

NEW YORK CITY FIRE DEPARTMENT

Notice of Opportunity to Be Heard on
Proposed Amendments to
Fire Department Rule 3 RCNY 401-06,
entitled
“Fire and Emergency Preparedness Guide, Checklist and Notices”

Notice of Public Hearing and Opportunity to Comment on Proposed Rule

What are we proposing? The Fire Department is proposing to amend Section 401-06 of Chapter 4 of Title 3 of the Rules of the City of New York (RCNY) to implement Local Law No. 103 of 2019 to require posting of “hurricane evacuation” signs in the lobby of apartment buildings. The Fire Department also proposes to require apartment building owners to periodically inspect the fire safety notices on dwelling unit doors to ensure their maintenance, and if necessary, replacement.

When and where is the hearing? The Fire Department will hold a public hearing on the proposed rule. The public hearing will take place at 10:00 a.m. on Thursday, April 16, 2020. The hearing will be in the Fire Department Auditorium at 9 MetroTech Center, Brooklyn, NY 11201.

How do I comment on the proposed rule? Anyone can comment on the proposed rules by:

- **Website** - You can submit comments to the Fire Department through the NYC rules website at <http://rules.cityofnewyork.us>, or on the “FDNY Rules” page of the Fire Department’s website, <http://www1.nyc.gov/site/fdny/codes/fire-department-rules/fire-dept-rules.page>.
- **Mail** - You can mail written comments to Code Development Unit, Bureau of Fire Prevention, New York City Fire Department, 9 MetroTech Center, Room 3N2, Brooklyn, NY 11201.
- **Speaking at the hearing** - Anyone who wants to comment on the proposed rule at the public hearing must sign up to speak at the hearing. The time that you can speak may be limited.

Is there a deadline to submit written comments? Yes, written comments must be submitted by April 16, 2020.

What if I need assistance to participate in the hearing? You must notify the Bureau of Fire Prevention if you need a sign language interpreter or other reasonable accommodation for a disability at the hearing. Write to us at the address above or telephone us at (718) 999-2042. Advance notice is requested to allow sufficient time to arrange the accommodation. Please notify us by April 3, 2020.

The Fire Department Auditorium is wheelchair accessible (use the MetroTech Commons entrance).

Can I review the comments made on the proposed rule? 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, a record of the hearing and copies of the written comments will be available to the public at the Bureau of Fire Prevention.

What authorizes the Fire Department to make this rule? Section 1043(a) of the New York City Charter, and Sections FC102.6.3 and FC406.2.3 of the New York City Fire Code (Title 29 of Administrative Code of the City of New York) authorize the Fire Department to propose this rule.

Where can I find the Fire Department rules? The Fire Department rules are codified in Title 3 of the Rules of the City of New York and can be viewed on the Fire Department's website, <http://www.nyc.gov/fdny>, or at <http://rules.cityofnewyork.us>.

What laws govern the rulemaking process? The Fire Department must meet the requirements of Section 1043 of the New York City Charter when creating or changing rules. This notice is made according to the requirements of Section 1043(b) of the New York City Charter.

Statement of Basis and Purpose of Proposed Rule

The Fire Department proposes this rule to implement the provisions of Local Law No. 103 of 2019 regarding hurricane evacuation notices and to require apartment building owners to periodically inspect the fire safety notices on dwelling unit doors.

Hurricane Evacuation Notices

Local Law 103 requires apartment building owners (Group R-2 buildings and occupancies) within a hurricane evacuation zone, as designated by Commissioner of the Office of Emergency Management (now New York City Emergency Management or NYCEM) to post a hurricane evacuation notice in a common area of the building. The notice is intended to inform building occupants of the current hurricane evacuation zone designation for the building and the means by which building residents can determine the closest hurricane evacuation centers, namely by calling 311 or viewing the online Hurricane Evacuation Zone finder operated by NYCEM. The law provides that “[s]uch notice shall be in such form as prescribed by the commissioner by rule and shall be posted within a common area of the building and such other locations as set forth in the rules.”

Fire Department rule 3 RCNY §401-06 sets forth emergency preparedness requirements for apartment buildings. The proposed rule would amend Section 401-06 to require the posting of the hurricane evacuation notice in a conspicuous location in the building lobby at street level, either near the main building entrance, in the mailbox area or by the elevators or main stairwell.

