

NOTICE OF PUBLIC HEARING

- Subject:** Opportunity to comment on the proposed amendment to the Landmarks Preservation Commission's rules relating to staff approval of new storefront infill, storefront security gates, and heating, ventilating and air conditioning equipment, on designated landmark properties.
- Date / Time:** March 27, 2012, 11:45 AM
- Location:** Municipal Building
1 Centre Street, 9th Floor North
New York, NY 10007
- Contact:** Mr. Mark A. Silberman
General Counsel
Landmarks Preservation Commission
Municipal Building
1 Centre Street, 9th Floor North
New York, NY 10007

Proposed Rule Amendment

Pursuant to the authority granted to the New York City Landmarks Preservation Commission by Sections 1043 and 3020 of the New York City Charter and Sections 25-303, 25-305, 25-306, 25-307, 25-308, 25-310, 25-313 and 25-319 of the Administrative Code of the City of New York, the Landmarks Preservation Commission intends to adopt the following amendments to its rules relating to work on designated properties.

The material proposed to be adopted is underlined.

This proposed rule was not included in the Landmarks Preservation Commission's most recent regulatory agenda because the need for it was not anticipated at that time.

Instructions

- Prior to the hearing, you may submit written comments about the proposed amendments to Mr. Silberman by mail, or written comments may be submitted electronically through NYC RULES at www.nyc.gov/nycrules by March 26, 2012.
- If you wish to speak at the hearing, please notify Ms. Jenny Fernandez (212-669-7923) at least three days prior to the date of the public hearing. To request a sign language interpreter or other reasonable accommodation for a disability at the hearing, please contact Ms. Fernandez at least 10 business days prior to the hearing.
- Written comments and a tape recording of the oral comments received at the hearing will be available within three days after the public hearing. Please submit a records access request, the form is available on the agency website. Records will be reviewable between

the hours of 1:00 P.M. and 5:00 P.M. at the offices of the Commission, 1 Centre Street, 9th Floor North, New York, NY 10007.

Statement of Basis and Purpose of Proposed Rule

Background

The Landmarks Preservation Commission is proposing amendments to existing rules that will streamline the review process for new storefront infill applications by authorizing staff to approve certain storefront applications. Currently these applications must be reviewed and approved by the Commission Board members. Allowing Commission staff to review and approve these applications will result in a significant reduction in processing time.

Specifically, the Commission is proposing changes to the rules for new storefront infill to:

- reflect current practices and policies at the Commission, and,
- streamline the review of new storefront infill applications.

The amendments to section 2-17 provide for staff approval of:

- new storefront infill applications where the proposed storefront is based on historic storefront prototypes within the specific historic district for buildings of similar age, type and style,
- storefront security gates, and
- heating, ventilating and air conditioning equipment.

The Amendments to section 2-11 provide for staff approval when air-conditioning units and louvers are installed through a storefront bulkhead or door or window transom.

Statutory Authority

The Landmarks Preservation Commission is authorized by Section 25-319 of the Administrative Code of the City of New York to issue regulations governing the protection, preservation, enhancement, perpetuation and use of landmarks, interior landmarks, scenic landmarks and buildings in historic districts. The Commission issues permits for work on designated landmarks if the work complies with the factors and standards in Sections 25-306, 25-307 and 25-310 of the Administrative Code of the City of New York. In determining whether work complies with these standards, the Commission follows the procedures in Sections 25-305, 25-306, 25-307, 25-308 and 25-310.

Additions are shown by underscoring and deletions by brackets ([]).

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

§1. Section 2-17 of Title 63 of the Rules of the City of New York is amended by adding the following definitions in their correct alphabetical location to subsection (b):

“Awning” means a metal frame clad with fabric attached over a storefront, door or window.

“Bulkhead” means the part of the storefront that forms a base for one or more display windows.

“Display window” means the large glazed portion of the storefront infill, and the associated framing, above the bulkhead and below the transom, extending pier to pier. The display window is typically used for the display of goods and to provide daylight and visibility into the commercial space.

