

**NOTICE OF ADOPTION OF RULE**



**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 parapet observations. This rule was first published on May 11, 2023, and a public hearing thereon was held on June 13, 2023.

Dated: 7/18/2023  
New York, New York

  
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James S. Oddo  
Commissioner

### **Statement of Basis and Purpose of Rule**

Section 28-301.1.1 of the New York City Administrative Code was added by Local Law 126 of 2021, which went into effect on November 7, 2022, and requires building owners to have an annual parapet observation performed in accordance with DOB's rules. This rule sets out the requirements for the observation and the resulting report.

Specifically, the rule requires building owners to hire a qualified professional or another person capable of identifying hazards to inspect building parapets and identify any dangerous conditions. Upon finding an unsafe condition, the property owner must immediately install public protection, which must remain in place until the unsafe condition is corrected. The parapet observation requirement applies to all buildings fronting the right-of-way, regardless of height, except for detached 1- or 2-family homes.

Since the public hearing, the Department has:

- revised the start date for these new observations to give owners more time to prepare to comply;
- added an inspector working for a New York State-authorized insurance company and a New York State-authorized building inspector to the list of persons competent to perform an observation in response to a public comment that specifically suggested adding them;
- changed the notification and public protection threshold from "potentially unsafe" to "hazardous or unsafe" to reflect that the Administrative Code requires reporting of actual hazardous conditions; and
- added a requirement to correct hazardous conditions within 90 days of notification to the Department.

The Department of Buildings' authority for these rules is found in sections 643 and 1043 of the New York City Charter and section 28-301.1.1 of the New York City Administrative Code.

New material is underlined.

#### **§103-15 Periodic observation of building parapets.**

*(a) Definitions.* For the purposes of this section, the following terms have the following meanings.

Appurtenance. Any structure attached to or supported by a parapet.

Cornice. A projecting horizontal member or assembly that crowns a wall.

Fronting. Running parallel or near parallel to a public right of way.

Gooseneck. A curved section of a handrail which terminates at the top of a roof or parapet.

Observation. A visual examination of a parapet, cornice and other parapet appurtenances conducted to determine their stability and identify any potentially hazardous conditions.

Parapet. The part of any wall entirely above the roof line.

Public right-of-way. A public street, avenue, sidewalk, roadway or any other public place or public way.

(b) Observations. Starting on January 1, 2024, in accordance with the requirements of section 28-301.1.1 of the Administrative Code, every building owner must have an observation performed in accordance with this subdivision. This requirement applies to all buildings with parapets fronting the public right-of-way, regardless of height, except for detached 1- or 2-family homes or buildings with a fence or other barrier preventing access to the exterior wall.

- (1) The observation must be performed annually by a person competent to inspect parapets. For the purposes of this subdivision, this includes, but is not limited to, a bricklayer, building superintendent, handyman, mason or a person in a similar construction-related trade, architect, engineer, an inspector working for a New York State-authorized insurance company, a New York State-authorized building inspector or any other individual capable of identifying hazards on the parapet.
- (2) The observation must include close-up inspections of the entire parapet. The close-up inspection may be conducted from a fire escape or roof.
- (3) The observation must include, but not be limited to:
  - (i) A determination that the parapet is plumb by a horizontal distance within one-eighth of its cross-sectional thickness in any location.
  - (ii) A determination of whether there is excessive deterioration, including, but not limited to, displacement, horizontal or diagonal cracks, missing or loose bricks or coping stones, deteriorated mortar joints, spalling, or rot.
  - (iii) A determination that appurtenances such as telecommunications equipment, railings, roof access rails, gooseneck ladders and

handrail attachments for fire escapes, and signs, have been installed and maintained in a stable condition.

- (4) If the parapet exhibits a hazardous or unsafe condition:
- (i) The person performing the observation must immediately notify the Department of Buildings; and
  - (ii) The owner must immediately install public protection, such as erecting sidewalk sheds, fences, and safety netting, as may be required to secure the safety of the public, and have the unsafe condition remedied. All unsafe conditions must be corrected within ninety (90) days from the notification to the Department. The public protection must remain in place until the unsafe condition is remedied.

*(c) Report Requirements.* A report must be prepared by the person performing the observation or by the owner in consultation with the person performing the observation.

- (1) The report must include, but not be limited to:
- (i) The address and any other associated addresses for the building;
  - (ii) The name, mailing address and telephone number of the owner of the building, or, if the owner is not an individual, the name, mailing address, telephone number, and position/title of a principal of the owner;
  - (iii) The name of the person performing the observation. If other than the owner, their mailing address, telephone number, affiliation with the building or owner, and business name, if applicable;
  - (iv) The date(s) of the observation;
  - (v) The location plan of the parapet(s) observed;
  - (vi) The construction of the parapet, including but not limited to material, height, and thickness;
  - (vii) General conditions noted, whether any unsafe conditions were found, and actions taken to remedy the unsafe conditions;
  - (viii) Any repairs made to the parapet since the previous report; and

- (ix) Dated photos documenting the conditions at the time of observation.
- (2) Owners must maintain the observation reports for at least six (6) years and must make such reports available to the Department upon request.

