



Promulgation Details for 1 RCNY 44-01

This rule became effective on March, 12, 2009.

Since such date, one or more amendments have been made to this rule. Each rule amendment has its own effective date and Statement of Basis and Purpose.

Below you will find one or more rule amendments (the most recent appearing at the top), followed by the original rule.

The effective date of each amendment and the original rule can be found at the top of each "NOTICE OF ADOPTION OF RULE."

This rule has an effective date of 10-02-11.

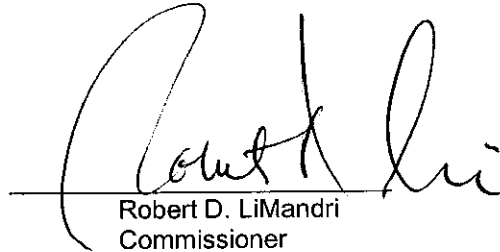
NOTICE OF ADOPTION OF RULE

NOTICE IS HEREBY GIVEN, pursuant to the authority vested in the Commissioner of the Department 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 addition of Section 101-14 to Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York, regarding what types of work require a work permit.

This rule was first published on June 30, 2011 and a public hearing thereon was held on August 3, 2011.

Dated:

8/24/11
New York, New York


Robert D. LiMandri
Commissioner

Statement of Basis and Purpose

This rule is proposed pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043 of the New York City Charter and Section 28-105.4 of the New York City Administrative Code. The rule consolidates and clarifies the types of minor alterations and ordinary repairs that are exempt from work permit requirements. These exemptions will not grant authorization for work that violates, in any way, the provisions of this code, the zoning resolution or any other law or rules enforced by the department.

Under current law, a work permit is required unless that work consists of only minor alterations or ordinary repairs. This rule only addresses work defined as minor alterations or ordinary repairs, and therefore does not require the applicant to obtain a work permit.

By clearly defining what types of work need or do not need permits, applicants will have a better understanding of when to submit an application for a work permit.

The rule consolidates a series of department policies from departmental memoranda and policy and procedure notices. The rule also defines types of work that are exempt from a certificate of compliance because they are exempt from permit requirements (this expands upon the defined requirements of section 28-116.4.1).

Specifically, the changes are as follows below:

- Section 44-01 is being repealed because its provisions are now covered in this new section 101-14 (this proposed rule).
 - o Specifically, Tables 1(1), 1(2) and 1(3) of this proposed rule replace paragraphs (5), (1) and (4), respectively, of subdivision (a) of section 44-01.
 - o Table 1(3) of this proposed rule adds a new requirement to protect adjoining properties and structures during excavations for in-ground swimming pools.
 - o Table 1(4) and 1(5) of this proposed rule adds a new category of work exempt from permit that is not addressed by section 44-01.
- Table 2(I) of this proposed rule clarifies the work exempt from permit with respect to retaining walls and nursery structures which are typically located exterior to a building. This is in accordance with section 28-105.4
- Table 2(II) of this proposed rule reinstates requirements of section 27-184(a) of Title 27 of the Administrative Code, which were repealed by Local Law 33 of 2007.
- Table 2(II)(9) of this proposed rule adds a new category of work exempt from permit that clarifies the current department position for temporary installations of boilers.
- Table 2(III) and Table 2(IV) of this proposed rule add new categories of work exempt from permit for partitions and roofs.
- Table 3 of this proposed rule replaces the Department's Technical Policy and Procedure Notice #1/99.

Section 1. Section 44-01 of Title 1 of the Rules of the City of New York is REPEALED.

§ 2. Subchapter A of Chapter 100 of Title 1 of the Official Compilation of the Rules of the City of New York is amended by adding a new Section 101-14 to read as follows:

§101-14 Categories of work that may or may not require a permit.

(a) Scope. This rule establishes categories of work that may be classified as a minor alteration or ordinary repair and therefore may be exempt from the permit requirements of the New York city construction codes.

(b) References. See Administrative Code sections 28-105.1, 28-105.4, item 6 and 28-105.4.2.1.

(c) Compliance with code and other laws. Any exemptions outlined by this rule will not grant authorization for any work to be done in a manner that violates the provisions of this code, the New York City Energy Conservation Code, the Zoning Resolution or any other laws, rules, or regulations. Such exemptions shall not eliminate the obligation of any owner to file at 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 shall it eliminate the obligation of any owner to file at the Department of Buildings for any related work, such as, for example, associated sidewalk protection, structural work, electrical connections, or plumbing connections.

(d) Categories of work that may be exempt from permit requirements. In addition to the categories of work exempted from the permit requirements of Section 28-105.1 pursuant to 28-105.4, items 1 through 5, the following categories of work may be considered minor alterations or ordinary repairs that may be exempt from permit requirements. The tables below list the types of minor alterations and ordinary repairs that are exempt from permit requirements and those that require a permit. The categories shown in Tables 1-3 below are not an exclusive list of all types of minor alterations or ordinary repairs that may be exempt from permit requirements.

Table 1
Work Exempt from Permit in One- and Two-family Dwellings

<u>Building component or system (accessory to one- and two-family dwellings)</u>	<u>Permit required?</u>
<p><u>1. Sheds.</u> <u>Temporary portable freestanding sheds erected on the same zoning lot as, and accessory to, a one- or two-family dwelling, provided that all of the following requirements are met:</u> <u>(1) The shed shall not exceed 120 square feet in area and shall not be more than 7'6" in height; and</u> <u>(2) The shed shall not obstruct any required window; and</u> <u>(3) The shed shall not be located within 3 feet (915 mm) of any lot line; and</u> <u>(4) The shed shall be used for storage of normal household goods, tools, or similar items; and</u> <u>(5) There shall not be more than one such shed on any tax lot.</u></p>	<u>NO</u>

