u>28-105.1</u>	<u>Class 3</u>	<u>Work without a permit.</u>
<u>28-105.1</u>	<u>Class 2</u>	<u>Work without a permit: Expired permit.</u>
<u>28-105.1</u>	<u>Class 1</u>	<u>Construction or alteration work w/o a permit in manufacturing district for residential use.</u>

28-105.1	Class 2	<u>Construction or alteration work w/o a permit in manufacturing district for residential use.</u>
28-105.1	Class 1	<u>Demolition work without required demolition permit</u>
28-105.1	Class 1	<u>Plumbing work without a permit in manufacturing district for residential use.</u>
28-105.1	Class 2	<u>Plumbing work without a permit in manufacturing district for residential use.</u>
28-105.1	Class 2	<u>Outdoor sign on display structure without a permit.</u>
28-105.1	Class 1	<u>Outdoor Ad Co sign on display structure without a permit.</u>
28-105.12.2	Class 2	<u>Work does not conform to approved construction documents and/or approved amendments.</u>
28-105.12.2	Class 3	<u>Work does not conform to approved construction documents and/or approved amendments.</u>
28-105.12.2	Class 1	<u>Work does not conform to approved construction documents and/or approved amendments in a manufacturing district for residential use.</u>

<u>28-105.12.2</u>	<u>Class 2</u>	<u>Work does not conform to approved construction documents and/or approved amendments in a manufacturing district for residential use.</u>
<u>28-105.12.2</u>	<u>Class 1</u>	<u>Place of Assembly contrary to approved construction documents.</u>
<u>28-105.12.2</u>	<u>Class 2</u>	<u>Place of Assembly contrary to approved construction documents.</u>
<u>28-105.12.2</u>	<u>Class 1</u>	<u>Outdoor Ad Co sign is contrary compliance with construction documents.</u>
<u>28-117.1</u>	<u>Class 1</u>	<u>Operation of a Place of Assembly without a current Certificate of Operation.</u>
<u>28-117.1</u>	<u>Class 2</u>	<u>Operation of a Place of Assembly without a current Certificate of Operation.</u>
<u>28-118.2</u>	<u>Class 1</u>	<u>New building or open lot occupied without a valid certificate of occupancy.</u>
<u>28-118.3</u>	<u>Class 1</u>	<u>Altered/changed building occupied without a valid Certificate of Occupancy as per §28-118.3.1 - §28-118.3.2.</u>

28-118.3	Class 2	<u>Altered/changed building occupied without a valid Certificate of Occupancy as per §28-118.3.1 - §28-118.3.2.</u>
28-118.3	Class 1	<u>Change in occupancy/use of C of O as per §28-118.3.1 - §28-118.3.2 by operating a Place of Assembly as per when current C of O does not allow such occupancy.</u>
28-118.3	Class 2	<u>Change in occupancy/use of C of O as per §28-118.3.1 - §28-118.3.2 by operating a Place of Assembly as per when current C of O does not allow such occupancy.</u>
28-118.3.2	Class 1	<u>Occupancy contrary to that allowed by the Certificate of Occupancy or Building Department records.</u>
28-118.3.2	Class 2	<u>Occupancy contrary to that allowed by the Certificate of Occupancy or Building Department records.</u>
28-118.3.2	Class 3	<u>Occupancy contrary to that allowed by the Certificate of Occupancy or Building Department records.</u>
28-202.1	Class 1	<u>Additional daily penalty for Class 1 violation of 28-210.1 - 1 or 2 family converted to greater than 4 family.</u>

<u>28-202.1</u>	<u>Class 2</u>	<u>Additional monthly penalty for continued violation of 28-210.1</u>
<u>28-202.1</u>	<u>Class 1</u>	<u>Additional daily civil penalties for continued violations.</u>
<u>28-202.1</u>	<u>Class 2</u>	<u>Additional monthly civil penalties for continued violations.</u>
<u>28-202.1</u>	<u>Class 2</u>	<u>Additional monthly penalty for continued violation of 28-210.2</u>
<u>28-204.4</u>	<u>Class 2</u>	<u>Failure to comply with the commissioner's order to file a certificate of correction with the Department of Buildings.</u>
<u>28-207.2.2</u>	<u>Class 1</u>	<u>Unlawfully continued work while on notice of a stop work order.</u>
<u>28-210.1</u>	<u>Class 1</u>	<u>Residence altered for occupancy as a dwelling from 1 or 2 families to greater than 4 families.</u>
<u>28-210.1</u>	<u>Class 2</u>	<u>Residence altered for occupancy as a dwelling for more than the legally approved number of families</u>
<u>28-210.2</u>	<u>Class 2</u>	<u>Maintain or permit conversion of industrial/manufacturing bldg to residential use w/out C of O/code compliance</u>
<u>28-210.2</u>	<u>Class 2</u>	<u>Plumbing work contrary to approved app'n/plans that assists/maintains convers'n of indust/manuf occupancy for resid use</u>

