

ENVIRONMENTAL CONTROL BOARD

Notice of Promulgation of Rule

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED in the Environmental Control Board (ECB) in accordance with Section 1049(a) of the New York City Charter, and in accordance with Section 1043(b) of the New York City Charter and Chapter 2 of Title 28 of the New York City Administrative Code, the Environmental Control Board hereby promulgates the following rule to amend Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York, modifying existing penalties and creating penalties for offenses adjudicated by the Environmental Control Board related to fines for violations of the Building Code regulating construction signs and pedestrian sidewalk and walkway protection at construction or demolition sites. The proposed rule was published in The City Record on November 15, 2013 and ECB held a public hearing on December 18, 2013.

Statement of Basis and Purpose of Final Rule

The Environmental Control Board held a public hearing on December 18, 2013 regarding amendments to its Department of Buildings (DOB) Penalty Schedule. This schedule is found in Section 3-103 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York (RCNY). A representative from the Department of Buildings and one member of the public attended the public hearing. The member of the public testified on the proposed rule. No written comments were received. The Board has considered the testimony from the member of the public.

On July 1, 2013, the Mayor signed Local Law 47 of 2013. This law requires contractors and building owners to consolidate required construction signage and permits into a single new standard in order to provide information that is more useful to the public and minimize the visual clutter of signage at construction sites.

The law repeals the existing Section 3301.9 of the Building Code (BC 3301.9)—pertaining to required signage—and replaces it with a new BC 3301.9, detailing requirements for signs to be posted at construction or demolition sites. The new BC 3301.9 requires that where a site is enclosed with a fence, a project information panel must be posted and remain as long as the fence is in place. On sites where a sidewalk shed is installed, a sidewalk shed parapet panel must be posted and remain as long as the shed is in place. BC 3301.9 spells out the content, design, and location of project information panels and sidewalk shed parapet panels. Fence and sidewalk shed signs placed before July 1, 2013 are subject to separate regulations detailed under BC 3301.9.3. Additionally, BC 3301.9 regulates the placement of other signs required by law, directing that they be posted inside the site where only the workers can see them, unless the law requires them to be visible to the public as well.

Section 1

In order to enforce the new requirements under BC 3301.9, the rule has modified the following violations in the ECB penalty schedule:

- 1 RCNY 27-03 “Prohibited sign on sidewalk shed or construction fence” will now reference BC 3307.1.1 and read “Prohibited Outdoor Advertising Company sign on sidewalk shed or construction fence”.

Section 28-105.11 of the Administrative Code “Failure to post permit for work at premises” will now read “Failure to post or properly post permit for work at premises”.

- BC 3301.9 & 27-1009(c) “Failure to provide/post sign(s) at job site pursuant to subsection” will delete the reference to section 27-1009(c) of the Administrative Code and now read “Project

Information Panel/Sidewalk Shed Parapet Panel/Construction Sign not provided or not in compliance with section.

- BC 3307.6 & 27-1021 “Sidewalk shed does not meet code specifications” will delete the reference to section 27-1021 of the Administrative Code, reference BC 3307.1 and read “Pedestrian protection does not meet code specifications”.
- BC 3307.7 & 27-1021(c) “Job site fence not constructed pursuant to subsection” will delete the reference to section 27-1021(c) of the Administrative Code and now read “Job site fence not constructed or maintained pursuant to subsection”.

Section 2

In order to enforce the requirement that sidewalk sheds be Hunter Green and to enforce the prohibition on the placement of unlawful signs under BC 3301.9, the rule has added the following three violations to the penalty schedule:

- BC 3307.1.1, “Posting of unlawful signs, information, pictorial representation, business or advertising messages on protective structures.” This violation is a class 2 violation. The penalty and default amounts are listed in the table below.
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- BC 3307.3 “Failure to provide pedestrian protection for sidewalks and walkways”. This violation is a class 1 violation with no cure. The penalty and default amounts are listed in the table below.
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- BC 3307.6.4, “Sidewalk shed does not meet color specification”. This violation is a class 2 violation with a cure. The penalty and default amounts are listed in the table below.

Section 3

In order to effectively enforce the requirement under BC 3307.3.1 that construction and demolition sites have pedestrian protection for sidewalks and walkways, the rule has made the following additional changes to the penalty schedule:

- The deletion of the class 2 charge for BC 3307.3.1 & 27-1021(a) “failure to provide a sidewalk shed where required” and delete reference to section 27-1021(a) of the Administrative Code.