<u>Building component or system (accessory to one- and two-family dwellings)</u>	<u>Permit required?</u>
<u>2. Fences.</u> Fences 6 feet (1829 mm) or less in height, as measured from the higher of the two adjoining grades, in connection with one- and two-family dwellings.	<u>NO</u>
<u>3. Small swimming pools.</u> Outdoor in-ground or above-ground pools accessory to a one- or two-family dwelling limited to 400 square feet in area, provided that the distance from the edge of an in-ground pool to any building or lot line is greater than the depth of the deepest portion of the pool, and: <ul style="list-style-type: none"> (1) there is an existing slop sink for indirect waste; or (2) a plumbing permit is obtained for the installation of such sink. 	<u>NO</u>
<u>4. Playground equipment.</u> Playground equipment accessory to a one- or two-family dwelling.	<u>NO</u>
<u>5. Packaged air-conditioning unit in existing buildings.</u> Packaged air-conditioning unit not exceeding 5 tons rated capacity, installed in an existing building, including installations in existing windows or in existing sleeves under windows, and that is not part of an alteration that otherwise requires a permit.	<u>NO</u>

Table 2
Work that may be Exempt from Permit in All Buildings

	<u>Building component or system (all buildings)</u>	<u>Permit required?</u>
<u>I. Exterior structures</u>	<u>1. Retaining walls.</u> Retaining walls less than 4 feet (1219 mm) in height, measured from the top of the footing to the top of the wall, and the wall: <ul style="list-style-type: none"> (1) does not support a surcharge; or (2) does not impound Class I, II or III-A liquids, as defined by section 307.2 of the New York City Building Code. 	<u>NO</u>
	<u>2. Nursery or agricultural shade cloth structures.</u> Shade cloth structures constructed solely for nursery or agricultural purposes, and not covering mechanical equipment, plumbing fixtures or automobiles.	<u>NO</u>
<u>II. Service equipment</u>	<u>1. Air conditioning and ventilating systems.</u> Air conditioning and ventilating system installed as a voluntary system, serving only one floor of a building, and that: <ul style="list-style-type: none"> (1) does not use lot line openings for the intake or exhaust of air or the mounting of equipment; and (2) is not installed in any public hallway, passageway, or stairway; and (3) does not in any way reduce the ventilation of any room or space below that required by code provisions; and (4) does not penetrate any fire division, roof, floor, or wall. 	<u>NO</u>

	<u>Building component or system (all buildings)</u>	<u>Permit required?</u>
	<u>2. Packaged air-conditioning unit.</u> Packaged air-conditioning unit not exceeding 3 tons rated capacity, installed in an existing building, including installations in existing windows or in existing sleeves under windows, and that is not part of an alteration that otherwise requires a permit.	<u>NO</u>
	<u>3. Fuel-burning and fuel-oil storage.</u> Portable fuel-burning equipment that does not require a chimney or vent connection.	<u>NO</u>
	<u>4. Fuel-burning and fuel-oil storage during construction.</u> Portable heaters, having a fuel-storage capacity of 6 gallons or less, used in construction work.	<u>NO</u>
	<u>5. Fuel-burning and fuel-oil storage.</u> Oil-fired heaters, other than internal combustion engines, having a fuel-storage capacity of 6 gallons or less.	<u>NO</u>
	<u>6. Refrigerating systems.</u> Refrigerating systems twenty-five tons or less in capacity and using a Group A1 refrigerant.	<u>NO</u>
	<u>7. Refrigerating systems.</u> Refrigerating systems installed in a vehicle, railroad car, or vessel.	<u>NO</u>
	<u>8. Refrigerating systems.</u> Refrigerating systems that use water or air as the refrigerant.	<u>NO</u>
	<u>9. Temporary boilers.</u> Temporary boilers, whether placed on private property or on the street (related electrical and plumbing connections also require separate permits).	<u>YES</u>
<u>III. Interior partitions</u>	<u>1. Non-fire-rated and non-load-bearing wall, temporary removal.</u> Where the cutting away and <i>temporary</i> removal of any portion of a non-load-bearing, non-fire rated partition is limited to the lesser of 50% of a given wall or 45 square feet in area, and where at the completion of work the partition is restored to its original condition.	<u>NO</u>
	<u>2. Non-fire-rated and non-load-bearing wall, permanent removal in Group R occupancies.</u> In Group R occupancies, where the cutting away and <i>permanent</i> removal of any portion of a non-load-bearing, non-fire-rated partition is limited to the lesser of 50% of a given wall surface or 45 square feet in area. <i>Exception:</i> a permit shall be required where the cutting away and permanent removal of any size occurs in a dwelling unit satisfying either of the following conditions: i. <u>The dwelling unit is located in any of the following areas**:</u> a. <u>Special Hudson Yards District</u> b. <u>Preservation Area P-2 of the Special Garment Center District</u> c. <u>Special Clinton District</u> d. <u>Special West Chelsea District</u>	<u>NO</u>

	<u>Building component or system (all buildings)</u>	<u>Permit required?</u>
	<p>e. <u>Greenpoint-Williamsburg anti-harassment areas in Community District 1, Borough of Brooklyn; and</u></p> <p>ii. <u>the dwelling unit is within a single room occupancy multiple dwelling^{††}</u></p> <p>^{**} <u>The permanent removal of a portion of the partition resulting in a change in the layout of rooms within a dwelling unit shall constitute a “material alteration” in accordance with Zoning Resolution sections 93-90 and 96-01. Any “material alteration” to a dwelling unit located within the “anti-harassment areas” as provided for in Zoning Resolution Sections 23-013, 93-90, 96-01, and 98-70 shall constitute an alteration in accordance with the Building Code and, therefore, require a building permit.</u></p> <p>^{††} <u>Such work shall be considered an alteration and therefore require a building permit and, where applicable, a Certificate of No Harassment in accordance with section 28-107.4 of the Administrative Code.</u></p>	
	<p><u>3. Non-fire-rated and non-load-bearing wall, permanent removal in Groups B, M, and S-1 occupancies.</u> <u>In Groups B, M, and S-1 occupancies, where the cutting away and permanent removal of a non-load-bearing, non-fire-rated partition is limited to 50 linear feet in buildings of Type I or II construction (Class I construction in buildings subject to the 1968 Building Code).</u></p>	<u>NO</u>
<u>IV. Roofs</u>	<p><u>1. Roof repair and reroofing above the deck/sheathing.</u> <u>Roof repair or replacement, limited to the roof membrane, roof coverings, cant strip, and any insulation above the roof deck/sheathing, provided that the New York City Energy Conservation Code does not require additional thermal insulation for the roof.</u></p>	<u>NO</u>
	<p><u>2. Roof repair and reroofing, including the deck/sheathing.</u> <u>Roof repair or replacement that includes replacement of roof deck/sheathing.</u></p>	<u>YES</u>
	<p><u>3. Green roofs not more than 4 inches in depth.</u> <u>Green roof systems, not more than 4 inches in depth measured from the upper surface of the roof covering to the top of the growth medium, located on buildings of noncombustible construction or buildings greater than 100 feet in height.</u></p>	<u>NO</u>

