



### Promulgation Details for 1 RCNY 101-03

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."

**NEW YORK CITY DEPARTMENT OF BUILDINGS**

**NOTICE OF ADOPTION OF RULE**

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner 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 101-03 and 105-03 of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York regarding course providers, and the repeal of sections 3301-03 and 3321-01 of Chapter 3300 of Title 1 regarding construction worker safety information signs, and construction site safety training, respectively. This rule was first published on December 31, 2024, and a public hearing thereon was held on January 30, 2025.

Dated: \_\_\_\_\_

5/12/2025  
New York, New York

  
James S. Oddo  
Commissioner

### **Statement of Basis and Purpose of Rule**

Since the enactment of Local Law 196 of 2017, which mandated construction site safety training, the course provider program has expanded and the costs of administering the program, including contract costs and staffing needs, have increased. In 2017 there were approximately 40 course providers.

Today there are over 150, significantly increasing the Department's workload in terms of approving the providers, requiring the imposition of registration fees. Under section 1 of this rule, Rule 101-03 is amended to include a new initial registration fee of \$3,250 and a new renewal registration fee of \$3,185.

Under section 2, Rule 105-03 is amended to improve compliance by course providers. Specifically, the rule:

- Creates a registration for course providers as of July 1, 2025 and subjects them to the suspension and revocation provisions of Section 28-401.19 of the Administrative Code.
- States that the Department may refuse to renew a registration pursuant to Section 28-401.19 of the Administrative Code.
- Provides that course provider approvals issued prior to July 1, 2025 will continue to be valid and that course providers may continue to offer Department-approved courses after July 1, 2025, provided they submit an application to register by June 30, 2025.
- Adds language about investigations and audits.
- Clarifies recording-keeping requirements.
- Provides guidance on how providers can advertise.
- Provides guidance on how to conduct non-traditional course/class formats.
- Removes sections that are no longer relevant because the deadlines have passed or the described processes are no longer followed.
- Creates a requirement for providers to upload data to DOB's online platform.
- Adds a requirement that a course provider upload certificates of completion prior to withdrawing from the course provider program.

In addition, two sections of Chapter 3300 of Title 1 of the Rules of the City of New York - sections 3301-03, regarding construction worker safety information signs, and 3321-01, regarding construction site safety training - are repealed, as their provisions are currently in effect and covered by Section 3321 of the Building Code.

In response to comments received prior to and at the public hearing, the following changes have been made:

- Added that live and virtual training is limited to 9½ hours per day, including meal breaks and administrative matters.
- Clarified that notification of approved courses on the provider's website applies to any course provider who offers Department-approved training to the general public.
- Added a requirement that instructors add an attestation in the log verifying that they taught the class and the students who attended the class.

- Clarified that SST cards are to be issued upon verification of course completion certificates by an applicant.

There were many comments received regarding third-party providers claiming that barring delegation to a third party would drive up costs and limit the number of providers offering courses. These comments were rejected because the Department has no enforcement authority over third-party providers. In addition, third parties have caused confusion over whether the provider is legitimate. The third-party providers can register with the Department in accordance with this rule and can continue to operate if they do so.

Comments were received stating that the registration fees are too high. The fees were approved by the City's Office of Management and Budget after the Department performed a user cost analysis, taking into account staff time and resources and other costs to determine the fee amount. The fee amounts will therefore not be changed.

In addition, the following changes were made to better reflect current practice:

- Added that failure to submit any missing or additional documentation requested by the Department within 6 months of the request will result in the denial of the application.
- Clarified that worker certifications must be issued via the Training Connect platform.
- Specified that any required approval, license, accreditation or certification must reflect the exact name of the entity registering.

The Department of Buildings' authority for this rule is found in sections 643 and 1043 of the New York City Charter.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (\*\*\*) indicate ellipses, i.e., unamended text.

**Section 1.** Section 101-03 of subchapter A of chapter 100 of Title 1 of the Rules of the City of New York is amended by adding the following entry at the end of the table set forth in that section:

<u>Course provider registration</u>	<u>Initial:</u> <u>\$3,250</u>	<u>Renewal:</u> <u>\$3,185</u>

**§2.** Section 105-03 of subchapter E of chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:



### **§105-03 Course Provider Registration and Department-Approved Courses.**

(a) **[Scope.** This section outlines the requirements for Department-approved courses required by the Administrative Code and Department rules for training, license qualification and licensee continuing education. Unless otherwise authorized under the Administrative Code or Department rules, only Department-approved courses may be offered to fulfill Department course requirements] **Registration.** Beginning on July 1, 2025, no course provider may offer Department-approved courses unless such course provider is registered with the Department in accordance with this section. Such registration is valid for one year from the date of registration.

- (1) Current course providers may continue to offer courses until July 1, 2025, provided they apply for registration between the effective date of this section and July 1, 2025, in accordance with the provisions of subdivision (b) of this section. Providers who fail to apply must complete any course currently being offered and upload the certificates as provided in this section but may not offer any additional courses.
- (2) Once the department approves the application, the provider will be considered registered as of that date.
- (3) In the event the department denies the application, the applicant may reapply or may challenge the determination in accordance with the provisions of Section 28-401.21 of the Administrative Code. The provider may continue to operate until the reapplication or challenge is decided.

### **(b) Course Provider Application and Renewal Process.**

- (1) The course provider applicant must submit:
  - (i) an application form provided by the Department;
  - (ii) proof that the applicant has met the requirements of paragraph (2) of subdivision [(e)](f) of this section; [and]
  - (iii) a statement attesting that the applicant will ensure that all instructors comply with the requirements of subdivision [(d)](e) of this section and, if applicable, subdivision [(g)](h) of this section[. Course providers who are already approved as of the effective date of this subparagraph must comply with its provisions by January 1, 2020.]; and
  - (iv) a fee as set forth in section 101-03 of these rules.
- (2) [A listing of the providers of the approved courses will be available through the Department's website.] Incomplete [or inaccurate] applications will be rejected.
- (3) [Incomplete or inaccurate applications will be returned to the applicant and may be resubmitted once complete or corrected.] Applications for renewal must be accompanied by the renewal fee and such additional information as the commissioner may require. Such applications must be made at least 30 days but not more than 60 days prior to the expiration of the applicant's registration.

**(c) Investigation of applicant.** The Department or its designee will conduct an investigation of each applicant to determine its qualification to become a course provider. The burden of proving that an applicant meets the required qualifications is on the applicant. An applicant's failure to meet the requirements specified by the Administrative Code or by the Department's rules, and/or an applicant's refusal to cooperate with an investigation will result in denial of the application. If an applicant fails to provide all requested documents within six (6) months of the date of the request the application will be denied.

**(d) Approved Courses.** Unless otherwise authorized under the Administrative Code or Department rules, only Department-approved courses may be offered to fulfill Department course requirements. A listing of registered providers of approved courses is available on the Department's website. The course provider must ensure compliance with the provisions of this subdivision [(c)].

(1) Course Requirements.

(i) All courses must comply with the Department's course [curricula] requirements published on its website, which lists the relevant citations for statutory or other requirements listed in this paragraph.

[(ii)] No more than four (4) hours of any curriculum may consist of course materials or credits to be applied to multiple license types.

Exception: Subparagraph (ii) does not apply to course curricula for Master and Special Electrician, Master Plumber and Master Fire Suppression Piping Contractor.]

[(iii)] (ii) All [curricula] requirements must include the following information as applicable to the relevant construction trade:

- (A) Business practices;
- (B) Relevant Building Code provisions, rules, and policy and procedure notices enacted or promulgated by the Department;
- (C) Administrative Code provisions, rules and policy and procedure notices enacted or promulgated by any other City agency;
- (D) Overview of Occupational Safety and Health Standards ("OSHS") for the Construction Industry;
- (E) Relevant Department of Buildings filing and inspection requirements;
- (F) Safety/hazardous materials;
- (G) New technology;
- (H) Corruption prevention standards; and
- (I) Other subjects identified by the Commissioner.

[(iv)](iii) All courses must reflect any changes in the Department's published course [curricula] requirements or any applicable laws, rules and regulations within ninety (90) days.

(iv) Class Duration: Live and virtual training sessions may not exceed 9½ hours in total per day, including time spent covering course content, lunch/meal and other

breaks, and administrative matters such as attendance and hands on and written assessments.

(2) Notification of Approved Courses. [(i)]The course provider must have [a]its own website and any course provider who offers Department-approved training to the general public must publish course schedules on its website, including dates, times, locations, the cost of the training and whether such cost includes the cost of issuing the identification card or site safety training card required by this section, the cost of such card if it is not included in the training cost, and must [otherwise make] submit all course schedules [available in writing] to the Department [upon request]. The course provider must also notify the Department of any changes to a scheduled course at least three (3) business days prior to it being offered. All information on the course provider's website, including the location of courses and the courses taught, must be current.

[(ii) The course provider must notify the Department of any changes to the course within fourteen (14) days of such change.]

(3) Course Review. At the end of each course, the instructor(s) must conduct a review of the materials taught. The Department may require that a hands-on or written performance evaluation be given to attendees.

(4) Course Facilities. The course facilities must:

(i) Have sufficient room to accommodate all expected attendees and the equipment needed to perform hands-on exercises where required as part of the course;

(ii) Make provisions for the presentation of training material in all media types (e.g., computer, projectors, video/DVD players); and

(iii) Comply with all applicable laws, rules and regulations relating to occupancy, zoning, egress, fire detection, fire suppression, light, ventilation, cleanliness, sanitary facilities, emergency notification and evacuation procedures.

(5) Attendance Record. The course provider must have in place fraud- resistant procedures for confirming the identity and attendance of individuals taking any course(s), including logs reflecting those in attendance at different times during the course, and be able to produce the logs and any other documentation demonstrating that an attendee attended the course(s). The logs must include:

(i) The student's full name (printed);

(ii) The student's signature;

(iii) The name of the course;

(iv) The name of instructor(s);

(v) The time the course began;

(vi) The time the course ended;

(vii) The time of a break (if any), including when the break began and when the break ended;

(viii) The address where the class/course or course was conducted;

(ix) The format in which the class was conducted: in-person, virtual, webinar, hybrid online/in-person training (for hands-on training courses); and

(x) An attestation by each instructor confirming that they taught the class and verifying the attendance list. Each instructor must print their name, sign it, and add the date.

(6) Course Completion.

(i) [For training courses, the course provider must issue a wallet-size identification card to attendees upon course completion. Such card must contain the following information:

- (A) The name of the person to whom it was issued;
- (B) A photograph of the person to whom it was issued;
- (C) The name and address of the issuing organization;
- (D) The date of issuance;
- (E) An indication of the type of training and the number of credit hours completed; and
- (F) The signature of the course provider.

(ii) For qualification and continuing education courses, the] The course provider must issue a certificate of completion to the attendees upon course completion. The course provider must also upload a photograph of the person and a digital copy of the certificate of completion to the Department of Buildings' platform NYC DOB Training Connect, which is only accessible to registered course providers. The course provider must upload the certificate within 60 days of course completion. Such certificate must contain the following information:

- (A) The name of the course;
- (B) The name of the person to whom it was issued;
- [(B)] (C) The name and address of the issuing organization;
- (D) The certificate number;
- [(C)](E) The date of issuance and expiration (if any);
- [(D)](F) An indication of the type of course and the number of credit hours completed; [and]
- [(E)](G) The name and signature of the course provider;
- (H) The name of the instructor; and

(l) The course provider ID number.

[(iii)] (ii) For worker certification courses, the course provider must issue an identification card to attendees upon course completion. Such card must be issued using the Department of Buildings' platform NYC DOB Training Connect, which is only accessible to registered course providers and can found at <https://dob-trainingconnect.cityofnewyork.us/>.

[(iv)] (iii) The course provider must maintain a record of all the information required on the identification cards and the certificates of completion for a minimum period of seven (7) years from the date of completion. The course provider must make these records available to the Department upon request.

(7) Department Observation and Evaluation. The Department may observe any Department-approved course without prior notification to the course provider or instructor. The Department may evaluate courses taught by course providers through audit or other means at such intervals as it deems necessary and may require additional information as it deems necessary.

(8) Audits. The Department may periodically audit the course provider to ensure compliance with this section and any rules or other Department requirements related to such training.

(9) Cooperation. The course provider must cooperate with investigations related to the course provider's compliance with the requirements of this rule or other applicable law.

**[(d)](e) Course Instructor(s).** Course providers must require that course instructor(s) demonstrate that they are credentialed or trained in instructional methods and learning processes. Course providers must also require that the instructor(s) successfully demonstrate their ability to solve or resolve problems relating to the subject matter by possession of a recognized degree, certificate, licensure or professional standing, or by extensive knowledge, training, and experience, in the subject matter being taught. To the extent that the course instructor(s) holds, or has held, a trade license issued by the Department, such license must be in good standing and not be surrendered to, suspended by or revoked by the Department.

(1) For Supported Scaffold, Suspended Scaffold and Mast-Climber training courses, the instructor(s) must also be authorized by the Occupational Safety and Health Administration ("OSHA") as a trainer(s) for its Construction and Outreach Program.

(2) For Hoisting Machine Operator courses, the instructor(s) must also hold a valid New York City Hoisting Machine Operator's license or hold a national certification for crane operation.

(3) For Master and Special Electrician courses, the instructor(s) must demonstrate credentials or training in instructional methods and learning processes through licensure or certification, including but not limited to, certification as an electrical course provider in jurisdictions following the National Electrical Code/NFPA 70.

(4) The course instructor(s) must comply with all applicable Federal, State and local laws, rules and regulations.

(5) The course instructor(s) must be in compliance with the Department's Industry Code of Conduct.

**[(e)](f) Course Provider Requirements.**

(1) The course provider must be a sole proprietorship, a partnership or a corporation that provides training, an educational institution, a governmental agency or authority, a trade union, or a trade association, provided that a governmental agency or authority need not comply with paragraph (2) of this subdivision.

(2) The course provider must provide proof that it is:

(i) approved by or licensed as an educational institution by the New York State Department of Education;

(ii) registered as a New York State Department of Labor vocational, trade or apprenticeship program;

(iii) accredited by an accrediting organization recognized by the United States Department of Education or the Council for Higher Education Accreditation; or

(iv) certified by an organization accredited by the American National Standards Institute (ANSI) as a Standards Developing Organization with published standards for continuing education and training.

For alternative Mast-Climbing work platform training course provider requirements to those listed in paragraph (2) of subdivision [(e)](f), herein, see section 3314-01(m).

(3) Course providers must continuously maintain the qualifications required by paragraphs (1) and (2) of this subdivision and by subdivision [(h)](i), if applicable, and must provide a copy of such approval, license, accreditation or certification to the Department upon request. The documentation must reflect the exact name of the entity registering. The course provider must immediately notify the Department of any lapse or expiration of its approval, license, accreditation or certification, including any qualification required by subdivision [(h)](i).

(4) The course provider must comply with all applicable Federal, State and local laws, rules and regulations.

(5) The course provider must notify the Department of any changes to the course provider's name within fourteen (14) days of such change.

(6) Course providers must ensure that all their instructors comply with all applicable provisions of this section.

(7) Course providers must be in compliance with the Department's Industry Code of Conduct and Course Provider Program Handbook.

(8) Course providers must notify the Department within thirty (30) days if the course provider makes changes to its business name, its website domain, or the owner/director of the business by submitting a new application for provider approval with supporting documentation. The provider may continue to offer courses under its current name pending approval of the new application.

(9) Course providers must collect, process and retain student data records as set forth herein. Course providers must implement privacy and data security practices to guard against the unauthorized access, fraud, theft, and other misuse of such information. Course providers may not use the data collected pursuant to this rule for any other purpose, including but not limited for advertisements, without the student's consent. Course providers must comply with all applicable City, State, and federal laws relating to personally identifying information and to privacy, including but not limited to those included in the New York State General Business Law.

**[(f)](g) Department as course provider.** Notwithstanding the foregoing, the Department may act as a provider, or the sole provider, of any course offered to fulfill a Department course requirement. [A listing of available Department courses will be posted on the Department's website.]

**[(g)](h) Site Safety Training (SST) Course Instructors.** For the purposes of providing training in accordance with section 3321.1 of the Building Code and this section 105-03, a site safety training (SST) provider, as defined in item 1 of the definition of "Site Safety Training (SST) Provider" in section [3302.1]202 of the Building Code, means a course instructor as used in this section 105-03. In addition to the foregoing requirements for course instructors, an SST course instructor must meet one of the following requirements:

- (1) has successfully completed all applicable OSHA or Department requirements for conducting OSHA 10-hour classes and OSHA 30-hour classes and is authorized to conduct such classes, except that such course instructor is not required to possess a degree, certificate, licensure or demonstrate any professional standing as required by subdivision [(d)](e), beyond what is required in this paragraph;
- (2) is providing training through a 100-hour training program; or
- (3) is approved by the Department to conduct a 40-hour Site Safety Manager training course in accordance with article 402 of Chapter 4 of the Administrative Code.

**[(h)](i) Site Safety Training (SST) Course Providers.** A site safety training (SST) provider as defined in item 2 of the definition of "Site Safety Training (SST) Provider" in section [3302.1]202 of the Building Code must comply with the requirements for course providers in this section 105-03 as well as with the applicable requirements of this subdivision [(h)].

- (1) If a not-for-profit organization or a governmental agency or authority is an SST provider, it must meet the standards set forth by the Department instead of the requirement in paragraph (2) of subdivision [(e)](f).
- (2) [Not later than March 1, 2021, an] An SST provider must certify to the Department that it has a language access plan that complies with requirements established by another City agency or office designated by the Mayor, as required by item 2.1 of the definition of SST provider in section 202 of the Building Code.

(3) Training may be conducted in person or in an actively proctored online format and must comply with the following:

(i) If conducted in person in a classroom setting, the SST provider must confirm the identification of the individual taking such training and must ensure that the site of such training is actively observed for the duration of the training.

(ii) If the online training is not performed in person, the SST provider must confirm the identification of the individual prior to providing secure access to the online training. The individual must attest that he/she is the individual who received the online access and will complete the training without assistance. The online program must have secure access and monitor participation during the course of training to ensure that the individual receiving the training is present for the entirety of the training.

(4) Upon completion of the SST course, the SST provider [or, if applicable, a third party,] must issue an SST card in accordance with subdivision [(i)](i) of this section. [The provisions of paragraph (6) of subdivision (c) of this section do not apply to SST courses.]

(5) If the SST provider is not the provider of the OSHA course that is required for an SST card, as defined in section [3302.1]202 of the Building Code, the SST provider must ensure that the OSHA course was conducted either in person or, if online, was actively proctored before issuing an SST card as provided in subdivision [(i)](i) of this section.

(6) The SST provider [or, if applicable, a third party,] must accept documentation, including identification cards or certificates of completion, from [a Department-approved] registered course providers. Course providers must accept SST course equivalent, as set out on the Department's website, and must apply such course hours to satisfy the training requirements of this section and section BC 3321 of the Building Code.

[(7) Beginning October 1, 2019, and on January 1, April 1 and October 1 of each year thereafter, the course provider must report the number of SST, temporary SST, limited SST and supervisory SST cards issued each quarter in a format required by the Department.]

**[(i)](i) SST cards to be issued upon verification of course completion.** [The Department may require SST course completion cards to be issued by a third party. Until such time as a third party process is instituted, an] An SST provider must[, upon completion of the SST course,] issue a temporary SST card, [limited SST card,] SST card, or SST supervisor card, only after verifying that the applicant has successfully completed all required training and in accordance with subdivision [(h)](i), this subdivision and section [3302.1]202 of the Building Code. The SST provider must issue the appropriate card using the Department of Buildings' platform NYC DOB Training Connect, which is only accessible to registered course providers.

[(1) Such card must be wallet-sized and must conform to the guidelines posted on the Department's website.



(2) Any SST card issued prior to the effective date of this rule must conform to the guidelines posted on the Department's website. The course provider who issued such SST card must replace non-conforming cards by April 1, 2020 with cards that comply.]

**[(j)](k) Record-keeping and verification of SST Cards.**

[(1)] The SST course provider [or, if applicable, a third party,] must maintain a record of all temporary SST cards, [limited SST cards,] SST cards, or SST supervisor cards issued for a minimum of seven years. The SST course provider [or, if applicable, a third party,] must make these records available to the Department or its designee upon request.

[(2)] The SST course provider or, if applicable, a third party, must maintain a secure online verification system containing an up-to-date list of the name of the card holder, the unique identification card number, and the issuance and expiration date of the card. Such verification must be available to the City, including the Department or its designee, and contractors, to enable readily accessible confirmation of the names of SST card holders who have completed the SST training through the particular course provider.]

**(l) Advertising.** Course providers may only advertise courses/classes that they are authorized by the Department to deliver.

**(m) Third Parties.** The course provider may not delegate or outsource any of its duties, responsibilities or functions to any third party that is not registered with the Department. The course provider must maintain full accountability for its operations and ensure that all services provided are conducted in compliance with all applicable Federal, State and local laws, rules and regulations.

**(n) Non-traditional Format Courses/Classes.**

(1) The course provider may conduct training in a non-traditional format. A non-traditional format is any format other than the traditional in-person classroom format. Non-traditional formats may include virtual classrooms, webinars, on-demand training, or hybrid virtual classroom/in-person training for hands-on courses.

(2) Training conducted in a non-traditional format must comply with the following:

(i) The non-traditional format course must be approved by the Department.

(ii) The provider must confirm the identification of the individual taking such training by adhering to the actively proctored online format requirements.

(iii) The provider must ensure that participants have their web-cameras activated and are on-camera for the duration of classes conducted virtually.

(iv) For courses that include hands-on training, providers may deliver the hands-on portion of the training in-person and the remaining portion through either a live virtual classroom or live webinar.

(v) The provider must notify the Department when the hands-on portion of the course/class is scheduled.

(vi) All students must be scheduled at the same time to receive the hands-on training.

**(o) Denial of Registration Renewal.** The department may, following notice and an opportunity to be heard, refuse to renew a registration on any grounds on the basis of which it could deny, suspend or revoke such registration pursuant to Section 28-401.19 of the Administrative Code.

**[(k)](p) Suspension and Revocation of [Approval] Registration.**

(1) [Following notice and an opportunity to be heard, the] The Department may, in accordance with the provisions of Section 28-401.19.1 of the Administrative Code, take corrective action, including probation, suspension, or revocation of a course provider's [authority to conduct classes and to distribute course completion cards] registration, for failure to comply with the requirements of this section or with the requirements of any applicable law, rule, or regulation. However, when the public safety may be imminently jeopardized, the Commissioner may, pending [an opportunity to be heard and Department determination] a hearing and determination of charges, suspend [approval] registration for a period not exceeding [thirty (30)] fifteen (15) days.

(2) The basis for the suspension or revocation of a course approval may form the basis for the suspension or revocation of any or all of that course provider's approved courses.

(3) The Department will post on its website that the approval of a course or course provider registration has been suspended or revoked.

**(g) Withdrawal.** The course provider must notify the Department and its students at least 30 days prior to its withdrawal from the course provider program. The course provider must be in compliance with the record-keeping provisions of this rule, including uploading certificates of completion into the Department's online platform, Training Connect, before its withdrawal.

**§3.** Section 3301-03 of Chapter 3300 of Title 1 of the Rules of the City of New York regarding construction worker safety information signs and section 3321-01 of Chapter 3300 regarding construction site safety training are REPEALED.

This rule has an effective date of 01-19-25

NEW YORK CITY DEPARTMENT OF BUILDINGS  
NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, Pursuant to the authority vested in the Commissioner of Buildings by section 643 of the New York City Charter, and in accordance with the requirements of Section 1043 of the New York City Charter, DOB is amending section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York.

This rule was published on October 4, 2024, and a public hearing was held on November 7, 2024. DOB received and considered written and oral comments from the public. No changes have been made to the rule.

Dated: 12-16-2024

New York, New York



James S. Oddo  
Commissioner

### **Notice of Adoption**

Pursuant to the authority vested in the Commissioner of Buildings by section 643 of the New York City Charter, and in accordance with the requirements of Section 1043 of the New York City Charter, DOB is amending section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York.

This rule was published on October 4, 2024, and a public hearing was held on November 7, 2024. DOB received and considered written and oral comments from the public. No changes have been made to the rule.

### **Statement of Basis and Purpose of Rule**

The Department of Buildings (“DOB” or “Department”) is amending section 101-03 of subchapter A of chapter 100 of Title 1 of the Rules of the City of New York by:

- Adding fees for filing of lighting and sub-metering reports as required under section 28-310.3 and 28-311.5 of the New York City Administrative Code (“the Administrative Code”).
- Adding fees for simple and complex filings for annual building emission reports required under section 28-320.3.7, requests for extensions of the time for filing of annual building emission reports permitted by section 28-320.3.7.1 and Good Faith Effort Reports submitted pursuant to section 28-320.6.1 of the Administrative Code.
- Adding fees for filing compliance reports required by section 28-321.3.1 or 28-321.3.2 of the Administrative Code.
- Adding fees for filing applications for an adjustment of the annual building emission limits pursuant to section 28-320.7 of the Administrative Code.

The Department’s authority for these rules is found in sections 643 and 1043 of the New York City Charter, sections 28-112.1 and sections 28-310.3, 28-311.5 and Articles 320 and 321 of Title 28 of the Administrative Code.

New material is underlined.

Section 1. Section 101-03 of subchapter A of chapter 100 of Title 1 of the Rules of the City of New York is amended by adding the following entries at the end of the table set forth in that section:

<u>Filing fee for reporting required upgrades to lighting systems and required installation of electrical sub-meters pursuant to sections 28-310.2 and 28-311.5.</u>	<u>\$115</u>
<u>Filing fee for annual building emissions reports pursuant to RCNY § 103-14:</u>  • <u>Simple Reports</u>	<u>\$210</u>

<ul style="list-style-type: none"> <li>•<u>Complex Reports</u></li> <li>•<u>Requests for Extensions</u></li> <li>•<u>Good Faith Efforts Report</u></li> </ul>	<u>\$615</u>  <u>\$60</u>  <u>\$950</u>
<u>Annual Emission Limits Compliance Reports for Certain Buildings pursuant to RCNY § 103-17</u> <ul style="list-style-type: none"> <li>•<u>Compliance Report</u></li> <li>•<u>Mediated Resolution Reports</u></li> </ul>	<u>\$210</u>  <u>\$800</u>
<u>Filing fee for application for adjustment to the annual building emissions limit pursuant to 28-320.7</u> <ul style="list-style-type: none"> <li>• <u>External constraints pursuant to RCNY § 103-12(b)</u></li> <li>• <u>Financial constraints pursuant to RCNY § 103-12(c)(3)</u></li> <li>• <u>Financial constraints pursuant to RCNY § 103-12(c)(4)</u></li> </ul>	<u>\$3,540</u>  <u>\$690</u>  <u>\$300</u>

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

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner 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 101-03 and 102-06 of Chapter 100 of Title 1 of the Rules of the City of New York regarding the Homeowner Resolution Program that gives owners of one- and two-family homes who have not received any prior violations at the property within the past five years an opportunity to correct certain violating conditions prior to receiving a notice of violation and associated penalties. This rule was first published on September 25, 2024, and a public hearing thereon was held on October 30, 2024.

K.V.

Dated: 11/4/24  
New York, New York

James S. Oddo  
James S. Oddo  
Commissioner

## STATEMENT OF BASIS AND PURPOSE OF RULE

Section 102-06 of Chapter 100 of Title 1 of the Rules of the City of New York is amended to clarify the provisions of the Homeowner Resolution Program that gives owners of one- and two-family homes who have not received any prior violations at the property within the past five years an opportunity to correct certain violating conditions prior to receiving a notice of violation and associated penalties.

Specifically, the amendments:

- limit applicability of the program to existing buildings, excluding new construction, which must abide by strict construction safety standards;
- remove the eligibility of violating conditions that result in a Stop Work Order or a Vacate Order;
- allow for owners of properties to be assessed a re-inspection fee and issued a violation for conditions that still exist after the 60-day no-penalty grace period has passed and acceptable proof of correction has not been provided to the Department.

The reinspection fee in section 101-03 is amended to align with proposed changes to section 102-06.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and Article 208 of Chapter 2 of Title 28 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (\*\*\*) indicate unamended text.

Section 1. Section 101-03 of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

Reinspection made necessary by a failure to correct a condition or respond to a request [to correct that results in issuance of a violation or other order] <u>for corrective action.</u>	\$225 each inspection
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§2. Section 102-06 of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

**§102-06 Homeowner resolution program.** Owners of one- and two-family homes who have not received any prior violations at the property will have an opportunity to correct certain

violating conditions prior to receiving a notice of violation and associated penalties.

(a) **Applicability.** The homeowner resolution program applies to owners of existing one- and two-family homes, whether or not they occupy those homes, [to whom] where prior Department notices of violations returnable to the Environmental Control Board/Office of Administrative Trials and Hearings (ECB/OATH) have not been issued at the property within the past five years, whether or not the current owner owned the property during those five years. [The program shall also apply to new owners, where the violations on the property were issued within the past five years to a prior owner.]

(b) **Eligible violations.** This program covers violations classified as Class 1, Class 2 or Class 3 in subdivision (k) of section 102-01 of these rules. Multiple violating conditions observed on the same date are considered as one [violation for the purposes of this program] request for corrective action. Any repeated instance of the same violating condition is ineligible for this program and will result in the issuance of a notice of violation.

**Exceptions.** This section does not apply to Class 1 violations for illegal conversions as described in section 28-210.1 of the Administrative Code, Class 1 violations that result in the issuance of a Stop Work Order or a Vacate Order and Class 1 violations that lead to death or serious injury.

(c) **Request for corrective action.** Where a violating condition is observed at a property that is part of this program, the commissioner will issue a request for corrective action, giving the owner 60 days to correct the condition. In order to resolve a request for corrective action, the owner must correct the condition and submit acceptable proof of correction to the Department within such 60 days. The Department may perform an inspection upon receiving such proof of correction in order to verify that such conditions have been corrected.

(d) **Failure to correct condition.** [If, upon reinspection at] At the expiration of the 60-day correction grace period, [an inspection finds that the violating condition has not been corrected,] a notice of violation returnable to ECB/OATH based on the conditions observed and documented on the request for corrective action will be issued to the owner for each condition for which correction has not been verified as described in subdivision (c).

(e) **Fee.** [In addition to receiving a notice of violation, for Class 1 violations as described in subdivision (b), the] The owner will be charged a fee for [the inspection that results in the issuance of such notice of violation] any reinspection made necessary by a failure to respond to a request for corrective action, as provided in section 101-03 of these rules.

(f) **Removal from program.** An owner who receives a notice of violation returnable to ECB/OATH after [either] failing to correct the violating condition within the provided timeframe [or failing to provide access to an inspector to determine if the violating condition has been corrected] in the request for corrective action is no longer eligible for this program [and must comply with the requirements in section 102-01 of these rules]. The violating condition must still be corrected and any applicable penalty associated with any such notice of violation issued must be paid.



This rule has an effective date of 07-25-24

**NEW YORK CITY DEPARTMENT OF BUILDINGS**

**NOTICE OF ADOPTION OF RULE**

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner 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 101-03 of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding fees for lift director registration. This rule was first published on April 5, 2024, and a public hearing thereon was held on May 8, 2024.

Dated: \_\_\_\_\_

6/17/24  
New York, New York

  
\_\_\_\_\_  
James S. Oddo  
Commissioner

### **Statement of Basis and Purpose of Proposed Rule**

Beginning on January 1, 2025, Article 424 of Title 28 of the Administrative Code will require any person acting as a lift director or performing the duties of a lift director to be registered as a lift director, except for those persons licensed as a master rigger or who are a master rigging foreman acting as a lift director under the direct and continuing supervision of a licensed master rigger.

The Department of Buildings amends section 101-03 of subchapter A of chapter 100 of Title 1 of the Rules of the City of New York to establish fees for the initial registration of lift directors as well as for registration renewal.

The Department of Buildings' authority for this rule is found in sections 643 and 1043 of the New York City Charter and Articles 401 and 424 of Title 28 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (\*\*\*) indicate unamended text.

“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 101-03 of subchapter A of chapter 100 of Title 1 of the Rules of the City of New York is amended by adding the following entry at the end of the table set forth in that section:

<u>Lift Director Registration</u>	<u>Initial:</u> <u>\$115</u>	<u>Renewal:</u> <u>\$115</u>
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**NEW YORK CITY DEPARTMENT OF BUILDINGS**

**NOTICE OF ADOPTION**

*R. Chang*  
4/19/24

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner 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 its rules regarding licensing. This rule was first published on January 3, 2024, and a public hearing thereon was held on February 5, 2024.

Dated:

4/19/2024  
New York, New York

*James S. Oddo*  
James S. Oddo  
Commissioner

### **Statement of Basis and Purpose of Rule**

Local Law 126 of 2021 became effective on November 7, 2022. Among other changes, Local Law 126 amended Chapter 4 of Title 28 of the Administrative Code regarding various licensing provisions.

Various rules are being amended to reflect these changes. Specifically, the amendments:

- Repeal Section 19-01 regarding examination, license, and conduct of the business of master plumbers and master fire suppression piping contractors as the provisions have either been superseded or now appear in Article 408 or 410 of Title 28 of the Administrative Code or in Sections 104-01 and 104-06 of Title 1 of the Rules of the City of New York.
- Increase the fees for licensing written and practical examinations and add fees for limited Hoist Machine Operator licenses.
- Amend the title of section 104-01 to reflect its contents more accurately.
- Remove the reference to Class A and B oil-burning equipment installer as those classifications were deleted from Section 28-412.2 of the Administrative Code.
- Remove the reference to portable high pressure boiler operating engineer as that term was deleted from Section 28-413.4 of the Administrative Code.
- Add language that used to be in Section 28-401.7 of the Administrative Code regarding commencing the license application process within one year of passing the examination. In response to comments received at the public hearing, language is added to clarify what constitutes commencing the license application process.
- Delete subdivision (l) of section 104-01 regarding obsolete Zoning Resolution references to place of business and add a new subdivision (l) stating that licensees with a New York City location must comply with all applicable Zoning provisions.
- Add a list of license holders who are not required to have a New York City location by either Chapter 4 of Title 28 of the Administrative Code or the Department's rules. The following license holders have not been included in that list for the reasons below:
  - Elevator Agency Inspector, Technician and Helper. These licensees work for an Elevator Agency Director who is required to maintain a place of business in the city, which should cover these other licenses. Also, Technicians need a state elevator mechanic's license as well as the city's, so presumably they may be located elsewhere in the state.
  - Concrete testing laboratories. §28-406.2 of the Administrative Code requires the concrete testing lab to be within 50 miles of the city, which exempts them from the requirement to maintain a place of business within the city. However, if they choose to locate within the city, they have to comply with zoning in accordance with the language added by this rule.

- Journeyman plumber and journeyman fire suppression pipe installer. Sections 28-409.4 and 28-411.4 of the Administrative Code specifically state that journeyman registrations are not licenses and are, therefore, exempt from the place of business requirements.
- Add language from rule 19-01 requiring licensed master plumbers and licensed master fire suppression piping contractors to have a sign outside their place of business that includes their license number.
- Repeal Section 104-03 – term of license – since it was intended to address those licenses for which an examination was not required, as was specified in Section 28-401.11 of the Administrative Code. The reference to examinations has been removed by Local Law 126; therefore, the provisions of section 104-03 are now covered by the language of section 28-401.11.
- Remove all references to reinstatement of licenses from various sections and repeal Section 104-05 – reinstatement of license – since the term “reinstatement” was deleted from Section 28-401.13 and the rest of Chapter 4 of Title 28 of the Administrative Code.
- Remove requirements from Section 104-08 regarding alternate experience pathways for Site Safety Manager and Site Safety Coordinator applicants as these pathways have been incorporated into Sections 28-402.2 and 28-403.2, respectively, of the Administrative Code.
- Revise references to the Administrative Code and Building Code in Section 104-08 to reflect section renumbering made by Local Law 126.
- Delete the 30-hour course requirement for site safety managers and site safety coordinators from Section 104-08 as this requirement is satisfied by the new requirement in Administrative Code Sections 28-402.2, item 2 and 28-403.2, item 2, that the site safety manager or coordinator possess a valid Site Safety Training Supervisor Card.
- Add language to Section 104-08 clarifying that the term of the site safety coordinator certificate is one year, to distinguish it from the other license terms covered by section 28-401.11 of the Administrative Code.
- Delete course requirements for licensed riggers from Section 104-10 as these course requirements have been incorporated and modified into Section 28-404.3 of the Administrative Code.
- Repeal Section 104-25 regarding requirement of a seal for use by licensed oil-burning equipment installers as that language is now in Section 28-412.6 of the Administrative Code and the fees are in Section 28-401.15.

The Department of Buildings’ authority for this rule is found in sections 643 and 1043 of the New York City Charter, and section 28-112.7.2 and Chapter 4 of Title 28 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (\*\*\*) indicate ellipses, i.e., unamended text.

**Section 1.** Section 19-01 of chapter 19 of Title 1 of the Rules of the City of New York regarding Examination, License, and Conduct of the Business of Master Plumbers and Master Fire Suppression Piping Contractors is REPEALED.

**§2.** The licensing fees in section 101-03 of subchapter A of chapter 100 of Title 1 of the Rules of the City of New York are amended to read as follows and section 101-03 is further amended by adding the following entries at the end of the table set forth in that section:

Licensing:	
• Written examination	<del>[\$525]</del> <u>585</u>
• Practical examination	<del>[\$350]</del> <u>530</u>
• Background investigation class 1 (includes experience)	\$500
• Background investigation class 2 (does not include experience)	\$330

	<u>Initial</u>	<u>Renewal</u>	<u>Late Renewal Fee</u>	<u>Reissuance Fee</u>
<u>Limited License for Articulating Boom Crane</u>	<u>\$100</u>	<u>\$75</u>	<u>\$50</u>	<u>\$50</u>
<u>Limited License for Boom Trucks</u>	<u>\$100</u>	<u>\$75</u>	<u>\$50</u>	<u>\$50</u>
<u>Limited License for Mini Cranes</u>	<u>\$100</u>	<u>\$75</u>	<u>\$50</u>	<u>\$50</u>
<u>Limited License for Sign Hanging Cranes</u>	<u>\$100</u>	<u>\$75</u>	<u>\$50</u>	<u>\$50</u>
<u>Limited License for Telehandler</u>	<u>\$100</u>	<u>\$75</u>	<u>\$50</u>	<u>\$50</u>

**§3.** The title of section 104-01 of subchapter D of chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

§104-01 License [Qualifications] qualifications and other requirements.

**§4.** Subparagraph (v) of paragraph (1) of subdivision (c) of section 104-01 of subchapter D of chapter 100 of Title 1 of the Rules of the City of New York is amended, subparagraph (vi) is deleted and subparagraphs (vii) through (xi) are renumbered subparagraphs (vi) through (x), to read as follows:

- (v) Oil Burning Equipment Installer [(Classes A and B)]
- [(vi) Portable High Pressure Boiler Operating Engineer]

**§5.** Subparagraph (viii) of paragraph (1) of subdivision (c) of section 104-01 of subchapter D of chapter 100 of Title 1 of the Rules of the City of New York, as renumbered by section 4 of this rule, is amended to read as follows:

(viii) Rigger (Master/Special/[Climber or] Tower Crane)

**§6.** Paragraph (2) of subdivision (c) of section 104-01 of subchapter D of chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new subparagraph (x) to read as follows:

(x) An applicant who passes a required examination must commence the license application process by submitting an application as defined in subdivision (e) with the department within one year of passing the examination for licensure. Where both written and practical tests are required, the license application process must be commenced within one year of passing the practical test.

