

NEW YORK CITY LOFT BOARD

Notice of Public Hearing and Opportunity to Comment on Proposed Rules

What are we proposing? The New York City Loft Board (Loft Board) is proposing to amend its rules. The amendments will require compliance with basic fire protection laws prior to removal of a building from the Loft Board's jurisdiction and impose a fine when compliance is not achieved.

When and where is the hearing? The Loft Board will hold a public hearing on the proposed rules at 22 Reade Street, 1st Floor, New York, New York at 1:00 pm on July 18, 2024. Live streaming of the hearing will be provided.

Join through Internet:

- To join the hearing via your browser, either click on the following URL link or copy and paste it into your browser's address bar. Then follow the prompts.

https://gcc02.safelinks.protection.outlook.com/ap/t-59584e83/?url=https%3A%2F%2Fteams.microsoft.com%2F%2Fmeetup-join%2F19%253ameeting_ZWZjZjQ4YzltZmRiZC00MmRmLWE0YzgtZmM2ZDlzZTgzYzg4%2540thread.v2%2F0%3Fcontext%3D%257b%2522Tid%2522%253a%252232f56fc7-5f81-4e22-a95b-15da66513bef%2522%252c%2522Oid%2522%253a%2522c2709bed-eced-43d5-8311-4d3dd8d31138%2522%257d&data=05%7C02%7CRStorey%40buildings.nyc.gov%7Cb6f4190b5414473a857b08dc76a6886b%7C32f56fc75f814e22a95b15da66513bef%7C0%7C0%7C638515704829328336%7CUnknwn%7CTWFpbGZsb3d8eyJWljojMC4wLjAwMDAiLCJQIjoiV2luMzliLCJBTiI6Ik1haWwiLCJXVCi6Mn0%3D%7C0%7C%7C%7C&sdata=Z9z3WRaeR0icl%2BRQe8UIwNmExKDptZz7j9tTN9hr8ko%3D&reserved=0

When prompted, enter the following meeting ID: 273 278 258 609 and

Password: CTUz4M

When joining the meeting, choose either "Use computer for audio" or "Call in" for the audio portion of the public hearing. If you choose the "Call in" option, the information needed to connect (phone number, Access Code and Attendee ID) will automatically be presented to you immediately after you join the Teams meeting. If you have low bandwidth or inconsistent Internet connection, we suggest you use the "Call-in" option for the hearing. This will reduce the technical issues.

Join via phone only:

- To join the meeting by phone only, use the following information to connect:
 - Phone: 1-646-893-7101
 - Phone Conference ID: 106 919 30#

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

- **By speaking at the hearing.** You must sign up to speak at the public hearing at the hearing before the hearing starts. Please note that the hearing is for accepting oral testimony only and is not held in a “Question and Answer” format.
- **Website.** You can submit comments to the Loft Board through the NYC Rules website at <http://rules.cityofnewyork.us>.
- **Email.** You can submit comments to nycloftboard@buildings.nyc.gov
- **Mail.** You can mail comments to New York City Loft Board, 280 Broadway, 5th floor, New York, New York 10007.
- **Fax.** You can fax comments to New York City Loft Board at 646-500-6169.

Is there a deadline to submit comments? Yes, you must submit comments by July 25, 2024

Speaking at the hearing. Anyone who wants to comment on the proposed rules at the public hearing must sign up to speak. You can sign up by emailing nycloftboard@buildings.nyc.gov by July 11, 2024 you must include your name and affiliation in the email. You will also be given the opportunity before the hearing to indicate that you would like to provide comments. You can speak for up to three minutes.

What if I need assistance to participate in the hearing? You must tell the Loft Board if you need a reasonable accommodation for the hearing. You must tell us if you need a sign language interpreter. You can tell us by mail or email at the addresses given above. You may also tell us by telephone at 212-393-2616. Advance notice is requested to allow sufficient time to arrange the accommodation. Please tell us by July 11, 2024. The hearing location is wheelchair accessible.

Can I review comments that are made on the proposed rules? You can review comments on the proposed rules that are made online by going to the website at <http://rules.cityofnewyork.us/>.