Table 3
Façade Work that may be Exempt from Permit in All Buildings

	Exterior Façade Restoration Item (all buildings)	Permit required?
I. Masonry (not including Terra Cotta and Stone)	<u>1. Brick re-pointing (or other unit masonry).</u>	<u>NO</u>
	<u>2. Removal and replacement of individual bricks - single outside wythe up to 10 sf., not to exceed 4 ft. horizontally, in any 100 sf. of wall area, and the cumulative area of all brick replacement on all façades does not exceed 150 sq. ft.</u>	<u>NO</u>
	<u>3. Mechanical anchorage (pinning) of brick masonry to underlying structure.</u>	<u>YES</u>
	<u>4. Parapet demolition and reconstruction.</u>	<u>YES</u>
	<u>5. Increasing height of an existing parapet.</u>	<u>YES</u>
	<u>6. Installation of new parapet coping (masonry).</u>	<u>NO</u>
	<u>7. Installation of new parapet guardrail.</u>	<u>YES</u>
	<u>8. Replacement of existing guardrail or parapet to the same height (for masonry parapets, replacement of existing parapet limited to 10 sq. ft. in any 100 sq. ft. of continuous parapet vertical surface area.</u>	<u>NO</u>
	<u>9. Installation of expansion or control joints in existing masonry construction (entailing saw-cutting of masonry).</u>	<u>YES</u>
	<u>10. Installation of flashing and weeps, repair or replacement of relieving angles (or lintels), installation of new brickwork, exceeding limits noted in #2 above.</u>	<u>YES</u>
	<u>11. Flashing: cutting in reglet, removing one or two courses of brick from a single wythe on inside face of parapets, exceeding limits noted in #2 above.</u>	<u>YES</u>
	<u>12. Masonry crack repair with injection of repair mortar.</u>	<u>NO</u>
	<u>13. Masonry cladding of existing exterior building walls.</u>	<u>YES</u>
	<u>14. Replacement of masonry sills.</u>	<u>NO</u>
II. Concrete Restoration	<u>1. Structural repair, reinforcement of concrete (repair of re-bars, post-tension cables, curtain panel wall, pre-cast concrete).</u>	<u>YES</u>
	<u>2. Spandrels: repair of cracked or spalled concrete on exterior concrete spandrel beams, concrete fascias or balconies (whether or not repair of deteriorated steel reinforcement is required).</u>	<u>YES</u>
	<u>3. Repair or re-anchoring of existing aluminum or steel balcony handrails.</u>	<u>NO</u>
	<u>4. Concrete crack repair with injection of repair cement.</u>	<u>NO</u>

	<u>Exterior Facade Restoration Item (all buildings)</u>	<u>Permit required?</u>
<u>III. Stone/Terra Cotta Restoration</u>	<u>1. For buildings subject to the requirements of §28-302, patching of spalls or cracks on exterior stone or terra cotta masonry.</u>	<u>YES</u>
	<u>2. Removal and replacement of exterior stone or terra cotta ornamentation with an alternative material.</u>	<u>YES</u>
	<u>3. Mechanical anchorage (pinning) of displaced stone or terra cotta masonry to underlying structure.</u>	<u>YES</u>
<u>IV. Curtain/ Panel Walls</u>	<u>1. Repair, replacements of structural components of panel wall system.</u>	<u>YES</u>
	<u>2. Removal or replacement of inspection plates.</u>	<u>NO</u>
	<u>3. Repair or replacement of sheet metal window clip covers.</u>	<u>NO</u>
	<u>4. Replacement of exterior glass panels in kind, limited to 1,000 square feet of glass in any given 10,000 square feet of wall area.</u>	<u>NO</u>
	<u>5. Replacement of inner glass panels from within the building.</u>	<u>NO</u>
<u>V. Cleaning or Coating of Masonry/Concrete/Metal/EIFS</u>	<u>1. Cleaning, coloring or painting of masonry (brick, stone, terra cotta), concrete.</u>	<u>NO</u>
	<u>2. Application of (trowel applied) cementitious material (stucco) no greater than 1" (25.4 mm) in thickness or other material (brownstone) no greater than 1/8" (3.2 mm) in thickness to exterior surfaces of building walls, excluding newly installed exterior insulation finish systems (EIFS). The application must be limited to a height of 40 feet, measured vertically from the adjoining grade or an adjoining setback that is at least 10 feet deep.</u>	<u>NO</u>
	<u>3. Application of sealant, caulking, regrouting.</u>	<u>NO</u>
	<u>4. Minor repair of exterior insulation finish systems (EIFS), not to exceed 10 square feet in any given 100 square feet of continuous EIFS wall surface area.</u>	<u>NO</u>

	<u>Exterior Façade Restoration Item (all buildings)</u>	<u>Permit required?</u>
<u>VI. Miscellaneous Metal/Steel</u>	<u>1. For buildings subject to the requirements of §28-302, scraping and painting, flashing and coloring, sealing and coating of steel structural members (including lintels over windows) entailing removal and replacement of brick or other masonry, exceeding 10 sq. ft., 4 ft. horizontally, in any 100 sf. of wall area.</u>	<u>YES</u>
	<u>2. Removal and replacement of steel structural members (including lintels over windows), exceeding 10 sq. ft., 4 ft. horizontally, in any 100 sf. of exterior wall area.</u>	<u>YES</u>
	<u>3. Reinforcement of steel structural members (spandrels, beams columns).</u>	<u>YES</u>
	<u>4. Reinforcement of fire escape bars, struts, baskets, or supports.</u>	<u>NO</u>
	<u>5. Installation of handrails at perimeters of balconies, terraces, or rooftops.</u>	<u>YES</u>
	<u>6. Installation of appurtenances (signs more than six square feet (0.56 m²) in area, flagpoles, water tanks, awnings, satellite dishes) to the exterior wall or at perimeters of balconies, terraces, or rooftops. Exception: flagpoles, awnings, and satellite dishes accessory to one- and two-family dwellings shall not require a permit for installation.</u>	<u>YES</u>
<u>VII. Sheet Metal</u>	<u>1. Sheet metal cladding of facades of existing cornice.</u>	<u>YES</u>
	<u>2. Localized (non-structural) repairs/patching to sheet metal cornice.</u>	<u>NO</u>
	<u>3. Repair reinforcement of the structural supports of sheet metal cornices.</u>	<u>YES</u>
	<u>4. Installation of new (replacement) sheet metal or glass fiber reinforced concrete (GFRC) cornice.</u>	<u>YES</u>
	<u>5. Installation of parapet coping cover (sheet metal).</u>	<u>NO</u>
	<u>6. Sheet metal cladding of exposed surfaces of parapet wall.</u>	<u>YES</u>
<u>VIII. Doors/Windows</u>	<u>1. Replacement of existing windows (balcony doors) that satisfy the following conditions: a. such window is not located on the lot line; and b. the replacement does not require a modification of existing masonry openings; and c. the replacement window does not affect access to light or ventilation; and d. there is no change in the operable area of the window.</u>	<u>NO</u>
	<u>2. Replacement of required fire-rated windows.</u>	<u>YES</u>