**§7.** Paragraph (3) of subdivision (e) of section 104-01 of subchapter D of chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(3) Where the code requires supervision in the [design and] installation of plumbing [or fire suppression] systems, the planning or design of plumbing systems, or the performance of fire suppression piping work, including the planning or design of fire suppression piping systems, evidence that the supervising licensees performed such work as demonstrated by permits, completed contracts or such other documentation as the Department may require.

**§8.** Paragraphs (1) and (2) of subdivision (f) of section 104-01 of subchapter D of chapter 100 of Title 1 of the Rules of the City of New York are amended to read as follows:

(1) An applicant for a license issued by the Department, other than a Master, Special[, Climber] or Tower Crane Rigger or Hoisting Machine Operator, must provide evidence of fitness to perform the work authorized by the license.

(2) An applicant for license renewal [or reinstatement], other than a license for Master, Special[, Climber] or Tower [crane rigger] Crane Rigger or Hoisting Machine Operator, must provide evidence of fitness to perform the work authorized to be performed by a holder of the license held or once held by the applicant. A renewal applicant must satisfy these requirements at every subsequent renewal.

**§9.** Subdivision (l) of section 104-01 of subchapter D of chapter 100 of Title 1 of the Rules of the City of New York, relating to place of business is REPEALED and a new subdivision (l) is added to read as follows:

(l) Place of business.

(1) Where a licensee has a place of business in New York City, that location must comply with all applicable provisions of the Zoning Resolution.

(2) Pursuant to section 28-401.18 of Chapter 4 of Title 28 of the Administrative Code, a place of business in New York City is not required for holders of the following licenses:

- (i) Concrete Safety Manager
- (ii) Construction Superintendent
- (iii) Filing Representative
- (iv) General Contractor
- (v) High-Pressure Boiler Operating Engineer
- (vi) Hoisting Machine Operator
- (vii) Lift Director
- (viii) Safety Registrant
- (ix) Site Safety Coordinator
- (x) Site Safety Manager
- (xi) Welder

(3) A Licensed Master Plumber or Licensed Master Fire Suppression Piping Contractor must have a place of business within New York City and must display prominently to the public in the window of the place of business designated in his or her application or on a sign securely attached to the premises, the licensee's full name with the words "Licensed Master Plumber" or "Licensed Master Fire Suppression Piping Contractor" and the Department-issued license number immediately thereunder. If the business is conducted under a trade name, or by a co-partnership or corporation, such trade name or co-partnership or corporation name must be placed immediately above the full name or names of the licensee(s) conducting the business as provided by sections 28-408.6.2 and 28-410.7.2 of the Administrative Code.

**§10.** Paragraph (7) of subdivision (a) of section 104-02 of subchapter D of chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(7) Rigger (Master/Special/[Climber or] Tower Crane)

**§11.** Section 104-03 regarding term of license and section 104-05 of subchapter D of chapter 100 of Title 1 of the Rules of the City of New York regarding reinstatement of licenses are REPEALED.

**§12.** Paragraph (1) of subdivision (a) of section 104-08 of subchapter D of chapter 100 of Title 1 of the Rules of the City of New York, relating to equivalent education and construction experience for site safety managers is REPEALED, and paragraphs (2) and (3) are renumbered paragraphs (1) and (2).

**§13.** The introductory language of paragraph (2) of subdivision (a) of section 104-08 of subchapter D of chapter 100 of Title 1 of the Rules of the City of New York, as renumbered by section 12 of this rule, is amended to read as follows:



(2) For the purposes of satisfying the requirements of paragraph [(4)] 3.8 of section 28-402.2, an acceptable 18 month on-the-job training program [shall consist of successful completion] must be completed within two years prior to application [of an OSHA 30-hour safety course] and must meet the following criteria:

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**§14.** Paragraph (1) of subdivision (b) of Section 104-08 of subchapter D of chapter 100 of Title 1 of the Rules of the City of New York, relating to equivalent education and construction experience for site safety coordinators is REPEALED, paragraphs (2) and (3) are renumbered paragraphs (1) and (2), and a new paragraph (3) is added to read as follows:

(3) The term of a site safety coordinator certificate issued to a new or renewal applicant is one (1) year, measured from the date the certificate is issued.

**§15.** Subdivision (c) of Section 104-08 of subchapter D of chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(c) The term “major building” as used in this rule shall have the meaning given to it in [Chapter 33] section 202 of the New York City Building Code.

**§16.** Subdivision (b) of section 104-11 of subchapter D of chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(b) Fitness requirements for renewal [and reinstatement]. As a condition of license renewal [or reinstatement], a licensed or previously licensed welder [shall] must provide evidence of fitness to perform the work authorized to be performed by a holder of the license held or once held by the licensee. Such evidence shall consist of:

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**§17.** Section 104-25 of subchapter D of chapter 100 of Title 1 of the Rules of the City of New York, regarding Requirement of a seal for use by licensed oil-burning equipment installers, is REPEALED.

**§18.** Paragraph (2) of subdivision (c) of section 104-26 of subchapter D of chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(2) If the licensee cannot satisfactorily demonstrate active and legal engagement in the relevant trade, in order to prevent the license from expiring, the licensee must reactivate the license for at least one license term. If the license expires, applicants must comply with late renewal [and reinstatement] requirements of Administrative Code section 28-401.13, and any other applicable rules and regulations.

**NEW YORK CITY DEPARTMENT OF BUILDINGS**

(K.V.)

**NOTICE OF ADOPTION**

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner 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 its rules regarding riggers and rigging. This rule was first published on October 19, 2023, and a public hearing thereon was held on November 21, 2023. No comments were received.

Dated:

11/29/23  
New York, New York

James S. Oddo  
James S. Oddo  
Commissioner

### **Statement of Basis and Purpose of Rule**

Article 404 of Title 28 of the New York City Administrative Code sets out the requirement for a license to perform rigging work and establishes three classes of rigger license – master, special and tower. Section 104-10 of Title 1 of the Rules of the City of New York (“RCNY”) establishes qualification requirements to obtain a rigger license. Chapter 33 of the New York City Building Code, particularly sections 3314, 3316 and 3319, specifies the types of work that require supervision by a licensed rigger. 1 RCNY 104-20 sets out the supervisory responsibilities of a licensed rigger. 1 RCNY 3316-01 provides technical specification for rigging equipment.

Local Law 126 for the year 2021 made a wide range of substantive and administrative updates across the New York City Construction Codes (“2022 Code updates”), including the Chapter 4 provisions pertaining to riggers. In particular, the 2022 Code updates require a master rigger applicant to possess a national rigging certification, revised the course requirements for rigger license applicants, updated scaffold fees, and revised definitions and section numbering.

This rulemaking amends rules related to rigging safety, rigging licensing, and rigging oversight at construction and building sites in New York City in accordance with the 2022 Codes and also makes other technical updates to reflect the latest national standards and best practices for rigging safety. Specifically:

- Section 1 of this amendment deletes the fee for outrigger beam application review from section 101-03 of Subchapter A of Chapter 100 of Title 1 of the RCNY because that fee is covered by the general scaffold filing fees in section 28-112.2 of the N.Y.C. Administrative Code.
- Section 2 of this amendment repeals several provisions in subdivision (a) of Section 104-10 of subchapter D of chapter 100 of Title 1 of the RCNY because they were codified in 28-404.3 of the N.Y.C. Administrative Code.
- Sections 3, 4, 6, 8, 9, and 11 of this amendment make changes throughout sections 104-10 and 104-20 of Subchapter D of Chapter 100, and in section 3316-01 of Chapter 3300, of Title 1 of the RCNY to ensure updated cross references to the New York City Building Code reflect renumbering made by the 2022 Codes updates, reflect changes in terminology made by the 2022 Code updates, or remove references to the licensing “reinstatement” option, which was eliminated by the 2022 Code updates.
- Section 5 of this amendment adds a new subdivision (d) to section 104-10 of Subchapter D of Chapter 100 of Title 1 of the RCNY to specify certifications for rigging supervision and lift direction that are acceptable to the commissioner in accordance with section 28-404.3.1 of the Administrative Code.
- Section 7 of this amendment revises subdivision (d) of section 104-20 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York to accord with the inspection

requirements contained in section 3314.4.3.1 and 3314.4.3.2 of the New York City Building Code.

- Section 10 of this amendment revises the experience requirements to serve as a designated master rigging foreman in subdivision (h) of section 104-20 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York. Specifically, certain national certifications for rigging supervision and lift direction are recognized and credited as fulfilling experience qualifications. Other terminology related to designated master rigging foremen and designated special rigging foremen is made consistent between the foreman types.
- Section 12 of this amendment adds language to subdivision (d) of section 3316-01 of Chapter 3300 of Title 1 of the Rules of the City of New York to make clear that all rigging must be connected to a secure attachment point and that simply wrapping a sling or cable around a boom or fork is unsafe and illegal.
- Section 13 of this amendment updates references to the rigging equipment standards laid out in the American Society of Mechanical Engineers (ASME) B-30 Safety Standard. Section 3316-01 of Chapter 3300 of Title 1 of the Rules of the City of New York will now refer to the latest editions of the ASME B-30 standards, where a new edition exists.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter, Section 28-112.2 and Article 404 of Chapter 4 of Title 28 of the City Administrative Code, and Section 3316 of the New York City Building Code.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (\*\*\*) indicate unamended text.

“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 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by deleting the entry for outrigger beam application review as follows:

[Outrigger beam application review.]	[Initial: \$100]	[Amendment: \$100]	[Renewal: \$90]
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§ 2. Paragraphs (1), (2), (3), and (4) of subdivision (a) of Section 104-10 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York, which set forth training course requirements for Master, Special, and Climber or Tower Crane Riggers, are REPEALED.

§ 3. Paragraphs (5) and (6) of subdivision (a) of Section 104-10 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York are amended to read as follows:

([5]1) Fitness. An applicant for a Master, Special or [Climber or] Tower Crane Rigger license shall provide evidence of fitness to perform the work authorized by the license. Such evidence shall be on a form prescribed by the Commissioner and shall establish that the applicant has passed a physical exam that complies with subdivision (c) of this section, and that the applicant has complied with the substance abuse testing provisions and standards of subdivision (c) of this section. Such evidence shall include the name, address and telephone number of the laboratory that performed the tests and consent to the release by such laboratory of the test results to the Department upon request of the Department.

([6]2) 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 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 3314.4.5.3 of the New York City Building Code.

§ 4. Subdivisions (b) and (c) of section 104-10 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York are amended to read as follows:

- (b) Fitness requirements for renewal [and reinstatement]. As a condition of license renewal [or reinstatement], a licensed or previously licensed Master, Special or [Climber or] Tower crane rigger shall provide evidence of fitness to perform the work authorized to be performed by a holder of the license held or once held by the applicant. Evidence shall be on a form prescribed by the Commissioner and shall establish that the applicant has passed a physical exam that complies with subdivision (c) of this section, and that the applicant has received a negative result for a substance abuse test as required in subdivision (c) of this section. Such evidence shall include the name, address and telephone number of the laboratory that performed the tests and consent to the release by such laboratory of the test results to the Department upon request of the Department. A renewal applicant shall satisfy the requirements of this rule at every subsequent renewal.

- (c) Physical exam. Applicants for a Master, Special or [Climber or] Tower Crane Rigger license shall meet the following physical qualifications, unless it can be shown that failure to meet the qualifications will not affect the ability to perform the work authorized to be performed by a holder of the license sought. In such cases, specialized clinical or medical judgments and tests may be required. The following physical qualifications shall be met at all times throughout the term of the license.

\* \* \*

§ 5. Section 104-10 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new subdivision (d) to read as follows:

- (d) Certifications for master riggers. Individuals who, on or after November 7, 2022, apply for a new master rigger license, or apply to renew a master rigger license whose initial application for licensure was filed on or after November 7, 2022, must provide copies of certifications required by Table 1.
- (1) Required certifications must be maintained throughout the duration of the term of the license;
- (2) The licensee must immediately notify the department if a certification identified in Table 1 of this subdivision and held by the licensee is suspended, revoked, not renewed, or otherwise lapses; and
- (3) The licensee must provide a copy of re-certifications and new certifications identified in Table 1 of this subdivision to the department within 30 days.

**Table 1: Certifications for Master Riggers**

<b><u>Certification</u></b>	<b><u>Requirement</u></b>
NCCCO Rigger Level II	<u>Required</u>
NCCCO Lift Director - Mobile Cranes	<u>Required</u>
NCCCO Lift Director - Tower Cranes	<u>Additional</u>

**Legend to Table 1:**

- “NCCCO” means “National Commission for the Certification of Crane Operators.”
- “Required” means must possess.
- “Additional” means not mandated but required if licensee intends to serve as a lift director for the type of crane specified.

§ 6. Paragraphs (1) and (4) of subdivision (b) of section 104-20 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York are amended to read as follows:

- (1) For the purposes of this section, the term “critical pick” shall have the same meaning as set forth in [section 3302.1] Chapter 2 of the Building 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] 2 of the Building Code.

§ 7. Subdivision (d) of section 104-20 of Subchapter D of Chapter 100 of Title 1 of the rules of the City of New York is amended to read as follows:

- (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) of this section, the licensee need not be personally on site during rigging operations provided that a rigging foreman designated by the licensee pursuant to subdivision (i) of this section is continuously on site and that such rigging foreman performs and/or manages the work under the 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, suspended scaffolds, or other rigging setup where the safe founding or support of such equipment is a cause of concern (i.e. [over] placed atop 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] the person performing a suspended scaffold inspection in accordance with Section 3314.4.3.1 or 3314.4.3.2 of the Building Code has identified a concern, 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 supervision should the need arise; and
  - (4) the rigging foreman has in his or her possession at the work site the “Designated Foreman Card” issued by the department pursuant to subdivision (j) of this section, which shall be presented upon the demand of any authorized enforcement officer.

§ 8. Subdivision (e) of section 104-20 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

- (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 such work. Off-site supervision of such work is not permitted.

§ 9. Subdivision (g) of section 104-20 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(g) Specialty Crew. 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 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 department must approve the licensee's 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 two thousand pounds or more, for all critical picks, and for tower [or climber] crane erection, jumping, climbing, or dismantling, the licensee must provide continuous on-site personal supervision to the rigging crew;
- (4) for loads below 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. The rigging foreman shall manage the work under the off-site supervision of the licensee in accordance with the conditions set forth in 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 28-401.9 of the Administrative Code and are covered by worker's compensation under the specialty crew's employer.

§ 10. Paragraphs (2) and (3) of subdivision (h) of section 104-20 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York are amended to read as follows:



- (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 of this subdivision, have the following additional qualifications:
  - (i) at least one year's practical experience in the hoisting and rigging business; and
  - (ii) the knowledge of and ability to explain the risks related to such business and any particular job for which the individual is designated, and precautions to be taken in connection therewith.
- (3) An individual designated as a rigging foreman by a licensed master rigger shall, in addition to the qualifications set forth in the first paragraph of this subdivision, have the following additional qualifications:
  - (i) at least five years of practical experience in the hoisting and rigging business, or at least two years of practical experience in the hoisting and rigging business and possession of a Level II Rigging certification issued by the National Commission for the Certification of Crane Operators, or possession of both a Level II Rigging certification and a Lift Director certification issued by the National Commission for the Certification of Crane Operators; and
  - (ii) the knowledge of and ability to explain the risks related to [the following, where applicable to the] such business and any particular job for which the individual is designated, and precautions to be taken in connection therewith, including but not limited to:
    - (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

§ 11. Subdivision (b) of section 3316-01 of Chapter 3300 of Title 1 of the Rules of the City of New York is amended to read as follows:

- (b) Definitions. For the purposes of this section, terms defined in Chapter [33] 2 of the New York City Building Code and section 3319-01 of these rules have the same meaning here.

§ 12. Subdivision (d) of section 3316-01 of Chapter 3300 of Title 1 of the Rules of the City of New York is amended by adding a new paragraph (8) to read as follows:

- (8) Attachment points. Only an attachment point, consisting of a hook or other secure connection not allowing any undesirable movement, and provided or authorized by

the manufacturer of the hoisting machine or hoisting equipment, may be used to support a suspended load. No load shall be slung over, wrapped around, tied to, or otherwise draped from a boom, fork, cradle, lifting arm, bucket, platform, basket, or similar accouterment.

§ 13. Subdivision (j) of section 3316-01 of Chapter 3300 of Title 1 of the Rules of the City of New York is amended to read as follows:

- (j) Referenced standards. The standards referenced in this section are considered part of the requirements of this section to the prescribed extent of each such reference. Where differences occur between provisions of this section and referenced standards, the provisions of this section apply.

Standard	Name	Year
American Society of Mechanical Engineers (ASME)		
ASME B30.9	Slings	[2014] <u>2021</u>
ASME B30.10	Hooks	[2014] <u>2019</u>
ASME B30.20	Below-the-hook lifting devices	[2013] <u>2021</u>
ASME B30.26	Rigging hardware	2015

## NOTICE OF ADOPTION OF RULE

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner 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 new fees relating to boiler and elevator inspection reports and site safety plan review. This rule was first published on March 14, 2023, and a public hearing thereon was held on April 13, 2023.

Dated: 4/18/2023  
New York, New York

  
Kazimir Vilenchik, P.E.  
Acting Commissioner

### **Statement of Basis and Purpose of Rule**

Section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by:

- Adding the fees for filing of boiler and elevator inspection reports that were in Section 28-112.7.2 of the Administrative Code. That section was amended by Local Law 126 of 2021 to remove those fees from the Administrative Code and authorize the Department to set the fees by rule. This change was made so that the language of the boiler and elevator fees would match the similar report filing fees for facades, potentially compromised buildings, and retaining walls, which already state that the fees will be provided by rule.
- In response to comments received at the public hearing, language was added to clarify that the fee for elevator category test report filings applies to category 1 tests only, as there is already a fee in Section 101-03 for category 3 and 5 test filings.
- Adding fees for initial and amended filings for review of site safety plans required by Article 110 of Title 28 of the Administrative Code and Chapter 33 of the Building Code. Currently the Department does not charge a fee for these reviews. These proposed fees will help address the increasing workload created by the volume and technical complexity of these required site safety plan submissions.

The Department's authority for these rules is found in sections 643 and 1043 of the New York City Charter, sections 28-112.1 and 28-112.7.2 and Article 110 of Title 28 of the Administrative Code, and Chapter 33 of the Building Code.

New material is underlined.

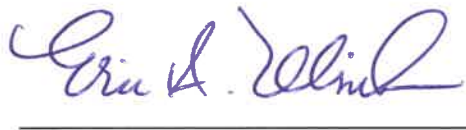
Section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding the following entries at the end of the table set forth in that section:

<u>Filing fee for periodic boiler inspection report.</u>	<u>\$30 for each boiler.</u>
<u>Filing fee for report of periodic inspections and category 1 tests of elevator and other devices.</u>	<u>\$30 for each device.</u>
<u>Site safety plan review</u>	
• <u>Initial filing</u>	<u>\$610</u>
• <u>Amended filing</u>	<u>\$545</u>

**NOTICE OF ADOPTION OF RULE**

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner of Buildings by Section 643 of the New York City Charter and Title 28 of the Administrative Code of the City of New York, and in accordance with Section 1043 of the Charter, that the Department of Buildings (DOB) hereby adopts amendments to its rules regarding fees for filing parking structure compliance reports and adding requirements for qualified parking structure inspectors. DOB also adopts new section 103-13 regarding periodic inspections of parking structures. This rule was first published on January 26, 2022, and a public hearing thereon was held on February 25, 2022.

Dated: 5/11/2022  
New York, New York

  
\_\_\_\_\_  
Eric Ulrich  
Commissioner

### **Statement of Basis and Purpose of Rule**

Local Law 126 of 2021 added a new Article 323 regarding periodic inspections of parking structures to Title 28 of the Administrative Code. Article 323 sets out requirements for a condition assessment of a parking structure that is to be conducted at periodic intervals as set forth by rule of the commissioner. This rule sets out the timing and specific requirements for these inspections, as well as civil penalties for failure to file and late filing of reports, and for failing to correct conditions found during the inspections.

Section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding fees for initial and amended/subsequent filings of the parking structure compliance reports, as well as for applications for extensions of time to complete any necessary repairs.

In addition, Section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended to add language regarding qualified parking structure inspectors and inspections.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and Article 323 of Title 28 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. Section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding the following entry at the end of the table set forth in that section:

<u>Parking structure compliance reports</u>	
• <u>Initial filing</u>	<u>\$305</u>
• <u>Amended/subsequent filing</u>	<u>\$85</u>
• <u>Application for extension of time to complete repairs</u>	<u>\$65</u>

§2. Paragraphs (14) through (18) of subdivision (a) of section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York are renumbered (15) through (19), respectively, and a new paragraph (14) is added to read as follows:

(14) Qualified parking structure inspector. An engineer as defined in section 28-101.5 of the administrative code with three years of relevant experience with parking structures.

§3. Subdivision (c) of section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new paragraph (11) to read as follows:

(11) Parking structure inspections.

- (i) Inspection of a parking structure and appurtenances pursuant to section 28-323 of the Administrative Code must be performed by or under the direct supervision of a qualified parking structure inspector.
- (ii) The qualified parking structure inspector applicant must provide a detailed résumé indicating relevant work experience obtained in any US city or jurisdiction. When relevant experience is obtained while employed by another registered design professional who was signing and sealing such relevant work, a letter must be provided indicating length of the qualified parking structure inspector applicant's employment and his or her responsibilities.
- (iii) A qualified parking structure inspector applicant must demonstrate to the commissioner's satisfaction, including performance on any written or oral tests the commissioner may require, that he or she is sufficiently familiar with the Construction Codes, laws and rules pertaining to parking structures and engineering concepts related to parking structures.

§4. Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new section 103-13 to read as follows:

**§ 103-13 Periodic Inspection of Parking Structures.**

(a) Definitions. For the purposes of this section, the following terms have the following meanings.

**Acceptable report.** A compliance report filed by a qualified parking structure inspector, as defined in section 101-07 of the rules of the Department, that meets the requirements of Article 323 of Title 28 of the Administrative Code and this rule as determined by the Department.

**Amended report.** A compliance report filed by a qualified parking structure inspector (1) certifying that the unsafe conditions identified in the most recent report have been repaired and that no unsafe conditions exist at the parking structure or (2) attesting, within three years of the most recent safe with repair and/or engineering monitoring (SREM) filing, to the current status of the building based on a condition assessment.

**Appurtenance.** An element including, but not limited to, rolldown gates, attendant booths, lighting fixtures, gates, staircases, fire protection, column protection, signs, parapets, railings, guard rails, enclosures, antennae, bollards, vehicle barriers, vehicle impact protection, electric vehicle charging stations, and any other equipment attached to the parking structure. Appurtenance does not include mechanical devices for vehicles moving from and to street levels or within the structure such as parking machines, lifts, mechanical stackers, automated parking systems, and elevators in which public occupancy is prohibited.

**Compliance Report.** A report prepared by a qualified parking structure inspector summarizing the condition assessment of the subject parking structure and attesting to its accompanying classification.

**Condition assessment.** An examination conducted to review a parking structure and all parts thereof, as defined in Article 323 of title 28 of the Administrative Code, to determine whether the parking structure and all parts thereof are either safe, unsafe, or safe with repairs and/or engineering monitoring and whether, in the judgment of a qualified parking structure inspector, remedial work is required.

**Filed report.** A compliance report shall be deemed filed with the Department when it has been received by the Department. The filed report must be completed in accordance with the provisions of paragraph (3) of subdivision (c) of this section.

**Filing window.** The two-year period during which a compliance report for a particular parking structure may be filed without penalty.

**Parking structure.** A building or portion of a building used for the parking or storage of motor vehicles and an open or enclosed parking garage as defined in the New York City Building Code. A parking structure does not include an autobody repair shop, an automotive showroom, a garage with occupancy of fewer than three cars, unenclosed and unattached lots, an automotive service station, an automotive repair shop, or a private garage as such term is defined in the building code.

**Physical Examination.** Hands-on engineering inspection of parking structure systems and elements applying various methods of examination other than visual, including, but not limited to, sounding, probing or testing.

**Qualified Parking Structure Inspector (hereinafter “QPSI”).** A qualified parking structure inspector as defined in section 101-07 of the rules of the Department.

**Report filing cycle.** The six-year time interval established by the Commissioner for the filing of each successive compliance report for every parking structure subject to the requirements of Article 323 of Title 28 of the Administrative Code.

**Safe condition.** A condition of a parking structure, any appurtenances thereto or any part thereof not requiring repair or maintenance to sustain the structural integrity of the parking structure and that is to remain safe during the next six years.

**Safe with repairs and/or engineering monitoring (hereinafter “SREM”).** A condition of a parking structure, any appurtenances thereto or any part thereof that is safe at the time of inspection but requires repairs or maintenance during the next one to six years in order to prevent its deterioration into an unsafe condition during that six-year period.

**Staggered filing cycle.** The separate time intervals for filing compliance reports as determined by borough beginning January 1, 2022 and continuing thereafter for each subsequent report filing cycle.

**Subsequent report.** A compliance report that is filed by a QPSI after an acceptable report in order to change the status of the parking structure for that report filing cycle to reflect changed conditions or the recommended time frame for repairs of SREM or unsafe conditions.

**Unsafe condition.** A condition of a parking structure, any appurtenances thereto, or any part thereof that is hazardous to persons or property and requires repair within one year of completion of condition assessments. In addition, any condition that was reported as SREM in a previous compliance report and that is not corrected at the time of the current inspection must be reported as an unsafe condition.



(b) Responsibilities of qualified parking structure inspectors.

- (1) A QPSI must conduct condition assessments and file compliance reports in accordance with this section and Article 323 of Title 28 of the Administrative Code.
- (2) A QPSI must maintain records of inspections and tests for at least six years and must make such records available to the Department upon request.
- (3) A QPSI must maintain insurance coverage as set forth in paragraph (7) of subdivision (b) of section 101-07 of these rules. Copies of such insurance policies must be made available to the Department upon request.

(c) Condition Assessments.

- (1) Periodic inspection requirements. In order to maintain a parking structure and its appurtenances in a safe condition, and in accordance with Article 323 of Title 28 of the Administrative Code, a condition assessment of all components of a parking structure must be conducted at periodic intervals specified herein.

Exceptions: The façade of the structure does not need to be included in the parking structure compliance report if:

1. the building is subject to the Façade Inspection Safety Program (FISP) ; or
2. the parking structure occupies less than 50% of the total square footage of the building.

(2) Inspection procedures.

- (i) Before any parking structure is inspected, the QPSI retained by or on behalf of the owner of the building in which the parking structure is located must carefully review the most recent compliance report and any available previous reports, all annual observation checklists, as defined in section 28-323.2 of the Administrative Code, for the prior cycle, any available structural design or repair drawings, violations, and FISP reports where applicable.
- (ii) A condition assessment of a parking structure and appurtenances thereof pursuant to section 28-323.3 of the Administrative Code must be performed by or under the direct supervision of a QPSI retained by the owner of the building in which the parking structure is located or his or her representative.
- (iii) The QPSI must design a condition assessment program for the specific structure to be inspected, which must include, but not be limited to, inspection methods to be employed in the assessment. The program must be based on the considerations of the type of construction of the parking structure, age of the material components, the parking structure's specific exposure to environmental conditions and the presence of specific details and appurtenances. Consideration must be given to the structure's history of maintenance and repairs. Professional Engineers, individuals with a bachelor's degree in engineering and three years of relevant experience, or individuals with five years of relevant building experience,

working under the QPSI's direct supervision, may be delegated to perform selected inspection tasks other than the final inspection.

- (iv) The methods used to evaluate the parking structure in question must permit a complete physical examination of the structure, including, but not limited to, sounding, load tests, optical survey, non-invasive scanning, and cores. The QPSI must identify the most deleterious locations and perform physical examinations at those locations. Physical examinations as described in this rule must be performed on a minimum of 10% of each structural element including, but not limited to, beams, columns, and slabs.
- (v) The known history of the parking structure, the nature of the materials used, and the conditions observed will dictate the extent of the condition assessment. The QPSI must apply a professional standard of care to assess the structure's condition and the individual building systems that comprise the structure including, but not limited to, the building's structural components, waterproofing systems, fire proofing and fire stopping systems, and wearing surfaces. When the QPSI finds any deficiencies, he/she must ascertain the cause of these and any other possible building defects detected. The QPSI must order any special or additional inspections, probes, and/or tests, including sounding procedures, that may be required to support the condition assessment and to determine the causes of any defects.
- (vi) The QPSI must develop a unique annual observation checklist, as defined in 28-323.2 of the Administrative Code, during each condition assessment.
- (vii) Photographs must be taken, sketches made and/or any other methods of documentation utilized to properly document the location of all conditions observed during the course of the condition assessment, that are either unsafe or SREM.
- (viii) Upon discovery of any unsafe condition, the QPSI must immediately notify the Department and the owner of the building in which the parking structure is located. The QPSI must identify the location of any unsafe condition, advise the owner on the appropriate protective measures to be taken, and include the recommended type and location of public protection in the notification to the Department.
- (ix) Completion of a condition assessment means that the QPSI has conducted a final inspection to determine that the parking structure conditions as described in the compliance report are consistent with the actual conditions. Such final inspection must, at a minimum, include an actual visual assessment and a complete walkthrough of each level dedicated to parking with inspectorial equipment. A drive-by inspection is not acceptable.

(3) Report requirements.

- (i) The QPSI must file with the Department a written compliance report describing the result of the condition assessment, clearly documenting all conditions noted during the inspection, including the physical examination, and stating that the inspection was performed and completed in accordance with Article 323 of Title 28 of the Administrative Code and this rule. The QPSI must also submit a copy of the report to the owner of the building in which the parking structure is located.

- (ii) Technical information in the report must adhere to and follow the sequence and the labeling of the report requirements as listed in subparagraph (iii) of this paragraph and must be provided on such forms and in such format as the Department requires. Additional information may be provided. If a requirement is not applicable, this must be indicated on the report.
- (iii) The report must include an executive overview that consists of a summary of findings and recommendations, a concise statement of the scope of the inspection and findings, the conclusions and recommendations and a determination as to whether the parking structure is categorized as "safe," "SREM," or "unsafe." The report must also include, but not be limited to:
- (A) The address, any a.k.a. addresses, Block and Lot number, the Building Identification Number ("BIN"), the landmark status of the building in which the parking structure is located, and the location from the nearest cross street;
- (B) The name, mailing address and telephone number of the owner of the building in which the parking structure is located, or, if the owner is not an individual, the name, mailing address, telephone number, position/title of a principal of the owner;
- (C) A description of the building, including the total number of stories, the number of stories and/or locations occupied by the parking structure, plan dimensions, Certificate of Occupancy number if available, usage, and age and type of construction, specifying all materials present in the parking structure;
- (D) A description of the all components of the parking structure's gravity and lateral load carrying systems specific to the area being used as a parking structure or the entirety of the building if its sole use is as a parking structure. Where applicable, areas to be included are:
1. Ramps and other spaces used to access parking areas;
  2. In the case of a parking structure located at a floor or floors above floors of other occupancies, the slab and columns immediately below the lowest level of the parking structure;
  3. In the case of a parking structure located at a floor or floors below floors of other occupancies, the slab and beams/joists forming the ceiling of the topmost level of the parking structure;
  4. Any area outside of that described in 1, 2 and 3 that may exhibit deterioration extending from or caused by the structure comprising the parking area.
- (E) A detailed description of any distress, settlements, repairs, or revisions to the structure since the previous compliance report, including, but not limited to, deteriorated framing members, deteriorated joint material,

displacement, cracking, spalling of parking structure components, or other defects or changes;

(F) A detailed description of the procedures used in making the condition assessment;

(G) The following information:

1. The extent and location of all physical examinations performed;

2. The names, addresses, telephone numbers, and license or registration numbers for contractors and consultants involved in the condition assessment;

3. A location diagram of a discernable scale and with a north arrow, indicating the main entrance, locations of other entrances, and nearest cross street and locations and dates of physical examinations; and

4. Dates of the start and completion of the condition assessment.

(H) A description, classification, and mapping of each significant condition observed including deterioration and any movement detected and the apparent integrity of the joints and wearing surfaces. The description must also include a list of all appurtenances and their condition. Each condition must be classified as safe, unsafe or SREM. If the parking structure is classified as unsafe or SREM, the compliance report must include the locations and descriptions of all unsafe or SREM conditions. If unsafe conditions are noted, the report must recommend the type and location of public protection or clearly delineate the extent of areas that have been cordoned off and the methods used. Photographs must be labelled and the report must include key plans and locator drawings documenting these conditions. Guards and railings must be inspected to ensure that their components (balusters, intermediate railings and panel fillers) are positively secured against movement (e.g. by welds, bolts or screws). If any guard or railing is found not to be positively secured, the condition is classified as unsafe and must be made safe pursuant to the requirements of paragraph (5) of subdivision (c) of this section;

(I) An analysis of the causes of the conditions reported as unsafe or SREM;

(J) A detailed status report of maintenance work performed up to the date of submission of the report and the maintenance plan implemented for the parking structure;

(K) A blank annual observation checklist as described in section 28-323.2 of the Administrative Code prepared by the QPSI specifically for the parking structure in question

(L) Where a parking structure is categorized with a final rating SREM:

1. A plan detailing the proposed monitoring program;
  2. The name of the engineer performing the monitoring;
  3. A stability analysis of the parking structure that reports the required structural loading conditions and the calculated load carrying capacity of typical and worst case structural framing members which shows that the structure is stable under current and expected loading conditions; and
  4. It is to be explicitly stated if only repairs are required with no monitoring.
- (M) A comparison of currently observed conditions with conditions observed during the previous report filing cycle condition assessments, including the status of the repairs or maintenance performed with respect to the prior conditions. The following must be included and discussed:
1. Work permit numbers relating to parking structure repairs;
  2. Job numbers, status and sign-off dates for any parking structure repair related jobs, where applicable; and
  3. Violation numbers of any open Environmental Control Board ("ECB") violations and the status of the repairs of the conditions cited in the ECB violations that are directly associated with the parking structure;
- (N) Recommendations for repairs or maintenance of SREM and unsafe conditions, including:
1. If a parking structure is categorized as SREM:
    - A. The recommended time frame for such repairs or maintenance to be performed, which must indicate the date by which the work must be performed (MM/DD/YYYY) to prevent the conditions from becoming unsafe and not the date on which work is planned or scheduled;
    - B. Time frames of less than one year, "ASAP," or "immediately," shall not be accepted.
  2. If a parking structure is categorized as unsafe:
    - A. The QPSI must provide a recommended time frame for repairs to be performed to bring the parking structure to SREM or safe status, and must indicate the date by which the work will be completed (MM/DD/YYYY);
    - B. Time frames of more than six years will not be accepted.

(O) A list and description of the work permits required to accomplish the necessary work. If no work permits will be required, the reason must be indicated;

(P) All photographs must be color, clearly legible, dated, and high resolution. Digital photos must be a minimum of 800 x 600 pixels. Photographs must be arranged into PDF uploads of no larger than 11" x 17". The following photos must be submitted:

1. Elevation photos. Color photographs of all entrances, the primary address and at least one view of each entire street front elevation.

2. Representative photos of each parking level showing general conditions.

3. Detailed condition photos. Color photographs of specific conditions must be clearly labeled and indicate the status designation. Detailed conditions must be located on the mapping of the parking structure required by item H of this subparagraph (iii).

A. All SREM and unsafe conditions must be catalogued.

B. If parking structure status is safe, submit a minimum of one representative photograph for each structural element and appurtenance.

(Q) The classification of the parking structure for the current report filing cycle, as determined by the following guidelines:

1. If there are no unsafe conditions and no conditions that are SREM, then the parking structure shall be classified as safe;

2. If there is at least one unsafe condition, then the parking structure must be classified as unsafe.

3. If there is at least one condition that is SREM and there are no unsafe conditions, then the parking structure shall be classified as SREM. A compliance report may not be filed describing the same condition at the same location as SREM for two consecutive report filing cycles. The QPSI must certify that all of the conditions identified in the previous report as requiring repair have been corrected or the parking structure shall be classified as unsafe;

(R) The seal and signature of the QPSI under whose direct supervision the condition assessment was performed.

(4) Report filing requirements.

- (i) The requirements of this rule apply to all parking structures. The Commissioner shall determine which additional buildings and/or parts thereof are required to file in accordance with this rule.
- (ii) Owners of buildings in which parking structures are located are required to file a compliance report at least once during each six-year report filing cycle established by the Department.
- (iii) An acceptable report must be filed within the applicable two-year filing window to avoid a late filing penalty.
- (iv) The report must be submitted to the Department along with a filing fee as specified in the rules of the Department.
- (v) Staggered filing cycle: Beginning January 1, 2022 an acceptable report for each parking structure to which this rule applies is due in accordance with the following filing windows:
  - (A) For parking structures located within the Borough of Manhattan Community Districts 1 through 7 an acceptable report must be filed within the two-year filing window starting January 1, 2022, and every sixth year thereafter.
  - (B) For parking structures located within all Community Districts in the Borough of Manhattan not listed in (A), above, and all Community Districts in the Borough of Brooklyn, an acceptable report must be filed within the two-year filing window starting January 1, 2024, and every sixth year thereafter.
  - (C) For parking structures located within all Community Districts in the Boroughs of Queens, the Bronx and Staten Island an acceptable report must be filed within the two-year filing window starting January 1, 2026, and every sixth year thereafter .

Exceptions:

- 1. Starting in Cycle 2, owners whose buildings have their most recent status as “No Report Filed” may file a report prior to the start of their designated filing window provided that all applicable civil penalties set out in subdivision (e) of this section are paid at the time of filing.
- 2. If the building in which the parking structure is located is included in the FISP, the owner may choose to change the assigned filing window of the parking structure compliance report to a parking structure filing window that corresponds with the next FISP filing window so that both reports may be filed at the same time. This shall be the reassigned parking structure filing window. The owner must inform the Department 180 days prior to the end of the assigned parking structure filing window if this option is chosen. If an owner chooses this option, the owner must continue to file under the reassigned parking structure filing window.
- (vi) Initial compliance reports for new buildings in which parking structures that must comply with this rule are located must be filed as follows:

- (A) The report must be filed six years from the date the first Temporary Certificate of Occupancy, Interim Certificate of Occupancy or Certificate of Occupancy was issued, if that date falls within the applicable filing window as provided in subparagraph (v) of this paragraph; or
    - (B) If six years from the date the first Temporary Certificate of Occupancy, Interim Certificate of Occupancy or Certificate of Occupancy was issued falls outside the applicable filing window as provided in subparagraph (v) of this paragraph, then the initial report must be filed within the applicable two-year filing window for the next six-year cycle.
  - (vii) A report must be filed within 60 days of the date on which the QPSI completed the condition assessment (final inspection date), as described in subparagraph (ix) of paragraph (2) of subdivision (c) of this section. Failure to file a report within 60 days of the completed condition assessment requires a new condition assessment.
  - (viii) If the report is not acceptable and is rejected by the Department, a revised report must be filed within 45 days of the date of the Department's rejection, after which the original file date will no longer be valid.
  - (ix) If the report is not acceptable after two rejections, a new initial filing fee as specified in the rules of the Department is required.
  - (x) Failure to submit a revised report addressing the Department's objections within one year of the initial filing requires a new condition assessment, including a new physical examination.
  - (xi) A subsequent report indicating revised conditions may be filed within the six-year report filing cycle to change a parking structure's filing status or the recommended time frame for repairs of SREM or unsafe conditions for that cycle.
- (5) Unsafe conditions.
- (i) Upon filing a report of an unsafe condition with the Department, the owner of the building in which the parking structure is located, his or her agent, or the person in charge of the building in which the parking structure is located must immediately commence such repairs or reinforcements and any other appropriate measures such as cordoning off areas that may be dangerous, erecting fences, sidewalk sheds and safety netting as may be required to secure the safety of the public and to make the building's structure and appurtenances conform to the provisions of the Administrative Code.
  - (ii) All unsafe conditions must be corrected within 90 days from the submission of the compliance report.
  - (iii) If, due to the scope of the repairs, the unsafe conditions cannot be corrected within the required 90 days, the QPSI must recommend a timeframe for repairs as noted in item (N) of subparagraph (iii) of paragraph (3) of subdivision (c). The owner of the building in which the parking structure is located is responsible for ensuring that the conditions described in the compliance report as unsafe are corrected and



all actions recommended by the QPSI are completed within this timeframe. The owner must notify the Department of any deviation from the timeframe to make corrections as specified in the QPSI's report. The subsequent report must include supporting documents from the QPSI justifying the request for a new time frame.

