

## NEW YORK CITY FIRE DEPARTMENT

### **Notice of Public Hearing and Opportunity to Comment on Proposed Rule**

**What are we proposing?** The Fire Department is proposing to amend 3 RCNY §109-02, entitled “Consolidation of Administrative Code Provisions for Enforcement Purposes,” to conform the section numbers referenced in §109-02 to the new section numbering of the New York City Fire Code, as amended by Local Law No. 47 of 2022, and to incorporate the section numbers of newly-enacted Fire Code provisions.

**When and where is the hearing?** The Fire Department will conduct a virtual public hearing, using the “GoToMeeting” application, as set forth below. The public hearing will take place at **11:00 a.m. on April 11, 2022.**

**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 on-line public hearing must sign up by emailing [code.develop@fdny.nyc.gov](mailto:code.develop@fdny.nyc.gov). You will receive by reply email a link to the GoToMeeting and call-in information. The time for which you can speak at the hearing may be limited.

#### Join through Internet:

To join the hearing, use your Internet browser to click on the URL link that will be sent to you (or copy the link and paste it into your browser’s address bar). Then follow the prompts to enter the meeting password and attendee ID.

When joining the meeting, choose either “use computer for audio” or “call in” for the audio portion of the public hearing. The information needed to connect (phone number, access code and/or attendee ID) will be provided after you join the GoToMeeting. If you have low bandwidth or inconsistent Internet connection, we suggest you use the “call-in” option.

#### Join by phone only (call-in option):

To join the hearing only by phone, use the phone number and access code that you will receive by reply email.

**Is there a deadline to submit written comments?** Yes, you must submit written comments by **Monday, April 11, 2022.**

**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 **Friday, March 25, 2022.**

**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 Section 102.6.3 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 at [www.nyc.gov/fdny](http://www.nyc.gov/fdny) and 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 in accordance with the requirements of Section 1043(b) of the New York City Charter.

### **Statement of Basis and Purpose of Proposed Rule Amendments**

The Fire Department is proposing to amend Fire Department rule 3 RCNY 109-02, entitled "Consolidation of Administrative Code Provisions For Enforcement Purposes" ("Section 109-02").

Local Law No. 47 of 2022, effective April 15, 2022, revised the numbering of all chapters and sections of the New York City Fire Code (Chapter 2 of Title 29 of the Administrative Code of the City of New York) following FC Chapter 10, to conform to the format of the International Fire Code, the model code upon which the New York City Fire Code is based.

Section 109-02 consolidates Fire Code sections into violation categories for enforcement purposes. The proposed rule would amend Section 109-02 to substitute the new Fire Code section numbers for the existing section numbers, delete any Fire Code sections that have been repealed, and add to the appropriate violation categories the section numbers of new Fire Code provisions. The additions would include:

- Violation Category 12 is proposed to be amended to clarify that it encompasses emergency alarm systems and in-building auxiliary radio communication systems.

- Multiple violation categories have been amended to reference FC608, which was comprehensively revised by Local Law 47 with respect to stationary energy storage systems.
- Multiple violation categories have been amended to reference sections of FC Chapter 40, a new chapter regulating distilleries.

The proposed amendments to Section 109-02 would apply to FDNY Summonses (violations returnable before the Office of Administrative Trials and Hearings) issued by the Fire Department with a date of occurrence on or after April 15, 2022.

Terms used in the proposed rule that are defined in the Fire Code or elsewhere in the Fire Department’s rules are indicated by *italics*.

New material is underlined.

Material to be deleted is in [brackets].

Asterisks (\*\*\*) indicate unamended text.

