

*2013 Fire Code Proposed Amendments  
Public Forum Comments and Fire Department Response (10/28/13)*

**2013 NEW YORK CITY FIRE CODE REVISION**

**PUBLIC FORUM COMMENTS ON  
THE PROPOSED FIRE CODE AMENDMENTS  
AND FIRE DEPARTMENT RESPONSE**

**1. Section:** General

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:**

Building and Fire Code Conflicts: We are concerned about conflicts between the Fire Code and the Building Code. In order to ensure clarity for building owners, it is critical that the Fire Code be limited to the operation of a building, while the Building Code governs the construction and alteration of buildings.

**FDNY response:**

The New York City Construction Codes and Fire Code and their ICC model code counterparts were designed to be complementary. The Construction Codes include almost 300 references to the Fire Code. The administrative provisions of the Construction Codes (set forth in Administrative Code §28-104.1.1) identify dozens of construction documents that are subject to the review and approval by the Fire Department. These existing 2008 Construction Code provisions incorporated longstanding New York City code provisions or practices, which in turn reflected the respective expertise of the two agencies, the Department of Buildings (“DOB”) and the Fire Department. The two agencies have undertaken to avoid conflicts between these codes and these cross-references make design professionals and other members of the public aware of applicable Fire Code requirements. Accordingly, this comment would effectively require a fundamental reorganization of City codes.

The Fire Department has previously expressed agreement with this comment with respect to specific Fire Code provisions, including battery systems and high-piled combustible storage. The Fire Department is agreed that these requirements would be more appropriately included in the Building Code. However, as the Fire Department has explained, DOB has indicated that it cannot undertake consideration of this proposal in its current code revision cycle.

**2. Section:** General

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:**

Costs and Benefits of Proposed Changes: The cost implications of several of the changes that are proposed within the revisions of the Fire Code could be very expensive, and it is unclear whether the costs would lead to greater safety for building occupants. While

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REBNY members are committed to ensuring the safety of their occupants and guests, it is also important that any new requirements do not impose excessive costs without a commensurate increase in safety.

As-of-Right Actions vs. Discretionary Approvals: The Bloomberg Administration has also made tremendous efforts to reduce the amount of bureaucracy and agency discretionary decision-making where processes can be streamlined and made it more efficient to increase development and reduce unnecessary time and costs. The Fire Code dramatically increases the amount of discretionary decisions, which will result in delays in approvals, slowing down projects and eliminating the improvements to development that have been gained so far. Clear requirements should be included wherever possible.

**FDNY response:**

The Fire Department is sensitive to the burdens of compliance, and has specifically raised and addressed them throughout the code revision process. The Fire Department has considered the various options for achieving compliance as well as actions that can be taken to eliminate requirements that are no longer warranted. This is highlighted by the proposed changes to Chapter 4 that simplify and make less costly compliance obligations associated with emergency preparedness plans.

The Fire Department has expressed a willingness to address cost concerns, consistent with the public safety goals of the Fire Code. However, such concerns can only be meaningfully addressed in the context of specific requirements. The comment does not identify which changes would be unduly costly or document how they would be more costly.

**3. Section: General**

**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:**

Changes in Staffing Requirements: There are several requirements that would change the requirements of who is qualified to supervise or test certain equipment. Where these changes are justified, they should be phased in so that buildings do not experience disruption in being able to perform required tests and do not face a shortage of qualified personnel due to new certificate of fitness requirements.

**FDNY response:**

All new certificate requirements do not take effect for one year, or longer if new rules need to be promulgated.

**4. Section: FC105.4**

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:** Section requires design and installation documents for in-building communication systems and battery systems for the back-up of life safety systems to be

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submitted and reviewed by the Department for compliance with the requirements of the code, the rules and other applicable laws, rules and regulations enforced by the Department. Section includes emergency voice communication systems (19.2) and standpipe systems and other water-based fire protection systems (19.4).

FDNY agreed that previous installations of this provision are governed by the Building Code.

Joint efforts between real estate and the FDNY should try to incorporate the remaining requirements into the current Building Code adoption process.

**FDNY response:** This comment was a follow up to a comment previously submitted by REBNY. The original comment and the Fire Department's response are shown below in *italics*.

An ARCS system is an extension of a fire alarm system. The proposed amendments to the Building Code and Fire Code regulate the installation and maintenance of ARCS systems in the same manner as fire alarm systems have been regulated since the adoption of the 1968 Building Code.

In discussions with industry representatives, the Fire Department clarified that the design and installation requirements for in-building auxiliary radio communication systems (ARCS) were being developed as part of the Building Code revision process, and that it would be the Building Code, not the Fire Code, that will specify when such systems may be required. The Fire Code will only regulate the installation acceptance, operation and maintenance requirements for such systems.

The Fire Department has expressed willingness to support REBNY's efforts to incorporate design and installation requirements for battery systems and high-piled combustible storage into the Building Code. However, as the Fire Department has stated in our previous response, the Department of Buildings has advised us that they cannot undertake consideration of this proposal in its current code revision cycle.

However, upon reconsideration, the Fire Department agrees that, as it did in the 2008 Fire Code, it will forego requiring the filing with the Fire Department of design and installation documents for all battery system installations, on the understanding that this issue will be addressed in the next Building Code revision cycle. However, building owners otherwise remain subject to the provisions of FC Section 608.

**Section: FC105.4**

**Comment from:** *Real Estate Board of New York, Angela Pinsky*

**Comment:** *"Section requires design and installation documents for in-building communication systems and battery systems for the back-up of life safety systems to be submitted and reviewed by the Department for compliance with the requirements of the code, the rules and other applicable laws, rules and regulations enforced by the*

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*Department. Section includes emergency voice communication systems (19.2) and standpipe systems and other water-based fire protection systems (19.4).*

*This requirement should properly be placed within the building code, as it relates to the construction of buildings and not the operation of the building.*

*Many building owners have already installed such systems on their own. It is unfair to penalize owners who have acted proactively in installing these systems by requiring them to get approvals post-construction.*

*If the Department feels it is necessary and has the resources to review these plans, then it should only apply to buildings prospectively.*

**FDNY proposed action:** *The Fire Department proposes to retain the existing language.*

*The proposed amendment would not affect lawfully existing installations. FC102.1 makes clear that design and installation document requirements are not applicable to lawfully existing buildings. Thus, building owners who lawfully installed an in-building repeater systems and battery systems before the effective date of the proposed amendments (including, where applicable, in compliance with Building Code design and filing requirements), would not need to file design and installation documents with the Fire Department.*

*The Fire Department agrees that, with respect to the design of battery systems, the design and installation requirements would be more appropriately included in the Building Code. However, the Department of Buildings (“DOB”) has advised us that they cannot undertake consideration of this proposal at this time.*

*With respect to the installation of in-building communication systems, such systems are currently being reviewed by the Fire Department as part of the Fire Department’s regulation of fire alarm systems. Accordingly, the Fire Department proposes to retain the proposed amendment of FC105.4 to include design and installation documents for such systems. Again, please note that the Fire Code does not require such systems, only regulates their installation when an owner voluntarily installs them.*

*The proposed amendment of FC105.4 requiring submission to the Fire Department of plans for emergency voice communication systems, standpipe systems and other water-based fire protection systems is only with regard to the installation of such systems in connection with fixed guideway and passenger rail systems. Fixed guideway and passenger rail systems installations are not covered by the scope of the Building Code. Review by the Fire Department is necessary to ensure systems are designed and installed to meet the operational needs of the Fire Department.”*

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5. **Section:** FC105.4  
**Comment from:** Building Owners and Managers Association of Greater New York, Sylvester Giustino

**Comment:** This section sets design and installation requirements for in-building communication systems and battery systems for the back-up of life safety systems. The section also includes emergency voice communication systems and standpipe systems and other water-based fire protection systems. This requirement relates to the design and construction of buildings, not building operation and should be placed in the Building and Construction Code.

**FDNY response:** See Response to Comment #4.

6. **Section:** FC105.4.5  
**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** Section requires that any installation for which approved design and installation documents are required by inspected and/or subjected to acceptance testing in the presence of a department representative. Please clarify who will be responsible for the referenced acceptance testing and what maintenance would be required for the installation.

**FDNY response:** This comment was a follow up to a comment previously submitted by REBNY. The original comment and the Fire Department's response are shown below in *italics*.

The follow up comment requests clarification as to who would be responsible for the referenced acceptance testing and what maintenance would be required for the installation.

Generally the person who obtained the DOB work permit arranges for the acceptance test. Depending upon the nature of the installation, this may be the building owner when the installation relates to a building owner installation, or the tenant when the installation relates to a tenant installation. Both the Building Code and the Fire Code make the building owner responsible for the maintenance and lawful operation of a building, but the tenant is subject to enforcement action if it is responsible for the installation.

The maintenance required for any installed system depends upon the type of system. Maintenance requirements for fire protection systems are generally established in accordance with national standard (National Fire Protection Association Standards) that are adopted in FC Table 901.6.1.

**“Section:** *FC105.4.5*

**Comment from:** *Real Estate Board of New York, Angela Pinsky*

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***Comment:** Requires that any installation for which approved design and installation documents are required by inspected and/or subjected to acceptance testing in the presence of a department representative. This represents a large change in policy for the Department. Previously, all mandated testing was performed by building engineers who held the relevant certificate of fitness, and the witnessing of a department representative was not required. This may lead to delays in testing and increased costs if building staff are required to obtain additional C of Fs and wait for a fire department representative.*

***FDNY Response:** The Fire Department proposes to retain the existing language.*

*The comment reflects a misunderstanding as to the nature and purpose of this provision. This provision is not a change in policy but a clarification of the Fire Code consistent with existing policy.*

*Typically, installations requiring Fire Department design approval that are associated with Fire Department permits (such as LPG storage facilities and paint spray booths) are inspected by the Fire Department after work is completed, prior to permit issuance.*

*However, some installations requiring Fire Department design approval are not associated with Fire Department permits. This provision clarifies that the Fire Department may require inspection and acceptance as a condition of final approval. This is existing Fire Department practice with respect to fire alarm system and non-water fire extinguishing system installations.*

*This provision does not relate to the periodic testing requirements for fire protection and other systems, and accordingly has no bearing on whether such inspections must be witnessed by a Fire Department representative or may be conducted before a Certificate of Fitness holder”.*

**7. Section: FC307.5.3**

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:** Section requires that portable outdoor barbeques shall not be stored or used within 10 ft. of any combustible waste, combustible material, or any combustible building surface, including combustible roofs and decks. Windows, doors, and other building openings within 10 ft. of a barbecue in use shall be kept closed.

The inclusion of “to the maximum extent feasible...” was helpful, however, enforcing the clearance distance will be very difficult for building owners and managers given that barbeques are usually tenant equipment.

**FDNY response:**

The amended language included by the Fire Department in response to this and similar comments recognizes that the person using the barbecue cannot always ensure that an adjoining window will be closed. This will inform Fire Department enforcement

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discretion. The Fire Department does not anticipate that, with this change, this provision will cause difficulty for building owners and managers.

**8. Section: FC307.5.7**

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:** Section requires that portable outdoor barbecues be cleaned periodically to remove grease and fat.

Portable outdoor barbecues are usually tenant equipment and not under the control of the property owner or manager. The requirements within this section could not be monitored by the building staff.

**FDNY response:**

The Fire Department acknowledges that portable outdoor barbecues are typically tenant equipment. Accordingly, in the event of an incident involving a grease-laden barbecue, it is likely that the violation would be issued to the tenant. This does not undermine the importance or educational value of this provision.

**9. Section: FC318.3**

**Comment from:** Building Owners and Managers Association of Greater New York, Sylvester Giustino

**Comment:** This section requires rooftop gardens to be landscaped, maintained and vegetation capable of being ignited to be regularly cleared and removed from the rooftops and building. We applaud the Department for removing the requirement for a maintenance plan which was in an earlier version of the proposal, but the language used may lead to over-enforcement by the Department and may impede the development of greenroofs. It sets design and construction requirements not operational ones and should be placed in the Building and Construction Code.

**FDNY response:**

The design requirements for Green Roof Systems are set forth in Section 1507.16.1 of the Building Code, not the Fire Code. Contrary to the comment offered, FC318 never contained any design and installation requirements specifically for rooftop gardens.

FC318 does make reference back to the rooftop access and clear path requirements of FC504.4. The rooftop access and clear path requirements of FC504.4 are existing Fire Code requirements (established in the 2008 Fire Code) with which rooftop gardens and any other rooftop installation, including solar panel and telecommunication equipment, are currently required to comply. The inclusion of this reference back to FC504.4 is intended to help ensure that design professionals and building owners do not overlook this general rooftop access and obstruction requirement of the Fire Code that is intended to help provide for safe and efficient rooftop firefighter operations.

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For your information, the Building Code revision legislation proposes to amend Section 1507.16.1 as follows (new text is underlined; deleted text is bracketed):

**1507.16.1 [Roof covering.** Roof covering shall conform with Section 1507.10, 1507.11, 1507.12, 1507.13, or 1507.15.] **Design standards.** Green roof systems shall comply with ANSI/SPRI RP-14 and ANSI/SPRI VF-1, or with ANSI/SPRI FM 1-35.

**Exceptions:**

The aggregate area of landscaping materials or growth media or both on any single roof level of a building or structure is 250 square feet (23.2 m<sup>2</sup>) or less.

1. The roof area is 22 feet (6706 mm) or less from grade.
2. The green roof system is a container garden.

**10. Section:** FC 318.5 and 504.4.9.3

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:** Section requires rooftop gardens or landscaping exceeding 250 square feet to be provided with a rooftop garden hose connecting to an approved water supply. The section also allows the Fire Department discretion over rooftop gardens to require the installation of an irrigation system or other approved method of hydration to ensure proper maintenance of the vegetation in accordance with the maintenance plan.

This provision should acknowledge that a water supply will not be available during below freezing temperature when buildings must drain all exterior piping.

Given that the submission of maintenance plans is no longer required, all reference to such plans should be removed.

**FDNY response:**

The requirement to provide a hose connection for rooftop gardens would be considered a design and installation feature. Pursuant to FC102.1 design and installation provisions are not applicable to lawfully existing rooftop gardens.

Any hose connection required pursuant to FC318.5 that is newly installed must comply with the Plumbing Code. Section 305.6 of the Plumbing Code requires that water pipes installed outside a building must be protected from freezing.

The Fire Department agrees that the reference in FC318.5 to a “maintenance plan” should have been removed consistent with the earlier amendment to FC318.3 and it has made that deletion.

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- 11. Section:** FC Chapter 4  
**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:**

Non-English Speaking Communities

The requirements for certifying personnel at lower thresholds and different building types set forth in this chapter can be burdensome for buildings in neighborhoods with a high immigrant population. In that case, facility owners may not have staffs that speak English to be able to complete the FDNY requirements, while hiring an English speaking staffer to be able to pass the FDNY certifications may not be able to communicate well with building occupants. Furthermore, the fitness certification testing is incredibly difficult for even native English speakers to pass. Additionally, the City should avoid creating requirements for existing qualified building staff that would be penalized for not meeting said requirements.

**FDNY response:**

FC113.4 requires that Certificate of Fitness applicants “have a reasonable understanding of the English language and be able to answer satisfactorily such questions as may be asked of such applicant upon his or her examination.” This has been a code requirement for as long as the Fire Department has been issuing Certificates of Fitness.

The Fire Department has addressed English language proficiency issues in connection with the Fire Safety Directors certificate and other certificates in buildings with substantial non-English speaking occupancies. The Fire Department suggests that this issue is better addressed on an individualized basis rather than wholesale elimination of a requirement that has important fire safety ramifications.

