



Promulgation Details for 1 RCNY 101-14

This rule became effective on October, 2, 2011.

This rule has an effective date of 10-02-11.

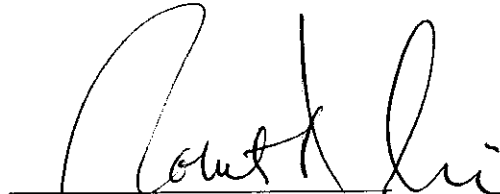
**NOTICE OF ADOPTION OF RULE**

**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 addition of Section 101-14 to Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding what types of work require a work permit.

This rule was first published on June 30, 2011 and a public hearing thereon was held on August 3, 2011.

Dated:

8/24/11  
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 of the New York City Charter and Section 28-105.4 of the New York City Administrative Code. The rule consolidates and clarifies the types of minor alterations and ordinary repairs that are exempt from work permit requirements. These exemptions will not grant authorization for work that violates, in any way, the provisions of this code, the zoning resolution or any other law or rules enforced by the department.

Under current law, a work permit is required unless that work consists of only minor alterations or ordinary repairs. This rule only addresses work defined as minor alterations or ordinary repairs, and therefore does not require the applicant to obtain a work permit.

By clearly defining what types of work need or do not need permits, applicants will have a better understanding of when to submit an application for a work permit.

The rule consolidates a series of department policies from departmental memoranda and policy and procedure notices. The rule also defines types of work that are exempt from a certificate of compliance because they are exempt from permit requirements (this expands upon the defined requirements of section 28-116.4.1).

Specifically, the changes are as follows below:

- Section 44-01 is being repealed because its provisions are now covered in this new section 101-14 (this proposed rule).
  - o Specifically, Tables 1(1), 1(2) and 1(3) of this proposed rule replace paragraphs (5), (1) and (4), respectively, of subdivision (a) of section 44-01.
  - o Table 1(3) of this proposed rule adds a new requirement to protect adjoining properties and structures during excavations for in-ground swimming pools.
  - o Table 1(4) and 1(5) of this proposed rule adds a new category of work exempt from permit that is not addressed by section 44-01.
- Table 2(I) of this proposed rule clarifies the work exempt from permit with respect to retaining walls and nursery structures which are typically located exterior to a building. This is in accordance with section 28-105.4
- Table 2(II) of this proposed rule reinstates requirements of section 27-184(a) of Title 27 of the Administrative Code, which were repealed by Local Law 33 of 2007.
- Table 2(II)(9) of this proposed rule adds a new category of work exempt from permit that clarifies the current department position for temporary installations of boilers.
- Table 2(III) and Table 2(IV) of this proposed rule add new categories of work exempt from permit for partitions and roofs.
- Table 3 of this proposed rule replaces the Department's Technical Policy and Procedure Notice #1/99.

**Section 1. Section 44-01 of Title 1 of the Rules of the City of New York is REPEALED.**

**§ 2. Subchapter A of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York is amended by adding a new Section 101-14 to read as follows:**

§101-14 Categories of work that may or may not require a permit.

(a) Scope. This rule establishes categories of work that may be classified as a minor alteration or ordinary repair and therefore may be exempt from the permit requirements of the New York city construction codes.

(b) References. See Administrative Code sections 28-105.1, 28-105.4, item 6 and 28-105.4.2.1.

(c) Compliance with code and other laws. Any exemptions outlined by this rule will not grant authorization for any work to be done in a manner that violates the provisions of this code, the New York City Energy Conservation Code, the Zoning Resolution or any other laws, rules, or regulations. Such exemptions shall not eliminate the obligation of any owner to file at other City agencies, when appropriate, including but not limited to the Landmarks Preservation Commission, the City Planning Commission, Department of Transportation, Department of Environmental Protection, Department of Environmental Conservation, or the Fire Department, nor shall it eliminate the obligation of any owner to file at the Department of Buildings for any related work, such as, for example, associated sidewalk protection, structural work, electrical connections, or plumbing connections.

(d) Categories of work that may be exempt from permit requirements. In addition to the categories of work exempted from the permit requirements of Section 28-105.1 pursuant to 28-105.4, items 1 through 5, the following categories of work may be considered minor alterations or ordinary repairs that may be exempt from permit requirements. The tables below list the types of minor alterations and ordinary repairs that are exempt from permit requirements and those that require a permit. The categories shown in Tables 1-3 below are not an exclusive list of all types of minor alterations or ordinary repairs that may be exempt from permit requirements.

