


NOTICE OF ADOPTION OF RULE

K.V.

NOTICE IS HEREBY GIVEN, 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 that the Department of Buildings hereby adopts the new rule regarding artwork on temporary protective structures. This rule was first published on July 18, 2023, and a public hearing thereon was held on August 17, 2023.

Dated: August 31, 2023
New York, New York


James S. Oddo
Commissioner

Statement of Basis and Purpose of Rule

Local Law 163 of 2021 (LL163) added a new section 3307.11 regarding artwork on temporary protective structures to Chapter 33 of the Building Code. LL 163 provides a process for building owners to display artwork on temporary protective structures. LL 163 also sets out the requirements for installing such artwork that is approved by the Department of Cultural Affairs.

A new section 3307-01 is added to Chapter 3300 to address the requirements of the law and set out procedures for notification, opting out and installation of artwork on temporary structures after September 1, 2023.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and Local Law 163 of 2021.

New material is underlined.

[Deleted material is in brackets.]

Asterisks (***) indicate unamended text.

“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.

Chapter 3300 of Title 1 of the Rules of the City of New York is amended by adding a new section 3307-01 to read as follows:

§ 3307-01 Artwork on temporary protective structures.

(a) Required installation of artwork approved by the Department of Cultural Affairs (“DCLA”). Temporary protective structures installed on and after September 1, 2023 must include DCLA-approved artwork as defined in Section 3307.11.2 of the Building Code unless the owner of the property at which such temporary structure is installed opts out in accordance with the provisions of this section. For the purposes of this section, the term “temporary protective structures” refers to sidewalk sheds, construction fences, and supported scaffolds that are or will be installed for at least 90 days.

(b) Notification of solicitation of alternative artwork.

(1) A property owner may install artwork approved by DCLA in accordance with Section 2508 of the New York City Charter or alternative artwork in accordance with Section 3307.11.2.1 of the Building Code that is also approved by DCLA. If the owner chooses to install alternative artwork, the owner must comply with notification of solicitation of such alternative art in accordance with paragraph (2) below.

(2) Prior to seeking approval from DCLA, the property owner must notify the Council Member and Community Board where such property is located of a request to solicit artwork and proof of such notification must be submitted to DCLA at the time of application for approval of such alternative artwork.

(c) Opting out. A property owner may opt out of the requirement to install artwork on temporary protective structures at the time of filing an application for construction documents approval for such structure, pursuant to article 104 of chapter 1 of title 28 of the Administrative Code of the City of New York, or at any time thereafter. If the property owner is in the process of obtaining alternative artwork as set forth in subdivision (b) above at the time of filing such application, they must opt out of the requirement to install artwork until they file a post approval amendment in accordance with the requirements of paragraph 2 of subdivision (d) below.

Exception. Subject to appropriation of funds for city capital projects to install approved or alternative artwork, properties owned by the City of New York or receiving capital funding from the City or a City agency may not opt out, except as otherwise provided in Section 3307.11.8 of the Building Code.

(d) Installation and removal of the artwork.

(1) The applicant of record for the temporary protective structure must submit plans showing area of coverage, materials, and method of installation of the artwork to the temporary protective structure.

(2) If DCLA approval for alternative artwork is not received by the time that the application for the temporary protective structure is approved, the applicant must file a post approval amendment with revised plans that comply with paragraph (1) above when DCLA approval is received and prior to installation of the artwork.

(3) An owner may choose to participate in the program again after de-installation of the artwork and may install DCLA-approved artwork in accordance with the provisions of this section.

(e) Method of installation.

(1) Artwork installed on sheds. Artwork must be installed on the outer sides and ends of sidewalk sheds by stretching such artwork over the shed and fastening to the back or on panels that adhere directly to the outer sides and ends of the shed. Artwork cannot extend above or below the shed parapet or be larger than four (4) feet in height.

(2) Artwork installed on construction fences. Artwork must be installed on the outside of the construction fence by stretching such artwork over the fence and fastening to the back or on panels that adhere directly to the fence structure. Artwork cannot extend beyond the top of the fence.

(3) Artwork installed on supported scaffolds. Artwork must be printed on debris netting meeting the requirements of Section 3314.8.2 of the Building Code.

(f) Inspections.

(1) Upon completion of the installation of artwork on a temporary protective structure, such installation must be inspected by a qualified person designated by the permit holder for the temporary protective structure or a third party acceptable to such permit holder to verify that the artwork is in a safe condition and has been installed in accordance with approved plans. The results of the inspection must be documented in an installation inspection report signed and dated by the person who performed the inspection.

(2) In addition, the artwork must be inspected in accordance with the following provisions:

(i) Sheds – daily, as set out in Section 3307.6.5.10 of the Building Code.

(ii) Fences – weekly, as set out in Section 3307.7.8 of the Building Code.

(iii) Supported scaffolds – prior to each shift, as set out in Section 3314.4.3.4 of the Building Code.

(3) Inspection records must be kept on site and made available to the Department on request.