

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 relating to potentially structurally compromised buildings.

When and where is the hearing? DOB will hold a public hearing on the proposed rule online. The public hearing will take place at 11:00 a.m. on May 29, 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/af7ed33a-9e37-415f-a867-b627195b0150@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/af7ed33a-9e37-415f-a867-b627195b0150@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.

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: 267 814 069 591 4

Passcode: wT67pc2T (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: 252 002 496#

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.
- **By 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 May 22, 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 May 29, 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 May 15, 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 Article 217 of Title 28 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 Fiscal Year '25.

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

Potentially structurally compromised buildings are buildings whose safety and structural integrity may be compromised by a number of reasons, including, for example, by fire or by partial collapse of floors, interior or exterior walls, or a roof that has been open for more than 60 days.

The proposed rule amendments would add definitions, responsibilities of the registered design professional, inspection procedures and report requirements for documenting the conditions found during required inspections of potentially structurally compromised buildings. The proposed rule would require the filing of an initial, annual and final report for each affected building.

The proposed rule would also establish procedures for notifying the Department and the owner of unsafe conditions and for taking measures to safeguard the public.

In addition, the amendments propose to add civil penalties for failure to file an acceptable initial or annual report of \$1,000 per month, and a civil penalty for failure to file the final report of \$5,000 per year for two years after the initial report is filed and until an acceptable final report is filed.

The proposed rule also amends the procedure for requesting civil penalty waivers to conform to the waiver language in similar rules.

These proposed amendments are intended to conform the requirements of this rule to other existing similar rules for ease of migration to the Department's online system.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and Article 217 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.

"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 102-03 of subchapter B of chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

§102-03 [Potentially] Inspections of potentially structurally compromised buildings.

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

Acceptable report. A report of critical examination filed by a Registered Design Professional that meets the requirements of Article 217 of Title 28 of the Administrative Code and this section, as determined by the Department.

Annual report. A yearly report filed for each successive critical examination after the initial report for each compromised building that is subject to the requirements of Article 217 of Title 28 of the Administrative Code.

Appurtenance. An exterior wall or roof element including, but not limited to, lighting fixtures, railings, protective screening, signs, coping, fire escapes, exterior fixtures, ladders to rooftops, flagpoles, parapets, window frames (including hardware and lites), balcony and terrace enclosures, including greenhouses and solariums, window guards, window air conditioners, flower boxes, satellite dishes, antennae, cell phone towers, and any equipment attached to or protruding from the structure.

Critical examination. A physical examination conducted by a Registered Design Professional to review a potentially structurally compromised building and all parts thereof to determine the building's structural integrity.

Filed report. A report is 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.

Final report. A report of critical examination filed by a Registered Design Professional who certifies that the conditions reported in the initial and/or annual reports have been repaired and that the structure is no longer structurally compromised.

Initial report. A report by a Registered Design Professional, based on their critical examination and sound engineering analysis, that states the structural condition of a potentially structurally compromised building and provides specific recommendations for monitoring, repair, and/or stabilization.

Potentially structurally compromised. [For the purposes of this section, “potentially compromised” means a] A building or structure that:

- (1) has had an open roof for sixty (60) days or longer,
- (2) has been shored and braced or [repaired] otherwise temporarily safeguarded pursuant to an emergency declaration issued by the commissioner pursuant to

- Article 215 of Title 28 of the Administrative Code, or due to concern for structural integrity as determined by a Registered Design Professional,
- (3) has been subject to a precept as a compromised structure under Article 216 of Title 28 of the Administrative Code, or
 - (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.

Registered Design Professional (“RDP”). A Professional Engineer or a Registered Architect as defined in section 28-101.5 of the Administrative Code and 101-07 of the Department’s rules. The RDP must be in good standing with the New York State Education Department and New York City Department of Buildings.

Report of critical examination (“Report”). An initial, annual, or final written report filed with the Department by an RDP clearly documenting the conditions noted during the critical examination; areas that need repair, maintenance, or engineering monitoring such as immediate stabilization to protect the public; and any other requirements mandated by this section.

(b) Responsibilities of the RDP.

- (1) An RDP must conduct critical examinations and file reports in accordance with this section and Article 217 of Title 28 of the Administrative Code.
- (2) An RDP must maintain records of inspections and tests for at least six years and must make such records available to the Department upon request.
- (3) An RDP 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) Critical examinations.

- (1) Periodic inspection requirements. In order to maintain a building and its appurtenances in a safe condition, and in accordance with Article 217 of Title 28 of the Administrative Code, a critical examination of all components of a compromised building must be conducted.