**Table 1  
Work Exempt from Permit in One- and Two-family Dwellings**

<b><u>Building component or system (accessory to one- and two-family dwellings)</u></b>	<b><u>Permit required?</u></b>
<p><b><u>1. Sheds.</u></b>  <u>Temporary portable freestanding sheds erected on the same zoning lot as, and accessory to, a one- or two-family dwelling, provided that all of the following requirements are met:</u>  <u>(1) The shed shall not exceed 120 square feet in area and shall not be more than 7'6" in height; and</u>  <u>(2) The shed shall not obstruct any required window; and</u>  <u>(3) The shed shall not be located within 3 feet (915 mm) of any lot line; and</u>  <u>(4) The shed shall be used for storage of normal household goods, tools, or similar items; and</u>  <u>(5) There shall not be more than one such shed on any tax lot.</u></p>	<b><u>NO</u></b>

<b><u>Building component or system (accessory to one- and two-family dwellings)</u></b>	<b><u>Permit required?</u></b>
<b><u>2. Fences.</u></b> Fences 6 feet (1829 mm) or less in height, as measured from the higher of the two adjoining grades, in connection with one- and two-family dwellings.	<b><u>NO</u></b>
<b><u>3. Small swimming pools.</u></b> Outdoor in-ground or above-ground pools accessory to a one- or two-family dwelling limited to 400 square feet in area, provided that the distance from the edge of an in-ground pool to any building or lot line is greater than the depth of the deepest portion of the pool, and: <ul style="list-style-type: none"> <li>(1) there is an existing slop sink for indirect waste; or</li> <li>(2) a plumbing permit is obtained for the installation of such sink.</li> </ul>	<b><u>NO</u></b>
<b><u>4. Playground equipment.</u></b> Playground equipment accessory to a one- or two-family dwelling.	<b><u>NO</u></b>
<b><u>5. Packaged air-conditioning unit in existing buildings.</u></b> Packaged air-conditioning unit not exceeding 5 tons rated capacity, installed in an existing building, including installations in existing windows or in existing sleeves under windows, and that is not part of an alteration that otherwise requires a permit.	<b><u>NO</u></b>

**Table 2**  
**Work that may be Exempt from Permit in All Buildings**

	<b><u>Building component or system (all buildings)</u></b>	<b><u>Permit required?</u></b>
<b><u>I. Exterior structures</u></b>	<b><u>1. Retaining walls.</u></b> Retaining walls less than 4 feet (1219 mm) in height, measured from the top of the footing to the top of the wall, and the wall: <ul style="list-style-type: none"> <li>(1) does not support a surcharge; or</li> <li>(2) does not impound Class I, II or III-A liquids, as defined by section 307.2 of the New York City Building Code.</li> </ul>	<b><u>NO</u></b>
	<b><u>2. Nursery or agricultural shade cloth structures.</u></b> Shade cloth structures constructed solely for nursery or agricultural purposes, and not covering mechanical equipment, plumbing fixtures or automobiles.	<b><u>NO</u></b>
<b><u>II. Service equipment</u></b>	<b><u>1. Air conditioning and ventilating systems.</u></b> Air conditioning and ventilating system installed as a voluntary system, serving only one floor of a building, and that: <ul style="list-style-type: none"> <li>(1) does not use lot line openings for the intake or exhaust of air or the mounting of equipment; and</li> <li>(2) is not installed in any public hallway, passageway, or stairway; and</li> <li>(3) does not in any way reduce the ventilation of any room or space below that required by code provisions; and</li> <li>(4) does not penetrate any fire division, roof, floor, or wall.</li> </ul>	<b><u>NO</u></b>