“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 109-02 of Chapter 1 of Title 3 of the Rules of the City of New York is proposed to be amended to read as follows:

### **§ 109-02 Consolidation of Administrative Code Provisions For Enforcement Purposes**

- (a) Scope. This section establishes violation categories for the purpose of enforcing the provisions of the New York City Fire Code (FC) (Title 29 of the Administrative Code); Title 15 of the Administrative Code (Fire Prevention and Control); the New York City Construction Codes (Title 28 of the Administrative Code); the *rules* promulgated by the *Department* and codified in Title 3 of the Rules of the City of New York (3 RCNY); and/or other laws, *rules* and regulations enforced by the *Department*. These violation categories will be cited by *Department* personnel in connection with the issuance of *FDNY summonses* returnable to *OATH*, in lieu of citation to a particular code or *rule* section.
- (b) Violation Categories. The following violation categories are established for the aforementioned enforcement purposes:

#### **Violation Category 1: Portable Fire Extinguishers and Fire Hoses**

Failure to provide and/or maintain required portable fire extinguishers, fire hoses or other portable fire extinguishing devices, in violation of FC 303.5; 307.4; 307.5; 308.5; 308.6; 309.2; 309.3; [309.4; 309.7; ]310.7; 315.3; 317.5; 319.6; 325.9; 603.3; 609.4; 609.6; 609.9; 901.4; 906.1; 906.2; 906.3; [1105.2; 1105.3; 1105.4; 1105.5; 1105.6; 1107.7; 1110.6; 1208.4; 1407.3; 1415.1; 1417.3; 1418.1; 1504.4; 1504.5; 1505.5; 1506.4; 1510.1; 1908.8; 1909.5; 2003.5; ]2005.2; 2005.3; 2005.4; 2005.5; 2005.6; 2007.7; 2010.6; [2106.3; ]2108.4;

[2205.5; 2208.7; 2210.6; 2211.6]2305.5; [2306.10;]2308.7; 2310.6; 2311.7; 2311.8.7;2404.4; 2404.5; [2404.12; 2404.13;]2405.5; 2406.4; 2410.1; [2508.2; 2604.2; 2707.9;]2808.8; 2809.5; 2903.5; [2903.6; 2906.6;]3006.3; 3104.12; 3104.13; 3206.10; 3307.3;[3309.9;]3315.1; 3317.3; [3403.2; 3404.3; 3405.4; 3406.2; 3406.4; 3406.8;]3408.2;3504.2; [3506.5;]3605.2.3; 3703.6; 3706.6; [and 3808.2]4006.14; 5007.9; 5306.7; 5606.8;5609.6; 5703.2; 5704.3; 5705.4; 5706.2; 5706.4; 5706.8; 5707.8; 5806.5; and 6108.2;  
Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

## **Violation Category 2: Combustible Waste Containers**

Failure to provide a required container for *combustible waste* and/or store *combustible waste* in a required container, in violation of FC 304.3; 310.6; 609.4; [1404.2; 1503.4; 1509.3; 2204.1; 2210.5; 2211.2] 2304.1; 2310.5; 2311.2; 2403.4; 2409.3; [2903.1] 3304.2; 3703.1; 4005.2; 4006.9; and [4204.1] 6504.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

## **Violation Category 3: Permits**

Failure to obtain, renew or otherwise possess a *Department permit* required for any material, operation or *facility* regulated by the Fire Code, in violation of FC105.6; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

## **Violation Category 4: Unlawful Quantity or Location of Regulated Material**

Manufacturing, storing, *handling*, using, transporting, selling or possessing *hazardous materials*, combustible materials, or other materials regulated by the Fire Code in an amount in excess of the quantity authorized by *Department permit* and/or the quantity or location restrictions for such materials set forth in the Fire Code or the *rules*, in violation of FC 105.1; 303.7; 308.3; 308.4; 308.5; 308.6; [309.1;]309.2; 313.3; 314.4; 315.5; 315.7;317.7; 605.11; 608.9; [1206.2; 1206.3; 1406.3; 1406.4; 1406.5;]2106.2; 2106.3; [2210.2;2306; 2307; 2308;]2310.2; 2410.1; [2703.1; 2703.11; 2706.6; 2806.2; 2806.3; 2806.4;2806.5; 2904; 2905;]3206; 3207; 3208; 3306.3; 3306.4; 3306.5; [3404.3; 3404.4; 3405.3;3504.1; 3504.2; 3508.3;]3704; 3705; [3805.3; 3809.12;]4003.3; 4003.4; [and 4204.1]5003.1; 5003.11; 5006.6; 5106.2; 5106.3; 5106.4; 5106.5; 5704.3; 5704.4; 5705.3; 5705.5;5804.1; 5804.2; 5811.3; 6105.3; 6109.12; 6306.3; 6504.5; and 6504.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

