

## 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 its rules to add language regarding initial observation of parking structures.

**When and where is the hearing?** DOB will hold a public hearing on the proposed rule online. The public hearing will take place at 11am on 8/30/23.

- 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://tinyurl.com/parkingstructuresaug2023>

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://tinyurl.com/parkingstructuresaug2023>

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.

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: 251 021 971 278

Passcode: YQD43j (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: 119 665 286#

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](mailto: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.
- **Fax.** You can fax comments to the New York City Department of Buildings, Office of the General Counsel, at 212-566-3843.
- **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](mailto:dobrules@buildings.nyc.gov) by 8/23/23 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.

**Is there a deadline to submit comments?** Yes, you must submit comments by 8/30/23.

**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](mailto:dobrules@buildings.nyc.gov). Advance notice is requested to allow sufficient time to arrange the accommodation. You must tell us by 8/16/23.

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](mailto:dobrules@buildings.nyc.gov).

**What authorizes DOB to make this rule?** Sections 643 and 1043(a) of the New York City Charter and Section 28-103.16 and Article 323 of Title 28 of the Administrative Code of the City of New York authorize DOB to make this proposed rule. The rule was not included in the regulatory agenda for this Fiscal Year because it was not contemplated when DOB published the agenda.

**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 Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the Charter.

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

Local Law 126 of 2021 added a new Article 323 regarding periodic inspections of parking structures to Title 28 of the Administrative Code. Section 28-103.16 of the Administrative Code allows the Department to require additional inspections of existing buildings and structures to ascertain compliance with the provisions of the code.

Section 103-13 was added to Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York to implement the new requirements for parking structure inspections. A new section 103-16 is now proposed to be added to Subchapter C of Chapter 100 to require an additional inspection of those parking structures that must be inspected beginning January 1, 2024 or later pursuant to section 103-13.

In addition, an amendment to section 103-13 is being proposed to specify that a Qualified Parking Structure Inspector is to complete the inspection checklist required by Section 28-323.2 of the New York City Administrative Code.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and Section 28-103.16 and Article 323 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 1. Paragraph (14) 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 is amended 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]building structures.

§2. Paragraph (1) of subdivision (d) of section 103-13 of Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

(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 or under the direct supervision of [the owner or by a competent person] a QPSI on behalf of the owner each year after submission of the current cycle's report has been accepted and must be filed with the next cycle's report.

§3. Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new section 103-16 to read as follows:

**§103-16 Initial observation of parking structures.**

(a) Prior to the first required condition assessment of a parking structure required by Article 323 of Chapter 3 of Title 28 of the Administrative Code and section 103-13 of these rules, the owner of the building in which a parking structure is located and whose condition assessment report is due as set forth in item (B) or (C) of subparagraph (v) of paragraph (4) of subdivision (c) of section 103-13 of these rules, must have a one-time initial observation of the parking structure performed by or under the direct supervision of a qualified parking structure inspector ("QPSI"), as defined in section 101-07 of these rules. The results of such initial observation must be filed with the Department by August 1, 2024 on a form provided by the Department. Exception: Owners whose report is due as set forth in item (B) as previously referenced in this paragraph and who file an acceptable report by August 1, 2024 need not have this initial observation performed.

(b) The QPSI must apply a professional standard of care to assess the parking structure's condition and the individual building systems that comprise the parking structure including, but not limited to, the building's structural components, waterproofing systems, fire proofing and fire stopping systems, and wearing surfaces. The QPSI's observation 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. The QPSI's observation must also take into account the structure's history of maintenance and repairs.

(c) The methods used to evaluate the parking structure in question must permit a complete examination of the parking structure.

(d) The QPSI must identify the most deleterious locations and perform examinations at those locations. If the QPSI finds any deficiencies, he/she must ascertain the cause of these and any other possible building defects detected and immediately notify the Department and the owner of the building in which the parking structure is located of any unsafe conditions.

(e) The results of this initial observation must be filed with the Department in a form and manner acceptable to the commissioner.

PROPOSED

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

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

**RULE TITLE: Amendment of Rules Relating to Inspection of Parking Structures**

**REFERENCE NUMBER: DOB-31**

**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

July 17, 2023  
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 of Rules Relating to Inspection of Parking Structures

**REFERENCE NUMBER:** 2023 RG 042

**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  
Senior Counsel

Date: July 17, 2023