(iv) Within two weeks after repairs to correct the unsafe condition have been completed, the QPSI must inspect the premises. The QPSI must promptly file with the Department a detailed amended report stating the revised report status of the parking structure, along with a filing fee as specified in the rules of the Department and the owner must obtain permit sign-offs as appropriate. If the report is not acceptable and is rejected by the Department, a revised report must be filed within 45 days of the date of the Department's rejection after which the original filing date will no longer be valid. If the report is not acceptable after two rejections, a new amended filing fee as specified in the rules of the Department is required. Protective measures must remain in place until an amended report is accepted; however, the QPSI may request permission for the removal of the protective measures, shoring or any other public safety measures upon submission of a signed and sealed statement certifying that an inspection was conducted, the conditions were corrected, and the protective measures are no longer required.

(v) The Commissioner may grant extensions of up to 90 days to complete the repairs required to correct an unsafe condition upon receipt and review of an extension application submitted by the QPSI, together with:

(A) Notice that the premises have been secured for public safety by means of a fence or other appropriate measures as may be required;

(B) A copy of the contract indicating scope of work to correct unsafe conditions;

(C) The QPSI's estimate of length of time required for repairs;

(D) A statement of all applicable permit requirements;

(E) A fee as specified in the rules of the Department;

(F) An unforeseen delay or circumstance (e.g., weather, labor strike, fire) affecting the substantially completed work; and

(G) Progress photos showing current repairs.

Note: Financial considerations shall not be accepted as a reason for granting an extension.

(6) Conditions that are safe with repairs and/or engineering monitoring (SREM).

(i) The owner of the building in which the parking structure is located is responsible for ensuring that the conditions described in the compliance report as SREM are corrected and all actions recommended by the QPSI are completed within the time frame recommended by the QPSI and are not left to deteriorate into unsafe conditions. It is the owner's responsibility to notify the Department of any deviation from the timeframe to make corrections as specified in the QPSI's report. The

subsequent report must include supporting documents from the QPSI justifying the request for a new time frame.

(ii) A condition assessment is required within three years of the initial filing date and an amended report detailing the results of that assessment must be filed with the Department in accordance with section 28-323.9.1 of the Administrative Code within 60 days of the final inspection date. The amended report must include, but not be limited to:

(A) The scope of the monitoring campaign, if applicable, including but not limited to the name of the engineer performing the monitoring, the type and frequency of monitoring, and all findings;

(B) The status of the conditions identified in the most recent compliance report classifying the building as SREM, including any maintenance and repairs undertaken; and

(C) A description and classification of any new conditions identified and how they have been or will be addressed, including any repairs or maintenance.

Exception: If the SREM compliance report is filed less than 1 year from the start of the next cycle filing window, a condition assessment is not required and an amended report does not need to be filed with the Department.

(iii) A report may not be filed describing the same condition and pertaining to the same location on the parking structure as SREM for two consecutive report filing cycles.

(iv) The QPSI must certify the correction of each condition reported as requiring repair in the previous report filing cycle, report conditions that were reported as SREM in the previous report filing cycle as unsafe if not corrected at the time of the current inspection, or report corrections that were made in the previous cycle as unsafe if they need further or repeated repair at the time of the current cycle.

(d) Annual observation. A building owner is responsible to have an annual observation performed in accordance with the provisions of section 28-323.4 of the Administrative Code. Such annual observation must be based on the checklist included in the most recent compliance report accepted by the Department and as described in section 28-323.2 of the Administrative Code.

(1) This checklist is to be completed annually by the owner or by a competent person on behalf of the owner each year after submission of the current cycle's report has been accepted and until the next cycle's report has been accepted.

(2) The completed checklists must be kept on site and be made available to the Department and the QPSI upon request.

(3) The person performing the annual observation shall notify the owner and the Department immediately upon discovering any conditions that may be hazardous to the public.

(e) Civil Penalties.

- (1) Late filing. An owner who submits a late filing shall be liable for a civil penalty of one thousand dollars (\$1,000) per month, commencing on the day following the filing deadline of the applicable filing window period and ending on the filing date of an acceptable initial compliance report.
- (2) Failure to file. In addition to the late filing penalty, an owner who fails to file the required acceptable compliance report shall be liable for a civil penalty of five thousand dollars (\$5,000) per year beginning one year after the end of the applicable filing window.
- (3) Failure to correct unsafe conditions. In addition to the penalties provided in this section, an owner who fails to correct an unsafe condition within 90 days shall be liable for a civil penalty of one thousand dollars (\$1,000) per month until the unsafe condition is corrected, unless the Commissioner grants an extension of time to complete repairs pursuant to this section. This penalty shall be imposed until receipt of an acceptable amended compliance report by the Department indicating the unsafe conditions were corrected, or an extension of time is granted by the Commissioner.
- (4) Failure to correct SREM conditions. An owner who fails to correct a SREM condition reported as requiring repair in the previous report filing cycle and subsequently files the condition as unsafe shall be liable for a one-time civil penalty of two thousand dollars (\$2,000).
- (5) Challenge of civil penalty.

- (i) An owner may challenge the imposition of any civil penalty authorized to be imposed pursuant to this subdivision by providing proof of compliance. Such proof must include, but not be limited to, a copy of an acceptable initial compliance report, a copy of the acceptable amended report, copies of approved extension of time requests while work was/is in progress or written proof from a QPSI that the unsafe conditions observed at the parking structure were corrected and the violation was dismissed.
- (ii) Challenges must be made in writing within 30 days from the date of service of the violation by the Department and sent to the office/unit of the Department that issued the violation. The decision to dismiss or uphold the penalty shall be at the sole discretion of the Department.

(f) Full or partial penalty waivers; eligibility and evidentiary requirements. Owners may request a full or partial waiver of penalties assessed for violation of Article 323 of Title 28 of the Administrative Code, and/or rules enforced by the Department. Requests must be made in writing and must meet eligibility and evidentiary requirements as follows:

(1) Owner status.

- (i) A new owner requesting a waiver due to change in ownership must submit proof of a recorded deed evidencing transfer of ownership to the current owner after penalties were incurred, as well as any other documentation requested by the Department, and only in one of the following circumstances:
  - (A) A new owner of a property previously owned by a government entity requesting a waiver due to change in ownership must submit official

documentation from the government entity affirming that the premises was entirely owned by the government entity during the period for which a waiver is requested.

(B) A new owner who receives a notice of violation for failure to comply with the requirements of this section or Article 323 of Title 28 of the Administrative Code that was issued to the property after the transfer of ownership must submit a recorded deed showing the date that the property was acquired or transferred. The waiver period shall be from the date of the deed to the date of the violation issuance.

(ii) An owner may be granted a waiver of penalties upon submission of a copy of an order signed by a bankruptcy court judge.

(iii) If a state of emergency is declared that prevents an owner from conducting an inspection, filing a report or correcting unsafe conditions, an owner may be granted a waiver of penalties.

(2) *Building status.* An owner requesting a waiver because the parking structure was demolished must submit city or departmental records evidencing the demolition of the parking structure prior to the filing deadline.

## NOTICE OF ADOPTION OF RULE

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner of Buildings by Section 643 of the New York City Charter and Title 28 of the Administrative Code of the City of New York, and in accordance with Section 1043 of the Charter, that the Department of Buildings hereby adopts amendments to its rules regarding elevator agency licenses and the addition of a new section 104-13 regarding elevator agency directors, inspectors, technicians and helpers. This rule was first published on January 12, 2022, and a public hearing thereon was held on February 11, 2022.

Dated: 02/24/2022

New York, New York



Melanie E. La Rocca  
Commissioner

### **Statement of Basis and Purpose of Rule**

Elevator licensing provisions are found in Articles 401, 421, 422, 425 and 426 of Title 28 of the Administrative Code. Chapters 750 of 2019 and 55 of 2020 of the laws of the State of New York amended some terminology in Articles 401, 421 and 422, and added new Articles 425 and 426 to Chapter 4 of Title 28 of the New York City Administrative Code, creating three new license types:

- elevator agency technician,
- restricted elevator agency technician, and
- elevator agency helper.

On November 7, 2021, Local Law 126 for the year 2021 lapsed into law and further amended Article 425 in relation to the term of elevator technician licenses and the requirement of a New York State elevator mechanic license in addition to the city technician license.

These rules are amended to reflect the changes made by those laws. Specifically, the amendments:

- Remove fees that no longer apply and add new fees to cover license card processing for the newly created license types.
- Add language regarding the term of the elevator agency technician and restricted elevator agency technician licenses.
- Add a new section regarding the requirement of state elevator licenses in addition to the city licenses issued pursuant to Articles 421, 422, 425 and 426 of the Administrative Code.
- Add elevator agency technician and restricted elevator agency technician licenses to Section 104-26 of Title 1 of the Rules of the City of New York, which relates to the deactivation of licenses.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and Chapter 4 of Title 28 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

Asterisk (\*\*\*) indicates unamended material.

"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. Subparagraph (v) of paragraph (2) of subdivision (a) of section 101-02 of subchapter A of chapter 100 of Title 1 of the rules of the City of New York is amended to read as follows:

(v) Inspection. The Applicant inspects and tests such work on behalf of the owner and in the presence of an independent approved elevator [inspection] agency not

affiliated with the Applicant, which witnesses the test (“witnessing agency”) with following conditions:

\*\*\*\*

§2. Section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by deleting the entries for private elevator inspector certification and private elevator inspection agency certification, amending the elevator inspector license entry, and adding after the entry for elevator agency inspector license entries for elevator agency technician license card processing, restricted elevator agency technician license card processing and elevator agency helper card, to read as follows:

[Private elevator inspector certification.]	[Initial: \$50]	[Renewal: \$75 triennially]	[Late-renewal: \$50]	[Reissuance: \$50]
[Private elevator inspection agency certification.]	[Initial: \$100]	[Renewal: \$150 triennially]	[Late-renewal: \$50]	[Reissuance: \$50]
Elevator agency director/co-director license.	Initial: \$100	Renewal: \$150	Late-renewal: \$50	Reissuance: \$50
Elevator <u>agency</u> inspector license.	Initial: \$50	Renewal: \$75	Late-renewal: \$50	Reissuance: \$50
<u>Elevator agency technician license card processing.</u>	<u>Initial:</u> <u>\$50</u>	<u>Renewal:</u> <u>\$50</u>	<u>Late-renewal:</u> <u>\$50</u>	<u>Reissuance:</u> <u>\$50</u>
<u>Restricted elevator agency technician license card processing.</u>	<u>Initial:</u> <u>\$50</u>	<u>Renewal:</u> <u>\$50</u>	<u>Late-renewal:</u> <u>\$50</u>	<u>Reissuance:</u> <u>\$50</u>
<u>Elevator agency helper card.</u>	<u>Initial:</u> <u>\$50</u>			<u>Reissuance:</u> <u>\$50</u>

§3. Subparagraphs (vii) and (viii) of paragraph (1) of subdivision (c) of section 104-01 of subchapter D of chapter 100 of Title 1 of the rules of the City of New York are amended to read as follows:

- (vii) [Private] Elevator [Inspection] Agency Director
- (viii) [Private] Elevator [Inspection] Agency Inspector

§4. Paragraph (1) of subdivision (a) of section 104-02 of subchapter D of chapter 100 of Title 1 of the rules of the City of New York is amended to read as follows:

- (1) Elevator [Inspection] Agency Director

§5. Subdivision (i) of section 104-03 of subchapter D of chapter 100 of Title 1 of the rules of the City of New York is re-lettered as subdivision (j) and a new subdivision (i) is added, to read as follows:

(i) The term of an elevator agency technician license or a restricted elevator agency technician license issued in accordance with the provisions of article 425 of Title 28 of the Administrative Code shall be two (2) years, measured from the date the license is originally issued.

§6. Subchapter D of chapter 100 of Title 1 of the rules of the City of New York is amended by adding a new section 104-13, to read as follows:

104-13 Elevator agency directors, elevator agency inspectors, elevator agency technicians and restricted elevator agency technicians and elevator helpers.

(a) New York State elevator license required. In addition to the licenses issued pursuant to Articles 421, 422, 425 and Article 426 of Title 28 of the Administrative Code, the applicable license issued by the New York State Department of Labor pursuant to Article 33 of the state labor law is required in order to perform elevator work as defined in Section 28-401.3 of the Administrative Code.

(b) Permit applications. No application for an elevator work permit shall be accepted by the Department unless the applicant possesses a valid New York state license, as described in subdivision (a).

(c) Permit expiration. Elevator work permits expire upon the expiration or revocation of the required state license during the term of the permit.

(d) Inspection and test reports. No required elevator inspection or test reports shall be accepted by the Department unless the elevator agency inspector possesses a valid New York state license, as described in subdivision (a).

(e) Qualifications. Elevator agency technicians, restricted elevator agency technicians and elevator helpers must meet all applicable qualifications and license requirements in Chapter 4 of Title 28 of the Administrative Code.

§7. Subdivision (a) of section 104-26 of subchapter D of chapter 100 of Title 1 of the rules of the City of New York is amended to read as follows:

(a) Applicability. This section applies to Master Plumbers, Master Fire Suppression Piping Contractors, High Pressure Boiler Operating Engineers, Welders, Riggers, Sign Hangers, Oil Burners, Site Safety Managers, Hoist Machine Operators, [Private] Elevator [Inspection] Agency Inspectors, [and Private] Elevator [Inspection] Agency Directors, Elevator Agency Technicians and Restricted Elevator Agency Technicians.



## NOTICE OF ADOPTION OF RULE

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner of Buildings by Section 643 of the New York City Charter and Title 28 of the Administrative Code of the City of New York, and in accordance with Section 1043 of such Charter, that the Department of Buildings hereby adopts the amendments to Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York, regarding a major projects development program. This rule was first published on October 21, 2021, and a public hearing thereon was held on November 22, 2021.

Dated: 01/20/2022

New York, New York

  
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Melanie E. La Rocca  
Commissioner

### **Statement of Basis and Purpose of Rule**

This rule, which takes effect May 1, 2022, adds a new Section 101-17 to Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York that creates a new voluntary major projects development program. The major projects development program provides owners of proposed new buildings that will be 20 stories or more, and other large, complex development projects, with dedicated project coordination and guidance services in order to cause construction to be performed more efficiently and in a manner that promotes public safety. The rule sets out eligibility and requirements for participation in this program.

The Department of Buildings is promulgating rules that establish this program in order to help large, complex development projects proceed in an orderly and code compliant manner. By providing owners with dedicated project coordination and guidance services at an early stage, as well as continuing engagement throughout such major projects' development, owners' applicants will be able to navigate the myriad of applicable laws, rules, and regulations applicable to such projects, attain permits in the most efficient sequencing, and avoid or expeditiously address field violations that may arise during construction, and which often create extensive delays due to the need to stop work. This coordination and guidance will reduce the impact of prolonged construction projects on the surrounding community. Facilitating code compliance will also minimize the economic impacts that sometimes befall complex construction projects and, more broadly, help revitalize the city, which was recently subject to substantial losses of jobs, revenue and economic vitality as a result of the COVID pandemic.

The guidance that the Department of Buildings will provide through this program may relate to: (1) zoning and code compliance, (2) phasing of filings, permits, and occupancy, (3) construction, site safety, and public safety, and (4) the issuance of a Temporary Certificate of Occupancy and Final Certificate of Occupancy. This robust engagement process will support applicable projects in their entirety in an efficient and comprehensive manner.

The rule also amends section 101-03 to establish fees for the services associated with this major projects development program.

The Department of Buildings' authority to promulgate rules establishing this program is found in sections 643 and 1043 of the New York City Charter and Title 28 of the New York City Administrative Code, particularly sections 28-104.1 and 28-105.5 and Article 118 of such Title. Section 28-112.1 of the Administrative Code authorizes the imposition of fees for permits and other services and privileges regulated by this 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 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding the following entries at the end of the table set forth in that section:

<u>Consultations for a major project development covered by the program set out in section 101-17 of these rules regarding all phases of construction including applications, permitting, and the issuance of a certificate of occupancy.</u>	<u>\$50,000</u>
<u>Consultations for a major project development covered by the program set out in section 101-17 of these rules regarding all phases of construction including applications, permitting, and the issuance of a certificate of occupancy for a development that the New York City Department of Housing Preservation and Development certifies is for the construction or rehabilitation of affordable housing and has received or, based on documentation deemed sufficient to the department, reasonably expects to receive (i) a conveyance of municipally owned property pursuant to Article 15 or 16 of the General Municipal Law, (ii) a loan, grant or tax exemption pursuant to the Private Housing Finance Law or the General Municipal Law, (iii) a tax exemption pursuant to Section 420-c of the Real Property Tax Law, (iv) a transfer pursuant to an in rem foreclosure judgment pursuant to section 11-412.1 of the code, or (v) funding for repairs pursuant to Section</u>	<u>\$25,000</u>

§2. Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new section 101-17 to read as follows:

**§101-17 Major projects development program.** The major projects development program will offer dedicated project coordination and guidance services to participating projects as set forth in subdivision (a) of this section. Such services will include consultations with dedicated Department staff throughout the life of a project, including, but not limited to, pre-application development consultations, pre-construction consultations, pre-inspection consultations, and consultations regarding construction phasing and scheduling as needed. The consultations may cover (1) zoning and code compliance, (2) phasing of filings, permits, and occupancy, (3) construction, site safety, and public safety checks, and (4) the issuance of a Temporary Certificate of Occupancy and Final Certificate of Occupancy.

**(a) Applicability.**

- (1) The major projects development program is a voluntary program that applies to:
- (i) owners of proposed new buildings that will be 20 stories or greater, regardless of whether such proposed building preserves existing building elements;
- (ii) owners of proposed new buildings that preserve existing building elements and for which the resulting building includes additional floor area of 100,000 square feet or more;
- (iii) owners of proposed new buildings with a total floor area of 500,000 square feet or more; and
- (iv) owners of existing or proposed buildings designated by the commissioner as eligible for this program due to unique hazards associated with the construction or demolition of the structure, including complex construction logistics potentially impacting adjoining properties or public safety.
- (2) Acceptance into the program is on a first-come-first-served rolling basis, depending on program capacity.

**(b) Requirements.** Owners who choose to participate in this program shall:

- (1) provide all project scope information, required filings, and project schedule, sequencing and phasing information, and provide timely updates of such information, as directed by the Department;

(2) attend all scheduled consultations and provide any additional information and documentation requested by the Department; and

(3) address any objections and deficient conditions on the work site in a timely manner.

(c) **Fee.** In order to participate in this program, the owner will be charged a fee as provided in section 101-03 of this title. Such fee will be charged in addition to all other applicable fees set out in such section 101-03, Article 112 of Title 28 of the Administrative Code, or any other provision of law.

(d) **Removal from program.** The Department may, on written notice to the owner, remove a project from the program for failure to comply with the requirements of the program. The notice will inform the owner of the reasons for the proposed removal from the program and that the owner has the right to present to the Department information as to why the project should not be removed from the program within:

(1) 10 business days of delivery of the notice by hand or electronically to the owner's designated email address; or

(2) 15 calendar days of the posting of notice by mail.

(e) **Withdrawal from program.** An owner who wishes to withdraw a project from the program for financial or any other reasons must inform the Department in writing.

(f) **Effect of removal or withdrawal.** After removal or withdrawal, as described in subdivisions (d) and (e) of this section, an owner must continue to comply with all requirements of law or rule applicable to the project without receiving the consultation and guidance services authorized pursuant to this section.

§3. This rule takes effect on May 1, 2022.

## NOTICE OF ADOPTION OF RULE

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner 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 101-03 of Chapter 100 of Title 1 of the City of New York, regarding Energy Code compliance review fees.

This rule was first published on August 11, 2021 and a public hearing thereon was held on September 13, 2021.

Dated: 09/29/2021

New York, New York

  
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Melanie E. La Rocca  
Commissioner

## Statement of Basis and Purpose of Rule

Section 103.3 of the New York City Energy Conservation Code ("Energy Code") provides for department examination of construction documents to determine whether they are in compliance with the requirements of the Energy Code.

The rule amends the existing Energy Code compliance review fee in section 101-03 from \$220 for all applications to a more equitable fee structure. Accordingly, there will now be three categories of energy code compliance review based on whether it's a new building, alteration or 1, 2, or 3 family home. There will be a fee associated with each such category of review.

This fee has not been amended since it was adopted in 2014. The creation of separate categories and associated fees will cover the current workload and staffing needed to ensure compliance with code requirements.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and section 103.3 of the New York City Energy Conservation Code.

Pursuant to section 1043(d)(4)(iii) of the New York City Charter, this rule is not subject to review under Charter section 1043(d).

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.

The fee for Energy Code compliance review in section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

Energy Code compliance review	
• <u>One-, two- or three- family dwellings</u>	<u>\$220</u>
• <u>Alteration for other than one-, two- or three-family dwellings</u>	<u>\$525</u>
• <u>New buildings and Alteration that changes the C of O for other than one-, two- or three-family dwellings</u>	<u>\$875</u>

## NOTICE OF ADOPTION OF RULE

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner 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 101-03 regarding the reinspection fee, and Section 102-01 of Chapter 100 of Title 1 of the Rules of the City of New York, regarding correction and cure period for violations, and the addition of Section 102-06 to Chapter 100, regarding a program to give owners of one- and two-family homes who have not received any prior violations at the property within the past five years, or are new owners, an opportunity to correct certain violating conditions prior to receiving a notice of violation and associated penalties.

This rule was first published on May 28, 2021 and a public hearing thereon was held on June 28, 2021.

Dated: 7/7/2021  
New York, New York

  
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Melanie E. La Rocca  
Commissioner



### Statement of Basis and Purpose of Rule

Section 28-208.1 of the Administrative Code provides that the commissioner may issue a request for corrective action as an alternative to the issuance of an order or notice of violation. This rule adds a new Section 102-06 to Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York relating to a new program to give owners of one- and two-family homes who have not received any prior violations at the property within the past five years, or are new owners, an opportunity to correct certain violating conditions prior to receiving a notice of violation and associated penalties. The rule sets out eligibility and requirements for this program.

Section 28-208.1.1 of the Administrative Code allows the imposition of a fee for any subsequent inspection that results in the issuance of a notice of violation for the condition. The rule amends the existing reinspection fee in section 101-03 from \$85 to \$225. This fee has not been increased since it was adopted in 2011. The increased fee will cover the current workload and staffing needed to ensure compliance with code requirements.

The rule also amends section 102-01 by adding a timeframe for correction of violations, extending the cure period for violations from 40 to 60 days for one- and two-family homes, clarifying that the time starts from the date of service of the notice and deleting a redundant provision.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and sections 28-208.1 and 28-208.1.1 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. The fee for reinspection in section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

Reinspection made necessary by a failure to correct a condition or respond to a request to correct that results in issuance of a violation or other order	[\$85] <u>\$225</u> each inspection
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§2. Paragraphs (2) through (9) of subdivision (c) of section 102-01 of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York are renumbered (3) through (10), respectively, and a new paragraph (2) is added, to read as follows:

(2) Violations classified as major or lesser must be corrected within forty days from the date of service of the NOV, except that such violations issued to one- or two-family homes must be corrected within sixty days of service of the NOV.

§3. Paragraphs (3), (9) and (10) of subdivision (c) of section 102-01 of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York, as renumbered by this rule, are amended to read as follows:

(3) [The following violation] A violation for filing a false certification 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;]

(9) 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] service of the NOV. For such violations issued to one- or two-family homes, a certificate of correction acceptable to the Department must be submitted and received no later than sixty days from the date of service of the NOV. For violations classified as Class 1, a certification acceptable to the Department must be received by the Department forthwith.

(10) 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)] (9) 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)] (9) 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] section 28-202.1 of the Administrative Code.

§4. Paragraph (1) of subdivision (d) 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 (unamended footnote omitted):

(1) Cure.<sup>1</sup> 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 Buildings Penalty Schedule found below. 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] service of the NOV. For violations issued to one- or two-family homes, a certificate of correction acceptable to the Department must be submitted and received no later than sixty days from the date of service of 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 § 28-204.2, and with the provisions of the Buildings Penalty Schedule, results in a zero penalty. A violation that has been charged as an Aggravated I or Aggravated II violation is never eligible for a cure, even if there is a "Yes" in the "Cure" column in the Buildings Penalty Schedule for that violation description.

§5. Paragraph (3) of subdivision (e) of section 102-01 of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York, relating to the deadline to receive a corrected certificate of correction, is REPEALED.

§6. Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new section 102-06 to read as follows:

**§102-06 Homeowner resolution program.** Owners of one- and two-family homes who have not received any prior violations at the property will have an opportunity to correct certain violating conditions prior to receiving a notice of violation and associated penalties.

**(a) Applicability.** The homeowner resolution program applies to owners of one- and two-family homes, whether or not they occupy those homes, to whom prior Department notices of violations have not been issued at the property within the past five years. The program shall also

apply to new owners, where the violations on the property were issued within the past five years to a prior owner.

**(b) Eligible violations.** This program covers violations classified as Class 1, Class 2 or Class 3 in subdivision (k) of section 102-01 of these rules. Multiple violating conditions observed on the same date are considered as one violation for the purposes of this program.

**Exceptions.** This section does not apply to Class 1 violations for illegal conversions as described in section 28-210.1 of the Administrative Code and Class 1 violations that lead to death or serious injury.

**(c) Request for corrective action.** Where a violating condition is observed at a property that is part of this program, the commissioner will issue a request for corrective action, giving the owner 60 days to correct the condition.

**(d) Failure to correct condition.** If, upon reinspection at the expiration of the 60-day correction period, an inspection finds that the violating condition has not been corrected, a notice of violation will be issued to the owner.

**(e) Fee.** In addition to receiving a notice of violation, for Class 1 violations as described in subdivision (b), the owner will be charged a fee for the inspection that results in the issuance of such notice of violation, as provided in section 101-03 of these rules.

**(f) Removal from program.** An owner who receives a notice of violation after either failing to correct the violating condition within the provided timeframe or failing to provide access to an inspector to determine if the violating condition has been corrected is no longer eligible for this program and must comply with the requirements in section 102-01 of these rules. The violating condition must still be corrected and any applicable penalty associated with any such notice of violation issued must be paid.

## NOTICE OF ADOPTION OF RULE

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner 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 to Section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding fees for filings for an adjustment to applicable annual building emission limits for calendar years 2024 – 2029 and 2030 - 2034, as set out in section 28-320.9 of the New York City Administrative Code, as well as the addition of section 103-12 to Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York specifying the filing requirements for an application for these adjustments.

This rule was first published on January 15, 2021 and a public hearing thereon was held on February 16, 2021.

Dated: 3/3/2021  
New York, New York

  
\_\_\_\_\_  
Melanie E. La Rocca  
Commissioner

### **Statement of Basis and Purpose**

Local Law 97 of 2019 was enacted on May 19, 2019 and went into effect on November 15, 2019. Local Law 97 amended Chapter 3 of title 28 of the Administrative Code to establish Greenhouse Gas Emission limits for certain buildings. Local Law 147 of 2019, which was enacted on July 27, 2019 and also went into effect on November 15, 2019, amended Local Law 97.

Local Law 97 of 2019 requires owners of covered buildings to report their Greenhouse Gas Emissions to the City beginning in 2025, based on the building's energy consumption for the previous year. Section 28-320.9 provides for an adjustment to applicable annual building emission limits for not-for-profit hospitals and healthcare facilities. The adjustment increases the emissions limit above the limits established in Section 320.3 of the law, for the period between 2025 and 2034.

For not-for-profit healthcare organizations that have greenhouse gas emissions that exceed the limits set forth in Section 28-320.3, the requirement to make modifications to improve their building prior to 2024, without an adjustment, could compete with their primary mission of providing healthcare services that benefit residents of New York City. Meeting the specified emissions limits prescribed in the law may require capital improvements which, in addition to associated costs, could result in disruption of the services provided or possibly closure of these healthcare facilities.

Now, more than ever, access to healthcare is of critical importance. As such, Section 28-320.9 was intended to extend the timeframe for not-for-profit healthcare organizations to come into compliance with the emissions limits established in Section 28-320.3. Likewise, an owner leasing space to such not-for-profit entities, without an adjustment, could be penalized for their tenant's energy usage for providing healthcare services, if that owner is required to comply with Section 28-320.3 emission limits in 2025.

This rule clarifies that the adjustment is available to owners that lease space to not-for-profit healthcare organizations. The adjustment is based on the building's emissions from calendar year 2018, as required by Section 28-320.9. Specifically, Section 320.9 item 2 establishes that, if granted, an adjustment would result in the emissions limit for calendar years 2024 through 2029 and calendar years 2030 through 2034 being 85 percent and 70 percent of the 2018 building emissions, respectively.

This rule establishes a fee and filing requirements for owners wishing to seek this adjustment.

Specifically, the rule:

- clarifies the requirements for submitting supporting documentation that a building is classified as a not-for-profit hospital, not-for-profit health center, or a not-for-profit HIP center; or has one of these not-for-profit entities as a tenant;

- clarifies the requirements to establish the adjusted building emissions limit, including documentation of the building’s 2018 energy consumption, square footage, and occupancies in the building; and,
- establishes the filing fee for submitting an application to the Department for an adjustment to a building emissions limit for a not-for-profit hospital or healthcare facility.

The Department of Buildings’ authority for this rule is found in sections 643 and 1043 of the New York City Charter and Article 320 of Chapter 3 of Title 28 of the Administrative Code.

New material is underlined.

“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 101-03 of subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended to add, at the end of the table set forth in that section, a new fee for the application for an adjustment to the Building Emissions Limit for not-for-profit hospitals and healthcare facilities pursuant to Section 28-320.9, as follows:

<u>Filing application for a building emissions limit adjustment for not-for-profit hospitals and healthcare facilities pursuant to Section 28-320.9 of the Administrative Code</u>	<u>\$335</u>
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§2. Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new section 103-12 to read as follows:

**§103-12. Requirements for Filing Applications for an Adjustment of Annual Greenhouse Gas Emission Limits for Not-for-Profit Hospitals and Healthcare Facilities.**

(a) Purpose and Applicability. This section establishes the requirements for filing an application for an adjustment of the Greenhouse Gas (GHG) Emission limits for buildings owned by or leased to not-for-profit hospitals and healthcare facilities pursuant to Section 28-320.9 of the Administrative Code.

(b) Procedures for filing an application for adjustment under Section 28-320.9. Applications for an adjustment must be filed by a registered design professional. Applications must include the following:

(1) 2018 benchmarking data submitted in accordance with Article 309 of Title 28 of the Administrative Code. Applicants must demonstrate:

- (i) the actual building emissions for calendar year 2018,
- (ii) the gross square footage, where the whole building is occupied by a not-for-profit healthcare organization, or the total area occupied exclusively by a not-for-profit healthcare organization, and
- (iii) the occupancies in the building.

The documentation should confirm the building emissions intensity based on actual emissions for 2018 for the purpose of establishing a new limit if an adjustment is approved. Energy benchmarking data from 2018 may be modified if an applicant can justify the reason for a correction to the energy consumption data, gross floor area, and/or occupancies recorded for the covered building.

(2) Documentation of not-for-profit status. Applicants must submit a copy of the New York City Department of Finance Notice of Property Value as documentation of the owner's designation as a not-for-profit organization. For buildings with a not-for-profit healthcare organization as a tenant, partial adjustments may be granted for area occupied exclusively by a not-for-profit healthcare organization for the purposes of healthcare services. An owner must submit a copy of the tenant's 501(c)(3) determination letter from the Internal Revenue Service.

(3) Documentation of separate metering for electricity. Owners may seek an adjustment for space leased to a not-for-profit healthcare tenant only if the space leased to the tenant is separately metered or sub-metered for electricity.

(4) Documentation of the lessor/lessee agreement. Applicants with a tenant that is a not-for-profit healthcare organization whose space is separately metered or sub-metered must submit documentation of the terms of the lessor/lessee agreement, including the term of the lease and the total area of space leased to the tenant for their exclusive use, in the form of an affidavit, signed by the owner. The current lease or a prior lease for the same space must have been effective for the entirety of calendar year 2018. If the lease is terminated and not renewed at any time between 2024 and 2034, the adjustment will be terminated for that space. The Department may request additional documentation as needed to support the adjustment.

(5) Effective period. An adjustment granted pursuant to Section 28-320.9 may be effective for the reporting years 2025 through 2034, provided that, when granted to an owner for a not-for-profit tenant, the tenant remains in the building. Owners may be required to provide additional documentation, as requested by the Department, to support the application for adjustment.

(c) Fees. Owners seeking an adjustment pursuant to this section must pay a filing fee as provided in Section 101-03 of these rules.



## NOTICE OF ADOPTION OF RULE

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner 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 to Section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding the fee for filings for an adjustment to applicable annual building emission limits for calendar years 2024 – 2029, as set out in section 28-320.8 of the New York City Administrative Code

This rule was first published on December 31, 2020 and a public hearing thereon was held on February 1, 2021.

Dated: 2/3/2021  
New York, New York

  
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Melanie E. La Rocca  
Commissioner

### Statement of Basis and Purpose of Rule

Local Law 97 of 2019, as amended by local law 147 of 2019, sets building emissions limits for certain buildings in a new Article 320 of Title 28 of the Administrative Code. Section 28-320.8 authorizes the Department to grant adjustments to the buildings emissions limit for certain buildings that have excessive emissions due to a special circumstance.

This rule amends Section 101-03 of Chapter 100 of Title 1 of the Rules of the City of New York by adding a fee for filing an application for these adjustments for calendar years 2024 – 2029. The fee covers the increase in workload and staffing for the Building Emissions unit.

The authority of the Department of Buildings for this rule is found in sections 643 and 1043 of the New York City Charter and section 28-320.10 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

Section 101-03 of Chapter 100 of Title 1 of the Rules of the City of New York is amended to add, at the end of the table set forth in that section, a new fee for the application for an adjustment to the Building Emissions Limit for Calendar Years 2024 – 2029, as allowed by section 28-320.8, as follows:

<u>Filing an application for a building emissions limit adjustment for calendar years 2024 -2029 pursuant to Section 28-320.8 of the Administrative Code</u>	<u>\$2,450</u>
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## 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 101-03 of Subchapter A of Chapter 1 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding fees for façade report filings.

This rule was published in the City Record on February 27, 2020 and a virtual public hearing was held on June 1, 2020.

Dated: June 8, 2020  
New York, New York

  
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Melanie E. La Rocca  
Commissioner

### Statement of Basis and Purpose

This rule amends Section 101-03 of Chapter 100 of Title 1 of the Rules of the City of New York relating to fees for façade report filings. These fees have not been increased since they were adopted. The increase now being adopted will cover the increase in workload and staffing for the façade unit.

The authority of the Department of Buildings for this rule is found in sections 643 and 1043 of the New York City Charter and section 28-112.7.2 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

The façade inspection reports fees, located between the fees for “technical report filings” and “reinspection made necessary by a failure to correct a condition or respond to a request to correct that results in issuance of a violation or other order” in Section 101-03 of Chapter 100 of Title 1 of the Rules of the City of New York, are amended to read as follows:

<p>Façade inspection reports</p> <ul style="list-style-type: none"><li>• Initial filing</li><li>• Amended/subsequent filing</li><li>• Application for extension of time to complete repairs</li></ul>	<p><del>[\$265]</del><u>\$425</u></p> <p><del>[\$100]</del><u>\$425</u></p> <p><del>[\$135]</del><u>\$305</u></p>
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**NEW YORK CITY DEPARTMENT OF BUILDINGS**

**NOTICE OF ADOPTION OF RULE**

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner 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 adds a new Section 104-12 to Title 1 of the Rules of the City of New York, regarding qualifications for performing gas work, and hereby amends Section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York regarding application fees for a gas work qualification and a limited gas work qualification.

This rule was first published on January 10, 2019 and a public hearing thereon was held on February 14, 2019. Comments on the rule were submitted prior to and during the hearing.

Dated: 10/28/19  
New York, New York

  
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Melanie E. La Rocca  
Commissioner

### **Statement of Basis and Purpose**

The rule adds a new Section 104-12 to Title 1 of the Rules of the City of New York (RCNY) regarding gas work qualifications. This rule promotes public safety by specifying requirements for obtaining gas work qualifications required for performing gas work within the City of New York.

This rule includes provisions related to the following that are intended to give effect to Local Law 150 of 2016:

- Requirements for applications for a gas work qualification, including examination, experience and education requirements.
- Requirements for applications for a limited gas work qualification, including experience and education requirements.
- Requirements for documentation purporting to verify claimed education, training and experience submitted with applications for a gas work qualification or a limited gas work qualification.
- Requirements for demonstrating that a person holds a gas work qualification or a limited gas work qualification while engaged in gas work.
- Expiration and renewal of a gas work qualification and a limited gas work qualification.

DOB has made changes to the rule following the public comment period and public hearing. These changes include:

- Defining the terms “direct and continuing supervision,” “personal and immediate supervision,” and “direct employ” in order to provide clarity with respect to the operation of such terms for purposes of the rule.
- Specifying, in subparagraph (i) of paragraph (5) of subdivision (a), the requirements for proving personal and immediate supervision in order to provide clarity to supervising individuals.
- Clarifying that the application fee, where applicable, for a gas work qualification and a limited gas work qualification will be as specified in section 101-03 of the rules of the Department.
- Adding provisions under subdivision (e), regarding the issuance of gas work and limited gas work qualification cards and requirements for demonstrating that a person holds a gas work qualification or limited gas work qualification while engaged in gas work. These provisions were added to address enforcement considerations associated with implementation of the rule.

The Department of Buildings' authority for this rule is found in sections 643 and 1043 of the New York City Charter, Article 423 of Chapter 4 of Title 28 of the New York City Administrative Code and Local Law 150 of 2016.

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.** The table of fees payable to the department of buildings in Section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding at the end of the table application fees for gas work qualification and limited gas work qualification, to read as follows:

<u>Gas work qualification application fee</u>	<u>\$15.00</u>
<u>Limited gas work qualification application fee</u>	<u>\$15.00</u>

§ 2. Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new Section 104-12 to read as follows:

**§ 104-12 Gas Work Qualification.**

- (a) Requirement. Beginning January 1, 2020, no person may perform gas work, as defined in section 28-423.1 of the Administrative Code, unless such person satisfies one of the following:
- (1) Is a licensed master plumber; or,
  - (2) Holds a gas work qualification pursuant to this section and is working under the direct and continuing supervision of a licensed master plumber; or,
  - (3) Holds a limited gas work qualification pursuant to this section and is performing such work under the personal and immediate supervision of either a person who holds a gas work qualification pursuant to this section, or a licensed master plumber.
  - (4) For 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.
  - (5) For purposes of this section, the term “personal and immediate supervision” shall mean responsible continuous control exercised by a licensed master plumber or a person who holds a gas work qualification, who is present on site, over a person

who holds a limited gas work qualification who is performing the actual gas work in the direct employ of a licensed master plumber.