28-211.1	Class 1	<u>Filed a certificate, form, application etc., containing a material false statement(s).</u>
28-301.1	Class 1	<u>Failure to maintain building in code-compliant manner.</u>
28-301.1	Class 2	<u>Failure to maintain building in code-compliant manner.</u>
28-301.1	Class 3	<u>Failure to maintain building in code-compliant manner.</u>
28-301.1	Class 1	<u>Failure to maintain building in code-compliant manner: Use of prohibited door and/or hardware per BC 1008.1.8; 27-371(j).</u>
28-301.1	Class 2	<u>Failure to maintain building in code-compliant manner: Use of prohibited door and/or hardware per BC 1008.1.8; 27-371(j).</u>
28-301.1	Class 1	<u>Failure to maintain building in code-compliant manner: illumination for exits, exit discharges and public corridors per BC 1006.1;27-381.</u>
28-301.1	Class 2	<u>Failure to maintain building in code-compliant manner: illumination for exits, exit discharges and public corridors per BC 1006.1;27-381.</u>
28-301.1	Class 1	<u>Failure to maintain building in code-compliant manner: floor numbering signs missing and/or defective per BC 1019.1.7;27-392</u>

28-301.1	Class 2	<u>Failure to maintain building in code-compliant manner: floor numbering signs missing and/or defective per BC 1019.1.7:27-392</u>
28-301.1	Class 1	<u>Failure to maintain building in code-compliant manner: high-rise to provide exit sign requirement(s) within exits per BC 1011.1.1:27-383.1.</u>
28-301.1	Class 2	<u>Failure to maintain building in code-compliant manner: high-rise to provide exit sign requirement(s) within exits per BC 1011.1.1:27-383.1.</u>
28-301.1	Class 1	<u>Failure to maintain building in code-compliant manner: lack of emergency power or storage battery connection to exit signs per BC 1011.5.3; 27-384 (c).</u>
28-301.1	Class 1	<u>Failure to maintain building in code-compliant manner: lack of emergency lighting for exits, exit discharges and public corridors per BC 1006.1; 27-542.</u>
28-301.1	Class 2	<u>Failure to maintain building in code-compliant manner: lack of emergency lighting for exits, exit discharges and public corridors per BC 1006.1; 27-542.</u>

28-301.1	Class 2	<u>Failure to maintain building in code-compliant manner: failure to provide non-combustible proscenium curtain per BC410.3.5; 27-546.</u>
28-301.1	Class 1	<u>Failure to maintain building in code-compliant manner: no fire stopping per BC 712.3; 27-345.</u>
28-301.1	Class 2	<u>Failure to maintain building in code-compliant manner: no fire stopping per BC 712.3; 27-345.</u>
28-301.1	Class 1	<u>Failure to maintain building in code-compliant manner: Improper exit/exit access doorway arrangement per BC 1014.2;27-361.</u>
28-301.1	Class 1	<u>Failure to maintain building in code-compliant manner: service equipment – elevator per BC 3001.2;27-987.</u>
28-301.1	Class 2	<u>Failure to maintain building in code-compliant manner: service equipment – elevator per BC 3001.2;27-987.</u>
28-301.1	Class 3	<u>Failure to maintain building in code-compliant manner: service equipment – elevator per BC 3001.2;27-987.</u>
28-301.1	Class 1	<u>Failure to maintain building in code-compliant manner: service equipment – boiler.</u>