## **Violation Category 5: Recordkeeping**

Failure to maintain and/or produce required recordkeeping, including records of inspections, tests, servicing, fire watch, emergency preparedness drills and other operations and maintenance, in violation of FC 105.3; [107.2;]107.7; 311.5; 317.5; [401.3.6.1 (incorporating by reference former FC 405.5); ]401.4; 401.5; 401.7; 401.8; 412.3; 510.3;604.3; 604.4; 606.1; 606.14; 608.12; 609.7; 609.10; 611.4; 901.6; 901.7; 901.9; 903.5;904.6; [904.11; ]906.2; 907.18; 907.20; 908.5; 909.1; 909.2; 910.2; [1106.5; 1201.4;

1205.4; 1408.1; 2006.5; 2006.6; 2101.4; 2105.4; 2105.5; [2201.10; 2204.3; 2204.4; 2206.2; 2208.1; 2208.2; 2209.1; 2210.3]; 2301.10; 2304.3; 2304.4; 2306.2; 2308.1; 2308.2; 2309.1; 2310.3; [2603.5; 2604.3; 2707.5; 3008.8; 3303.2; and 3307.16]; 3308.1; 3503.5; 3504.3; 3706.4; 5003.3; 5007.5; 5308.8; 5601.5; 5603.1; 5603.2; 5603.5; 5603.6; 5604.9; 5607.19; 5607.20; 5608.9; and 5704.2; and/or such other Fire Code or *rule* sections as provide therefor.

### **Violation Category 6: Signs, Postings, Notices and Instructions**

Failure to provide and/or maintain required signs, postings, notices, and/or instructions, in violation of FC 105.3; 107.1; 107.4; 310.3; 310.4; 310.5; 316.2; 315.7; 401.2; [401.3.6.1 (incorporating by reference former FC 408.8; 408.9; 408.11; 408.14)]401.5; 401.6; 405.5; 406.2; 408.5; 410.4; 501.4; 503.2; 503.4; 504.4; 505.2; 505.4; 505.5; [510.1]509.1; 510.3; 603.1; 605.3; 606.7; 607.2; [608.7]608.11; [609.3]609.7; 703.2; 903.5; 904.3; 904.8; 904.10; 904.11; 906.6; 907.19; 912.4; [1027.7]1027.8; [1103.2; 1105.7; 1106.3; 1204.2; 1205.1; 1404.1; 1405.4; 1406.2; 1409.1; 1418.1; 1503.2; 1507.4; 1510.6; 1607.1; 1703.3]2003.2; 2005.7; 2006.3; 2104.2; 2105.1; [2107.1; 2204.1; 2204.2; 2205.4; 2208.1; 2208.8; 2209.1; 2210.5; 2210.6; 2211.8; 2305.3]2304.1; 2304.2; 2305.4; 2308.1; 2308.8; 2309.1; 2310.5; 2310.6; 2403.2; [2404.6]2407.4; 2410.6; 2507.1; 2603.3; [2603.6; 2609.3; 2609.5; 2703.5; 2703.6; 2703.7; 2703.11; 2704.3; 2906.5; 2906.6; 3003.2]3007.1; [3008.8]3104.6; 3205.3; 3304.1; [3304.6]3305.4; 3306.2; [3307.3; 3307.13]3309.1; 3318.1; [3403.5; 3404.2; 3404.3; 3405.4; 3406.2; 3406.4; 3406.8; 3503.1]3503.6; 3509.3; 3509.5; [3705.3]3706.5; 3706.6; [3807.2; 3903.3; 4003.3; 4006.2; 4006.6]4006.12; [and 4303.3]5003.5; 5003.6; 5003.7; 5003.11; 5004.3; 5303.2; 5307.6; 5308.8; 5503.4; 5604.6; 5607.9; 5607.10; 5607.16; 5608.6; 5703.5; 5704.2; 5704.3; 5705.4; 5706.2; 5706.4; 5706.8; 5707.6; 5803.1; 6005.3; 6107.2; 6203.3; 6303.3; 6306.2; 6306.6; 6603.3; and 6703.3; Administrative Code sections 28-103.1 and 15-127(c)(3); and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 7: Labels and Markings**

