



City of Boston, Massachusetts
Office of the Mayor
Michelle Wu

May 9, 2022

TO THE CITY COUNCIL:

Dear Councilors,

I hereby transmit for your approval an Order amending City of Boston Code, Ordinances, Section 9-9.12, *Inspection of Exterior Walls and Appurtenances of Buildings Requiring Periodic Inspection*. This Ordinance provides the Inspectional Services Department (“ISD”) with an important tool to ensure the ongoing safety and professional inspection of building facades across the City of Boston. Adopted in 1995, this Ordinance has allowed ISD to certify structural soundness and Building Code compliance for thousands of buildings, old and new, in the City. This Order to amend the Ordinance will modernize the language to reflect advancements in building inspection technologies, provide more detailed analysis of the structures themselves, and give ISD greater enforcement capabilities through updated violations and fines.

I urge your Honorable Body to adopt this Order expeditiously, so that the City can continue to ensure the safety of our built environment and the safety of the people who live and work in, and visit the City of Boston.

Sincerely,

Michelle Wu
Mayor of Boston

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AN ORDINANCE AMENDING THE CITY OF BOSTON CODE, ORDINANCES, SECTION 9-9.12 - INSPECTION OF EXTERIOR WALLS AND APPURTENANCES OF BUILDINGS REQUIRING PERIODIC INSPECTION.

Be it ordained by the City Council of Boston as follows:

SECTION 1: City of Boston Code, Ordinances, Section 9-9.12, is hereby amended by striking said section in its entirety and replacing it with the following:

9-9.12 Inspection of Exterior Walls and Appurtenances of Buildings Requiring Periodic Inspection.

a. **Definitions.**

Certificate of Occupancy. A document issued by the Department pursuant to 780 CMR 111.

Commissioner. Commissioner of the Inspectional Services Department or a designee.

Department. City of Boston Inspectional Services Department.

Exterior walls and appurtenances. Exterior walls and appurtenances shall mean (1) any exterior wall of a building over seventy (70') feet in height; or classified as a high rise structure, or (2) any exterior wall of an unoccupied building, of over thirty-five thousand (35,000) cubic feet and excluding residential buildings that are classified as three family, two family, or single family except as required by the Commissioner.

Exterior Wall Affidavit. An affidavit submitted by a building owner along with an exterior wall inspection report, on a form provided by the Department.

Exterior Wall Certificate. A certificate issued by the Commissioner certifying that an Exterior Wall Inspection Report and Affidavit has been submitted to the Department by a building owner showing proof of inspection and that the building is in a safe condition.

Exterior Wall Inspection Report. A written report by a registered professional certifying the results of the examination clearly documenting the condition of the exterior walls and appurtenances thereto. The report shall include a record of all significant deterioration, Unsafe Conditions and movement observed as well as a statement regarding the water tightness of the exterior surfaces, as described in subsection (e) of this Section. Such report must be signed by, or bear the professional seal of, the registered architect or engineer.

Registered Professional. A Commonwealth of Massachusetts licensed Professional Engineer experienced in the practice of structural engineering or a licensed Registered Architect knowledgeable in the design, construction, and inspection of building facades.

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Safe. A condition of a building wall or any appurtenance thereto that is neither an Unsafe condition nor Safe with a Repair and Maintenance Program.

Safe with a Repair and Maintenance Program. A condition of a building's exterior wall or any appurtenance thereto or any part thereof that the Registered Professional does not consider Unsafe at the time of inspection, but requires repairs or maintenance within a time period designated by the Professional in order to prevent its deterioration into an Unsafe condition.

Substantial Improvement. Alterations or repairs to be made to a structure and its facade within any period of twelve (12) months, if such alterations or repairs cost more than fifty percent (50%) of the physical value of the structure or structures. Physical value shall be based on the assessed value, as recorded on the assessment rolls of the City as of the January 1 preceding the date of the filing of an application for a building permit with the Inspectional Services Department.

Unsafe Condition. A condition of a building's exterior wall or any appurtenance thereto or part thereof that is dangerous to persons or property and requires prompt remedial action.

b. Periodic Inspections, Reports Required.

