

## 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 sections 101-07 and 103-09 of Chapter 100 of Title 1 of the Rules of the City of New York regarding approved agencies and retaining wall inspections.

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 from 11am to 12pm on 4/5/21.

- 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=mc04f4c6be1ec569f3aa2e87ba04e5e44>

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: 160 179 8189

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 3/29/21 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 4/5/21.

**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 3/29/21.

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 Article 305 of Title 28 of the New York City 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**

The purpose of these proposed rule amendments is to clarify the qualifications and responsibilities of qualified retaining wall inspectors and bring them in line with those of qualified exterior wall inspectors.

The rule adds new requirements regarding the experience and responsibilities of the Qualified Retaining Wall Inspector (QRWI) to ensure inspectors have appropriate knowledge of retaining walls and how to conduct inspections of those walls.

The Department of Buildings' authority for this rule is found in sections 643 and 1043 of the New York City Charter and Article 305 of Title 28 of the Administrative Code.

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 1. Subdivision (a) of section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new paragraph (14) to read as follows:

(14) Qualified retaining wall inspector. An engineer as defined in section 28-101.5 of the administrative code with three years of relevant experience with retaining walls over 10 feet.

§2. Paragraphs (14) through (17) of subdivision (a) of section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York are renumbered (15) through (18), respectively.

§3. Subdivision (c) of section 101-07 of Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new paragraph (10) to read as follows:

(10) Retaining wall inspections.

- (i) Inspection of a retaining wall and appurtenances pursuant to section 28-305.4 of the Administrative Code must be performed by or under the direct supervision of a qualified retaining wall inspector.
- (ii) The qualified retaining wall inspector applicant must provide a detailed résumé indicating relevant work experience obtained in any US city or jurisdiction. When relevant experience is obtained while employed by another registered design professional who was signing and sealing such relevant work, a letter must be provided indicating length of the qualified retaining wall inspector applicant's employment and his or her responsibilities.
- (iii) A qualified retaining wall inspector applicant must demonstrate to the commissioner's satisfaction, including performance on any written or oral tests the commissioner may require, that he or she is sufficiently familiar with the Construction Codes, laws and rules pertaining to retaining walls and engineering concepts related to retaining walls.

§4. Paragraph (11) of subdivision (a) of section 103-09 of Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

- (11) Qualified Retaining Wall Inspector (“QRWI”). [An engineer as defined in section 28-101.5 of the administrative code with three years relevant experience as such experience is] A qualified retaining wall inspector as defined in section 101-07 of the rules of the Department.

§5. Section 103-09 of Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new subdivision (b) to read as follows:

(b) Responsibilities of qualified retaining wall inspectors.

- (1) A QRWI must conduct condition assessments and file reports in accordance with this section and section 28-305.4 of the Administrative Code.
- (2) A QRWI must maintain records of inspections and tests for at least six years and must make such records available to the Department upon request.
- (3) A QRWI 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.

§6. Subdivisions (b) through (j) of section 103-09 of Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York are re-lettered (c) through (k), respectively.

**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:** Qualifications and Responsibilities of Retaining Wall Inspectors

**REFERENCE NUMBER:** 2021 RG 001

**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 17, 2021

**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: Qualifications and Responsibilities of Retaining Wall Inspectors**

**REFERENCE NUMBER: DOB-136**

**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

February 18, 2021  
Date