“Grille” means a metal louver over a ventilating duct that has a series of angled, fixed slats with spaces between them to admit air.

“Historic fabric” means a building's original or significant historic facade construction material or ornament, or fragments thereof.

“Lintel” means the horizontal member or element above a door or window opening.

“Pier” means an exterior vertical member(s) or element(s) (usually of brick, stone, or metal) placed at intervals along a wall which typically separates storefront openings within a single building or define a single storefront opening.

“Roll-down gate” means a security gate with a retracting mechanism that allows it to roll up and down.

“Scissor gate” means a security gate with a sideways retracting mechanism.

“Security gate” means a movable metal fixture installed in front of a storefront opening or bay, or inside the display window or door to protect the store from theft or vandalism when the store is closed. A security gate can be either the roll-down or scissor variety.

“Security gate housing” or **“housing”** means the container that houses the rolling mechanism of a rolldown security gate.

“Security gate tracks” means the interior or exterior tracks along the sides of the storefront opening or bay (for roll-down gates), or along the top and bottom of the storefront (for scissor gates) that hold the edges of the gates.

“Significant architectural feature” means an exterior architectural component of a building that contributes to its special historic, cultural, and aesthetic character, or reinforces the special characteristics for which the Historic District was designated.

“Storefront” means storefront infill.

“Storefront infill” means the framing, glazing, and cladding contained within a storefront opening in the facade, including but not limited to display windows, bulkheads and entranceways.

“Storefront opening” means the area of the facade between the piers and lintel, which contains storefront infill.

"Transom" means a glazed area above a display window or door that is separated from the display window or door by a horizontal framing member ("the transom bar"). The glazing in the transom may be fixed or operable.

§2. Subdivision (c) of section 2-17 of Title 63 of the Rules of the City of New York is amended by repealing and repromulgating paragraphs (1) and (2), concerning restoration of buildings or façade elements, and adding new paragraphs (3) and (4), relating to new storefront infill, to read as follows:

(1) The restoration would not cause the removal of significant historic fabric (such as Victorian period features on an earlier structure) that may have been added over time, which is evidence of the history and development of a building, structure, or site, and the authenticity of the restoration is documented by:

- i. Photographic evidence, or
- ii. Physical evidence on the building, or
- iii. Original or historic drawings or documents, or
- iv. Matching buildings.

(2) Except for work that is subject to paragraph (3) below, if there is no available documentary evidence as set forth in subdivisions (i)-(iv) of paragraph (1) of this section and the applicant certifies that he or she (or a designated representative) has searched for historic drawings, documents or photographs at the resources listed in Appendix A of chapter 2 of this Title, the design may be based on that found in buildings of similar age and style that contain stylistic elements that follow a set pattern or type.

(3) For new storefront infill where no original or significant historic fabric exists:

- i. The design of the infill must be based on the criteria in subparagraphs (i-iv) of paragraph (1) of this subdivision, or on historic storefront prototypes and details within the specific historic district for buildings of similar age, type and style, and:
 - A. The configuration of replacement infill must be consistent with the proportions of display windows, transoms and bulkheads of historic storefront infill. For purposes of this subdivision, proportion refers to the dimensional arrangement of the historic components and details in relation to each other, the storefront opening and the size of the building;
 - B. The placement of the bulkhead, display window and transom must maintain the building streetwall;
 - C. The bulkhead must be between eighteen (18) inches and two (2) feet six (6) inches in height, unless the traditional storefront prototype indicates a lower or higher bulkhead;
 - D. Recessed entrances may have either splayed or straight returns;
 - E. Entrances, including doors, recesses and steps, may be modified to accommodate barrier free access, as long as the design intent of the historic storefront is maintained, except that steps or entrys containing cast iron vault lights must not be removed or modified;
 - F. If the building was constructed prior to the 20th Century, the material of the new infill must match the historic infill;
 - G. No interior partitions may be closer than eighteen (18) inches to the glass of the display window;

