

The background of the entire page is a dark blue, semi-transparent overlay of the official seal of the City of New York Department of Buildings Commission. The seal features an eagle with spread wings at the top, a central shield with a cross and four quadrants, and a banner at the bottom. The text "CITY OF NEW YORK DEPT. OF BUILDINGS COMMISSION" is visible around the perimeter of the seal.

# INDUSTRY CODE OF CONDUCT

STANDARDS FOR CONSTRUCTION PROFESSIONALS

**NYC**

Buildings

build safe | live safe

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## MESSAGE FROM THE COMMISSIONER



**July 2015**

Dear Constituents:

The New York City Department of Buildings strives to ensure the safe and lawful use of more than one million buildings and properties throughout New York City by enforcing the City's Construction Codes, among other laws.

To help foster integrity in the construction industry, the Department of Buildings is issuing this Code of Conduct that was created specifically for industry professionals and others who conduct business with the Department. Architects and engineers, licensees and registrants, filing representatives, code and zoning representatives, workers and property owners should use this as a guide when conducting business with Department employees.

Our Department's mission is to facilitate safe and compliant development that supports our economy and revitalizes our neighborhoods. Your obligation is to conduct business with the Department in a lawful, honest and professional manner. Together, our work maintains the vibrancy and viability of New York City's buildings and property.

I thank you for all that you do to help build this great City.

Sincerely,

A handwritten signature in black ink that reads "Rick Chandler". The signature is written in a cursive, flowing style.

Rick D. Chandler, PE  
Commissioner

## **ETHICAL CODE AND PRINCIPLES**

The Department has a zero-tolerance policy for wrongdoing, including criminal and corruption-related activities. To fulfill its mandate in protecting the general public, the Department expects a standard of integrity and honesty from individuals who conduct business with our Department and from the industry members whose work we regulate.

### **STANDARDS OF CONDUCT**

When conducting business with the Department—whether in the office, at a construction site or elsewhere—professionals, licensees, members of the construction industry and the public are expected to remain respectful and professional. In addition, they must:

- Behave lawfully and honestly in all dealings with the Department of Buildings and its employees;
- Provide accurate and reliable information to the Department;
- Respect the requirements set forth in this Code of Conduct; and
- Immediately report concerns of unethical or unlawful behavior by Department employees, industry professionals or members of the public to the New York City Department of Investigation;
- Comply with federal, state and local regulations and Department rules and policies.

### **PROFESSIONALISM**

People conducting business with the Department of Buildings—either in the field or in our offices—are expected to act in a respectful and professional manner. Using profanity or offensive language is inappropriate, no matter the situation. An individual, who engages in disruptive or threatening behavior, may be subject to immediate removal from the premises and/or an enforcement action.

Our employees also have an obligation to act with respect. If you believe a Department of Buildings employee has behaved in a discourteous or unprofessional manner, ask to speak with a supervisor or contact NYC 311.

### **MEETINGS**

When meeting with a Department of Buildings employee, including plan examiners and inspectors, you should arrive on time, be prepared and have all necessary documents. In advance of your meeting, please seek the advice you may need regarding your project and try to obtain necessary information beforehand. This will help our employees to perform their duties efficiently. In addition, your preparation and timeliness will minimize delays that impact other people conducting business with the Department.

Failure to confirm or cancel an appointment with a plan examiner at least 24 hours before the scheduled appointment may lead to an enforcement

action. For information on how to make or cancel an appointment with a plan examiner, visit the Department's website at: <http://www1.nyc.gov/site/buildings/business/scheduling-an-appointment>. page or contact NYC 311.

## APPEARANCE OF IMPROPRIETY AND RULES AGAINST GIFT GIVING

Members of the public and construction industry professionals are expected to not only behave lawfully and with integrity when conducting business with the Department, but they are also expected to avoid the appearance of improper conduct.

No gifts of money, flowers, candy, meals or other consumable items—not even a cup of coffee—or some other thing of value or benefit may be offered or given. This prohibition applies to official business and in relationships formed in connection with official business. Department employees have an obligation to notify the Department of Investigation if they are given or offered a gift, no matter how small its value.

There may be transactions where the recipient of good service would like to offer a gratuity in appreciation. Unfortunately, even when well-intentioned, “tipping” gives the appearance of impropriety—that it is necessary for good service. Instead of offering a tip or gift, please send a letter or email to the director of the unit that has served you well.

## LICENSING STANDARDS

The Department issues licenses to eligible individuals in the construction trades and when necessary, seeks to discipline licensees that compromise public safety or public trust.