	<b><u>Building component or system (all buildings)</u></b>	<b><u>Permit required?</u></b>
	<b><u>2. Packaged air-conditioning unit.</u></b> Packaged air-conditioning unit not exceeding 3 tons rated capacity, installed in an existing building, including installations in existing windows or in existing sleeves under windows, and that is not part of an alteration that otherwise requires a permit.	<b><u>NO</u></b>
	<b><u>3. Fuel-burning and fuel-oil storage.</u></b> Portable fuel-burning equipment that does not require a chimney or vent connection.	<b><u>NO</u></b>
	<b><u>4. Fuel-burning and fuel-oil storage during construction.</u></b> Portable heaters, having a fuel-storage capacity of 6 gallons or less, used in construction work.	<b><u>NO</u></b>
	<b><u>5. Fuel-burning and fuel-oil storage.</u></b> Oil-fired heaters, other than internal combustion engines, having a fuel-storage capacity of 6 gallons or less.	<b><u>NO</u></b>
	<b><u>6. Refrigerating systems.</u></b> Refrigerating systems twenty-five tons or less in capacity and using a Group A1 refrigerant.	<b><u>NO</u></b>
	<b><u>7. Refrigerating systems.</u></b> Refrigerating systems installed in a vehicle, railroad car, or vessel.	<b><u>NO</u></b>
	<b><u>8. Refrigerating systems.</u></b> Refrigerating systems that use water or air as the refrigerant.	<b><u>NO</u></b>
	<b><u>9. Temporary boilers.</u></b> Temporary boilers, whether placed on private property or on the street (related electrical and plumbing connections also require separate permits).	<b><u>YES</u></b>
<b><u>III. Interior partitions</u></b>	<b><u>1. Non-fire-rated and non-load-bearing wall, temporary removal.</u></b> Where the cutting away and <i>temporary</i> removal of any portion of a non-load-bearing, non-fire rated partition is limited to the lesser of 50% of a given wall or 45 square feet in area, and where at the completion of work the partition is restored to its original condition.	<b><u>NO</u></b>
	<b><u>2. Non-fire-rated and non-load-bearing wall, permanent removal in Group R occupancies.</u></b> In Group R occupancies, where the cutting away and <i>permanent</i> removal of any portion of a non-load-bearing, non-fire-rated partition is limited to the lesser of 50% of a given wall surface or 45 square feet in area.  <i>Exception:</i> a permit shall be required where the cutting away and permanent removal of any size occurs in a dwelling unit satisfying either of the following conditions:  i. <u>The dwelling unit is located in any of the following areas**:</u>  a. <u>Special Hudson Yards District</u> b. <u>Preservation Area P-2 of the Special Garment Center District</u> c. <u>Special Clinton District</u> d. <u>Special West Chelsea District</u>	<b><u>NO</u></b>

	<b><u>Building component or system (all buildings)</u></b>	<b><u>Permit required?</u></b>
	<p>e. <u>Greenpoint-Williamsburg anti-harassment areas in Community District 1, Borough of Brooklyn; and</u></p> <p>ii. <u>the dwelling unit is within a single room occupancy multiple dwelling<sup>††</sup></u></p> <p><sup>**</sup> <u>The permanent removal of a portion of the partition resulting in a change in the layout of rooms within a dwelling unit shall constitute a “material alteration” in accordance with Zoning Resolution sections 93-90 and 96-01. Any “material alteration” to a dwelling unit located within the “anti-harassment areas” as provided for in Zoning Resolution Sections 23-013, 93-90, 96-01, and 98-70 shall constitute an alteration in accordance with the Building Code and, therefore, require a building permit.</u></p> <p><sup>††</sup> <u>Such work shall be considered an alteration and therefore require a building permit and, where applicable, a Certificate of No Harassment in accordance with section 28-107.4 of the Administrative Code.</u></p>	
	<p><b><u>3. Non-fire-rated and non-load-bearing wall, permanent removal in Groups B, M, and S-1 occupancies.</u></b>  <u>In Groups B, M, and S-1 occupancies, where the cutting away and permanent removal of a non-load-bearing, non-fire-rated partition is limited to 50 linear feet in buildings of Type I or II construction (Class I construction in buildings subject to the 1968 Building Code).</u></p>	<b><u>NO</u></b>
<b><u>IV. Roofs</u></b>	<p><b><u>1. Roof repair and reroofing above the deck/sheathing.</u></b> <u>Roof repair or replacement, limited to the roof membrane, roof coverings, cant strip, and any insulation above the roof deck/sheathing, provided that the New York City Energy Conservation Code does not require additional thermal insulation for the roof.</u></p>	<b><u>NO</u></b>
	<p><b><u>2. Roof repair and reroofing, including the deck/sheathing.</u></b> <u>Roof repair or replacement that includes replacement of roof deck/sheathing.</u></p>	<b><u>YES</u></b>
	<p><b><u>3. Green roofs not more than 4 inches in depth.</u></b> <u>Green roof systems, not more than 4 inches in depth measured from the upper surface of the roof covering to the top of the growth medium, located on buildings of noncombustible construction or buildings greater than 100 feet in height.</u></p>	<b><u>NO</u></b>