3. Repair or replacement of window and door sills.	<u>NO</u>
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	<u>Exterior Façade Restoration Item (all buildings)</u>	<u>Permit required?</u>
<u>IX. Miscellaneous</u>	1. Probes involving the removal of less than 10 sf. of unit masonry (with a maximum horizontal dimension not to exceed 4 ft.) in any 100 sf. of wall area, and the cumulative area of all probe openings on all facades does not exceed 150 sq. ft.	<u>NO</u>
	2. Replacement in kind of exterior gutters and leaders.	<u>NO</u>
	3. Removal of existing signs and marquees.	<u>NO</u>
	4. Replacement of existing signs and marquees.	<u>YES</u>
	5. Installation of new signs and marquees, other than painted signs.	<u>YES</u>
	6. Open screen balcony enclosures on balconies less than 40 feet above grade.	<u>NO</u>
	7. Weather-resistant balcony enclosures, such as windows and solid walls.	<u>YES</u>



This rule has an effective date of 03-12-09.

Robert D. LiMandri
Commissioner
rlimandri@buildings.nyc.gov

280 Broadway
(Floor)
New York, NY 10007
www.nyc.gov/buildings

+1 212 566 3103 tel
+1 212 566 3785 fax

Statement of Substantial Need for Earlier Implementation

I hereby find, pursuant to § 1043, subdivision e, paragraph 1(c) of the New York City Charter, and hereby represent to the Mayor, that there is a substantial need for the earlier implementation of new Sections 105-01 and 105-02 of Chapter 100 and new Section 44-01(c) of Title 1 of the Rules of the City of New York, relating to the requirements for the approval of a property tax abatement for the installation of a green roof and the requirements for the approval of a property tax abatement for the installation of a solar electric generating system.

This rule sets forth the procedures required for an owner to obtain a property tax abatement for the installation of a green roof on a Real Property Class 1, 2 or 4 building and for the installation of a solar electric generating system on a Real Property Class 1, 2 or 4 building or site, the certifications and other requirements stated in Title 4-B and 4-C of Article 4 of the Real Property Tax Law, and the process of revocation of the property tax abatement under conditions described in the law.

Titles 4-B and 4-C became effective on August 5, 2008, and the application deadline for receiving a property tax abatement in fiscal year 2010 is March 15, 2009. Therefore, there is a substantial need for the earlier implementation of these rules pursuant to Charter § 1043(e)(1)(c).

Robert D. LiMandri
Commissioner
Department of Buildings

APPROVED:
Michael R. Bloomberg
Mayor

DATE: 3/11/09

NOTICE OF ADOPTION OF RULE

**THE CITY OF NEW YORK
DEPARTMENT OF BUILDINGS**

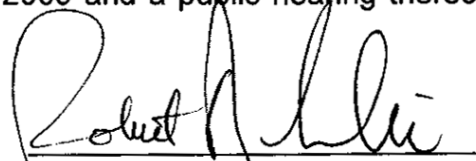
**NOTICE OF ADOPTION OF RULE RELATING TO THE REQUIREMENTS FOR
THE APPROVAL OF A PROPERTY TAX ABATEMENT FOR THE
INSTALLATION OF A GREEN ROOF AND THE REQUIREMENTS FOR THE
APPROVAL OF A PROPERTY TAX ABATEMENT FOR THE INSTALLATION
OF A SOLAR ELECTRIC GENERATING SYSTEM**

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 and Titles 4-B and 4-C of Article 4 of the Real Property Tax Law of New York State, that the Department of Buildings hereby adopts new Sections 105-01 and 105-02 to Subchapter E of Chapter 100 of Title 1 of the Rules of the City of New York and amends Section 44-01 of Chapter 44 Title 1 of the Rules of the City of New York relating to the requirements for the approval of a property tax abatement for the installation of a green roof and the requirements for the approval of a property tax abatement for the installation of a solar electric generating system.

Matter underlined is new.

This rule was first published on January 29, 2009 and a public hearing thereon was held March 3, 2009.

Dated: 3/10, 2009
New York, New York


Robert D. LiMandri
Commissioner

Section 1. Subchapter E of Chapter 100 of Title 1 of the Rules of the City of New York is amended by adding new sections 105-01 and 105-02 to read as follows:

§ 105-01 Requirements for the approval of a property tax abatement application for the installation of a green roof.

(a) Purpose and applicability. This section establishes the procedure for a property tax abatement application for a green roof as defined in Title 4-B of Article 4 of the New York State Real Property Tax Law ("Title 4-B"). A green roof shall not be eligible for a tax abatement pursuant to Title 4-B if the construction of

any of the required elements of the green roof set forth in Title 4-B § 499-aaa(10), except § 499-aaa(10)(a) and § 499-aaa(10)(c), was commenced prior to August 5, 2008.

(b) Designated agency. For purposes of Title 4-B, the designated agency shall be the Department of Buildings (“Department”).

(c) Definitions. The terms used in this section shall have the same meanings as the terms defined in Title 4-B § 499-aaa. In addition, for purposes of this section, the following terms shall have the following meanings:

(1) Alteration application. An application for the alteration of a building that is filed with the Department in accordance with Chapter 1 of Title 28 of the Administrative Code.