[(b)] (2) [Inspections] Inspection procedures.

[(1)] (i) Initial inspections. [Beginning September 1, 2013, the] 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] an RDP within sixty days from the date that the building or structure becomes potentially compromised. The [design professional] RDP must file a report as described in [subdivision d of this section] paragraph (3) of this subdivision with the department within thirty days after the date of the inspection.

[(2)] (ii) Periodic inspections. After the initial inspection and filing of the report, structural condition inspections must be performed by an RDP and reports as described in [subdivision d of this section] paragraph (3) of this subdivision must be filed annually, unless otherwise specified by the

department. The periodic inspections must continue until a [certification] final report is filed with the department by the [registered design professional stating]RDP certifying that the building or structure is no longer [potentially]structurally compromised and such final report is accepted by the department [has audited the certification to ensure its accuracy].

- (iii) Critical examination of compromised buildings and appurtenances thereof pursuant to Article 217 of Title 28 of the Administrative Code must be performed by an RDP retained by the owner of the building.
- (iv) Before performing a critical examination of a compromised building, the RDP retained by or on behalf of the owner must review all available previous reports, applications for repairs, history of maintenance, historical drawings or references for this building typology, etc. The Department will maintain a file of such reports submitted in accordance with Article 217 of Title 28 of the Administrative Code and provide copies upon payment of fees set forth in the rules of the Department.
- (v) The methods used to assess the compromised buildings in question must permit a complete critical examination of all elements, connections of those elements, walls, floor, and roof of the buildings to determine structural stability.
- (vi) The RDP must utilize a professional standard of care to assess the condition of the building and surrounding elements, structure or buildings that impact stability and safety.
- (vii) The RDP must amend the scope of the critical examination and add additional testing and investigation as required.
- (viii) During the critical examination, photographs must be taken, mapping must be made to document the exact location of all distresses or deficiencies and identify all areas that require shoring, bracing, repair, maintenance, or monitoring.
- (ix) If an inspection reveals an unsafe condition, the RDP must immediately notify the Department and the owner of the property. The RDP 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. The owner of the building must immediately commence repairs or reinforcements and any other appropriate measures, such as cordoning off areas that may be dangerous, erecting fences, sidewalk sheds and safety netting, shoring, and bracing as may be required to secure the safety of the public and to make the compromised building structure and appurtenances safe.
- (x) Completion of a critical examination means that the RDP has personally conducted a physical examination to determine that the compromised building conditions, as described in the report, are consistent with the actual conditions.

[(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 28-217.1 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.]

(3) Report requirements.

- (i) The owners of potentially structurally compromised buildings must hire an RDP to file an acceptable initial, annual, or final written report of critical examination. The report must clearly document and map all conditions noted during the critical examination and state that the inspection was performed and completed in accordance with Article 217 of Title 28 of the Administrative Code and this section. The RDP must also submit a copy of the report to the owner of the building.
- (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. All items in subparagraph (iii) must be listed in the report. If a requirement is not applicable, this must be indicated on the report under the relevant number.
- (iii) All reports (initial, annual, and final) must include a summary of findings and recommendations, a concise statement of the scope of the critical examination and findings, the conclusions and recommendations. The report must also include, but not be limited to:
 - (A) The address, any a.k.a. addresses, the Block and Lot number, the Building Identification Number (“BIN”), and the location from the nearest cross street.
 - (B) The name, mailing address, and telephone number of the owner of the building, or, if the owner is not an individual, the name, mailing address, telephone number, and position/title of a principal of the owner.
 - (C) A description of the building, including the number of stories, height, plan dimensions, Certificate of Occupancy number if available, usage, and age and type of exterior wall construction, specifying all materials present.
 - (D) A detailed description of any maintenance, repairs, or the results of engineering monitoring performed to the building, including but not limited to foundation settlement, bulging, or cracking of the wall, floors, roof, or any structural parts, movement of any elements or appurtenances, or other defects or changes.
 - (E) A detailed description of the procedures used in making the critical examination, including:
 - 1. The extent and location of physical examinations, probes and tests performed.
 - 2. The names, addresses, telephone numbers, and license or registration numbers of the RDP and all individuals working

