

## 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 add a new rule regarding categories of work that do not require a permit when performed by the New York City Department of Parks and Recreation (DPR) or its contractors on land under DPR's jurisdiction.

**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 4/23/25.

- **Join through Internet – Desktop app:**

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 to either continue using the browser or download/open the Teams desktop app.

<https://events.gcc.teams.microsoft.com/event/f40a96bc-112a-407d-b792-196ace1b0657@32f56fc7-5f81-4e22-a95b-15da66513bef>

Enter your name when prompted and click the **“Join now”** button. If you don't have computer audio or prefer to phone in for audio, select **“Phone audio”** under **“Other join options”** then click the **“Join now”** button. You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins. If you are using phone audio then follow the dial-in instructions when prompted.

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

- **Join through Internet - Smartphone app:**

To join using the Microsoft Teams app on your smartphone, click on the following URL link from your phone to automatically open the Teams app. Note that the Microsoft Teams app must already be installed on your smartphone. It is available for free both in the Apple Store and Google Play.

<https://events.gcc.teams.microsoft.com/event/f40a96bc-112a-407d-b792-196ace1b0657@32f56fc7-5f81-4e22-a95b-15da66513bef>

When prompted select **“Join meeting”**. Type your name and then select **“Join meeting”** again. You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins.

Alternatively, open the Teams app and select **“Join a meeting”**. Signing in with an account is not required. Type your name, the following Meeting ID and Passcode, then select **“Join meeting”**.

Meeting ID: 291 047 436 268

Passcode: BT3qt6ss (Code is case sensitive)

- **Join via phone only:**

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

Phone: 646-893-7101

Phone Conference ID: 614 102 224#

You will first be placed in a waiting status in the virtual lobby, then be admitted when the hearing begins.

**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, 7th floor, New York, NY 10007.
- **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 4/16/25 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. Please note that the hearing is for accepting oral testimony only and is not held in a "Question and Answer" format.

**Is there a deadline to submit comments?** Yes, you must submit comments by 4/23/25.

**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 4/9/25.

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/>. Copies of all comments submitted online, copies of all written comments and a summary of oral comments concerning the proposed rule will be available to the public at the Office of the General Counsel and may be requested by email at [dobrules@buildings.nyc.gov](mailto:dobrules@buildings.nyc.gov).

**What authorizes DOB to make this rule?** Sections 643 and 1043(a) of the City Charter and sections 28-105.4 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 of Rule**

The Department of Buildings (DOB) is proposing to add a new rule regarding categories of work that do not require a permit when performed by the New York City Department of Parks and Recreation (DPR) or its contractors on land under DPR's jurisdiction. DPR maintains a large portfolio of buildings, including public restroom buildings, recreation centers, pool filter plants, tennis buildings, utility buildings, and concessions buildings. Any work to be performed on those buildings may require a DOB permit.

Paragraph (9) of Section 28-105.4 of the New York City Administrative Code allows DOB to exempt certain categories of work from its permit requirements by rule. Therefore, to complete certain construction work more quickly while maintaining public safety, DOB is proposing several categories of work that DPR or its contractors may perform on land under DPR's jurisdiction without DOB permits.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and section 28-105.4 of the New York City Administrative Code.

New material is underlined.

"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.

Subchapter A of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding a new section 101-18 to read as follows:

#### **§101-18 Categories of work that do not require a permit when performed by the New York City Department of Parks and Recreation or its contractors on land under DPR's jurisdiction.**

- (a) Scope.** This rule establishes categories of work performed by the New York City Department of Parks and Recreation ("DPR") or its contractors on land under DPR's jurisdiction that may be exempt from the permit requirements of the New York City Construction Codes.
- (b) References.** See Administrative Code sections 28-105.1 and 28-105.4, paragraph 9.
- (c) Compliance with code and other laws.** Any exemptions outlined by this rule will not

grant authorization for any work to be performed in a manner that violates the provisions of this rule, the New York City Construction Codes, the New York City Energy Conservation Code, or any other laws, rules, or regulations. Such exemptions do not eliminate the obligation of the DPR to file with other City agencies, when appropriate, including but not limited to the Landmarks Preservation Commission, the City Planning Commission, Department of Transportation, Department of Environmental Protection, Department of Environmental Conservation, or the Fire Department, nor do they eliminate the obligation of the DPR to file at the Department of Buildings for any related work, such as associated sidewalk protection, structural work, electrical connections, or plumbing connections.