<u>28-301.1</u>	<u>Class 2</u>	<u>Failure to maintain building in code-compliant manner: service equipment – boiler.</u>
<u>28-301.1</u>	<u>Class 3</u>	<u>Failure to maintain building in code-compliant manner: service equipment – boiler.</u>
<u>28-301.1</u>	<u>Class 1</u>	<u>Failure to maintain building in code-compliant manner: lack of a system of automatic sprinklers where required per BC 903.2; 27-954.</u>
<u>28-301.1</u>	<u>Class 2</u>	<u>Failure to maintain building in code-compliant manner: lack of a system of automatic sprinklers where required per BC 903.2; 27-954.</u>
<u>28-301.1</u>	<u>Class 2</u>	<u>Failure to maintain building in code-compliant manner re: installation/maintenance of plumbing materials/equipment per PC102.3;27-902.</u>
<u>28-301.1</u>	<u>Class 2</u>	<u>Failure to maintain building in code-compliant manner: Gas vent reduced or undersized as per FGC 504.2;27-887.</u>
<u>28-301.1</u>	<u>Class 2</u>	<u>Failure to maintain building in code-compliant manner: failure to comply with law for water supply system per PC 602.3;27-908(c).</u>

28-301.1	Class 2	<u>Failure to maintain building in code-compliant manner: failure to comply with law for drainage system per PC 702.1;27-911.</u>
28-301.1	Class 2	<u>Failure to maintain building in code-compliant manner: Plumbing fixture(s) not trapped and/or vented per PC 916.1 & PC 1002.1; 27-901(o).</u>
28-301.1	Class 1	<u>Failure to maintain building in code-compliant manner: Misc sign violation by Outdoor Ad Co as per 27-498 through 27-508 & BC H103.1.</u>
28-301.1	Class 2	<u>Failure to maintain sign in accordance w Tit.27;Tit.28;ZR;RCNY</u>
28-302.1	Class 1	<u>Failure to maintain building wall(s) or appurtenances.</u>
28-302.1	Class 2	<u>Failure to maintain building wall(s) or appurtenances.</u>
28-302.1	Class 3	<u>Failure to maintain building wall(s) or appurtenances.</u>
28-302.4	Class 2	<u>Failure to submit a required report of critical examination documenting condition of exterior wall and appurtenances.</u>
28-302.5	Class 2	<u>Failure to file an amended report acceptable to this Department indicating correction of unsafe conditions.</u>

<u>28-303.7</u>	<u>Class 2</u>	<u>Failure to file complete boiler inspection report.</u>
<u>28-401.16</u>	<u>Class 2</u>	<u>Held self out as licensed, certified, registered etc., to perform work requiring a DOB license w/o obtaining such license.</u>
<u>28-401.9</u>	<u>Class 1</u>	<u>Failure to file evidence of liability &/or property damage insurance.</u>
<u>28-401.9</u>	<u>Class 1</u>	<u>Failure to file evidence of compliance with Workers Comp. law and/or disability benefits law.</u>
<u>28-404.1</u>	<u>Class 1</u>	<u>Supervision or use of rigging equipment without a Rigger's license.</u>
<u>28-404.4.1</u>	<u>Class 2</u>	<u>Licensed Master/Special Rigger failed to place appropriate "Danger" sign while using rigging equipment.</u>
<u>28-405.1</u>	<u>Class 1</u>	<u>Supervision or use of power-operated hoisting machine without a Hoisting Machine Operator's license.</u>
<u>28-405.1</u>	<u>Class 2</u>	<u>Supervision or use of power-operated hoisting machine without a Hoisting Machine Operator's license.</u>
<u>28-408.1</u>	<u>Class 2</u>	<u>Performing unlicensed plumbing work without a master plumber license.</u>

<u>28-502.6</u>	<u>Class 1</u>	<u>Misc sign viol'n by outdoor ad co of Tit.27;Tit.28;ZR;or BC</u>
<u>BC 1016.2</u>	<u>Class 2</u>	<u>Failure to maintain building in code-compliant manner: provide required corridor width per BC 1016.2;27-369</u>
<u>BC 3010.1 & 27-1006</u>	<u>Class 1</u>	<u>Failure to promptly report an elevator accident involving personal injury requiring the services of a physician or damage to property.</u>
<u>BC 3301.2 & 27-1009(a)</u>	<u>Class 1</u>	<u>Failure to safeguard all persons and property affected by construction operations.</u>
<u>BC 3301.2 & 27-1009(a)</u>	<u>Class 2</u>	<u>Failure to safeguard all persons and property affected by construction operations.</u>
<u>BC 3301.2 & 27-1009(a)</u>	<u>Class 1</u>	<u>Failure to institute/maintain safety equipment measures or temporary construction – No guard rails</u>
<u>BC 3301.2 & 27-1009(a)</u>	<u>Class 1</u>	<u>Failure to institute/maintain safety equipment measures or temporary construction – No toe boards.</u>
<u>BC 3301.2 & 27-1009(a)</u>	<u>Class 1</u>	<u>Failure to institute/maintain safety equipment measures or temporary construction – No handrails.</u>