- (i) Such supervision shall be evidenced by the supervising individual's signature, and seal where applicable, upon any required statements, certifications, applications and/or permits and by demonstrating involvement of the supervising individual in the operations of the business, including but not limited to hiring of employees, responsibility for financial matters, and oversight of work performance.
- (ii) The term "direct employ" shall have the same meaning as set forth in section 28-401.3 of the Administrative Code.

(b) Applications for a gas work qualification.

- (1) *Application and fee.* Applicants must submit to the Department, in a form and manner determined by the commissioner, an application accompanied by all required documentation and, if applicable, an application fee as specified in section 101-03 of the rules of the Department. No application fee is required for a gas work qualification, provided that the applicant is, at the time of filing, a registered journeyman plumber or is concurrently applying for registration as a journeyman plumber pursuant to Article 409 of Chapter 4 of Title 28 of the Administrative Code.
- (2) *Examination.* Applicants must submit to the Department acceptable documentation establishing satisfactory proof that such applicant has successfully passed a Department-sponsored gas work qualification examination.
  - (i) Applicants must apply for the examination by submitting an examination application, in a form and manner determined by the commissioner, to the Department's Licensing & Exams Unit or its designee. The examination application must be accompanied by an examination fee as specified in section 101-03 of the rules of the Department. Applicants reapplying to take such examination, including after a failure, must do so in accordance with the requirements in this paragraph.
  - (ii) Applicants have six (6) months from the date of submission of the examination application to take the examination.
  - (iii) Applicants who fail the examination must wait at least fourteen (14) days before reapplying to take the examination. Each time an applicant wishes to take the examination, including after a failure, the applicant must reapply to the Department and pay the required fee as specified in section 101-03 of the rules of the Department. Applicants may take the examination no more than three (3) times within a six (6) month period. Applicants who fail the examination three (3) times within six (6) months



must wait six (6) months from the date of the third failed examination before reapplying to take such examination.

(3) *Experience and education.* Applicants must submit to the Department acceptable documentation establishing satisfactory proof of one or more of the following:

- (i) Applicant is a registered journeyman plumber pursuant to Article 409 of Chapter 4 of Title 28 of the Administrative Code;
- (ii) Applicant has successfully completed an apprenticeship in plumbing program approved by the New York State Department of Labor and has at least one (1) year of full-time experience performing or supervising plumbing work under the direct and continuing supervision of a licensed master plumber; or,
- (iii) Applicant has at least five (5) years of full-time experience performing or supervising plumbing work under the direct and continuing supervision of a licensed master plumber, provided that at least one (1) year of such experience must have occurred within the City of New York.

(c) Applications for a limited gas work qualification.

(1) *Application and fee.* Applicants must submit to the Department, in a form and manner determined by the commissioner, an application accompanied by all required documentation and an application fee as specified in section 101-03 of the rules of the Department.

(2) *Experience.* Applicants must submit to the Department acceptable documentation establishing satisfactory proof that such applicant has at least six (6) months of full-time experience performing plumbing work under the direct and continuing supervision of a licensed master plumber.

(3) *Education.* Applicants must submit to the Department acceptable documentation establishing satisfactory proof of one or more of the following:

- (i) Successful completion of a Department-sponsored gas work training course of not less than sixteen (16) hours of instructional time; or,
- (ii) Applicant's status as an apprentice in plumbing registered in an apprenticeship program approved by the New York State Department of Labor.

(d) Documentation of education, training and experience submitted with the application. Applicants must submit to the Department acceptable documentation evidencing all claimed education, training and experience required by this section. For verification of such claimed education, training and experience, the Department may require additional

supporting documentation satisfying the requirements set forth in Subdivision (e) of Section 104-01 of the rules of the Department.

(e) Gas work and limited gas work qualification cards.

(1) Upon issuance of a notice of approval, the Department shall issue a “Gas Work Qualification Card” to applicants who have satisfied all the requirements for a gas work qualification pursuant to this section.

(i) *Demonstration of gas work qualification while engaged in gas work.* The gas work qualification card and a government issued photo identification card must be carried by the qualified individual at all times while engaged in any gas work, as defined in section 28-423.1 of the Administrative Code, and must be presented upon the demand of any authorized enforcement officer.

(2) Upon issuance of a notice of approval, the Department shall issue a “Limited Gas Work Qualification Card” to applicants who have satisfied all the requirements for a limited gas work qualification pursuant to this section.

(i) *Demonstration of limited gas work qualification while engaged in gas work.* The limited gas work qualification card and a government issued photo identification must be carried by the qualified individual at all times while engaged in any gas work, as defined in section 28-423.1 of the Administrative Code, and must be presented upon the demand of any authorized enforcement officer.

(f) Expiration and renewal.

(1) Gas work qualification. A gas work qualification will not expire and does not require renewal.

(2) Limited gas work qualification. A limited gas work qualification will expire five (5) years after the date of issuance and may not be renewed.

### 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 101-03 of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding fees payable to the Department.

This rule was first published on August 14, 2017 and a public hearing thereon was held on September 14, 2017.

Dated: \_\_\_\_\_

New York, New York



Rick D. Chandler, P.E.  
Commissioner

### **Statement of Basis and Purpose of Rule**

This rule amends Section 101-03 of Chapter 100 of Title 1 of the Rules of the City of New York, relating to fees payable to the Department, to include fees for responding to requests submitted to the Department for the following:

- appeal after two reviews (for which two reviews there is no charge pursuant to this rule because the fees for these reviews are included in the filing fee) that consist of (1) a plan examination objection and (2) an affirmation of that objection.

The determination in response to such appeal is referred to as an Appeal Determination;

- a variation of the Construction Codes;
- a variation of the 1968 or prior Building Code;
- a variation of section 277.16 of the New York State Multiple Dwelling Law (MDL) for Article 7B buildings;
- a pre-determination request with respect to the Zoning Resolution, Construction Codes or 1968 or prior Building Code before application for construction document approval is submitted;
- appeal of an Appeal Determination; and
- an appeal from:
  - a denial of a request for a variation of the Construction Codes;
  - a denial of a request for a variation of the 1968 or prior Building Code;
  - a denial of a request for a variation of section 277.16 of the New York State Multiple Dwelling Law (MDL) for Article 7B buildings; and
  - a pre-determination with respect to the Zoning Resolution, Construction Codes or 1968 or prior Building Code.

The authority of the Department of Buildings for this rule is found in sections 643 and 1043 of the New York City Charter and section 28-112.1 of the New York City Administrative Code.

The Department provides a service when current or prospective applicants request a variation of the Codes and of the MDL as specified, or a pre-determination or determination interpreting certain provisions of the Zoning Resolution or the Codes, Appeal Determinations and appeals. These requests may be made using either a Zoning Resolution Determination Form (ZRD1) or a Construction Code Determination

Form (CCD1) or any subsequently created determination forms. Only one issue may be included per determination form.

There is no additional charge pursuant to this rule for the first review, which could result in a plan examination objection, or the second review of that objection, which could result in an affirmation of the objection. The fees for these reviews are included in the filing fee.

These fees will cover the administrative costs incurred by the Department in reviewing these requests and appeals.

No fees will be charged for requests and appeals filed in connection with the construction or alteration of one-, two- or three-family dwellings. No fees will be charged for requests and appeals filed in connection with any building that the New York City Department of Housing Preservation and Development certifies is for the construction or rehabilitation of affordable housing, as set forth in this rule.

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 101-03 of Title 1 of the Rules of the City of New York is amended by adding the following entries at the end of the table set forth in that section:

○ <u>First plan examination review</u>	<u>Included in the filing fee</u>
○ <u>Second plan examination - review of objection(s)</u>	<u>Included in the filing fee</u>
○ <u>Appeal after the above two reviews that consist of (1) a plan examination objection and (2) an affirmation of that objection after a second plan examination (which results in an Appeal Determination)</u>	<u>\$1,000</u>
○ <u>Request for a variation of the Construction Codes</u>	<u>\$1,000</u>
○ <u>Request for a variation of the 1968 or prior Building Code</u>	<u>\$1,000</u>
○ <u>Request for a variation of section</u>	<u>\$1,000</u>

<p><u>277.16 of the New York State Multiple Dwelling Law (MDL) for Article 7B buildings</u></p> <ul style="list-style-type: none"> <li>○ <u>Pre-determination request with respect to the Zoning Resolution, Construction Codes or 1968 or prior Building Code</u></li>   <li>● <u>Exception: No fee will be charged for proposed one-, two-, or three-family dwellings or for alterations to one-, two- or three-family dwellings (excluding conversions of one-, two- or three-family dwellings to any structure other than a one-, two- or three-family dwelling).</u></li>   <li>● <u>Exception: No fee will be charged for any building that the New York City Department of Housing Preservation and Development certifies is for the construction or rehabilitation of affordable housing and is expected to receive or has received (i) a conveyance of municipally owned property pursuant to Article 15 or 16 of the General Municipal Law, (ii) a loan, grant or tax exemption pursuant to the Private Housing Finance Law or the General Municipal Law, (iii) a tax exemption pursuant to Section 420-c of the Real Property Tax Law, (iv) a transfer pursuant to an in rem foreclosure judgment pursuant to section 11-412.1 of the code, or (v) funding for repairs pursuant to Section 778 of the Real Property Actions and Proceedings Law.</u></li> </ul>	<p><u>\$1,000</u></p>
<p><u>Appeal from:</u></p> <ul style="list-style-type: none"> <li>○ <u>Denial of a request for a variation of the Construction Codes</u></li> </ul>	<p><u>\$2,500</u></p>

○ <u>Denial of a request for a variation of the 1968 or prior Building Code</u>	<u>\$2,500</u>
○ <u>Denial of a request for a variation of section 277.16 of the New York State Multiple Dwelling Law (MDL) for Article 7B buildings</u>	<u>\$2,500</u>
○ <u>Pre-determination with respect to the Zoning Resolution, Construction Codes or 1968 or prior Building Code</u>	<u>\$2,500</u>
○ <u>Appeal Determination</u>	<u>\$2,500</u>
<ul style="list-style-type: none"> <li>• <u>Exception: No fee will be charged for proposed one-, two-, or three-family dwellings or for alterations to one-, two- or three-family dwellings (excluding conversions of one-, two- or three-family dwellings to any structure other than a one-, two- or three-family dwelling).</u></li> <li>• <u>Exception: No fee will be charged for any building that the New York City Department of Housing Preservation and Development certifies is for the construction or rehabilitation of affordable housing and is expected to receive or has received (i) a conveyance of municipally owned property pursuant to Article 15 or 16 of the General Municipal Law, (ii) a loan, grant or tax exemption pursuant to the Private Housing Finance Law or the General Municipal Law, (iii) a tax exemption pursuant to Section 420-c of the Real Property Tax Law, (iv) a transfer pursuant to an in rem foreclosure judgment pursuant to section 11-412.1 of the code, or (v) funding for repairs pursuant to Section 778 of the Real Property Actions and Proceedings Law.</u></li> </ul>	

## 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 Section 8001-01 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding individual on-site private sewage disposal systems.

This rule was first published on July 28, 2017 and a public hearing thereon was held on August 29, 2017.

Dated: \_\_\_\_\_

9.8.17  
New York, New York



\_\_\_\_\_  
Rick D. Chandler, P.E.  
Commissioner



### **Statement of Basis and Purpose**

The proposed rule regulates the design, construction, installation, alteration, maintenance and operation of individual private on-site sewage disposal systems when a permit is also issued for the construction or alteration of a building.

This rule is needed because the current individual private on-site sewage disposal system requirements are found in numerous locations and need to be updated and consolidated.

### **Existing Requirements**

Installation of individual private on-site sewage disposal systems is currently governed by the New York City Charter (the Charter), the New York City Plumbing Code and a number of different entities, including:

- the New York City Department of Environmental Protection (DEP),
- the Department of Buildings (DOB)
- the New York State Department of Environmental Conservation (DEC),
- the New York City Department of Health and Mental Hygiene (DOHMH), and,
- the New York State Department of Health (NYS DOH).

The text below describes the various areas of regulation overseen by these different entities.

1. Section 643(5)(iii) of the Charter provides that DOB may approve the installation of and issue a permit for the construction of an individual private on-site sewage disposal system in conjunction with the issuance of a permit for the construction of a building and may prescribe standards and specifications, in consultation with DEP, for the installation of such systems.
2. Section PC 105.6(2) of the Plumbing Code provides that in conjunction with the issuance of a permit for the construction or alteration of a structure within the curb line, DOB may issue a permit for connection with a sewer or drain. PC 701.2 allows individual private on-site sewage disposal systems to be installed where neither a sanitary nor a combined sewer is available to which connection is feasible.
3. New York State Environmental Conservation Law Section 17-0803 states that a State Pollutant Discharge Elimination System (SPDES) permit from DEC is required for the construction and operation of a disposal system, except that per 6 NYCRR Section 750-1.5(a)(4)(i), DEC's approval is not

required for the construction and use of a new or modified disposal system whose total discharge to the ground water is less than 1,000 gallons per day of sewage wastewater containing no industrial or non-sewage wastes.

4. Per 24 RCNY 143.11 of the New York City Health Code, no individual private on-site sewage disposal system is allowed to serve subdivision realty developments with 15 or more dwellings unless DOHMH determines that it is more practicable to construct individual systems rather than a community system, because of physical or engineering difficulties, estimated cost of construction or other pertinent considerations. Therefore, prior to DOB's construction document approval for an individual private on-site sewage disposal system serving a tax or zoning lot that contains 15 or more dwelling units, an applicant must submit to DOB a determination from the DOHMH that an individual private on-site sewage disposal system is allowed. Without such a determination from DOHMH, applicants must obtain from DOHMH a permit to construct and maintain a community private sewage disposal system for the disposal of sewage from all of the dwellings within the subdivision development.
5. Pursuant to Public Health Law Section 201, NYS DOH regulates sanitary aspects of sewage disposal and controls the pollution of state waters. NYS DOH regulations in 10 NYCRR Part 75 and Appendix 75-A set forth the minimum standards acceptable in New York State for individual sewage treatment systems. However, jurisdiction over the design and construction of individual sewage treatment systems serving residential properties in quantities of less than 1,000 gallons per day, including the authority to grant general, specific and local waivers from Appendix 75-A standards, was transferred by the NYS DOH to DOB pursuant to a letter dated June 7, 1996. Therefore, NYS DOH's approval is not required for such systems.
6. The current individual private on-site sewage disposal system requirements are found in the DEP Interim Procedure for Individual On-Site Wastewater Disposal Systems dated April 9, 1991, Reference Standard RS 16 Section P113.0 of the 1968 New York City Building Code and in Operations Policy and Procedure Notice #6/99 (RS 16).

### **Rule Amendments**

The rule:

- modifies existing standards to promote safer and more reliable individual private on-site sewage disposal systems consistent with the minimum state standards,
- is more user-friendly and easier to navigate, and,
- repeals RS 16 relating to plumbing, drainage and gas piping because all requirements contained therein have been incorporated into this rule and the Plumbing Code. (Provisions of RS 16 relating to individual private on-

site sewage disposal systems will continue to be enforced by the Department pending the promulgation of this rule.)

The Department of Buildings' authority to promulgate this rule and repeal RS 16 is found in sections 643 and 1043 of the New York City Charter, section 104.1 of the New York City Plumbing Code and section 28-103.19 of the Administrative Code.

New material is underlined.

Section 1. Chapter 8000 of Title 1 of the Rules of the City of New York is amended by adding a new Section 8001-01 relating to the construction and alteration of individual private on-site sewage disposal systems to read as follows:

**§8001-01 Individual Private On-Site Sewage Disposal Systems**

**(a) Applicability and scope.** This rule governs the construction and installation of new individual private on-site sewage disposal systems and alteration and maintenance of existing individual private on-site sewage disposal systems. This rule applies to on-site wastewater treatment systems serving residential (one- and two-family) and non-residential (other than one- and two-family) properties receiving less than 1,000 gallons of sewage per day not mixed with industrial wastes or other wastes as defined in the Code of Federal Regulations, the Clean Water Act, the Safe Drinking Water Act, the Insecticide, Fungicide and Rodenticide Act, the Toxic Substances Control Act, the New York State Environmental Conservation Law and the New York Code of Rules and Regulations.

Pursuant to ECL § 17-0803 and 6 NYCRR 750-1.4 New York State Department of Environmental Conservation (DEC) has the authority to issue permits for a new or modified disposal system for a commercial or manufacturing use discharging any amount of sewage, or for a residential use whose total discharge of sewage is 1,000 gallons or more per day. DOB will not issue a permit to construct and use a new or modified disposal system for a commercial or manufacturing use discharging any amount of sewage or for a residential use whose total discharge of sewage is 1,000 gallons or more per day until a DEC State Pollutant Discharge Elimination System (SPDES) permit is provided to the department.

**(b) References.** See 10 NYCRR Part 75 and Appendix 75-A of the New York State Department of Health (NYS DOH) rules, DEC's Design Standards for

Intermediate Sized Wastewater Treatment Systems (March 5, 2014) and Section 701.2 of the New York City Plumbing Code (PC).

**(c) Definitions.** For the purposes of this section, the following terms have the following meanings:

**Absorption area.** An area to which wastewater is distributed for infiltration to the soil.

**Aggregate.** Washed gravel or crushed stone  $\frac{3}{4}$  -  $1\frac{1}{2}$  inches in diameter.

**Application rate.** The rate at which septic tank effluent is applied to a subsurface absorption area, for design purposes, expressed in gallons per day per square foot (GPD/sq. ft.).

**Baffle.** A flow deflecting device used in septic tanks and distribution boxes to inhibit the discharge of floating solids, reduce the amount of settle-able solids that exit, and reduce the exit velocity of the wastewater.

**Cesspool.** A covered excavation in the ground that receives the discharge of domestic sewage or other organic wastes from a drainage system, so designated as to retain the organic matter and solids, but permitting the liquid to seep through the bottom and sides.

**Cleanout.** An opening providing access to part of the sewage system.

**Daily flow rate (Q).** The design flow of the system expressed in units of Gallons Per Day (GPD).

**Distribution box.** A chamber into which the septic effluent discharges and from which the sewage enters the subsurface distribution lines.

**Distribution line.** The perforated pipe used to distribute wastewater to the absorption area.

**Gas deflection baffle.** A device on the outlet of a septic tank which deflects gas bubbles away from the outlet and reduces the carryover of solid particles from the septic tank.

**GPD.** Gallons per day.

**GPF.** Gallons per flush. Unit used to describe amount of water used in each toilet flush.

**GPM.** Gallons per minute. Unit used to describe flow rate of plumbing fixtures.

**Groundwater.** Subsurface water occupying the saturation zone from which wells and springs are fed.

**Individual private on-site sewage disposal system.** A system designed for use apart from a public sewer for the disposal of sewage by means of piping and a septic tank or tanks that discharge into a disposal field or seepage pit and serving properties discharging less than 1,000 gallons of sewage per day.

**Infiltration.** The flow or movement of water into the interstices or pores of a soil through the soil interface.

**Invert.** The floor, bottom, or lowest point of the inside cross section of a pipe.

**Percolation.** The movement of water through the pores of a soil or other porous medium following infiltration through the soil interface.

**Piping.** Piping includes fittings, valves, and other accessories or appurtenances required to make a complete installation.

**Registered design professional.** An architect or engineer licensed and registered under the New York State Education Law.

**Seepage pit.** A covered pit with open jointed or perforated lining into which the septic tank effluent is discharged. The liquid portion of the sewage seeps into the surrounding porous soil. The remaining solids or sludge is retained in the pit.

**Septic tank.** A watertight receptacle that receives the discharge of a drainage system or part thereof, and is designed and constructed so as to separate solids from the liquid, digest organic matter during a period of detention, and allow the liquids to discharge into the soil outside of the tank through a system of open-joint or perforated piping, or seepage pit.

**Sewage.** The combination of human and household waste with water which is discharged to the home plumbing system including the waste from a flush toilet, bath, sink, lavatory, dishwashing or laundry machine, or the water-carried waste

from any other fixture, equipment or machine.

**Stack.** A general term for any vertical line of soil, waste, vent or inside conductor piping that extends through at least one story with or without offsets.

**Wastewater.** Any water discharged from a house through a plumbing fixture to include, but not limited to, sewage and any water or waste from a device (e.g., water softener brine) which is produced in the house or property.

**Watercourse.** A visible path through which surface water travels on a regular basis. Drainage areas which contain water only during and immediately after a rainstorm are not considered a watercourse.

**Wellpoint.** A well used to measure groundwater levels.

**Wetland.** An area(s) of marshes or swamps which have been designated as such by DEC or other agency having jurisdiction. Marshes or swamps that have not been classified by an agency as a wetland cannot be treated for design purposes as a wetland.

**(d) Construction documents and permit requirements.** It is unlawful to construct, replace or substantially alter an individual private on-site sewage disposal system without a permit issued by the department. Such system must meet the requirements of this section or 10 NYCRR Part 75 and Appendix 75-A.

**Exception:**

Applications for permits to construct and maintain private sewage disposal systems serving tax lots or zoning lots containing 15 or more dwelling units must be submitted to the New York City Department of Health and Mental Hygiene (DOHMH) unless such agency determines by reason of physical or engineering difficulties, estimated cost of construction or other pertinent considerations, that it is more practicable to construct individual systems, in accordance with 24 RCNY 143.11 of the New York City Health Code.

**(1) Connection to city sewer.** No permit will be issued for an individual private on-site sewage disposal system where a public sanitary or combined sewer is available and connection thereto is feasible as determined by the New York City Department of Environmental Protection (DEP) in accordance with Section 107.11 of the New York City Building Code (BC) and PC Section 106.6.

**(2) Field testing.** No permit will be issued until the sand column meets the requirements of subdivision (g) of this section and an absorption test has been performed in accordance with subdivision (h) of this section.



**(3) Applicant.** All construction documents filed in connection with a permit application for a new, replacement of, or substantially altered individual private on-site sewage disposal system must be prepared by a registered design professional.

**Exception:**

Applicants for plumbing work consisting of in-kind repairs or replacements of "like-for-like" components may be licensed master plumbers.

**(4) Construction documents.**

**(i) Lot diagram.** A lot diagram must indicate all information as appropriate to the nature and extent of the work proposed including the size, height and location of proposed plumbing work; all existing structures on the zoning lot and their distances from lot and street lines; the established grade and existing curb elevations; and the proposed final grade elevations of the site shown by contours or spot grades at reasonable intervals. The lot diagram must be drawn using an accurate boundary survey to the city datum and must be attached to the application.

**(ii) Application.** An application for a permit must include all necessary forms and construction documents as required by the department. These include but are not limited to:

**(A)** Two complete topographical surveys with original seal and signature by a licensed surveyor.

**(B)** Three site plans, sealed and signed by a registered design professional, showing the following: lot dimensions, location of existing dwelling and proposed expansion, septic tank, seepage pit and drywell and proposed expansions, if any, their distance in relation to stream, lake, water course or DEC designated wetlands.

**(C)** A fee as specified in Section 101-03 of these rules.

**(D)** Alteration plan showing existing building.

**(E)** Computations showing existing hydraulic load on the existing septic system and the proposed hydraulic load as a result of the expansion.

**(F)** Calculations showing the daily flow rate (Q).

**(G)** Calculations showing the proposed tank capacity, in gallons.

**(iii) Documents required from other agencies.** Prior to construction document approval for an individual on-site private sewage disposal system, the applicant must submit applicable documents from other agencies having jurisdiction over such system, including:

**(A) DEP Certification of unavailability or non-feasibility per PC Section 106.6.1.2.**

**(B) A copy of the site connection proposal certified by the DEP Bureau of Water and Sewer Operations.**

**(C) A DEC permit for systems located in freshwater wetlands, coastal wetlands and coastal zone erosion hazard areas per 28-104.9.**

**(D) City Planning Commission. Certification for systems located within a special natural area district per New York City Zoning Resolution Article X, Chapter 5.**

**(E) Board of Standards and Appeals. Waiver for the construction of systems located within the bed of a mapped street per NYS General City Law 35.**

**(e) Waivers.** Where there is a practical difficulty in carrying out the provisions of this section, the Commissioner may issue a waiver where such waiver is consistent with the general purpose and intent of 10 NYCRR Part 75 and 75-A.

**(f) On-site location limitations.** All systems must meet the following requirements, as applicable.

**(1) Discharge of effluent.** Individual private on-site sewage disposal systems must be located, designed, constructed, installed, altered or operated in a manner that will prevent the discharge of effluent onto the surface of the ground or into any watercourse or groundwater;

**(2) Location and access.** The entire system must be located outside the building footprint, within the lot line of the premises for which the system is installed, and in front of the building. Clear access must be provided to the disposal system for servicing.

**Exception:** Installing a system in a location other than the front yard requires a waiver from the commissioner. In such case dry piping, with trap, properly plugged, must be carried from the house plumbing stack through the front foundation wall to preclude the need for rearranging plumbing when sewers become available.



**(3) Site grading.** The slope of the finished grade above the proposed individual private on-site sewage treatment system may not be greater than 15 percent.

**(4) Separation of piping.** Separation of sewage and water piping must comply with Sections PC 603 and 703.

**(5) Minimum separation.** The minimum permissible distance between the various components of the sewage system and between the components and various encumbrances must comply with Table 1.

**Exception:** The separation distance between the outer perimeter of the aggregate collar of the seepage pit or the outer perimeter of the sand collar of the outermost edge of the sand filter field and the front property line adjacent to the street may be zero feet provided that one of the following conditions is met:

(i) Ten feet of horizontal clearance to any water main in the street is maintained via a direct measurement; or

(ii) A watertight pipe/sleeve is installed around the water main in the street if it is located within ten feet of an absorption facility; or

(iii) The presence of at least two feet of relatively impermeable soil which has a percolation rate greater than 120 minutes/inch is verified as being located between the water main in the street and the seepage pit through performance of a percolation test in the on-site soil at the approximate depth of the water main in the street. Percolation test documentation must be submitted by the applicant for inclusion in the permit file when two feet of relatively impermeable on-site soil is used in lieu of ten feet of horizontal clearance or a water main protective sleeve.

**TABLE 1**  
**MINIMUM DISTANCES BETWEEN SEWAGE SYSTEM COMPONENTS**  
**AND BETWEEN COMPONENTS AND ENCUMBRANCES**

	<u>Building Foundation Wall</u>	<u>Property Line</u>	<u>Sand Filter Field</u>	<u>Seepage Pit</u>	<u>Drywell</u>	<u>Water Service Line</u>	<u>Water Course/ Wetland</u>
<u>Septic Tank</u>	<u>10 ft</u>	<u>10 ft</u>	<u>5 ft</u>	<u>5 ft</u>	<u>—</u>	<u>—</u>	<u>—</u>
<u>Sand Filter Field</u>	<u>20 ft</u>	<u>10 ft</u>	<u>20 ft</u>	<u>20 ft</u>	<u>20 ft</u>	<u>10 ft</u>	<u>100 ft</u>
<u>Seepage Pit</u>	<u>20 ft</u>	<u>10 ft</u>	<u>20 ft</u>	<u>20 ft</u>	<u>20 ft</u>	<u>10 ft</u>	<u>100 ft</u>

Drywell	10 ft	5 ft	20 ft	20 ft	--	--	=
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**(6) Minimum lot area and frontage.** The minimum lot area and frontage requirements are 10,000 square feet and 100 feet respectively.

**Exception:** The minimum lot area and frontage requirements do not apply to a tax lot for which title was recorded in the applicable county clerk's office prior to August 1, 1968 where recorded dimensions of such lots are less than 10,000 square feet and/or the frontage of which is less than 100 feet, provided that only one individual private on-site sewage disposal system is permitted on each such lot.

**(g) Sand column construction.** All sand columns required for individual private on-site sewage disposal systems must be constructed in accordance with this section and tested in accordance with subdivision (h) of this section. Sand column construction is subject to special inspection.

**(1) Sand column dimensions.** A sand column must be constructed by excavating a hole not less than three feet in width and seven feet in length. Necessary measures must be taken to prohibit surface water from entering the excavation.

**(2) Minimum depth of sand column.** The excavation must continue vertically until a suitable permeable soil stratum of virgin, sandy material is reached. Where an unsatisfactory impermeable stratum is encountered, the excavation must extend through such stratum. The excavation for the proposed absorption test sand column must extend to a minimum depth of five feet into that permeable soil stratum. The minimum depth of the sand column must be 15 feet when measured from ground surface. The area at the bottom of the excavation must be a minimum of 21 square feet and confirmed by visual inspection. The depth of the permeable sand stratum and surface, trapped, or perched water must be recorded by a special inspector.

**(3) Support of excavation.** The applicant may use a caisson or other means for the construction of the sand column if water enters the excavation or if a "flowing clay" stratum is penetrated.

**(4) Serpentine rock.** If serpentine rock is encountered, the special inspector must document the presence of the serpentine rock, submit a laboratory test report and certify that he/she or the contractor has taken all required safety measures to protect the environment and the public health.

**(5) Backfilling the excavation.** When the required depth for the sand column has been reached, as determined by the applicant, the excavation must be immediately backfilled with clean, coarse concrete sand that complies with ASTM C 33. A certified report from a testing laboratory

signed by the supplier must be submitted to the department and serve to verify that the sand backfill delivered to the site meets ASTM C 33. The special inspector must witness the placement of the sand into the sand column and must verify that the material is consistent with ASTM C 33. Measures to prevent cave-ins must be taken prior to and during backfilling.

**(h) Soil and groundwater testing.** Soil and groundwater testing is subject to special inspection and must include a field investigation consisting of the following:

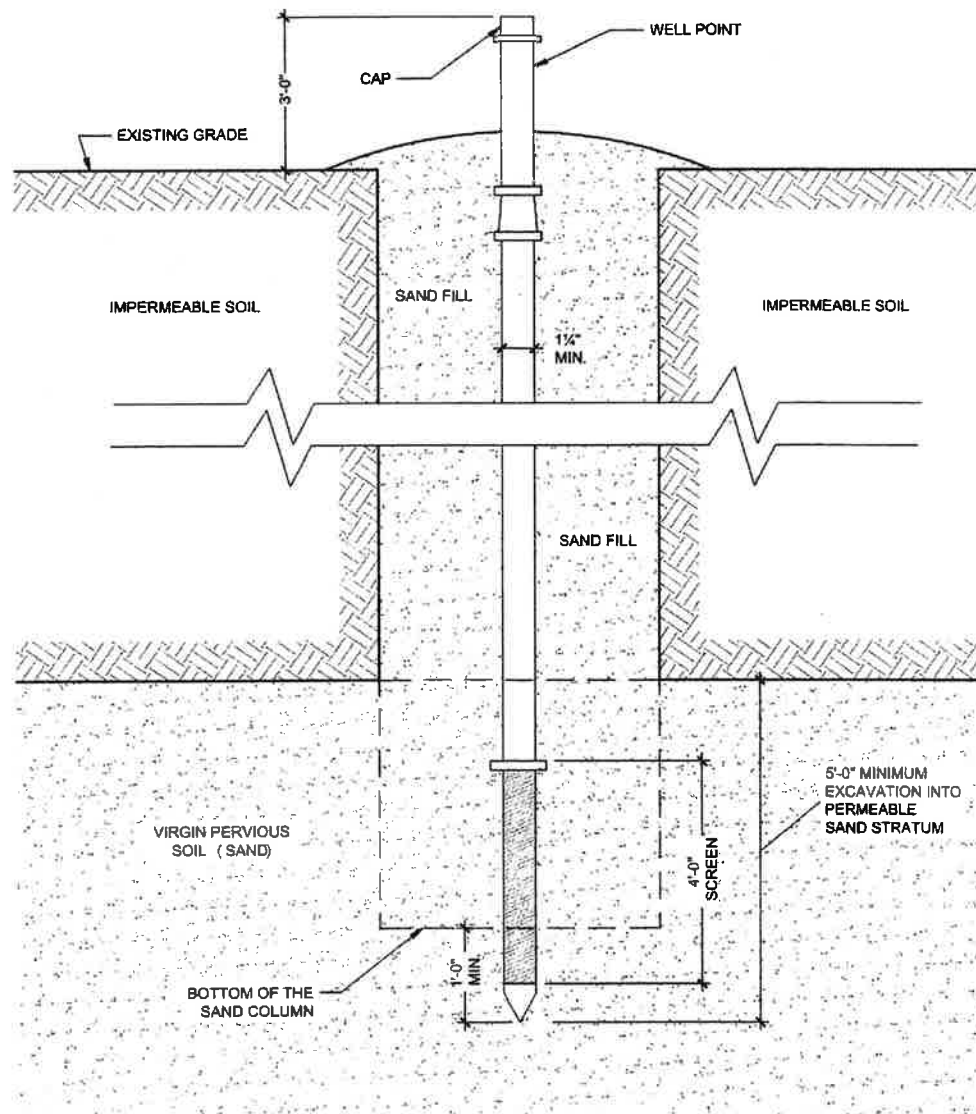
**(1) Field Testing.** The following tests must be performed at the site of a proposed individual private on-site sewage disposal system:

**(i) Groundwater depth verification.** Groundwater depth verification must be conducted on sand columns constructed at the site of a proposed subsurface disposal system in accordance with subdivision (g) of this section. The depth of the groundwater is determined by installing a wellpoint within the sand column at the time of sand column construction. Wellpoint construction must be in accordance with paragraph (2) of this subdivision. Groundwater verification must be conducted in accordance with paragraph (3) of this subdivision.

**(ii) Absorption test/percolation test (AT/PT).** AT/PT must be conducted on sand columns constructed at the site of a proposed subsurface disposal system in accordance with subdivision (g) of this section. The number of AT/PT must be in accordance with paragraph (4) of this subdivision. The results of the test must be documented by the special inspector on forms provided by the department.

**(2) Wellpoint construction.** A pipe with a minimum diameter of 1-1/4 inches must be inserted through the sand column to serve as a wellpoint to test the groundwater level. The pipe must be driven or placed into the column to a depth of at least one foot below the bottom of the sand column with sufficient piping to extend three feet above the existing grade. The bottom four feet of the pipe must have a screen with holes of a sufficient size to admit water and exclude the surrounding sand. (See Figure 1.)

**Figure 1**  
**WellPoint**



NOT TO SCALE

**(3) Groundwater verification.** The presence of accumulated water in the wellpoint pipe, indicating groundwater level, must be determined by the department representative and the special inspector using an approved probe. The special inspector shall also note the type of water table - perched, apparent, or artesian. The wellpoint must be maintained for 72 hours so that the level of water accumulation can be monitored and measured. A reading of the water level in the wellpoint must be taken 72 hours after the setting of the wellpoint and must be performed as follows:

**(i) Timing.** The groundwater level in a wellpoint must be performed between March 15<sup>th</sup> and June 30<sup>th</sup>.

(ii) **High tide.** The groundwater level must be determined during the time of daily high tide between March 15<sup>th</sup> and June 30<sup>th</sup>, in the following tidal areas:

(A) On Staten Island, the areas on the Raritan Bay and Arthur Kill sides of Hylan Boulevard and Arthur Kill Road.

(B) In all other locations, if the individual private on-site sewage disposal system is to be constructed within 1,000 feet of the shoreline or tidal wetland line, whichever is closest to such systems. This subparagraph applies only to those systems where the bottom of the sand column is within three feet of mean sea level.

(iii) **Acceptable sand column.** If no water is found in the wellpoint after 72 hours have elapsed, the sand column is deemed a dry hole and the site is acceptable for installation of a seepage pit system.

(iv) **Additional check if water is found.** If water is found in the wellpoint after 72 hours have elapsed and the water level is no higher than five feet below the impervious soil layer, or three feet below the impervious soil layer in tidal areas, as specified in subparagraph (ii) of paragraph (3) of this subdivision, the department representative must check again for the presence of water after a gallon of water is poured down the wellpoint.

(A) If the department representative observes the complete exit of the gallon of water from the wellpoint within 30 minutes, then the sand column is considered a dry hole, and the site is acceptable for installation of a seepage pit system.

(B) If the gallon of water does not exit the wellpoint within 30 minutes, the applicant must remove, examine, clean and reset the wellpoint in the sand column and perform the groundwater verification again in accordance with this subdivision.

(v) **Unacceptable site.** If water is found in the wellpoint, following resetting, a seepage pit system is not appropriate for the site.

(vi) **Invalid sand column.** If a reading cannot be taken for any reason, the sand column is invalid and cannot be used for further testing.



**(4) Number of AT/PT for seepage pit and sand field systems.** The number of AT/PT must be as specified in subparagraphs (i) and (ii), below. The commissioner may require additional AT/PT to confirm the suitability of subsurface conditions.

**(i) Seepage pit type system with one sand column.** Where a seepage pit-type system is designed with one sand column a minimum of one AT/PT must be conducted within the sand column. Sand columns must be constructed in accordance with subdivision (g) of this section. AT/PT must be conducted in accordance with paragraph (5) of this subdivision.

**(ii) Seepage pit and sand filter type systems with two sand columns.** Where a system is proposed and two sand columns are required per subdivision (g) of this section each sand column is subject to the AT/PT described in paragraph (5) of this subdivision. The requirements to install a wellpoint set forth in paragraph (2) of this subdivision are not applicable to the second sand column.

**Exception:** In those cases where the second sand column is within 25 feet of the first sand column, AT/PT testing is not required subject to the submission by the applicant of the following:

**(A)** Proof that satisfactory excavation, wellpoint and AT/PT were performed on sand column 1 and witnessed by the department; and

**(B)** Data prepared by a special inspector confirming compliant construction of the second sand column.

**(iii) Seepage pit and sand filter type systems with sand column depth of 35 feet or deeper.** Where a system is proposed with one or more sand columns having a depth of 35 feet or deeper, all required AT/PT(s) must be performed on two consecutive days.

**(5) AT/PT on sand column backfill material.** Where a sand column is constructed in accordance with subdivision (g) of this section, an AT/PT must be performed on the clean sand backfill. An acceptable sand column must pass a four-hour AT/PT following a pre-soak performed onsite in the following manner:

**(i) Timing; supervision; forms.** The AT/PT may be performed any time during the year provided the air temperature is above freezing. The AT/PT must be performed under the supervision of a department employee as well as subject to continuous special

inspection. The result of the AT/PT must be filed on forms provided by the department, stating the suitability of the site and the capacity of the subsoil for the proposed use.

(ii) Scheduling. At the time of scheduling an AT/PT, the registered design professional must inform the department of the date and time the pre-soak will start, the date and time that the saturation point will be reached, and the start of the four-hour test.

(iii) AT/PT procedure. The pre-soak and four-hour test must be performed in the following manner:

(A) The sand column must be pre-soaked prior to the scheduled AT/PT. The required volume of water for the pre-soak is 80 gallons for every foot of dry depth, as determined using a water level sensor or other analogous device. Where the base of the sand column exceeds 21 square feet, the volume must be increased proportionately.

(B) The pre-soak must be conducted by using a one-inch diameter or larger hose. Where the hose is connected to a potable water supply, a certified reduced pressure zone (RPZ) backflow preventer must be used.

(C) Following the pre-soak, the four-hour AT/PT must absorb twice the daily flow rate (Q) as determined by Table 2. In no case may the absorption rate be less than 1.5 gallons per minute (GPM). The rate of water flow into the sand column during the AT/PT must be recorded using a calibrated water meter with all necessary control valves. Where connected to a potable water supply, a certified reduced pressure zone backflow preventer must be used.