**(d) General requirements.** Work may be exempted from the permitting requirements of the Construction Codes when the following conditions are met:

- (1)** The work must be performed by general contractors registered pursuant to the requirements of Chapter 4 of Title 28 of the Administrative Code, and/or licensed electricians in accordance with the New York City Electrical Code. General contractors and electricians must be in good standing with the Department.
- (2)** All Limited Alteration Application work and electrical work associated with any exemptions outlined by this rule must be filed with the Department.
- (3)** Geotechnical investigations must be performed when required by Building Code section 1803.2.
- (4)** Support of excavation work must be filed with the Department where required by Building Code section 3304.4.
- (5)** The work must be filed with the Department if such work is performed as an integral part of a larger project filed with the Department.
- (6)** All repair and replace-in-kind work must be validated by an engineering analysis accounting for all applicable loads.
- (7)** All special inspections required by Chapter 17 of the Building Code must be performed.

**(e) Documentation requirements.** DPR must comply with the following documentation requirements:

- (1)** Signed and sealed construction documents, including temporary shoring documents where required, must be maintained on site during construction. All construction document requirements in Building Code section BC 107 and record retention requirements in Administrative Code section 28-104.12 apply. Such records must be made available to the department upon request.
- (2)** Where special inspections are performed for work exempted from permitting by this rule, the special inspection documentation must be retained by the DPR for at least six years in accordance with Administrative Code section 28-115.3 and made available to the Department upon request.

**(f) Categories of work that are exempt from permit requirements.** In addition to the categories of work exempted from the permit requirements of Administrative Code Section 28-105.1, in accordance with section 28-105.4, paragraphs 1 through 9, the following categories of work are exempt from permit requirements when performed by DPR or its contractors on land under DPR's jurisdiction.

**(1) Construction fences.** Construction fences when such fences:

- (i) do not impede the public right of way; and
- (ii) are not on the lot line; and
- (iii) are not installed in connection with work requiring a permit.

**(2) Site storm water drainage systems.** Site storm water drainage systems, including manholes and catch basins that do not require a Department of Environmental Protection permit.

**(3) Site grading, provided that the site grading:**

- (i) does not require support of excavation pursuant to Building Code section 3304.4;
- (ii) does not require a Department of Environmental Protection permit;
- (iii) does not create a non-accessible route(s) where an accessible route(s) would be required; and
- (iv) does not create new retaining walls or create modifications to existing retaining walls that would require a permit. Retaining walls that do not require a permit are set out in paragraph (7) of this subdivision.

**(4) Outdoor stairs on grade.** Outdoor stairs on grade that are independent of other structures.

**(5) Site furnishings and ancillary non-building structures.** The following site furnishings and ancillary non-building structures, including their foundations:

- (i) flagpoles;
- (ii) handball walls that are:
  - (A) a maximum of 16'-0" high;
  - (B) a minimum of 10" thick;
  - (C) exempt from support of excavation requirements pursuant to Building Code section 3304.4; and
  - (D) not supported by pile foundations.

- (iii) playground equipment;
- (iv) basketball hoops;
- (v) guardrails;
- (vi) handrails;
- (vii) sports accessories;
- (viii) bollards; or
- (ix) chain link fences and steel picket fences including gates, posts, and related appurtenances where such fences are:
  - (A) a maximum of 20'-0" high for chain link fences and 7'-0" high for steel picket fences;
  - (B) not installed on the lot line;
  - (C) exempt from support of excavation requirements pursuant to Building Code section 3304.4; and
  - (D) not supported by pile foundations.

**(6) Concrete spall and crack repair.** Concrete spall and crack repair for exterior, on-grade, non-building structure concrete applications, provided that the work:

- (i) does not require temporary shoring;
- (ii) is a replacement in kind; and
- (iii) does not exceed a reinforcing bar size of #5.