- 12. Section:** FC Chapter 4  
**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:**

Multiple Occupancy Plans in Individual Structures

Chapter 4’s fire safety and emergency preparedness plan requirements speak to a number of circumstances in which a single building or structure will be mandated to coordinate multiple requirements. To require separate responses within a single location will cause unnecessary confusion and complication. Additionally, it is unfair to expect that a building will be able to coordinate the submission of a singular plan when ownership structures can vary greatly. REBNY proposes that the dominant occupancy within a building be allowed to file the required plan on behalf of the entire building, irregardless of the building’s other occupancies.

**FDNY response:**

The Fire Department agrees that having multiple plans within a single building is not always the optimal solution for emergency planning purposes. This is precisely the reason the Fire Department is proposing to amend the Fire Code to make a single plan available as an option for all occupancies in a building.

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While the Fire Department encourages the preparation of a single plan for all occupancies in a building, as suggested, we are not prepared to impose what could be very significant burdens on business owners. We note that different occupancies require different types of plans and staffing, so a single plan is not always a simple proposition.

Whether a building has a single plan or multiple plans, each mixed occupancy building would be required to address the provisions of FC416 regarding coordination of plans, coordination of drills, communications, and notification of fires and non-fire emergencies, all of which are intended to help reduce the potential for confusion that mixed occupancy buildings present under emergency conditions.

**13. Section: FC401.2.2**

**Comment from:** Trinity Real Estate, Gina Bertucelli

**Comment:** Can a building that has a fire safety director on duty be exempt from the requirement of FC401.2.2 to have a fire emergency reporting sign in the building?

**FDNY response:**

The Fire Department agrees that there may be some buildings in which, for various reasons, the posting of an emergency reporting sign in the lobby would not be warranted. However, the Fire Department is not prepared at this time to identify all such buildings and reasons. Accordingly, the Fire Department proposes to add an exception to such section to read as follows: *(New text is underlined)*

**Exception:** Buildings exempt from such sign requirement as set forth in the rules.

**14. Section: FC401.3.5**

**Comment from:** Fire Safety Directors Association, Nick Gaudiosi

**Comment:** Periodic revision and review specifically mentions Preparedness Plans and Guides and Notices. Does this mean that Level 1 plans do not need revision?

**FDNY response:**

FC401.3.2 identifies a Level 1 plan as one of the 3 types of emergency preparedness plans, and FC401.3.5 requires periodic review and update of emergency preparedness plans at least annually. Accordingly, Level 1 plans require periodic revision.

**15. Section: FC401.3.6.1**

**Comment from:** Hotel Association of New York City, Joseph E. Spinnato and Geoffrey Allan Mills

**Comment:** Our members are particularly concerned with the compliance period associated with the mandatory filing of Level 1 plans under FC401. This is especially true for HANYC members that have recently invested significant resources to implement the Fire Safety Plans or Emergency Action Plans to comply with the current Fire Code regulations. We believe that it would be a considerable financial burden on Group R-1

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hotels that have filed fire safety and evacuation plans with the Department on or after January 1, 2012 to require that they undertake the expense of new construction, increased staffing and additional training that is required under FC401 so soon after they have filed and/or implemented approved fire safety plans.

Accordingly, we request that you consider affording the same three (3) year compliance (grace period) to R-1 hotels, as you have proposed for Group B office buildings under FC401.3.6.2.

Similar to FC401.3.6.2, which appears to only apply to Group B office buildings, existing Group R-1 hotels that filed a Fire Safety Plan or Emergency Action Plan on or after January 1, 2012 would receive a period of three (3) years after the effective date of the proposed amendments to comply with FC401. This extension would include a three (3) year period to file the Level 1 Plans and to employ FLS certified staff.

Such a grace period would not extend to Group R-1 hotels that cannot provide proof of filing a plan within since January 1, 2012.

During the grace period, Group R-1 hotels that fall under this category would not receive Fire Department summonses or notices of violations for the failure to have such plans in place.

This provision would not extend the time or eliminate the requirements for updating, revising or approving the plans that these buildings currently have in place.

**FDNY response:**

The Fire Department acknowledges that there are many factors that must be considered to facilitate a reasonable and smooth transition to having larger hotels develop a comprehensive fire safety/emergency action plan (Level 1) and providing the required staffing.

This is how the Fire Department envisions this transition for hotels:

The Fire Department in conjunction with the Hotel Industry will develop rules that establish:

- the format for a Level 1 hotel plan
- qualifications for hotel FLS Director Certificate of Fitness applicants
- curriculum for hotel FLS Director training schools

The Fire Department anticipates that it will take at least a year to promulgate these rules. FC401.3.6 of the proposed amendments affords all building owners one year from the promulgation of rules implementing the emergency preparedness provisions of the code to prepare such plans.

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Within this one year after promulgation of the rules, hotel owners would be required to prepare and submit such plan to the Fire Department, FLS Director training schools would have to obtain Fire Department accreditation, the current FSD in hotels would need to arrange to attend the accredited training after which they would need to pass a written and on-site practical exam.

In consideration of the foregoing, the Fire Department agrees that one year is an unreasonable length of time needed to accomplish all that would be required. Accordingly, the Fire Department proposes to amend FC401.3.6 to allow existing building owners (not just hotels) newly required by the code to prepare an emergency preparedness plan, 18 months from the date of promulgation of such rules implementing such requirement. The proposed change would effectively afford the three year grace period which would help hotel owners and the Fire Department realize an orderly transition to the new plan and staffing requirements. The Fire Department proposes to amend FC401.3.6 to read as follows: (*New text is underlined, deleted text is bracketed*)

**401.3.6 Applicability to existing buildings and occupancies.** The preparation of an emergency preparedness plan shall constitute an operational requirement. Except as otherwise provided in this section, all owners of buildings and occupancies required by this chapter to have an emergency preparedness plan shall have [1] 1½ year from the promulgation of rules implementing the emergency preparedness plan provisions of this chapter to prepare such plan and, if required by this chapter, submit it to the department for acceptance.

**16. Section: FC401.4.3(1)**

**Comment from:** Fire Safety Directors Association, Nick Gaudiosi

**Comment:** Will new C of Fs be issued to EAP Directors with current C of Fs for these new titles?

**FDNY response:**

The administrative details of how the new FLS Director certificate titles will be phased in to existing office building FLS Director Certificate of Fitness holders has not yet been determined. It is likely that as an FLS Certificate of Fitness comes up for renewal they would be issued under the new title.

**17. Section: 401.4.3(8)**

**Comment from:** Fire Safety Directors Association, Nick Gaudiosi

**Comment:** With regard to CPR trained occupants, why is a procedure necessary to identify them? Why not just a list of people trained and willing to assist? We do not have procedures to identify fire wardens.

**FDNY response:**

There is no mandate for a building to have CPR trained staff on the premises. The purpose of requiring the plan to include the procedures to identify such persons is to help ensure that any person able and willing to assist in CPR is identified. This is different

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from fire wardens in office buildings. In such buildings, fire wardens are a required part of the plan.

**18. Section:** FC401.4.3(10.15)

**Comment from:** Trinity Real Estate, Gina Bertucelli

**Comment:** Can you clarify what is meant by defibrillators or other medical equipment “for public use” in this section?

**FDNY response:**

The Fire Department recognizes that medical offices and other occupancies may have defibrillators or other medical equipment specifically for use in connection with their business operations. This provision was intended to encompass automatic external defibrillators to be maintained in public buildings or private facilities where their use may be needed. Accordingly, the Fire Department proposes to amend FC401.4.3(10.15) to read as follows (*New text is underlined; deleted text is bracketed*):

10.15. Automatic external defibrillators [or other medical equipment] required by law to be maintained for public use.

**19. Section:** FC401.4.3.10

**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** Section outlines the necessary information to be included in comprehensive fire safety/emergency action plans (Level 1).

A change to sub-bullet #10 replaces “Floor plans, with corresponding legend, identifying...” with “A description of...”. Is the submission of floor plans only mandatory at the discretion of the Commissioner, as described in Section FC401.3.4?

How does the Department define “a description”?

**FDNY response:**

The Fire Department has not defined “a description”. By eliminating the reference in such section to “floor plans” it should be clear, as the Fire Department has previously represented, that the requirement for a floor plan to be prepared and certified by a registered design professional as part of the required items of a comprehensive fire safety/emergency action plan is no longer required. The term “description” is meant to have the same meaning as it has in Building Code §28-109.3 with regard to fire protection plans where they used the term “narrative”. Accordingly, the Fire Department proposes to amend FC401.4.3(10) to read as follows: (*New text is underlined*)

10. A written description of the following building components and service equipment and their location, as applicable:

Floor plans have been made an independent requirement (FC401.3.4), which authorizes the Fire Department to require by rule the submission of floor plans. Nothing in these

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proposed amendments affects the current rule requirements regarding the submission of floor plans in connection with the preparation of emergency preparedness plans for hotels and office buildings as they are required by 3 RCNY §404-01 and 404-02.

**20. Section: FC401.4.3(10)**

**Comment from:** Building Owners and Managers Association of Greater New York, Sylvester Giustino

**Comment:** This section outlines the information for a comprehensive fire safety/emergency action plans. It provides no definition of a “Floor Plan” and thus gives the Commissioner far too much discretion to define a “Floor Plan” after the proposed code is enacted into law. Our members need a clear definition of what a “Floor Plan” is so that they can remain in proper compliance.

**FDNY response:**

The proposed amendment does give the Fire Commissioner discretion. However, without the amendment a detailed floor plan would be required for every emergency preparedness plan, including for the occupancies that will be newly required to prepare such emergency preparedness plans. The purpose of the amendments is to give the Fire Department the flexibility to develop requirements appropriate to the occupancy. The Fire Department has indicated that it will work with industry representatives in developing such rules. See Response to Comment #19 and 21.

The details of what the floor plans that may be required by FC401.3.4 must detail will be established, in consultation with Fire Department Bureau of Operations, through a future rulemaking procedure.

**21. Section FC401.4.3(10)**

**Comment from:** Croker Fire Drill Corp

**Comment:** With regards to Section 401.4.3 (10) the word floor plans has been removed and replaced with the word description. Does this mean floor plans will no longer be a requirement for the plans and how would a description better depict the location of the things required by such.

**FDNY response:**

See Response to Comments # 19 and 20. The Fire Department is not suggesting that a written description would better depict the location of the required items than a floor plan would, but rather that a written description will suffice for purposes of the preparation of an emergency preparedness plan.

**22. Section: FC401.4.5**

**Comment from:** Real Estate Board of New York, Angela Pinsky

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**Comment:** Section requires the owner of any premises mandated to have a comprehensive fire safety and emergency action plan to designate an FLS staff and director.

Requiring an FLS director and a deputy director to be onsite 24/7 can be prohibitively expensive, particularly to facilities that operate on a not-for-profit budget, are relatively small facilities/buildings, or that operate on narrow margins. In many of these types of facilities, the FSP staff salaries would be greater than the executive staff of facility itself.

The Fire Department is substantially increasing the responsibilities of the required FLS staff for Level 1 plans, including ability to assist Fire and EMS personnel responding to a medical emergency. The purposes of the EAP/FSP are to outline procedures during an emergency, and they should not be intended to replace Fire, Policy, or Professional Emergency Personnel with building staff.

**FDNY response:**

The Fire Department proposal to require a FLS director would be applicable only to the largest office buildings, hotels, mercantile occupancies and assembly occupancies. Office buildings are already required to provide an FLS Director, the larger hotels are required to provide a fire safety director, and the largest mercantile and assembly occupancies already staff their buildings with a fire safety director in conjunction with their installation of an office building-type fire alarm system.

Additionally, except for hotels (whose continuous occupancy requires a 24/7 presence by a fire safety director), buildings and occupancies required to prepare a Level 1 plan would only be required to have a FLS Director present during regular business hours, not necessarily 24/7.

The FLS Director would not be required to have any special medical training, skills or knowledge, nor are they expected to provide medical services. The proposed amendment simply require that the FLS Director report to the fire command station in the event of a medical emergency, to notify arriving emergency response person of the location of the medical emergency.

See also Response to Comment #36.

**23. Section:** FC401.4.5

**Comment from:** Building Owners and Managers Association of Greater New York, Sylvester Giustino

**Comment:** The requirement for an onsite 24/7 Fire and Life Safety Director will be a costly mandate for our members. Our Association believes that having an around the clock FLS Director for Class B buildings will not improve fire safety. The proposed section also increases the responsibilities and liabilities of the Fire and Life Safety staff by requiring them to assist Fire and EMS personnel responding to a medical emergency. The current Emergency Action Plan/Fire Safety Plan is to outline procedures and action

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items, not to perform the functions of first responder (NYPD, FDNY, EMS) personnel with building staff.

**FDNY response:**

See Response to Comment #22.

**24. Section:** FC401.4.5

**Comment from:** Hotel Association of New York City, Joseph E. Spinnato and Geoffrey Allan Mills

**Comment:** We understand that, as provided under FC401.4.3, many of the specifics about the Fire & Life Safety (FLS) staff certification process and the FLS staff's respective duties will be established during the rulemaking process. We also understand that under FC401.4.5, HANYC members will be required to employ or otherwise retain sufficient FLS staff immediately upon the effective date of the proposed amendments in order to implement a Level 1 Plan. The uncertainty about the FLS staff's duties and the process for certification and training raises concerns over the expense and the time that it will take HANYC members to "train-up" their current FSD staff or to otherwise retain new staff to meet the proposed FLS staff certification requirements.

Our request is that, where a higher level of staffing is required by Chapter 4, that all Group R-1 hotels receive a twelve (12) month grace period after the effective date of the proposed amendments to allow for the businesses to retain, train and certify the required FLS staff.

During the aforementioned twelve (12) month grace period, Group R-1 hotels that are required to file Level 1 Plans would not receive Fire Department summonses or notices of violations for the failure to have FLS staff on duty.

As an important point of clarification, we would also like to confirm that the Fire Department will continue to support a business's election, where taken, to retain a third party company to outsource FLS staff.

**FDNY response:**

See Response to Comment #15 regarding the time period that hotels would be afforded to train and certify staff as FLS Directors.

The duties of the FLS Director are set forth in FC401.4.5.1. They are substantially similar to the current responsibilities of a hotel fire safety director, except a FLS Director is required to report to the fire command station in the event of a medical or other non-fire emergency.

**25. Section:** FC 401.5.3 and 401.5.4

**Comment from:** Real Estate Board of New York, Angela Pinsky

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**Comment:** Section outlines the necessary information and documentation to be included in Fire and emergency preparedness plans (Level 2) and requires that the owner of any premises mandated to have a fire and emergency preparedness plan to designate an FEP staff and coordinator.

The description of the necessary documentation is vague, and much of the required information seems to fall into the category of a procedural description of existing code requirements. It is unnecessary to require buildings to describe intent to comply with Code when enforcement is sufficient.

The need for both a FEP coordinator and separate FEP staff is not readily apparent.

**FDNY response:**

A discussion draft of a sample Level 2 plan (called Level 3 at the time) was distributed to the Advisory Committee with the original proposed amendments to Chapter 4. The Fire Department is unclear as to what may be vague about this draft plan.

The proposed amendments define FEP staff as the individuals in a fire and emergency preparedness plan as responsible for the implementation of such plan, including but not limited to FEP coordinators. The FEP Coordinator responsibilities (FC401.5.5.1) are to be familiar with the plan, provide staff training, conduct drills, and endeavor to ensure adequate FEP staff is present during regular business hours, but need not be present at all times. Unlike a Fire Safety Director, the FEP Coordinator is not required to be in the building to implement the plan. The persons identified as FSP staff in the plan are responsible for the implementation of the plan, which would most likely include the FEP Coordinator when he or she is present in the building, but is not a requirement.

**26. Section: FC401.7.6**

**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** Section outlines the frequency of required combined fire and non-fire emergency drills for each type of occupancy.