(2) Applicant for property tax abatement. The applicant as defined in Title 4-B § 499-aaa, including such applicant’s successors-in-interest.

(3) Applicant of record. The architect or engineer who files the alteration application with the Department.

(4) Compliance period. The tax year, beginning July 1 and ending the following June 30, in which the green roof property tax abatement is taken.

(5) Green roof space. Such part of the eligible rooftop space that consists of a green roof.

(6) Property tax abatement application. The application, including certifications and agreements required by Title 4-B and this section, that is filed with the Department for a green roof property tax abatement in accordance with Title 4-B.

(7) Vegetation layer. The layer of a green roof required by Title 28 § 499-aaa(10)(g) that, in accordance with generally accepted horticultural practice and as certified by an architect, engineer, New York State licensed and registered landscape architect or a horticulturist with a degree or certificate from an accredited training institute, consists of live plants such as sedum or equally drought resistant and hardy plant species spaced in such a manner that such plants will cover at least eighty (80) percent of such layer by the end of the compliance period.

(d) Codes. All work relating to the installation of a green roof shall comply with the requirements of the New York City Construction Codes contained in Title 28 of the Administrative Code (“Title 28”) or the 1968 Building Code, as provided in Administrative Code § 101.4.3. All such work shall also comply with the requirements of the New York City Electrical Code, the New York City Fire Code,

the Energy Conservation Construction Code of New York State, the New York City Zoning Resolution and other applicable laws and rules.

(e) Procedure: Alteration application.

(1) Filing. The Department shall not accept a property tax abatement application unless the applicant of record shall have first filed an alteration application that is professionally certified and agreed to have performed by an architect or engineer the final inspection on behalf of the Department in accordance with Administrative Code § 28-116.2.4.2. This filing is required regardless of whether the building is new or existing and regardless of whether a prior new building or alteration application for work beyond but including installation of the green roof was filed prior to the effective date of this rule.

(i) At the time of submission of the alteration application, the applicant of record shall indicate on forms furnished by the Department that the alteration application will be the subject of a property tax abatement application; the Department shall then record such indication as a required item for that alteration application.

(ii) No work unrelated to the property tax abatement shall be included in the alteration application. Such application shall include, but not be limited to, the following construction documents:

(A) Roof plan showing eligible rooftop space and green roof space, and providing the net square footage of each. The plan shall demonstrate that the green roof does not obstruct firefighting access, in accordance with Section 504 of the New York City Fire Code, and equipment maintenance access.

(B) Details demonstrating that the green roof meets all requirements set forth in Title 4-B § 499-aaa(10) as well as in applicable provisions of the codes listed in subdivision (d) of this section. Details shall indicate the depth of the growth medium.

(C) Design and construction drawings reflecting construction work necessary to enable the building, its structure, the roof structure with the green roof, together with any other existing or added rooftop structures and/or equipment, the roof covering and roof drainage systems to comply with the codes enumerated in subdivision (d) of this section and other requirements set forth in this section

and/or Title 4-B. The weight of the green roof shall be considered a superimposed dead load. The design shall consider the green roof in saturated condition.

(D) The construction documents required by clauses (A), (B) and (C) of this subparagraph shall not be necessary for an application for a green roof installation of a depth of four inches or less where a structural analysis of the existing building has been performed establishing that such building can, without modification, sustain the load of the green roof in a fully saturated condition in a manner that complies with the codes enumerated in subdivision (d) of this section, provided the applicant of record certifies that the construction work reflected in the alteration application complies with such codes and other requirements set forth in this section and Title 4-B and that the analyses reflected in the requirements of clauses (A), (B) and (C) of this subparagraph have been performed. In making such certifications, the weight of the green roof shall be considered a superimposed dead load. The design shall consider the green roof in saturated condition. Where, in accordance with the provisions of this subdivision, construction documents required by clauses (A), (B) and (C) of this subparagraph are not submitted to the Department, the applicant of record shall perform the inspections for the installation required by subdivisions (e)(4) and (f)(1) of this section.

(E) Technical Report(s) identifying those responsible for any special, progress and final inspections required by the New York City Construction Codes contained in Title 28.

(2) Document retention. Construction documents required by clauses (A), (B) and (C) of subparagraph (1) of this section, including structural analyses and calculations, regardless of whether submitted to the Department shall be retained by the applicant of record in accordance with the provisions of the New York State Education Law and Rules of the Board of Regents and shall be made available upon request of the Department.

(3) Permit. All required permits shall be obtained, including any required electrical permits. Application for required electrical permits shall be made by a New York City licensed electrician. Electrical permit applications that do not indicate that the application is an "S Sustainable Energy Install" application and/or omit the application number for the

alteration application will be cause for rejecting the property tax abatement application.

(4) Inspections. Inspections shall be performed in accordance with Title 28 and Title 4-B after the completion and sign-off of any required electrical work. Final inspection shall be performed in accordance with Administrative Code § 28-116.2.4.2.

(5) Construction sign-off. Upon completion of work, the applicant of record shall submit to the Department completed Technical Reports, including final inspection, and a request for sign-off pursuant to Administrative Code § 28-116.4. The request shall be accompanied by a completed property tax abatement application. If the property tax abatement application is not submitted together with and at the same time as the request for construction sign-off, the property tax abatement application shall be denied and the Department shall not further review or process the property tax abatement application.

(6) The Department shall register receipt of the property tax abatement application as a required item in its records.

(7) The date of filing of the property tax abatement application shall be the date of submission of construction sign-off documents and the application for property tax abatement as described in subdivision (e)(5) of this section and as recorded by the Department.

(f) Procedure: Property tax abatement application.

(1) Professional certification. An architect or engineer shall inspect the completed green roof and shall certify (1) its compliance with the requirements of Title 4-B, including but not limited to Sections 499-aaa(10) and 499-ccc of Title 4-B and the designation of eligible rooftop space on the drawings, and (2) the square footage of green roof space eligible for tax abatement pursuant to Title 4-B. In making such certification, the architect or engineer may rely on the report(s) of a New York State licensed and registered landscape architect or a horticulturist with a degree or certificate from an accredited training institute with respect to whether the green roof's vegetation layer complies with Title 4-B § 499-aaa(10).

