

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 1 RCNY § 102-04 regarding the assessment of civil penalties for work without a permit. Specifically, DOB proposes amending the civil penalty amounts in Subdivision (b) of 1 RCNY § 102-04 to conform to Local Law 156 of 2017, which increased the penalties for work without a permit, and Local Law 158 of 2017, which created enhanced penalties for work without a permit.

When and where is the hearing? DOB will hold a public hearing on the proposed rule. The public hearing will take place at 10am on 11/26/18. The hearing will be held in Spector Hall at 22 Reade Street.

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.
- **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.
- **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 in the hearing room before the hearing begins on 11/26/18. You can speak for up to three minutes.

Is there a deadline to submit comments? Yes, you must submit comments by 11/26/18.

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 must tell us if you need a sign language interpreter. You can tell us by mail or email at the addresses given above. You may also tell us by telephone at 212-393-2085. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by 11/9/18.

This location has the following accessibility option(s) available: Wheelchair accessibility.

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/>. A few days after the hearing, 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.

What authorizes DOB to make this rule? Sections 643 and 1043(a) of the New York City Charter and sections 28-213.1.1, 28-213.1.2 and 28-213.6 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 laws govern the rulemaking process? DOB must meet the requirements of Section 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the City Charter.

Statement of Basis and Purpose

The proposed rule amends portions of Title 1 of the Rules of the City of New York (RCNY) Section 102-04 to ensure that the specified civil penalties conform with Local Laws 156 and 158 of 2017 with regard to penalties related to work without a permit.

The Department of Buildings' authority for this rule is found in sections 643 and 1043 of the New York City Charter, and sections 28-213.1.1, 28-213.1.2 and 28-213.6 of the New York City Administrative Code.

New material is underlined.

[Deleted material is in brackets.]

Subdivision (b) of Section 102-04 of Subchapter B of Chapter 100 of Title 1 of the Rules of the City of New York is amended to read as follows:

- (b) **Assessment of civil penalty for work without a permit.** The civil penalty for work without a permit is assessed as follows:
- (1) The civil penalty is based on occupancy status as shown on the Certificate of Occupancy or other Department records.
 - (2) Pursuant to § 28-213.1.1 of the Administrative Code, the penalty for work performed without a permit on a one-family or two-family dwelling (which includes inside a residential condominium or cooperative unit) is [four] the greater of six times the amount of the current fee payable for the permit.

but not more than \$10,000, or [\$500] \$600[, whichever is greater]. Where only part of the work has been performed without a permit, the Department will reduce the penalty proportionately according to the amount of work still to be performed at the time the Department issues a permit but not to an amount less than [\$500] \$600 or more than \$10,000.

- (3) Pursuant to § 28-213.1.2 of the Administrative Code, the penalty for work performed without a permit on a building other than a one-family or two-family dwelling (which includes work on any common area of a condominium or cooperative building) is [either fourteen] the greater of twenty-one times the amount of the current fee payable for the permit, but not more than \$15,000, or [\$5,000] \$6,000[, whichever is greater]. Where only part of the work has been performed without a permit, the Department will reduce the penalty proportionately according to the amount of work still to be performed at the time the Department issues a permit but not to an amount less than [\$5,000] \$6,000 or more than \$15,000.
- (4) Expired permits or working without an after-hours variance. The penalty for work performed after the expiration of a permit for such work or for work performed after hours without a variance permit is [\$500] \$600 when such unpermitted work is performed on a one-family or two-family dwelling or [\$5,000] \$6,000 when such unpermitted work is performed on a building other than a one-family or two-family dwelling.
- (5) Removal of illegal work. If work that was performed without a permit is removed, the penalty for the unpermitted work is [\$500] \$600 when performed on a one-family or two-family dwelling or [\$5,000] \$6,000 when performed on a building other than a one-family or two-family dwelling, even if the removal did not require a permit.
- (6) Fee-exempt properties. When unpermitted work is performed on properties not subject to permit fees pursuant to § 28-112.1 of the Administrative Code, the penalty for such unpermitted work is [\$500] \$600 when performed on a one-family or two-family dwelling or [\$5,000] \$6,000 when performed on a building other than a one-family or two-family dwelling.
- (7) Legalization of completed work. If work has been performed without a permit and an applicant seeks a permit for the unpermitted work before a notice of violation is issued, the penalty for such unpermitted work is [\$500] \$600 when performed on a one-family or two-family dwelling or [\$5,000] \$6,000 when performed on a building other than a one-family or two-family dwelling.
- (8) Pursuant to § 28-213.6 of the Administrative Code, within one (1) year after the Department imposes a penalty for work without a permit against (i) a building or (ii) a part thereof (if the owner of such part is not the owner of the building), the civil penalty for any subsequent violation related to work without a permit on the building, or a part thereof, is two (2) times the

penalty that would otherwise apply for such violation, not to exceed the maximum allowable penalty.

PROPOSED