The proposed rule prescribes that the notice take the form of the hurricane evacuation notice posted on NYCEM's website and that it be affixed to the wall by adhesive or in a frame, displayed in an enclosed, locked bulletin board, or otherwise durably and securely posted.

Fire Safety Notices

Fire and emergency preparedness notices (entitled “Fire Safety Notices”) are required to be posted on the interior side of dwelling unit doors. The posting of this notice has been required for almost 20 years.

The Fire Department does not ordinarily inspect dwelling units and therefore does not have a means to enforce replacement of missing or damaged notices. When it has found missing or damaged notices, owners have maintained that the rule does not clearly require prompt replacement of the notices.

To address these issues, the Fire Department proposes to amend Section 401-06 to require building owners to inspect each dwelling unit at least once every two years to confirm the presence of the notice, and to replace missing or damaged notices whenever the owner or the owner’s managing agent or building staff become aware of a missing or damaged notice. In apartment buildings with a cooperative or condominium form of ownership, the cooperative or condominium association board of directors shall cause such inspections to be conducted, and, if the notice is missing or damaged, require the apartment owner to post the replacement notice provided by such board.

This proposed rule was not included in the Fire Department’s FY2020 regulatory agenda because the need for it was not anticipated.

New text is underlined. Text proposed to be deleted is [bracketed].

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Section 401-06 of Chapter 4 of Title 3 of the Rules of the City of New York is proposed to be amended to add a new subdivision (h), and to amend subdivisions (a) and (b) and paragraph 6 of subdivision (e), to read as follows:

§ 401-06 Fire and Emergency Preparedness Guide, Checklist and Notices

- (a) **Scope.** This section sets forth standards, requirements and procedures for the preparation, posting and distribution of apartment building fire and emergency preparedness guides and notices pursuant to FC401.6; the emergency preparedness and evacuation planning checklist pursuant to *Administrative Code* §15-134; [and] the “close the door” notices required by *Administrative Code* §15-135; and the hurricane evacuation notices pursuant to FC406.2.3.
- (b) **General Provisions**
 - (1) **Applicability.** This section applies to all buildings and occupancies classified in Occupancy *Group R-2*, except:

- (A) any building or occupancy that is occupied as a homeless shelter and that has a *fire alarm system with voice communication capability*; and
 - (B) school dormitories, college and university dormitories, and student apartments (as that term is defined in New York City Housing Maintenance Code 27-2004(g) and *Building Code* Section 907.2.9.1).
- (2) Fire and emergency preparedness guide. The *owner* of a building or occupancy subject to this section shall prepare and distribute to building residents and building staff a fire and emergency preparedness guide, including a building information section completed by the *owner*, in compliance with the requirements of FC401.6 and R401-06(c).
 - (3) Annual fire and emergency preparedness bulletin. The *owner* of a building or occupancy subject to this section shall reproduce and distribute to building residents and building staff an annual fire and emergency preparedness bulletin in compliance with the requirements of R401-06(d).
 - (4) Fire and emergency preparedness notices. The *owner* of a building or occupancy subject to this section shall prepare, post and maintain fire and emergency preparedness notices in compliance with the requirements of R401-06(e).
 - (5) Emergency preparedness/evacuation planning checklist. The *owner* of a building or occupancy subject to this section shall prepare and distribute to building residents and building staff an emergency preparedness/evacuation planning checklist, in compliance with the requirements of R401-06(f).
 - (6) Close the door notices. The *owner* of a building or occupancy subject to this section shall prepare, post and maintain close the door notices in compliance with the requirements of R401-06(g).
 - (7) Hurricane evacuation notices. The *owner* of a building or occupancy subject to this section shall prepare, post and maintain a hurricane evacuation notice in compliance with the requirements of R401-06(h).
 - (8) Access to dwelling units. Tenants and other occupants of dwelling units in buildings and occupancies subject to this section shall allow the *owner* of such premises access to such dwelling unit, upon reasonable notice, for purposes of compliance with this section.