- H. If original or historic piers have been removed, the design must include the reintroduction of piers that recall the location, size, dimension and details of such piers;
 - I. If the original storefront opening has been reduced in size the design must include restoration of the original size of the opening. If interior conditions preclude restoration to the original size, the storefront opening must be enlarged to the greatest extent feasible and the storefront surround must be consistent with the materials and details of the historic base of the building;
 - J. If the applicant is proposing to remove modern cladding on the storefront or the area surrounding the storefront, the applicant must first perform probes of the material to see if historic material or elements exists behind the modern cladding, and if such material or elements do exist must restore them or, if the material or elements have deteriorated beyond repair, must replicate them.
- ii. The provisions of this paragraph do not apply in the following situations:
- A. If the building contains multiple storefronts and at least one of the storefronts contains most of its historic elements, a new storefront must match the historic design, except that the entrance may be modified to accommodate barrier free access as required by clause (E) of subparagraph (i) of this paragraph; or
 - B. If there is a Warning Letter or Notice of Violation against the property for the removal of a storefront without permits and the storefront that was removed was in significant part an original or historic storefront, only the provisions of paragraphs (1) and (2) of this subdivision will apply to the design of the storefront, except that the entrance may be modified to accommodate barrier free access pursuant to clause (E) of subparagraph (i) of this paragraph.
- (4) Awnings, Security Gates and Grilles, and Storefront Air Conditioning Units and Grilles for new storefronts approved pursuant to paragraphs (1), (2) and (3) above.
- i. Awnings, Signage and Lighting. The design and installation of awnings, signage and lighting must conform to the criteria set forth in Title 63 of RCNY, Sections 2-12 and 2-20.
 - ii. Security Gates. Staff may approve an application for security gates and grilles on proposed storefronts if:
 - A. The security gate is open mesh where it covers glazed areas of the storefront; and
 - B. The security gate is located behind the storefront infill; or
 - C. the roll-down security gate is mounted on the exterior of the storefront, it is installed so that the gate rolls down on the exterior side of the display window and door and:
 - 1. the installation does not affect, obscure or damage historic fabric;
 - 2. the security gate housing is located on the interior of the storefront, or the outer face of the security gate housing is recessed so as not to protrude beyond the storefront framing; and
 - 3. the security gate tracks are recessed or set into reveals along the sides of the storefront.
 - iii. Air Conditioning and Grilles. The installation of air conditioning units and grilles

must conform to the criteria set forth in Title 63 of RCNY, Section 2-11(f).

§3. Section 2-11 of Title 63 of the Rules of the City of New York is amended by relettering subdivision (f) as subdivision (g) and adding a new subdivision (f), to read as follows:

(f) Installation of Air-Conditioners in storefronts. A CNE or PMW for the installation of air-conditioning equipment may be issued if:

- (1) the air conditioning unit is installed in a door or window transom and is concealed by an architectural style grille that is mounted flush with the storefront framing and is finished to match the framing; or
- (2) the air condition unit is installed through a non-historic bulkhead and is integrated into the design of the bulkhead, and the unit is concealed by a grille mounted flush with the exterior of the bulkhead.

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: Amendment of Storefront Rules

REFERENCE NUMBER: LPC-2

RULEMAKING AGENCY: LPC

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 it does not establish a violation, modification of a violation, or modification of the penalties associated with a violation.

/s/ Francisco Navarro

February 6, 2012

Mayor's Office of Operations

Date

NEW YORK CITY LAW DEPARTMENT

100 CHURCH STREET

NEW YORK, NY 10007

212-788-1087

CERTIFICATION PURSUANT TO

CHARTER §1043(d)

RULE TITLE: Amendment of Storefront Rules

REFERENCE NUMBER: 2012 RG 009

RULEMAKING AGENCY: Landmarks Preservation Commission

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

Date: February 6, 2012

Acting Corporation Counsel