

CHAPTER 12 WINDOW FALLS PREVENTION

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§12-01 Introduction, scope and applicability.

When any law, regulation, or order, including, but not limited to, section 27-2043.1 of the Administrative Code of the City of New York ("Administrative Code") and section 131.15 of the Health Code of the City of New York, requires the installation of "window guards" in certain dwelling units and public areas of multiple dwellings, window fall prevention devices that are constructed and installed in accordance with the specifications set forth in this Chapter, and that are registered with the Department of Health and Mental Hygiene, must be used.

§12-02 Definitions.

When used in this Chapter, the following terms have the following meanings:

- (a) *Balcony window* means a window opening from an apartment or public area onto a balcony or terrace, including an opening onto a balcony that does not have a walking surface. This term does not include a door opening onto a balcony or a window opening onto a fire escape.
- (b) *Child* means a person 10 years of age or under.
- (c) *Department* means the New York City Department of Health and Mental Hygiene.
- (d) *Dwelling unit* means an apartment or other single unit consisting of one or more legally habitable rooms in a multiple dwelling, which is occupied or intended to be occupied by one or more persons.
- (e) *Fire escape* means a combination of exterior stairs and landing platforms providing unobstructed means of egress from rooms or spaces in a building, constructed in accordance with Administrative Code §27-380, or its successor law(s).
- (f) *First floor* means the first story of a multiple dwelling that is at or above street or ground level, regardless of how the floors are numbered or otherwise identified.
- (g) *Independent testing laboratory* means a laboratory that is (1) not owned, operated, managed or controlled by a manufacturer of windows or window guards, or by an owner of a multiple dwelling in which window guards must be installed pursuant to applicable law, (2) accredited

in accordance with the International Standards Organization (“ISO”), International Standard ISO/IEC 17025: General requirements for the competence of testing and calibration laboratories, 3rd edition (2017) or a successor standard, and (3) able to test window fall prevention devices pursuant to ASTM International, F2006-10, Standard Safety Specification for Window Fall Prevention Devices for Non-Emergency Escape (Egress) and Rescue (Ingress) Windows, or a successor published standard.

- (h) *Lead-based paint* has the meaning set forth in Article 173 of the New York City Health Code.
- (i) *Limiting device* means a window fall prevention device registered with the Department, other than a traditional window guard (TWG) as defined in this section, that prevents a window sash from opening more than four and one-half (4 ½) inches in any direction and that prevents the passage of a five-inch solid sphere through any opening. A limiting device consists of a device built into a window during a window’s manufacture or a device designed and constructed to be attached to the exterior of the building or to a window or window frame after the window is manufactured.
- (j) *Multiple dwelling* means a residential building consisting of three or more dwelling units or apartments.
- (k) *Occupant* means a tenant or other person residing in a dwelling unit in a multiple dwelling regardless of whether such person is a party to a lease agreement.
- (l) *Owner* means an owner, landlord, lessor, managing agent, mortgagor, receiver, condominium unit owner, cooperative board, and any person who is an agent of the owner or who is otherwise responsible for the management or control of a multiple dwelling or unit in a multiple dwelling.
- (m) *Professional architect* means a New York State Licensed Registered Architect (RA) whose professional license, training and experience demonstrate competence to evaluate performance and testing results for window fall prevention devices in accordance with this Chapter and who is independent of and not affiliated with the testing laboratory, window fall prevention device manufacturer, or building owner associated with the window fall prevention devices that such individual is evaluating.
- (n) *Professional engineer* means a New York State Licensed Professional Engineer (PE) whose professional license, training and experience demonstrate competence to evaluate performance and testing results for window fall prevention devices in accordance with this Chapter and who is independent of and not affiliated with the testing laboratory, window fall prevention device manufacturer, or building owner associated with the window fall prevention devices that such individual is evaluating.
- (o) *Public areas* means the staircases, landings, lobbies, hallways, community rooms, laundry rooms, and other areas within a multiple dwelling building to which all dwelling occupants have access.
- (p) *Resides* has the meaning set forth in section 27-2056.2 of the Administrative Code or a successor law.
- (q) *Secondary egress window* means a window in a first floor unit in a multiple dwelling equipped with fire escapes that has been designated as a means of escape for the occupants of such unit in a fire or other emergency.
- (r) *Traditional window guard* or *TWG* means a window fall prevention device registered with the Department consisting of a reinforced metal grid and stops installed in a double hung or other window to form a barrier to prevent a window sash from opening more than four and one-

half (4 ½) inches in any direction and that prevents the passage of a five-inch solid sphere through any opening.