What authorizes the Loft Board to make the proposed rules? Section 282 of the Multiple Dwelling Law and § 1043(a) of the City Charter authorize the Loft Board to make these proposed rules. This rule was not part of the Loft Board’s rulemaking agenda because it was not contemplated at the time the agenda was prepared.

Where can I find the Loft Board’s current rules? The Loft Board’s current rules are in Title 29 of the Rules of the City of New York.

What laws govern the rulemaking process? The Loft Board must meet the requirements of § 1043 of the City Charter when creating or changing rules. This notice is made according to the requirements of § 1043(b) of the City Charter.

Statement of Basis and Purpose of Proposed Rules

Background

In 1982, the New York State legislature enacted Article 7-C of the Multiple Dwelling Law (MDL), also known as the Loft Law. The Loft Law created a new class of buildings in New York City called interim multiple dwellings (IMD). Initially, the Loft Law allowed the conversion to residential space of former commercial and manufacturing spaces that were used as residences by at least three or more families living independently from April 1, 1980, through December 1, 1981 in zoning districts that permitted residential use. The Loft Law was subsequently amended to allow for the conversion of commercial or manufacturing space in additional districts and for the conversion of spaces used as a residence during additional time periods. In the most recent amendment, in June 2019, the Legislature expanded the scope of the law to include spaces used as residences for twelve consecutive months between 2015 and 2016.

The Loft Law also established the Loft Board, which is charged with overseeing the legal conversion of IMD buildings from commercial and manufacturing spaces to residences, including requirements that landlords of IMD buildings provide basic housing maintenance services during the conversion period.

These proposed rule amendments would expand the requirements for basic housing maintenance services set forth in section 2-04 of Title 29 of the Rules of the City of New York to include requirements to maintain the existing fire egress systems and add provisions for enforcement of these requirements. The objective of these proposed rule amendments is to promote public safety in IMD buildings. These rules apply to IMD buildings until the building is removed from the Loft Board's jurisdiction.

Summary of the Proposed Amendments

Section 1 would amend 29 RCNY § 2-04(a) to add definitions of fire escape and fire stairway.

Section 2 would amend the requirements for basic services set forth in 29 RCNY § 2-04(b) to require that fire egress components and pathways be maintained in proper condition.

Section 3 would amend 29 RCNY § 2-04(e)(2) to authorize the Loft Board to issue additional violations if conditions related to fire egress are not corrected within fifteen (15) days after the mailing date of a violation.

Section 4 would amend the enforcement and penalty schedule set forth in 29 RCNY § 2-04(e)(8) to provide for the assessment of penalties against owners who fail to comply with the obligations regarding maintenance of fire egress components and pathways.

Section 5 would amend the annual registration requirements in 29 RCNY § 2-05 to include a requirement that owners file a certification that fire escapes and/or fire stairways have been inspected within the fourteen (14) days prior to annual registration.

Section 6 would amend the penalty schedule in 29 RCNY § 2-11.1 to include a penalty for the failure to file an annual certification of inspection of fire escapes and/or fire stairways.

On April 18, 2024, the Loft Board voted to initiate the rulemaking process under the Citywide Administrative Procedure Act for this proposed rule amendment.

New material is underlined.

[Deleted material is in brackets.]

“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. Subdivision (a) of section 2-04 of Title 29 of the Rules of the City of New York is amended by adding new definitions of fire escape and fire stairway, in alphabetical order, to read as follows:

Fire escape means a combination of exterior balconies, stairs and ladder(s) providing a means of egress from a building in case of an emergency.

Fire stairway means a combination of the landings, handrails and steps providing a means a egress from a building in case of an emergency.

Section 2. Subdivision (b) of section 2-04 of Title 29 of the Rules of the City of New York is amended by adding a new paragraph (11), to read as follows:

(11) *Fire Egress* – The owner of an IMD building must maintain the fire escapes and fire stairways in the building. Owners must inspect the fire escapes and fire stairways (indoor and outdoor) annually for structural adequacy and other defects.

(i) *Fire Escapes.*

(A) Fire escapes must be kept clear and unobstructed.