Individuals engaged in construction-related activities regulated by the Department are responsible for ensuring the public's safety as they perform their work. Licensees must comply with all applicable requirements set forth in the City's Administrative Code, including the City's Construction Codes, as well as applicable rules, regulations, and federal and state laws.

**Failure to comply could result in denial, revocation and suspension of licenses; probation for a licensee; removal of privileges; fines or other actions; referral for criminal prosecutions; or any combination of these actions.**

Examples of actions that violate these standards include:

- Criminal convictions that demonstrate poor moral character; and
- Other misconduct as further explained below.

## CRIMINAL CONVICTIONS

When an applicant for licensure or current licensee has a criminal conviction, the Department will analyze the criminal

case and determine a course of action. This includes possible denial of licensure or renewal, or sanctions brought during the license term. The Department considers the following before making a determination—as set forth in the New York State Correction Law:

1. The public policy of the State of New York is to encourage the licensure of people previously convicted of one or more criminal offenses.
2. The specific duties and responsibilities necessarily related to the license sought or held by the person.
3. The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his or her fitness or ability to perform one or more such duties or responsibilities.
4. The time which has elapsed since the occurrence of the criminal offense or offenses.
5. The age of the person at the time of occurrence of the criminal offense or offenses.
6. The seriousness of the offense or offenses.
7. Any information produced by the person, or produced on his behalf, in regard to his rehabilitation and good conduct.
8. The legitimate interest of the Department in protecting property, and the safety and welfare of specific individuals or the general public.

9. The Department will also give consideration to a certificate of relief from disabilities or a certificate of good conduct issued to the applicant, which creates a presumption of rehabilitation in regard to the offense or offenses specified therein.

## **OFFENSES SUBJECT TO DISCIPLINARY ACTION**

Convictions for specific types of offenses do not automatically disqualify an individual from holding a Department-issued license. However, certain offenses are serious and directly relate to the license, so that a conviction may warrant action. These offenses are generally classified as felonies or misdemeanors.

## **OTHER MISCONDUCT**

Aside from criminal convictions, if a licensee engages in misconduct as enumerated in the City's Construction Codes, the Department may seek to impose a fine up to \$25,000, and suspend, revoke, or place a licensee on probationary status. Examples of misconduct include:

- Fraud or deceit in obtaining or renewing a license;
- Making a false or misleading statement in any document filed with the Department;
- Negligence or incompetence;
- Disregard of the City's Construction Codes and other laws that govern construction;

- Conviction of a criminal offense where the underlying act arises out of the individual's professional dealings with the City;
- Noncompliance with a Department investigation;
- Failure to comply with an order issued by the Commissioner.

## EXAMPLES OF CONDUCT WARRANTING DISCIPLINARY ACTION

The following are examples of the types of activities that have resulted in enforcement action against licensees:

- A licensee who failed to disclose a conviction in his/her license renewal application;
- A licensee whose actions contributed to a serious construction accident;
- A licensee who performed work without first obtaining the required permit(s);
- A licensee who sold scaffold safety cards or other training cards to unqualified individuals;
- A hoisting machine operator convicted of a drinking and driving related offense;
- A licensee who allowed workers who were not on company payroll to perform work under the company's permit;

A filing representative who was unprepared, missed a significant number of appointments, or retrieved unauthorized documents from the

Department. All disciplinary actions are published on the Department's website at: <http://www.nyc.gov/html/dob/html/safety/pera.shtml>.

## NON-PAYMENT OF PENALTIES

Licensees and businesses must pay all fees, fines and violation penalties that they owe to the City. Failure to pay outstanding penalties can result in the Department withholding a license or license renewal.

## ABUSE OF PRIVILEGES

In cases where a licensed, professional engineer, registered architect or Special Inspection Agency is found to have abused privileges, the Department may restrict or revoke the Professional's filing privileges.

## FRAUDULENT OR ERRONEOUS INFORMATION - PROFESSIONAL CERTIFICATION AND OTHER LIMITED SUPERVISORY REVIEWS

After an administrative hearing, the Department may suspend a design professional's privileges to professionally certify design plans or submit plans under the Department's limited review programs if, he or she:

- Knowingly or negligently submitted an application that contained false information or is not in compliance with the applicable laws; or

- Submitted two professionally certified applications in a twelve-month period that are then revoked or demonstrate the design professional's incompetence or lack of knowledge.

### **SPECIAL INSPECTIONS**

A registered Special Inspection Agency that performs inspections without appropriate accreditation or qualifications, or whose actions demonstrate negligence, incompetence or fraud may be disqualified from performing special inspections.