- (s) *Window* means an opening in a building, other than a door, that (i) allows light and/or air to enter the building's interior spaces, (ii) is lined with a frame made of wood, metal or other rigid durable materials, and (iii) is fitted with one or more sashes. A window consists of the following components:
- (1) The *frame* is the framework within the window opening that surrounds and supports the window components.
 - (2) The *jamb*s are the main vertical parts forming the sides of the window frame, containing channels into which window sashes are fitted.
 - (3) The *sash* is the moveable part of a window consisting of a frame of vertical stiles and horizontal rails holding one or more glass panes fitting within the window jamb. In a *double hung window* there are two sashes, an upper and a lower sash that may be raised and lowered; in a *sliding window*, there are one or more sashes that move sideways; in a *casement window* one rail or stile of the sash is attached by hinges to the window jamb and the opposite rail or stile usually has a locking mechanism that attaches the sash to the jamb, to another casement sash, or to a stationary stile attached to the window jamb.
 - (4) The *stool* is the portion of the horizontal window ledge that protrudes into the interior of the room, adjacent to the window sash when the window is closed; it is sometimes called the interior windowsill.
- (t) *Window guard* means a traditional window guard (TWG) or a limiting device.

§12-03 Distribution of window guard and lead paint notices.

Owners must deliver a notice, in hard copy or electronically, in a form provided or approved by the Department, to the occupant of each dwelling unit in a multiple dwelling. Forms are available on the Department website and by calling 311 for hard copies.

(a) *Notices must be distributed as follows:*

- (1) *New lease.* All new leases offered to prospective or current tenants or occupants in multiple dwellings must contain a notice regarding window guards.
- (2) *At commencement of occupancy if no lease.* If no lease is offered or required, the notice required by this section must be provided to each new occupant of a unit upon commencement of occupancy.
- (3) *Annually after leasing or commencing occupancy.* Between January 1 and January 16 of each year, every owner must send an annual notice to each dwelling unit, to be delivered as follows:
 - (i) By first class mail addressed to the occupant at the dwelling unit; or
 - (ii) By hand delivery to the occupant at the dwelling unit; or
 - (iii) By electronic delivery to an e-mail account or telephone number provided by the occupant, if the owner has obtained the occupant's written consent to such delivery; or
 - (iv) By enclosure with the January rent bill, provided that the January bill is delivered between December 15 and January 16.

(b) *Owners to issue annual notice reminder.* Between January 1 and February 15 each year, each owner must transmit a notice reminder by any means practical, including by electronic messaging to all occupants, or by posting such notices in the common areas of the multiple dwelling. Such notices must advise occupants that (i) occupants must return the completed notices provided to them by February 15, (ii) the owner must inspect a dwelling unit if the

completed notice is not returned, and (iii) the owner has an obligation to install and maintain window guards.

- (c) *Combined notices regarding window guards and lead paint are permitted.* Owners of multiple dwellings constructed prior to January 1, 1960 may combine, in a form provided or approved by the Department, the window guard notice required by this Chapter with the notice regarding lead paint required pursuant to section 11-03 of title 28.
- (d) *Notice content must conform to the following:*
 - (1) *Language.* Notices must be printed in English, Spanish, and such other languages as an owner knows or reasonably should know are commonly spoken in the community in which the dwelling unit is located.
 - (2) *Wording.* The wording and form of notices provided or approved by the Department must not be altered or varied in any manner, except as may be modified by the Commissioner in response to an application for modification made in accordance with §12-12 of this Chapter.
- (e) *Notices to be retained and made available for inspection.*
 - (1) Owners must maintain proof of mailing or delivery of notices to occupants, completed notice forms returned to owners, and occupants' agreements to receive notice by specific means of communication until at least April 1st of the second year following the year that the notice was required to be sent. Such records must be made available for inspection by the Department upon request.
 - (2) Failure to make proof of mailing or delivery of a required notice available for inspection within five (5) business days of receipt of a written or oral request by the Department shall be prima facie evidence that such notice was not provided.