Accordingly, DOB will amend its Violation Classification rule (1 RCNY 102-01) to classify these charges as required by 28-201.2.

New matter is underlined. Deleted matter is [bracketed].

Section 1. The Environmental Control Board has amended the following violations found in its DOB Penalty Schedule II in Section 3-103 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York to reads as follows:

Section of Law	Classification	Violation Description	Cure	Stipulation	Standard Penalty	Mitigated Penalty	Default Penalty	Aggravated I Penalty	Aggravated I Default Penalty	Aggravated II Penalty	Aggravated II Default – Maximum Penalty
[1 RCNY 27-03] BC 3307.1.1	1	Prohibited <u>Outdoor Advertising</u> Company sign on sidewalk shed or construction fence	No	No	\$10,000	Yes	\$25,000	\$25,000	\$25,000	\$25,000	\$25,000

28-105.11	2	Failure to post <u>or properly post</u> permit for work at premises	Yes	No	\$800	Yes	\$4,000	\$2,000	\$8,000	\$4,000	\$10,000
BC 3301.9 [& 27-1009 (c)]	2	[Failure to provide/post sign(s) at the job site pursuant to subsection] <u>Project Information Panel/Sidewalk Shed Parapet Panel/Construction Sign not provided or not in compliance with section</u>	Yes	No	\$800	Yes	\$4,000	\$2,000	\$8,000	\$4,000	\$10,000
[BC 3307.6 & 27-1021(c)] <u>BC 3307.1</u>	2	[Sidewalk shed] <u>Pedestrian protection</u> does not meet code specifications	No	No	\$2,400	No	\$10,000	\$6,000	\$10,000	\$10,000	\$10,000
BC 3307.7 [& 27-1021 (c)]	2	Job site fence not constructed <u>or maintained</u> pursuant to subsection	Yes	No	\$800	Yes	\$4,000	\$2,000	\$8,000	\$4,000	\$10,000

Section 2. The Environmental Control Board has amended its DOB Penalty Schedule II found in Section 3-103 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York to add the following violations after the violation “BC 3306.5, Mechanical demolition without plans on site.”:

Section of Law	Classification	Violation Description	Cure	Stipulation	Standard Penalty	Mitigated Penalty	Default Penalty	Aggravated I Penalty	Aggravated I Default Penalty	Aggravated II Penalty	Aggravated II Default – Maximum Penalty
<u>BC 3307.1.1</u>	<u>2</u>	<u>Posting of unlawful signs, information, pictorial representation, business or advertising messages on protective structures</u>	<u>Yes</u>	<u>No</u>	<u>\$2,400</u>	<u>Yes</u>	<u>\$10,000</u>	<u>\$6,000</u>	<u>\$10,000</u>	<u>\$10,000</u>	<u>\$10,000</u>
<u>BC 3307.6.4</u>	<u>2</u>	<u>Sidewalk shed does not meet color specification</u>	<u>Yes</u>	<u>No</u>	<u>\$800</u>	<u>Yes</u>	<u>\$4,000</u>	<u>\$2,000</u>	<u>\$8,000</u>	<u>\$4,000</u>	<u>\$10,000</u>
<u>BC 3307.3</u>	<u>1</u>	<u>Failure to provide pedestrian protection for sidewalks and walkways</u>	<u>No</u>	<u>No</u>	<u>\$4,800</u>	<u>No</u>	<u>\$24,000</u>	<u>\$12,000</u>	<u>\$25,000</u>	<u>\$24,000</u>	<u>\$25,000</u>

Section 3. The Environmental Control Board has amended its DOB Penalty Schedule II found in Section 3-103 of Subchapter G of Chapter 3 of Title 48 of the Rules of the City of New York to delete the following violation:

Section of Law	Classification	Violation Description	Cure	Stipulation	Standard Penalty	Mitigated Penalty	Default Penalty	Aggravated I Penalty	Aggravated I Default Penalty	Aggravated II Penalty	Aggravated II Default – Maximum Penalty
[BC 3307.3.1 & 27-1021 (a)]	[2]	[Failure to provide sidewalk shed where required]	[No]	[No]	[\$2,400]	[No]	[\$2,400]	[\$10,000]	[\$6,000]	[\$10,000]	[\$10,000]