<u>BC 3301.9 & 27-1009 (c)</u>	<u>Class 2</u>	<u>Failure to provide/post sign(s) at job site pursuant to subsection.</u>
<u>BC 3303.3 & 27-1020</u>	<u>Class 2</u>	<u>Failure to post D.O.T. permit for street/sidewalk closing.</u>
<u>BC 3303.4 & 27-1018</u>	<u>Class 2</u>	<u>Failure to maintain adequate housekeeping per section requirements.</u>
<u>BC 3304.3 & 1 RCNY 52-01(a)</u>	<u>Class 1</u>	<u>Failure to notify the Department prior to the commencement of earthwork.</u>
<u>BC 3304.3 & 1 RCNY 52-01(b)</u>	<u>Class 2</u>	<u>Failure to notify the Department prior to the cancellation of earthwork .</u>
<u>BC 3304.4 & 27-1032</u>	<u>Class 1</u>	<u>Failure to provide protection at sides of excavation.</u>
<u>BC 3306 & 27-1039</u>	<u>Class 1</u>	<u>Failure to carry out demolition operations as required by section.</u>
<u>BC 3306.2.1</u>	<u>Class 1</u>	<u>Failure to provide safety zone for demolition operations.</u>
<u>BC 3306.3& 27-195</u>	<u>Class 1</u>	<u>Failure to provide required notification prior to the commencement of demolition.</u>
<u>BC 3306.5</u>	<u>Class 1</u>	<u>Mechanical demolition without plans on site.</u>
<u>BC 3307.3.1& 27-1021(a)</u>	<u>Class 1</u>	<u>Failure to provide sidewalk shed where required.</u>
<u>BC 3307.6 & 27-1021</u>	<u>Class 2</u>	<u>Sidewalk shed does not meet code specifications.</u>
<u>BC 3307.7 & 27-1021(c)</u>	<u>Class 2</u>	<u>Job site fence not constructed pursuant to subsection.</u>

<u>BC 3309.4 & 27-1031</u>	<u>Class 1</u>	<u>Failure to protect adjoining structures during excavation operations.</u>
<u>BC 3310.5 & 27-1009(d)</u>	<u>Class 1</u>	<u>Failure to have Site Safety Manager or Coordinator present as required.</u>
<u>BC 3314.2 & 27-1042</u>	<u>Class 1</u>	<u>Erected or installed supported scaffold 40 feet or higher without a permit.</u>
<u>BC 3314.1.1 & 27-1050.1</u>	<u>Class 2</u>	<u>Failed to notify Department prior to use/inst. off C-hooks/outrigger beams in connection with Suspended Scaffold</u>
<u>BC 3314.4.3.1 & 27-1045</u>	<u>Class 1</u>	<u>Failure to perform safe/proper inspection of suspended scaffold.</u>
<u>BC 3314.4.3.1 & 27-1045(b)</u>	<u>Class 1</u>	<u>No record of daily inspection of Suspended Scaffold performed by authorized person at site.</u>
<u>BC 3314.4.5 & 26-204.1 (a)</u>	<u>Class 1</u>	<u>Erected, dismantled repaired, maintained, modified or removed supported scaffold without a scaffold certificate of completion.</u>
<u>BC 3314.4.5 & 26-204.1 (a)</u>	<u>Class 2</u>	<u>Erected, dismantled repaired, maintained, modified or removed supported scaffold without a scaffold certificate of completion.</u>
<u>BC 3314.4.6 & 26-204.1 (c)</u>	<u>Class 1</u>	<u>Use of supported scaffold without a scaffold user certificate.</u>