§12-04 Owner's duty to inspect.

- (a) If an owner has not received a completed annual notice form from an occupant by February 15 of any given year, the owner must at a reasonable time, consistent with applicable law, inspect the occupant's dwelling unit to ascertain whether a child resides or will reside in the dwelling unit and, if so, whether window guards and air conditioners are installed in accordance with this Chapter and in good condition.
- (b) Owners must also annually inspect and test any permanently installed metal ornamental or security window bars that are intended to serve as window guards to determine whether they comply with the requirements of this Chapter and other applicable law.
- (c) If an occupant refuses to give access to the owner to perform an inspection, the owner must maintain records of such refusal for no less than two (2) years and may report such refusal by calling 311.

§12-05 Prohibited communications with occupants.

- (a) *No pre-conditions.* An owner must not impose any type of pre-condition on installation of a required window guard, including, but not limited to, requiring the pre-payment of any fees prior to installation.
- (b) *Installation not optional.* An owner must not communicate to a occupant that the installation of window guards where a child resides is optional, or that such installation is in any manner dependent upon payments by the occupant, except that tenants or occupants in certain units may be required to reimburse owners for the actual costs of a window guard after such a

device is installed, subject to regulations and guidance issued by the State Division of Housing and Community Renewal.

§12-06 Occupant obligation to return notices and provide information and access to owners.

- (a) An occupant of a dwelling unit in a multiple dwelling who receives a notice provided pursuant to section 12-03 must accurately fill in the required information, sign and date the notice, and return it to the owner. An occupant who receives a notice upon entry into a lease or upon commencement of occupancy must return the notice immediately. An occupant who receives an annual notice between January 1 and January 16 of a given year must return such notice by February 15 of such year.
- (b) An occupant of a dwelling unit who fails to return a completed notice form as required under subdivision (a) must allow an owner access to such dwelling unit at a reasonable time to inspect the dwelling unit to ascertain whether a child resides or will reside in the dwelling unit.
- (c) An occupant of a dwelling unit in which a child resides or will reside and an occupant who has requested the installation of window guards in a dwelling unit must allow the owner access to such dwelling unit at reasonable times to install and maintain window guards the.
- (d) An occupant of a dwelling unit in which a child resides or will reside must not obstruct or interfere with the installation of window guards, remove any such device, or install temporary window air conditioning units instead of window guards.

§12-07 Requirement to install window guard.

An owner must install window guards in each window in a dwelling unit for which the owner knows or reasonably should know that there is a child in residence or the occupant requested window guards, including balcony windows, except in the following circumstances:

- (a) *Windows opening on fire escapes and secondary egress windows.* Window guards must not be installed in (1) windows accessing fire escapes or (2) secondary egress windows. In a first floor dwelling unit in a multiple dwelling equipped with fire escapes, the owner may select the window that will serve as the secondary egress window.
- (b) *Window openings at or below ground level.* Where exterior window sills of windows in a dwelling unit are located at or below ground level with less than six inches of drop, window guards are not required.
- (c) *Emergency escape and rescue openings.* Windows defined as required emergency escape and rescue openings in the New York City Building Code and New York City Fire Code must be equipped with devices compliant with ASTM International, F2090-21, Standard specification for Window Fall Prevention Devices With Emergency Escape (Egress) Release Mechanisms, or successor published standard, instead of the window guards otherwise described in this chapter.

§12-08 Specifications, testing and installation of window guards.

All window guards installed in a window or window frame must meet the following specifications:

- (a) *Construction.* Construction must be of rigid metal or of other equally durable rigid materials, without sharp projections, edges or rough surfaces.