**(7) Retaining walls.**

- (i) For all retaining wall work types listed in this paragraph, the following general requirements apply. Retaining walls must:
  - (A) not be located on the lot line or within a distance that is the maximum height of the wall from the lot line;
  - (B) not be attached to a building;
  - (C) be exempt from the inspection requirements of Administrative Code section 28-305.4;
  - (D) not support any structure or any surcharge load other than pedestrian loads, snow loads, and incidental loads associated with maintenance, including temporary vehicle surcharges;

- (E) not show any evidence of sliding or overturning failure; and
- (F) be less than 10 feet in height along any point of the wall. For the purposes of this item, the height of the retaining wall is the distance from the top of the ground in front of the wall to the top of the wall stem, or wall step for stepped walls, including any parapets or fencing capable of retaining material. This applies to all retaining walls, including those not fronting a public right-of-way.

(ii) The following scopes of work are exempt from permitting requirements under this section:

- (A) Construction of new retaining walls provided that such new retaining walls retain 5 feet or less in height of soil.
- (B) Replacement in kind of mass stone masonry walls provided that such retaining walls comply with the applicable code requirements for mass stone masonry walls, including but not limited to requirements pertaining to base to height ratio.
- (C) Repairs and rebuilds of retaining wall parapets down to a maximum of 2 feet below the upper soil level.
- (D) Repair of existing retaining walls provided that such existing retaining walls retains 5 feet or less in height of soil.
- (E) Removal and replacement of masonry façade/cladding units where such replacement does not overlook a paved surface or marked path within the height of the wall. However, if the façade removal and replacement occur a maximum of 5 feet in height above the ground in front of the retaining wall, the retaining wall may overlook a paved surface or marked path.

**(8) Renovation of public restroom buildings.**

(i) Renovation of public restroom buildings, provided that the building:

- (A) is limited to a single story in height;
- (B) is a freestanding building that does not exceed 1,000 gross square feet;
- (C) is not on the lot line or within a distance that is the maximum height of the building from the lot line;
- (D) contains no sub-grade levels;
- (E) does not have a structural system that is either concrete or structural steel;
- (F) is isolated with a construction fence around the building, measured

perpendicularly 8 or more feet from the face of the building; and

(G) is taken offline for the duration of the work.

(ii) Work performed on such buildings must be limited to:

(A) reconfiguration of non-load bearing walls;

(B) façade restoration, with the exception of terra cotta;

(C) replacement in kind of existing structural members;

(D) replacement in kind of domestic hot water systems and electric heating systems;

(E) replacement and reconfiguration of plumbing fixtures; or

(F) construction of ramps, stairs and their associated handrails and guardrails as required for accessibility.

**(9) Sheds and greenhouses.** Temporary portable freestanding sheds and greenhouses on land under DPR's jurisdiction, provided that the sheds or greenhouses:

(i) do not exceed 120 square feet in area and 9'-6" in height;

(ii) do not obstruct any required window;

(iii) are not located within 3 feet of any lot line;

(iv) do not impose any loads on adjacent structures or go below the bottom of any adjacent footings;

(v) are prefabricated structures secured to foundations per the shed or greenhouse manufacturer's instructions; and

(vi) are limited to not more than one such shed per 1,000 square feet of lot area.

**(10) Replacement in kind of miscellaneous metal members.** Replacement in kind of miscellaneous metal members, provided that such replacement:

(i) occurs within buildings or structures not exceeding a single story in height;

(ii) does not include the building structure or affect any portion of the building's structural stability;

(iii) does not result in the widening of any openings; and

(iv) is limited to the following types of work:



- (A) lintels;
- (B) steel doors;
- (C) storefront; or
- (D) guardrails and railings.

**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: Amendment of Permitting Requirements to Exempt Certain Structures  
Under Jurisdiction of Department of Parks and Recreation**

**REFERENCE NUMBER: DOB-198**

**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

**(212)** 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

March 7, 2025

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:** Amendment of Permitting Requirements to Exempt Certain Structures Under Jurisdiction of Department of Parks and Recreation

**REFERENCE NUMBER:** 2025 RG 014

**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  
Senior Counsel

Date: March 6, 2025