

NOTICE OF PUBLIC HEARING

Subject: Opportunity to comment on proposed rule relating to potentially structurally compromised buildings

Date / Time: **May 13, 2013 / 10am**

Location: Department of Buildings
280 Broadway, 3rd Floor
New York, NY 10007

Contact: Timothy D. Lynch, P.E.
Executive Director
Forensic Engineering Unit
New York City Department of Buildings
280 Broadway, 4th floor
New York, NY 10007

Proposed Rule Amendment

Pursuant to the authority vested in the Commissioner of Buildings by section 643 of the New York City Charter, and in accordance with section 1043 of the Charter and section 28-216.12 of the New York City Administrative Code, the Department of Buildings proposes to amend section 101-03 and add a new section 102-03 to Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York. The rule was not included in the agency's most recent regulatory agenda because it was not anticipated at the time the agenda was created.

Instructions

- Prior to the hearing, you may submit written comments about the proposed amendment to Mr. Lynch by mail or electronically through the NYC Rules website at <http://www.nyc.gov/nycrules> by **May 13, 2013**.
- To request a sign language interpreter or other reasonable accommodation for a disability at the hearing, please contact Mr. Lynch by **April 18, 2013**.
- Written comments and a summary of oral comments received at the hearing will be available until **June 12, 2013** between the hours of 9:00 a.m. and 5:00 p.m. at the Office of the Commissioner, Department of Buildings, 280 Broadway, 7th floor, New York, NY 10007.

STATEMENT OF BASIS AND PURPOSE

This rule is proposed pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043(a) of the New York City Charter and section 28-216.12 of the New York City Administrative Code.

Section 28-216.12.1 of the Administrative Code created a requirement that potentially structurally compromised buildings be inspected regularly by a registered design professional.

Pursuant to Section 28-216.12.1, this proposed rule would do the following:

- add a filing fee for required reports of compromised buildings;
- expand on the definition of “potentially compromised” in section 28-216.12;
- specify the inspection requirements for potentially structurally compromised buildings;
- set out the items that need to be included in the inspection report; and
- create civil penalties for failure to file a report.

New matter is underlined.

Section 1. Section 101-03 of Chapter 100 of Title 1 of the Rules of the City of New York is amended to add the following fee at the end of the table set forth in that section, to read as follows:

<u>Filing structurally compromised building</u>	<u>\$500</u>
<u>inspection report</u>	

§2. Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new section 102-03 to read as follows:

§ 102-03 Potentially structurally compromised buildings

(a) Potentially compromised. For the purposes of this section, “potentially compromised” means a building or structure that:

- (1) has had an open roof for sixty days or longer.

(2) has been shored and braced or repaired pursuant to an emergency declaration issued by the commissioner pursuant to Article 215 of Title 28 of the Administrative Code.

(3) has been subject to a precept as a compromised structure under Article 216 of Title 28 of the Administrative Code.

(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.

(b) Inspections.

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

(2) Periodic inspections. After the initial inspection and filing of the report, structural condition inspections must be performed and reports as described in subdivision d of this section must be filed annually, unless otherwise specified by the department. The periodic inspections must continue until a certification is filed with the department by the registered design professional stating that the building or structure is no longer potentially compromised and the department has audited the certification to ensure its accuracy.

(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 28-216.12.1 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.

(f) Civil penalties. In addition to any other penalties authorized by law, failure to file a report pursuant to the requirements of section 28-216.12.1 and this section will result in a civil penalty of \$3,000 for each violation of such section, payable to the department.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-788-1087**

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

RULE TITLE: Inspection of Potentially Structurally Compromised Buildings

REFERENCE NUMBER: 2012 RG 069

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
Acting Corporation Counsel

Date: February 27, 2013

**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: Inspection of Potentially Structurally Compromised Buildings

REFERENCE NUMBER: 2012 RG 069

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 the requirements stated by the proposed rule reflect established industry practice for which the agency historically has provided extensive notice, outreach, and guidance on compliance to the regulated individuals and communities.

/s/ Amy Bishop
Mayor's Office of Operations

March 1, 2013
Date