- (b) *Coatings.* Coatings must not contain lead in excess of the limits prescribed in Article 173 of the New York City Health Code.
- (c) *Weather resistance.* Metals and coated metals must be weather and corrosion resistant.
- (d) *Restrict window openings.* Window guards must allow no opening greater than four and one-half (4½) inches between the window jamb, frame, sill, and any moveable sash. Although the size of the opening above the upper sash of a double hung window is not restricted, a stop must be installed in the window frame so that there is no more than a four and one-half (4½) inch opening between the top of the highest horizontal bar of the installed window guard and the bottom rail of the upper sash.
- (e) *Tested to withstand at least 150 pounds impact.* Each window guard must be tested by an independent testing laboratory and must demonstrate the ability to withstand the impact of at least a 150-pound load when a guard is extended to its maximum width or a window with an installed limiting device is opened, without increasing any opening in the guard grid or in a window that is more than four and one-half (4½) inches in any direction. A window guard that in testing shows any degree of deflection creating an opening exceeding four and one-half (4½) inches must be further tested to demonstrate that such opening does not permit passage of a five-inch solid sphere. When a window guard will be used in window openings of different sizes, tests must validate use with each size.
- (f) *Installation.* Window guards must be installed only in window frames that are structurally sound and intact or that have been reinforced to permit correct permanent installation of window guards. Window frames that are not intact must be repaired or replaced.
- (g) *Screws.* All screws used to secure window guards must be counter-sunk so as to be flush with the jamb or other window frame component.
 - (1) One-way or other metal screws supplied by the manufacturer must be used to mount window guards. Screws used must be types not readily removable by standard flat-blade slotted or Phillips-head screwdrivers.
 - (2) Screws must be either (i) minimum size #10 and long enough to penetrate one inch into a wooden window frame, or (ii) of an adequate type, size and length to be securely fastened to window frames made of other materials.
- (h) *Permanent identification.* All window guards must bear a Department registration number die stamped on the window with a built-in limiting device, separately installed limiting device or on one of the end bars of the window guard so as to be readily visible when viewed from within the room where the window or guard has been installed.
- (i) *Installation kits.* Each window guard or window with a built-in window guard sold by a manufacturer must be packaged and sold with all hardware necessary for installation and instructions, including:
 - (1) *Stops.* "L" shaped or other stops.
 - (2) *Screws.* Specified screws for installation of window guard. If wood screws are supplied by the manufacturer, a warning label must be printed on the package containing the screws stating that for installation in frames made of other materials, appropriate type, size, and length screws must be substituted.
 - (3) *Installation and maintenance instructions and warnings.* The manufacturer's written instructions for safe installation and maintenance must be supplied in the manufacturer's packaging with each window guard or window with a built-in window guard, in English, specifying the types and dimensions of the windows in which the device may be used and

must contain the following warnings regarding limitations for use, prominently displayed on instruction sheets:

WARNING

USE OF THIS GUARD OR DEVICE TO ALLOW A WINDOW TO BE OPENED MORE THAN FOUR AND ONE-HALF (4½) INCHES IS DANGEROUS AND ILLEGAL.

THIS GUARD OR DEVICE MUST BE INSTALLED IN A STRUCTURALLY SOUND WINDOW FRAME.

NO WINDOW GUARD MAY BE INSTALLED IN WINDOWS PROVIDING ACCESS TO FIRE ESCAPES OR OTHER MEANS OF EMERGENCY ESCAPE AND RESCUE.

§12-09 Specifications for traditional window guards (TWGs) installed in double hung windows; permanent installation of window air conditioners.

TWGs installed in double hung windows must meet the following specifications:

- (a) *Window and grid openings.* There must be no openings greater than four and one-half (4½) inches (i) between the vertical bars of the installed TWG and the sides of the window frame, (ii) between the lowest horizontal bar of the installed TWG and the window stool, (iii) between any horizontal or vertical bars in the TWG grid, or (iv) between the top of the highest horizontal bar of the installed TWG and the bottom rail of the upper sash.
- (b) *Tested to withstand at least 150 pounds impact.* All TWGs must be tested by an independent testing laboratory to show that they are able to withstand the impact of a 150-pound load at center span when the guard is extended to maximum width without increasing any opening in the grid more than four and one-half (4½) inches. A test with the TWG attached in accordance with the manufacturer's installation instructions must be performed and the results, including information as to temporary or permanent distortion, certified by an independent laboratory or a professional engineer or professional architect when the TWG is registered. When a TWG is manufactured in more than one size, each size must be tested, and all test results must be submitted to the Department with the manufacturer's application for registration.
- (c) *Height.* TWGs must be a minimum of 15 inches high measured along the vertical bars.
- (d) *Mounting holes.* The outer vertical bars must each have at least two holes for permanent mounting in the window opening frame or window jamb. If TWGs are more than 15 inches high, additional mounting holes are required to provide no more than a maximum interval of 18 inches between mounting holes.
- (e) *Non-telescoping bars.* TWGs with non-telescoping bars must have a permanent spot weld on at least two of the horizontal bars to provide a minimum of two inches overlap when the guard is fully extended.
- (f) *Telescoping bars.* A TWG with telescoping bars extended to their maximum allowable width must have:
 - (1) A minimum overlap of five inches or one-third of the length of each horizontal bar, whichever is greater;
 - (2) An additional rigid vertical support at the telescopic opening of the outer tubing of the bars, that prevents spreading of the bars; and