Failure to provide and/or maintain a required and/or approved label, or other marking, in violation of FC 107.1; 112.3; [309.1]309.2; 309.3; 313.5; 316.2; 315.7; 504.4; 505.1; 505.3; 505.4; 509.1; [510.4]511.7; 512.4; 603.6; 603.9; 605.7; [609.3]609.4; 803.1; 803.2; 905.3; 906.2; [1403.1; 1406.2; 1606.1; 2107.2; 2206.7; 2208.2; 2211.5; 2211.8]2306.7; 2308.2; [2404.2]2506.1; [2703.5; 2703.7; 2803.2; 3003.2]3007.2; 3104.2; [3203.4;] 3303.1; 3306.2; [3403.5; 3404.2; 3404.3; 3405.4; 3406.4; and 3704.2]5003.5; 5003.7; 5103.2; 5303.2; 5503.4; 5703.5; 5704.2; 5704.3; 5705.4; 5706.4 ; and 6004.2; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 8: Storage, Accumulation and Removal of Combustible Material and Waste**

Storage of combustible material, failure to timely remove *combustible waste* from the *premises*, and/or allowing the accumulation of *combustible waste* and/or vegetation upon

a *premises*, in violation of FC 304.1; 304.2; 307.5; 309.3; 311.3; 311.5; 315; 317.5; 318.3; 319.3; 325.8; 606.10; 804.2; 1027.3; 1027.4; [1103.3; 1106.4; 1205.1; 1404.2; 1405.3; 1605.1;]2003.3; 2006.4; 2105.1; [2210.5]2304.1; 2310.5; [2404.5; 2503.3]2505; 2505.1; [2604.1; 2604.3; 2609.4; 2703.12; 2704.11; 2705.3]2803.3; 2808; [2903.1; 3003.5] 3104.5; 3104.22; [3204.3]3304.2; [3304.7]3305.3; 3403.3; [3404.4; 3406.2]3504.1; [3504.2]3504.3; 3509.4; 3603.2; 3604.2; [3604.3]3703.1; [3807.3;] 4005.2; 4006.9; 4007.5; [4203.2; and 4204.1]5003.12; 5004.11; 5005.3; 5303.5; 5504.3; 5604.7; 5704.4; 5706.2; 5707.4; 5804.2; 5810.5; 5904.3; 6107.3; 6503.2; and 6504.1; Administrative Code Section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 9: Rooftop Access and Means of Egress**

Failure to provide required rooftop access to, or required *means of egress* from, any *premises* or part thereof, free from obstructions or impediments, including unobstructed passage across the building parapet, unobstructed landing areas, and unobstructed clear paths, and *overcrowding* by reason of the presence of persons in locations that obstruct or impede egress, and/or failure to maintain rooftop access or *means of egress*, in violation of FC 315.2; 318; 501.4; 504; 512.2; 801.6; 1001.2; 1027; [1411.1; 1411.2; 1504.3]2404.3; [2404.4; 2404.18; 2804.3; 3003.3]3104.4; 3104.18; 3311.1; 3311.2; [3404.3; 3406.4; 3506.3; 3809.4; and 4203.3]5104.3; 5303.3; 5704.3; 5706.4; 5806.3; 6109.4; and 6503.3; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 10: Overcrowding**

