

NEW YORK CITY DEPARTMENT OF BUILDINGS

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Buildings (DOB) is proposing to amend the rules regarding the classification of violations.

When and where is the hearing? DOB will hold a public hearing on the proposed rule. The public hearing will take place at 10am on 3/25/15. The hearing will be in the 3rd floor conference room at 280 Broadway.

How do I comment on the proposed rules? Anyone can comment on the proposed rules by:

- **Website.** You can submit comments to the DOB through the NYC rules Web site at <http://rules.cityofnewyork.us>.
- **Email.** You can email written comments to dobrules@buildings.nyc.gov.
- **Mail.** You can mail written comments to the New York City Department of Buildings, Office of the General Counsel, 280 Broadway, 7th floor, New York, NY 10007.
- **Fax.** You can fax written comments to the New York City Department of Buildings, Office of the General Counsel, at 212-566-3843.
- **By speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up before the hearing by calling 212-393-2085. You can also sign up in the hearing room before the hearing begins on 3/25/15. You can speak for up to three minutes.

Is there a deadline to submit written comments? Yes, you must submit written comments by 3/25/15.

Do you need assistance to participate in the hearing? You must tell the Office of the General Counsel if you need a reasonable accommodation of a disability at the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail or email at the addresses given above. You may also tell us by telephone at 212-393-2085. You must tell us by 3/18/15.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. A few days after the hearing, written comments and a summary of oral comments received at the hearing will be available to the public at the Office of the General Counsel.

What authorizes DOB to make this rule? Sections 643 and 1043(a) of the City Charter, Sections 28-201.2, 28-201.2.1, 28-201.2.2, and 28-202.1 of the Administrative Code of the City of New York, and Section 14 of Local Law 141 of 2013 authorize DOB to make this proposed rule. This proposed rule was not included in DOB's regulatory agenda for this Fiscal Year because it was not contemplated when DOB published the agenda.

Where can I find the DOB's rules? The DOB's rules are in Title 1 of the Rules of the City of New York.

What rules govern the rulemaking process? DOB must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

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 proposed 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 seeks to clarify 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; and
- damaging or removing trees in a Special Natural Area District without certification, authorization or special permit.

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 four existing violations relating to sections 27-185 and 28-301.1 of the New York City Administrative 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>

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

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

RULE TITLE: Amendment of Violation Classifications for Construction Codes and Zoning Resolution

REFERENCE NUMBER: 2015 RG 008

RULEMAKING AGENCY: Department of Buildings

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

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

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: February 9, 2015

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

CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)

RULE TITLE: Amendment of Violation Classifications for Construction Codes and Zoning Resolution

REFERENCE NUMBER: DOB-65

RULEMAKING AGENCY: Department of Buildings

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

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

/s/ Katherine Vera
Mayor's Office of Operations

February 9, 2015
Date