Every exterior wall defined above shall be inspected in the case of an occupied structure at least once every five (5) years and in the case of an unoccupied structure at least once a year. Provided, however, that any building that has been substantially improved within the preceding five (5) years, shall not be required to be inspected for the purpose of complying with this Section 9-9.12, for ten (10) years following the issuance of a Certificate of Occupancy by the Department.

The inspection shall be made and a report thereon prepared by a Registered Professional and shall be filed with the Commissioner together with a fee in the amount of two hundred (\$200.00) dollars within thirty (30) days of the inspection.

The Commissioner shall issue an exterior wall certificate only after having received satisfactory proof of inspection and the inspection report of the Registered Professional that said exterior wall is deemed to be in a safe condition. No structure referenced in said section shall be occupied without such certificate. Prior to issuing a certificate the Commissioner may in the Commissioner's discretion require inspection by the Department at a charge of two hundred (\$200.00) dollars which must be paid prior to issuance of the certificate.

Upon the filing of an inspection report indicating the existence of an Unsafe Condition, the Commissioner shall affix the appropriate violation on the structure and the owners, or agent, shall immediately commence repairs to remedy the violation and obtain all necessary permits for such repair work.

c. Compliance and Interaction with Other Laws.

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The exterior wall certificate required under this Section is in addition to, and not in lieu of, any other permits or licenses which may be required by the Inspectional Services Department or other public authority concerning occupation or operation of the building or structure.

d. Inspection Procedures.

i. Before proceeding with inspection of a building falling under the requirements of this Section, the Registered Professional shall review previous reports, inspections, and evidence of repairs made in the past five (5) year period, including confirmation that all areas previously determined to require remediation in less than five (5) years (as noted in any previous report) have been addressed.

ii. The inspection shall be conducted by or under the supervision of the Registered Professional, and performed to the best of his/her knowledge and belief. The Registered Professional shall determine the extent of the inspection required, based upon the known history of the building, the nature of the materials used, and the conditions observed. The Registered Professional shall determine methods employed in the inspection, but need not be physically present at the location where the inspection is made.

iii. The methods used to inspect a building shall permit a physical, hands-on inspection of the building. The Registered Professional may use other methods of inspection as deemed appropriate, including the use of digital imaging, video and drone technology appropriate to complete a comprehensive inspection, except that a physical inspection from a scaffold or other observation platform is required for a representative sample of the exterior wall. The Registered Professional shall determine what constitutes a representative sample.

iv. The Registered Professional shall employ the appropriate professional standard of care to detect distressed and questionable structural conditions such as delaminating, separating, splitting or fracturing of material or components as well as movement or displacement indicative of unsound facade materials or loss of structural support. If a distressed condition is identified, the Registered Professional shall order any other inspections and/or tests that may be required to determine the significance and probable cause of the observed distress.

v. During the course of the inspection, photographs shall be taken and/or sketches made to properly document the location of all conditions observed that are either Unsafe or Safe with a Repair and Maintenance Program.

vi. Upon discovery of any Unsafe Condition the Registered Professional shall immediately notify the owner of the building by electronic mail; and shall, within twelve (12) hours of discovery, notify the Commissioner in writing and in an electronic format determined by the Commissioner.

e. Report Requirements.

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The report shall include, on the front page, the name and license number of the Registered Professional and shall be signed, sealed and dated by the Registered Professional in accordance with the professional registration laws of the Commonwealth of Massachusetts, and shall include:

- i. The address and the location from the nearest intersection.
- ii. The name, mailing address, telephone number and email address of the owner of the building and of the owner's agent or person in charge, possession or control of the building, if any.
- iii. A description of the building, including number of stories, height, plan dimensions, usage, age and type of exterior wall construction, and system of water management.
- iv. A brief history of any settlements, repairs, revisions to exterior enclosures, if available.
- v. The date of the start and completion of the inspection, a detailed description of the procedures used in making the inspection, and the extent and location of all physical inspections performed.
- vi. A report of all conditions including but not limited to significant deterioration and movement observed as well as a statement concerning the apparent water-tightness of the exterior surfaces, and the deleterious effect of exterior appurtenances, including exterior fixtures, flagpoles, signs, parapets, copings, guard rails, window frames (including hardware and lights), window guards, window air conditioners, flower boxes, and similar items. The report shall classify each such condition as Safe, Unsafe, or Safe with a Repair and Maintenance Program.
- vii. The probable causes of the reported conditions.
- viii. The status of the exterior maintenance.
- ix. For any conditions listed in the previously filed report (if any), whether such conditions have been repaired and/or maintained as recommended in that report.
- x. Recommendations for repairs or maintenance, if appropriate, including the recommended time frame for the repairs or maintenance to be performed.
- xi. The classification of the building according to the following scheme:
 - a. "Unsafe", if there is at least one Unsafe Condition.
 - b. "Safe with a Repair and Maintenance Program", if there is a condition that is "Safe with Repair and Maintenance Program" and there are no Unsafe conditions.
 - c. "Safe", in all cases other than (a) or (b).
- xii. Photographs and/or sketches documenting the locations of any conditions that are either Unsafe or Safe with a Repair and Maintenance Program.
- xiii. A statement by the Registered Professional indicating which repairs and/or maintenance require the obtaining of work permits prior to their commencement.
- xiv. A statement signed by the owner or agent of the building, acknowledging receipt of a copy of the report and acknowledging all required repairs and/or maintenance (if any) and the recommended time frame for performing such repairs and/or maintenance.

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xv. The Registered Professional's certification that the physical inspection was performed in accordance with applicable rules and regulations and within the appropriate professional standard of care.

xvi. The Registered Professional's seal and signature.

xvii. Such other matters as the Commissioner may by regulation require.

The Registered Professional may submit an amended report within thirty (30) days of the initial submission. The amended report shall clearly indicate any change from the initial report and all reasons for such changes.

f. Unsafe Conditions.

Within twenty-four (24) hours of being notified of an Unsafe Condition by a Registered Professional, the owner of a building shall take any actions necessary to protect public safety, such as erecting sidewalk sheds, fences, and/or safety netting. Such actions shall be considered as an effort to remedy an emergency situation and appropriate permit applications shall be submitted within the next three (3) days to the Commissioner.

Within ten (10) days of the receipt or filing of a report identifying an Unsafe Condition, the owner of a building shall commence work to correct the condition and work shall continue without interruption until the Unsafe Condition has been corrected, unless there has been an unforeseen delay (e.g. weather, labor strike). Work to correct an Unsafe Condition shall take priority over any other permitted work at the building. Within two weeks after the Unsafe Condition has been corrected, the Registered Professional shall reinspect the building and file with the Commissioner a detailed amended report stating the condition of the building.

g. Conditions That Are Safe with a Repair and Maintenance Program.

The owner of the building is responsible for ensuring that the conditions described in the report as "Safe with a Repair and Maintenance Program" are repaired and the actions identified by the Registered Professional are completed within the time frame designated by the Registered Professional or by such time necessary to prevent a condition from becoming an Unsafe Condition, whichever is sooner.

h. Violations.

Any person or entity being the assessed owner (which shall include any trustee of a trust) or being the person in control of a structure requiring an exterior wall certificate who shall fail to have the structure inspected or fail to file the inspection report with the required fee or who shall suffer

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occupancy of such a structure without a valid certificate shall be punished by a fine of three hundred (\$300.00) dollars. Each day that such violation exists shall constitute a separate offense.

Any Unsafe Condition that results from failure to follow a maintenance plan recommended by the Registered Professional shall constitute a violation of this Section and shall be punishable by a fine of three hundred (\$300.00) dollars. Each day that such violation exists shall constitute a separate offense.

The provisions of this section may be enforced in accordance with the noncriminal disposition process of M.G.L. c. 40, s. 21D, and, if applicable, by seeking to restrain a violation by injunction.

The provisions of this section may also be enforced according to M.G.L. Chapter 40U as accepted by the City of Boston, also known as the "Green Ticket" law.

**I HEREBY CERTIFY
THE FORGOING, IF PASSED IN
THE ABOVE FORM, WILL BE IN
ACCORDANCE WITH LAW.**

BY

Adam Cederbaum

**ADAM CEDERBAUM
CORPORATION COUNSEL**