The purpose and usefulness for requiring drills in commercial buildings is relatively clear. However, Chapter 4 requires a significant number of drills for occupancy spaces that do not benefit from these exercises because the transient nature of the occupants who can vary greatly at any given moment, including homeless shelters, senior care facilities, universities, and hospitals. Even in buildings where only “regular building occupants” are required, such as mercantile, many of the “regular building occupants” are employees that either work in shifts, vary in work schedules, work part time, or are employed for shorter periods of time that again would not benefit from drills.

In addition, these exercises can be very disruptive to the business functions within the building, and may pose threats to safety and health of participants – particularly in health care and assisted living facilities, or in buildings where maintaining safety is a primary concern.

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More importantly, in non-fire emergencies, other City agencies will often contradict the instructions of the EAP and will instruct occupants according to real time information. Until these very substantial operational issues are resolved, requiring drills in buildings should be considered an unnecessary expense and disruption.

**FDNY response:**

The Fire Department acknowledges that conducting fire drills can be disruptive to a business function, but such disruptions are often necessary to help ensure that the building occupants are familiar with the proper emergency response procedures. The goal is to minimize disruptions while accomplishing the intent.

FC401.7.5 of the proposed amendments (FC405.7 of the 2008 Fire Code) requires activation of the fire alarm system to initiate any drill. The Fire Department agrees that this requirement can be unnecessarily disruptive in certain occupancies where the code does not require all building occupants to participate in the drill, including hospitals, mercantile occupancies and assembly occupancies. Accordingly, the Fire Department proposes the following exception be added to FC401.7.5: *(New text is underlined)*

**401.7.5 Alarm activation.** The fire alarm system shall be activated each time a fire drill or non-fire emergency drill is conducted to initiate the drill and familiarize building occupants with the alarm tones. Nothing in this code shall be construed to prohibit the activation of the fire alarm signal for the purposes of conducting a fire drill or a non-fire emergency drill.

**Exception:** In buildings or occupancies in which all building occupants are not required by this code to participate in the drill, the fire alarm system need not be activated to initiate the drill, provided that, in accordance with the rules, another means is employed to familiarize those building occupants participating in the drill with the fire alarm tones that would be sounded in the event of an actual emergency.

The Fire Code and the Fire Department rule applicable to emergency action plans (3 RCNY §404-02) anticipates that it will be necessary for a building or occupancy, through its FLS Director, to implement the plan prior to receipt of direction from law enforcement personnel, when necessary to protect building occupants. The Fire Code (FC401.4.5.1(2)) further anticipates that, upon arrival of emergency response personnel at the scene of the emergency (which may not be in the building) they would provide appropriate guidance to the FLS Director and building occupants as to what action should be taken to protect themselves.

The Fire Department is unable to respond to the statement that this guidance may “contradict” actions to be taken pursuant to the comprehensive fire safety/emergency action plan, without knowledge of the particulars of the incident. Difference guidance may be provided based on information not known to the FLS Director. If this is not the case, the building owner may wish to review their response planning.

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**27. Section:** FC401.7.6

**Comment from:** Brookfield Properties, Russell Touhey

**Comment:** The requirement for fire and non-fire emergency drills in office buildings has been combined. Has the total number of drills been reduced from 3 to 2 in office buildings?

**FDNY response:**

Yes. The 2008 Fire Code requires (after the first 2 years) that fire drills in office buildings be conducted semi-annually. After the first year of acceptance of an EAP plan, EAP drills are required annually as set forth in 3 RCNY §404-02. Such drills are currently required to be separate and distinct.

The proposed amendments require that fire and non-fire emergency drills be combined (essentially requiring all drills to include fire and non-fire emergency training) and require that these drills be conducted twice a year (after the first 2 years). (FC Table 401.7.6). The Fire Department expects to develop rules that set forth standards for the conduct of combined fire and non-fire emergency drills.

**28. Section:** FC Table 401.7.6

**Comment from:** Croker Fire Drill Corp

**Comment:** With regards to 401.7.6 (FC Table 401.7.6) the drill frequency states semi-annually for Group B Office buildings, this frequency has been reduced from the current requirements consisting of (2) fire drills and (1) EAP drill, as well the (1) required stairway familiarization drill every three (3) years, please clarify the drill requirements.

**FDNY response:**

See Response to Comment #27.

**29. Section:** FC Table 401.7.6

**Comment from:** Hotel Association of New York City, Joseph E. Spinnato and Geoffrey Allan Mills

**Comment:** With regard to FC Table 401.7.6, which outlines the participation and frequency requirements for fire drills, we would like to confirm that hotel guests are excluded from participation in the mandatory drills for Group R-1 hotels.

**FDNY response:**

Group R-1 occupancies (which include hotels) would be required by FC Table 401.7.6 to conduct semi-annual drills in which guests are not required to participate.

**30. Section:** 404.2.2

**Comment from:** Fire Safety Directors Association, Nick Gaudiosi

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**Comment:** This section seems to combine both fire brigade and EAP brigade into one. Each has very different duties. Fire Brigade responds to scene of fire and attempts to control it. EAP brigade responds to FCS to assist EAP Director. Different people would necessarily be in each group. Is it the Fire Department's intention to do away with the EAP brigade?

**FDNY proposed action:**

No. The format of a Level 1 plan will be developed through the rulemaking process once the proposed amendments are adopted in the Fire Code. The Fire Department anticipates that the plan format will require that the brigade members designated to respond to fire emergencies and/or non-fire emergencies be identified. These individuals will collectively be identified as the FLS brigade members.

**31. Section:** FC 405.2.1, 407.2.1, 410.3.1 and 414.2.1

**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** Section requires the following buildings and occupancies to have a comprehensive fire safety and emergency action plan: high-rise Group R-1 residential buildings and occupancies with more than 50 sleeping rooms or lodgers above street level, except for educational dormitories and homeless and emergency shelters, Group A buildings with occupancies, stand alone or combined across multiple occupancies within a structure, with of five thousand or more, Group B educational buildings and occupancies with voice communication capability that were designed to be: occupied by a total of more than one hundred persons on one of more high-rise floors or taller than 75 feet, and Group M buildings and occupancies greater than 75 feet in height, with an aggregate area of more than 100,000 square feet on high-rise floor in a structure, or in covered malls of more than 300,000 square feet excluding anchor buildings.

**FDNY response:**

Local Law 26 of 2004, commonly referred to as the "World Trade Center Task Force Legislation", was enacted by the City Council in response to the September 11, 2001 terrorist attacks of the World Trade Center towers. This legislation required, among other things, that the Fire Department promulgate rules establishing standards, procedures and requirements for the orderly evacuation of occupants from any office building or occupancy group E, including but not limited to the evacuation of persons necessitated by fire, explosion, biological, chemical or hazardous material incident or release, natural disaster or other emergency, or the threat thereof. Prior to the enactment of this legislation, office buildings were only required to have a plan that addressed fire safety.

These standards, procedures and requirement, originally set forth in Fire Department rules, were integrated into the 2008 Fire Code enacted by Local Law 26 of 2008, effective July 1, 2008. FC101.3(3) of the 2008 Fire Code sets forth that the scope of such code shall among other things, "govern emergency preparedness and planning, including the orderly evacuation of occupants of all buildings, structures and premises in the vent of fire, explosion, biological, chemical or hazardous material incident or release, natural disaster or other emergency, or the threat thereof." However, consistent with Local Law

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26 of 2004, the 2008 Fire Code did not require non-fire emergency preparedness except for office buildings.

The 2008 Fire Code required “fire safety and evacuation” plans for all occupancies other than office buildings. The proposed Fire Code amendments extend non-fire emergency preparedness to all occupancies that are required to prepare an emergency preparedness plan. However, the proposed amendments to the Fire Code reflect a determination that not all buildings and occupancies require an emergency preparedness plan. Only those buildings and occupancies whose size, occupancy type, risk vulnerability, voice communication capability, and available staff should be required to prepare an emergency preparedness plan. Accordingly, the net effect of the proposed Fire Code amendments is to substantially reduce the number of buildings and occupancies that are required to prepare an emergency preparedness plan, fire and non-fire.

Recent natural disasters in New York City, including widespread power outages and weather emergencies, as well as attempted car bombing in Times Square and the bombing at the Boston Marathon, highlight the need for and the benefit of, emergency preparedness to deal with non-fire emergencies.

The majority of the options that a building owner can consider in an effort to reduce their building’s risk to terrorist activity do not involve a design or redesign of the building, but are essentially operational in nature. Several of these options include employee training in potential threats; employee background checks; establishment of emergency response teams; enhanced video surveillance, including surveillance of common areas; enhanced security and searches at entrances; enhanced security at loading docks and other service areas, including photo ID badges for contractors and delivery persons; and vehicle and package inspections. Educating building occupants about the types of potential non-fire threats to their building, including threats from outside their building, and the appropriate response to each, is critical to any successful prevention and response plan.

See also Response to Comment #22.

**32. Section:** FC 405.2.1, 407.2.1, 410.3.1 and 414.2.1

**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** While the increased threshold for hotels and other transient residential housing was helpful, it is unclear whether or not a comprehensive fire safety/emergency action plan (Level 1) is appropriate for high-rise Group R-1 occupancies given their limited populations.

**FDNY response:**

Hotels are viewed by security experts as potential targets for terrorists, given the large numbers of persons coming and going, many with luggage and parcels; and the relative ease of access.

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The Fire Department has been in communication with the Hotel Association regarding this proposal over the years and specifically with regard to the proposed Fire Code amendments to date, and believes that the Hotel Association understands the need for large hotels to address non-fire emergencies through a Level 1 plan.

- 33. Section:** FC 405.2.1, 407.2.1, 410.3.1 and 414.2.1

**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** REBNY originally objected to the provision requiring Group A occupancies to submit the former Level 1 plan, the trigger for the new Level 1 plan is too low as it does not exclude the City's largest theaters. REBNY proposes increase the threshold to exclude all performance spaces while still capturing largest assemblies such as arenas and stadiums.

**FDNY response:**

The Fire Department selected the 5,000 criterion to capture only the largest assembly spaces. The Fire Department would be glad to review this criterion if specific examples are offered of assembly spaces of the size that is suggested should not have an emergency preparedness plan.

- 34. Section:** FC 405.2.1, 407.2.1, 410.3.1 and 414.2.1

**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** REBNY originally objected to the provision requiring high-rise Group B educational occupancies to submit the former Level 2 plan. There is still tremendous concern about the need for and effective of Level 1 plans in Group B educational buildings given the transient and inconsistent nature of their occupants.

**FDNY response:**

The Fire Department has briefed college and university representatives on the proposed Fire Code amendments. To date, the Fire Department has not received objections from industry representatives.

- 35. Section:** FC 405.2.1, 407.2.1, 410.3.1 and 414.2.1

**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** While the increased thresholds for mercantile uses were helpful, it is unclear whether or not a comprehensive fire safety/emergency action plan (Level 1) is appropriate for large Group M occupancies given the transient nature of their occupants. There is some concern that the Level 1 requirements would interfere with regular business activities in a prohibitive manner.

**FDNY response:**

As recent events in Nairobi and Kenya have tragically illustrated, shopping centers are vulnerable to terrorist attacks because of their easy access and dense concentrations of

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people. Between 1998 and 2005, over 60 terrorist attacks at shopping centers have occurred throughout the world.

Accordingly, notwithstanding the concern raised, the Fire Department maintains that large mercantile establishments and large covered malls represent a risk for non-fire emergencies that would warrant the need for a Level 1 plan.

With respect to the comment that emergency drills or other emergency preparedness requirements would interfere with business operations, see Response to Comment #26.

**36. Section:** FC 405.2.1, 407.2.1, 410.3.1 and 414.2.1

**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** The significant compliance costs, estimated to be over \$1M for the initial filing, between \$135,000 and \$500,000 for annual staffing costs, and filing fees of at least an additional \$100,000 per year, should warrant a further discussion of this provision prior to enacting any requirements for plan submissions.

**FDNY response:**

The dollar figures that are reported for the preparation of an initial comprehensive fire safety and emergency action plan are significantly higher than the costs made known to Fire Department plan reviewers. The Fire Department has significantly reduced the number of buildings and occupancies required to prepare an office building type plan. This eliminates the significant cost of fire safety plans for thousands of buildings and occupancies.

The Fire Department does not understand the comment that plan filing fees are at least \$100,000. The current fee schedule for Fire Code filings, which is unchanged by the proposed amendments, ranges from \$630 for an original filing to as much as \$1260 for an amended filing.

With respect to staffing costs, the proposed amendments require a FLS director only in the largest office buildings, hotels, mercantile occupancies and assembly occupancies. The following summary is offered for each occupancy type required to prepare a Level 1 plan to illustrate what the cost impact of providing Level 1 staffing for such occupancies will be:

***Office Building Staffing Summary***

Larger new and existing office buildings are currently required to have the equivalent of an FLS Director on duty during regular business hours. This requirement remains unchanged. There should be no increased cost associated with providing an FLS Director in larger office buildings.

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***Hotel Staffing Summary***

Existing hotels with more than 30 sleeping rooms total, or more than 15 sleeping rooms above street level, are currently required to be staffed 24/7 with a Fire Safety Director. The proposed Fire Code amendments would no longer require small hotels constructed without voice communication capability (a hotel, typically in a low-rise building, with 50 sleeping rooms or less above street level), to be staffed with a Fire Safety Director. Such hotels with more than 30 sleeping rooms total, or more than 15 sleeping rooms above street level, would be required to be staffed 24/7 by a person holding a certificate of fitness to make announcements, which could be a certified Fire Safety Director, but is not required to be. This change is proposed to provide smaller boutique hotels with relief from the requirement of providing a Fire Safety Director who have traditionally had difficulties complying with such requirement. However, the Fire Department has determined to require hotels with voice communication capability and a Fire Safety Director (pursuant to former Fire Prevention Code or the 2008 Fire Code) to retain such staffing.

The proposed Fire Code amendments require that high-rise hotels and hotels with more than 50 sleeping rooms above street level be staffed 24/7 by an FLS Director. Such buildings are currently staffed with a Fire Safety Director 24/7. The staff in such buildings would be required to upgrade their certificate from a Fire Safety Director to an FLS Director. In order to accomplish this, the Fire Department anticipates that, similar to what was required for office building Fire Safety Directors when the emergency action plan requirements took effect, current hotel Fire Safety Director certificate holders would be required to attend a 7 hour Fire Department accredited training course, pass a written examination and pass an on-site examination that would test the applicant's knowledge of emergency preparedness for non-fire emergencies.

***Mercantile and Assembly Occupancy Staffing Summary***

Many of the larger mercantile and assembly occupancies required to provide a FLS Director under the proposed Fire Code amendments have installed (pursuant to the 1968 Building Code, the 2008 Building Code or voluntarily) an alarm system with voice communication capability and staffed such buildings with a Fire Safety Director. Under the proposed Fire Code amendments, the Fire Safety Director in such buildings would be required to upgrade his or her certificate from a Fire Safety Director to an FLS Director. In order to accomplish this, similar to what was required for office building Fire Safety Directors when the emergency action plan requirements took effect, current mercantile Fire Safety Director certificate holders would be required to attend a 7 hour Fire Department accredited training course, pass a written examination and pass an on-site examination that would test the applicant's knowledge of emergency preparedness of non-fire emergencies.

Additionally, unlike hotels, mercantile and assembly occupancies only require the presence of an FLS Director during regular business hours, not 24/7.

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Yankee Stadium, Citifield, Madison Square Garden and the Barclays Center have already voluntarily prepared an emergency action plan and provided Fire Safety Director staffing.

