

NEW YORK CITY DEPARTMENT OF BUILDINGS

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The Department of Buildings (DOB) is proposing to amend section 3606-01 of Chapter 3600 of Title 1 of the Rules of the City of New York regarding the determination of the market value of alterations of buildings in special flood hazard areas by adding an appeals process for DOB's determinations of substantial damage to buildings made as part of the rapid assessments performed following natural disasters.

When and where is the hearing? DOB will hold a public hearing on the proposed rule online. The public hearing will take place at 11 a.m. on December 1, 2025.

- Join through Internet – Desktop app:

To join the hearing via your browser either click on the following URL link or copy and paste it into your browser's address bar. Then follow the prompts to either continue using the browser or download/open the Teams desktop app.

<https://events.gcc.teams.microsoft.com/event/21328bd9-ab58-4e06-915a-3fa230219862@32f56fc7-5f81-4e22-a95b-15da66513bef>

Enter your name when prompted and click the “**Join now**” button. If you don't have computer audio or prefer to phone in for audio, select “**Phone audio**” under “**Other join options**” then click the “**Join now**” button. You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins. If you are using phone audio then follow the dial-in instructions when prompted.

If you have low bandwidth or inconsistent Internet connection, we suggest you use the Phone audio option for the hearing. This will reduce the possibility of dropped audio and stutters.

- Join through Internet - Smartphone app:

To join using the Microsoft Teams app on your smartphone, click on the following URL link from your phone to automatically open the Teams app. Note that the Microsoft Teams app must already be installed on your smartphone. It is available for free both in the Apple Store and Google Play.

<https://events.gcc.teams.microsoft.com/event/21328bd9-ab58-4e06-915a-3fa230219862@32f56fc7-5f81-4e22-a95b-15da66513bef>

When prompted select “Join meeting”. Type your name and then select “Join meeting” again. You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins.

PLEASE NOTE: The above links are used to register for the hearing. Once registered, you will receive a confirmation email that will include a link to join the hearing. If you should run into technical difficulties when using the above links to register or you do not receive the registration confirmation email with your link to join the hearing, please use one of the following alternative methods to join the hearing. You should receive the confirmation email within a short time of registering. Please check your junk email folder

too if you do not see the email in your inbox. Best practice is to register for the hearing prior to the actual hearing date.

Alternatively, open the Teams app and select “Join a meeting”. Signing in with an account is not required. Type your name, the following Meeting ID and Passcode, then select “Join meeting”.

Meeting ID: 249 217 669 511 7
Passcode: fp9PB2aq (Code is case sensitive)

- Join via phone only:

To join the meeting only by phone, use the following information to connect:

Phone: 646-893-7101
Phone Conference ID: 459 472 821#

You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins.

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

- **Website.** You can submit comments to the DOB through the NYC rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can email comments to dobrules@buildings.nyc.gov.
- **Mail.** You can mail comments to the New York City Department of Buildings, Office of the General Counsel, 280 Broadway, 7th floor, New York, NY 10007.
- **Speaking at the hearing.** Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak. You can sign up by emailing dobrules@buildings.nyc.gov by November 24, 2025 and including your name and affiliation. While you will be given the opportunity during the hearing to indicate that you would like to provide comments, we prefer that you sign up in advance. You can speak for up to three minutes. Please note that the hearing is for accepting oral testimony only and is not held in a “Question and Answer” format.

Is there a deadline to submit comments? Yes, you must submit comments by December 1, 2025.

What if I need assistance to participate in the hearing? You must tell the Office of the General Counsel if you need a reasonable accommodation of a disability at the hearing. You can tell us by email at dobrules@buildings.nyc.gov. Advance notice is requested to allow sufficient time to arrange the accommodation. You must tell us by November 17, 2025.

This location has the following accessibility option(s) available: Simultaneous transcription for people who are hearing impaired, and audio only access for those who are visually impaired.