(B) Fire escapes must be maintained in good working order. A window or other opening leading to a fire escape must be in good working order.

(C) Fire escapes must be painted or otherwise protected from deterioration every five (5) years. The existence of rust is evidence of neglect and lack of proper maintenance.

(D) The components that attach the fire escape to the façade of the building must be in good condition and free of rust.

- (E) Access to fire escapes must be unobstructed. Iron bars, grilles, gates, or other obstructing devices may not be used on any window giving access to a fire escape or any required secondary means of egress unless they comply with § 1025-01 of Title 3 of these Rules.
- (F) A fire escape may not be removed or constructed without a permit from the Department of Buildings.
- (G) If the Owner or Landlord of an IMD building intends to remove a fire escape, such Owner or Landlord must ensure that building occupants have an existing and lawful secondary means of egress, or that the building otherwise complies with egress requirements.
- (H) Any obstruction to the operation of the fire escape ladder is not permitted including an awning or outdoor dining area.
- (I) There can be no wires of any kind on any part of the fire escape.
- (J) When construction work is being performed at a location adjoining a fire escape, owners must provide for safe egress.
- (K) The egress by a fire ladder must lead into a court or a yard with a pathway to a street.

(ii) Fire Stairways.

- (A) Fire stairways must be kept clear and unobstructed.
- (B) Fire stairways must be maintained in good working order. Fire stairways must have working lights.
- (C) The fire door leading to an indoor fire stairway must be a self-closing door and must otherwise be in compliance with Administrative Code §§ 28-315.10 and 27-2041.1 regarding doors in public hallways in a multiple dwelling.

(iii) Personal Property Stored in the Pathway for Fire Egress.

- (A) Storage of items in the pathway for fire egress is prohibited.
- (B) The Owner is responsible for removal of any items stored in violation of paragraph (A), above. If the property belongs to a tenant, the Owner must serve a ten (10) day notice on the tenant prior to removal of the items. The notice must be sent by first-class mail. Proof of service shall

consist of a certificate of mailing stamped by the US Post Office. Immediately after service of the notice by mail, the Owner must also post the notice on the wall near the items. Service is deemed complete five (5) days after the mailing date. The Owner may remove the items from the pathway ten (10) days after service is deemed complete and may discard any remaining items after sixty (60) days from service of the notice.

Section 3. Paragraph 2 of subdivision (e) of section 2-04 of Title 29 of the Rules of the City of New York is amended to read as follows:

(2) *Inspections and notices of violation.*

(i) Staff employed or assigned to the Loft Board are authorized to conduct inspections in response to complaints or at the direction of the Loft Board or appropriate staff supervisors to determine whether violations of the Loft Board's Minimum Housing Maintenance Standards exist. Following an inspection, if a violation is determined to exist, a notice of violation must be issued to the landlord or his agent describing the violation and the unit in which it exists, specifying the applicable section of the Minimum Housing Maintenance rules, and establishing the maximum period of time permissible to cure the violation. A copy of the notice of violation must be left with an authorized person in charge at the premises, if that person is present, the managing agent, if that person is present, or posted in a conspicuous public place at the premises. In addition, a second copy of the notice of violation [may] must be sent by regular mail to the owner or his designated agent, as indicated in the Loft Board's records. A copy of the notice of violation [may] must also be sent by regular mail to the tenant or tenants who made the original complaint. The cure period for the first notice of violation of its kind within a 12 month period must be a minimum of 7 days from the date of: 1) personal delivery to an authorized person in charge at the premises or the managing agent or 2) posting of the notice in a conspicuous public place at the premises.

(ii) Except for heat violations, the cure period for a second notice of violation for the same condition within twelve months from the first notice of violation is 24 hours from the date of: 1) delivery of the notice of violation to an authorized person in charge at the premises or the managing agent or 2) posting the notice of violation in a conspicuous public place at the premises. The cure period for a second heat violation occurring during the same Oct-May heat season is 24 hours from the date of: 1) delivery of the notice of violation to an authorized person in charge at the premises or the managing agent or 2) the date of posting the notice of violation in a conspicuous public place at the premises. There is a presumption that the violation continues after the service of the notice of violation. Fines imposed will begin to accrue the day immediately following the cure period and continue daily until the owner demonstrates that the violation is cured.