- 37. Section:** FC 405.3.1, 407.3.1, 408.3, 410.4.1, 411.2, 413.2, 414.3.1 and 415.1.1  
**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** Sections requires the following buildings and occupancies, excluding those subject to FC401.4, to prepare fire and emergency preparedness plans: Group R-1 residential buildings and occupancies with more than 30 total sleeping rooms, or more than 15 sleeping rooms above street level, or more than 30 lodgers in total, except for educational dormitories and homeless and emergency shelters, Group A buildings that are designed to: be occupied by three hundred or more persons, contain a regularly attended performance space, be used as a ballroom, dance hall or night club, or contains a bar, catering hall, restaurant, etc. on one or more high-rise floors, Group I-1 buildings or occupancies with more than 25 people above or below street level, high-rise Group B educational buildings, high-rise Group E educational buildings, Group B educational occupancies designed to be occupied by a total of more than one hundred people on one or more high-rise floors, Group E educational occupancies designed to be occupied by a total of more than one hundred people on one or more high-rise floors, high-rise Group R-1 dormitory buildings, Group R-1 dormitory buildings or occupancies with a total of more than 50 sleeping rooms above street level or more than a total of fifty lodgers, Group F buildings or occupancies with more than 25 people above or below street level during regular business hours, hospitals, nursing homes, ambulatory care facilities, and other Group I-2 buildings or occupancies, Group M occupancies of more than 30,000 square feet in which more than 25 persons are employed during regular business hours, structures with multiple Group M occupancies with an aggregate area of more than 30,000 square feet in which more than 25 persons are employed during regular business hours, and covered mall of more than 30,000 square feet excluding anchor buildings as well as high-rise or large area Group S occupancies designed to be occupied by more than 25 persons above or below the street level, and non-high-rise Group S buildings with an aggregate of more than 20,000 square feet of high-piled combustible storage.

**FDNY response:**

See Response to Comment #31.

In response to concerns that Group B office buildings with as few as 26 people often do not have staff available in the building to serve as an FEP Coordinator or implement a Level 2 emergency preparedness plan, FC404.3.1 is proposed to be amended, consistent with current Fire Code Section 404.2.1(2), as follows:

**404.3.1 Fire and emergency preparedness plan (Level 2).** A fire and emergency preparedness plan in accordance with FC401.5 shall be prepared for a Group B office building or occupancy occupied or designed to be occupied by more than [twenty five] five hundred persons, or more than one hundred persons above or below street level, other than buildings and occupancies subject to FC404.2.

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With respect to storage occupancies, the Fire Department's primary focus was warehouses with large amounts of high-piled combustible storage and large, staffed warehouses with transient storage, such as distribution centers, in which goods are constantly received, storage and removed. In contrast, warehouses used for long-term storage, such as mini-storage facilities, are typically minimally staffed and would not require or substantially benefit from an emergency preparedness plan.

The Fire Department proposes to better define the relevant buildings and occupancies by reference to the number of employees working on the premises, rather than the number of building occupants, as follows:

**415.1.1 Emergency preparedness in buildings and occupancies with fire and emergency preparedness plans (Level 2).** A fire and emergency preparedness plan in accordance with FC401.5 shall be prepared for:

1. a high-rise or large area Group S building [that is occupied or designed to be occupied by more than twenty-five persons above or below the street level] in which more than twenty-five persons are employed during regular business hours.

With respect to covered malls, the Fire Department has reconsidered its proposal to limit the Level 1 plan to covered malls of more than 300,000 square feet. In light of recent world events, the Fire Department has determined to restore the threshold it had originally proposed, 100,000 square feet (excluding the square footage of anchor stores). Accordingly, FC414.2.1 is proposed to be amended as follows:

**414.2.1 Comprehensive fire safety/emergency action plan (Level 1).** A comprehensive fire safety and emergency action plan in accordance with FC401.4 shall be prepared for:

1. a high-rise Group M building.
2. a building with one or more Group M occupancies with an aggregate area of more than 100,000 square feet (9290 m<sup>2</sup>) on high-rise floors.
3. a covered mall of more than [300,000 square feet (27 870 m<sup>2</sup>)] 100,000 square feet (9290 m<sup>2</sup>), [excluding anchor buildings,] not counting the square footage of anchor stores as that term is defined in the Building Code.

- 38. Section:** FC 405.3.1, 407.3.1, 408.3, 410.4.1, 411.2, 413.2, 414.3.1 and 415.1.1  
**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** During our review of the last Chapter 4, REBNY objected to the provision requiring Group R-1 occupancies to submit the former Level 3 plan. It is unclear why the trigger for the former Level 2 plan was lessened given the new requirements. There is still large concern over the effectiveness of standard fire and emergency preparedness plans in Group R-1 occupancies given their limited populations.

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**FDNY response:**

All hotels required by the proposed Fire Code amendments to prepare a Level 2 plan are required under the 2008 Fire Code to prepare an office building-type fire safety and evacuation plan, and to provide a Fire Safety Director. The proposed Fire Code amendments would allow a simplified plan and alternative staffing in small hotels without voice communication capability and less than 50 guest rooms above the first floor. This number was developed in conjunction with the revision of Building Code fire alarm system requirements in hotels.

However, the Fire Department has determined to retain Fire Safety Directors in existing hotels with voice communication capability, which were required to have a Fire Safety Director pursuant to the Fire Prevention Code or the 2008 Fire Code. The Fire Department therefore proposes to add an exception to FC405.3.2 that provides as follows:

**405.3.2 Fire and emergency preparedness staff.** The commissioner may prescribe by rule that in Group R-1 buildings and occupancies provided with voice communication capability (other than buildings and occupancies subject to FC405.2) there shall be present during regular business hours one or more members of the FEP staff required pursuant to FC401.5.5 who hold a certificate of fitness for emergency announcements and other fire safety duties.

**Exception:** Any Group R-1 residential building or occupancy with voice communication capability that was required by the New York City Fire Prevention Code or this code prior to the effective date of this section to have a fire safety director present in the building during regular business hours shall retain such staffing.

- 39. Section:** FC 405.3.1, 407.3.1, 408.3, 410.4.1, 411.2, 413.2, 414.3.1 and 415.1.1  
**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** REBNY previously objected to the provision requiring Group B and Group E educational occupancies to submit the former Level 2 plan as there is tremendous concern about the need for and effectiveness of Level 2 plans in educational buildings given the transient and inconsistent nature of their occupants. Furthermore, most of these entities within these occupancies are not-for-profits that may not be able to easily absorb the added costs associated with the requirements.

**FDNY response:**

See Response to Comment #34.

- 40. Section:** FC 405.3.1, 407.3.1, 408.3, 410.4.1, 411.2, 413.2, 414.3.1 and 415.1.1  
**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** Moreover, REBNY objected to the provision requiring hospitals to submit the former Level 2 plan and Group I-2 occupancies to submit the former Level 3 plan

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because in many of these occupancies, the entire staff may consist of 25 dedicated individuals focused entirely on the well-being of their patients. The requirements may interfere with their ability to provide the best care that they can. Additionally, these establishments are rarely profit-seeking and also operate on narrow margins.

**FDNY response:**

The Greater New York Hospital Association was represented on the Advisory Committee.

The Fire Department recognizes that much of the staff in a hospital and other I-2 occupancies are dedicated to providing health care for their patients, many of which are not capable of self preservation. The Fire Department believes that this is precisely the reason that a hospital needs to develop a plan that includes a thoughtful response to fire and non-fire emergencies that, while allowing the facility to continue to provide the necessary healthcare, provides for the safety of their patients during times of emergency.

The effects of Superstorm Sandy on nursing homes and adult care facilities highlighted the benefit of having emergency preparedness plans in place for such occupancies. Of the sixty nursing home and adult care facilities that were impacted by power outages and/or flooding, half continued to operate-some because they sustained minimal or no damage, others because they had effective emergency plans.

Hospitals and many other healthcare facilities already have in place an emergency preparedness plan that they are required to prepare for The Joint Commission (TJC), the organization that accredits health care organizations in the United States. The Fire Department will consult with hospitals, nursing homes and other healthcare facilities to ensure that the Level 2 plan required for such occupancies will be designed to supplement, not duplicate the requirements for TJC accreditation.

- 41. Section:** FC 405.3.1, 407.3.1, 408.3, 410.4.1, 411.2, 413.2, 414.3.1 and 415.1.1  
**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** REBNY originally objected to the provision requiring Group A, Group I-1, and smaller Group M occupancies to submit the former Level 3 on the grounds that many of these establishments operate on narrow margins and have very transient occupants. REBNY objected to requiring Group S & F occupancies to submit the former Level 2 and Level 3 plans, respectively, for similar reasons as well. There is some concern that the Level 2 requirements would interfere with regular business activities in a prohibitive manner.

**FDNY response:**

The Fire Department has not yet finalized or adopted the format for the Level 2 plan and will do so through the rulemaking process. The document circulated to Advisory Committee members was a sample discussion draft to illustrate what such a plan might look like; an on-line fill in the blank type form that should not require any professional preparation.

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With respect to the comment that the requirement of a Level 2 plan would interfere with regular business activities in a prohibitive manner see Response to Comment #26.

- 42. Section:** FC 405.3.1, 407.3.1, 408.3, 410.4.1, 411.2, 413.2, 414.3.1 and 415.1.1  
**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** Mandating all of these occupancies to file the new Level 2 plan only exacerbates REBNY's concerns, and further disincentivizes these sorts of business in New York City.

**FDNY response:**

The submission of a Level 2 plan to the Fire Department is only required for high-rise and large-area buildings (see FC401.5.4).

- 43. Section:** FC 405.3.1, 407.3.1, 408.3, 410.4.1, 411.2, 413.2, 414.3.1 and 415.1.1  
**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** The significant compliance costs, estimated to be hundreds of thousands of dollars for the initial filing, and annual staffing costs between \$135,000 and \$500,000, should warrant a further discussion of this provision prior to enacting any requirements for plan submissions.

**FDNY response:**

The Fire Department has not yet finalized or adopted the format for the Level 2 plan and will do so through the rulemaking process. The draft circulated to Advisory Committee members was clearly intended as a sample discussion draft to illustrate what such a plan might look like; an on-line fill in the blank type form that should not require any professional preparation.

The Fire Department's intent with a Level 2 plan was that no additional staffing other than the existing building staff would be required. The proposal does require that a responsible person at the premises obtain a certificate of fitness as a Fire and Emergency Preparedness Coordinator, and for buildings with voice communication capability, a Certificate of Fitness for those individuals that will be making announcements in the event of the emergency. The added expenses on the building or occupancy should be no more than the expense associated with such employees having to obtain the certificate of fitness.

Additionally, the filing of Level 2 plans with the Fire Department (and payment of the associated fee) is only required for high-rise or large area buildings that are required to prepare such plan. The amount of the fee has yet to be determined but is not expected to exceed the current fee of \$210 for a fire safety plan.

- 44. Section:** FC405.3.1

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**Comment from:** Building Owners and Managers Association of Greater New York, Sylvester Giustino

**Comment:** This section directs Class B office buildings to have an enhanced fire and emergency preparedness plan. We find this section to be discretionary and expensive. Our members, who manage these buildings, would be subject to open interpretations by Fire Department inspectors resulting in costly and arbitrary violations.

The significant compliance costs, (estimated to be over \$1 Million) the initial filing, (between \$135,000 and \$500,000) for annual staffing costs, and filing fees (of at least an additional \$100,000 per year), will not improve fire safety.

**FDNY response:**

The comment is incorrect that the requirement for a fire and emergency preparedness plan is subject to “open interpretation by Fire Inspectors.” The determining factor as to whether a building or occupancy is required to prepare an emergency preparedness plan is the building’s Certificate of Occupancy. With respect to the comment of significant compliance costs, see Response to Comments # 36 and 43.

**45. Section:** FC413.3

**Comment from:** Greater New York Hospital Association, Alison Burke

**Comment:** In hospitals, providing a fire and life safety director on a 24/7 basis for each hospital building within a campus of hospital buildings is an issue likely to be a problem.

**FDNY response:**

The Fire Department acknowledges that hospitals and other buildings under the same ownership on contiguous properties such as a campus often have a single security office and staff to respond to emergencies, rather than individual building staff. The Fire Department has considered this issue and concluded that it is too complex to offer a single solution. The Fire Department anticipates addressing this issue in consultation with the hospitals and other affected industries on a case by case basis, by means of a modification pursuant to FC104.8, or, as experience warrants, through rulemaking.

**46. Section:** FC416.1

**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** Section requires the owners of a mix-occupancy building, and each occupancy within such a building, to prepare plans pursuant to the Fire Code.

To require separate plans to govern the same space will create unnecessary levels of confusion, complication, and ultimate ineffectiveness of each of the required plans.

A similar problem arises with the aggregate area of multiple occupancies in a single building triggers throughout the chapter.

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**FDNY response:**

See Response to Comment #12.

**47. Section:** FC 416.1 and 416.2

**Comment from:** Building Owners and Managers Association of Greater New York, Sylvester Giustino

**Comment:** This section requires owners and managers of a mix-occupancy building to prepare a Fire Safety Plan. It allows the owner/manager of a mix-occupancy building, and each occupancy within such a building, to prepare a single plan pursuant to the Fire Code in place of separate ones. A requirement for separate plans to govern the same place will create a unnecessary levels of confusion, complication, and ultimate ineffective of each of the required plans. It is impractical to expect that there will be coordination between these occupants, particularly if the ownership structures vary.

**FDNY response:**

See Response to Comment #12.

**48. Section:** FC416.2

**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** Section allows the owners of a mixed-occupancy building, and each occupancy within such a building, to prepare a single plan pursuant to the Fire Code in lieu of separate ones.

It is impractical to expect that there will be coordination between these occupants, particularly if the ownership structures vary.

**FDNY response:**

See Response to Comment #12.

**49. Section:** FC501.4.3.1

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:** Section requires that an existing building or structure that undergoes alteration or a change in use or occupancy and is located on a public street or fire apparatus access road that has a substandard road width (less than 34 ft.) install a sprinkler system throughout such a building when: (1) the cost of making alterations to the building exceeds 60% of the value of the building, or (2) there is a change of occupancy, or (3) the building increases more than 125% of square footage of the FAR, or (4) there is an alteration to a non-fireproof building lower than 35 ft. increasing to above 35 ft., or (5) there is a conversion from a one-family to a two-family Group 3 occupancy.

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Requiring the sprinklerization of a building may have the effect of imposing a broad and far-reaching requirement for public improvements as a result of private construction - likely to affect existing 1-3 family homes most – which should be a conversation and a proposal discussed extensively prior to consideration.

Requirements to fully sprinkler a building have economic and construction impacts that should be discussed and evaluated in the context of building construction. In some of these scenarios, the costs of the sprinklerization of the building could be more expensive than the proposed work itself. In that case, there is an economic easement placed on each property that would diminish the value of the property and could be viewed as a taking.

**FDNY response:**

This comment was previously submitted by REBNY. Their original comment and the Fire Department’s response are shown below in *italics*.