<u>BC 3314.4.6 & 26-204.1 (c)</u>	<u>Class 2</u>	<u>Use of supported scaffold without a scaffold user certificate.</u>
<u>BC 3314.6.3 & 27-1009</u>	<u>Class 1</u>	<u>Failure to provide/use lifeline while working on scaffold.</u>
<u>BC 3314.6.3 & 27-1009</u>	<u>Class 2</u>	<u>Failure to provide/use lifeline while working on scaffold.</u>
<u>BC 3316.2 & BC 3319.1 & 27-1054</u>	<u>Class 1</u>	<u>Inadequate safety measures: Oper'n of crane/ derrick/hoisting equip in unsafe manner)</u>
<u>BC 3319.3</u>	<u>Class 1</u>	<u>Operation of a crane/derrick without a Certificate of Operation</u>
<u>BC 3319.3 & 27-1057(b)</u>	<u>Class 2</u>	<u>Operation of crane/derrick without Certificate of Approval/Certificate of Operation.</u>
<u>BC 3319.3 & 27-1057(d)</u>	<u>Class 2</u>	<u>Operation of a crane/derrick without a Certificate of Onsite Inspection.</u>
<u>PC-Misc, FGC-Misc, MC-Misc</u>	<u>Class 1</u>	<u>Miscellaneous violations.</u>
<u>PC-Misc, FGC-Misc, MC-Misc</u>	<u>Class 2</u>	<u>Miscellaneous violations.</u>
<u>PC-Misc, FGC-Misc, MC-Misc</u>	<u>Class 3</u>	<u>Miscellaneous violations.</u>
<u>RS 6-1</u>	<u>Class 1</u>	<u>Failure to file affidavits and/or comply with other requirements set forth for photoluminescent exit path marking.</u>
<u>ZR 42-543</u>	<u>Class 1</u>	<u>Outdoor Ad Co sign in M Dist exceeds height limit.</u>

<u>ZR 22-00</u>	<u>Class 2</u>	<u>Illegal use in residential district.</u>
<u>ZR 22-32</u>	<u>Class 1</u>	<u>Outdoor Ad Co has impermissible advertising sign in an R Dist.</u>
<u>ZR 22-342</u>	<u>Class 1</u>	<u>Outdoor Ad Co sign in R Dist exceeds height limits.</u>
<u>ZR 25-41</u>	<u>Class 2</u>	<u>Violation of parking regulations in a residential district.</u>
<u>ZR 25-41</u>	<u>Class 3</u>	<u>Violation of parking regulations in a residential district.</u>
<u>ZR 32-00</u>	<u>Class 2</u>	<u>Illegal use in a commercial district.</u>
<u>ZR 32-63</u>	<u>Class 1</u>	<u>Outdoor Ad Co advertising sign not permitted in specified C Dist.</u>
<u>ZR 32-64</u>	<u>Class 2</u>	<u>Sign(s) in specified C Dist exceed(s) surface area restrictions.</u>
<u>ZR 32-64</u>	<u>Class 1</u>	<u>Outdoor Ad Co sign(s) in specified C Dist exceed surface area limits.</u>
<u>ZR 32-652</u>	<u>Class 2</u>	<u>Sign in specified C Dist extends beyond street line limitation.</u>
<u>ZR 32-653</u>	<u>Class 2</u>	<u>Prohibited sign on awning, canopy, or marquee in C Dist.</u>
<u>ZR 32-655</u>	<u>Class 1</u>	<u>Outdoor Ad Co sign exceeds permitted height for specified C Dist.</u>
<u>ZR 42-00</u>	<u>Class 2</u>	<u>Illegal use in a manufacturing district.</u>
<u>ZR 42-52</u>	<u>Class 1</u>	<u>Outdoor Ad Sign not permitted in M Dist.</u>
<u>ZR 42-53</u>	<u>Class 1</u>	<u>Outdoor Ad sign in M Dist exceeds surface area limits.</u>

ZR-Misc	Class 2	<u>Miscellaneous violations of the Zoning Resolution.</u>
ZR-Misc	Class 3	<u>Miscellaneous violations of the Zoning Resolution.</u>
ZR-Misc.	Class 1	<u>Misc sign violation under the Zoning Resolution by an Outdoor Ad Co</u>
ZR-Misc.	Class 2	<u>Misc sign violation under the Zoning Resolution</u>

Section 3. This rule shall take effect July 1, 2008.

STATEMENT OF BASIS AND PURPOSE

The Department adopts this rule to reflect the enactment of the new Construction Codes, and the simultaneous repeal of substantial portions of the current Building Code. The new enforcement scheme will apply to all NOV's issued by the Department with a date of occurrence on or after July 1, 2008. The existing Penalty Schedule (designated in the coordinate proposed rulemaking of the Environmental Control Board ("ECB") as "Buildings Penalty Schedule I") will be retained and will apply to all NOV's issued by the Department with a date of occurrence on or before June 30, 2008.

