

## 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 amendments to Section 101-03 of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding fees payable to the Department.

This rule was first published on August 14, 2017 and a public hearing thereon was held on September 14, 2017.

Dated: \_\_\_\_\_

12.21.17  
New York, New York



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Rick D. Chandler, P.E.  
Commissioner

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

This rule amends Section 101-03 of Chapter 100 of Title 1 of the Rules of the City of New York, relating to fees payable to the Department, to include fees for responding to requests submitted to the Department for the following:

- appeal after two reviews (for which two reviews there is no charge pursuant to this rule because the fees for these reviews are included in the filing fee) that consist of (1) a plan examination objection and (2) an affirmation of that objection.

The determination in response to such appeal is referred to as an Appeal Determination;

- a variation of the Construction Codes;
- a variation of the 1968 or prior Building Code;
- a variation of section 277.16 of the New York State Multiple Dwelling Law (MDL) for Article 7B buildings;
- a pre-determination request with respect to the Zoning Resolution, Construction Codes or 1968 or prior Building Code before application for construction document approval is submitted;
- appeal of an Appeal Determination; and
- an appeal from:
  - a denial of a request for a variation of the Construction Codes;
  - a denial of a request for a variation of the 1968 or prior Building Code;
  - a denial of a request for a variation of section 277.16 of the New York State Multiple Dwelling Law (MDL) for Article 7B buildings; and
  - a pre-determination with respect to the Zoning Resolution, Construction Codes or 1968 or prior Building Code.

The authority of the Department of Buildings for this rule is found in sections 643 and 1043 of the New York City Charter and section 28-112.1 of the New York City Administrative Code.

The Department provides a service when current or prospective applicants request a variation of the Codes and of the MDL as specified, or a pre-determination or determination interpreting certain provisions of the Zoning Resolution or the Codes, Appeal Determinations and appeals. These requests may be made using either a Zoning Resolution Determination Form (ZRD1) or a Construction Code Determination

Form (CCD1) or any subsequently created determination forms. Only one issue may be included per determination form.

There is no additional charge pursuant to this rule for the first review, which could result in a plan examination objection, or the second review of that objection, which could result in an affirmation of the objection. The fees for these reviews are included in the filing fee.

These fees will cover the administrative costs incurred by the Department in reviewing these requests and appeals.

No fees will be charged for requests and appeals filed in connection with the construction or alteration of one-, two- or three-family dwellings. No fees will be charged for requests and appeals filed in connection with any building that the New York City Department of Housing Preservation and Development certifies is for the construction or rehabilitation of affordable housing, as set forth in this rule.

New material is underlined.

[Deleted material is in brackets.]

“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 101-03 of Title 1 of the Rules of the City of New York is amended by adding the following entries at the end of the table set forth in that section:

o <u>First plan examination review</u>	<u>Included in the filing fee</u>
o <u>Second plan examination - review of objection(s)</u>	<u>Included in the filing fee</u>
o <u>Appeal after the above two reviews that consist of (1) a plan examination objection and (2) an affirmation of that objection after a second plan examination (which results in an Appeal Determination)</u>	<u>\$1,000</u>
o <u>Request for a variation of the Construction Codes</u>	<u>\$1,000</u>
o <u>Request for a variation of the 1968 or prior Building Code</u>	<u>\$1,000</u>
o <u>Request for a variation of section</u>	<u>\$1,000</u>

<p><u>277.16 of the New York State Multiple Dwelling Law (MDL) for Article 7B buildings</u></p> <ul style="list-style-type: none"> <li>○ <u>Pre-determination request with respect to the Zoning Resolution, Construction Codes or 1968 or prior Building Code</u> <ul style="list-style-type: none"> <li>● <u>Exception: No fee will be charged for proposed one-, two-, or three-family dwellings or for alterations to one-, two- or three-family dwellings (excluding conversions of one-, two- or three-family dwellings to any structure other than a one-, two- or three-family dwelling).</u></li> <li>● <u>Exception: No fee will be charged for any building that the New York City Department of Housing Preservation and Development certifies is for the construction or rehabilitation of affordable housing and is expected to receive or has received (i) a conveyance of municipally owned property pursuant to Article 15 or 16 of the General Municipal Law, (ii) a loan, grant or tax exemption pursuant to the Private Housing Finance Law or the General Municipal Law, (iii) a tax exemption pursuant to Section 420-c of the Real Property Tax Law, (iv) a transfer pursuant to an in rem foreclosure judgment pursuant to section 11-412.1 of the code, or (v) funding for repairs pursuant to Section 778 of the Real Property Actions and Proceedings Law.</u></li> </ul> </li> </ul>	<p><u>\$1,000</u></p>
<p><u>Appeal from:</u></p> <ul style="list-style-type: none"> <li>○ <u>Denial of a request for a variation of the Construction Codes</u></li> </ul>	<p><u>\$2,500</u></p>

<ul style="list-style-type: none"> <li>○ <u>Denial of a request for a variation of the 1968 or prior Building Code</u></li> </ul>	<u>\$2,500</u>
<ul style="list-style-type: none"> <li>○ <u>Denial of a request for a variation of section 277.16 of the New York State Multiple Dwelling Law (MDL) for Article 7B buildings</u></li> </ul>	<u>\$2,500</u>
<ul style="list-style-type: none"> <li>○ <u>Pre-determination with respect to the Zoning Resolution, Construction Codes or 1968 or prior Building Code</u></li> </ul>	<u>\$2,500</u>
<ul style="list-style-type: none"> <li>○ <u>Appeal Determination</u></li> </ul> <ul style="list-style-type: none"> <li>● <u>Exception: No fee will be charged for proposed one-, two-, or three-family dwellings or for alterations to one-, two- or three-family dwellings (excluding conversions of one-, two- or three-family dwellings to any structure other than a one-, two- or three-family dwelling).</u></li> <li>● <u>Exception: No fee will be charged for any building that the New York City Department of Housing Preservation and Development certifies is for the construction or rehabilitation of affordable housing and is expected to receive or has received (i) a conveyance of municipally owned property pursuant to Article 15 or 16 of the General Municipal Law, (ii) a loan, grant or tax exemption pursuant to the Private Housing Finance Law or the General Municipal Law, (iii) a tax exemption pursuant to Section 420-c of the Real Property Tax Law, (iv) a transfer pursuant to an in rem foreclosure judgment pursuant to section 11-412.1 of the code, or (v) funding for repairs pursuant to Section 778 of the Real Property Actions and Proceedings Law.</u></li> </ul>	<u>\$2,500</u>