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(e) Fire and Emergency Preparedness Notice Requirements

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- (6) Maintenance and replacement. The *owner* shall maintain the fire and emergency preparedness notice and the building information section (Part I of the fire and

emergency preparedness guide) in the common area and maintain the fire and emergency preparedness notice on dwelling unit doors. The *owner* shall prepare, distribute and post any amended building information section within sixty days of any material change in building conditions requiring such amendment. The *owner* shall replace any missing or damaged notice on [the] a dwelling unit door in all of the following circumstances, and may charge the building resident the reasonable cost of its replacement:

- (A) whenever the *owner* or the owner's managing agent or building staff become aware of a missing or damaged notice. The owner shall conduct an inspection of each dwelling unit at least once every two years to ascertain the presence and condition of the notice. In apartment buildings with a cooperative or condominium form of ownership, the cooperative or condominium association board of directors shall cause such inspections to be conducted, and, if the notice is missing or damaged, require the apartment owner to post the replacement notice provided by such board;
- (B) prior to any lawful change in occupancy of the dwelling unit[. The owner shall replace any missing or damaged notice]; and
- (C) at any other time upon written request of the building resident. [The building resident may be charged the reasonable cost of replacement.]

(h) Hurricane Evacuation Notice

- (1) Purpose. In buildings and occupancies within a New York City Department of Emergency Management (NYCEM) designated hurricane evacuation zone, the hurricane evacuation notice shall inform *building occupants* of their building or occupancy's current hurricane evacuation zone designation and how to locate the closest hurricane evacuation center. Buildings and occupancies outside of designated hurricane evacuation zones are not required to post a hurricane evacuation notice.
- (2) Content. The hurricane evacuation notice shall identify the hurricane evacuation zone in which the building or occupancy is located (by specifying the numerical zone designation). The notice shall also indicate that the closest hurricane evacuation center can be located either by calling 311 or visiting the website operated by NYCEM and specifying the webpage URL.
- (3) Form. The hurricane evacuation notice shall be in the form prescribed by the New York City Department of Emergency Management and posted on that agency's website, at www1.nyc.gov/site/em/resources/zoneposters.page. The notice shall be printed in the English language and may be posted in such other additional languages (including symbols) as the NYCEM posts on its website or the *owner* concludes would benefit the *building occupants*.
- (4) Posting. The hurricane evacuation notice shall be posted in a conspicuous location in the building lobby at or near the main building entrance, common

mailbox area customarily used by *building occupants*, street level elevators or a main stairwell. The notice shall be affixed to the wall by adhesive or in a frame, displayed in an enclosed, locked bulletin board, or otherwise durably and securely posted.

- (5) Maintenance and replacement. Missing or damaged notices shall be replaced promptly.

**NEW YORK CITY LAW DEPARTMENT
DIVISION OF LEGAL COUNSEL
100 CHURCH STREET
NEW YORK, NY 10007
212-356-4028**

**CERTIFICATION PURSUANT TO
CHARTER §1043(d)**

RULE TITLE: Emergency Evacuation Notices for Buildings Located in Coastal Flood Plain

REFERENCE NUMBER: 20 RG 106

RULEMAKING AGENCY: Fire Department

I certify that this office has reviewed the above-referenced proposed rule as required by section 1043(d) of the New York City Charter, and that the above-referenced proposed rule:

- (i) is drafted so as to accomplish the purpose of the authorizing provisions of law;
- (ii) is not in conflict with other applicable rules;
- (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and
- (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule.

/s/ STEVEN GOULDEN
Acting Corporation Counsel

Date: March 6, 2020

**NEW YORK CITY MAYOR'S OFFICE OF OPERATIONS
253 BROADWAY, 10th FLOOR
NEW YORK, NY 10007
212-788-1400**

**CERTIFICATION / ANALYSIS
PURSUANT TO CHARTER SECTION 1043(d)**

RULE TITLE: Emergency Evacuation Notices for Buildings Located in Coastal Flood Plain.

REFERENCE NUMBER: FDNY-24

RULEMAKING AGENCY: Fire Department

I certify that this office has analyzed the proposed rule referenced above as required by Section 1043(d) of the New York City Charter, and that the proposed rule referenced above:

- (i) Is understandable and written in plain language for the discrete regulated community or communities;
- (ii) Minimizes compliance costs for the discrete regulated community or communities consistent with achieving the stated purpose of the rule; and
- (iii) Does not provide a cure period because enforcement action for noncompliance with Fire Department rules typically provides for an opportunity to cure the violation. This is set forth in the Department's Administrative Code chapter and is not included in the rules.

Andrea Hernandez
Mayor's Office of Operations

March 10, 2020
Date