(2) Maintenance plan. An architect, engineer, New York State licensed and registered landscape architect or a horticulturist with a degree or certificate from an accredited training institute shall prepare a maintenance plan for the green roof. Such maintenance plan shall be sufficient to enable the applicant for property tax abatement to maintain the green roof during the compliance period and for a minimum of three

(3) years thereafter in such a way that it continuously constitutes a green roof in accordance with Title 4-B and this section.

(i) The maintenance plan shall require at least semi-annual maintenance inspections of the condition of the roof and plants, contingency plans for irrigation during dry or drought conditions when necessary to ensure the survival of plants, contingency plans for replanting areas where plants have died, and any other corrective measures necessary to ensure that the green roof is maintained in accordance with Title 4-B and this section.

(ii) The maintenance plan shall include monthly maintenance inspections to ensure that roof drains remain free of debris and in working condition.

(iii) The maintenance plan shall identify any problems that may be encountered, describe corrective measures for each such problem and identify when and how often such corrective measures are required in order to maintain the green roof in continuous compliance.

(iv) The individual who prepared the maintenance plan shall certify, either on the property tax abatement application, if such individual is an architect or engineer, or in a report provided to the architect or engineer filing the property tax abatement application, if such individual is a New York State licensed and registered landscape architect or a horticulturist with a degree or certificate from an accredited training institute, that the maintenance plan complies with this section and that he or she has provided the maintenance plan to the applicant for property tax abatement. Such maintenance plan shall be provided, upon request, to the Department.

(3) Property tax abatement application form and signatures. An architect or engineer shall complete the property tax abatement application form, sign and seal the form, and obtain the signature of the applicant for property tax abatement or such applicant's representative. Such property tax abatement form shall be accompanied by a certification by the property tax abatement applicant or such applicant's representative that no construction of any required element of the green roof set forth in Title 4-B § 499-aaa(10), except § 499-aaa(10)(a) or § 499-aaa(10)(c), was commenced prior to August 5, 2008.

(4) Delivery of property tax abatement application form to applicant of record. The architect or engineer who files the application for property tax abatement shall provide the completed property tax abatement application

form, which shall include all certifications required by Title 4-B and this section, and any required electrical sign-off, to the applicant of record for submission to the Department at construction sign-off. The completed property tax abatement application, together with the Technical Reports and request for construction sign-off, must be filed with the Department by March 15 in order for the property tax abatement to take effect on July 1 of the same calendar year. If a property tax abatement application is filed after March 15, the property tax abatement to which such application relates shall not take effect until July 1 of the following calendar year.

(5) Upon receipt and acceptance of the completed property tax abatement application form, the Department shall record its acceptance and shall notify the Department of Finance.

(g) Compliance period.

(1) The applicant for property tax abatement shall allow all architects, engineers, landscape architects and horticulturists involved in the installation and maintenance of the green roof and the Department to have access to the green roof and any related structures and equipment for inspection thereof at any time during the compliance period upon reasonable notice.

(2) Pursuant to Title 4-B § 499-ddd(1), within the fifteen (15) calendar days prior to the last day of the compliance period, the applicant of record, landscape architect or other architect or engineer shall inspect the green roof, including without limitation its vegetation layer, to certify its continuing compliance with Title 4-B, this section and applicable provisions of law and rules, including but not limited to the codes enumerated in subdivision (d) of this section. Such inspecting professional shall prepare an inspection report and maintain it on file in accordance with the provisions of the New York State Education Law and Rules of the Board of Regents for review by the Department upon request. If the inspecting professional finds that the green roof is not in compliance with Title 4-B, such inspecting professional shall notify the Department on such forms and in such manner as prescribed by the Department.

(h) Revocation.

(1) Should the Department have reason to believe at any time during the compliance period that a condition described in Title 4-B § 499-eee(1) exists, the Department shall inspect or otherwise investigate the condition. If the findings of such inspection or investigation indicate that a condition described in Title 4-B § 499-eee(1) exists, the applicant for property tax abatement shall pay the inspection and investigation expenses of the Department. The Department shall notify the applicant for property tax

abatement of any findings that indicate that a condition described in Title 4-B § 499-eee(1) exists and provide such applicant with an opportunity to dispute the findings.

(2) No later than the ninetieth day after the last day of the compliance period, the Department shall notify the Department of Finance of any findings of noncompliance, and shall identify the period of noncompliance.

(3) The Department may declare an applicant for property tax abatement ineligible for future tax abatements in accordance with Title 4-B § 499-eee(4).

(i) Notification of the New York State Department of Education. In accordance with Title 4-B § 499-fff(3), should the Department determine that any architect, engineer or landscape architect involved in the installation and maintenance of the green roof engaged in professional misconduct in making certifications required by Title 4-B or this rule, the Department shall so notify the New York State Department of Education. Any misconduct in making such certifications may, following hearing by the Board of Regents, provide a basis for revocation of the professional's license or imposition of other penalty or sanction.

(j) Variation of requirements. For applications for property tax abatement filed for the tax year beginning July 1, 2009, the Department may vary any requirement relating to an administrative filing provision of this section with which the applicant was not otherwise required to comply pursuant to the New York City Construction Codes contained in Title 28 or Title 4-B at the time the work was performed.

§ 105-02 Requirements for the approval of a property tax abatement application for the installation of a solar electric generating system.

(a) Purpose and applicability. This section establishes the procedure for a property tax abatement application for a solar electric generating system as defined in Title 4-C of Article 4 of the New York State Real Property Tax Law ("Title 4-C"). No solar electric generating system expenditures shall be eligible for a tax abatement pursuant to Title 4-C if such expenditures were: (1) incurred before August 5, 2008; or (2) incurred in connection with a solar electric generating system placed in service before August 5, 2008.

(b) Designated agency. For purposes of Title 4-C, the designated agency shall be the Department of Buildings ("Department").

(c) Definitions. The terms used in this section shall have the same meanings as the terms defined in Title 4-C § 499-aaaa. In addition, for purposes of this section, the following terms shall have the following meanings:

(1) Alteration application. An application for the alteration of a building that is filed with the Department in accordance with Chapter 1 of Title 28 of the Administrative Code.

(2) Applicant for property tax abatement. The applicant as defined in Title 4-C § 499-aaaa, including such applicant's successors-in-interest.

(3) Applicant of record. The architect or engineer who files the alteration application with the Department.