**Table 3**  
**Façade Work that may be Exempt from Permit in All Buildings**

	<b>Exterior Façade Restoration Item (all buildings)</b>	<b>Permit required?</b>
<b>I. Masonry (not including Terra Cotta and Stone)</b>	<u>1. Brick re-pointing (or other unit masonry).</u>	<b><u>NO</u></b>
	<u>2. Removal and replacement of individual bricks - single outside wythe up to 10 sf., not to exceed 4 ft. horizontally, in any 100 sf. of wall area, and the cumulative area of all brick replacement on all façades does not exceed 150 sq. ft.</u>	<b><u>NO</u></b>
	<u>3. Mechanical anchorage (pinning) of brick masonry to underlying structure.</u>	<b><u>YES</u></b>
	<u>4. Parapet demolition and reconstruction.</u>	<b><u>YES</u></b>
	<u>5. Increasing height of an existing parapet.</u>	<b><u>YES</u></b>
	<u>6. Installation of new parapet coping (masonry).</u>	<b><u>NO</u></b>
	<u>7. Installation of new parapet guardrail.</u>	<b><u>YES</u></b>
	<u>8. Replacement of existing guardrail or parapet to the same height (for masonry parapets, replacement of existing parapet limited to 10 sq. ft. in any 100 sq. ft. of continuous parapet vertical surface area.</u>	<b><u>NO</u></b>
	<u>9. Installation of expansion or control joints in existing masonry construction (entailing saw-cutting of masonry).</u>	<b><u>YES</u></b>
	<u>10. Installation of flashing and weeps, repair or replacement of relieving angles (or lintels), installation of new brickwork, exceeding limits noted in #2 above.</u>	<b><u>YES</u></b>
	<u>11. Flashing: cutting in reglet, removing one or two courses of brick from a single wythe on inside face of parapets, exceeding limits noted in #2 above.</u>	<b><u>YES</u></b>
	<u>12. Masonry crack repair with injection of repair mortar.</u>	<b><u>NO</u></b>
	<u>13. Masonry cladding of existing exterior building walls.</u>	<b><u>YES</u></b>
	<u>14. Replacement of masonry sills.</u>	<b><u>NO</u></b>
<b>II. Concrete Restoration</b>	<u>1. Structural repair, reinforcement of concrete (repair of re-bars, post-tension cables, curtain panel wall, pre-cast concrete).</u>	<b><u>YES</u></b>
	<u>2. Spandrels: repair of cracked or spalled concrete on exterior concrete spandrel beams, concrete fascias or balconies (whether or not repair of deteriorated steel reinforcement is required).</u>	<b><u>YES</u></b>
	<u>3. Repair or re-anchoring of existing aluminum or steel balcony handrails.</u>	<b><u>NO</u></b>
	<u>4. Concrete crack repair with injection of repair cement.</u>	<b><u>NO</u></b>



	<b><u>Exterior Facade Restoration Item (all buildings)</u></b>	<b><u>Permit required?</u></b>
<b><u>III. Stone/Terra Cotta Restoration</u></b>	<b><u>1. For buildings subject to the requirements of §28-302, patching of spalls or cracks on exterior stone or terra cotta masonry.</u></b>	<b><u>YES</u></b>
	<b><u>2. Removal and replacement of exterior stone or terra cotta ornamentation with an alternative material.</u></b>	<b><u>YES</u></b>
	<b><u>3. Mechanical anchorage (pinning) of displaced stone or terra cotta masonry to underlying structure.</u></b>	<b><u>YES</u></b>
<b><u>IV. Curtain/ Panel Walls</u></b>	<b><u>1. Repair, replacements of structural components of panel wall system.</u></b>	<b><u>YES</u></b>
	<b><u>2. Removal or replacement of inspection plates.</u></b>	<b><u>NO</u></b>
	<b><u>3. Repair or replacement of sheet metal window clip covers.</u></b>	<b><u>NO</u></b>
	<b><u>4. Replacement of exterior glass panels in kind, limited to 1,000 square feet of glass in any given 10,000 square feet of wall area.</u></b>	<b><u>NO</u></b>
	<b><u>5. Replacement of inner glass panels from within the building.</u></b>	<b><u>NO</u></b>
<b><u>V. Cleaning or Coating of Masonry/Concrete/Metal/EIFS</u></b>	<b><u>1. Cleaning, coloring or painting of masonry (brick, stone, terra cotta), concrete.</u></b>	<b><u>NO</u></b>
	<b><u>2. Application of (trowel applied) cementitious material (stucco) no greater than 1" (25.4 mm) in thickness or other material (brownstone) no greater than 1/8" (3.2 mm) in thickness to exterior surfaces of building walls, excluding newly installed exterior insulation finish systems (EIFS). The application must be limited to a height of 40 feet, measured vertically from the adjoining grade or an adjoining setback that is at least 10 feet deep.</u></b>	<b><u>NO</u></b>
	<b><u>3. Application of sealant, caulking, regrouting.</u></b>	<b><u>NO</u></b>
	<b><u>4. Minor repair of exterior insulation finish systems (EIFS), not to exceed 10 square feet in any given 100 square feet of continuous EIFS wall surface area.</u></b>	<b><u>NO</u></b>