**“Section:** *FC501.4.3.1*

**Comment from:** *Real Estate Board of New York, Angela Pinsky*

**Comment:**

*Section requires that an existing building or structure that undergoes alteration or a change in use or occupancy and is located on a public street or fire apparatus access road that has a substandard road width (less than 34 ft) bring the street or road into compliance or install a sprinkler system throughout such a building when: (1) the cost of making alterations to the building exceeds 60% of the value of the building, or (2) there is a change of occupancy, or (3) the building increases more than 125% of square footage of the FAR, or (4) there is an alteration to a non-fireproof building lower than 35 ft increasing to above 35 ft, or (5) there is a conversion from a one-family to a two-family Group 3 occupancy.*

*The requirement to bring a road up to compliance raises complicated questions, including:*

*-Is the requirement to bring the entire road up to standard width, even if the building undergoing construction is only one of many buildings located on the block?*

*-How is it possible to widen a road if the structures already exist? What happens if the widening of the road conflicts with set back provisions of the zoning code and building code?*

*-What if the Department of Transportation does not approve work on a public street?*

*If it is not possible to bring a substandard road into compliance, the requirement becomes a de facto requirement to sprinkler all existing buildings. This may have the effect of imposing a broad and far-reaching requirement for public improvements as a*

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*result of private construction - likely to affect existing 1-3 family homes most – which should be a conversation and a proposal discussed extensively prior to consideration.*

*Requirements to fully sprinkler a building have economic and construction impacts that should be discussed and evaluated in the context of building construction. In some of these scenarios, the costs of bringing the road into compliance or the sprinklerization of the building could be more expensive than the proposed work itself. In that case, there is an economic easement placed on each property that would diminish the value of the property and could be viewed as a taking.*

**FDNY proposed action:** *The Fire Department proposes to amend the section to delete any reference to bringing the street or road into compliance.*

*The Fire Department recognizes that widening a public street or private road to bring it into compliance for fire apparatus access purposes is typically not an option. If it can be accomplished, the street would no longer be substandard, and FC501.4.3.1 would no longer be applicable.*

*As set forth in response to Comment #8, the Fire Department’s criteria for “alteration” are such that the obligation to provide sprinkler protection is likely to be triggered only when major renovation or reconstruction work is being undertaken. Accordingly, it is unlikely that sprinklering the building would be anything other than a small component of the total construction cost.*

*It is important to note that this proposed amendment, to require sprinklering of buildings on substandard width public streets and private roads, does not effect a significant code change but rather incorporates existing Fire Department policy and practice. Following the enactment of the Fire Code in 2008, the Fire Department clarified the meaning of “alteration” for purposes of triggering the sprinkler requirement on substandard width public streets. The Building Code already required that most large residential and commercial occupancies be sprinklered, so this interpretation primarily affected one and two-family dwellings and some smaller commercial buildings. The Fire Department has also required sprinklering of new and substantially-altered one and two-family homes in residential developments with substandard width public streets.*

*The significant change proposed by this section is to reduce the standard for substandard width streets and roads from 38 feet to 34 feet.”*

**50. Section: FC501.4.3.2**

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:** Section requires any rooftop that undergoes any alteration to comply with Section 504.

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Again, this is a requirement where the actual work that triggers the requirement may be substantially less than the cost of compliance and would create an undue burden on home owners and properties.

The FDNY responded to REBNY's initial concerns stating that is has liberally granted variances for nonconforming rooftops. If that is still the case, REBNY suggests reflecting that in the Code, and creating a threshold trigger of a 50% alteration to the rooftop area.

**FDNY response:**

This comment parallels an earlier comment to one previously submitted by REBNY. REBNY's original comment and the Fire Department's response are shown below in *italics*.

**“Section:** *FC501.4.3.2*

**Comment from:** *Real Estate Board of New York, Angela Pinsky*

**Comment:**

*Section requires any rooftop that undergoes any alteration to comply with Section 504. Again, this is a requirement where the actual work that triggers the requirement may be substantially less than the cost of compliance and would create an undue burden on home owners and properties.*

**FDNY proposed action:** *The Fire Department proposes to retain the existing language.*

*While the Fire Department has adopted a more literal interpretation of “alteration” for rooftop compliance purpose, but has liberally granted modifications (variances) for nonconforming rooftops in recognition of the difficult issues that full compliance entails.*

*The fact that rooftop alterations are typically undertaken by telecommunications companies and other rooftop users that do not own the roof or all of the various installations thereon has made it difficult for the Fire Department to achieve compliance on existing roofs in one fell swoop. Instead, the Fire Department's Bureau of Fire Prevention has taken an incremental approach allowing limited compliance efforts with each application. This allows work to proceed more expeditiously but has the drawback of requiring repeated submissions to the Fire Department. Thus, to date, the costs of compliance imposed by the Fire Department are not the cost of the physical changes, but the costs associated with repeated submissions to the Fire Department. Those costs are typically not assumed by the building owner but by the rooftop user.*

*Building owners and their representatives need to recognize that rooftop access requirements benefit the owner of the property. Rooftops have become increasingly congested, and the absence of a clear path across the roof presents safety concerns for all persons – including the owner's employees, agents and business invitees – not just the Fire Department.”*

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**FDNY response:**

The Fire Department adheres to its previous response, with the following additional clarification of the modification process:

When an alteration is made of an already noncompliant rooftop the Fire Department reviews the submission to determine whether full compliance with the code can be readily achieved. In many cases, full compliance is impossible without major relocation of rooftop facilities and equipment. Recognizing that denying the application would have major implications for the telecommunications industry or emergent rooftop technologies, the Fire Department works with the applicant to determine what can be done to make the rooftop incrementally safer to conduct firefighting operations.

The Fire Department has indicated to building owners and telecommunication companies its willingness to develop as approach that would address noncompliance in a single application, but that process would require the participation of the owners and raises concerns that it would delay the approval process.

Finally, the Fire Department notes that, as set forth in the FC Chapter 2 definition of “alteration,” the in-kind replacement of equipment or a system, or other repair made in the ordinary course of maintenance, is not an alteration triggering the obligation to comply with the Fire Code’s rooftop access and obstruction provisions.

**51. Section:** FC502.1 (Definition of frontage space)

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:** Definition requires a street or an open space in front of the main front entrance to the building not less than 30 feet in any dimension.

This requirement does not seem feasible in areas where the building frontage is already less than 30 feet.

This requirement may conflict with the Department of City Planning’s requirements, and therefore any requirements for street frontage should be included as part of the Zoning Code.

REBNY does not believe the original definition was unclear.

**FDNY response:**

This comment was previously submitted by REBNY and the Fire Department provided the following written response (comment and response shown in *italics*):

*“Section: FC502.1 (Definition of frontage space)*

*Comment from: Real Estate Board of New York, Angela Pinsky*

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**Comment:**

*Definition requires a street or unobstructed open spaces in front of the main front entrance to the building not less than 30 feet in any dimension.*

*This requirement is not within the building owner's ability to control, as street frontage is largely part of the public domain and regulated by the Department of Transportation and other agencies.*

*This requirement does not seem feasible in areas where the building frontage is already less than 30 feet.*

*This requirement does not seem feasible in areas where there are curb cuts, street furniture and street trees. These requirements are governed by and conflict with the Department of City Planning's requirements, and therefore any requirements for street frontage should be included as part of the Zoning Code.*

**FDNY proposed action:** *The Fire Department proposes to retain the existing language.*

*A public street (or its private road equivalent) can serve as the frontage space of the building, irrespective of normal street obstructions, such as curb trees, utility lines and lawfully parked cars.*

*This provision has no bearing on lawfully existing buildings, unless they are altered in a manner that triggers code compliance obligations."*

Based upon subsequent discussions between the Fire Department and REBNY representatives, the Fire Department agreed to restore the existing text of the last sentence of the definition that was the focus of the concern. The definition was revised to read as follows:

**“FRONTAGE SPACE.** A street or an open space [outside of a building that is within 30 feet (9144 mm)] in front of and adjoining the main front entrance to the building and not less than 30 feet (9144 mm) in any dimension[. It shall be] that is accessible from a public street or fire apparatus access road, provides access to the building, and serves as a staging area for firefighting and other emergency operations. It shall be designed and constructed to allow operation of department apparatus on the front side of the building and shall be maintained free of obstructions that may interfere with its use by the department.”

**52. Section: FC503.2**

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

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**Comment:** Section requires fire apparatus roads to have a turning radius determined by the Commissioner, and angles of the approach that are established by the department based on the department's fire apparatus, and a roadway width or vertical clearance that may be increased by the Commissioner.

While it was helpful to keep the design and construction of these roads in accordance DOT standards, the section still leaves the dimensions of the fire apparatus road up to the discretion and determination of the agency, requiring a discretionary approval and a determination with each and every application.

**FDNY response:**

This comment was previously submitted by REBNY and the Fire Department provided the following written response (comment and response shown in *italics*):

*“Section: FC503.2*

*Comment from: Real Estate Board of New York, Angela Pinsky*

**Comment:**

*Section requires fire apparatus roads to have a turning radius determined by the Commissioner, and angles of the approach that are established by the department based on the department's fire apparatus, and a roadway width or vertical clearance that may be increased by the Commissioner.*

*The section leaves the dimensions of the fire apparatus road up to the discretion and determination of the agency, requiring a discretionary approval and a determination with each and every application. The City has been making improvements in agencies to ensure that the as much as of right development as possible can happen to prevent bureaucratic delays. The Fire Department should also avoid discretionary approvals except where absolutely necessary.*

**FDNY proposed action:** *The Fire Department proposes to retain the existing language pending further review of this requirement.*

*This is existing Fire Code language. However, in an effort to ensure that consistent standards are being established, the Fire Department is consulting the New York City Department of Transportation regarding its construction standards for public streets.”*

The Fire Department has determined that NYC Department of Transportation street construction standards do not fully address the Fire Department's fire apparatus access needs. The Fire Department is regularly consulted by the NYC Department of Transportation with respect to proposed roadway designs to ensure that traffic calming and other street initiatives allow for adequate navigation by fire apparatus.

Given these circumstances, the Fire Department does not believe it would best serve public safety to remove this existing requirement.

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**53. Section: FC503.2.6**

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:** Section grants the Commissioner the ability to require more than one fire apparatus access road to one or more buildings.

This section does not adequately describe the conditions that would trigger a second fire apparatus access road.

The requirements of access roads and driveways should be a function of the Zoning Code, rather than the Fire Code.

**FDNY response:**

The provision is an existing code provision (See FC503.1.2). This section is used with limited discretion when fire apparatus roads are proposed for a development when in the opinion of the firefighters, a secondary access is necessary to ensure adequate response but not required by the Building Code or the Zoning Resolution.

**54. Section: FC 503.2.10 and 503.3.2**

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:** Section requires fully sprinklering all residential, commercial or office buildings when they are on substandard width roads when undergoing alteration or a change of occupancy as described above.

Requirements to fully sprinkler a building have economic and construction impacts that should be discussed and evaluated in the context of building construction. In some of these scenarios, the costs of bringing the road into compliance or the sprinklerization of the building could be more expensive than the proposed work itself. In that case, there is an economic easement placed on each property that would diminish the value of the property and could be viewed as a taking.

**FDNY response:**

This comment was previously submitted by REBNY and the Fire Department provided the following written response (comment and response shown in *italics*):

*“Section: FC503.2.10*

*Comment from: Real Estate Board of New York, Angela Pinsky*

*Comment:*

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*Requires fully sprinklering all residential, commercial or office buildings when they are on substandard width roads when undergoing alteration or a change of occupancy as described above.*

*Requirements to fully sprinkler a building have economic and construction impacts that should be discussed and evaluated in the context of building construction. In some of these scenarios, the costs of bringing the road into compliance or the sprinklerization of the building could be more expensive than the proposed work itself. In that case, there is an economic easement placed on each property that would diminish the value of the property and could be viewed as a taking.*

**FDNY proposed action:** *The Fire Department proposes to retain the existing language.*

*The requirement that buildings undergoing substantial alteration be sprinklered if they are located on a substandard width public street was established by the 2008 Fire Code. The Fire Department is proposing to apply that requirement to buildings undergoing substantial alteration on a fire apparatus access road so as to treat similar buildings similarly.*

*The criteria set forth in FC501.4.3.1 for alterations or change in occupancy that triggers compliance with sprinklering requirements parallels the criteria set forth in the New York City Building Code (>60% of the building value), which requires alterations to be made in accordance with current Building Code requirements.*

*The proposed amendments to the Fire Code also effectively lessen this obligation by reducing the dimension of a substandard street width from 38 feet to 34 feet, thereby significantly reducing the number of buildings subject to compliance with the sprinklering requirement.”*

**55. Section: FC504.4.1**

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:** Section requires scaffolding obstructing rooftop access locations to be designed to provide secure landings at such locations in an approved manner.

This is a requirement of the Building Code and any specifications for scaffolding should be in the Building Code.

A temporary inability to include a provision in its most appropriate location should not justify going beyond the scope of the Fire Code.

**FDNY response:**

This comment was previously submitted by REBNY and the Fire Department provided the following written response (comment and response shown in *italics*):

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**“Section: FC504.4.1**

**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:**

*Section requires scaffolding obstructing rooftop access locations to be designed to provide secure landings at such locations in an approved manner.*

*This is a requirement of the Building Code and any specifications for scaffolding should be in the building code.*

**FDNY proposed action:** *The Fire Department proposes to retain the existing language. The Fire Department has no objection to inclusion of this requirement in the Building Code, with a cross-reference in the Fire Code to the Building Code provision. However, inclusion of this requirement in the Building Code likely will have to await the next Building Code revision cycle. In the interim, we believe it is desirable to establish the principle in the Fire Code.”*

Notwithstanding these comments, the Fire Department does not believe that placing this requirement in the Fire Code goes beyond the scope of the Fire Code. Scaffolding installed at any location that obstructs rooftop access landings will obstruct firefighting operations and therefore represents a hazard to firefighters.

**56. Section: FC504.4.9.2**

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:** Section overviews requirements for landscaped rooftops.

This provision should more clearly state that its requirements are only applicable along the clear path.

**FDNY response:**

The section has been amended to more clearly state that its requirements are applicable only to rooftop perimeter access and landings, clear path and clearances required by FC 504.3 and 504.4.4. Areas of the rooftop outside of these areas are not subject to compliance with FC404.4.9.2.

The section will be revised to read as follows:

**504.4.9.2 Landscaped rooftops.** Rooftop access landings, clear paths and other areas access to which is required pursuant to [this section] FC 504.3 and 504.4.4 may be landscaped in compliance with the following requirements:

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**57. Section: FC505.3**

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:** Section requires increased signage on every floor with 4 or more guest rooms or dwelling units on a floor and makes the provision retroactive after 2 years, exempting sprinklered buildings.

This requirement was proposed in 2008 and was rejected due to visual design considerations. This should not be included in the 2012 Fire Code revision for similar reasons.

**FDNY response:**

This comment was previously submitted by REBNY and the Fire Department provided the following written response (comment and response shown in *italics*):

*“Section: FC505.3*

*Comment from: Real Estate Board of New York, Angela Pinsky*

**Comment:**

*Requires increased signage on every floor with 4 or more guest rooms or dwelling units on a floor and makes the provision retroactive after 2 years.*

*This requirement was proposed in 2008 and was rejected due to visual design considerations. This should not be included in the 2012 Fire Code revision for similar reasons.*

**FDNY proposed action:** *The Fire Department proposes to retain the existing language, as modified.*

*The local law proposed in 2008 was not a Fire Department initiative. The Fire Department believes that the public safety considerations associated with apartment numbering and signage – both for firefighting and EMS responses – outweigh mere aesthetic concerns. Moreover, the Fire Department is not persuaded that the limited numbering and signage requirements of this section would have significant aesthetic impact. Apartment numbering and signage can be handled in a manner that does not detract and may even enhance the “visual design” of a building.*

*However, the Fire Department has determined to impose this requirement on buildings with 8 or more guest rooms or dwelling units per floor.”*

**58. Section: FC505.4**

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

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**Comment:** Section requires door numbering on the bottom of the door no more than 12 inches from the bottom of the door in a photoluminescent reflective or other approved materials using numbers at least 3 inches high and 1.5 inches wide. The provision becomes retroactive after 2 years, exempting sprinklered buildings.

This requirement was proposed in 2008 and was rejected due to visual design considerations. This should not be included in the 2012 Fire Code revision for similar reasons.

