

## 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 section 103-04 of Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York regarding façade 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 at 11am on 9/15/21.

- 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=m8b329c14f232a58e2c225e0770bba000>

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: 180 007 8086

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).
- **Mail.** You can mail comments to the New York City Department of Buildings, Office of the General Counsel, 280 Broadway, 7<sup>th</sup> floor, New York, NY 10007.
- **Fax.** You can fax comments to the New York City Department of Buildings, Office of the General Counsel, at 212-566-3843.

- **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 9/8/21 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 9/15/21.

**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 9/1/21.

This location has the following accessibility option(s) available: Simultaneous transcription 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 302 of Title 28 of the 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 of Proposed Rule**

Rule 103-04 sets out requirements for façade inspections and report filing. The purpose of these proposed amendments is to:

- clarify the physical examination requirements for buildings that do not front a public right of way
- clarify how the number of stories is determined for the purposes of façade inspections
- provide a mechanism for owners who did not file a report in the previous cycle to file at any time in the next cycle.

The Department of Buildings' authority for this rule is found in sections 643 and 1043 of the New York City Charter and Article 302 of the New York City 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. Subparagraph (iv) of paragraph (2) of subdivision (c) of section 103-04 of Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

- (iv) The methods used to examine the building must permit a complete inspection of same. Except as herein required, the use of a scaffold or other observation platform is preferred, but the QEWI may use other methods of inspection as he/she deems appropriate. Physical examinations from scaffolding or other observation platform (“close-up inspections”) must be performed at intervals of not more than 60’-0”, with the minimum number of physical examinations per total length of facade elevation noted in the table below. If the building does not front a public right-of-way, physical examinations are to be performed at a representative sample of the façade elevations with a minimum of one examination per building. All physical examinations shall occur along a path from grade to top of an exterior wall fronting each public right-of-way, using at least one scaffold drop or other observation platform configuration, including all exterior wall setbacks. The QEWI shall determine the most deleterious locations and perform physical examinations at those locations. The use of drones, high resolution photography, non-destructive testing, or other similar methods does not eliminate the requirements for close-up inspections.

§ 2. Subparagraph (i) of paragraph (4) of subdivision (c) of section 103-04 of Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

- (i) The requirements of this rule apply to all buildings with exterior walls or parts thereof that are greater than six stories [in height, including the basement, but not the cellar, as defined in the building code, and], regardless of the information in the Certificate of Occupancy. For buildings [constructed on sloped sites] that contain six (6) [full] stories above grade plane plus [one partial story] a cellar, where more than half the height of that [partial story] cellar as measured at any individual exterior wall is above [existing grade and/or adjacent to open areas (e.g.,] the adjacent ground level, including but not limited to areaways, yards, and ramps[)], all walls of such building shall be subject to facade inspection. Conditions requiring facade inspections may also include other structures that add to the height of the building as per section BC 504. The Commissioner shall determine which additional buildings and/or parts thereof are required to file in accordance with this rule.

§ 3. Subparagraph (v) of paragraph (4) of subdivision (c) of section 103-04 of Subchapter C of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding an exception following clause (C) to read as follows:

Exception: Starting in Cycle 10, owners whose buildings have their most recent status as “No Report Filed” may file a report prior to the start of their designated filing window provided that all applicable civil penalties set out in subdivision (d) of this section are paid at the time of filing.

**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: Building Facade Inspection Rules**

**REFERENCE NUMBER: DOB-141**

**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 it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

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

July 29, 2021  
Date

**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:** Building Facade Inspection Rules

**REFERENCE NUMBER:** 2021 RG 049

**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: 7/29/2021