(4) Compliance period. The tax year, beginning July 1 and ending the following June 30, in which the property tax abatement commences and the three tax years, each beginning July 1 and ending the following June 30, immediately thereafter.

(5) Placed in service.

(i) For solar electric generating systems issued a letter of completion by the Department before the effective date of this subdivision, the later of (A) the date such system began generating electricity, (B) the date of the approval of the installation of the solar electric generating system by the Department's Electrical Division, and (C) the date of the installation of the utility company meter, if applicable.

(ii) For all other solar electric generating systems, the later of (A) the date such system began generating electricity and (B) the date of the Department's issuance of a letter of completion for an alteration application pursuant to subdivision (e)(5) of this section.

(6) Property tax abatement application. The application, including certifications required by Title 4-C and this section, that is filed with the Department for a solar electric generating system property tax abatement in accordance with Title 4-C.

(d) Codes. All work relating to the installation of a solar electric generating system shall comply with the requirements of the New York City Construction Codes contained in Title 28 of the Administrative Code of the City of New York ("Title 28") or the 1968 Building Code, as provided in Administrative Code § 101.4.3. All such work shall also comply with the requirements of the New York City Electrical Code, the New York City Fire Code, the Energy Conservation Construction Code of New York State, the New York City Zoning Resolution and other applicable laws and rules.

(e) Procedure: Alteration application.

(1) Filing. The Department shall not accept a property tax abatement application unless the applicant of record shall have first filed an alteration application that is professionally certified and agreed to have performed by an architect or engineer the final inspection on behalf of the Department in accordance with Administrative Code § 28-116.2.4.2. This filing is required regardless of whether the building is new or existing and regardless of whether a prior new building or alteration application for work beyond but including installation of the solar electric generating system was filed prior to the effective date of this rule.

(i) At the time of submission of the alteration application, the applicant of record shall indicate on forms furnished by the Department that the alteration application will be the subject of a property tax abatement application; the Department shall then record such indication for that application.

(ii) No work unrelated to the property tax abatement shall be included in the alteration application. Such application shall include, but not be limited to, the following construction documents:

(A) Zoning height and setback documents demonstrating that the solar electric generating system complies with height and setback regulations as prescribed by the New York City Zoning Resolution.

(B) Plot plan showing site bounds and location of the building on the site, showing the location of the solar electric generating system elements on the building and/or site, showing the location of and describing any trees that, were they to fall, could come into contact with any part of the solar electric generating system, and showing the location of and identifying any city infrastructure services, utility lines or other potential hazards on the building and/or site.

(C) Site plan, roof plan(s), elevation(s) and/or other drawings, including electrical design drawings, sufficient to show and describe the solar electric generating array(s), building-integrated solar electric generating panels, solar electric generating laminate and related elements of the solar electric generating system on the building and/or site, and their arrangement and operation.

(D) Details demonstrating that the solar electric generating system meets all requirements set forth in Title 4-C § 499-aaaa(10), as well as in applicable provisions of the codes listed in subdivision (d) of this section.

(E) If a roof installation, a roof plan demonstrating that the solar electric generating system does not obstruct access for both firefighting, in accordance with Section 504 of the New York City Fire Code, and maintenance of all roof equipment. If a site installation, the site plan shall show access for firefighting and maintenance to and around site buildings and the solar electric generating system in accordance with Section 504 of the New York City Fire Code.

(F) Drawings showing the foundation and/or anchorage of the solar electric generating system. Ballast shall be prohibited for grade-level installations and for installations one hundred (100) feet or higher above grade. For rooftop installations less than one hundred (100) feet above grade, ballast shall be fully contained.

(G) Design and construction drawings reflecting construction work necessary to enable the building, its structure, the roof structure, the structural work related to the solar electric generating system (and, for rooftop installations, any other rooftop structures and/or equipment), the roof covering and roof drainage systems to comply with the codes listed in subdivision (d) of this section and other requirements set forth in this section and Title 4-C.

(H) Utility company acknowledgement that the application for interconnection is complete or certification by the applicant for property tax abatement or such applicant's representative attesting that the solar electric generating system will not be interconnected with the electrical grid.

(I) Any Technical Report(s) identifying those responsible for special, progress and final inspections required by the New York City Construction Codes contained in Title 28.

(2) Document retention. Construction documents required by clauses (A) through (I) of subparagraph (1) of this section, including structural analyses and calculations, shall be retained by the applicant of record in accordance with the provisions of the New York State Education Law and Rules of the Board of Regents and shall be made available upon request of the Department.

(3) Permits. Following approval of the alteration application, permits shall be obtained for both the construction work and the electrical work to be performed. Electrical work shall be performed by a New York City

licensed electrician and work performed by such licensed electrician and the system installer in connection with construction of the solar electric generating system shall comply with all approved construction documents submitted in support of both the construction permit and the electrical permit.

(i) Electrical permit applications that do not indicate that the application is an "S Sustainable Energy Install" application and/or omit the application number for the alteration application will be cause for rejecting the property tax abatement application. No work other than installation of the solar electric generating system shall be included in the electrical permit application.

(ii) Electrical permits will not be granted until the related alteration application is filed.

(4) Inspections. Any construction work performed in connection with the alteration application, including but not limited to the solar electric generating system, shall be inspected and have its final inspection, in accordance with Administrative Code § 28-116.2.4.2, by a registered design professional experienced in structural inspections. The electrical work performed in connection with the solar electric generating system shall be completed and inspected in accordance with the New York City Electrical Code prior to sign-off of the construction work. Other inspections as required by the New York City Construction Codes contained in Title 28 or this section shall be performed in accordance therewith.

(5) Construction sign-off. Upon approval of the installation of the solar electric generating system by the Department's Electrical Division, installation of the utility company meter, if applicable, and completion of the work, the applicant of record shall submit to the Department completed Technical Reports, including final inspection, and a request for sign-off pursuant to Administrative Code § 28-116.4. The request shall be accompanied by a completed property tax abatement application. If the property tax abatement application is not submitted together with and at the same time as the request for construction sign-off, the property tax abatement application shall be denied and the Department shall not further review or process the property tax abatement application.

(6) The Department shall register receipt of the property tax abatement application as a required item in its records.

