

## NEW YORK CITY DEPARTMENT OF BUILDINGS

### Notice of Public Hearing and Opportunity to Comment on Proposed Rule

**What are we proposing?** The Department of Buildings (DOB) is proposing to add a new section 102-05 to Title 1 of the Rules of the City of New York to specify penalties for failure to certify correction of certain immediately hazardous violations.

Due to the current health emergency, the public hearing for this rule is being scheduled as a virtual hearing, which may be accessed according to the information given below in this Notice.

- **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 7/30/20.
- Join through Internet:

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.

<https://buildings.webex.com/buildings/j.php?MTID=m51f36a762630d78e2f5c2cd7487050a8>

When prompted, enter the following meeting password: 10007

When joining the meeting choose either “**Use computer for audio**” or “**Call in**” for the audio portion of the public hearing. If you choose the “Call in” option, the information needed to connect (**phone number, Access Code and Attendee ID**) will automatically be presented to you immediately **after** you join the Webex meeting.

If you have low bandwidth or inconsistent Internet connection, we suggest you use the “Call-in” option for the hearing. This will reduce the possibility of dropped audio and stutters.

- Join via phone only:

To join the meeting only by phone, use the following information to connect:

Phone: 646-992-2010

Access code: 160 028 4358

Password (if requested): 10007

**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).

- **Comments cannot be submitted by mail or fax at this time because the DOB office is temporarily closed.**
- **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 7/23/20 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 7/30/20.

**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 7/23/20.

This location has the following accessibility option(s) available: Simultaneous transcription and an ASL interpreter 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/>.

**What authorizes DOB to make this rule?** Sections 643 and 1043(a) of the City Charter and Section 28-219.1 of the Administrative Code authorize DOB to make this proposed rule. This proposed rule was not included in DOB's 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 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**

This proposed rule adds a new Section 102-05 to Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York relating to penalties for failure to certify correction of certain immediately hazardous violations. Section 28-219.1 of the Administrative Code sets out a range for these penalties. This proposed rule establishes specific amounts within that range and separates 1- and 2-family dwellings from other kinds of buildings, as is done in many other provisions of the Administrative Code and Rules of the City of New York.

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 28-219.1 of the New York City Administrative Code.

New material is underlined.

Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new section 102-05 to read as follows:

**§102-05 Penalties for failure to certify correction of certain immediately hazardous violations.**

**(a) Penalty amounts.** Pursuant to §28-219.1 of the Administrative Code, and in addition to any penalties otherwise authorized by article 202 of chapter 2 of title 28 the Administrative Code and the rules of the department, whenever any person fails to submit certification of correction of an immediately hazardous violation that poses a threat of imminent danger to public safety or property, a penalty shall be paid to the department as follows:

- (1) For one-family or two-family dwellings, the penalty shall be \$1,500.
- (2) For a building other than a one-family or two-family dwelling, the penalty shall be not less than \$3,000 nor more than \$5,000.

**(b) Issuance of permits or certificates of occupancy; rescission of stop work order.** No permit or certificate of occupancy shall be issued and no stop work order may be rescinded at the property until such penalty is paid to the department. Failure to pay such penalty shall not prevent the issuance of a permit for work to be performed pursuant to articles 215 or 216 of chapter 2 of title 28 of the Administrative Code.

**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:** Penalty for Failure to Certify Correction of Immediately Hazardous Violation

**REFERENCE NUMBER:** 2020 RG 060

**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: June 17, 2020

**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: Penalty for Failure to Certify Correction of Immediately Hazardous Violation**

**REFERENCE NUMBER: DOB-128**

**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 violations pose significant risks to public health and safety.

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

June 17, 2020  
Date