(iii) The Loft Board may issue a second violation for the same fire egress condition described in a previous violation if the condition has not been corrected within fifteen (15) days after the mailing date of the prior violation.

(iv) The Loft Board may request an inspection report by a registered professional engineer certifying the structural stability of the existing fire escape at any time. If such request is made by the Loft Board, Owner must file the report within thirty (30) days of the request.

Section 4. The table set forth in paragraph 8 of subdivision (e) of section 2-04 of Title 29 of the Rules of the City of New York is amended by adding two additional rows, to be placed in the table in alphanumeric order, to read as follows:

<u>Section</u>	<u>Violation</u>	<u>Range of Fines</u>
<u>29 RCNY § 2-04(b)(11)</u>	<u>Failure to Maintain Fire Egress</u>	<u>\$5000 per violation</u> <u>Aggravated Penalty: \$150 per day up to \$4500 if violation not corrected within 72-hours after service of the violation.</u>
<u>29 RCNY § 2-04(e)(2)(iv)</u>	<u>Failure to Comply with Request for Inspection Report by a Professional Engineer</u>	<u>\$5000</u>

Section 5. Subdivision (g) of section 2-05 of Title 29 of the Rules of the City of New York is amended to read as follows:

(g) (1) No applications filed by or on behalf of a landlord of an IMD building shall be processed by the Loft Board unless the registration renewal application is current and all applicable fees and penalties have been paid in full as of the date of filing such application is not deemed filed until payment of all outstanding fees, fines and penalties has been received by the Loft Board.

(2) Annual Certification Requirements Regarding Fire Egress.

(i) Each annual renewal of the registration package filed with the Loft Board must include a certification by the Owner that the fire escapes and/or fire stairways as defined in § 2-04 of these Rules have been inspected within fourteen (14) days of submission of the renewal application and are in compliance with Section 2-04(b)(11) of these Rules.

(ii) For applications due on July 1, 2024, a certification submitted no later than forty-five (45) days after the effective date of this rule amendment will be deemed timely. The inspection and the certification must be dated within fourteen (14) days of the filing.

Section 6. Subdivision (b) of section 2-11.1 of Title 29 of the Rules of the City of New York is amended to read as follows:

(3) Annual Requirements: Registration and Certification of Inspection of Fire Egress

(i) Failure to renew IMD registration pursuant to 29 RCNY § 2-05: Where an Owner, Landlord or Responsible Party fails to renew a Building’s registration as required in 29 RCNY § 2-05(f)(2), the Owner, Landlord or Responsible Party may be subject to a Class C violation civil penalty as follows:

VIOLATION DESCRIPTION	SECTION OF LAW	CURE	PENALTY
Failure to Timely Renew Registration	29 RCNY § 2-05(f)(2)	Yes	\$5,000 for one year; \$10,000 for two years; \$17,500 for three years or more

(ii) Fines in connection with an owner’s failure to file the annual certification of inspection of fire egress in accordance with the Loft Board’s Rules: An Owner who fails to comply with the rules regarding certification of inspection of fire egress systems pursuant to § 2-05(g)(2) may be subject to a civil penalty as follows:

VIOLATION DESCRIPTION	SECTION OF LAW	CURE	PENALTY
<u>Failure to Comply with Annual Certification of Inspection of Fire Egress</u>	<u>29 RCNY § 2-05(g)(2)</u>	<u>No</u>	<u>\$5000</u>

**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: Rules Relating to Maintenance of Fire Egress in Buildings Regulated by Loft Law

REFERENCE NUMBER: 2024 RG 022

RULEMAKING AGENCY: Loft Board

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: April 30, 2024

Acting Corporation Counsel

**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: Rules Relating to Maintenance of Fire Egress in Buildings Regulated by Loft Law

REFERENCE NUMBER: LOFT-2

RULEMAKING AGENCY: Loft Board

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 X. Navarro
Mayor's Office of Operations

April 30, 2024
Date