**FDNY response:**

This comment was previously submitted by REBNY and the Fire Department provided the following written response (comment and response shown in *italics*):

*“Comment: Section requires door numbering on the bottom of the door no more than 12 inches from the bottom of the door in a photoluminescent, reflective or other approved materials using numbers at least 3 inches high. This requirement was proposed in 2008 and was rejected due to visual design considerations. This should not be included in the 2012 Fire Code revision for similar reasons.*

*The Fire Department proposes to retain the existing language, as modified.*

*The local law proposed in 2008 was not a Fire Department initiative. The Fire Department acknowledges that photoluminescent or reflective emergency markings on apartment doors do have an impact on hallway aesthetics. However, such aesthetic considerations, while valid, need to be balanced against the important public safety considerations associated with such fire emergency markings.*

*Fire emergency markings are intended to facilitate firefighting and rescue operations in smoky apartment hallways. The need for such signage is mitigated in buildings that are protected throughout by a sprinkler system.*

*Accordingly, the Fire Department proposes to exempt from the fire emergency marking requirement buildings that are protected throughout by sprinklers.*

*In addition, in buildings that are not fully sprinklered, the Fire Department proposes to amend this initiative to impose this requirement to buildings with 8 or more guest rooms or dwelling units per floor.”*

In further discussions with industry representatives, a thoughtful compromise emerged which the Fire Department believes will achieve its operational objectives while addressing the aesthetic concerns of building owners. Placement of the fire emergency markings required by FC 504.4.1 and 504.4.3 on dwelling unit and stairwell door jambs would alleviate the visual impact of the markings.. The Fire Department will incorporate this approach into its proposed Fire Code amendments. Additionally, FC504.4 has been amended to provide that the design of the fire emergency markings be in accordance with the rules, and deleted the reference to 3 inch high letters.

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**59. Section: FC505.4.2**

**Comment from:** Hotel Association of New York City, Joseph E. Spinnato and Geoffrey Allan Mills

**Comment:** We are concerned with the design planning and construction time it will require to comply with proposed amendment of FC505.4.2, which creates guest room identification mandates for any hotel that is not currently protected by sprinklers and that has more than 8 units per floor.

For any hotel that is required to undertake construction to with FC505.4.2, we request that the current two (2) year compliance period be extended by an additional twelve (12) months. In this regard, hotels requiring additional guest room identification at the bottom of the door would have a grace period of three (3) years after the effective of the new Code to complete the necessary design planning and construction.

**FDNY response:**

The Fire Department did not anticipate that a 2 year grace period to comply with the requirements of FC505.4.2 would be insufficient. In light of the Hotel Association's anticipate concerns the Fire Department proposes to amend FC505.4.5 as follows (*New text shown underlined*):

**505.4.5 Existing installations.** Existing buildings and occupancies shall comply with the operational requirements for marking and signage set forth in FC505.4.1[, 505.4.2 and 505.4.3] within 2 years of the effective date of this section, and with the operational requirements for marking and signage as set forth in FC 505.4.2 and 505.4.3 within 3 years of the effective date of this section.

**60. Section: FC511**

**Comment from:** Real Estate Board of New York, Angela Pinsky and Building Owners and Managers Association of Greater New York, Sylvester Giustino

**Comment:** Section outlines the design, installation, operation, and maintenance of in-building auxiliary radio communication systems dedicated for fire department use.

This requirement is extensive and vague, and does not fall into line with Federal Communications Commission policies and regulations. Currently, commercial building management personnel are allowed to operate mobile radio devices at 150-174 MHz and 421-512 MHz bands. However, they are required by the FCC to narrowband to a frequency of 12.5 kHz or less by December 31, 2012. The radios used by the FDNY are at 800MHz. Building owners and managers are unable to receive a FCC license to operate a radio at that frequency and would subsequently be fined up to \$38,000 if they fail to comply with this Rule.

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An alternative to facilitate this proposal is to change the language to encourage commercial building personnel to install a repeater system.

**FDNY response:**

This comment was previously submitted by BOMA and REBNY, and the Fire Department provided the following written response (response shown in *italics*):

*“This proposal does not require the installation of a fire department radio system in any building; it simply provides requirements for the design, installation, operation and maintenance of such system. Any requirement for a building to install such system would be set forth in the Building Code.*

*The systems being regulated by this section are for emergency responder use only. It is not the intention for fire department radio systems to be used by commercial building management personnel. If this clarification does not satisfy your concerns please provide additional comments.”*

It is clear that the Fire Department’s previous response did not allay the concerns raised. Accordingly, the Fire Department offers the following additional response:

The in-building auxiliary radio communication (ARCS) system is designed to enhance Fire Department’s portable radio communications that operate in the ~480MHz range. The Fire Department utilizes radios that operate in the 800MHz bandwidth but that is not the bandwidth that the ARCS system is designed to help enhance. Building owners and operators are not expected to use, nor should they use, the ARCS system. This communication system is specifically designed and installed for use by Fire Department personnel only.

To date, not less than 20 New York City buildings have voluntarily installed ARCS systems. Going forward, the Fire Department anticipates that such system will operate in the following manner:

Design and installation documents to install an ARCS system that operates in the ~480MHz range will be submitted to the Fire Department for review and approval. Once approved, the Department of Buildings will issue a work permit. Upon completion of the installation work, the system will be tested by a person holding an FCC general radio telephone operator license. The Fire Department will authorize such persons to conduct the commissioning tests under the Fire Department’s FCC license.

The Fire Department is in the process of exploring what regulatory actions, if any, will be required to install and test an ARCS system that transmits on Fire Department frequencies and that is intended to serve as an auxiliary emergency radio communications system for Fire Department use. If any such actions are required, they would likely be incorporated into the Department of Buildings or Fire Department permit process and/or the Fire Department certificate of fitness process.

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Inasmuch as the operational and maintenance requirements for in-building auxiliary radio communication systems have not yet been fully resolved, it was agreed in discussions with industry representatives that such operational and maintenance provisions should be deleted from the Fire Code and reference instead be made to operational and maintenance requirements in accordance with the rules. The Fire Department has accordingly deleted from FC511.3 the requirements for daily inspection, annual inspection and testing, five year certification, and Fire Department-ordered testing and demonstration, all of which will be the subject of a future rulemaking.

**61. Section: FC511.2.2.1**

**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** Section mandates a commissioning test in accordance with Annex O of NFPA 1 by a person holding a FCC general radio telephone operator license.

Requiring a person holding a FCC general radio telephone operator license to test the systems would be a conflict of interests given the contradictory FCC requirements.

Buildings do not have access to the necessary bands, and therefore should not be required to test these systems.

**FDNY response:**

See Response to Comment #60.

**62. Section: FC511.2.2.2**

**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** Section requires a detailed report of the commissioning test be submitted to the department in order to request a department acceptance test.

A commissioning test should not be necessary if a department acceptance test is required, and vice versa. FDNY may not have the resources necessary to conduct acceptance testing in an efficient and timely manner.

**FDNY response:**

The commissioning test is a comprehensive test of the entire system as detailed in Appendix O of NFPA 1 that will be conducted by a FCC operator license holder.

Once an ARCS system is certified by the FCC operator license holder as being in compliance with the NFPA 1 standard, the Fire Department will conduct a “spot check” or “audit” of the system to verify that it is functioning properly and is ready for Fire Department use.

**63. Section: FC511.3.3**

**Comment from:** Real Estate Board of New York, Angela Pinsky

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**Comment:** Section mandates that in-building auxiliary radio communication systems for fire department use be inspected and tested every 12 months by a person holding a FCC general radio telephone operator license.

Requiring a person holding a FCC general radio telephone operator license to test the systems would be a conflict of interests given the contradictory FCC requirements.

Buildings do not have access to the necessary bands, and therefore should not be required to test these systems.

**FDNY response:**

See Response to Comment #60.

**64. Section:** FC511.3.4

**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** Section mandates that in-building auxiliary radio communication systems for fire department use be certified at least once every 5 years by a person holding a FCC general radio telephone operator license.

Requiring a person holding a FCC general radio telephone operator license to test the systems would be a conflict of interests given the contradictory FCC requirements.

How can these systems be tested without the presence of FDNY? Buildings do not have access to the necessary bands, and thus should not be required to test these systems.

**FDNY response:**

See Response to Comment #60.

**65. Section:** FC511.3.5

**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** Section allows the department to order at any time, upon reasonable notice to the owner, a test and/or demonstration of the in-building auxiliary radio communication system.

This requirement is duplicative as the FLS director, or another member of the building staff, is to test the systems daily, record the results, and notify the FDNY immediately should it be out-of-service.

**FDNY response:**

This is not duplicative of the FLS director's function as the FLS Director should not be transmitting on the system. The FLS director will be expected only to note any trouble signals on the console's display panel/indicators and take the appropriate action to have the trouble corrected. Fire Department personnel, on the other hand, if they suspect a

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problem, will have the ability to test transmissions on the system and order any deficiencies or problems encountered to be corrected.

**66. Section:** FC605.10

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:** Section requires that portable electric space heaters are listed, spaced properly, without extension cords, and turned off when not in use. They must be 3 feet from all combustible materials and may not be used in hazardous locations.

Portable electric space heaters are usually tenant equipment and not under the control of the property owner or manager. The requirements within this section could not be monitored by the building staff. If the Fire Department is adamant about issuing violations to tenants specifically for these violations, the provision should reference that intent.

REBNY recommends that the Department prohibit space heaters in office buildings.

**FDNY response:**

This comment was previously submitted by REBNY and the Fire Department provided the following written response (response shown in *italics*):

*“The Fire Department proposes to retain the existing language, except adopt the comment requesting clarification of what constitutes a hazardous location.*

*The proposed Fire Code amendments regulating the use of portable electric heaters are based on IFC Section 605.10. Because a portable, electric space heater’s heating element operates at high temperatures, improper use of the heater creates a fire risk. This section provides minimum safety requirements for the use of portable, electric space heaters that have historically been carelessly or incorrectly installed or used.*

*The Fire Department agrees that the proposed requirement that portable electric space heaters be kept at least 3 feet from combustible material might have the effect of restricting their use in close proximity to desks and other combustible office furnishings. This would be consistent with the fire safety objectives of this provision, which reflects national standards developed in response to fires caused by the use of portable electric space heaters.*

*Portable electric space heaters that are used too close to combustible material can ignite the material. This is especially true of paper and fabrics, including clothing (both of which are typically found in and around desks). In addition, portable electric space heaters use substantial amperage and often overload electrical wiring, creating an additional fire risk.*

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*The Fire Department believes that inclusion of this requirement in the Fire Code will assist building owners in enforcing prohibitions on use of unauthorized electrical equipment in the building. The Fire Department is empowered to issue violations to tenants for equipment used by tenants and under tenant control. Existing Fire Code Section FC107.5 specifically provides that if an occupant creates, or allows to be created, hazardous conditions in violation of this code or the rules, the occupant is also responsible for abatement of the hazardous condition.*

*The reference to “hazardous locations” in this context is intended to refer to the term as used in NFPA Standard 70, as adopted and amended by the New York City Electrical Code. Proposed 605.10.3(3) will be amended to reference the Electrical Code.*

*The Fire Department does not agree that with the comment that portable electric heaters be “UL listed”, rather than just “listed.” “Listed” is defined for purposes of the Fire Code in FC202.1. The Fire Code does not favor one testing laboratory over another, provided that (as set forth in the definition) the testing laboratory is “nationally recognized.”*

The Fire Department has subsequently included a proposed amendment to support owners who prohibit the use of portable electric space heaters when they would overload the building’s electrical wiring. FC605.10.3(1) has been added to read as follows:

**605.10.3 Prohibited use.** It shall be unlawful to use portable electric space heaters in the following locations:

1. In any building or occupancy, where the power requirements for the portable electric space heater exceed the rating of the electrical circuit or receptacle from which the heater will draw current.

**67. Section:** FC805.1

**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** Section requires that decorations, inclusive of artwork, in certain occupancy groups shall be flame resistant.

This section should exempt fully sprinklered buildings from this requirement.

**FDNY response:**

This comment was previously submitted by REBNY and the Fire Department provided the following written response:

*“The Fire Department proposes to retain the existing language.*

*The requirement of FC805.1 that requires that decorations in certain occupancies be flame resistant is not a proposed code amendment, but is in fact a longstanding Fire*

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*Code requirement. It appears as new (underlined) material because of a minor reorganization of the section.*

*A blanket exclusion from this requirement for buildings that are protected throughout by a sprinkler system would be inconsistent with the national standards established by the IFC. Accordingly, at this time the Fire Department does not believe it warranted to rescind fire resistance requirements for decorations in buildings with sprinkler systems.”*

It has been brought to the Fire Department’s attention that it is not uncommon in office occupancies for the amount of artwork in corridors to exceed 20% of wall area. Upon reconsideration, the Fire Department has determined to accommodate a greater percentage of artwork in such occupancies, provided that the occupancy is fully sprinklered. Accordingly, the Fire Department will propose the following amendment to Exception 3 of FC Section 805.1.

3. Artwork on the walls of building hallway corridors in Group B office and Group R-2 occupancies, provided that the wall area covered by such artwork does not exceed 20 percent of any wall in any occupancy not protected throughout by a sprinkler system or 50 percent of any wall in any occupancy protected throughout by a sprinkler system, and the artwork is affixed in a manner that prevents it from moving freely.

**68. Section: FC901.7**

**Comment from:** Brookfield Properties, Russell Touhey

**Comment:** Is it a violation to drain a sprinkler system (take it out of service) during construction so as to avoid unnecessary actuation of such system?

**FDNY response:**

The proposed amendments to FC901.7.3 clearly state that a sprinkler system may be taken out of service to allow construction to be performed in an area protected by such system without unnecessarily activating it. A fire watch must be provided in accordance with proposed FC901.7.2. It is also important to note that FC2604.1.8 requires that sprinkler system protection shall not be shut off or impaired while hot work is performed unless approved by the Fire Commissioner.

**69. Section: FC901.7**

**Comment from:** Brookfield Properties, Russell Touhey

**Comment:** Can FDNY clarify what it means to take a fire alarm system out of service? For example, if the facility goes off line with the central station, but has the fire safety director stationed at all times at the fire command center to monitor alarms, is this system out of service?

**FDNY response:**

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This comment raises issues that require consideration beyond the scope of the present code revision. The Fire Department will consider the issue of when a fire alarm system is “out-of-service”, and share its response by posting an FAQ on the fire Department’s website, or if appropriate, through the promulgation of a rule.

**70. Section: 901.7.2.2**

**Comment from:** New York Fire Sprinkler Contractors Association, Melissa Barbour

**Comment:** The New York Fire Sprinkler Contractors Association asks that the Fire Code be amended to allow the impairment coordinator or other building staff trained and knowledgeable in conducting a fire watch to serve as the fire watch during the initial 8 hours of a planned removal from service or after discovery of an unplanned out of service condition, provided that the floor or area in which the fire protection system is out of service does not exceed 50,000 square feet. Allowing the impairment coordinator or other building staff trained and knowledgeable in conducting a fire watch to serve for 8 hours rather than 4 will still provide adequate protection without additional expense for the building owner. In addition, with regard to sprinkler systems out of service for more than 8 hours, the fire guard would be put in place at the same time that notification to the department would be required.

**FDNY response:**

The proposal to allow the first 4 hours of a fire watch to be conducted by a trained and knowledgeable person rather than a person with a Certificate of Fitness as a fire guard was based upon significant internal discussion and compromising within the Fire Department.

As this is a significant change the Fire Department is of the view that we should proceed with the four hour limitation. If experience proves that public safety is not jeopardized, the Fire Department will consider extending this provision a longer period of time. The Fire Department does consider this to be a proposal subject to further negotiation.

**71. Section: FC904.13.1**

**Comment from:** Real Estate Board of New York, Angela Pinsky, and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:** Section requires that aerosol fire extinguishing systems shall be tested monthly by a trained and knowledgeable person to assess whether the system is in good working order.

The requirements of who may perform this test are not specified.

**FDNY response:**

There are no special qualifications or Fire Department certifications required for the person that conducts the monthly inspection of an aerosol fire extinguishing system other than that they be trained and knowledgeable. This requirement is identical to the

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requirement currently in place for all other non-water fire extinguishing systems, including clean agent, dry chemical and wet chemical systems.

Please note that the monthly requirement is for an inspection, not a test.