Failure to limit the number of persons in a *premises* or any part thereof, in violation of FC 107.6; 202; 403.2; and 1027.3; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 11: General Maintenance**

Failure to maintain devices, equipment, systems, *facilities* or *premises*, or part thereof, in good working order (except as otherwise provided in Violation Categories 6 and 7), in clean condition, or in compliance with other general maintenance or housekeeping requirements, in violation of FC 107.1; 111.1; 304.1; 309.3; 315.6; 325.8; 607.5; 609; [1027.6]1027.7; [1303.2; 1405.3]2105.1; 2203.2; [2211.2]2311.2; 2406.4; 2407.4; 2408.3; 3205.4; [and 3304.8]3305.3; 4006.11; 5003.2.6; 5308.6; and 5604.8; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 12: Fire Protection Systems**

Failure to provide and/or maintain *fire protection systems* and other emergency building systems, including *sprinkler systems* and other *fire extinguishing systems*, *standpipe systems*, fire pumps, *fire alarm systems*, *emergency alarm systems*, *in-building auxiliary*

*radio communication systems*, and/or other devices, and equipment associated with [*fire protection systems*] such systems, or to prevent *unnecessary alarms* and *unwarranted alarms*, in violation of FC 309.3; 509.2; 510; 608.9; 901.1; 901.6; 901.7; 901.9; 903.5; 903.6; 904.5; 904.6; [904.7; 904.8; 904.9; 904.10; 904.12; 904.13;] 905.12; 907.20; [908.10]908; 909.1; 909.2; 910.2; 912.6; 913.5; 914.2; 2108.2; 2108.3; 2306.8; 2308.7; 2309.3; 2310.6; 2311.8; 2404; 2405; 2406; 2407; 2703.12; 2903; [and 3406.4]3605; 4003.5; 4007.4; 5004.9; 5104.4; 5106.3; 5307.5; 5609.6; 5704; 5706.4; and 6004; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 13: Flame-Resistant Materials**

Failure to provide and/or maintain *flame-resistant materials*, in violation of FC 306.3; 310.7; 804.4; 805; [2404.2; and 2706.11]3104.2; 3104.4; 3604.2; and 5006.11; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 14: Fire-Rated Doors and Windows**

Failure to provide, protect and/or maintain a required door or window, including fire-rated doors, self-closing doors, access doors, or fire-rated glass, in violation of FC 315.2; 703.1; 703.2; 703.4; 704.1; 904.3; [2306.6; 2604.1; and 2804.6]3206.3; 3206.6; 3207.2; 3208.2; 3504.1; 4003.4; 5003.8; 5104.3; 5104.6; 5306.2; and 5705.3; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 15: Fire-Rated Construction**

Failure to provide and/or maintain required fire-rated construction, including walls and other partitions, in violation of FC 309.3.3; 311.2; 311.5; 315.2; 315.7; 608.9; 608.13; 703.1; [1404.8; 1803.14]2108.3; [2306.3; 2604.1]2703.14; [2706.6; 2904; and 3006.2]3206.3; 3304.8; 3504.1; 3704; 4003.4; 4007.4; 5003.8; 5006.6; and 5306.2; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 16: Ventilation**

Failure to provide and/or maintain required and/or approved natural or mechanical ventilation, including required devices, equipment or systems, in violation of FC [309.1; 309.2; 309.3; 310.7; [608.6]608.9; 609; 904.3; [904.11; 1204.2; 1205.2; 1205.3; 1405.2; 1504.2; 1504.3; 1504.4; 1504.5; 1505.3; 1505.4; 1506.3; 1507.3; 1509.2; 1510.5; 1803.14; 2005.5]2104.2; 2105.2; 2105.3; 2108.3; [2211.4; 2211.7]2311.4; 2311.8; 2404.2; 2404.3; 2404.4; 2404.5; 2405.3; 2405.4; 2406.3; 2407.3; 2409.2; 2410.5; 2703.14; 2905.5; 3003.1; [3006.2; 3007.2; 3008.5]3305.2; [3404; 3405; 3406; 3506.3; and 3803.2]4003.4; 4003.7; 5004.3; 5306.2; 5307.5; 5308.5; 5309.2; 5704; 5705; 5706; 5806.3; and 6103.2;

Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 17: Certificates of Fitness and Certificates of Qualification**

Failure to obtain and/or produce a *certificate of fitness* and/or *certificate of qualification* for the supervision and/or operation of materials, operations and/or *facilities*, in violation of FC 303.4; 306.2; 307.6; 310.7; 313.5; 317.3; 325.6; 401.3; [401.3.6.1 (incorporating by reference former FC 401.6; 401.7; 403.1);] 401.4; 401.5; 403.1; 404.3; 405.3; 405.4; 406.2; 407.2; 407.3; 408.3; 410.3; 410.4; 413.3; 414.2; 414.3; 415.1; 510.2; 511.2; 601.4; 603.1; 604.5; 606.1; 606.6; 608.7; 608.10; 608.13; 609.3; [609.4]609.5; 609.6; 801.7; 901.6; 901.7; 903.5; 904.5; 905.1; 906.2; 907.20; 908.5; 914.3; [1110.6; 1201.4; 1403.6; 1404.5; 1406.2; 1408.1; 1418.1; 1501.4; 1701.4]2010.6; 2101.4; [2201.7; 2201.8; 2211.1]2301.7; 2301.8; 2308.1; 2309.1; 2311.1; 2401.4; 2601.4; [2404.20; 2603.4; 2604.2; 2706.4; 2707.7; 2801.3; 2906.4; 2906.8; 3001.4; 3101.4]3104.20; [3201.4; 3301.5]3303.6; 3304.5; 3306.2; 3308.1; 3318.1; [3401.6; 3406.2; 3406.4; 3501.4]3503.4; 3504.2; [3510.3]3510.4; [3601.4; 3701.5]3706.4; 3706.8; [3801.5; 3901.5; 4001.4]4001.6; [4101.5; 4201.5; 4301.5; and 4401.5]5006.4; 5007.7; 5101.3; 5301.4; 5307.4; 5401.4; 5501.4; 5601.3; 5601.5; 5604.3; 5606.8; 5608.5; 5608.6; 5608.8; 5608.9; 5609.4; 5701.6; 5706.2; 5706.4; 5801.4; 5810.3; 5901.4; 6001.5; 6005.3; 6101.5; 6109.15; 6201.5; 6301.4; 6401.5; 6501.5; 6601.5; and 6701.5; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 18: Certificates of Approval, Certificates of License and Company Certificates**

Failure to obtain and/or produce a *certificate of approval*, *certificate of license* or company certificate, in violation of FC 104.7; 112; 608.5; 609.3; 609.5; 801.8; 901.4; 901.6; 906.2; 907.3; 1025.5; [1501.5; 1701.4; 2201.9]2301.9; 2401.5; 2601.4; [2601.7; 3301.5; 3401.8; and 3507.3]3501.7; 4004.5; 5601.3.3; 5601.5; 5608.2; 5608.8; 5609.4; 5701.8; and 5807.3; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 19: Affidavits, Design and Installation Documents and Other Documentation**

Failure to prepare, produce, file with the *Department* and/or submit for Department approval affidavits, applications, certifications, *design and installation documents* and/or other required documentation, in violation of FC 105.2; 105.3; 105.4; 401.4; 401.5; 407.4; 504.4; 801.7; 904.6; 907.3; 907.4; 2301.3; 2301.5; 2309.8; [2703.4; and 3406.4]5003.4; 5603.2; 5607.4; 5607.22; 5703.3; 5703.6; 5704.2; 5704.3; 5706.4; and 5810.4; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 20: Inspection and Testing**