Can I review the comments made on the proposed rules? You can review the comments made online on the proposed rules by going to the website at <http://rules.cityofnewyork.us/>. Copies of all comments submitted online, copies of all written comments and a summary of oral comments concerning the proposed rule will be available to the public at the Office of the General Counsel and may be requested by email at dobrules@buildings.nyc.gov.

What authorizes DOB to make this rule? Sections 643 and 1043(a) of the City Charter, and section 28-104.7.11 of the New York City Administrative Code authorize DOB to make this proposed rule. This proposed rule was included in DOB's regulatory agenda for this Fiscal Year.

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

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

STATEMENT OF BASIS AND PURPOSE OF PROPOSED RULE

The purpose of the proposed amendments to Section 3606-01 of Chapter 3600 of Title 1 of the Rules of the City of New York is to codify the current process by which the Department of Buildings, as the flood plain administrator and as required by BC G103.1, determines whether a structure located in a special flood hazard area has sustained substantial damage and to establish a clear notice and appeals procedure for property owners.

The Department, in its capacity as the floodplain administrator for the city of New York, is authorized to make substantial damage determinations and currently performs these assessments as part of its regulatory responsibilities. This amendment codifies the current procedure for issuing such determinations and provides a process for notifying property owners and allowing them to appeal a determination that a structure has sustained substantial damage.

Additionally, the amendments clarify that any repairs performed on structures deemed substantially damaged constitute substantial improvements, as defined in Section BC 202. This ensures consistency in the application of substantial improvement standards and aligns with federal and local floodplain management requirements. Property owners and design professionals must acknowledge these determinations when submitting applications for alterations, ensuring that all proposed work is reviewed by the Department in accordance with applicable flood protection standards.

These amendments clarify obligations by formally outlining the steps involved in determining substantial damage and the subsequent requirements for substantial improvements. By establishing a transparent application and review process, the rule ensures that affected property owners know their obligations and can appeal a determination when necessary.

Furthermore, this rule strengthens the City's ability to manage flood risks by formalizing the process through which the Department applies federal floodplain management standards under the National Flood Insurance Program (NFIP) at the local level. The NFIP requires participating communities to determine when structures have sustained "substantial damage" as defined in 44 C.F.R. § 59.1 and to ensure that any subsequent repairs meet the flood protection requirements set forth in 44 C.F.R. § 60.3. This rule aligns the Department's procedures with those NFIP requirements by establishing a clear administrative process for making and issuing substantial damage determinations, providing notice to property owners, and setting forth an appeal mechanism. It also reinforces the requirement that repairs made to structures determined to be substantially damaged must comply with the flood-resilience provisions of the NYC Building Code, including elevation, floodproofing, and other protective measures applicable to new or substantially improved buildings in flood hazard areas. Aligning local procedures with NFIP standards ensures that the City's determinations are consistent with federal definitions and enforcement requirements, thereby maintaining program compliance and supporting flood-risk reduction objectives.

By providing a structured framework for substantial damage assessments, this revision supports the City's long-term flood mitigation efforts, enhances public awareness of flood risk regulations, and helps ensure the resilience of New York City's built environment in the face of increasing climate-related challenges.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and section 28-104.7.11 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (***) indicate unamended text.

Section 1. Subdivisions (a), (b) and (c) of Section 3606-01 of Chapter 3600 of Title 1 of the Rules of the City of New York are amended to read as follows:

§3606-01 Alteration applications; determinations of market value and substantial improvement.

(a) Scope. This rule provides application submission requirements for alterations to structures located in areas of special flood hazard, provides the method for determining the market value of a structure, and provides the method for determining whether repairs, reconstructions, rehabilitations, additions or improvements constitute a substantial improvement. In its capacity as floodplain administrator for the city of New York, the department is authorized to deem a structure substantially damaged. Any repairs performed on such structures are considered substantial improvements as defined in Section BC 202. This rule establishes the notice procedure for a department-issued determination of substantial damage and the process to appeal such determination.

(b) References. See Section BC [G201.2] 202 (definitions of market value of structure, substantial damage, and substantial improvement) and Section 28-104.7.11.