(7) The date of filing of the property tax abatement application shall be the date of submission of construction sign-off documents and the

application for property tax abatement as described in subdivision (e)(5) of this section and as recorded by the Department

(f) Procedure: Property tax abatement application.

(1) Professional certification. An architect or engineer shall inspect the completed solar electric generating system installation and shall certify its compliance with the requirements of Title 4-C, including but not limited to Sections 499-aaaa(10) and 499-cccc. Such architect or engineer also shall certify that the solar electric generating system was placed in service on or after August 5, 2008 and the date of such placement into service.

(2) Property tax abatement application form and signatures. An architect or engineer shall complete the property tax abatement application form, sign and seal the form, and obtain the signature of the applicant for property tax abatement or such applicant's representative.

(3) Eligible solar electric generating system expenditures.

(i) Such property tax abatement form shall include a certification by the property tax abatement applicant or such applicant's representative of the solar electric generating system expenditures for which the tax abatement is sought.

(ii) Such expenditures shall not include: (A) any expenditures incurred prior to August 5, 2008; (B) any interest or other finance charges; or (C) any expenditures incurred using a federal, state or local grant. A federal, state or local grant shall not include another tax benefit, including a tax abatement, tax credit, tax exemption or tax rebate.

(iii) No expenditures shall be eligible for a tax abatement pursuant to Title 4-C if such expenditures were incurred in connection with a solar electric generating system placed in service before August 5, 2008.

(3) Delivery of property tax abatement application form to applicant of record. The architect or engineer who files the application for property tax abatement shall provide the completed property tax abatement application form, which shall include all certifications required by Title 4-C and this section, to the applicant of record for submission to the Department at construction sign-off. The completed property tax abatement application, together with the Technical Reports, the electrical sign-off and the request for construction sign-off, must be filed with the Department by March 15 in order for the property tax abatement to take effect on July 1 of the same calendar year. If a property tax abatement application is filed after March 15, the property tax abatement to which such application relates shall not take effect until July 1 of the following calendar year.

(4) Upon receipt and acceptance of the completed property tax abatement application form, the Department shall record its acceptance and shall notify the Department of Finance.

(g) Compliance period.

(1) The applicant for property tax abatement shall allow all architects, and engineers involved in the installation and maintenance of the solar electric generating system and the Department to have access to the solar electric generating system and any related structures and equipment for inspection thereof at any time during the compliance period upon reasonable notice.

(2) Pursuant to Title 4-C § 499-dddd(1), within fifteen (15) calendar days prior to the last day of the compliance period, any architect or engineer involved in the installation and maintenance of the solar electric generating system shall inspect the solar electric generating system to certify its continuing compliance with Title 4-C, this section and applicable provisions of law and rules, including but not limited to the codes enumerated in subdivision (d) of this section. The applicant of record shall prepare an inspection report and maintain it on file in accordance with the provisions of the New York State Education Law and Rules of the Board of Regents for review by the Department upon request. If the applicant of record finds that the solar electric generating system is not in compliance with Title 4-C, such applicant shall notify the Department on such forms and in such manner as prescribed by the Department.

(h) Revocation.

(1) Should the Department have reason to believe at any time during the compliance period that a condition described in Title 4-C § 499-eeee(1) exists, the Department shall inspect or otherwise investigate the condition. If the findings of such inspection or investigation indicate that a condition described in Title 4-C § 499-eeee(1) exists, the applicant for property tax abatement shall pay the inspection and investigation expenses of the Department. The Department shall notify the applicant for property tax abatement of any findings that indicate that a condition described in Title 4-B § 499-eeee(1) exists and provide such applicant with an opportunity to dispute the findings.

(2) No later than the ninetieth day after the last day of the compliance period, the Department shall notify the Department of Finance of any findings of noncompliance, and shall identify the period of noncompliance.

(3) The Department may declare an applicant for property tax abatement ineligible for future tax abatements in accordance with Title 4-C § 499-eeee(4).

(i) Notification of the New York State Department of Education. In accordance with Title 4-C § 499-ffff(3), should the Department determine that any architect or engineer involved in the installation and maintenance of the solar electric generating system engaged in professional misconduct in making certifications required by Title 4-C or this rule, the Department shall so notify the New York State Department of Education. Any misconduct in making such certifications may, following hearing by the Board of Regents, provide a basis for revocation of the professional's license or imposition of other penalty or sanction.

(j) Variation of requirements. For applications for property tax abatement filed for the tax year beginning July 1, 2009 the Department may vary any requirement relating to an administrative filing provision of this section with which the applicant was not otherwise required to comply pursuant to the New York City Construction Codes contained in Title 28 or Title 4-C at the time the work was performed.

§ 2. Subdivision (c) of section 44-01 of Chapter 44 of Title 1 of the Rules of the City of New York is relettered subdivision (d) and a new subdivision (c) is added to read as follows:

(c) An alteration application filed in conjunction with an application for tax abatement for the installation of a green roof pursuant to section 105-01 of this title shall not require the filing of design and construction drawings provided that the conditions of subdivision (e)(1)(ii)(D) of such section are satisfied.

STATEMENT OF BASIS AND PURPOSE

This rule is adopted pursuant to the authority of the Commissioner of Buildings under Sections 643 and 1043 of the New York City Charter and Titles 4-B and 4-C of Article 4 of the Real Property Tax Law of New York State. Section 1 of the rule implements the referenced State laws.

Title 4-B of Article 4 of the Real Property Tax Law allows, in a city of 1,000,000 or more people, a property owner to receive a property tax abatement for the installation of a green roof on a Real Property Class 1, 2 or 4 building. This rule sets forth the procedures required for an owner to obtain the property tax abatement, the certifications and other requirements stated in the law, and the process of revocation of the property tax abatement under conditions described in the law.

Title 4-C of Article 4 of the Real Property Tax Law allows, in a city of 1,000,000 or more people, a property owner to receive a property tax abatement for the installation of a solar electric generating system on a Real Property Class 1, 2 or 4 building or site. This rule sets forth the procedures required for an owner to obtain the property tax abatement, the certifications and other requirements stated in the law, and the process of revocation of the property tax abatement under conditions described in the law.

Section 2 of the rule has been added because of the provisions of the green roof rule that make it unnecessary in certain instances for architects or engineers to submit certain construction documents to the Department in connection with the filing of an alteration application. Section 2 is necessary so that current Rule 44-01 conforms to those provisions.