**TABLE 2**  
**SEEPAGE PITS - REQUIRED ABSORPTIVE AREA FOR SEEPAGE PIT SYSTEMS (SQUARE FEET)**

<u>Percolation Rate (min/inch)</u>	<u>Daily Flow Rate (Q) (GPD)<sup>a, b</sup></u>															
	<u>220</u>	<u>260</u>	<u>300</u>	<u>330</u>	<u>390</u>	<u>440</u>	<u>450</u>	<u>520</u>	<u>550</u>	<u>600</u>	<u>650</u>	<u>660</u>	<u>750</u>	<u>780</u>	<u>900</u>	<u>&lt;1000</u>
<u>1 - 5</u>	<u>183</u>	<u>217</u>	<u>250</u>	<u>275</u>	<u>325</u>	<u>367</u>	<u>375</u>	<u>433</u>	<u>458</u>	<u>500</u>	<u>542</u>	<u>550</u>	<u>625</u>	<u>650</u>	<u>750</u>	<u>845</u>
<u>6 - 7</u>	<u>220</u>	<u>260</u>	<u>300</u>	<u>330</u>	<u>390</u>	<u>440</u>	<u>450</u>	<u>520</u>	<u>550</u>	<u>600</u>	<u>650</u>	<u>660</u>	<u>750</u>	<u>780</u>	<u>900</u>	<u>1020</u>
<u>8 - 10</u>	<u>244</u>	<u>289</u>	<u>333</u>	<u>367</u>	<u>433</u>	<u>489</u>	<u>500</u>	<u>578</u>	<u>611</u>	<u>667</u>	<u>722</u>	<u>733</u>	<u>833</u>	<u>867</u>	<u>1000</u>	<u>1130</u>
<u>11 - 15</u>	<u>275</u>	<u>325</u>	<u>375</u>	<u>413</u>	<u>488</u>	<u>550</u>	<u>563</u>	<u>650</u>	<u>688</u>	<u>750</u>	<u>813</u>	<u>825</u>	<u>938</u>	<u>975</u>	<u>1125</u>	<u>1275</u>
<u>16 - 20</u>	<u>314</u>	<u>371</u>	<u>429</u>	<u>471</u>	<u>557</u>	<u>629</u>	<u>643</u>	<u>743</u>	<u>786</u>	<u>857</u>	<u>929</u>	<u>943</u>	<u>1071</u>	<u>1114</u>	<u>1280</u>	<u>1450</u>
<u>21 - 30</u>	<u>367</u>	<u>433</u>	<u>500</u>	<u>550</u>	<u>650</u>	<u>733</u>	<u>750</u>	<u>867</u>	<u>917</u>	<u>1000</u>	<u>1083</u>	<u>1100</u>	<u>1250</u>	<u>1300</u>	<u>1500</u>	<u>1690</u>
<u>31 - 45</u>	<u>440</u>	<u>520</u>	<u>600</u>	<u>660</u>	<u>780</u>	<u>880</u>	<u>900</u>	<u>1040</u>	<u>1100</u>	<u>1200</u>	<u>1300</u>	<u>1320</u>	<u>1500</u>	<u>1560</u>	<u>1800</u>	<u>2030</u>
<u>46 - 60</u>	<u>489</u>	<u>578</u>	<u>667</u>	<u>733</u>	<u>867</u>	<u>978</u>	<u>1000</u>	<u>1156</u>	<u>1222</u>	<u>1333</u>	<u>1444</u>	<u>1467</u>	<u>1667</u>	<u>1733</u>	<u>2000</u>	<u>2255</u>

Over 60	Unsuitable
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<sup>a</sup> For one and two-family properties, minimum daily flow rate (Q) is based on the efficiency of water fixtures employed multiplied by the number of bedrooms:

Water saving fixtures (post 1991) 1.6 GPF max. water closets and 3.0 GPM max.

faucets/showerheads: 110 GPD per bedroom.

Standard fixtures (1980 - 1991) 3.5 GPF max. water closets and 3.0 GPM max.

faucets/showerheads: 130 GPD per bedroom.

Standard fixtures (prior to 1980) 3.5+ GPF max. water closets and 3.0+ GPM max.

faucets/showerheads: 150 GPD per bedroom.

<sup>b</sup> Where daily flow rate (Q) differs from values shown, round up to the next value indicated in the table.

(D) Readings must be observed and recorded by the special inspector at intervals of 60 minutes or less for the duration of the test. Records of readings must be maintained on site during testing. In no case may the absorption rate be less than 1.5 gallons per minute (GPM). The test must be terminated if there is an absorption rate which does not meet the requirements of subparagraph (iii) at any time during the four-hour test. In such case, the sand column is deemed unacceptable.

(iv) AT/PT failure and retesting. If the sand column fails the AT/PT, the registered design professional has the option to:

(A) Clean out the sand column to any depth, pre-soak and re-test, or

(B) Construct a second sand column, pre-soak and perform the AT/PT on the newly constructed sand column. The original sand column must be entirely backfilled.

The retest must be performed on the following day. If a lot fails the AT/PT twice, the lot is considered unbuildable.

(6) AT/PT termination. The AT/PT must be terminated if any of the following conditions occur:

(i) Water flow stops. If the water flow stops for any reason for 15 minutes in a test that has no sign of failure.

(ii) Termination of test. If the special inspector terminates the test for any reason before reaching 50% of the saturation.

(iii) Malfunctions. If the meter or the water supply system malfunctions and cannot be repaired within 15 minutes in a test that has no sign of failure.



(iv) Failure to protect potable water. If the special inspector does not use the required properly tested and certified reduced pressure zone backflow preventer where connection is made to a potable water system.

(v) Unforeseen circumstances. If the AT/PT is impossible to complete for any unforeseen circumstance.

(7) AT/PT failure criteria. The AT/PT is deemed a failure if any of the following conditions occurs:

(i) Average rate. If the average rate for any given hour falls below 1.5 GPM while maintaining a steady water puddle on the top of the hole during the four-hour test.

(ii) Percolation rate. If the percolation rate is faster than one minute per inch unless the site is modified by blending with a less permeable soil to reduce the infiltration rate throughout the area to be used.

(iii) Overflow or leakage. If the water consistently overflows or leaks outside the perimeter of the hole during pre-soak or during the four-hour AT/PT.

(iv) Vertical flow. If the water penetrates the clay perimeter of the hole instead of flowing vertically into the sand column at any time during the four-hour AT/PT.

(v) Interruption of test. If the registered design professional or his/her representative manipulates the water flow rate or stops the water at any time during a test.

(i) Design and construction standards for all types of systems. Systems must be designed and constructed in accordance with the provisions of this section.

(1) Piping. All piping associated with the installation of individual private on-site sewage disposal systems must be shown on construction documents. In addition, the following requirements apply:

(i) House drain connection slope. The slope of a house drain connection to a septic tank must not be less than 1/4" per foot and must be extra heavy cast iron pipe, not less than four inches in diameter.

(ii) Outlet pipe slope. The slope of an outlet pipe from a septic tank to an absorption facility or distribution box must not be less than 1/8" per foot and must be constructed of plastic, extra strength

vitrified clay or other noncorrosive material. The use of cast iron, ductile iron or concrete pipe is prohibited.

(iii) **Bends and venting.** The piping must be laid in accordance with Section PC 306. The house drain must have no more than two bends. Any bend 45 degrees or greater must be equipped with a cleanout and a properly fitted plug. The house connection must allow for venting of gases from the septic tank. Cleanouts must be provided in accordance with Section PC 708.

(2) **Septic tanks.** The following requirements apply to all septic tanks unless otherwise specified:

(i) **Design criteria.** The following requirements apply to all septic tanks regardless of material:

(A) Driveways or other facilities may not be constructed above tanks unless the tank is specially designed and reinforced to safely carry the load imposed.

(B) All septic tanks must be enclosed.

(C) Septic tank capacities for one and two-family properties must be based upon the number of household bedrooms. Table 3 specifies minimum tank capacities and minimum liquid surface areas. For the purpose of calculating the required capacity of a tank, a finished attic is considered an additional bedroom.

**Table 3**  
**Minimum Septic Tank Capacities for One- and Two-Family Homes**

<b><u>Number of Bedrooms</u></b>	<b><u>Minimum Tank Capacity (gallons)</u></b>	<b><u>Minimum Liquid Surface Area (sq. ft)</u></b>
<u>1,2,3</u>	<u>1,000</u>	<u>27</u>
<u>4</u>	<u>1,250</u>	<u>34</u>
<u>5</u>	<u>1,500</u>	<u>40</u>
<u>6</u>	<u>1,750</u>	<u>47</u>

Note: Tank size requirements for more than 6 bedrooms is calculated by adding 250 gallons and 7 square feet of surface area for each additional bedroom. A garbage grinder shall be considered equivalent to an additional bedroom for determining tank size.

(D) Septic tank capacities for sites other than one and two-family homes must be sized based on the daily flow rate (Q) of the proposed occupancy. Table B-3 of the New York State Design Standards for Intermediate Sized Wastewater Treatment Systems specifies the typical per-unit hydraulic loading rates for various occupancies and uses. When an establishment includes several different types of uses from the table, each use must be computed separately and the

daily flow rate (Q) is the sum of the individual rates. The minimum effective tank capacity must be calculated in accordance with Table D-2 of the New York State Design Standards for Intermediate Sized Wastewater Treatment Systems, as follows:

Minimum Effective Tank Capacity (gal) = 1.5 x Q

Where a non-residential facility has a significant delivery period, it may be necessary to increase tank size and guidance is provided in section D.6 of the New York State Design Standards for Intermediate Sized Wastewater Treatment Systems. Additionally, no tank may have a capacity less than 1,000 gallons.

(E) An additional 250 gallons of capacity and seven square feet of surface area is required when a garbage grinder is to be installed at the time of construction or in the future. A gas deflection baffle or other acceptable outlet modification, and a dual compartment tank or two tanks in series must also be provided.

(F) A tank must contain a minimum depth of 30 inches for liquid. The maximum depth for determining the allowable capacity of a tank is 60 inches. A tank deeper than 60 inches may provide extra sludge storage, but no credit may be given toward tank capacity when such a tank is used.

(G) The minimum distance between the inlet and the outlet in a tank must be six feet. A tank must meet the minimum surface area requirement for the tank capacity specified in Table 3. The effective length of a rectangular tank must not be less than two nor greater than four times the effective width.

(H) Installed tanks must be able to support at least 300 pounds per square foot (psf).

(I) A tank must have a top opening with a minimum of 20 inches in the shortest dimension to permit cleaning and maintenance.

(J) A tank must have inlet and outlet baffles or sanitary tees or other devices to prevent the passage of floating solids and to minimize the disturbance of settled sludge and floating scum by sewage entering and leaving the tank. An outlet design, such as a gas deflection baffle, is required in a tank. An inlet and outlet baffle must extend a minimum of 12

inches and 14 inches, respectively, below the liquid level in a tank with a liquid depth of less than 40 inches, and 16 and 18 inches respectively, in a tank with a liquid depth of 40 inches or greater. The distance between an outlet baffle and the outlet must not exceed six inches. A baffle must be constructed of durable material not subject to corrosion, decay or cracking.

(K) There must be a minimum of one-inch clearance between the underside of the top of a tank and the top of all baffles, partitions and/or tees to permit venting of tank gases through the building stack. Multi-chamber and multi-tank systems must also be designed to permit the venting of tank gases.

(L) There must be a minimum drop in elevation of two inches between the inverts of the inlet and outlet pipes.

(ii) **Construction.** The following requirements apply to all septic tanks regardless of material:

(A) A tank must be watertight and constructed of durable material that is not subject to corrosion, decay, frost damage or cracking. A tank must be constructed of concrete, fiberglass or polyethylene.

(B) A tank must be placed on a three-inch bed of sand or pea gravel to provide for proper leveling and bearing. Additional instructions provided by the manufacturer must also be followed.

(iii) **Dual-compartment tanks.** Dual compartments are recommended for all tanks and are required on all tanks with an interior length of ten feet or more. In addition to meeting the requirements of subparagraph (i) of paragraph (2) of this subdivision, dual-compartment tanks must be designed as follows:

(A) The first compartment (inlet side) must account for 60-75% of the required total design volume.

(B) The baffle separating the compartments must extend from the bottom of the tank to at least six inches above the invert of the outlet pipe.

(C) Compartments must be connected by a four-inch vertical slot at least 18 inches in width, a six-inch elbow, or two four-inch elbows located at a distance below the liquid

level equal to 1/3 the distance between the invert of the outlet and the bottom of the tank. At least one access cover must be provided into each compartment.

(D) For the purposes of Table 3, the capacity and surface area must be based upon the total capacity and surface areas of both compartments.

**(iv) Tanks in series.** In addition to meeting the requirements of subparagraph (i) of paragraph (2) of this subdivision, tanks in series must be designed as follows:

(A) The first tank must account for 60-75% of the required total design volume.

(B) Tanks must be connected by a single pipe with a minimum diameter of four inches.

(C) For the purposes of Table 3, the capacity and surface area must be based upon the total capacity and surface areas of all the tanks and chambers.

**(v) Concrete tanks.** In addition to meeting the requirements of subparagraph (i) of paragraph (2) of this subdivision, concrete tanks must be designed as follows:

(A) The concrete tank must have a water surface at the flow line that is rectangular in plan with the length at least 2 times but no more than four times the width. (See Figure 2.)

(B) Concrete must have a minimum compressive strength of 4,000 pounds per square inch (psi) at 28 days set.

(C) Wall thickness must be a minimum of three inches unless the design has been certified by a New York State licensed professional engineer as complying with all appropriate requirements for thin-wall construction. All walls, bottom and top must contain reinforcing to assure support for 300 psf.

(D) The design of the concrete tank must be certified by a New York State licensed professional engineer as adequate for the expected loads. Specifications for installation and backfill must be established by the applicant.

(E) All joints, pipe penetrations and access ports must be sealed so that the concrete tank is watertight. Joints below the liquid level must be tested for watertightness prior to

backfilling. A hydrostatic air pressure or vacuum test must be performed to confirm watertightness. This test must be performed under the supervision of a special inspector.

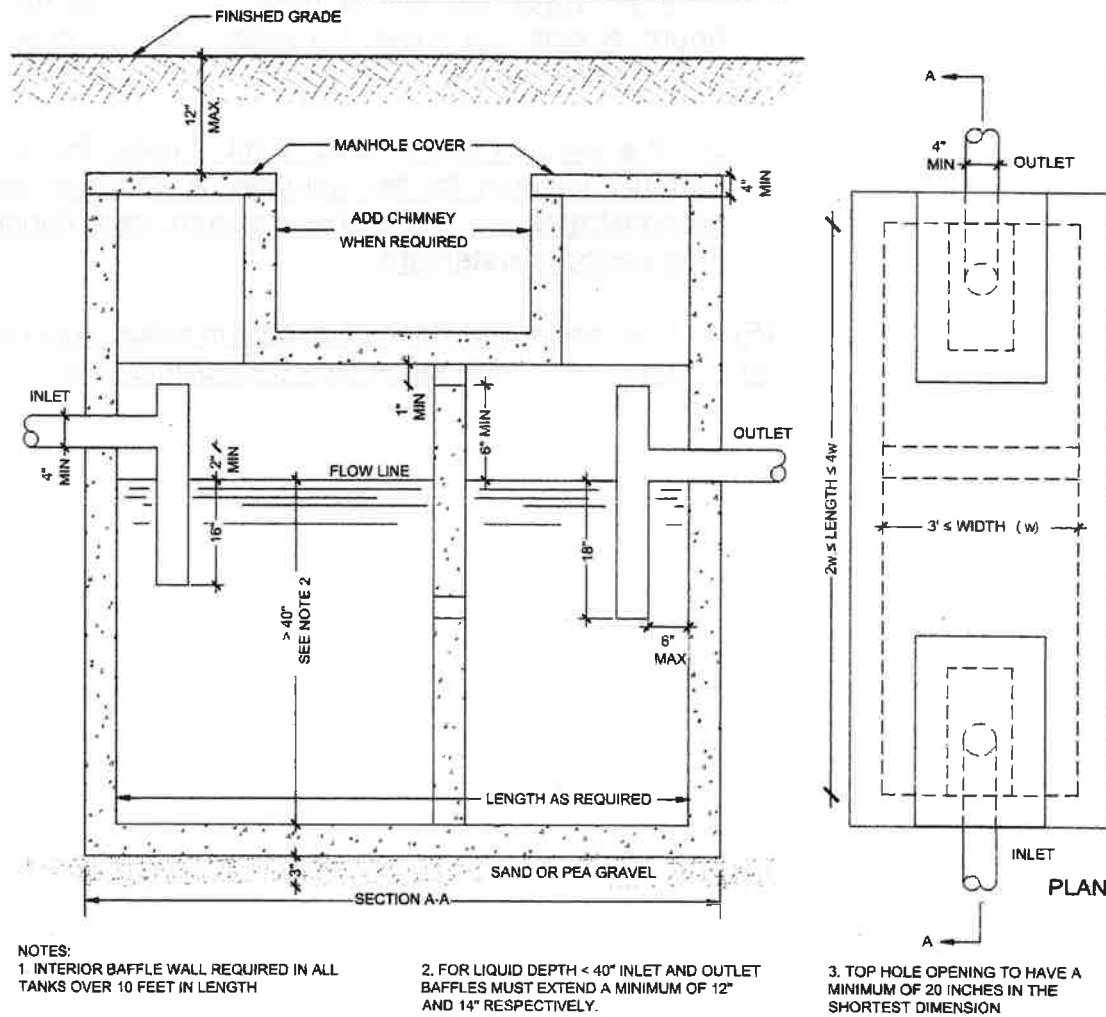
1. If a hydrostatic test is used, it must be run for 28 hours. A tank that shows no water loss during such time period is watertight.

2. If a vacuum test is used, it must apply five inches of mercury vacuum for ten minutes. A concrete tank that demonstrates no detectable vacuum loss during such time period is watertight.

(F) The walls and floor of a cast-in-place concrete tank must be poured at the same time (monolithic pour).



**Figure 2**  
**Typical Concrete Septic Tank**



NOT TO SCALE

**(vi) Fiberglass and polyethylene tanks.** In addition to meeting the requirements of subparagraph (i) of paragraph (2) of this subdivision fiberglass and polyethylene tanks must comply with the following:

**(A)** A fiberglass or polyethylene tank must not be installed in areas where the groundwater level can rise to the level of the bottom of the septic tank.

**(B)** The manufacturer's installation instructions must be followed during installation, bedding, and backfilling of a fiberglass or polyethylene septic tank so as to prevent damage to tank walls and bottom.

(C) A fiberglass or polyethylene tank must be delivered to the site completely assembled.

(D) All pipe penetrations and access ports must be sealed so that the tank is watertight. A hydrostatic air pressure or vacuum test must be performed to confirm watertightness. This test must be performed under the supervision of a special inspector.

1. If a hydrostatic test is used, it must be run for 28 hours. A tank that shows no water loss during such time period is watertight.

2. If a vacuum test is used, it must apply five inches of mercury vacuum for ten minutes. A tank that demonstrates no detectable vacuum loss during such time period is watertight.

(vii) **Metal septic tanks.** In addition to meeting the requirements of subparagraph (i) of paragraph (2) of this subdivision metal septic tanks must be designed as follows:

(A) Metal tanks must be labeled indicating conformance with UL 70.

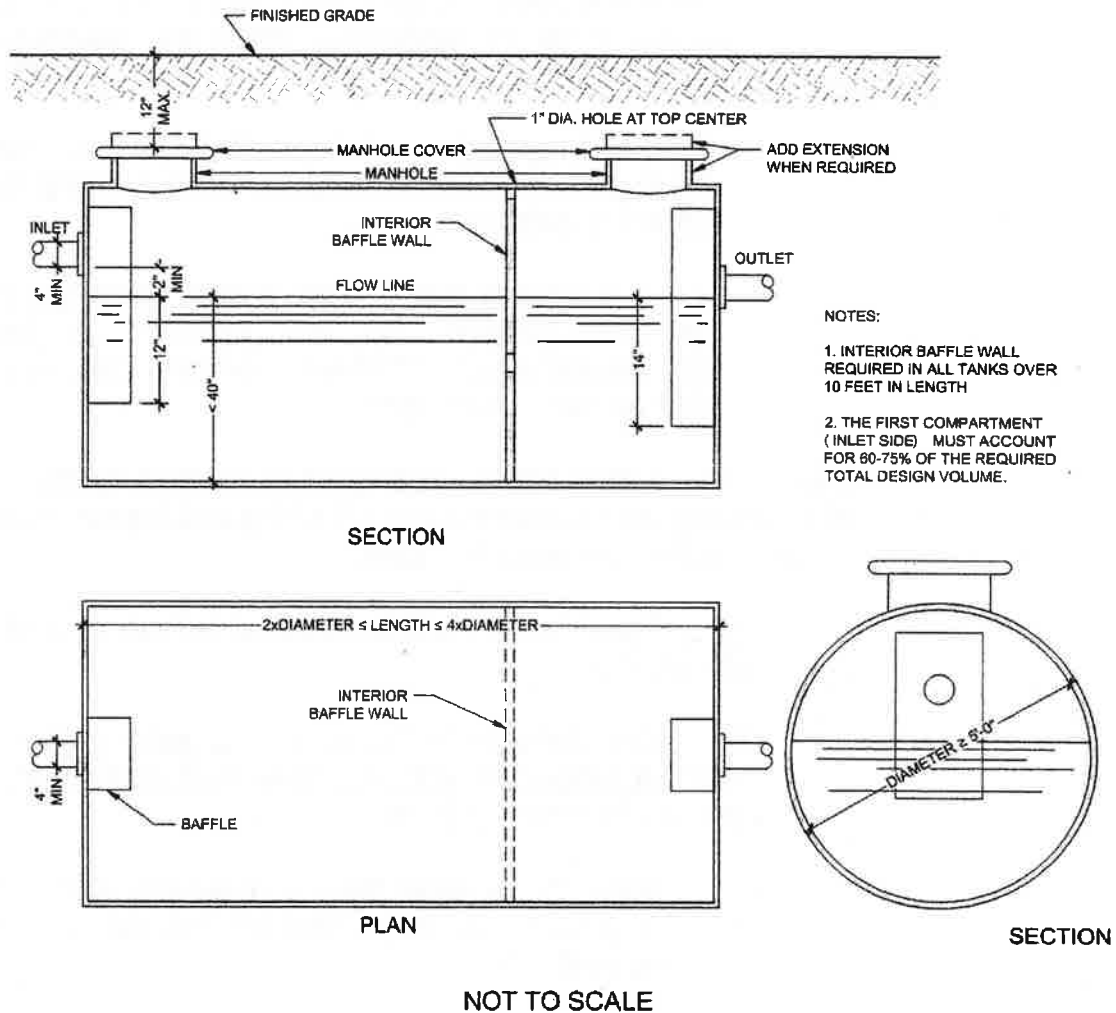
(B) Any damage to the interior or exterior tank coating must be refinished with an equivalent coating of material prior to placement or backfill.

(C) Metal tanks must have a minimum diameter of five feet. The length must be at least two but not more than four times the diameter.

(D) See Figure 3 for typical metal tanks.



**Figure 3**  
**Typical Metal Septic Tank**



**(3) Associated system components.**

**(i) Manholes.** Manholes must comply with one of the following:

**(A)** All manholes in paved areas must have a cast iron watertight frame and a cover that can be locked to prevent tampering that is flush with the finished paved surface.

**(B)** All manholes in other than paved areas that are more than 12 inches below final grade must have an extension collar over each opening. Extension collars may not be brought flush with the ground surface unless the cover of the access opening can be locked to prevent tampering. If the cover of an access opening cannot be locked to prevent

tampering, the extension collar must be terminated 12 inches below existing grade.

(C) Where drop manholes are used on sloping sites with gravity distribution to reduce the velocity of flow to lower distribution lines, drop manholes must comply with the following:

1. Baffles are required at the inlet end of the manhole and approximately four inches from the inlet.

2. The inverts of all outlets in each manhole must be at the same level.

(ii) Manhole covers. Manhole covers must comply with the following:

(A) A septic tank must have one access opening with a manhole cover over the inlet, and one access opening with a manhole cover over the outlet of the tank as per Figures 2 and 3.

(B) The top of the manhole cover must either be set within 12 inches of the finished grade or, where a cover is located more than 12 inches below the finished grade, an extension collar must be provided over each access opening to bring the manhole cover to a point within 12 inches of the finished grade.

(C) The manhole cover must be installed so as to prevent unauthorized entry and must be accessible for inspection, maintenance and cleaning. No person other than a licensed master plumber or person engaged in sewer services (one who renders sewer services, including but not limited to installing, altering, repairing, cleaning and pumping sewers and septic tanks as part as one's regular business or employment) may remove or open the cover of any tank unless otherwise authorized during an emergency by an officer or employee of a city agency.

(D) Manhole covers must be designed for a live load of at least 300 pounds per square foot.

(E) Concrete manhole covers, when used, must be reinforced and at least four inches thick.

(F) An access opening with cover must be at least 20 inches square for non-concrete tanks and at least 24 inches in diameter for concrete tanks.

**(4) Seepage pit design and construction.**

**(i) Design requirements.** A seepage pit system must be designed in accordance with the following requirements:

(A) Seepage pit units must have a liquid capacity (volume below inlet line) at least two times that of the septic tank.

(B) Seepage pits must contain a sand column constructed in accordance with subdivision (h) of this section. A second sand column must be provided if the permeable stratum at the bottom of the test hole for the seepage pit is deeper than 15 feet.

(C) Seepage pits must include an absorptive area. The required absorptive area is the interface area between the outside of the aggregate collar in the pit and the surrounding sand collar which transmits the effluent to the sand column below. As shown in Figure 4, the aggregate collar must be at least one foot in width, and the sand collar must be at least two feet in width.

(D) The percolation rate, determined by the AT/PT on the concrete sand used in backfilling the test hole and absorption facilities, must be used to calculate the minimum required absorptive area in the seepage pit for a given sewage application rate and daily flow rate (Q) in accordance with Table 2.

(E) In addition Table 4 applies to seepage pit designs which utilize cylindrical rings. The bottom area of the seepage pit cannot be included in calculating the required absorptive area. For those designs utilizing Table 4, the effective diameter of a seepage pit is the outside diameter of the aggregate ring surrounding the inside perforated concrete rings. Effective depth is measured from the invert of the seepage pit inlet to the floor of the seepage pit.

**TABLE 4**  
**CYLINDRICAL SEEPAGE PITS -**  
**REQUIRED ABSORPTIVE AREA (SQ FT)**

<u>Diameter of Seepage Pit (feet)</u>	<u>Effective Strata Depth Below Frost Line (below inlet)</u>									
	<u>1'</u>	<u>2'</u>	<u>3'</u>	<u>4'</u>	<u>5'</u>	<u>6'</u>	<u>7'</u>	<u>8'</u>	<u>9'</u>	<u>10'</u>
<u>3</u>	<u>9.4</u>	<u>19</u>	<u>28</u>	<u>38</u>	<u>47</u>	<u>57</u>	<u>66</u>	<u>75</u>	<u>85</u>	<u>94</u>
<u>4</u>	<u>12.6</u>	<u>25</u>	<u>38</u>	<u>50</u>	<u>63</u>	<u>75</u>	<u>88</u>	<u>101</u>	<u>113</u>	<u>126</u>
<u>5</u>	<u>15.7</u>	<u>31</u>	<u>47</u>	<u>63</u>	<u>79</u>	<u>94</u>	<u>110</u>	<u>126</u>	<u>141</u>	<u>157</u>
<u>6</u>	<u>18.8</u>	<u>38</u>	<u>57</u>	<u>75</u>	<u>94</u>	<u>113</u>	<u>132</u>	<u>151</u>	<u>170</u>	<u>188</u>
<u>7</u>	<u>22</u>	<u>44</u>	<u>66</u>	<u>88</u>	<u>110</u>	<u>132</u>	<u>154</u>	<u>176</u>	<u>198</u>	<u>220</u>
<u>8</u>	<u>25.1</u>	<u>50</u>	<u>75</u>	<u>101</u>	<u>126</u>	<u>151</u>	<u>176</u>	<u>201</u>	<u>226</u>	<u>251</u>
<u>9</u>	<u>28.3</u>	<u>57</u>	<u>85</u>	<u>113</u>	<u>141</u>	<u>170</u>	<u>198</u>	<u>226</u>	<u>254</u>	<u>283</u>
<u>10</u>	<u>31.4</u>	<u>63</u>	<u>94</u>	<u>126</u>	<u>157</u>	<u>188</u>	<u>220</u>	<u>251</u>	<u>283</u>	<u>314</u>
<u>11</u>	<u>34.6</u>	<u>69</u>	<u>104</u>	<u>138</u>	<u>173</u>	<u>207</u>	<u>242</u>	<u>276</u>	<u>311</u>	<u>346</u>
<u>12</u>	<u>37.7</u>	<u>75</u>	<u>113</u>	<u>151</u>	<u>188</u>	<u>226</u>	<u>264</u>	<u>302</u>	<u>339</u>	<u>377</u>

Absorptive Area for Cylinder = 3.14 \* D \* h

Absorptive Area for Rectangular Pit = (2W + L) h

h = effective depth (invert of inlet to bottom of seepage pit)

D = outside diameter in feet

W = outside width in feet

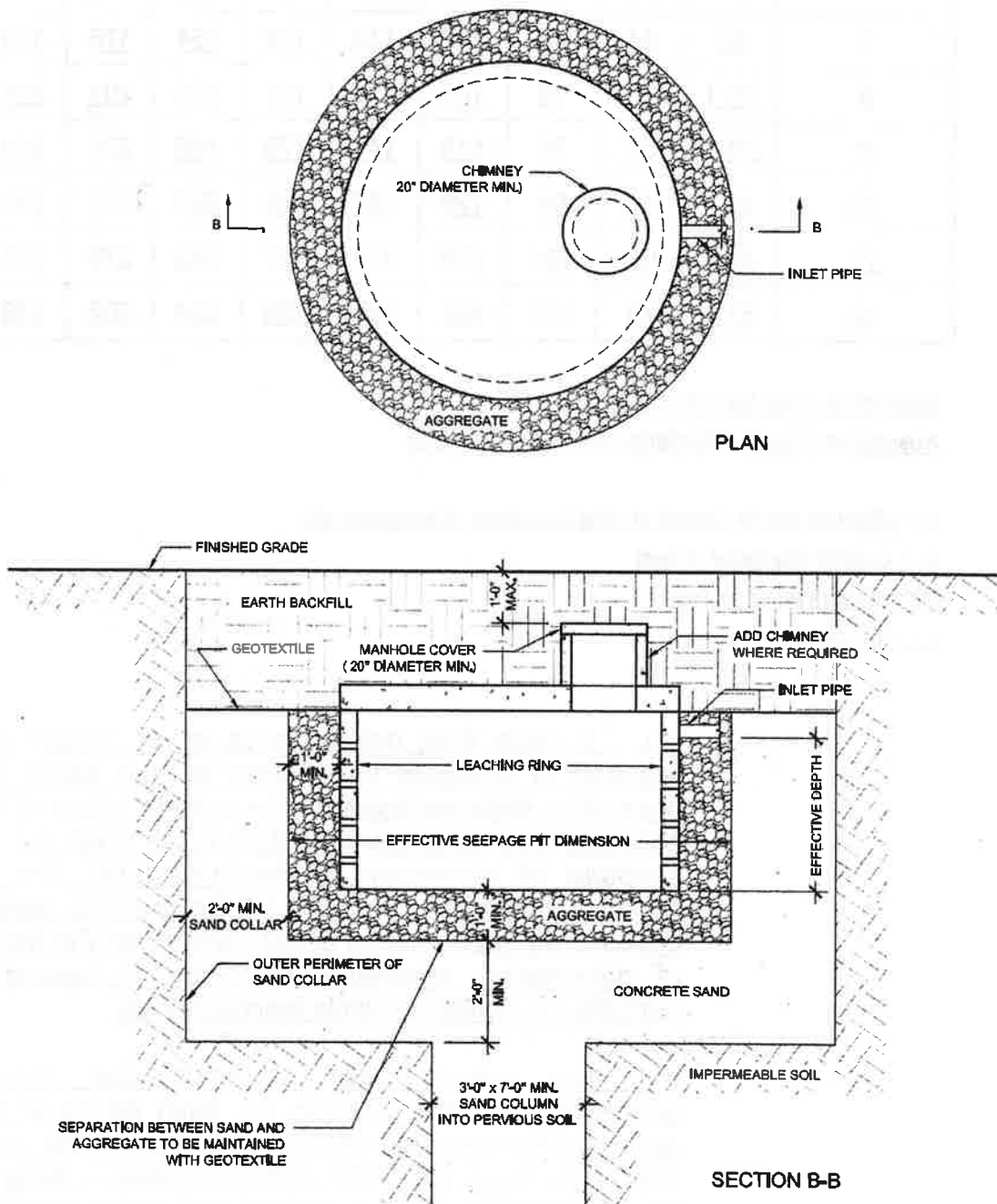
L = outside length in feet

(F) If more than one seepage pit of circular design is required to dissipate the effluent from a septic tank, the separation distance between the outside edges of the sand collars of the seepage pits must be 3 times the effective seepage pit dimension of the largest pit. The effective seepage pit dimension must be the distance between the opposite outer perimeters of the sand collar. For the purpose of determining separation distances, a seepage pit is permitted to contain multiple leaching rings.

(G) For seepage pits of non-circular shapes, the separation distance between the outer edges of the sand collars of the seepage pits must be 3 times the average of the length times the width. Either separation distance must be measured as the soil, undisturbed when construction is complete, between pit excavations. For the purpose of determining separation distances, a seepage pit is permitted to contain multiple leaching rings.

(H) See Figure 4 for depiction of typical seepage pit.

**Figure 4**  
**TYPICAL SEEPAGE PIT WITH SINGLE RING**



NOT TO SCALE

**(ii) Construction requirements. A seepage pit system must be constructed in accordance with the following requirements:**

**(A) A seepage pit must contain either perforated precast reinforced concrete rings or perforated cast-in-place reinforced concrete rings. The concrete used must have a minimum compressive strength of 3,000 psi. Seepage pits must be designed with sufficient structural stability to withstand lateral soil forces as well as vertical loads.**

**(B) A seepage pit cover slab must be made of either precast reinforced concrete or cast-in-place reinforced concrete. An access way with an opening of at least 20 inches in the shortest dimension with a cover must be provided for inspection and cleaning. The cover of the access way must be structurally sound so as to withstand anticipated loads.**

**(C) Seepage pits must be built upon a two-foot thick foundation of concrete sand meeting the requirements of ASTM C 33 and Table 5, as shown in Figure 4. The foundation must cover the entire bottom of the seepage pit excavation regardless of over excavation and must underlay all components including the sand collar.**

**(D) Inlet pipes to the seepage pits must be solid piping with a minimum diameter of four inches on a minimum slope of 1/8 inch per foot. Seepage pits may not be connected in series. When more than one seepage pit is required, a distribution box must be provided and installed in accordance with subparagraph (iv) of paragraph (5) of this subdivision.**

**(E) No trees or shrubs may be planted within ten feet of the perimeter of a seepage pit.**

**Table 5**  
**Specification for Sand and Aggregate**

**Specification for Concrete Sand Used in the Sand Collar around the Seepage Pit and in the Sand Columns (ASTM C-33)**

<u>Sieve Size</u>	<u>Percent Passing (Weight %)</u>
<u>3/8 " (9.5 mm)</u>	<u>100</u>
<u>No. 4 (4.75 mm)</u>	<u>95-100</u>

<u>No. 8 (2.36 mm)</u>	<u>80-100</u>
<u>No. 16 (1.18 mm)</u>	<u>50-85</u>
<u>No. 30 (600 um)</u>	<u>25-60</u>
<u>No. 50 (300 um)</u>	<u>10-30</u>
<u>No. 100 (150 um)</u>	<u>0-10</u>
<u>No. 200 (75 um)</u>	<u>0-3</u>

**Specification for Filter Sand Used in Sand Filter Field**

U.C. < 4

D10 = .25 to 1.0 mm

100% passing 1/4" sieve

**Specifications for Aggregate Used in Seepage Pit and Sand Filter Field (ASTM D 448)**

	<u>% By Weight Passing</u>
<u>100</u>	<u>1 1/2 inch</u>
<u>75 to 90</u>	<u>1 inch</u>
<u>35 to 50</u>	<u>3/4 inch</u>
<u>less than 100</u>	<u>1/2 inch</u>

**(5) Sand filter field.** Where a seepage pit is not permissible because groundwater is encountered in the sand column, a sand filter field type septic system may be used. The system must contain a septic tank, sand filled columns and either a gravity system with a distribution box or a sand filter field designed to accommodate a pressure distribution pump chamber. The system must be designed and installed in accordance with the following requirements:

**(i) Testing.** Testing for sand filter field systems must comply with paragraph (1) of subdivision (h) of this section.

**(ii) Sand columns.** A minimum of two sand columns is required under sand filter field systems. Construction of the sand column must comply with subdivision (g) of this section.

**(iii) Septic tanks.** Septic tanks must comply with the requirements of paragraph (2) of this subdivision.

**(iv) Distribution box and piping.** A distribution box must precede all gravity sand filter field systems. The distribution box and related piping must comply with the following requirements:

**(A)** The box must be of concrete or steel. If steel, it must be 12-gage minimum, bituminous-coated in accordance with UL 70.



- (B) The floor area of the box must be sized to allow for maximum head of sewage for equal distribution to all outlet lines.
- (C) The top of the box must be at least 9 inches above the invert of the outlet lines.
- (D) To minimize frost action and reduce the possibility of movement once installed, distribution boxes must be set on a bed of sand or pea gravel at least 12 inches thick.
- (E) A baffle at the inlet must be provided to prevent short circuiting of the flow.
- (F) The box must be high enough so that the cover is within 12 inches of the finished grade.
- (G) All outlet inverts must be set two inches below the inlet invert.
- (H) There shall be a minimum two inch clearance between the inverts of the outlets and the bottom of the box to prevent short-circuiting and reduce solids carry-over.
- (I) Lines from the distribution box to the disposal field must be not less than four inches in diameter and must be laid with tight joints on a uniform slope not less than 1/8 inch per foot.
- (J) Gravity perforated distributors must be four inches in diameter SDR 35 PVC, sloped  $\frac{1}{16}$  to  $\frac{1}{32}$  inch per foot, less than or equal to 50 feet long, and spaced three feet on center and 1½ feet from sidewalls. Perforations must be  $\frac{5}{8}$  inch in diameter and placed at the 4 o'clock and 8 o'clock positions every six inches along the length of the pipe.
- (K) Perforated distributors must be laid in an eight-inch deep bed of aggregate meeting the requirements of ASTM D 448 and Table 5.
- (L) The distributor aggregate must be covered with Mirafi 140 or equivalent permeable geotextile under at least 12 inches of soil which must be seeded or sodded with grass.
- (M) At least two feet of filter sand meeting the requirements of ASTM C 33 and Table 5 must be placed under the aggregate and distribution pipes in the sand filter field.



(N) The application rate of septic tank effluent to the sand filter field, using gravity flow, must not exceed one GPD/sf.

(v) **Pressure distribution pump chamber and related piping.** Where a sand filter field cannot rely on gravity to distribute waste, a pressure distribution system designed by a professional engineer must be used. The design must incorporate the following requirements:

(A) Pressure perforated and capped distributors must be 1½ to three inches in diameter, installed level, less than or equal to 100 feet in length, and spaced three feet on center and 1½ feet from trench sidewalls.

(B) The minimum dose volume is ten times the delivery and distributor pipe volume. The filter must be uniformly dosed at least twice daily based upon the daily flow rate (Q).

(C) Distributor perforations must be sized to deliver a minimum of one GPM of effluent at a head of two feet.

(D) The discharge head must be not less than two feet and not more than six feet.

(E) Perforated distributors must be laid in an eight-inch deep bed of aggregate meeting the requirements of ASTM D 448 and Table 5.