(c) Applicant's statement. Applicants [shall]must include in every alteration application the statement: "Work proposed in this application (is/is not) included in a substantial improvement as defined by Section BC [G201.2] 202 and 1 RCNY 3606-01."

§2. Subdivision (f) of Section 3606-01 of Chapter 3600 of Title 1 of the Rules of the City of New York is amended to read as follows:

(f) Determination of substantial improvement. Work [shall]will be deemed a substantial improvement if the cost as calculated in paragraph (e) equals or exceeds 50% of the market value of a structure as calculated in paragraph (d). A substantial improvement [shall] also [include] includes work performed to a structure that has sustained substantial damage, as such term is defined in Section BC [G201.2] 202. In determining whether a structure has sustained substantial damage, the market value [shall]must be calculated in accordance with paragraph (d) of this rule.

§3. Section 3606-01 of Chapter 3600 of Title 1 of the Rules of the City of New York is amended by adding new subdivisions (i) and (j) to read as follows:

(i) Notice of a department-issued substantial damage determination. Where the department determines that a building or structure is substantially damaged, the department will send a notice by regular mail to the owner of the property at which the substantial damage occurred. The notice will indicate the procedure to challenge the determination and the bases for such challenge.

(j) Appeal of a department-issued substantial damage determination. An appeal of a department-issued substantial damage determination must be submitted in accordance with the timeframe and submission requirements of this section. No work may be performed on a building deemed by the department as substantially damaged, except in accordance with items 1-3 and 5 of section 28-105.4.1 or Article 215 of the Administrative Code or section BC G102.1, item (8), until the department has made a determination regarding the appeal. Where the department has granted an appeal, the applicable provisions of BC G102.1 for a non-substantial improvement will apply to work on such building. Where an appeal is denied, the applicant may file for a variance at the Board of Standards and Appeals in accordance with section BC G105.1.

(1) Where an appeal is sought in connection with a one- or two- family dwelling, such appeal must be prepared and submitted by one of the following:

- (i) a home improvement contractor registered or licensed by the department of Consumer and Worker Protection;
- (ii) a Certified Floodplain Manager; or
- (iii) or, a registered design professional.

Appeals sought in connection with a building other than a one- or two-family home must be prepared and submitted by a registered design professional.

(2) Appeals must be prepared using the latest version of the substantial damage estimator (SDE) issued by the Federal Emergency Management Agency ("FEMA") and include an Individual Structure Detailed Report prepared in accordance with FEMA P-784, Substantial Damage Estimator User Manual and Field Workbook and the requirements of FEMA P-758, Substantial Improvement Substantial Damage Desk Reference, and any other reports specified by the department. Appeals will not be accepted without pictures

documenting the condition of each room, space or portion of the building subject to flooding or other type of damage.

(3) Appeals must be submitted, on forms provided by the department, within 24 months of the date of a department-issued substantial damage determination. The department is authorized to grant one 12-month extension upon a finding of reasonable cause, provided an application for extension is submitted prior to the expiration of the 24-month appeals period.

(4) Appeals must be submitted in a form and manner established by the department and include signatures from the building owner and preparer of the appeal. The preparer submitting the appeal must sign an attestation on forms provided by the department confirming the accuracy of such application. The falsification of an appeal by a preparer may result in disciplinary action against the preparer including but not limited to prohibiting future dealings with the agency.

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

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Amendment to Rules Relating to Flood Hazard Areas

REFERENCE NUMBER: DOB-202

RULEMAKING AGENCY: Department of Buildings

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

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

/s/ Francisco X. Navarro
Mayor's Office of Operations

October 22, 2025
Date

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

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

RULE TITLE: Amendment to Rules Relating to Flood Hazard Areas

REFERENCE NUMBER: 2025 RG 067

RULEMAKING AGENCY: Department of Buildings

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

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

/s/ Steven Goulden
/s/ STEVEN GOULDEN
Senior Counsel

October 22, 2025
Date: October 22, 2025