The new Construction Codes were enacted pursuant to the provisions of Local Law 33 of 2007 and Local Law 99 of 2005. Local Law 33 of 2007 sets forth administrative, enforcement and technical provisions for the city's new Construction Codes. It revises and thus complements Local Law 99 of 2005, which enacted administrative provisions of a new Title 28 of the NYC Administrative Code, as well as a new plumbing code. Local Law 33 repeals all of Chapter 1 of Title 26 of the NYC Administrative Code, and many of the provisions of Title 27 of the NYC Administrative Code, effective July 1, 2008. In view of the enactment of new Construction Codes, the Department adopts a new classification scheme for violations of code requirements, new daily penalties, and new processes for certifying the correction of violations. This rule is intended to complement ECB's rulemaking on this subject.

On July 1, 2008, the new Construction Codes will become effective in New York City. They consist of the New York City Plumbing Code (PC), the New York City Building Code (BC), the New York City Mechanical Code (MC) and the New York City Fuel Gas Code (FGC). In Title 28 of the NYC Administrative Code are found the administration and enforcement provisions that are applicable to both the new Construction Codes, and to the continuing provisions of the current Building Code. Those provisions of Title 27 that remain in effect (primarily for existing buildings) have now been retitled the "1968 Building Code."

The new Construction Codes will apply prospectively to all new constructions, with some exceptions. For a period of one year after the effective date, owners may elect to use the technical requirements of the 1968 Building Code, rather than of the new Construction Codes, for new buildings and for applications for alteration of existing buildings. In addition, after that one-year period, alterations of existing buildings will in some circumstances, at the option of the owner, be permitted to comply with the 1968 Building Code.

Even if an existing building (or in some cases, a new or altered building) continues to be governed by the provisions of the 1968 Building Code, rather than by the provisions of the new Construction Codes, the enforcement provisions of Title 28 of the NYC Administrative Code will nonetheless apply in connection with those buildings. Title 28 includes, among other provisions, the various penalty structure requirements for violations of these codes. Accordingly, even in connection with the continuing provisions of the 1968 Building Code, a new set of classifications, penalties, and processes is required as of July 1, 2008.

Section 28-201.2 of the new codes requires the Department to indicate by rule whether a charge has a classification level of “immediately hazardous”, “major” or “lesser”. These classifications are based on “the effect of the violation on life, health, safety or the public interest or the necessity for economic disincentive.” The classification level assigned to a particular charge determines the applicable statutory penalty range, as well as compliance requirements. The rule reflects that these classifications shall be denominated as Class 1, Class 2, and Class 3, respectively and further reflects the classifications of the various charges.

The classifications, penalties, and processes set forth above include charges from Title 28; the new Construction Codes; the Rules of the Department of Buildings; the Zoning Resolution; and charges that reflect the various continuing provisions of the 1968 Building Code. The penalties set forth in the rule are based on the penalty provisions of Title 28 of the NYC Administrative Code.

The Environmental Control Board, pursuant to Chapter 2 of Title 28 of the NYC Administrative Code, will also promulgate a rule in order to implement the provisions of Title 28 and the new Construction Codes. The ECB rule will include the same charge descriptions and classification levels as are set forth in the Department’s rule, although it will also include the precise penalty amounts for each infraction, including each infraction with multiple classifications. The reason for this replication in ECB’s rule of portions of the proposed classifications is that ECB is mandated by Title 28 to impose penalties for every charge.

The rule defines for purposes of both Department processes and ECB’s establishment of mitigated penalties resolution by “cure,” “stipulation,” and “mitigation.” It also implements the authority provided by section 28-204.2 of the Administrative Code by providing additional time for correction of a violation in connection with cures, such that cures are permitted within forty, rather than thirty days, in order to allow for practical processing-time considerations. In addition, it allows for such cures in connection with certain violations that are classified as Class 2, as well as in connection with violations that are classified as Class 3 to the extent that the codes provide no minimum penalty for Class 2 violation. Accordingly, for eligible Class 2 violations, if the violation is certified as corrected in the prescribed manner, it will have the same consequences as in connection with cures for Class 3 violations.

Regarding charges that pertain to certificates of occupancy issued by the Department, Section 28-201.2.1 of the Administrative Code provides that violations for “occupancy without a required certificate of occupancy” shall be classified as immediately hazardous. The Department interprets that section to mean that a violation for occupancy without a required certificate of occupancy is a Class 1 violation only in cases involving a new building that has never had a certificate of occupancy. In all other cases, a violation for occupancy contrary to the certificate of occupancy may be written as an Class 1 violation or as a Class 2 violation or as a Class 3 violation.