

Recent balcony accidents highlighted that many balcony railings are uninspected and may be unsafe. Thus, the Buildings Department amended the Rules of the City of New York (RCNY) to require balcony railings and their connections on all buildings taller than six stories to be evaluated for structural soundness as a part of New York City's Facade Inspection and Safety Program (FISP – a/k/a Local Law 11/98). With this rule, the Department specifically requires all owners to check periodically the adequacy and structural integrity of all of their balcony railings.

According to the amended rule, if the balcony railings and connections were not specifically checked during the 7th Cycle FISP inspection, the owner needed to have them evaluated by a qualified architect or engineer. It was left to the architect/engineer to decide whether all balconies should be inspected or just a representative sample. For the 7th Cycle, all balcony inspections must have been completed and a separate affidavit filed with the DOB by February 2015. Starting with the 8th Cycle, which began in February 2015, the balcony evaluation is to be incorporated into the FISP Report, with no need for a separate affidavit.

The Qualified Exterior Wall Inspector (QEWI) will record all balcony enclosures at the property. If they are in danger of failure, it will be noted as an unsafe item. Enclosures installed without a permit are not be considered safe by the DOB*. These enclosures will be either SWARMP or unsafe depending on stability of installation. Further, balcony enclosures that have been used to create habitable space shall be counted against F.A.R. (Floor Area Ratio) when applying for a permit and cannot have heating/cooling elements. Enclosures that make up 67% or more of the balcony perimeter also count toward F.A.R. During the follow up inspection, if observations reveal unsafe conditions, all balconies, terraces, and/or exterior common areas must be vacated until conditions are corrected and made safe.

(*) Balcony enclosures require a permit for installation. The QEWI will record all balcony enclosures at the property and will confirm with the Department of Building's database for the appropriate permits. Balcony enclosures are not considered structural elements and will not be tested for structural safety; however if they are in danger of failure, it will be noted as an unsafe item. Open screen enclosures were allowed with no requirement to file the work, until October 2011 when RCNY 101-14 exempted only open screen balcony enclosures on balconies less than 40 feet above grade from permit requirements. That memo was rescinded in December 2014 and balcony enclosures must now be legalized (have a Building Permit).

It should be noted that there are apparently no specific rules or protocols yet set for the removal of enclosures by the DOB and the process remains vague at this time.