- directly under the RDP's direct supervision involved in the critical examination.
3. A plot plan of a discernible scale and with a north arrow that shows the entire building, all adjacent structures showing relationship to adjacent properties, including the number of stories and the type of occupancy.
 4. The start and completion dates of the critical examination.
 5. Dated photo documentation of the RDP performing physical examination.
- (F) A detailed description and mapping of each structural condition found, including any deterioration, instability, or movement detected. The description must also include a list of all appurtenances and their condition. 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 labeled and cross-referenced in the report. The report must include key plans and locator drawings documenting these conditions.
- (G) A comprehensive analysis of the structural condition of the building or structure as a result of the structural damage, based on probes and calculations.
- (H) The following information:
1. 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.
 2. 8 1/2" x 11" schematically sketched floor and roof plans, elevations, sections, and foundation plans and details. Note all the existing conditions that cause the building to be structurally compromised.
 3. Estimate of how long the structure will remain stable.
 4. Proposed schedule for monitoring and repair of the condition.
 5. 8 1/2" x 11" sketch showing the work to stabilize the property such as shoring, repair, bracing, and/or partial demolition.
 6. 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 compromised building related jobs, where applicable.
 - C. Violation numbers of any open Environmental Control Board ("ECB") violations associated with the building

and the status of the repairs of the conditions cited in the ECB violations.

D. A detailed description of work performed up to the date of submission of the report and the plan implemented to bring the compromised building to a structurally stable condition.

E. Any additional information requested by the Department.

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

1. Elevation photos. Color photographs of all elevations and roofs for all reports.
2. Representative photos of each level of the compromised building showing general conditions.
3. Detailed condition photos. Color photographs of each specific condition must be clearly labeled with a description. Detailed conditions must be located on the mapping/architectural drawings of the building required by item F of this subparagraph.

(J) The seal and signature of the RDP.

(4) Report filing requirements.

- (i) Owners of potentially structurally compromised buildings must hire an RDP to file an acceptable initial report to the Department to avoid a failure to file penalty.
- (ii) An acceptable annual report must be filed within a year of the submission of the initial report by the RDP and every year thereafter until an acceptable final report is filed with the Department to avoid a failure to file penalty.
- (iii) The report must be filed with the Department along with a filing fee as specified in the rules of the Department.
- (iv) A report must be filed within thirty (30) days of the date on which the RDP completed the critical examination as defined in subparagraph (x) of paragraph (2) of this subdivision. Failure to file a report within thirty (30) days of the completed critical examination requires a new critical examination.
- (v) 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, after which the original file date will no longer be valid.
- (vi) If the report is not acceptable after two (2) rejections, a new filing fee, as specified in the rules of the Department, is required.

- (vii) Failure to submit a revised report addressing the Department's objections within sixty (60) days of the initial filing requires a new critical examination.
- (viii) The Commissioner may require reports on additional structures and/or parts thereof to be filed in accordance with this section.

[(f)]**(d) Civil penalties.** [In addition to any other penalties authorized by law, failure to file a report pursuant to the requirements of section 28-217.1 and this section will result in a civil penalty of \$3,000 for each violation of such section, payable to the department.]

- (1) Failure to file initial report. An owner who fails to file the required acceptable initial report will be liable for a civil penalty of one thousand dollars (\$1,000) per month 90 days after the building or structure becomes potentially compromised and ending on the filing date of an acceptable initial or final report, or the sign-off date of a full demolition application for the structure.
- (2) Failure to file annual report. An owner who fails to file the required acceptable annual report will be liable for a civil penalty of one thousand dollars (\$1,000) per month 1 year after the initial report is filed and ending on the filing date of an acceptable annual report or final report, or the sign off date of a full demolition application for the structure.
- (3) Failure to file final report. An owner who fails to file the required acceptable final report will be liable for a civil penalty of five thousand dollars (\$5,000) per year two years after the initial report is filed and ending on the filing date of an acceptable final report, or the sign off date of a full demolition application for the structure.
- (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 must include a copy of an acceptable initial, annual, or final report.
 - (ii) 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.

(e) Full or partial penalty waivers; eligibility and evidentiary requirements. Owners may request a waiver of penalties assessed for violation of Article 217 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, and only in one of the following circumstances:

- (A) 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.
- (B) A new owner who receives a notice of violation for failure to comply with the requirements of this section or Article 217 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 will 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 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 building was demolished must submit city or departmental records evidencing the demolition of the building prior to the filing deadline.

**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 of Rules Relating to Structurally Compromised Buildings

REFERENCE NUMBER: DOB-195

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 a cure period would defeat the purpose of the violation. There are timeframes for filing a report set out in the rule. If a report is filed timely, no penalty will be assessed.

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

April 14, 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 of Rules Relating to Structurally Compromised Buildings

REFERENCE NUMBER: 2024 RG 129

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

April 14, 2025
Date