Failure to conduct a required initial or periodic inspection or test of any device, equipment, system, *facility* or *premises*, in violation of FC 105.4; [508.4]507.4; [508.5]507.5; [511.2]510.2; 604.4; 606.6; 609.5; 609.6; 703.4; 901.6; 903.5; 903.6; 904.1; 904.4; 904.5; 904.11; 905.12; 906.2; 907.17; 907.20; 908.5; 909.1; 910.2; 912.6; 913.5; 1027.9; [1106.19; 1107.6]2006.19; 2007.6; 2105.4; [2206.9]2306.9; [3403.6; 3404.2; and 3406.4]4001.4; 5003.2.9; 5703.6; 5704.2; 5706.4; and 5807.4; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 21: Portable Containers**

Failure to provide or use a required *container*, in violation of FC 309.2; [2204.1; 2210.3]2304.1; 2310.3; [3003.1; 3203.1; 3404.3; 3405.2; and 3406.2]4005.1; 5303.1; 5503.1; 5704.3; 5705.2; 5706.2; and 6303.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 22: Stationary Tanks**

Failure to provide a required *stationary tank* storage system, including aboveground or underground flammable or combustible liquid storage tank systems, and devices and equipment associated with such systems, in violation of FC 610.2; [1207.3; 2009.2]2107.3; [2206.2]2306.2; 2311.2; 2909.2; [and 3404]4005.1; and 5704; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 23: Storage Facilities**

Failure to provide a required storage facility, including storage cabinets, enclosures, rooms or vaults, in violation of FC 309.3; 315.7; 608.9; [609.2]609.4; [1406.3; 1406.4; 2703.8; 2706.8; 2904; 3003.5; 3104;]3306.3; 3306.4; [3404.3; 3504; 3604; 3703]3704; [3809; 3904]4001.1; 4003.4; [4004]4005.3; [4104; 4204; 4304; and 4404]5003.8; 5006.8; 5303.5; 5404; 5704.3; 5804; 5808; 5904; 6003; 6005.3; 6109; 6204; 6304; 6404; 6504; 6604; and 6704; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 24: Storage of Hazardous Materials and Commodities**

Failure to provide required racks and shelf storage, and/or failure to store *hazardous materials*, *commodities* or other goods in an approved manner, in violation of FC [2307; 2308]3207; 3208; [and 3404.3]4005.3; and 5704.3; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 25: Electrical Hazards**

Failure to provide and/or maintain required electrical devices and/or equipment (except as otherwise provided in Violation Category 27 for electrical lighting hazards), and/or allow

electrical hazards to exist, in any *facility* or *premises*, in violation of FC 309.3; 603.1; 604.1; 605; 606.15; 804.3; 904.3; [1106.3; 1106.5; 1204.2; 1404.7; 1503.2; 1504.4; 1504.5; 1505.7; 1506.4; 1510.3; 1604.2; 1703.2; 2004; 2005.6]2006.3; 2006.5; 2104.2; 2301.5; [2201.5; 2204.1; 2208.1; 2208.8; 2209.2; 2211.3; 2211.8]2304.1; 2308.1; 2308.8; 2309.2; 2311.3; 2311.8.8; 2403.2; 2404.4; 2404.5; 2405.7; 2406.4; 2410.3; 2504.2; 2603.2; [2606; 2703.8; 2704.7; 2705.1]2904; 2905.6; [3003.6; 3008.5; 3203.6]3304.7; [3403.1; 3405.3; 3406.5; 3406.8; 3504.2]3506; [3704.2; 3809.14; 3904.1; and 3904.2]4001.4; 4003.4; 4003.8; 4004.3; 5003.8; 5004.7; 5005.1; 5303.6; 5308.5; 5503.6; 5604.6; 5703.1; 5705.3; 5706.5; 5706.8; 5804.2; 6004.2; 6109.14; 6204.1; and 6204.2; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 26: Heating and Refrigerating Equipment and Systems**