**72. Section:** FC1027.3.5

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:** Section prohibits furnishings and restricts decorations that can be placed in building hallway corridors or elevator lobbies except as authorized by the FC.

As discussed, REBNY would be supportive of this provision if it exempted internal corridors and other non-egress paths.

**FDNY response:**

This comment overlooks the text change made in response to prior REBNY comments. The proposed Fire Code amendments to FC1027.3.5 do not extend to Group B office buildings.

**73. Section:** FC1027.4.6

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:** Section states that household rubbish, including trash cans and recycling containers, shall not be stored in building hallway corridors. All such items shall be stored in compactor rooms or other lawful storage areas.

Many buildings are space constrained and forced to store their recycling bins in their halls. Removing those bins would make the recycling program difficult and REBNY members have reported that they have nowhere else to put them.

REBNY requests a meeting with DSNY and FDNY to discuss this topic.

**FDNY response:**

Based on discussions with the NYC Department of Sanitation the Fire Department does not believe the proposed amendments are in conflict with that agency's recycling requirements.

However, because of the concerns expressed the Fire Department proposes to remove the reference to "recycle bins" from FC1027.4.6, and leave the issue to be addressed at a later date. Accordingly, FC1027.4.6 is proposed to be amended as follows (*text to be deleted is bracketed*)

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**1027.4.6 Rubbish.** Household rubbish, including trash cans [and recycling containers], shall not be stored in building hallway corridors. All such items shall be stored in compactor rooms or other lawful storage areas.

**74. Section:** FC1404.1.2

**Comment from:** Building Trades Employers' Association/New York Fire Safety Academy, Carol Karlin

**Comment:** Concerned with following wording... "and such other locations as are necessary". In the past, CDA has issued violations for not having signs everywhere they wanted them (i.e. on every wall).

# 3 says, "posted at floor access points (i.e. stairs & hoist)".

Remove subjective wording (*other locations as are necessary*).

**FDNY response:**

Adopted, in part. The Fire Department is concerned with the suggestion to eliminate the wording "and such other locations as are necessary" as this would take away all discretion. On the same note, we would like to be as specific as possible where we can. The Fire Department proposes to amend the section as follows (*New text is underlined*):

**1404.1.2 Signage.** "No Smoking" signs complying with FC310 shall be conspicuously posted at construction sites at the following locations and such other locations as are necessary to provide notice to a person entering upon or working at the site of the prohibition against smoking:

1. at construction sites required by the Building Code to be enclosed with a fence, on all sliding and swinging gate openings, and any other openings allowing for access to the site by persons or vehicles;
2. at the entrances to any building or structure under construction or demolition;
3. on each floor at stairway, elevator and hoistway access points of any building undergoing alteration, construction; or demolition; and
4. at any indoor or outdoor areas on the construction site at which persons congregate.

**75. Section:** FC1404.2

**Comment from:** Building Trades Employers' Association/New York Fire Safety Academy, Carol Karlin

**Comment:** 304.3.3 – says, dumpsters shall not be stored indoors.

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If trash containers (i.e. ½ yard) have to be removed from the building once a day, and there is no room outdoors for a dumpster, it's not always possible to have trash pickup every day.

A certain amount of containers (i.e. 5 ½ yard non-combustible containers with lids) can be stored on a floor overnight.

**FDNY response:**

This comment was previously submitted by BTEA and the Fire Department provided the following response (shown in *italics*):

**“Section:** *FC1404.2*

**Comment from:** *Building Trades Employers’ Association/New York Fire Safety Academy, Carol Karlin*

**Comment:** *304.3.3 – says, dumpsters shall not be stored indoors.*

*If trash containers (i.e. ½ yard) have to be removed from the building once a day, and there is no room outdoors for a dumpster, it’s not always possible to have trash pickup every day.*

*A certain amount of containers (i.e. 5 ½ yard non-combustible containers with lids) can be stored on a floor overnight.”*

**FDNY response:**

*This comment was offered previously by BTEA and the FDNY offered a written response as follows:*

**“Section:** *FC1404.2*

**Comment from:** *Building Trades Employers’ Association/New York Fire Safety Academy, Carol Karlin*

**Comment:** *Include certain provisions of FC304.3 for storage of combustible wastes at construction sites.*

**Commenter’s proposed code amendment:**

**1404.2 Waste disposal.** *Combustible waste, including rubbish and construction and demolition material, shall not be accumulated within buildings and shall be removed from buildings at the end of each work shift or stored in noncombustible containers not exceeding 1.5 cubic yards and not more than xx containers on each floor or in the building, but at least once a day. Combustible waste, including rubbish and construction and demolition material, shall be removed from the premises or stored in noncombustible containers.*

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**FDNY proposed action:** *Proposed to be adopted with modifications. The Fire Department proposes to amend FC1404.2 to allow combustible waste, including rubbish and construction and demolition material, to be removed from a building only once a day if stored in code-compliant noncombustible containers in accordance with FC304.3. Accumulations of combustible waste not stored in code-compliant containers and in a manner that obstructs movement on the floor, or containing flammable or combustible liquid residues, must still be removed from a building at the end of each work shift.”*

The Fire Department does not agree that ongoing storage of combustible waste on the premises should be authorized as of right. Combustible waste typically presents a significant fire risk at construction sites. If there are special circumstances that preclude regular removal of combustible waste from a building under construction, the Fire Department can grant a modification and approve an alternative storage location.

**76. Section: FC1404.5**

**Comment from:** Building Trades Employers’ Association/New York Fire Safety Academy, Carol Karlin

**Comment:** The Afterhours fire guard requirement, which is found in the Board of Standards & Appeals & F-60 study guide material, is not mentioned.

Add requirement to have at least one afterhours fire guard on construction sites after work is done until midnight.

**FDNY response:**

The Fire Department is authorized to enforce requirements of the Board of Standards and Appeals. Accordingly, there is no need to duplicate such requirements in the Fire Code.

**77. Section: FC1404.5**

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:** Section permits the Commissioner to require a fire watch, maintained by multiple fire guards, at construction sites.

Changing the application of this provision from “for demolition operations” to “at construction sites” substantially increases the scope of the requirement to be inclusive of home renovations, residential sheds and fence construction, and plumbing improvements, and would create a sizable burden on projects.

**FDNY response:**

This requirement is consistent with the updated IFC language and merely reflects the Fire Commissioner’s inherent discretion to require fire guards when hazardous operations are ongoing. However, the Fire Department recognizes that all building construction and alteration is by its nature “hazardous.” Accordingly, the Fire Department proposes to

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respond to this concern with the following clarification to guide the Fire Commissioner's discretion:

**1404.5 Fire watch.** The commissioner may require, at demolition site, and other construction sites that are unusually hazardous in nature, that a fire watch be maintained by fire guards. The fire guards conducting such fire watch shall have the duties and responsibilities set forth in FC901.7.2.1.

**“1404.5 Fire watch.** The commissioner may require[, for] at a demolition [operations] site, and at other construction sites that are unusually hazardous in nature, . . .”

**78. Section:** FC1404.8

**Comment from:** Building Trades Employers' Association/New York Fire Safety Academy, Carol Karlin

**Comment:** Concerned with the wording.... “shall be given construction priority”.

Set specific parameters when fire-resistance-rated construction components must be installed. This is similar to language in OSHA.

**FDNY response:**

This text was inserted consistent with the requirements of OSHA at BTEA's suggestion. Prior to the Fire Department providing guidance with respect to this requirement, the Fire Department intends to consult with OSHA and the construction industry. The Fire Department is not prepared to undertake that task at this time but would do so once the section is adopted.

**79. Section:** FC1405.1

**Comment from:** Building Trades Employers' Association/New York Fire Safety Academy, Carol Karlin

**Comment:** Even though the reference was changed from 3404 to 3406.2, the “circling problem” still exists.

Fire Code circles on self with references to FC 34 and FC 27 without any concrete answers. Does not address construction sites.

Note each section in chapter 34 that applies to construction.

**FDNY response:**

This comment was previously submitted by BTEA/NYFSA and the Fire Department provided the following written response (response shown in *italics*):

*“FC3406.2 is the relevant section of Chapter 34 with regard to the storage, handling and use of flammable and combustible liquids at construction sites. This section is referenced in FC1405.2. FC1405.1 is proposed to be amended to clarify the sections of Chapter 34*

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*that are relevant to the storage of flammable and combustible liquids at construction sites. Additionally, you should be aware that there are two Fire Department rules relating to flammable and combustible liquids at construction sites: 3 RCNY 3406-01, Storage of Flammable and Combustible Liquids on Roofs at Construction Sites, and 3 RCNY 1405-01, Crane Aerial Fueling Operations.”*

The suggestion that FC1405.1 should identify every applicable section of Chapter 34 that applies to the storage, handling and use of flammable liquids at construction sites would be inconsistent with the manner in which many of the Fire Code chapters make a general reference to other chapters that may be applicable, without a specific reference as to what sections of such chapters would be. This is the format adopted in the IFC and which has been adopted in the 2008 Fire Code. Amending FC1405.1 in the manner suggested also raises concerns for the Fire Department that the list, despite a diligent review, may be underinclusive.

However, the Fire Department acknowledges that the construction industry needs to have a clear understanding of the code provisions they are required to comply with so as to facilitate compliance. The Fire Department is committed to conducting a comprehensive review of Chapters 27 and 34 to identify those sections that would be applicable to the storage, handling and use of flammable and combustible liquids at a construction site. The results of this review can be posted on the Fire Department’s website as a Frequently Asked Question.

**80. Section:** FC1406.3

**Comment from:** Building Trades Employers’ Association/New York Fire Safety Academy, Carol Karlin

**Comment:** Concerned with wording.... “approved.” Who approves?

**FDNY response:**

Approved is defined for purposes of the Fire Code by FC202 as “acceptable to the commissioner”. In this particular context, an “approved” storage area would be one that complies with the requirements of FC1406.4, or is otherwise approved by the commissioner.

**81. Section:** FC1406.3.1.3

**Comment from:** Building Trades Employers’ Association/New York Fire Safety Academy, Carol Karlin

**Comment:** Is this mixing flammable/combustible liquids requirement with compressed flammable gases?

**FDNY response:**

No. The cabinet that would be required by this section for the storage of oxygen and acetylene containers would not be the same type of cabinet required for flammable liquid storage. The compressed gas storage cabinet referred to in FC1406.3.1.3 is commonly

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referred to as a “storage cage.” The storage cabinet for flammable liquids is commonly referred as a liquid storage cabinet.

**82. Section:** FC1406.4.1

**Comment from:** Building Trades Employers’ Association/New York Fire Safety Academy, Carol Karlin

**Comment:** FC 3504.1.1 is for Explosion control.

Reference indoor and outdoor storage distances (3504.1.3 & 3504.2.1.1)

**FDNY response:**

The Fire Department agrees that the correct reference should have been FC3504.2.1. This has been corrected.

**83. Section:** FC1408.2

**Comment from:** Building Trades Employers’ Association/New York Fire Safety Academy, Carol Karlin

**Comment:** When will FDNY publish pre-fire plans requirements? Remove requirement and insert requirement for Fire Safety plan per NFPA 241.

**FDNY response:**

This comment was previously submitted by BTEA/NYFSA and the Fire Department provided the following written response:

*“The Fire Department has not established rules or guidelines for the format and approval of construction site pre-fire plans. Until such time as the Fire Department does so, the requirements of NFPA Standard 241 should be used in the development of pre-fire construction site plans.”*

FC1401.2 currently requires compliance with the requirements of NFPA 241 as to measures not specifically addressed in the code. Since the Fire Code currently requires a pre-fire plan but provides no specific requirements, the requirements of NFPA 241 for such plan would be applicable.

**84. Section:** FC1411.1

**Comment from:** Building Trades Employers’ Association/New York Fire Safety Academy, Carol Karlin

**Comment:** Same “construction priority” concern.

Fire rated stairs don’t serve to increase survivability in the event of a fire when the elevators aren’t installed- the shaft acts as a flue; same for MEP shafts. Priority to installing stairs is best practice.

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**FDNY response:**

This text was inserted consistent with the requirements of OSHA at BTEA's suggestion. Prior to the Fire Department providing guidance with respect to this requirement, the Fire Department intends to consult with OSHA and the construction industry. The Fire Department is not prepared to undertake that task at this time but would do so once the section is adopted.

**85. Section:** FC1413.1

**Comment from:** Building Trades Employers' Association/New York Fire Safety Academy, Carol Karlin

**Comment:** If standpipe in buildings under construction is jurisdiction of DOB, how/why is CDA empowered to issue citations?

Standpipes – a life safety issue – should be shifted from Buildings to FDNY.

**FDNY response:**

Section 28-103.1(6) of the Building Code authorizes the Fire Commissioner to enforce the provisions of the Building Code with respect to fire fighting equipment, access to and within premises upon or in which construction and demolition work is being conducted, and the conduct of all construction or demolition work affecting fire prevention and fire fighting.

Any proposal to remove the standpipe requirements from the Building Code and place them in the Fire Code would be a large undertaking and is not being contemplated as part of this code revision cycle.

**86. Section:** FC1415.1

**Comment from:** Building Trades Employers' Association/New York Fire Safety Academy, Carol Karlin

**Comment:** All requirements (FC 906.3 & OSHA 1926) for square footage and distance should be included in this section.

Also, consideration should be given for annual inspection tags that get weathered or ripped off.

Include at least a 2A fire extinguisher for 3,000 square foot and 75ft travel distance for general protection.

Include OSHA requirement to store at least a 20-B unit not less than 25ft, nor more than 75ft, from any flammable liquid storage area.

A document (other than the tag or label) that verifies that a particular extinguisher was annually inspected should suffice.

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**FDNY response:**

This comment was previously submitted by BTEA/NYFSA and the Fire Department provided the following written response (response shown in *italics*):

*“No action. FC Tables 906.3(1) and 906.3(2) are broken down by type of hazard (low, medium, high), not occupancy. FC1415.1 specifies that construction sites shall have fire extinguishers sized for not less than ordinary hazard. On each floor at the stairway and at the entrance to each storage shed an extinguisher having a minimum 2-A rating would be required in accordance with FC Table 906.3(1). Area where flammable liquids are stored, handled and used would require either a 10-B or 20-B extinguisher in accordance with Table 606.3(2).”*

*The Fire Department proposes to retain the existing language with respect to the placement of portable fire extinguishers. You may choose to comply with the requirements of OSHA in addition to the requirements of the Fire Code.*

*The Fire Department proposes to retain the existing language with respect to tag or label requirement for annual maintenance of portable fire extinguishers. Section 7.3.3 of NFPA 10 (referenced standard) requires each fire extinguisher to have a tag or label securely attached that indicates the month and year the maintenance was performed, identifies the person performing the work, and identifies the name of the agency performing the work. Section 6.1.3.7 of NFPA 10 requires that portable fire extinguishers installed under conditions where they are subject to physical damage (e.g., from impact, vibration, the environment) be adequately protected.*

Simultaneous compliance with both the Fire Code and OSHA requirements is possible. The Fire Department is not inclined to amend this provision as the IFC and 2008 Fire Code standards reflect current standards, whereas OSHA requirements have not been updated for some 50 years. The Fire Department will suggest to OSHA that they conform their standards to current industry standards.

**87. Section: FC1416.1**

**Comment from:** Building Trades Employers’ Association/New York Fire Safety Academy, Carol Karlin

**Comment:** Concerned with wording....“Exhausts shall be piped to the outdoors” & “Fuel for equipment shall be stored in an approved outdoor area.”

Stationary equipment exhaust shall be piped outside. It is not possible to pipe mobile (i.e. small generators/tools) equipment outside.

Remove “Fuel for equipment shall be stored in an approved outdoor area.”

