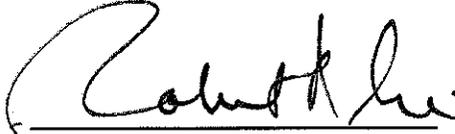


NOTICE OF ADOPTION OF RULE

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.