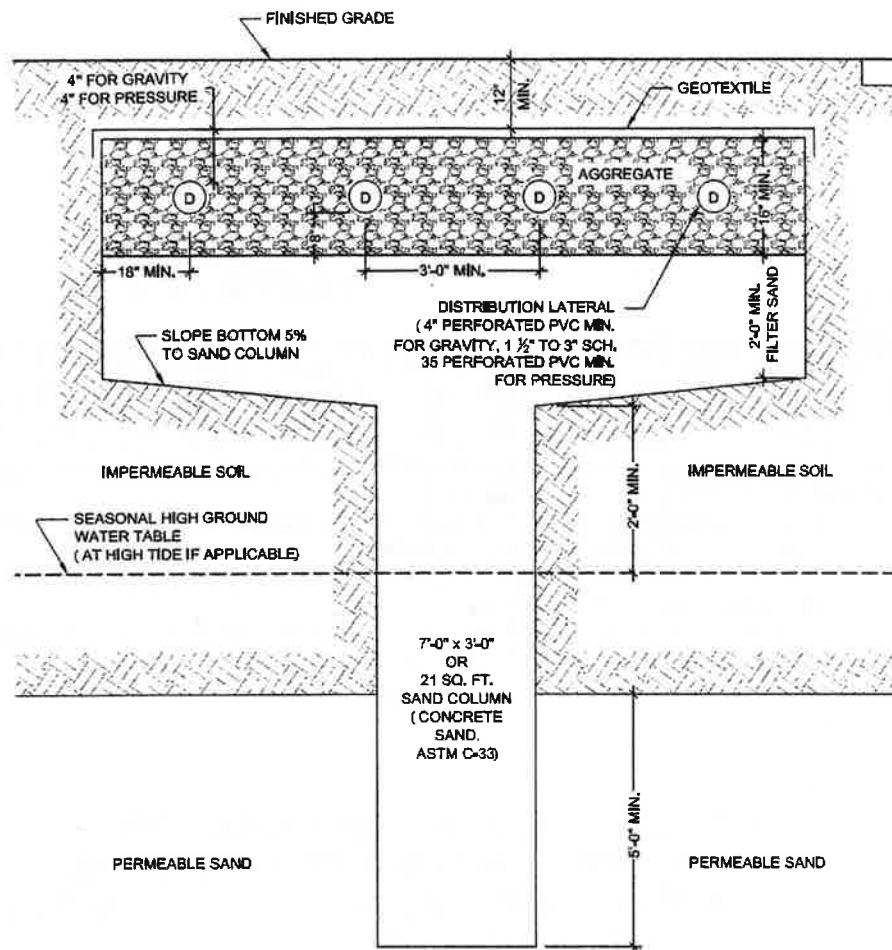
(F) The distributor aggregate must be covered with Mirafi 140 or equivalent permeable geotextile under at least 12 inches of soil which must be seeded or sodded with grass.

(G) At least two feet of filter sand meeting the requirements of ASTM C 33 and Table 5 must be placed under the aggregate and distribution pipes in the sand filter field.

(H) The application rate of septic tank effluent to the sand filter field, using pressure distribution, must not exceed 1.15 GPD/sf.

(vi) **Sand filter field.** The bottom of the sand filter field must have a slope equal to or greater than 5 percent toward the sand filled columns. (See Figure 5.)

**Figure 5**  
**TYPICAL SAND FILTER FIELD**



NOT TO SCALE

**(vii) Daily flow.** Daily flow rate (Q) for one- and two- family properties must be in accordance with water conservation fixtures (i.e., 150 or 130 or 110 GPD per bedroom as noted in Table 6).

**TABLE 6**  
**SAND FILTER FIELD DESIGN FLOW**

Sewage Application (GPD/SF)	Daily Flow Rate (Q) (GPD) <sup>a, b</sup>															
	220	260	300	330	390	440	450	520	550	600	650	660	750	780	900	<1000
1.15	191	226	261	287	339	383	391	452	478	522	565	574	652	678	783	885
1	220	260	300	330	390	440	450	520	550	600	650	660	750	780	900	1015

<sup>a</sup> For one and two-family properties, minimum daily flow rate (Q) is based on the efficiency of water fixtures employed multiplied by the number of bedrooms:

Water saving fixtures (post 1991) 1.6 GPF max. water closets and 3.0 GPM max.

faucets/showerheads: 110 GPD per bedroom.

Standard fixtures (1980 - 1991) 3.5 GPF max. water closets and 3.0 GPM max.

faucets/showerheads: 130 GPD per bedroom.

Standard fixtures (prior to 1980) 3.5+ GPF max. water closets and 3.0+ GPM max.

faucets/showerheads: 150 GPD per bedroom.

<sup>b</sup> Where daily flow rate (Q) differs from values shown, round up to the next value indicated in the table.

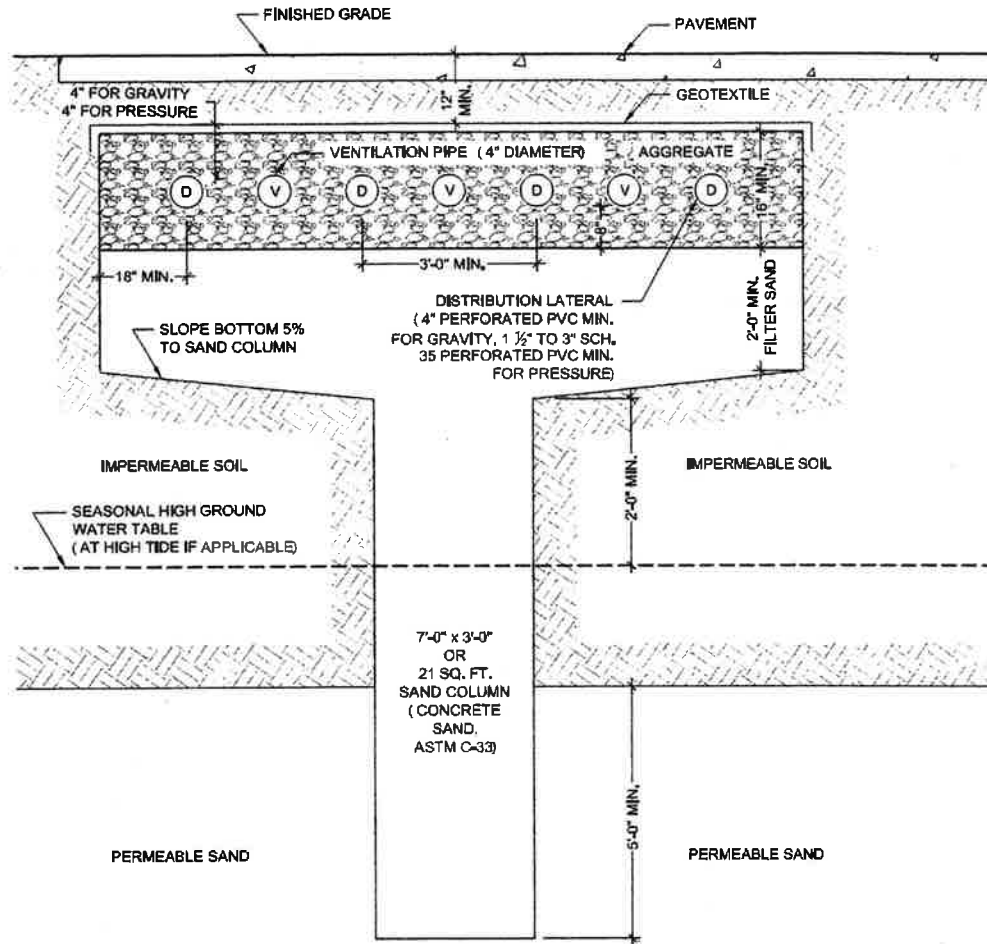
**(viii) Driveways and paved areas.** Driveways and paved areas may not be located above absorption facilities including subsurface sand filters unless the requirements listed below are met:

(A) Lateral vent piping must be installed between each distribution lateral. A minimum spacing of 18 inches must be provided between vent piping and distribution laterals. Lateral vent pipe must be four-inch SDR 35 perforated PVC or equally acceptable material.

(B) The lateral vent pipes must connect to a vent pipe. The vent pipe must be a minimum of four inches in diameter and must not be connected to the house vent stack.

(C) See Figure 6 for typical sand filter field beneath paved areas.

**Figure 6**  
**TYPICAL SAND FILTER FIELD (BENEATH PAVED AREAS)**



NOT TO SCALE

**(ix) Serpentine rock.** Sand filter fields are required whenever serpentine rock is proposed as the medium for the ultimate disposal of the effluent. Sand columns must be dry with a minimum of four feet of filter sand above serpentine rock. Sand filter field system over serpentine rock must be designed and installed in accordance with the following requirements:

(A) The system design must include at least six feet of vertical separation between finished grade and the serpentine rock.

(B) Sand filter fields located above dry sand columns at locations where serpentine rock is less than six feet below finished grade must be modified to provide a minimum of four feet of sand filter both horizontally and vertically from distributor aggregate to serpentine rock.

**(6) Alternative systems.** Alternative subsurface treatment systems must comply with the requirements contained in Chapter II Subchapter I Part 75 Appendix 75-A.9 of 10 NYCRR 75.

**(7) Repairs.** A permit is required for repair to any system or associated components, including the repair or replacement of any type of absorption field that involves relocating or extending an absorption area to a location not previously approved, the installation of a new subsurface treatment system at the same location, or the use of an alternative system. A licensed master plumber may file a Limited Alteration Application (LAA) with the department for plumbing work consisting of in-kind repairs or like-for-like replacements.

**Exception.** Cesspools may not be repaired. Cesspools must be replaced with an acceptable system in accordance with the requirements of this section.

**(8) Expansion of existing septic systems.** Where an alteration is proposed that will result in an increase in the number of bedrooms in one- and two-family properties or the daily flow rate (Q) in all other properties, thereby increasing the load on that system, the requirements of this paragraph apply.

**Exception.** Cesspools may not be expanded. Cesspools must be replaced with an acceptable system in accordance with the requirements of this section.

**(i) Evaluation of existing septic system.** A special inspector must perform an inspection of the individual private on-site sewage disposal system to demonstrate that the existing system is functioning properly. A report of the inspection must be submitted to the department with the application for expansion of the system. The inspection must include:

**(A)** Inspection of the premises to verify that there is no evidence of surface failure of the existing system;

**(B)** Inspection of all piping leading from the residence to the system. If piping is damaged it must be replaced prior to testing;

**(C)** Inspection of the interior of the system to verify that the system is free of structural damage and debris; and

**(D)** Inspection of additional parts of the system.

**(ii) Cleaning and pumping of existing septic systems.** Prior to testing the septic tank as required by subparagraph (iii) of this paragraph, a septage hauler with a valid permit from the DEC must

pump all sludge and debris from the septic tank and remove such contents from the site.

**(iii) Infiltration testing of existing septic systems.** A test of the system must be performed by flowing a volume of water equal to the estimated daily design volume plus the estimated volume of the system, but not less than 3,000 gallons. Following this initial charge of water a continuous stream of dyed water must be pumped into the system at a rate of 1.5 gallons per minute for a period of not less than four hours. The special inspector must observe the test and verify that the system is functioning, continuously accepting water without backflow and that no dyed water is observed above ground surface. Dyed water observed breaking the ground surface is a failed test. Where applicable, the infiltration test must be performed during high tide.

**(iv) Damaged or malfunctioning septic systems.** Where testing and inspection indicate that a system has been damaged or has failed the infiltration test, a permit application must be filed with the department for the repair or replacement of the system. A new infiltration test must be conducted on the repaired system to verify if expansion is feasible.

**(v) Application.** A registered design professional must submit an application showing the details of the proposed expanded system. Existing portions of the individual private on-site sewage disposal system which are found to be in good working order may be incorporated into the expanded system. The expanded system must comply with the requirements of this section.

**(i) Abandoned septic systems.** The following requirements apply:

**(1) Abandoned existing septic systems.** An individual private on-site sewage disposal system must be abandoned and a connection made to a newly constructed sanitary or combined sewer when such sewer fronts the subject property. Connection must be made within six months of the sewer being placed into service.

**(2) Waste removal and backfilling of abandoned septic systems.** When an individual private on-site sewage disposal system is abandoned after a sewer connection is made, all septic tanks, dosing tanks, seepage pits, distribution boxes, cesspools and any other structure that may have held sewage or sewage solids must be pumped free of wastes. Wastes must be removed by a septage hauler licensed by the DEC. All component portions of the abandoned system must be exposed and backfilled with gravel or sand. The site of the abandoned system must be returned to a level, finished grade.

**(k) Maintenance and operation.** The following requirements apply:



**(1) Maintenance.** The owner must maintain the septic system in good working order and must have the septic system inspected and pumped as needed.

**(2) Use.** An individual private on-site sewage disposal system must be used only for the disposal of sewage.

**(i) Detrimental or dangerous materials.** Ashes, cinders or rags; flammable, poisonous or explosive liquids or gases; oil, grease or any other insoluble material capable of obstructing, damaging or overloading the building drainage or sewer system, or capable of interfering with the normal operation of the sewage treatment processes, may not be deposited, by any means, into such systems.

**(3) Discharge of groundwater and storm water.** Groundwater infiltration and/or storm water run-off from sources including but not limited to basement floors, footings, garages, roofs, or heating and cooling systems must not be discharged to the individual private on-site sewage disposal system and must be diverted away from the vicinity of the absorption area.

**(4) Repair of leaks.** All plumbing leaks from fixtures connected to individual private on-site sewage disposal systems must be repaired promptly to prevent hydraulic overloading of the system and the development of a surface discharge.

**(5) Malfunctioning septic systems.** Malfunctioning systems must be repaired immediately. A permit application must be filed with the department for the repair or replacement of the system. Conditions that constitute a malfunctioning system include but are not limited to:

**(i) Contamination.** Evidence of contamination of groundwater or surface water bodies by sewage or effluent;

**(ii) Ponding.** Ponding or breakout of any wastewater, sewage, septic tank effluent or any liquid from the existing on-site system onto the surface of the ground;

**(iii) Seepage.** Seepage of sewage or effluent into portions of buildings below ground; or

**(iv) Sewage back-up.** Back-up of sewage into the building connected to the system which is not caused by a physical blockage of the internal plumbing.

**(6) Department notice of need for special inspector.** The department may issue a notice directing the owner of an individual private on-site sewage disposal system to engage a special inspector to verify the condition of the system. The special inspector must observe and document the results of dye tests or other diagnostic measures on fixtures connected to the suspected malfunctioning systems. The special inspector must furnish inspection reports to the department.

**(l) Plot plans.** Where a new individual private on-site sewage disposal system is installed the applicant of record must prepare a plot plan. The plot plan must contain the location of all pertinent components comprising the individual private on-site sewage disposal system and maintenance and inspection schedule. Where a drywell is installed it must be indicated on the plot plan. The plot plan must be permanently affixed to the inside wall adjacent to the fresh air outlet pipe.

**(m) Restrictive declaration.** Where a new individual private on-site sewage disposal system is installed the owner must file a restrictive declaration noting the existence and maintenance requirements of an individual on-site private sewage system on the property with the City Register or County Clerk, and the page number and liber number must be identified in the permit application and on the temporary and permanent certificate of occupancy. Where an individual private on-site sewage disposal system is abandoned pursuant to paragraph (1) of subdivision (j) the restrictive declaration must be terminated in accordance with the department's procedures.

**(n) Special Inspections.** Special inspections are required for the installation of individual private on-site sewage disposal systems in accordance with Table 7.



**Table 7**  
**SPECIAL INSPECTION**

<b><u>CATEGORY</u></b>	<b><u>TOPIC</u></b>	<b><u>SECTION</u></b>
<b><u>Sand column construction</u></b>	<b><u>Minimum depth of sand column</u></b>	<b><u>8001-01 (g)(2)</u></b>
	<b><u>Serpentine rock</u></b>	<b><u>8001-01 (g)(4)</u></b>
	<b><u>Backfilling the excavation</u></b>	<b><u>8001-01 (g)(5)</u></b>
<b><u>Soil and groundwater testing</u></b>	<b><u>Absorption test/percolation test (AT/PT)</u></b>	<b><u>8001-01 (h)(1)(iii)</u></b>
	<b><u>Groundwater verification</u></b>	<b><u>8001-01 (h)(3)</u></b>
	<b><u>Number of AT/PT for seepage pit and sand field systems.</u></b>	<b><u>8001-01 (h)(4)</u></b>
	<b><u>AT/PT on sand column backfill material</u></b>	<b><u>8001-01 (h)(5)(i)</u></b>
	<b><u>Acceptance criteria for absorption tests</u></b>	<b><u>8001-01 (h)(5)(iii)(B)</u></b>
	<b><u>AT/PT termination</u></b>	<b><u>8001-01 (h)(6)</u></b>
<b><u>Design and construction standards for all types of systems</u></b>	<b><u>Septic tanks, Concrete tanks</u></b>	<b><u>8001-01 (i)(2)(v)(E)</u></b>
	<b><u>Septic tanks, Fiberglass and polyethylene tanks</u></b>	<b><u>8001-01 (i)(2)(vi)(D)</u></b>
	<b><u>Evaluation of existing system</u></b>	<b><u>8001-01 (i)(8)(i)</u></b>
	<b><u>Infiltration testing of existing individual private on-site sewage disposal systems</u></b>	<b><u>8001-01 (i)(8)(iii)</u></b>
<b><u>Maintenance and operation</u></b>	<b><u>Dye tests or other diagnostic measures to verify the condition of the system</u></b>	<b><u>8001-01 (k)(6)</u></b>

**(o) Referenced standards.** These standards are adopted in full, except to the extent there is a conflict with this section, in which case the provisions of this section will apply.

<b><u>Standard</u></b>	<b><u>Name</u></b>	<b><u>Year</u></b>
<b><u>American Standard Test Method (ASTM) Standards:</u></b>		
<b><u>C 33</u></b>	<b><u>Specifications for concrete aggregates</u></b>	<b><u>2003</u></b>
<b><u>D 448</u></b>	<b><u>Standard classification for sizes of aggregate for road and bridge construction</u></b>	<b><u>2003a</u></b>
<b><u>D 1586</u></b>	<b><u>Specifications for penetration test and split-barrel sampling of soils</u></b>	<b><u>1999</u></b>
<b><u>Underwriters Laboratories (UL) Standard</u></b>		
<b><u>70</u></b>	<b><u>Standard for septic tanks, bituminous coated metal</u></b>	<b><u>2001</u></b>

§2. Section 101-03 of Title 1 of the Rules of the City of New York is amended by adding the following entry at the end of the table set forth in that section:

<u>Individual private on-site sewage disposal system</u>	<u>\$725</u>
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§3. Reference Standard RS-16, Plumbing and Gas Piping, of the appendix to chapter 1 of title 27 of the administrative code of the city of New York is REPEALED.




This amendment has an effective date of 10-19-13.

## NOTICE OF ADOPTION OF RULE

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner of the Department of Buildings by Sections 643 and 1043 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 101-03 of Subchapter A of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding fees for registration of energy auditors or retro-commissioning agents who are not registered design professionals.

This rule was first published on July 11, 2013, and a public hearing thereon was held on August 14, 2013.

Dated: 9/12/13  
New York, New York

  
Robert D. LiMandri  
Commissioner

## STATEMENT OF BASIS AND PURPOSE

This rule is promulgated pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter, Article 308 of the New York City Administrative Code and 1 RCNY 103-07.

Article 308 of the Administrative Code requires an energy efficiency audit to be performed by an energy auditor or a retro-commissioning agent and a report to be filed by building owners every ten years. 1 RCNY 103-07 sets out the requirements for those energy auditors and retro-commissioning agents, including a registration requirement for those who are not registered design professionals.

The amendment adds fees for initial registration of those energy auditors and retro-commissioning agents, as well as for registration renewal. These fees will cover the administrative costs incurred by the Department in registering and renewing the registration of these individuals.

In accordance with section 1043(d)(4) of the New York City Charter, a review of this rule pursuant to Local Law 46 of 2010 was not performed.

New matter is underlined.

Section 101-03 of Title 1 of the Rules of the City of New York is amended by adding the following entry at the end of the table set forth in that section:


<u>Registration of energy auditor or retro-commissioning agent who is not a registered design professional</u>	<u>Initial:</u> <u>\$200</u>	<u>Renewal:</u> <u>\$90</u>
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## 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 101-03 and the addition of a new Section 103-09 to Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding retaining walls.

This rule was first published on April 25, 2013 and a public hearing thereon was held on May 28, 2013.

Dated: June 17, 2013  
New York, New York

  
\_\_\_\_\_  
Robert D. LiMandri  
Commissioner

## STATEMENT OF BASIS AND PURPOSE

This rule is promulgated pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter and section 28-305.4 of the New York City Administrative Code.

Section 28-305.4 requires regular inspections of retaining walls that are 10 feet or higher, and that face a public right-of-way, such as a sidewalk or entrance. The section allows the Commissioner to 1) establish staggered assessment cycles for retaining walls, and 2) to promulgate rules specifying what constitutes a condition assessment, which is an examination conducted by a qualified retaining wall inspector to review the parts of the wall and its safety and maintenance conditions.

This rule enhances public safety by identifying conditions before they become hazards. The rule:

- Adds filing fees for required retaining wall inspection reports;
- Sets out who can perform a condition assessment;
- Specifies which elements of the wall must be assessed;
- Sets out what type of information must be in the report;
- Creates staggered reporting cycles by borough;
- Sets out the actions to take where there is an unsafe condition or a safe condition that needs repair; and
- Creates civil penalties for failure to file an acceptable condition assessment report.

New matter is underlined.

Section 1. Section 101-03 of Chapter 100 of Title 1 of the Rules of the City of New York is amended to add the following fees at the end of the table set forth in that section, to read as follows:

<u>Retaining wall inspection reports</u> <ul style="list-style-type: none"> <li>• <u>Initial filing</u></li> <li>• <u>Amended filing</u></li> <li>• <u>Application for extension of time to complete repairs</u></li> </ul>	<u>\$355</u>  <u>\$130</u>  <u>\$260</u>
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§2. Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new section 103-09 to read as follows:

§103-09 Retaining Wall Inspections, Filing Requirements, Penalties and Waivers.

(a) Definitions

- (1) *Acceptable report.* A report of condition assessment filed by a qualified retaining wall inspector that meets the requirements of the Administrative Code and this rule as determined by the Department.
- (2) *Amended report.* A report of condition assessment filed by a qualified retaining wall inspector who certifies that the unsafe conditions reported in the initial report have been repaired and that the retaining wall is no longer unsafe.
- (3) *Close-up inspection.* A physical examination performed on a retaining wall for the purpose of performing a condition assessment.
- (4) *Condition assessment.* An examination conducted to review a retaining wall and all parts of it to determine whether the retaining wall and its parts are either safe, unsafe, or safe with a repair and maintenance program and whether, in the judgment of a qualified retaining wall inspector, it requires remedial work.



- (5) *Filed (in reference to a report).* A report is deemed filed with the Department when it has been received by the Department.
- (6) *Filing window.* The one-year period during which an acceptable report for a particular retaining wall may be filed with the Department without penalty.
- (7) *Fronting.* The length of a retaining wall running parallel or near parallel to a public right-of-way.
- (8) *Height (of retaining wall).* The vertical distance, measured from the ground surface above the toe of the wall to the top of the wall, wall stem, or wall step for tiered walls, including any parapets or fencing intended for retaining material.
- (9) *Maintenance.* The cyclical or recurring upkeep of a retaining wall including, but not limited to, vegetation removal, weep holes, cleaning wall drains, removing debris from culverts, replacing dislodged chinking, painting soldier piles, cleaning and sealing concrete and wood facings.
- (10) *Public right-of-way.* A public highway, railroad, street, avenue, alley, public driveway, sidewalk, roadway or any other public place or public way.
- (11) *Qualified Retaining Wall Inspector.* An engineer as defined in section 28-101.5 of the administrative code with three years relevant experience as such experience is defined in section 101-07 of the rules of the Department.
- (12) *Repair.* The non-routine fixing and restoring of wall elements to their intended function, including, but not limited to, resetting dislodged stonework, repointing stone masonry, re-grading or reseeding adjacent slopes, patching concrete spalls, mending damaged wire baskets, and repair or replacement of the drainage system.
- (13) *Report of condition assessment ("Report").* A written report filed with the Department by a qualified retaining wall inspector clearly documenting the conditions noted during the assessment; areas that need repair, maintenance, or engineering monitoring; a final wall rating; and any other requirements mandated by this rule.

- (14) Report filing cycle. The five-year time interval established by the Commissioner for the filing of each successive report for each successive condition assessment of every retaining wall subject to the requirements of Article 305 of Title 28 of the Administrative Code.
- (15) Retaining Wall. A wall that resists lateral or other forces caused by soil, rock, water or other materials, thereby preventing lateral displacement and the movement of the mass by sliding to a lower elevation. Such term does not include basement walls and vault walls that are part of a building, and underground structures, including but not limited to utility vault structures, tunnels, transit stations and swimming pools.
- (16) Safe. A final wall rating in which a retaining wall is determined to be fully functional with no action required at the time of assessment.
- (17) Safe with minor repairs or maintenance. A final wall rating in which a retaining wall is found at the time of assessment to be safe, but requires minor repair or routine maintenance within the next five years to correct minor deficiencies in order to minimize or delay further wall deterioration and remain safe.
- (18) Safe with repairs and/or engineering monitoring. A final wall rating in which a retaining wall is found at the time of assessment to be safe but requires repair within the next five years to correct minor to severe deficiencies in order to minimize or delay further wall deterioration and remain safe. In addition to repair, the qualified retaining wall inspector deems it necessary to regularly monitor and/or investigate further the retaining wall to determine the nature or cause of observed distresses and what action may be required.
- (19) Subsequent report. A technical examination report that is filed by a qualified retaining wall inspector after an acceptable report in order to change the status of a retaining wall for that reporting cycle to reflect changed conditions, except where an amended report should be filed.

(20) Unsafe. A condition of a retaining wall and any appurtenances found at the time of assessment that is a hazard to persons or property and requires immediate abatement and/or public protection.

(b) Condition assessments.

(1) In accordance with Article 305 of Title 28 of the Administrative Code, a condition assessment of all parts of retaining walls with any portion of the wall having a height of ten feet or more at any location and fronting a public right-of-way must be conducted by a qualified retaining wall inspector once every five (5) years. The results of the condition assessment must be submitted to the Department in the form of a report of condition assessment.

(2) Before performing a condition assessment of a retaining wall, the qualified retaining wall inspector retained by or on behalf of the owner must review the most recent report and any available previous reports. The Department will maintain a file of such reports submitted in conformance with article 305 of Title 28 of the Administrative Code, and provide copies upon payment of fees set forth in the rules of the Department.

(3) The qualified retaining wall inspector must design and implement an assessment program that is specific to the retaining wall to be assessed, including, but not limited to, observations, data collection and method of evaluation. The assessment program and methods to be employed must be based on the consideration of the wall construction type, wall function, year built, location and failure consequence. Consideration must be given to the retaining wall's history of maintenance and repairs as described in previous reports and submittals to the Department, if applicable. The assessment program must be provided to the Department for approval no fewer than 90 days prior to implementation. The Department reserves the right to object to the proposed program.

(4) The methods used to assess the retaining wall in question must permit a complete condition assessment of the wall, including, but not limited to,

selective probes, cores and measurements of wall dimensions, including, but not limited to, thickness.

- (5) The qualified retaining wall inspector must utilize a professional standard of care to assess the condition of the retaining wall and surrounding elements that impact the wall's stability. The following elements must be assessed as applicable:

  - (i) Primary wall elements, including, but not limited to, piles and shafts, lagging, anchor heads, wire or geo-synthetic facing elements, bins or cribs, concrete, shotcrete, mortar, manufactured block or brick, placed stone and wall foundation material.
  - (ii) Secondary wall elements and appurtenances, including, but not limited to, wall drains and water management systems, architectural facing, traffic barrier, fencing, roads, sidewalks, shoulders, upslope, downslope, lateral slope, vegetation, culverts, curbs, berms and ditches.
- (6) The qualified retaining wall inspector must amend the scope of the condition assessment and add additional testing and investigation as required to characterize wall distresses, overall performance or if distresses warrant additional investigations.
- (7) During the course of the condition assessment, photographs must be taken and sketches made to document the exact location of all distresses that require repair, maintenance, or monitoring, or that cause a retaining wall to have a final wall rating of unsafe.
- (8) Upon the discovery of an unsafe condition, the qualified retaining wall inspector must notify the Department by calling 311 and then calling the Department directly with the 311 complaint number within 24 hours of discovering the unsafe condition.
- (9) The condition assessment must include close-up inspections of the retaining wall. It is not acceptable to base a condition assessment on a drive-by inspection or a prior report without a close-up inspection of the retaining wall.

(c) Report requirements.

- (1) The qualified retaining wall inspector must file with the Department and submit a copy to the owner of the retaining wall a written report of condition assessment. The report must clearly document all conditions noted during the assessment and state that the assessment was performed and completed in accordance with the Administrative Code and this rule. An acceptable report may be prepared and filed for multiple owners where a retaining wall which is required to comply with article 305 of Title 28 of the Administrative Code and this rule spans numerous blocks and lots.
- (2) Technical information in the report must adhere to and follow the sequence and the labeling of the report requirements as listed in paragraph (3) of this subdivision, and must be provided on such forms and in such format as the Department requires. Additional information may be provided. All items in subparagraphs (i) – (xiv) of paragraph (3) must be listed in the report. If a requirement is not applicable, this must be indicated on the report under the relevant number.
- (3) The report must include an executive overview that consists of a summary of findings and recommendations, a concise statement of the scope of the assessment and findings, the conclusions and recommendations and a final wall rating that categorizes the retaining wall as “safe,” “safe with minor repairs or maintenance”, “safe with repairs and/or engineering monitoring” or “unsafe.” The report must also include, but not be limited to:
  - (i) The address, any a.k.a. addresses, the Block and Lot number, the Building Identification Number (“BIN”) for the block and lot on which the retaining wall is located, the location from the nearest cross street, and a copy of the Property Profile Overview from the Buildings Information System (“BIS”) found on the Department’s website;
  - (ii) The name, mailing address and telephone number of the owner of the retaining wall, or, if the owner is not an individual, the name,

mailing address, telephone number, and position/title of a principal of the owner;

(iii) A detailed description of any maintenance, repairs, or the results of engineering monitoring performed to the retaining wall since the previous report;

(iv) A detailed description of the scope and procedures used in making the condition assessment that should include:

(A) The dates of start and completion of the condition assessment;

(B) The extent and location of all physical examinations performed;

(C) A location or plot plan of a discernible scale and with a north arrow that shows the entire earth-retaining length of the wall, all structures located on the block or lot and within the zone of influence of the wall, including the number of stories and the type of occupancy, and any and all public rights-of-way adjacent to the retaining wall; and

(D) locations and dates of close-up inspections and tests performed;

(v) At least one cross-section of the retaining wall with details adequate to indicate the following:

(A) Retaining wall construction type;

(B) Architectural finishes or surface treatment;

(C) Maximum exposed wall height;

(D) Height of earth on each side of the retaining wall;

(E) Average vertical distance from the public right-of-way to cut wall toe or ground-line at the top of the fill wall;

(F) Horizontal distance to wall face from the edge of the public right-of-way;

(G) Wall face angle (batter) measured from the vertical;

- (H) Maximum earth retaining length of the wall;
  - (I) Surcharges applied to the wall; and
  - (J) Additional cross-sections when the wall geometry and/or plumbness changes;
- (vi) A description of each significant distress observed with supporting photographic documentation. Distresses must be mapped using gridlines enabling all distresses to be positively located;
- (vii) An analysis of the cause of each significant distress reported;
- (viii) A final wall rating that categorizes the retaining wall as “safe,” “safe with minor repairs or maintenance,” “safe with repairs and/or engineering monitoring” or “unsafe.” A detailed description of the overall rating and factors attributing to the rating assigned must accompany the final wall rating.
- (ix) Where a retaining wall is categorized with a final wall rating of safe with repairs and engineering monitoring:
  - (A) A plan detailing the proposed monitoring program;
  - (B) The name of the engineer performing the monitoring; and
  - (C) A stability analysis of the retaining wall that reports a “factor of safety” which shows that the wall is stable under current and expected loading conditions.
- (x) A comparison of currently observed conditions with conditions observed during the previous report filing cycle examinations, including the status of the repairs or maintenance performed with respect to the prior conditions. The following must be included and discussed:
  - (A) Work permit numbers relating to repairs performed;
  - (B) Job numbers, status and sign-off dates for any retaining wall related jobs, where applicable; and
  - (C) Violation numbers of any open Environmental Control Board (“ECB”) violations associated with the retaining

wall and the status of the repairs of the conditions cited in the ECB violations.

(xi) Detailed recommendations for repairs or maintenance for retaining walls with final wall ratings of “safe with minor repairs or maintenance” or “safe with repairs and/or engineering monitoring,” including:

(A) The recommended time frame for such repairs or maintenance to be performed, which must indicate the date by which the work will be performed (MM/YYYY) to prevent the conditions from becoming unsafe and not the date on which work is planned or scheduled;

(B) Time frames of less than one (1) year, “ASAP,” or “immediately,” will not be accepted.

(xii) A list and description of the work permits required to accomplish the necessary work. If no work permits will be required, the reason must be indicated;

(xiii) Color photographs of the retaining wall and at least one view of the entire street front elevation for all reports regardless of the retaining wall’s final wall rating. Photographs must be at least 3” x 5” (76mm x 127mm) in size, unless otherwise requested by the Department. The photographs must be dated and both the original photographs and all required copies shall be in color. The page/sheet size for attachments must not exceed 11” x 17” (280mm x 430mm).

(xiv) The seal and signature of the qualified retaining wall inspector under whose direct supervision the condition assessment was performed.

(4) All reports and supporting documents must be submitted to the Department in an electronic format.

(d) Report filing requirements.

(1) The requirements of this rule apply to owners of retaining walls with a height of ten feet or more and fronting a public right-of-way.



- (2) Owners of retaining walls who are required to file a report must do so once during each five-year report filing cycle established by the Department, depending on the borough, as described in subsection (5) below. The next complete report filing cycle runs from January 1, 2014 to December 31, 2018.
- (3) An acceptable report must be filed within the applicable one-year filing window to avoid a late filing penalty.
- (4) The report must be submitted to the Department along with a filing fee as specified in the rules of the Department.
- (5) Beginning January 1, 2014 an acceptable report for each retaining wall to which this rule applies is due in accordance with the following filing windows:
  - (i) For retaining walls located within the Borough of the Bronx, an acceptable report must be filed within the filing window starting January 1, 2014 and ending December 31, 2014.
  - (ii) For retaining walls located within the Borough of the Manhattan, an acceptable report must be filed within the filing window starting January 1, 2015 and ending December 31, 2015.
  - (iii) For retaining walls located within the Borough of Staten Island, an acceptable report must be filed within the filing window starting January 1, 2016 and ending December 31, 2016.
  - (iv) For retaining walls located within the Borough of Queens, an acceptable report must be filed within the filing window starting January 1, 2017 and ending December 31, 2017.
  - (v) For retaining walls located within the Borough of Brooklyn, an acceptable report must be filed within the filing window starting January 1, 2018 and ending December 31, 2018.
- (6) A report must be filed within sixty (60) days of the date on which the qualified retaining wall inspector completed the condition assessment, but not more than one (1) year after completion of the close-up inspection. If the report is not acceptable and is rejected by the Department, a revised

report must be filed within forty-five (45) days of the date of the Department's rejection. Failure to submit a revised report addressing the Department's objections within one (1) year of the initial filing requires a new conditional assessment, including a new close-up assessment.

- (7) A subsequent report may be filed within a five-year report filing cycle to change a retaining wall's status for that cycle.

(e) Unsafe conditions.

- (1) If any retaining wall is found in an unsafe condition, the qualified retaining wall inspector or the person in charge of the retaining wall must notify the Department by calling 311 and then calling the Department directly with the 311 complaint number within 24 hours of discovering the unsafe condition.
- (2) Upon discovery of an unsafe condition, the owner of the retaining wall, his or her agent, or the person in charge of the retaining wall must immediately commence such repairs or reinforcements and any other appropriate measures required to secure the safety of the public and to make the retaining wall safe.
- (3) Within two weeks after repairs to correct the unsafe condition have been completed, the qualified retaining wall inspector must inspect the premises. The qualified retaining wall inspector must obtain permit sign-offs as appropriate and must promptly file with the Department a detailed amended report stating the revised report status of the retaining wall, along with a filing fee as specified in the rules of the Department. Protective measures must remain in place until an amended report is accepted; however, the qualified retaining wall inspector may request permission for the removal of the protective measures upon submission of a signed and sealed statement certifying that an assessment was conducted, the conditions were corrected, and the protective measures are no longer required. Permission may be granted at the Commissioner's sole discretion.

- (4) The Commissioner may grant an extension of time of up to ninety (90) days to complete the repairs required to remove an unsafe condition upon receipt and review of an initial extension application submitted by the qualified retaining wall inspector on behalf of the owner, together with:
- (i) A copy of the original report for that report filing cycle and all required documentation submitted with such report;
  - (ii) Notice that the retaining wall and surrounding area have been secured for public safety by means of a shed, bracing, or other appropriate measures as may be required;
  - (iii) A copy of the contract indicating scope of work to remedy unsafe conditions;
  - (iv) The qualified retaining wall inspector's estimate of length of time required for repairs;
  - (v) A statement of all applicable permit requirements;
  - (vi) A notarized affidavit by the owner of the retaining wall that work will be completed within the time of the qualified retaining wall inspector's stated estimate; and
  - (vii) a fee as specified in the rules of the Department.
- Financial considerations will not be accepted as a reason for granting an extension.
- (5) A further extension will be considered only upon receipt and review of a further extension application, together with notice of:
- (i) An unforeseen delay (e.g., weather, labor strike) affecting the substantially completed work; or
  - (ii) Unforeseen circumstances; or
  - (iii) The nature of the hazard that requires more than ninety (90) days to remedy (e.g., new retaining wall to be built).
- Financial considerations will not be accepted as a reason for granting an extension.
- (6) Notwithstanding any extensions granted to commence the repair of an unsafe condition, all work to repair an unsafe condition must be completed

within 365 days of filing a report of an unsafe condition with the Department.

(f) Conditions classified as safe with repair and/or engineering monitoring.

- (1) The owner of the retaining wall is responsible for ensuring that the conditions described in the report of condition assessment as safe with repair and/or engineering monitoring are repaired, the wall is restored to a safe condition, and all actions recommended by the qualified retaining wall inspector are completed within the time frame recommended by the qualified retaining wall inspector, and are not left to deteriorate into unsafe conditions before the next condition assessment. It is the owner's responsibility to notify the Department of any deviation from the timeframe to make corrections as specified in qualified retaining wall inspector's report. Such notification must be accompanied by supporting documents from the qualified retaining wall inspector justifying the request for a new time frame. The Department may approve or disapprove such request.
- (2) A report may not be filed describing the same condition and pertaining to the same location on the retaining wall as safe with repair and/or engineering monitoring for two consecutive report filing cycles.
- (3) The qualified retaining wall inspector must certify the correction of each condition reported as requiring repair in the previous report filing cycle, or report conditions that were reported as safe with repair and/or engineering monitoring in the previous report filing cycle as unsafe if not corrected at the time of the current assessment.

(g) Civil Penalties.

- (1) Failure to file. An owner who fails to file the required acceptable condition assessment report will be liable for a civil penalty of one thousand dollars (\$1,000) per year immediately after the end of the applicable filing window.
- (2) Late filing. In addition to the penalty for failure to file, an owner who submits a late filing will be liable for a civil penalty of two hundred fifty dollars (\$250.00) per month, commencing on the day following the filing

deadline of the assigned filing window period and ending on the filing date of an acceptable initial report.