**FDNY response:**

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This comment, which relates to the requirement to pipe equipment exhausts outdoors was previously submitted by BTEA/NYFSA and the Fire Department provided the following written response (response shown in *italics*):

*“It is unclear what type of internal-combustion-powered construction equipment would be stationary. The term stationary has been used in the Fire Code to signify fixed equipment, such as boilers and hot water heaters, which as required in the Mechanical Code, must be vented outdoors. The Fire Department interprets FC1416.1(2) to apply only to portable equipment, such as diesel power air compressors or gasoline powered generators.*

*Accordingly, this indoor operation of stationary equipment is more of a health and environmental issue. Before the Fire Department would consider making changes to this section, assurances that such arrangements would comply with OSHA and Health Department requirements would be necessary.”*

With respect to venting of equipment exhausts, no additional information has been supplied. Accordingly, the Fire Department’s position remains the same.

The Fire Department acknowledges that the storage of the fuel will most likely be outdoors when outdoor space is available, but there may be circumstances where the Fire Department will approve indoor storage. Accordingly, the Fire Department proposes to amend FC1416.1(4) as follows (*text to be deleted in brackets*):

Fuel for equipment shall be stored in an approved [outdoor] area, and shall be moved in approved containers not to exceed 5 gallons (19 L).

**88. Section: FC1419.1**

**Comment from:** Building Trades Employers’ Association/New York Fire Safety Academy, Carol Karlin

**Comment:** Concerned with wording... “may require” & “other documents.”

If required, specify “other documents.”

**FDNY response:**

This section authorizes the Fire Department to require a first responder box at a construction site, but does not mandate that there be one in all instances. If the required items to be maintained at the construction site are not readily available at the time of an emergency or upon inspection, the Fire Department may issue an order to provide such box.

In response to the comment that the “other documents” required to be maintained on the premises be more clearly defined, the Fire Department proposes to amend FC1419.1 to read as follows: (*New text is underlined*)

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**1419.1 First responder box.** The department may require that a box be provided at a construction site for first responder use that contains keys as set forth in FC506.2.2, the pre-fire plan, permits, logbooks and such other documents required by this code or the rules to be maintained on the premises. Such box shall be in an approved location and, if locked, shall be openable by use of a citywide standard key.

**89. Section:** FC2306.6.1.1

**Comment from:** Real Estate Board of New York, Angela Pinsky and New York State Association for Affordable Housing, Alexandra Hanson

**Comment:** Section requires a minimum of one access door to be provided in each 100 lineal feet or fraction thereof, of the exterior walls, which face required fire apparatus access doors. The required access doors shall be distributed such that the lineal distance between adjacent access doors does not exceed 100 feet.

This is a Building Code issue and should be addressed there, not within the Fire Code.

Furthermore, this requirement may further complicate the development of big box retail stores.

**FDNY response:**

This comment was previously submitted by REBNY and the Fire Department provided the following written response (response shown in *italics*):

*“The Fire Department proposes to retain the existing language.*

*The Fire Department agrees with the commenter that many of the design and installation requirements for high-piled combustible storage appropriately could be incorporated into the Building Code. However, DOB has not agreed to this change. Accordingly, these requirements will have to remain in the Fire Code and will continue to be reviewed for compliance by the Fire Department (in accordance with FC105.4), as they have been since the enactment of the 2008 Fire Code.”*

**90. Section:** FC2602.1

**Comment from:** Building Trades Employers’ Association/New York Fire Safety Academy, Carol Karlin

**Comment:** Definition of “HOT WORK PROGRAM AUTHORIZATIONS”

Add definition for torch or include welding as requiring a fire guard.

**FDNY response:** The Fire Department proposes to retain the existing language with respect to the fire guard requirement for torch operations as set forth in FC2604.2.7.

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As indicated in FC2605.1, a torch is one that involves an open flame (burning of flammable gas with air or oxygen). Although the term “torch” appears in OSHA regulations for gas welding and cutting (29 CFR §1926.350) and NFPA 51 (“Design and Installation of Oxygen-Fuel Gas Systems for Welding, Cutting and Allied Processes”), it is not defined.

The Fire Department submits that the requirements of FC2604.2.7 are sufficiently clear as to render the addition of a definition of “torch” unnecessary.

**91. Section:** FC2604.1.1

**Comment from:** Building Trades Employers’ Association/New York Fire Safety Academy, Carol Karlin

**Comment:** “it was noted that OSHA regulation 29 CFR §1910.252 required that combustibles within 35 feet of welding, cutting and brazing operations be relocated or protected.”

1910.252(a)(1)(ii) – deals with welding & cutting, not brazing.

It is not practical to require that combustibles be protected or removed within 35 ft of a brazing or soldering operation.

Both OSHA references are for general industry standards, not construction. The OSHA standards are rather lax when discussing fire safety measures in construction.

**FDNY response:**

This comment was previously submitted by BTEA/NYFSA and the Fire Department provided the following written response (response shown in *italics*):

*“Not proposed to be adopted. Prior to the adoption of the 2008 Fire Department rule 3 RCNY 38-01 required that torch operations not be conducted within 25 feet of combustible material or construction, unless protected by a non-combustible shields. When the 2008 Fire Code was adopted, it was noted that OSHA regulation 29 CFR §1910.252 required that combustibles within 35 feet of welding, cutting and brazing operations be relocated or protected. This OSHA requirement of 35 feet was included in the 2008 Fire Code replacing the previously required 25 feet to avoid what the Fire Department maintained was a conflict.*

*It should be noted that the International Fire Code provides no guidance on the required distance other than to say that hot work areas shall not contain combustibles or shall be provided with appropriate shielding to prevent sparks, slag or heat from igniting exposed combustibles. While we recognize that all hot work operations may not present the same fire risk to combustible exposures we would ask that additional information be submitted to support reducing this distance, including assurances that reducing such distances would not be in conflict with the aforementioned OSHA requirements.”*

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Upon further review of the OSHA regulations, the Fire Department proposes the following amendment: (*New text is underlined*)

**2604.1.1 Separation from combustibles.** Hot work operations involving cutting or welding shall be conducted at least 35 feet (10 668 mm) from combustible materials and combustible waste or shall be provided with appropriate shielding to prevent sparks, slag or heat from igniting exposed combustibles. All other hot work operations shall be conducted at least 25 feet (7620 mm) from combustible materials and combustible waste or shall be provided with appropriate shielding to prevent sparks, slag or heat from igniting exposed combustibles.

**92. Section: FC3405.5**

**Comment from:** Real Estate Board of New York, Angela Pinsky

**Comment:** Section regulates the maximum alcohol content of alcohol based hand rubs. REBNY maintains that the fire hazard of hand sanitizers is minimal. REBNY requests a meeting with DOHMH and FDNY to discuss this topic.

The fire hazard of hand sanitizers is minimal. Any rules about the content of the sanitizer should be left to the Health Department, with the exception of distribution and manufacturing centers.

**FDNY response:**

This comment was previously submitted by REBNY and the Fire Department provided the following written response (response shown in *italics*):

*“The Fire Department proposes to retain the existing language. These are fire safety standards, not public health standards, that have been adopted directly from the national standards embodied in the IFC.”*

In subsequent discussions, REBNY sought clarification as to the regulations that are applicable to the storage of this material.

The Fire Code regulates hand sanitizer in the same manner as it is regulated in the IFC, as a flammable liquid. FC Table 2703.1.1(1) would allow, on the first floor of a building, 120 gallons of flammable liquid in a building with no sprinkler protection, 240 gallons in a building with sprinkler protection, and 480 gallons when in a storage cabinet and a building with sprinkler protection.

These requirements have been in effect since the enactment of the 2008 Fire Code and, to the Fire Department’s knowledge, have presented minimal compliance problems, including at healthcare facilities that store and use hand sanitizer in large quantities.

The proposed amendment simply reflects current container sizes and product formulations. The proposed amendment would allow larger container sizes and a higher concentration of alcohol content in the sanitizer than currently allowed, consistent with

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IFC standards. The higher concentration of alcohol was adopted by IFC in response to the Center for Disease Control and Prevention warning that higher concentrations of alcohol were needed to ensure the effectiveness of the sanitizer for public health purposes.

**ADDITIONAL PROPOSED FIRE CODE REVISIONS**

In addition to the revisions made in response to the foregoing public comments, the Fire Department has determined to propose the following clarifications and changes:

93. *Clarify that amended emergency preparedness plan not required for staffing changes or revisions to the Building Information Card*

**401.3.5 Periodic review and revision.** Emergency preparedness plans[, including] and building information cards[,] shall be reviewed and updated as necessitated by changes in [staff assignments,]use or occupancy or the design and arrangement of the premises, but at least annually. An entry shall be made in the log book required by FC401.8 documenting such review, and indicating the general nature of any amendments to be made to such plan. Submission of an amended emergency preparedness plan shall not be required solely by reason of staffing changes or revisions to the building information card. Fire and emergency preparedness guides and notices shall be reviewed prior to each distribution required by this code or the rules, and shall be revised within 60 days of any change in building construction or service equipment materially affecting the content of such guide or notice.

94. *Existing fire and evacuation plan requirements to remain in effect until new emergency preparedness rules are promulgated (except for buildings not required to prepare a plan under the new Fire Code)*

The Fire Department has revised FC401.3.6.1 to provide that the current Fire Code fire and evacuation plan requirements are to remain in effect for all new and existing buildings, not just Group B and R-1 occupancies, pending promulgation of new emergency preparedness rules under the new Fire Code. This provision would not apply to buildings and occupancies not required to prepare an emergency preparedness plan under the new Fire Code. FC401.3.6.1 is proposed to be amended to read as follows:

**401.3.6.1 New [Group B office] and existing buildings and [Group R-1 hotels and motels] occupancies.** Until rules implementing the emergency preparedness plan provisions of this chapter take effect, [newly-constructed or occupied Group B office and Group R-1] buildings and occupancies required to prepare an emergency preparedness plan under this code shall comply with the emergency preparedness plan requirements set forth in the Fire Code and rules in effect on the date prior to the effective date of this section.

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95. *Clarify that FEP Coordinator required to be employed at the premises must be a manager or other responsible person.*

The Fire Department proposes to amend FC401.5.5.1 to clarify the intent of the section, that the FEP Coordinator should be a responsible person who would be capable of assigning emergency preparedness duties to employees of the business. The Fire Department proposes to revise the section as follows:

**401.5.5.1 Fire/emergency preparedness coordinator.** [The] A manager or other responsible FEP staff member employed at the premises shall be designated in the fire and emergency preparedness plan as the FEP coordinator and shall hold an FEP coordinator certificate of fitness. A person holding a certificate of fitness as an FLS director may serve as the FEP coordinator without obtaining a separate certificate of fitness. The FEP coordinator shall have the following duties and responsibilities and such other duties and responsibilities as the commissioner may prescribe by rule:

96. *Clarification of rooftop access requirements for irregularly-shaped buildings and requirement of additional rooftop access for very large rooftops.*

Previously, rooftop solar panel installations on larger buildings were not so extensive as to interfere with standard firefighting operations. Recent solar panel installations suggest that some buildings are seeking to achieve complete rooftop coverage such that it would be difficult to engage in firefighting operations. Accordingly, the Fire Department has determined to incorporate into the Fire Code the substance of a Frequently Asked Question and response posted on the Fire Department's website, concerning irregularly-shaped buildings. In addition, the Fire Department proposes to include a requirement for additional clear path access on buildings 100 feet or less in height with a rooftop that is 200 or more feet wide or deep. The Fire Department proposes to revise FC504.4.4 as follows:

**504.4.4 Rooftop clear path.** A clear path of not less than 6 feet (1829 mm) horizontal width and 9 feet (2743 mm) in height shall be provided from the front of the building to the rear of the building and from one side of the building to the other for each 100 linear feet (30 480 mm) of rooftop width and depth. Such path shall comply with the following requirements:

1. Such clear path shall be accessible from each rooftop perimeter access landing required pursuant to FC504.4.3.
2. Such clear path shall afford reasonable access to bulkhead doors, fire escapes, access ladders, cockloft vents, skylights, scuttles and shafts. Such access shall include, to the maximum extent practicable, 3-feet (914 mm) clearance on three sides of the skylight or scuttle.
3. A conduit or pipe may cross such clear path in accordance with FC504.4.7.

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4. Any lawful fence obstructing such clear path shall be provided with a standard 3-foot-wide (914 mm) gate, which may be secured by padlock or chain capable of being cut by standard bolt cutters, or secured by other approved device.
5. When the main building rooftop has more than one level, a fixed ladder or other approved means shall be provided to afford access along the clear path from one roof level to the next, excluding any height differential between levels exceeding one story or 16 feet (4077 mm), and any level with a rooftop area that is less than 6 feet (1829 mm) in any dimension.
6. On an “H”-shaped building or other building whose irregular configuration renders a single clear path inadequate to provide access to each wing of the building or other rooftop area, the commissioner may require one or more additional clear paths to provide adequate access to such rooftop areas.

97. *Clarification of rooftop telecommunications installation markings*

The Fire Department has had difficulty associating rooftop transmitter signage with the telecommunications installation(s) with which it is associated. Accordingly, it proposes to amend FC504.4.8 as follows:

**504.4.8 Rooftop telecommunications installations.** Telecommunications installations on building rooftops, including cellular antenna installations, shall additionally comply with the following requirements:

1. Transmitting antennas shall be identified by affixing to the antenna, the antenna mounting, or a conspicuous location near the antenna, continuous, durable and weatherproof reflective or luminescent markings and not less than 3-inch (76-mm) lettering that reads, “TRANSMITTER.”
2. A durable sign shall be conspicuously posted on or near any equipment closet, roof base station or similar telecommunications antenna installation, identifying the owner of the installation, providing a 24-hour/7-day per week telephone number by which such owner can be contacted, and identifying the installation, including antennas and other powered equipment associated with the installation, by number or other unique designation.

98. *Clarify the Certificate of Fitness requirement for supervision of fire protection systems undergoing inspection, testing servicing or other maintenance.*

**Upon further review, the Fire Department has concluded that the proposed language of FC901.6.3 is unclear and does not achieve the intended result. Accordingly, the Fire Department proposes to revise and simplify that section, as follows:**

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**901.6.3 Supervision.** A person holding a certificate of fitness for the following fire protection systems shall ~~[perform]~~ personally supervise the inspection, testing, servicing and other maintenance required by this code or the rules with respect to the system supervised by such certificate of fitness holder~~[, except that when such inspection, testing, servicing or other maintenance must by law, rule or regulation be performed by a licensed electrician, plumber, master fire suppression piping contractor, stationary engineer, high pressure boiler operating engineer or other licensed person, such certificate of fitness holder shall be personally present on the premises to perform any duties required to be performed by a certificate of fitness holder]:~~

99. *Delete reporting of the licensed repair personnel in connection with an out of service fire protection system.*

The Fire Department has determined that it will not require reporting of the name and, if applicable, license number, of any person or entity conducting the repairs. The Fire Department has determined that it does not normally require such information, and, in those circumstance when it does, it will request that it be provided.

**901.7.5.3 Reporting requirements.** Notification of an out-of-service condition pursuant to this section shall be made by the impairment coordinator to the Department at the applicable telephone number set forth in FC401.2.2. Such notification shall include the following information:

1. The owner or impairment coordinator's name and contact information;
2. The building address;
3. The type of fire protection system that is out of service;
4. Whether the fire protection system is out of service by reason of a planned removal from service (and if so, the reason for placing it out of service) or an unplanned out-of-service condition;
5. If a planned removal from service, the date and time the fire protection system will be placed out of service, and the estimated duration the system will be out of service;
6. If an unplanned out-of-service condition, the estimated duration the system will be out of service;
7. The floors or areas in which the fire protection system is out of service;
8. Whether the other fire protection systems are in good working order;
9. The name and certificate number of the certificate of fitness holder responsible for supervision of the fire protection system that is out of service; and

~~[10. The name and, if applicable, license number, of any person or entity conducting the repairs.]~~