### **FALSE STATEMENTS OR FILINGS**

It is illegal to knowingly or negligently submit any document to the Department that contains a material false statement. The Department relies on honest and accurate information to perform its obligations under the City's Construction Codes, Zoning Resolution, and other relevant laws. False statements can create a risk to people and property and such conduct will not be tolerated.

If, after an administrative hearing, a design professional is found to have knowingly or negligently made a false statement to the Department, he or she may be subject to a permanent ban from filing any documents with the Department. The matter may also be referred to a local or federal prosecutor's office for criminal prosecution.

### **NOTIFICATION OF DISCIPLINARY ACTIONS TO THE NEW YORK STATE DEPARTMENT OF EDUCATION**

At the conclusion of a disciplinary action or proceeding for abuse of privileges, the Department will notify the New York State Department of Education of any ban, suspension, probation, fine or sanction of a registered design professional.

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## **BILL OF RIGHTS**

The Department of Buildings is committed to providing New Yorkers with excellent customer service, including:

1. Courteous and professional treatment;
2. Properly identified and knowledgeable inspectors who enforce Department rules uniformly;
3. Information regarding how long inspections may take and the cost of all related fees;
4. Information about Department rules from inspectors or other Department employees;
5. The right to contest a violation through a hearing, trial or other relevant process;
6. The right to schedule re-inspection in a reasonable period of time;
7. The right to request and receive details of violations;
8. The right to view inspection results;



9. Language interpretation services and information provided in languages other than English; and
10. The right to comment—anonously and without fear of retribution—about the performance or conduct of Department employees.

If you have witnessed or are aware of a Department employee or member of the public engaging in corrupt activities or criminal conduct, notify the Department of Investigation immediately.

## CONCLUSION

It is our goal to make you aware of the types of conduct that could jeopardize the safety of New Yorkers and that could impact your ability to conduct business with the Department. This Code of Conduct does not provide an all-inclusive list of unacceptable behavior or all possible sanctions and penalties. For the complete regulations and enforcement provisions regarding the topics touched upon in this brochure, please review the controlling provisions in the City Charter, City's Administrative Code and Rules of the City of New York.

Please feel free to reach out to the Department should you need guidance before your actions become a problem for you, your clients and/or your company. At the end of this booklet, you will find a "frequently asked question" section and a list of telephone numbers that you can contact should you need

assistance. The Department is committed to fostering a culture of integrity and will ensure that you are directed to someone who can help you with any questions or concerns you may have.

## FREQUENTLY ASKED QUESTIONS

### WHAT IS CORRUPTION?

Corruption is the misuse of public office or power for private gain by engaging in dishonest behavior. Offering an unlawful gratuity or bribe constitutes corruption, and corrupt activity can lead to disciplinary action and criminal prosecution. You have a duty to report any corruption—including a solicitation or offer of a monetary benefit—to the Department of Investigation.

### WHAT IS AN UNLAWFUL GRATUITY?

An unlawful gratuity is offering a benefit for performance of official duties. Telling a Department cashier to "keep the change," is an offer of an illegal gratuity (though improper gratuities are not necessarily cash). Even if the offer doesn't change or influence the employee's conduct, making the offer is unlawful and will lead to disciplinary action and/or criminal prosecution. If you observe an offer or acceptance of a gratuity, report it to the Department of Investigation.

## WHAT IS A BRIBE?

A bribe is anything—cash, jewelry, gift cards—that is offered or given to a person in a position of trust to influence his or her views or conduct. Department employees are not permitted to accept any gifts—even offers of food—as these can be misconstrued as a bribe. Employees are directed to immediately report any offer of a bribe to the Department of Investigation.

## MAY I OFFER A PART-TIME CONSTRUCTION JOB TO A DEPARTMENT EMPLOYEE IF I NEED HELP AFTER NORMAL BUSINESS HOURS?

No. The Construction Codes prohibit all Department employees from working in the construction trades in New York City. The employee, could however, work for you in the construction trades outside the five boroughs, provided that your business entity does not do business with the City.

## CONTACT INFORMATION

### Department of Buildings Office of Internal Affairs and Discipline

11 Park Place, 2nd Floor  
New York, New York 10007  
(212) 393-2900  
[IADmailbox@buildings.nyc.gov](mailto:IADmailbox@buildings.nyc.gov)

### Department of Investigation

83 Maiden Lane, 4th Floor  
New York, NY 10038  
(212) 825-2413  
[www.nyc.gov/doi](http://www.nyc.gov/doi)

### Conflicts of Interest Board

2 Lafayette Street, Suite 1010  
New York, New York 10007  
(212) 442-1400  
[www.nyc.gov/ethics](http://www.nyc.gov/ethics)



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