- (3) In addition to the penalties provided in this section, an owner who fails to correct an unsafe condition will be liable for a civil penalty of one thousand dollars (\$1,000) per month, pro-rated daily, until the unsafe condition is corrected, unless the commissioner grants an extension of time to complete repairs pursuant to this section. This penalty will be imposed until the Department receives an acceptable amended report indicating the unsafe conditions were corrected, or until an extension of time is granted.

(h) Challenge of civil penalty.

- (1) An owner may challenge the imposition of any civil penalty authorized to be imposed pursuant to this subdivision by providing proof of compliance. Examples of such proof must include, but are not limited to, a copy of an acceptable initial report, a copy of the acceptable amended report, copies of approved extension of time requests while work was/is in progress, or written proof from a qualified retaining wall inspector that the unsafe conditions observed at the retaining wall were corrected and the violation was dismissed.
- (2) Challenges must be made in writing within thirty (30) days from the date of service of the violation by the Department and must be sent to the office/unit of the Department that issued the violation. The decision to dismiss or uphold the penalty is at the sole discretion of the Department.

(i) Penalty waivers; eligibility and evidentiary requirements. Owners may request a waiver of penalties assessed for violation of Article 305 of Title 28 of the Administrative Code, or rules enforced by the Department. Requests must be made in writing and must meet eligibility and evidentiary requirements as follows:

(1) Owner status.

- (i) A new owner requesting a waiver due to change in ownership must submit proof of a recorded deed showing evidence of transfer of ownership to the current owner after penalties were incurred, as

well as any other documentation requested by the Department. The new owner may only request a waiver in one of the following circumstances:

- (A) The new owner has obtained full tax exemption status from the New York City Department of Finance; or
- (B) The new owner took title of the property as part of an economic development program sponsored by a government agency.

(ii) A new owner of a government-owned property requesting a waiver due to change in ownership must submit official documentation from the government entity affirming that the premises was entirely owned by the government entity during the period for which a waiver is requested.

(iii) An owner may be granted a waiver of penalties upon submission of a copy of a bankruptcy petition, together with proof that either the Department or the New York City Law Department was served with a "Notice of Bar Date."

(2) Retaining wall status. An owner requesting a waiver because the wall was removed must submit city or Departmental records showing evidence of the removal of the retaining wall prior to the filing deadline.

(i) Alternate report filing requirements for owners of more than 200 retaining walls in multiple boroughs. Notwithstanding any other provisions of this section, the inspection and reporting requirements set forth above for retaining walls shall not apply to owners of 200 or more retaining walls in multiple boroughs with a height of ten feet or more and fronting on a public right-of-way who on the effective date of this rule (i) employ full-time professional engineers and (ii) have an established inspection procedure for such retaining walls acceptable to the Department. Such inspection procedure must comply with Article 305 of Title 28 of the Administrative Code. Such owners must file inspection reports for all such retaining walls in a form acceptable to the Department.

This amendment has an effective date of 07-24-13.


## 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 amendment to Section 101-03 and the addition of a new Section 102-03 to Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding potentially structurally compromised buildings.

This rule was first published on April 4, 2013 and a public hearing thereon was held on May 13, 2013.

Dated: \_\_\_\_\_

New York, New York

  
\_\_\_\_\_

Robert D. LiMandri  
Commissioner

## STATEMENT OF BASIS AND PURPOSE

This rule is promulgated pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter and section 28-216.12 of the New York City Administrative Code.

Section 28-216.12.1 of the Administrative Code created a requirement that potentially structurally compromised buildings be inspected regularly by a registered design professional.

Pursuant to Section 28-216.12.1, this rule:

- adds a filing fee for required reports of compromised buildings;
- expands on the definition of “potentially compromised” in section 28-216.12;
- specifies the inspection requirements for potentially structurally compromised buildings;
- sets out the items that need to be included in the inspection report; and
- creates civil penalties for failure to file a report.

New matter is underlined.

Section 1. Section 101-03 of Chapter 100 of Title 1 of the Rules of the City of New York is amended to add the following fee at the end of the table set forth in that section, to read as follows:

<u>Filing structurally compromised building</u>	<u>\$500</u>
<u>inspection report</u>	

§2. Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new section 102-03 to read as follows:

### § 102-03 Potentially structurally compromised buildings

- (a) Potentially compromised. For the purposes of this section, “potentially compromised” means a building or structure that:



- (1) has had an open roof for sixty days or longer,
  - (2) has been shored and braced or repaired pursuant to an emergency declaration issued by the commissioner pursuant to Article 215 of Title 28 of the Administrative Code,
  - (3) has been subject to a precept as a compromised structure under Article 216 of Title 28 of the Administrative Code,
  - (4) may have suffered structural damage by fire or by partial collapse of floors, interior or exterior walls or other cause as determined by the commissioner.
- (b) Inspections.
  - (1) Initial inspections. Beginning September 1, 2013, the owner of a building or structure that has become potentially compromised must have a structural condition inspection of such building or structure. The inspection must be performed by a registered design professional within sixty days from the date that the building or structure becomes potentially compromised. The design professional must file a report as described in subdivision d of this section with the department within thirty days after the date of the inspection.
  - (2) Periodic inspections. After the initial inspection and filing of the report, structural condition inspections must be performed and reports as described in subdivision d of this section must be filed annually, unless otherwise specified by the department. The periodic inspections must continue until a certification is filed with the department by the registered design professional stating that the building or structure is no longer potentially compromised and the department has audited the certification to ensure its accuracy.
- (c) Notifications to the department.
  - (1) Department notification by owner. An owner of a building or structure must notify the department in writing that such building or structure has become potentially compromised immediately after such owner knows or should have known of the condition.

- (2) Department notification by registered design professional. If a structural condition inspection reveals that there is an immediate risk to the public or property due to a violation of any applicable law or rule or any unsafe condition, the registered design professional must immediately notify the department and the owner by both calling 311 and in writing.
- (d) Report. The registered design professional must sign, seal, and submit to the department the report of the inspection required by section 28-216.12.1 of the Administrative Code and subdivision b of this section. The registered design professional must also submit a filing fee as specified in section 101-03 of the department's rules, and must send a copy of the report to the owner. The report must include, but need not be limited to, the following information:
- (1) the address of the property;
  - (2) the block and lot of the property;
  - (3) the owner's name and contact information, including an address for the receipt of notifications and service of process;
  - (4) the registered design professional's name and contact information, including an address for the receipt of notifications and service of process;
  - (5) the date of inspection or inspections;
  - (6) detailed description and location of the structural damage found;
  - (7) a comprehensive analysis of the structural condition of the building or structure as a result of the structural damage, based on probes and calculations;
  - (8) photographs of the condition;
  - (9) 8 1/2" x 11" sketches of the property showing its relationship to the adjacent properties;
  - (10) schematically sketched floor plans, sections and elevations of the building and adjacent buildings, roof to foundation, with notes relating to the existing description of the property;
  - (11) at least two different photographs of each of the following: street façades, side façades, rear façades, the roof and the condition of the interior of the property;

- (12) a statement that the owner received the report;
  - (13) an estimate of how long the building will remain stable;
  - (14) a proposed schedule for monitoring and repairing the condition;
  - (15) 8 1/2" x 11" sketches showing the work required to stabilize the property, such as shoring and bracing and/or partial demolition; and
  - (16) any additional information requested by the commissioner.
- (e) Final report. After the condition that caused the building or structure to be potentially compromised has been repaired, the registered design professional must submit to the department a signed and sealed report certifying that the building or structure is no longer potentially compromised.
- (f) Civil penalties. In addition to any other penalties authorized by law, failure to file a report pursuant to the requirements of section 28-216.12.1 and this section will result in a civil penalty of \$3,000 for each violation of such section, payable to the department.

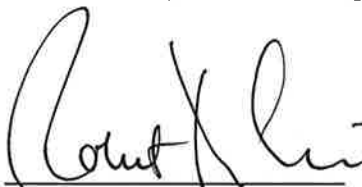
This amendment has an effective date of 04-14-13.

## 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 and Article 416 of Title 28 of the New York City Administrative Code, that the Department of Buildings hereby REPEALS Section 31-01 of Chapter 31, adds a new Section 104-24 to Subchapter A of Chapter 100, and amends Sections 101-03 of Subchapter A of Chapter 100, 104-03 of Subchapter D of Chapter 100, and 104-06 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York, regarding registered filing representatives.

This rule was first published on September 4, 2012 and a public hearing thereon was held on October 4, 2012.

Dated: 3/12/2013  
New York, New York

  
Robert D. LiMandri  
Commissioner

## **Statement of Basis and Purpose of Adopted Rule**

The following rule is promulgated pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043 of the New York City Charter.

In promulgating this rule, the Commissioner is exercising the authority set forth in Section 28-416.3 of Article 416 of the New York City Administrative Code, which states, "The commissioner shall promulgate rules for the proper and efficient administration and enforcement of this article. Unless required by rule, a registered filing representative shall not be required to take an examination or to complete continuing education courses as a condition for renewal of the registration." This authority is being exercised at this time to meet the needs of the construction industry and the Department for qualified registered filing representatives.

The construction industry, including architects, engineers, contractors and owners, often use the services of registered filing representatives to present, submit, furnish and/or seek approval of applications or construction documents, and to remove documents from the possession of the Department of Buildings ("DOB"). These construction documents are then reviewed by DOB plan examiners and/or other DOB technical staff who may issue objections if the construction documents do not comply with the Construction Codes, zoning or other applicable laws, or other relevant rules or requirements. These objections should be addressed by persons with some threshold knowledge of the construction documents and the applicable procedures and requirements. Sometimes the person who presents, submits, or furnishes the documents is not qualified or prepared to address the objections issued by the plan examiner or other technical staff. In such instances, the approval process is delayed.

To eliminate this problem and ensure the efficient processing of construction documents, DOB is adopting a rule that creates training, education, filing experience and continuing education requirements for registered filing representatives. These requirements will create two classes of registered filing representative:

- Class 2 Registered Filing Representatives, who will be permitted to present, submit, furnish or seek approval of applications or construction documents, and remove documents from the possession of DOB, and who will be qualified to meet with plan examiners and other technical staff to address objections; and,
- Class 1 Registered Filing Representatives, who will be limited to presenting, submitting, furnishing or seeking approval of applications or construction documents, and removing documents from the possession of DOB.

By creating these two classes of registered filing representatives, the rule will:

- Assist the Department, the construction industry, and the public in identifying qualified individuals to support their filings; and
- Expedite the approval process by ensuring that only qualified registered filing representatives appear before plan examiners and other technical staff to address objections.

For those individuals who do not have the academic requirements to qualify for class 2 status, the rule provides a two-month window of opportunity (May 1- June 30, 2013) in which such individuals will be eligible to register as class 2 representatives based solely on their years as a registered filing representative with DOB and number of jobs filed with DOB.

The rule also restates the existing fee structure set forth in Section 28-401.15 of Article 401 of the New York City Administrative Code to align with the triennial filing representative registration term.

In addition, the rule amends Section 104-03 of the Rules of the City of New York to provide that, beginning July 1, 2014, the term of a filing representative's registration will be three years, beginning on the applicant's birthday following the date of registration, and that the registration may be renewed for terms of three years. Section 104-03 is also being amended to clarify that the term of a general contractor registration is three years, beginning on the applicant's birthday following the date of registration, and that the term of a master electrician or special electrician license is one year, beginning on the applicant's birthday following the date of issuance.

A public hearing on this rule was held on October 4, 2012. In response to comments received, the Department has made the following changes and clarifications to the following provisions of the rule:

- Subdivision (a) of Section 104-24: added a reference to Section 28-416.2 of the New York City Administrative Code, which sets forth a list of persons exempt from filing representative registration.
- Subdivision (b)(3) of Section 104-24: added a definition of the term "Job."
- Subdivision (c) of Section 104-24: clarified who constitutes "department technical staff."
- Subdivision (d) of Section 104-24: added a requirement that beginning May 1, 2013, those seeking class 1 filing representative status must complete a department-approved, integrity training prior to registration.
- Subdivision (f) of Section 104-24: clarified when a class 2 representative can appear/attend appointments at the NYC Development Hub.
- Subdivision (g) of Section 104-24: eased the registration requirements for class 2 applicants and made changes to dates at which the new requirements will begin to apply:
  - The final rule does not require the completion of a thirty-six hour training course until 2014. The proposed rule required completion of such course by 2013.

- The final rule imposes certain registration requirements beginning May 1, 2013, while the proposed rule imposed them beginning on April 1, 2013. This change was made to conform with Section 28-401.12 of the New York City Administrative Code, which states that applications for renewals of licenses shall be made no more than 60 calendar days prior to the expiration date of such license.
- Subdivision (g)(1)(i)(B) & (g)(2)(i)(B) of Section 104-24: For applicants submitting proof of a four year degree other than in Architecture or Engineering, the final rule lessened the requirements from 4 years of filing experience with at least 100 jobs within 6 years of application for registration, to 2 years as a registered filing representative with at least 50 jobs within 4 years of application for class 2 filing representative status.
- Subdivision (g)(1)(i)(C) of Section 104-24: During the two-month window for registration without submission of proof of academic degree, the final rule lessened requirements from 8 years of filing experience with at least 200 jobs within 10 years of application for registration, to 4 years as a registered filing representative with at least 125 jobs within 8 years of application for class 2 filing representative status. The time period for such registration was also changed from April 1 - June 1, 2013 to May 1- June 30, 2013.
- Subdivision (h) of Section 104-24: separated class 2 filing representative renewal requirements into 2 parts:
  - Beginning July 1, 2014, during the one (1) year immediately prior to renewal, a class 2 registered filing representative must complete an integrity training and the thirty-six- (36) hour training course.
  - Beginning July 1, 2017, during the three (3) years immediately prior to renewal, a class 2 registered filing representative must complete an integrity training and a sixteen- (16) hour, Department-approved, refresher course.
- Subdivision (h) of Section 104-03: lessened the fee for changing from a class 1 representative to a class 2 representative, from a \$150 registration fee to a \$50 reissuance fee.

Section 1. Section 31-01 of Chapter 31 of Title 1 of the Rules of the City of New York, relating to Suspension, revocation or limitation of registration of persons who present, submit, furnish or seek approval of applications for approval of plans or remove any documents from the possession of the Department of Buildings, is REPEALED.

§2. Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new Section 104-24, to read as follows:

§104-24 Registered filing representatives. This section establishes two types of filing representatives and sets forth the training, education, and experience requirements necessary at registration for both classes of representatives.

(a) References. See Article 416 of Title 28 of the New York City Administrative Code and Section 28-416.2 of same for a list of persons exempt from filing representative registration.

(b) Definitions. For the purposes of this chapter, the following terms mean:

(1) Architect. A person licensed and registered to practice the profession of architecture under the education law of the state of New York.

(2) Engineer. A person licensed and registered to practice the profession of engineering under the education law of the state of New York.

(3) Job. An application with an individual job number filed by the registered design professional of record. This does not include limited alteration applications, post-approval amendments, electrical applications, or demolition applications.

(4) Registered design professional. An architect or engineer.

(5) Registered design professional of record. The registered design professional who prepared or supervised the preparation of applicable construction documents filed with the department.

(c) Class 1 registered filing representatives. Class 1 filing representatives may, following registration and issuance of an identification card, present, submit, furnish or seek approval of applications or construction documents, and remove documents from the possession of the department. However, beginning July 1, 2013, such filing representatives cannot appear before or attend appointments with plan examiners and other department technical staff including, but not limited to code and zoning specialists, plan examiners, chief plan examiners, borough commissioners, and deputy borough commissioners, regarding



construction document approvals, including, but not limited to, plan review, audit review, pre-determinations, and determinations.

(d) Class 1 filing representative registration requirements.

(1) Beginning May 1, 2013, those seeking class 1 filing representative status must submit proof of the successful completion of a department-approved, integrity training at registration.

(2) Beginning May 1, 2014, those seeking class 1 filing representative status must submit the following at registration:

(i) Proof of the successful completion of a sixteen- (16) hour training course, approved by the department, within one (1) year of application for registration, in the following areas:

(A) The New York City Building Code;

(B) The New York City Energy Conservation Code;

(C) The New York City Zoning Resolution; and

(D) Relevant provisions of the New York City Administrative Code and department practices.

(ii) Proof of the successful completion of a department-approved, integrity training.

(e) Class 1 filing representative renewal requirements. Beginning July 1, 2014, during the one (1) year immediately prior to renewal, or beginning July 1, 2017, during the three (3) years immediately prior to renewal, a class 1 registered filing representative must have attended and successfully completed a Department-administered or Department-approved integrity training and the sixteen- (16) hour training course required by subdivision (d) of this rule. If the sixteen- (16) hour training course was successfully completed prior to registration, it need not be completed again prior to renewal. Proof of completion of such course(s) must be submitted to the Department at renewal.

(f) Class 2 registered filing representatives. Class 2 registered filing representatives (also referred to as “code and zoning representatives”) may, following registration and issuance of an identification card, perform all of the activities of a class 1 registered filing representative and may also appear before and attend appointments with plan examiners and other department technical staff regarding construction document approvals, including, but not limited to, plan review, audit review, pre-determinations, and determinations. However, class 2 registered filing representatives can only appear before, or attend such

appointments at, the NYC Development Hub for New Building applications, Alteration Type 1 applications, and any and all related applications, in person or online, if they are employed and supervised by the registered design professional of record. If not, when appearing before or attending such appointments at the NYC Development Hub, class 2 registered filing representatives must be accompanied by the registered design professional of record or an individual employed and supervised by the registered design professional of record in the preparation of the construction documents being discussed.

(g) Class 2 filing representative requirements.

(1) Beginning May 1, 2013, those seeking class 2 filing representative status must submit the following:

(i) Proof of:

(A) A four (4) year degree in Architecture or Engineering from an accredited college; or

(B) A four (4) year degree in another field from an accredited college, and proof of two (2) years as a registered filing representative with the department with at least fifty (50) jobs filed within four (4) years of application for class 2 filing representative status; or

(C) Those who do not meet the requirements of paragraphs (i) or (ii) above may register and submit proof of the following during the limited time period of May 1, 2013 through June 30, 2013 only: four (4) years as a registered filing representative with the department with at least one hundred and twenty-five (125) jobs filed within eight (8) years of application for class 2 filing representative status.

(ii) Proof of the successful completion of a department-approved, integrity training.

(2) Beginning May 1, 2014, those seeking class 2 filing representative status must submit the following:

(i) Proof of:

(A) A four (4) year degree in Architecture or Engineering from an accredited college; or

(B) A four (4) year degree in another field from an accredited college, and proof of two (2) years as a registered

filing representative with the department with at least fifty (50) jobs filed within four (4) years of application for class 2 filing representative status; or

(ii) Proof of the successful completion of a thirty-six- (36) hour training course approved by the department, within one (1) year of application for class 2 filing representative status, in the following areas:

(A) The New York City Building Code;

(B) The New York City Energy Conservation Code;

(C) The New York City Zoning Resolution; and

(D) Relevant provisions of the New York City Administrative Code and department practices.

(iii) Proof of the successful completion of a department-approved, integrity training.

(h) Class 2 filing representative renewal requirements.

(1) Beginning July 1, 2014, during the one (1) year immediately prior to renewal, a class 2 registered filing representative must have attended and successfully completed a Department-administered or Department-approved integrity training and the thirty-six- (36) hour training course required by subdivision (g) of this rule. If the thirty-six- (36) hour training course was successfully completed prior to registration, it need not be completed again prior to renewal. Proof of completion of such course(s) must be submitted to the Department at renewal.

(2) Beginning July 1, 2017, during the three (3) years immediately prior to renewal, a class 2 registered filing representative must have attended and successfully completed a Department-administered or Department-approved integrity training and a sixteen- (16) hour, Department-approved, refresher course. Proof of completion of such course(s) must be submitted to the Department at renewal.

(i) Additional powers of the commissioner. The commissioner may, upon a determination of good cause, extend the dates and deadlines set forth in this rule.

(j) Suspension or revocation. Filing representative registration may be suspended or revoked in accordance with Section 28-401.19 of the New York City Administrative Code.

§3. Paragraph (4) of Subdivision (b) of Section 104-06 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(4) Filing Representative. [During the one (1) year immediately prior to renewal, the registrant shall have attended at Department-administered or Department-approved integrity training.] Renewals for class 1 or class 2 filing representative registration are subject to the requirements set forth in 1 RCNY 104-24.

§4. Subdivision (h) of Section 104-03 of Subchapter D of Chapter 100 of Title 1 of the Rules of the City of New York is relettered Subdivision (i), a new Subdivision (h) is added, and Subdivisions (d) and (g) are amended, to read as follows:

(d) The term of an initial general contractor registration [issued to a new or renewal applicant shall be three (3) years, measured from the date of the applicant's birthday] 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.

(g) The term of an initial master electrician or special electrician license [issued to a new or renewal applicant shall be one (1) year, measured from the date of the applicant's birthday] is one (1) year, beginning on the applicant's birthday following the date of issuance, and may be renewed for additional one (1) year periods after such initial issuance.

(h) Beginning July 1, 2014, the term of an initial filing representative 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. Changing from a class 1 registered filing representative to a class 2 registered filing representative will require payment of a reissuance fee.

[(h)] (i) Nothing contained herein shall limit the authority of the Commissioner to stagger the issuance of licenses based on considerations other than the date of issuance of the license or to otherwise provide for reasonable implementation of modifications to license terms.

§5. Section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding the following entry to the end of the table set forth in that section:

<u>Filing representative</u>	<u>Initial:</u> <u>\$50 for a 1-</u>	<u>Renewal:</u> <u>\$50 for a 1-</u>	<u>Late-renewal:</u> <u>\$50</u>	<u>Reissuance:</u> <u>\$50</u>
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<u>registration.</u>	<u>year</u> <u>registration or</u> <u>\$150 for a 3-</u> <u>year</u> <u>registration.</u>	<u>year renewal</u> <u>or \$150 for a</u> <u>3-year</u> <u>renewal.</u>		
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This amendment has an effective date of 03-31-13.

## NOTICE OF ADOPTION OF RULE

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner of the Department of Buildings by Sections 643 and 1043 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 101-03 of Subchapter A of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding fees for filing energy efficiency reports and for energy code compliance review.

This rule was first published on January 10, 2013, and a public hearing thereon was held on February 15, 2013.

Dated: \_\_\_\_\_

2/22/13  
New York, New York



\_\_\_\_\_  
Robert D. LiMandri  
Commissioner

## STATEMENT OF BASIS AND PURPOSE

This rule is promulgated pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter, section 28-308.4 of the New York City Administrative Code, 1 RCNY 103-07 and section 103.3 of the New York City Energy Code.

Section 28-308.4 of the Administrative Code requires an energy efficiency report to be filed by building owners every ten years. That section also allows the owner to apply for an extension of time to file the report. 1 RCNY 103-07 provides for a fee to be charged for filing energy efficiency reports.

Section 103.3 of the Energy Code provides for department examination of construction documents to determine whether they are in compliance with the requirements of the Energy Code.

The amendments:

- Add fees for initial filings, extensions and amendments of energy efficiency reports.
- Add fees for Energy Code compliance reviews.

New matter is underlined.

Section 101-03 of Title 1 of the Rules of the City of New York is amended by adding the following entries at the end of the table set forth in that section:

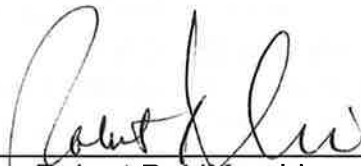
<u>Energy efficiency reports</u> <ul style="list-style-type: none"><li>• <u>Initial filing</u></li><li>• <u>Extension request</u></li><li>• <u>Amendments</u></li></ul>	<u>\$375</u> <u>\$155</u> <u>\$145</u>
<u>Energy Code compliance review</u>	<u>\$220</u>

## 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 101-03 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding fees.

This rule was first published on October 5, 2012 and a public hearing thereon was held on November 8, 2012.

Dated: 11/13/12  
New York, New York

  
Robert D. LiMandri  
Commissioner

## STATEMENT OF BASIS AND PURPOSE

This rule is proposed pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter and sections 28-401.7 and 28-401.8 of the New York City Administrative Code.

Currently, the Department of Citywide Administrative Services administers examinations and conducts investigations for most licenses. The Department of Buildings will be taking over the examinations and investigations for those licenses it issues. This rule sets out the fees for these examinations and investigations.



## STATEMENT OF BASIS AND PURPOSE

This rule is proposed pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter and sections 28-401.7 and 28-401.8 of the New York City Administrative Code.

Currently, the Department of Citywide Administrative Services administers examinations and conducts investigations for most licenses. The Department of Buildings will be taking over the examinations and investigations for those licenses it issues. This rule sets out the fees for these examinations and investigations.

The entry for “License examination fee” set forth in section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is deleted, and a new entry for “Licensing” is added, to read as follows:

[License examination fee: <ul style="list-style-type: none"><li>• Elevator agency director certificate of approval</li><li>• Elevator agency inspector certificate of approval</li><li>• Site safety manager certificate]</li></ul>	[\$350]
<u>Licensing:</u> <ul style="list-style-type: none"><li>• <u>Written examination</u></li><li>• <u>Practical examination</u></li><li>• <u>Background investigation class 1 (includes experience)</u></li><li>• <u>Background investigation class 2 (does not include experience)</u></li></ul>	<u>\$525</u> <u>\$350</u> <u>\$500</u> <u>\$330</u>

This amendment has an effective date of 05-13-12.

## NOTICE OF ADOPTION OF RULE

**NOTICE IS HEREBY GIVEN**, pursuant to the authority vested in the Commissioner of Buildings by Section 643 of the New York City Charter and in accordance with Section 1043 of the Charter and Section 28-115.1 of the New York City Administrative Code, that the Department of Buildings hereby amends Sections 101-03 and 101-06 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York, relating to special inspectors and special inspection agencies.

This version of the rule was published on April 4, 2011, and a public hearing thereon was held on May 11, 2011.

Dated: 4/5/12  
New York, New York

  
Robert D. LiMandri  
Commissioner

### Statement of Basis and Purpose of Adopted Rule

Section 101-06 was originally promulgated in July, 2008, and it specified the qualifications of special inspectors and the processes through which the Department would regulate their activities.

Amendments to the rule were initially published for comment in the City Record on June 7, 2010. A public hearing was held on July 8, 2010, and comments were received prior to, during and after that hearing. The Department again published the rule for comment in the City Record on April 4, 2011, having received significant input in connection with the initial comment period that resulted in changes to the proposed amendments. A second public hearing was held on May 11, 2011.

These amendments accomplish the following:

- Special Inspection classes: They add the concept of special inspection classes in § 101-06(c), which will better address the level of qualification necessary to perform the various types of special inspections. There is currently only one registration class and all special inspection agencies must be accredited. This rule amendment establishes three different classes (class 1, class 2, and class 3, based on the scope of work the special inspection agency is performing) instead of the pre-existing one class, and requires only class 1 special inspection agencies (typically agencies that work on large-scale projects) to pursue accreditation.

special inspection agencies (typically agencies that work on large-scale projects) to pursue accreditation.

- Definitions: The following new definitions were previously published in June, 2010 : “Accreditation Deadline”, “Full Demolition”, “Major Building”, “Partial Demolition”, “Registration Deadline” and “Special Inspection Category” and two additional new definitions have subsequently been added: “Floor Area, Gross” and “Approved Inspection Agency”, for the purposes of clarity and ease of use. In response to agency comments and to ensure consistency, several definitions were amended to cross-reference the NYC Administrative Code. Also in response to agency comments, the definition of “Registration Deadline” was modified to give agencies more time to register.

The new deadline definitions help clarify when registration and accreditation will occur and allow for timely and proper enforcement of the proposed three-class registration system described more fully below.

- Service of process: As a result of public comments received, the rule adds a requirement that special inspection agencies must have an agent for the acceptance of service or maintain a New York City address. In addition, this requirement will be applicable by or upon the time the agencies register (§ 101-06 (b)(10)).

- Conflict of Interest: Also as a result of comments, the conflict of interest provisions set forth in § 101-06(b)(2) have been revised to clarify that it is not automatically assumed to be a conflict for a registered design professional to perform a special inspection(s) on a project or portion of work that he or she designed.

- Accreditation: The amendments expand the choice of recognized national standards that an approved accrediting body may accredit to, to include ISO 17020-98 (§ 101-06(c)(3)). The deadline for agencies to be accredited is set for twelve months from the effective date of this rule.

- Insurance: As amended, the rule's insurance requirements more accurately reflect what is necessary for these inspection entities (§ 101-06(c)(5)). The requirement for general liability insurance for the special inspection agencies was removed because these agencies would either be required to obtain professional liability insurance which would cover their technical duties, or if other than a PE or RA, the special inspection agency already would have general liability insurance as part of their trade license requirements. Further, in response to input from insurance companies, the type of policies required have been changed from “occurrence-based” to “claim-based.”

- Agencies' composition: The amendments allow for up to four alternative full-time directors because many companies that provide special inspection services are constituted as partnerships (§ 101-06(c)(6)).

- Registration term: The amendments remove dates and references that are no longer relevant and change the term of registration from three (3) years from the date of registration issuance to three (3) years from the applicant's birthday following the date of registration. This second amendment will make the registration renewal process easier for all parties involved (§ 101-06(c)(9)).

- New "Small Projects" category: The "Small Building" Special Inspection Category in Appendix A of this rule is replaced with a "Small Projects" category, allowing Class 3 special inspection agencies to perform identified inspections on 1-, 2- and 3-family buildings, as well as alterations of 10,000 square feet or less, without special qualification other than being registered as a New York State licensed PE or RA.

- Fees: Fees are established for special inspection agency registration.

\* \* \*

"Shall" and "must" denote mandatory requirements and may be used interchangeably in the rules of this department.

Matter underlined is new. Matter [in brackets] is deleted.

\* \* \*

Section 1. Subdivision (a) of Section 101-06 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(a) **Definitions.** For the purposes of this chapter, the following terms [shall] will have the following meanings:

(1) **Accreditation.** Evaluation of agencies, including testing and calibration laboratories, fabricators and inspection bodies, against internationally acceptable standards to demonstrate their performance capability. Such accreditation is required to be conducted by a nationally recognized accreditation agency accrediting to the ASTM E329-07 or ISO 17020-98 international standard, the requirements of this rule, and approved by the department.

(2) **Accreditation Deadline.** Twelve months from the effective date of this rule.

(3) **Approved Construction Documents.** For the purpose of this rule approved construction documents [shall] will include any and all documents that set forth the location and entire nature and extent of the “work” proposed with sufficient clarity and detail to show that the proposed work conforms to the provisions of this code and other applicable laws and rules. Such documents [shall] will include but not be limited to shop drawings, specifications, manufacturer’s instructions and standards that have been accepted by the design professional of record or such other design professional retained by the owner for this purpose.

(4) **Approved Inspection Agency.** This term has the same definition as established in section 28-101.5 of the Administrative Code

[(3)] (5) **Certification.** Documented acknowledgment by a nationally recognized organization of a technician’s competency to perform certain functions.

[(4)] (6) **Commissioner.** [The commissioner of buildings or his or her designee] This term has the same definition as established in section 28-101.5 of the Administrative Code.

[(5)] (7) **Department.** [The department of buildings] This term has the same definition as established in section 28-101.5 of the Administrative Code.

[(7)] (8) **Floor Area, Gross.** This term has the same definition as established in section 1002.1 of the Building Code.

[(8)] (9) **Full Demolition.** This term has the same definition as established in section 3302.1 of the Building Code (Demolition, Full).

[(6)] (10) **Initial** [acceptable qualifications] **Acceptable Qualifications.** With respect to supplemental special inspectors for which Appendix A of this rule requires a certification, such technician [shall] will be deemed qualified without such certification provided that such individual has the underlying skills, education and training for which such certification would provide validation, and the relevant experience prescribed by Appendix A of this rule or by the certifying body.

[(7)] (11) **Job.** A construction project that is the subject of one (1) or more department-issued permits.

[(11)] (12) **Major Building.** This term has the same definition as established in section 3310.2 of the Building Code.

[(8)] (13) **Materials.** Materials, assemblies, appliances, equipment, devices, systems, products and methods of construction regulated in their use by this code or regulated in their use by the 1968 building code.

[(9)] (14) **New York City Construction Codes.** The New York City Plumbing Code, the New York City Building Code, the New York City Mechanical Code, the New York City Fuel Gas Code, and Title 28, chapters 1 through 5 of the Administrative Code. Any reference to “this code” or “the code” [shall] will be deemed a reference to the New York City Construction Codes as here defined.

[(14)] (15) **Partial Demolition.** This term has the same definition as established in section 3302.1 of the Building Code (Demolition, Partial).

[(10)] (16) **Registered Design Professional.** A New York State licensed and registered architect (RA) or a New York State licensed and registered professional engineer (PE).

[(11)] (17) **Registered Design Professional of Record.** The registered design professional who prepared or supervised the preparation of applicable construction documents filed with the department.

[(17)] (18) **Registration Deadline.** Six months from the effective date of this rule.

[(12)] (19) **Relevant Experience.** Direct participation and practice related to the underlying construction activities that are the subject of the special inspection where such participation has led to accumulation of knowledge and skill required for the proper execution of such inspection.

[(13)] (20) **Special Inspection.** Inspection of selected materials, equipment, installation, methods of construction, fabrication, erection or placement of components and connections, to ensure compliance with [the code] approved construction documents and referenced standards as required by Chapter 17 of the Building Code or elsewhere in the code or its referenced standards.

[(14)] (21) **Special Inspection Agency.** An approved inspection agency employing one (1) or more persons who are special inspectors and that has met all requirements of this rule.

[(21)] (22) **Special Inspection Category.** The specific type(s) of special inspection(s) that a special inspection agency may perform in accordance with Appendix A of this rule.

[(15)] (23) **Special Inspector.** An individual employed by a special inspection agency, who has the required qualifications[,] set forth in this rule to perform or witness particular special inspections required by the code or by the rules of the department, including but not limited to a qualified registered design professional.

[(16)] (24) **Supervise/Supervision.** With respect to a designated Primary Inspector or Inspection Supervisor as indicated in Appendix A, supervision [shall] will mean oversight and responsible control by a registered design professional having the necessary qualifications and relevant experience to perform responsibilities associated with the special inspection. Such supervision [shall] will include ensuring training and/or education necessary to qualify the special inspector for his or her duties, including continued training and education necessary to keep pace with developing technology.

Field supervision [shall] will include responsibility for determining competence of special inspectors for the work they are authorized to inspect and on-site monitoring of the special inspection activities at the job site to assure that the qualified special inspector is performing his or her duties when work requiring inspection is in progress.

With respect to a [Director] director of a Special Inspection Agency, supervision [shall] will mean oversight and responsible control by a registered design professional who [shall] must ensure that qualified inspectors are dispatched for special inspections, that such special inspectors properly document their activities, and that reports and logs are prepared in accordance with section 28-114.2 of the Administrative Code. Such supervision [shall] will include ensuring training and/or education necessary to qualify the special inspector for his or her duties, including continued training and education necessary to keep pace with developing technology.

[(17)] (25) **Technician.** An employee of the inspection or testing agency assigned to perform the actual operations of inspection or testing. See ASTM E 329-07, paragraph 3.1.17.

[(18)] (26) **Work.** The construction activity including techniques, tests, materials and equipment that is subject to special inspection.

§ 2. Paragraph (2) of Subdivision (b) of Section 101-06 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(2) **Obligation to Avoid Conflict of Interest.** A special inspector and/or a special inspection agency [shall] must not engage in any activities that may conflict with their objective judgment and integrity, including but not limited to having a financial and/or other interest in the construction, installation, manufacture or maintenance of structures or components that they inspect. It is not, in and of itself, a conflict of interest for a registered design professional of record to perform a special inspection(s) on the project he or she designed.

§ 3. Subdivision (b) of Section 101-06 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new paragraph (10) to read as follows:

(10) **Service of process.** All special inspection agencies must have an agent for the acceptance of service or maintain a New York City address. A Post Office Box will not be acceptable for such purposes. All agencies must comply with the requirements of this paragraph upon registration.

§ 4. Subdivision (c) of Section 101-06 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(c) **Registration of Special Inspection Agencies.**

(1) [Effective Date. On or after the effective date of this rule, all agencies including single person agencies performing special inspections must comply with the requirements of this section.] **General.** All [such] agencies performing special inspections must be registered with the department as special inspection agencies by [January 1, 2009] the registration deadline unless extended by the commissioner, as provided in paragraph (c)(9) of this rule.

(2) **Form and Manner of Registration.** An application for registration [shall] must be submitted in a form and manner determined by the commissioner, including electronically, and [shall] must provide such information as the commissioner may require. Such registration [shall] will be deemed an acknowledgement by the special inspection agency of its obligations hereunder.

(i) **Registration of Special Inspection Categories.** Agencies must register for each special inspection category that the agency intends to perform.

(ii) **Registration of Special Inspection Classes.** Agencies must register as class 1, class 2, or class 3 special inspection agencies for each special inspection category for which the agency registers.



(A) **Class 1.** An agency registered as a Class 1 special inspection agency for a special inspection category will be permitted to perform the work associated with such special inspection category on any project.

(B) **Class 2.** An agency registered as a Class 2 special inspection agency for a special inspection category will be permitted to perform the work associated with such special inspection category on any project, except those involving:

1. The construction of a new major building;
2. The full demolition of a major building;
3. The alteration of a major building including:
  - a. The removal of an entire story or more;
  - b. The partial demolition of twenty thousand (20,000) square feet or more of gross floor area; or
  - c. The partial demolition of twenty (20) percent or more of the gross floor area.
4. The enlargement of a major building by more than ten thousand (10,000) square feet of gross floor area.

(C) **Class 3.** An agency registered as a Class 3 special inspection agency for a special inspection category will be permitted to perform the work associated with this category on the following projects only:

1. The construction, demolition, or alteration of a one-, two-, or three-family dwelling; or
2. The alteration of any building, including partial demolition, of less than ten thousand (10,000) square feet of gross floor area in total.

Exception: The special inspection categories of underpinning, mechanical means and methods of demolition, and the protection of the sides of excavations greater than ten (10) feet in depth must be performed only by special inspection agencies

registered as either class 1 or class 2 special inspection agencies for such categories.

(3) [Qualifications. Special inspection] **Agency Accreditation.** For class 1 special inspection agencies only, accreditation is required by the accreditation deadline in order to maintain their class 1 registration status. [Such] These agencies [shall] will be required to demonstrate accreditation for their intended scope of work by [International Accreditation Service, Inc. or] an [equivalent accreditation agency] approved accrediting body accrediting to the standards set forth in this rule and either ASTM E329-07 or [a federal agency] ISO 17020-98. Accrediting [agencies] bodies[,] other than federal agencies [must] are required to operate in accordance with ISO 17011 and must be members of an internationally recognized cooperation of laboratory and inspection accreditation bodies subject to a mutual recognition agreement.

[Agencies must insure] (4) **Qualifications.** All special inspection agencies must ensure that the special inspectors employed by the agency meet the qualification requirements set forth in Appendix A of this rule and perform special inspections only within the area of expertise for which such special [inspector is] inspectors are qualified. A Professional Engineer who is listed in Appendix A as requiring qualification in civil, structural, mechanical, electrical, fire protection, geotechnical or such other designation [shall] must have had the education, training and experience[, including having passed the Principles and Practice of Engineering examination offered by the National Council of Examiners for Engineering and Surveying (NCEES) in the specific discipline or having obtained a bachelors degree in the specific field,] that has led to an accumulation of knowledge and skill required for the Professional Engineer to hold himself/herself out as a professional practicing in that field.