	<b><u>Exterior Façade Restoration Item (all buildings)</u></b>	<b><u>Permit required?</u></b>
<b><u>VI. Miscellaneous Metal/Steel</u></b>	<b><u>1. For buildings subject to the requirements of §28-302, scraping and painting, flashing and coloring, sealing and coating of steel structural members (including lintels over windows) entailing removal and replacement of brick or other masonry, exceeding 10 sq. ft., 4 ft. horizontally, in any 100 sf. of wall area.</u></b>	<b><u>YES</u></b>
	<b><u>2. Removal and replacement of steel structural members (including lintels over windows), exceeding 10 sq. ft., 4 ft. horizontally, in any 100 sf. of exterior wall area.</u></b>	<b><u>YES</u></b>
	<b><u>3. Reinforcement of steel structural members (spandrels, beams columns).</u></b>	<b><u>YES</u></b>
	<b><u>4. Reinforcement of fire escape bars, struts, baskets, or supports.</u></b>	<b><u>NO</u></b>
	<b><u>5. Installation of handrails at perimeters of balconies, terraces, or rooftops.</u></b>	<b><u>YES</u></b>
	<b><u>6. Installation of appurtenances (signs more than six square feet (0.56 m<sup>2</sup>) in area, flagpoles, water tanks, awnings, satellite dishes) to the exterior wall or at perimeters of balconies, terraces, or rooftops. Exception: flagpoles, awnings, and satellite dishes accessory to one- and two-family dwellings shall not require a permit for installation.</u></b>	<b><u>YES</u></b>
<b><u>VII. Sheet Metal</u></b>	<b><u>1. Sheet metal cladding of facades of existing cornice.</u></b>	<b><u>YES</u></b>
	<b><u>2. Localized (non-structural) repairs/patching to sheet metal cornice.</u></b>	<b><u>NO</u></b>
	<b><u>3. Repair reinforcement of the structural supports of sheet metal cornices.</u></b>	<b><u>YES</u></b>
	<b><u>4. Installation of new (replacement) sheet metal or glass fiber reinforced concrete (GFRC) cornice.</u></b>	<b><u>YES</u></b>
	<b><u>5. Installation of parapet coping cover (sheet metal).</u></b>	<b><u>NO</u></b>
	<b><u>6. Sheet metal cladding of exposed surfaces of parapet wall.</u></b>	<b><u>YES</u></b>
<b><u>VIII. Doors/Windows</u></b>	<b><u>1. Replacement of existing windows (balcony doors) that satisfy the following conditions: a. such window is not located on the lot line; and b. the replacement does not require a modification of existing masonry openings; and c. the replacement window does not affect access to light or ventilation; and d. there is no change in the operable area of the window.</u></b>	<b><u>NO</u></b>
	<b><u>2. Replacement of required fire-rated windows.</u></b>	<b><u>YES</u></b>

3. Repair or replacement of window and door sills.	<b><u>NO</u></b>
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	<b><u>Exterior Façade Restoration Item (all buildings)</u></b>	<b><u>Permit required?</u></b>
<b><u>IX. Miscellaneous</u></b>	1. Probes involving the removal of less than 10 sf. of unit masonry (with a maximum horizontal dimension not to exceed 4 ft.) in any 100 sf. of wall area, and the cumulative area of all probe openings on all facades does not exceed 150 sq. ft.	<b><u>NO</u></b>
	2. Replacement in kind of exterior gutters and leaders.	<b><u>NO</u></b>
	3. Removal of existing signs and marquees.	<b><u>NO</u></b>
	4. Replacement of existing signs and marquees.	<b><u>YES</u></b>
	5. Installation of new signs and marquees, other than painted signs.	<b><u>YES</u></b>
	6. Open screen balcony enclosures on balconies less than 40 feet above grade.	<b><u>NO</u></b>
	7. Weather-resistant balcony enclosures, such as windows and solid walls.	<b><u>YES</u></b>