Failure to provide and/or maintain required heating and/or *refrigerating systems* and/or devices and equipment associated with such equipment or systems, in violation of FC 313.6; 315.2; 603.5; 605.10; 606.5; 606.8; 606.9; 606.11; 606.12; 908.1; [908.6; 1204.2; 1303.1; 1403.5; 1503.2; 1504.3; 2005.6]2104.2; [2201.6]2203.1; [2210.2]2301.6; 2310.2; 2403.2; 2404.3; [2404.15]2504.5; 2905.6; 3104.15; 3303.5; [3304.6; 3405.3; 3406.4]4004.5; [and 4204.4]5303.5; 5604.6; 5705.3; 5706.4; and 6504.4; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 27: Electrical Lighting Hazards**

Failure to provide and/or maintain required lighting devices or equipment and/or protection therefor, in violation of FC 605.2; 605.9; 605.11; 804.3; 904.3; [1504.3; 1604.4]2404.3; 2404.4; [2404.9]2504.4; [2705.1]3104.9; [3203.10]3304.7; 4003.8; [and 4203.4]5005.1; 5503.10; and 6503.4; Administrative Code section 28-103.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 28: Open Fires, Open Flames and Sparks**

Causing or allowing an *open fire*, *open flame* or sparking device or equipment to be built, kindled, lit, maintained, operated or used, and/or failure to provide protection therefor, in violation of FC 307[307.1; 307.5; 307.6]; 308; [309.1]309.2; [309.5; ]309.6; 317.2; 317.5.2; [319.3; ]804.3; [1104.6; 1106.10; 1303.1; 1404.3; 1503.2; 1606.2; 1703.2; 2003.6]2004.6; [2005.6]2006.10; 2006.14.1; 2203.1; [2204.1; 2208.1; 2210.5]2304.1; 2308.1; 2310.5; 2403.2; 2408.3.8; [2504.1]2506.2; 2603.2; [2604; 2605.5; 2703.7]2903.6; [2904.6]2905.6; 3304.3; [3304.7; and 3309.11]3404.1; 3504; 3505.5; 3603.3; 3604.3; 3704.6; 4006.12.2; 5003.7; 5601.3.5; 5604.7.2; 5609.8; 5704.2.4; 5704.2.7.6; 5706.2.1; and 6306.3.2; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

### **Violation Category 29: Designated Handling and Use Rooms or Areas**

Failure to provide a required room or area for *handling* and/or use of materials, operations or other activity regulated by the Fire Code, in violation of FC 309.2; 309.3; 310.2; 608.9.4; [1504.2; 1504.5]2404.2; 2404.5; [2601.3; 2705; 3105.1; 3405.3]3501.3; [3505.1; 3605.1; 3703; 3905.1]4003.4; [4005.1]4005.2; 4005.3; 4007.4; [4105.1; 4204.1; 4305.1; and 4405.1]5005; 5405.1; 5705.3; 5805.1; 5808; 5905.1; 6003; 6205.1; 6305.1; 6405.1; 6504.1; 6605.1; and 6705.1; and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

**Violation Category 30: Emergency Planning and Preparedness**

Failure to comply with emergency planning and preparedness requirements (except as otherwise provided in Violation Categories 5, 6 and 17), in violation of FC Chapter 4, including 401.3.6.1 (incorporating by reference former FC 404); and/or such other Fire Code, Administrative Code, or *rule* sections as provide therefor.

**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:** Amendment of Fire Code Violation Categories

**REFERENCE NUMBER:** 2022 RG 020

**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

Date: March 10, 2022

Acting Corporation Counsel

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

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

**RULE TITLE: Amendment of Fire Code Violation Categories**

**REFERENCE NUMBER: FDNY-29**

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

/s/ Rebecca Lipman  
Mayor's Office of Operations

March 10, 2022  
Date