[(4)] (5) **Insurance.** [A] All special inspection [agency] agencies must have the following insurance coverage:

- (i) Professional liability/errors and omissions insurance policy[, for the minimum amount of five hundred thousand dollars (\$500,000.00), [occurrence] claim-based, for the term of the registration.

Exception: An agency that is limited to performing fuel-oil storage and fuel-oil piping inspections, fire alarm tests, sprinkler systems, standpipe systems, emergency power systems and/or site storm drainage disposal and detention system installation special inspections, and whose director is not a registered design professional, will be exempt from obtaining professional liability insurance coverage. This

exception applies so long as the director maintains the insurance requirements required for his/her respective license in accordance with Chapter 4 of Title 28 of the Administrative Code.

(ii) [General liability insurance policy for the minimum amount of one million dollars (\$1,000,000.00) and] Insurance required by the provisions of the New York State Workers' Compensation and disability benefits [law and other applicable provisions of the workers' compensation law] laws.

[(5)] (6) **Agency Structure.** [The] A special inspection agency [shall] must have [a] one primary and up to four (4) alternative full-time [director] directors who [is a] are registered design [professional] professionals in [responsible] charge and all special inspections [shall] must be performed under [his or her] their direct supervision. The [director] directors [shall] must not be retained by any other agency that provides special inspection or testing services. The [director shall] directors must possess relevant experience in the inspection and testing industry and hold [a] management [position] positions in the agency. The agency structure [shall] must comply with all relevant New York State and Federal laws. Notwithstanding anything to the contrary set forth in this paragraph, an agency that is limited to conducting fuel-oil storage and fuel-oil piping inspections [(BC1704.16)], fire alarm tests, sprinkler systems [(BC1704.21)], standpipe systems [(BC1704.22)], emergency power systems or site storm drainage disposal and detention [(BC1704.20)] may have [a director] directors who [satisfies] satisfy the requirements of inspection supervisor for such tests and inspections as set forth in Appendix A of this rule.

[(6)] Small Building Exception. Notwithstanding anything to the contrary set forth in the provisions of this rule and its appendix, with respect to jobs in connection with the construction or alteration of Occupancy Group R-3 buildings, 3 stories or less in height, a registered design professional with relevant experience shall be qualified to perform special inspections other than inspections involving soils investigations, pier and pile installation, underpinning of structures, and protection of the sides of excavations greater than 10 feet in depth.]

(7) **Audits.** The operations of special inspectors and special inspection agencies [shall] will be subject to audit by the department at any time. Audits may [examine] involve the examination of applications for registration as well as the performance and documentation of special inspections. Audits may also be conducted upon receipt of complaints or evidence of falsification, negligence or incompetence.

(8) [Interim Status and Application Deadlines. An] **Performance of Special Inspections Prior to Registration Deadline.** Except as otherwise determined by the commissioner, an agency [employing special inspector(s) with initial acceptable qualifications shall] will be entitled until [July 1, 2010] the registration deadline to perform those special inspections for which it is qualified, subject to the following requirements:

(i) The agency must certify compliance with this rule on such form as the commissioner may require and must file such certification with the department prior to performing any special inspections after the effective date of this rule and until the registration deadline.

(ii) [The agency] Class 1 special inspection agencies only must diligently pursue accreditation as a special inspection agency [pursuant to the provisions of section] in accordance with subdivision (c)(3) of this rule.

(iii) [Notwithstanding anything to the contrary set forth in this rule and Appendix A, an individual who satisfies all requirements set forth in Appendix A to qualify as a special inspector except for the required national certification shall be deemed a special inspector until July 1, 2009 provided that such individual meets the initial acceptable qualifications. In order to continue as a special inspector beyond July 1, 2009, such individual shall obtain the certification required in Appendix A.] Special inspectors employed by a special inspection agency must satisfy all requirements in Appendix A.

[(iv) The agency shall certify such initial acceptable qualifications on such form as the department may require and shall file such certification with the department prior to performing any special inspections after the effective date of this rule.]

(9) [Additional Powers of the Commissioner. Notwithstanding anything to the contrary set forth in the provisions of this rule, the commissioner may upon a determination of good cause extend the interim status of qualifications for any specific special inspection agency to a date beyond July 1, 2010 but in no event later than July 1, 2011.

(i) In the event the agency has failed by January 1, 2010 to receive the accreditation required by section (c)(8)(i) of this rule, the agency may apply to the commissioner who may, upon the showing of good cause by the agency, grant an extension of time and allow the continuance of the interim status of such agency, but in no event later than January 1, 2011.

(ii) The requirements and standards prescribed in this rule shall be subject to variation in specific cases by the commissioner, or by the Board of Standards and Appeals, under and pursuant to the provisions of paragraph two of subdivision (b) of section six hundred forty-five and section six hundred sixty-six of the New York City Charter, as amended.]

[(10)] **Registration Term.** [An initial registration issued under this rule is valid until July 1, 2010 unless otherwise extended by the commissioner in accordance with section (c)(9) of this rule. A renewal or initial registration issued after July 1, 2010 is valid for three years from the date of issuance] 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.

[(11)] (10) **Registration Fees.** [The department shall charge the following registration fees:] Fees will be those set forth in section 101-03 of these rules.

- [(i)] A one (1) year initial fee of \$35;
- (ii) A triennial renewal fee of \$35; and
- (iii) A later renewal surcharge of \$35.]

[(12)] (11) **Renewals.** A renewal application [shall] must be submitted between [thirty] sixty [(30)] (60) and [sixty] ninety [(60)] (90) days prior to the expiration date of the registration and [shall] must be accompanied by proof that the agency has, during the one (1) year period immediately preceding renewal, maintained all certifications/accreditations and other requirements set forth in this rule and its Appendix.

- (i) Renewal [shall] will be precluded where there has been a finding by the commissioner that any special inspection or test conducted by the special inspector or special inspection agency has not been performed in accordance with the requirements set forth in the code, applicable reference standards or the rules of the department, or where there has been a finding by the commissioner of fraud or misrepresentation on any document or report submitted to the department by the special inspector or special inspection agency.
- (ii) No special inspector or special inspection agency [shall] will perform an inspection or test with an expired or lapsed registration.

§ 5. The “Small Building Special Inspections” Special Inspection Category of Appendix A of Section 101-06 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

[Small Building] <u>Class 3 Special Inspections</u> ([Group R-3, 3 stories or less in height] <u>Small Projects</u> ) <sup>3</sup>		<ul style="list-style-type: none"> <li>• PE or RA; and</li> <li>• relevant experience</li> </ul>	[N/A] See <u>Technician requirements for relevant inspection.</u>	<ul style="list-style-type: none"> <li>• [Technician with relevant experience] See <u>Technician requirements for relevant inspection.</u></li> </ul>
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§ 6. The Notes to Appendix A of Section 101-06 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York are amended to read as follows:

Notes:

1. Abbreviations in the qualifications descriptions:
  - ACI – American Concrete Institute
  - AWS – American Welding Society
  - ICC – International Code Council
  - NEBB – National Environmental Balancing Bureau
  - NICET – National Institute for Certification in Engineering Technologies
  - PE – A New York State Licensed and Registered Professional Engineer
  - RA – A New York State Licensed and Registered Architect
2. Bachelor’s Degrees must be from an accredited institution or equivalent
3. [Small Building Inspections - For Group R-3 buildings, 3 stories or less in height, all special inspections may be performed by a qualified PE or RA or a qualified person under their direct supervision without the need for certification by the department, with the exception of the special inspection of the following operations:
  - a. Soils Investigations
  - b. Pier and Pile installation
  - c. Underpinning of structures
  - d. Protection of the sides of excavations greater than 10 feet in depth]

Class 3 Special Inspections. An agency registered as a Class 3 special inspection agency for a special inspection category will be permitted to perform the work associated with such special inspection category on the following projects only:

  - a. The construction, demolition, or alteration of a one-, two-, or three-family dwelling; or
  - b. The alteration of any building, including partial demolition, altering less than ten thousand (10,000) square feet of gross floor area in total.

Exception: The special inspection categories of underpinning, mechanical means and methods of demolition, and the protection of the sides of excavations greater than ten (10) feet in depth will be

performed only by special inspection agencies registered as either class 1 or class 2 special inspection agencies for such categories.

§7. Section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

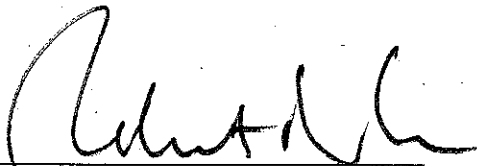
<u>Special inspection agency registration.</u>	<u>Initial:</u> <u>\$200 plus a \$30</u> <u>endorsement fee per</u> <u>special inspection</u> <u>category</u>	<u>Renewal:</u> <u>\$90 plus a \$30</u> <u>endorsement fee per</u> <u>special inspection</u> <u>category</u>
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## 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 Section 28-112.8 of the New York City Administrative Code, that the Department of Buildings hereby adopts an amendment to Section 101-03 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding fees payable to the Department of Buildings.

This rule was first published on April 27, 2011 and a public hearing thereon was held on May 31, 2011.

Dated: 6/5/11  
New York, New York

  
Robert D. LiMandri  
Commissioner

### **Statement of Basis and Purpose of Rule**

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

This rule implements the fee structure provided for in Section 28-112.8 and Table 28-112.8 of the New York City Administrative Code by setting forth the "Accelerated inspection" fee which may be charged by the Department pursuant to that table.

The fee will cover departmental costs for the performance of accelerated inspections performed after hours at the request of the applicant.

Matter underlined is new.

Section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding the following entry to the end of the table set forth in that section:




<u>Accelerated inspection made necessary by a request for an after hours inspection.</u>	<u>\$95 each inspection plus \$50 for every 2,000 square feet of floor area, but not less than \$50 per story.</u>
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## 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 28-112.1, 28-112.7.1 and 28-112.8 of the New York City Administrative Code, that the Department of Buildings hereby amends Section 101-03 of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding fees payable to the Department of Buildings.

This rule was first published on December 16, 2010 and a public hearing thereon was held on January 19, 2011.

Dated: 2/14, 2011  
New York, New York



Robert D. LiMandri  
Commissioner

Section 101-03 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is hereby amended by adding the following entries to the end of the table set forth in that section:

<u>Reinspection made necessary by a failure to correct a condition or respond to a request to correct that results in issuance of a violation or other order.</u>	<u>\$85 each inspection</u>		
<u>On-site inspection of cranes application renewal.</u>	<u>\$100 each inspection</u>		
<u>Outrigger beam application review.</u>	<u>Initial:</u> <u>\$100</u>	<u>Amendment:</u> <u>\$100</u>	<u>Renewal:</u> <u>\$90</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.

This rule implements the fee structure provided for in sections 28-112.1, 28-112.7.1 and 28-112.8 of the New York City Administrative Code by setting forth the fees which may be charged by the Department pursuant to those sections.

This rule makes additions to the fee table in order to cover departmental costs for the performance of reinspections and certain application renewals and reviews required by the New York City Administrative and Construction Codes.

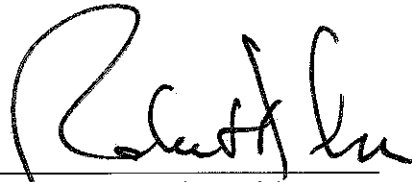
This amendment has an effective date of 01-28-11.

## 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 repeal of sections 32-01, 32-02 and 32-04 and renumbering and amendment of section 32-03 of Title 1 of the Official Compilation of the Rules of the City of New York regarding façade inspections.

This rule was first published on October 15, 2010 and a public hearing thereon was held on November 15, 2010.

Dated: Dec 20, 2010  
New York, New York

  
Robert D. LiMandri  
Commissioner

Section 1. Sections 32-01, 32-02 and 32-04 of title 1 of the rules of the city of New York, relating to the design and installation of curtain walls and panel walls, dangerous conditions of a building's exterior walls and appurtenances, and masonry parapet walls are hereby REPEALED.

§2. Section 32-03 of title 1 of the rules of the city of New York is hereby renumbered section 103-04.

§[32-03] 103-04 Periodic Inspection of Exterior Walls and Appurtenances of Buildings.

§3. The definition of *Acceptable report* set forth in subdivision a of section 103-04 of title 1 of the rules of the city of New York, as renumbered by this rule, is amended as follows and a new definition of *Filed report* is added between the definitions of *Critical examination* and *Filing window*, as follows:

**Acceptable report.** A technical examination report filed by a Qualified Exterior Wall Inspector that meets the requirements of the Administrative Code and this rule as determined and approved by the Department. [A report shall be deemed filed with the Department only when it has been submitted to, received, reviewed, and accepted by the Department.]

**Filed report.** A report shall be deemed filed with the Department when it has been received by the Department. The filed report shall be completed in accordance with the provisions of paragraph 3 of subdivision b of this section.

§4. Subparagraphs ii, iii and iv of paragraph 2 of subdivision b of section 103-04 of title 1 of the rules of the city of New York are amended as follows:

(ii) Such examination shall be conducted and witnessed by or under the direct supervision of a QEWI retained by [or on behalf of] the owner of the building or his or her representative.

(iii) The QEWI shall [determine] design an inspection program for the specific building to be inspected, which shall include, but not be limited to, the methods to be employed in the examination.[, but he/she] The inspection program shall be based on considerations of the type of construction of the building's envelope, age of the material components, the façade's specific exposure to environmental conditions and the presence of specific details and appurtenances. Consideration shall be given to the facade's history of maintenance and repairs as described in previous reports and submittals to the department.

Except as provided in subparagraph viii of paragraph 2 of subdivision b of this section, the QEWI need not be physically present at the location [where]when the examination is made. [Under] Architects, engineers, tradesmen and technicians, working under the QEWI's direct supervision, [technicians, tradesmen, contractors, and engineers-in-training] may be delegated to perform selected inspection tasks[. These individuals need not be in the QEWI's employ] only when they are employees or subcontractors of the QEWI.

(iv) The methods used to examine the building shall permit a complete inspection of same. Except as herein required, the use of a scaffold or other observation platform is preferred, but the QEWI may use other methods of inspection as he/she deems appropriate. A physical examination from a scaffold or other observation platform (a “close-up inspection”) is required for a representative sample of the exterior wall. The QEWI shall determine what constitutes a representative sample. The representative sample shall include at least one physical examination along a path from grade to top of an exterior wall on a street front using at least one scaffold drop or other observation platform configuration, including all setbacks.

§5. Paragraph 2 of subdivision b of section 103-04 is amended by adding a new subparagraph viii to read as follows:

(viii) Completion of a critical examination shall mean that the QEWI has conducted a final physical inspection to determine that the building conditions as described in the report are consistent with the actual conditions. Such final inspection shall, at a minimum, include an actual visual examination and a walk around with binoculars or other inspectorial equipment. A drive-by inspection is not acceptable.

§6. Subparagraph i of paragraph 3 of subdivision b of section 103-04 is amended as follows:

(i) The QEWI shall [submit to] file with the Department and submit a copy to the owner of the building a written report [as to] describing the result of the critical examination, clearly documenting all conditions noted during the inspection and stating that the inspection was performed and completed in accordance with the Administrative Code and this rule. A separate acceptable report must be prepared and filed for each building, even if it shares a Block and Lot number with other structures.

§7. Items D, G, I, J, M(1), O and P of subparagraph iii of paragraph 3 of subdivision b of section 103-04 are amended as follows:

(D) A detailed description of any settlements, repairs, or revisions to exterior enclosures since the previous report[, if available];

(G) A [report of all]description and classification of each significant condition[s] observed, including:

1. [Significant] deterioration and any movement detected; and
2. [A statement concerning] the apparent water-tightness of the exterior surfaces[;],

[3. A classification of each]Each condition shall be classified as safe, unsafe or SWARMP[;]. If the building is classified as “safe,” all conditions noted during examination that require monitoring and/or routine maintenance, including, but not limited to, minor rusting at ground floor exit door, caulking exterior joints and repair of flashing at cant strip shall be included. If the building is classified as “SWARMP” or unsafe, the report shall include the locations and descriptions of all SWARMP or unsafe conditions.

[4. The deleterious effect, if any, of]The observation shall also include the condition of the exterior appurtenances, including, but not limited to, exterior fixtures, flagpoles, signs, parapets, copings, guard rails, window frames (including hardware and lights), balcony enclosures, window guards, window air conditioners, flower boxes[,] and [communications] any equipment attached to or protruding from the façade. The condition of window air conditioners may not be designated as SWARMP[; and].

[5. If the classification of the building is “safe,” all conditions noted during examination that require monitoring and/or routine maintenance, including, but not limited to, minor rusting at ground floor exit door, caulking exterior joints and repair of flashing at cant strip.]

[6. A list of locations and descriptions of all SWARMP and unsafe conditions.]

(I) [The] A detailed status [of the exterior maintenance] report of maintenance work performed up to the date of submission of the report;

(J) A comparison of currently observed conditions with conditions observed during the previous report filing cycle examinations, including the status of the repairs or



maintenance performed with respect to the prior conditions. The following shall be [listed in the comparison] included and discussed:

1. Work permit numbers relating to façade repairs, including permits for sheds;
2. Job numbers, status and sign-off dates for any façade related jobs, where applicable; and
3. Violation numbers of any open Environmental Control Board (“ECB”) façade violations and the status of the repairs of the conditions cited in the ECB violations;

(M) 1. Color [P]photographs of the primary house number and at least one view of the entire street front elevation for all reports regardless of the building’s filing condition, and color photographs and sketches documenting [the location of] any conditions that are either unsafe or SWARMP and their locations. Photographs shall be at least 3” x 5” (76mm x 127mm) in size, unless otherwise requested by the Department. The photographs shall be dated and both the original photographs and all required copies shall be in color.

(O) The seal and signature of the QEWI under whose direct supervision the critical examination was performed.

[(P) Appendices.

1. BIS Property Profile Overview
2. ECB facade violation summary
3. ECB violation details for any facade-related violations
4. BIS Document Overview for facade-related alteration and shed applications]

§8. Subparagraphs i and iii, items A and B of subparagraph viii and subparagraph ix of paragraph 4 of subdivision b of section 103-04 are amended as follows:

- (i) The requirements of this rule shall apply to all buildings with exterior walls or parts thereof that are greater than six stories in height, including the basement, but not the cellar, as defined in the building code, and regardless of the information in the Certificate of

Occupancy. For buildings constructed on sloped sites that contain six (6) full stories plus one partial story where more than half the height of that partial story is above existing grade and/or adjacent to open areas (e.g., areaways, yards, ramps), the wall containing that partial story shall be subject to façade inspection. Conditions requiring façade inspections may also include other structures that add to the height of the building as per section BC 504. The Commissioner shall determine which additional buildings and/or parts thereof are required to file in accordance with this rule.

(iii) An acceptable report shall be filed within the applicable two-year filing window to avoid a late filing penalty, except for cycle seven, during which the applicable filing window shall be:

(A) two years for buildings that meet the requirements of item (A) of clause (v) of this paragraph,

(B) eighteen months for buildings that meet the requirements of item (B) of clause (v) of this paragraph and

(C) twelve months for buildings that meet the requirements of item (C) of clause (v) of this paragraph.

[The late filing penalty shall be two hundred fifty dollars (\$250) for each month until the report is accepted by the Department.]

(viii) If contiguous zoning lots under single ownership or management contain multiple buildings that are considered one complex where at least two buildings of more than six stories in height fall into different filing windows as described above in items (A), (B) and (C) of clauses (v) and (vi) of this paragraph, the owner or management shall choose one of the following report filing options:

(A) An acceptable report for each building to which this rule applies may be filed separately according to the filing window corresponding to the last digit of that individual building's block number; or

(B) The owner or his or her representative may choose one of the applicable filing windows and file a report for all of the buildings within that filing window, regardless of that building's individual filing window. The owner or his or her representative shall

inform the Department 180 days prior to the end of the assigned filing window if this option is chosen. If an owner or [management] representative chooses this option, the owner or [management] representative shall continue to file under this same filing window for the duration of [his, her or its control] the owner's ownership of the property.

(ix) A report shall be filed within sixty (60) days of the date on which the QEWI completed the critical examination, as defined in subparagraph viii of paragraph 2 of subdivision b of this section, but not more than one (1) year after completion of the close-up inspection. If the report is not acceptable and is rejected by the Department, a revised report shall be filed within forty-five (45) days of the date of the Department's rejection. Failure to submit a revised report addressing the Department's objections within one (1) year of the initial filing shall require a new critical examination, including a new close-up inspection.

§9. Subparagraphs i, ii and iii of paragraph 5 of subdivision b of section 103-04 are amended as follows:

(i) Upon filing a report of an unsafe condition with the Department, the owner of the building, his or her agent, or the person in charge of the building shall immediately commence such repairs or reinforcements and any other appropriate measures such as erecting sidewalk sheds, fences, and safety netting as may be required to secure the safety of the public and to make the building's walls and appurtenances thereto conform to the provisions of the Administrative Code.

(ii) All unsafe conditions shall be corrected within thirty (30) days from the [filing] submission of the critical examination report.

(iii) Within two weeks after repairs to correct the unsafe condition have been completed, the QEWI shall inspect the premises. The QEWI shall obtain permit sign-offs as appropriate and shall promptly file with the Department a detailed amended report stating the revised report status of the building, along with a filing fee as specified in the rules of the Department. Sheds or other protective measures shall remain in place until an amended report is accepted; however, the QEWI may request permission for the removal of the shed upon submission of a signed and sealed statement certifying that an inspection was conducted, the conditions were

corrected and the shed is no longer required. Permission to remove the shed may be granted in the Commissioner's sole discretion.

§10. Subparagraphs i and ii of paragraph 6 of subdivision b of section 103-04 are amended as follows:

(6) Conditions that are safe with a repair and maintenance program.

(i) The owner of the building is responsible for ensuring that the conditions described in the critical examination report as SWARMP are repaired and all actions recommended by the QEWI are completed within the time frame recommended by the QEWI, and are not left to deteriorate into unsafe conditions before the next critical examination. It is the owner's responsibility to notify the Department of any deviation from the timeframe to make corrections as specified in the QEWI's report. Such notification shall be accompanied by supporting documents from the QEWI justifying the request for a new time frame. The department may approve or disapprove such request.

(ii) A report may not be filed describing the same condition and pertaining to the same location on the building as SWARMP [for the same building] for two consecutive report filing cycles.

§11. Subdivision c of section 103-04 is re-lettered subdivision d and a new subdivision c is added to read as follows:

(c) Civil penalties.

(1) Failure to file. An owner who fails to file the required acceptable inspection report shall be liable for a civil penalty of one thousand dollars (\$1,000) per year immediately after the end of the applicable filing window.

(2) Late filing. In addition to the penalty for failure to file, an owner who submits a late filing shall be liable for a civil penalty of two hundred fifty dollars (\$250.00) per month, commencing on the day following the filing deadline of the assigned filing window period and ending on the filing date of an acceptable initial report.

(3) In addition to the penalties provided in this section, an owner who fails to correct an unsafe condition shall be liable for a civil penalty of one thousand dollars (\$1,000) per month, pro-rated daily, until the unsafe condition is corrected, unless the commissioner grants an extension of time to complete repairs pursuant to this section. This penalty shall be imposed until receipt of an acceptable amended report by the department indicating the unsafe conditions were corrected or an extension of time is granted.

(4) Challenge of civil penalty.

(i) An owner may challenge the imposition of any civil penalty authorized to be imposed pursuant to this subdivision by providing proof of compliance. Examples of such proof shall include, but are not limited to, a copy of an acceptable initial report, a copy of the acceptable amended report, copies of approved extension of time requests while work was/is in progress or written proof from a QEWI that the unsafe conditions observed at the building were corrected and the violation was dismissed.

(ii) Challenges shall be made in writing within thirty (30) days from the date of service of the violation by the department and sent to the office/unit of the department that issued the violation. The decision to dismiss or uphold the penalty shall be at the sole discretion of the department.

§12. Paragraph 1 of subdivision d of section 103-04 is amended by adding a new subparagraph iii to read as follows:

(iii) An owner may be granted a waiver of penalties upon submission of a copy of a bankruptcy petition, together with proof that either the department or the New York City Law Department was served with a “Notice of Bar Date.”

§13. Section 101-03 of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York is amended to add the following fees at the end of the table set forth in that section, to read as follows:

§101-03 Fees payable to the Department of Buildings. The department shall be authorized to charge the following fees:

<u>Façade inspection reports</u>	
• <u>Initial filing</u>	<u>\$265</u>
• <u>[Application for amendment]Amended/subsequent filing</u>	<u>\$100</u>
• <u>Application for extension of time to complete repairs</u>	<u>\$135</u>

### **STATEMENT OF BASIS AND PURPOSE**

The foregoing 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 and section 28-302.2 of the New York City Administrative Code.

Sections 32-01, 32-02 and 32-04 are being repealed because their provisions are now covered in the building code or in this rule.

Rule 32-03 is renumbered to conform to the new rule numbering scheme the department is now using. It is also amended to clarify some provisions that were unaddressed in the previous amendment. These include: separating filing of a report from acceptance of a report by the department in order to clarify that the reporting requirement is satisfied when the department determines the report meets all Code requirements, as opposed to being satisfied upon the mere filing of the report, which could contain errors or omissions; specifying the duties of a QEWI; defining what constitutes a critical examination and when a new one should be performed; and clarifying how stories are counted on buildings constructed on sloped sites, for the purpose of determining the applicability of this rule. These changes address issues that have arisen since the rule was amended in 2009.

The rule replaces Technical Policy and Procedure Notice #5/99, which addresses which exterior building walls are exempt from or subject to inspections.

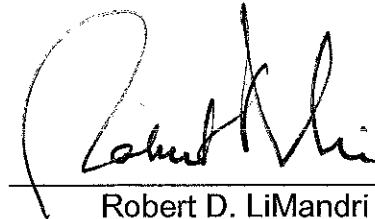
The rule is also amended to add penalties for failure to file a report and a penalty for failure to correct an unsafe condition. In addition, filing fees are added to cover the administrative costs of the program.

## 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 101-03 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding fees.

This rule was first published on June 10, 2010 and a public hearing thereon was held on July 12, 2010.

Dated: 8/10/10  
New York, New York

  
Robert D. LiMandri  
Commissioner

Section 101-03 of Title 1 of the Rules of the City of New York is amended by adding the following entry at the end of the table set forth in that section:

<u>Technical report filings</u> <ul style="list-style-type: none"><li>• <u>Concrete</u></li></ul>	<u>\$130 per filing</u>
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## 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.



This rule implements the fee structure provided for in section 28-112.8 of the NYC Administrative Code by setting forth the fees which may be charged by the Department pursuant to that section.

This amendment adds a fee to cover the current costs of processing technical reports relating to concrete, including the examination, inspection and testing performed to examine the results of concrete operations involving the placement, sampling, and testing of concrete and concrete mixture designs.

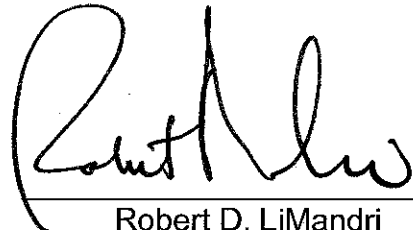
This rule establishes the filing fee for each filing of a concrete technical report.

## 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 101-03 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding fees.

This rule was first published on February 2, 2010 and a public hearing thereon was held on March 10, 2010.

Dated: 3/12/2010  
New York, New York



Robert D. LiMandri  
Commissioner

Section 101-03 of Title 1 of the Rules of the City of New York is amended as follows:

§101-03 Fees payable to the Department of Buildings. The department shall be authorized to charge the following fees:

[Microfilming of applications for new buildings and alterations and associated documentation for certificates of occupancy, temporary certificates of occupancy and/or letters of completion, as required by rule of the commissioner.]	[\$35]
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<u>Records management fee for applications for new buildings and alterations and associated documentation.</u> <ul style="list-style-type: none"> <li><u>Exception: Applications that are exempt from fees in accordance with section 28-112.1 of the administrative code</u></li> </ul>	<u>\$45 for one-, two- or three-family dwellings</u>  <u>\$165 for all other types of buildings</u>
<u>Boiler filings</u> <ul style="list-style-type: none"> <li><u>Affirmation of correction</u></li> <li><u>Filing extension</u></li> <li><u>Removal or disconnection</u></li> <li><u>Waiver of penalties</u></li> </ul>	<u>\$30</u> <u>\$15</u> <u>\$45</u> <u>\$30</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.

This rule implements the fee structure provided for in section 28-112.8 of the NYC Administrative Code by setting forth the fees which may be charged by the Department pursuant to that section.

This amendment makes corrections and additions to the fee table in order to bring the fees in line with current costs of records management, including scanning, imaging, off-site storage and microfilming.

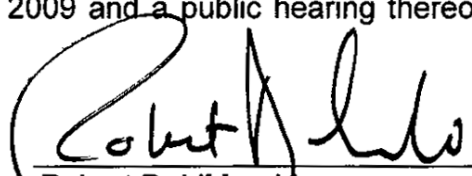
This rule also establishes fees for various types of boiler filings that are required by rule.

## 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 27-3014, 27-3018, 28-112.1, 28-112.7.2, 28-112.8 and 28-401.15 of the NYC Administrative Code, that the Department of Buildings hereby renumbers and amends Sections 100-02 and 100-03 of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding fees of the Department of Buildings.

This rule was first published on February 2, 2009 and a public hearing thereon was held on March 6, 2009.

Dated: 3/10/09, 2009  
New York, New York

  
Robert D. LiMandri  
Commissioner

Section 1. Section 100-02 of Title 1 of the Rules of the City of New York is hereby renumbered as section 101-02.

§2. Section 100-03 of Title 1 of the Rules of the City of New York is hereby renumbered as section 101-03.

§3. Section 101-03 of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, as renumbered by section 2 of this rule, is amended to read as follows:

§10[0]1-03 Fees payable to the Department of Buildings. The department shall be authorized to charge the following fees:

[Equipment inspection fee:  □ High-pressure boiler periodically inspected as provided by section 28-303.10]	[\$65 for each inspection, for each boiler.]
Periodic inspection or Reinspection [fee] of high-pressure boilers, low-pressure boilers and elevators following a violation.	\$65 <u>per device</u>
Acknowledgement.	\$2 each
Certificate of occupancy.	\$5 per copy
Certificate of pending violation: Multiple and private dwellings.	\$30 per copy
Certified copy of license.	\$5 per copy
Microfilming of applications for new buildings and alterations and associated documentation for certificates of occupancy, temporary certificates of occupancy and/or letters of completion, as required by rule of the commissioner.	\$35
Preparing only or preparing and certifying a copy of a record or document filed in the department, other than a plan, certificate of occupancy or certificate of pending violation.	\$8.00 for the first page and \$5.00 for each additional page or part thereof (a page consists of one face of a card or other record)[.]

Half-size print from microfilm of a plan thirty-six by forty-eight inches or less.	\$8.00 per copy	\$5.00 per additional copy		
Half-size print from microfilm of a plan exceeding thirty-six by forty-eight inches.	\$16.00 per copy	\$5.00 per additional copy		
Electrician's license.	[Original] <u>Initial:</u> \$310	Renewal: \$90	Late- Renewal: [\$310 + \$90] \$400 (initial fee plus renewal fee)	Reissu[er]ance: \$[310] <u>50</u>
License examination fee:	<u>\$350</u>			
<ul style="list-style-type: none"> <li>Elevator agency director certificate of approval.</li> <li>Elevator agency inspector certificate of approval.</li> <li><u>Site safety manager certificate.</u></li> </ul>	[\$350] [\$350]			
<u>Private elevator inspector certification.</u>	<u>Initial:</u> \$50	<u>Renewal:</u> \$75 <u>triennially</u>	<u>Late-renewal:</u> \$50	<u>Reissuance:</u> \$50
<u>Private elevator inspection agency certification.</u>	<u>Initial:</u> \$100	<u>Renewal:</u> \$150 <u>triennially</u>	<u>Late-renewal:</u> \$50	<u>Reissuance:</u> \$50
<u>Elevator agency director/co-director license.</u>	<u>Initial:</u> \$100	<u>Renewal:</u> \$150	<u>Late-renewal:</u> \$50	<u>Reissuance:</u> \$50
<u>Elevator inspector license.</u>	<u>Initial:</u> \$50	<u>Renewal:</u> \$75	<u>Late-renewal:</u> \$50	<u>Reissuance:</u> \$50

<u>Concrete safety manager registration.</u>	<u>Initial:</u> <u>\$150</u>	<u>Renewal:</u> <u>\$100</u>	<u>Late-renewal:</u> <u>\$50</u>	<u>Reissuance:</u> <u>\$50</u>
<u>Electrical permit initial application (excluding minor work).</u>	<u>\$40</u>			
<u>Electrical permit (excluding minor work).</u>	<u>Fee per unit (NOTE: The total additional fee is computed by calculating the sum of the units. The total additional fee, due prior to electrical sign-off or as otherwise provided by the department's rules, shall not exceed five thousand dollars):</u>			
<ul style="list-style-type: none"><li><u>Each outlet, each fixture, each horsepower or fraction thereof of a motor or generator, each kilowatt or fraction thereof of a heater, each horsepower or fraction thereof of an air conditioner, each kilovolt-ampere or fraction thereof of a transformer installed, altered or repaired shall be assigned the value of one unit:</u></li></ul>				
<u>1 - 10 units</u>	<u>\$0</u>			
<u>Over 10 units</u>	<u>\$.25</u>			
<ul style="list-style-type: none"><li><u>For each service switch installed, altered or repaired:</u></li></ul>				
<u>0-100 Amperes</u>	<u>\$ 8.00</u>			
<u>101-200 Amperes</u>	<u>\$30.00</u>			
<u>201-600 Amperes</u>	<u>\$105.00</u>			
	<u>\$225.00</u>			

<u>601-1200 Amperes</u>	<u>\$375.00</u>
<u>Over 1200 Amperes</u>	
• <u>For each set of service entrance cables and for each set of feeder conductors installed, altered or repaired:</u>	
<u>Up to #2 conductors</u>	<u>\$15.00</u>
<u>Over #2 to #1/0 conductors</u>	<u>\$30.00</u>
<u>Over #1/0 to 250 MCM</u>	<u>\$45.00</u>
<u>Over 250 MCM</u>	<u>\$75.00</u>
• <u>For each panel installed, altered or repaired:</u>	
<u>1 phase up to 20-1 or 10-2 pole cutouts or breakers</u>	<u>\$15.00</u>
<u>1 phase over 20-1 or 10-2 pole cutouts or breakers</u>	<u>\$37.50</u>
<u>3 Phase up to 225 amperes</u>	<u>\$50.00</u>
<u>3 Phase over 225 amperes</u>	<u>\$75.00</u>
	<u>\$40.00</u>
• <u>For each sign manufactured (in-shop inspections)..</u>	
• <u>For each sign manufactured (on-site inspections):</u>	
	<u>\$65.00</u>



<u>0 to 30 square feet</u> <u>31 to 60 square feet</u> <u>Over 60 square feet</u> <ul style="list-style-type: none"> <li>• <u>For each elevator:</u>  <u>10 floors or less</u>  <u>Every additional ten or fewer floors</u></li> <li>• <u>For wiring or rewiring boiler controls in buildings.</u></li> </ul>	<u>\$90.00</u> <u>\$115.00</u>  <u>\$125.00</u> <u>\$83.00</u>  <u>\$12.00</u>
<u>Electrical permit (minor work pursuant to Section 27-3018(h) of the Administrative Code).</u>	<u>\$15</u>
<u>Duplicate copy of notice of electrical violation.</u>	<u>\$5</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 rule implements the fee structure provided for in sections 27-3014, 27-3018, 28-112.1, 28-112.7.2, 28-112.8 and 28-401.15 of the NYC Administrative Code by setting forth the fees which may be charged by the Department of Buildings pursuant to those sections.

This amendment makes corrections and additions to the fee table in order to bring the fees in line with current costs and to consolidate all fees into one section.

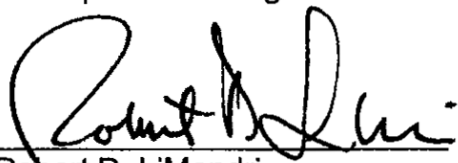
In addition, this amendment makes corrections to 1 RCNY rule section numbering to conform to the numbering scheme set forth in recent Construction Code-related rules.

## 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 100-03 to Subchapter B of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding the fee structure provided for in sections 28-112.1, 28-112.7.2, 28-112.8 and 28-401.15 of the NYC Administrative Code by setting forth the fees which may be charged by rule of the Department of Buildings pursuant to those sections. This rule also repeals Chapter 14 of Title 1 of the Official Compilation of the Rules of the City of New York, which set forth fees charged by rule of the Department of Buildings under the 1968 Building Code.

This rule was first published on March 27, 2008 and a public hearing thereon was held on April 30, 2008.

Dated: May 19, 2008  
New York, New York

  
Robert D. LiMandri  
Acting Commissioner

Section 1. Chapter 14 of Title 1 of the Official Compilation of the Rules of the City of New York, relating to fees of the Department of Buildings, is hereby REPEALED, and Subchapter A of chapter 100 of title 1 of the Rules of the City of New York is amended by adding a new section 100-03, to read as follows:

§100-03 Fees payable to the Department of Buildings. The department shall charge the following fees:

<u>Equipment inspection fee:</u>	
<input type="checkbox"/> <u>High-pressure boiler periodically inspected as provided by section 28-303.10</u>	<u>\$65 for each inspection, for each boiler.</u>
<input type="checkbox"/> <u>Reinspection fee following a violation.</u>	<u>\$65</u>
<u>Acknowledgement.</u>	<u>\$2 each</u>
<u>Certificate of occupancy.</u>	<u>\$5 per copy</u>
<u>Certificate of pending violation: Multiple and private dwellings.</u>	<u>\$30 per copy</u>
<u>Certified copy of license.</u>	<u>\$5 per copy</u>

<u>Microfilming of applications for new buildings and alterations and associated documentation for certificates of occupancy, temporary certificates of occupancy and/or letters of completion, as required by rule of the commissioner.</u>	<u>\$35</u>			
<u>Preparing only or preparing and certifying a copy of a record or document filed in the department, other than a plan, certificate of occupancy or certificate of pending violation.</u>	<u>\$8.00 for the first page and \$5.00 for each additional page or part thereof (a page consists of one face of a card or other record).</u>			
<u>Half-size print from microfilm of a plan thirty-six by forty-eight inches or less.</u>	<u>\$8.00 per copy</u>		<u>\$5.00 per additional copy</u>	
<u>Half-size print from microfilm of a plan exceeding thirty-six by forty-eight inches.</u>	<u>\$16.00 per copy</u>		<u>\$5.00 per additional copy</u>	
<u>Electrician's license.</u>	<u>Original</u> <u>\$310</u>	<u>Renewal</u> <u>\$90</u>	<u>Late</u> <u>Renewal</u> <u>\$310 +</u> <u>\$90</u>	<u>Reissue</u> <u>\$310</u>
License examination fee:  <input type="checkbox"/> <u>Elevator agency director certificate of approval.</u>  <input type="checkbox"/> <u>Elevator agency inspector certificate of approval.</u>	<u>\$350</u>  <u>\$350</u>			

§2. This rule shall take effect on July 1, 2008.

### STATEMENT OF BASIS AND PURPOSE

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

The proposed rule implements the fee structure provided for in sections 28-112.1, 28-112.7.2, 28-112.8 and 28-401.15 of the NYC Administrative Code by setting forth the fees which may be charged by rule of the Department of Buildings pursuant to those sections. This rule also repeals Chapter 14 of Title 1 of the Official Compilation of the Rules of the City of New York, which set forth fees charged by rule of the Department of Buildings under the 1968 Building Code.