- (3) The following permanent label must be affixed on at least one horizontal bar on each facing surface where the (*) indicates the number of inches appropriate to the specific model:

WARNING
EXTENSION OF THIS BAR BEYOND (*) INCHES IS
DANGEROUS AND ILLEGAL

(g) *Stops.*

- (1) In double hung windows, rigid metal "L" shaped stops that are at least one-half the width of the window track and each leg of which measures at least two inches must be installed securely with two screws in the upper tracks of each side of the bottom window to prevent the lower window from being raised more than four and one-half (4½) inches above the lowest section of the top horizontal bar of the TWG.
- (2) Where "L" shaped stops cannot be placed in the window track without interfering with the normal operation of the window, a rigid metal strip may be securely fastened across the track of the bottom window to prevent the lower window from being raised more than four and one-half (4½) inches above the lowest section of the top horizontal bar of the TWG. Strips must be mounted on each of the windows and secured by two screws on each side of the window track.
- (3) Where neither of the stops described in paragraphs (1) and (2) above can be used, such as in ballast balanced windows, rigid metal "L" shaped stops may be securely fastened to the frame of the window to prevent the lower window from being raised more than four and one-half (4½) inches above the lowest part of the top horizontal bar of the TWG. A stop must be mounted on each side of the exterior lower window frame and secured by two screws in each stop.
- (4) Stops are not required where TWGs are installed that are of sufficient height to prevent an opening of more than four and one-half (4½) inches above the lowest section of the top horizontal bar of the TWG when the lower window is raised to its maximum open position.

(h) *Instructions.* In addition to the instructions required for all window guards set forth in §12-08, instructions for installation of TWGs must specify that:

- (1) TWGs must be installed so that the bottom horizontal bars are mounted no more than four and one-half (4½) inches above the window stool; and
- (2) "L" shaped stops supplied by the device manufacturer, or alternative stopping devices, must be installed with the screws provided to limit movement of the bottom sash so it cannot be raised more than four and one-half (4½) inches above the highest horizontal bar of the TWG.

(i) *Window air conditioning units.* Additional window guards are not required for windows in which air conditioning units have been permanently installed in double hung windows as follows:

- (1) The air conditioning unit is securely bolted into the window stool or sill using tamper-resistant one-way screws without leaving any open space greater than four and one-half (4½) inches;
- (2) Two metal "L" shaped stops or brackets are installed in the window frame (one on each side of the bottom sash) to prevent the lower window sash from opening more than four and one-half (4½) inches above the air conditioner unit; and

- (3) The building owner has inspected and approved the permanent installation and verified that the requirements of paragraphs (1) and (2) of this subdivision are satisfied.
- (j) *Ornamental and security bars.* When a child resides or will reside in a dwelling unit in which windows are equipped with permanently affixed exterior metal ornamental or security bars, an owner who wishes to allow such bars to serve as window guards must test such bars and apply to have them registered in accordance with §12-11 of this Chapter.

§12-10 Installation of limiting devices.

Limiting devices may be used alone only as follows:

- (a) *Sliding windows.* A solid metal block, measuring at least one-half the depth of the window jamb track and one-half the width of the track, must be securely fastened by two screws into the bottom window jamb track, and a solid metal block or an "L" shaped metal stop must be securely fastened by two screws into the upper jamb window track, to prevent the window from opening more than four and one-half (4½) inches.
- (b) *Vertical pivoting windows.* Metal stopping devices must be securely fastened to the upper and lower window frames by two screws so as to prevent the window from pivoting open more than four and one-half (4½) inches. The height of the stopping devices must extend no less than one inch nor more than two inches beyond the window frame as needed to stop the window. The protruding edge of the stopping device must be smooth and rounded.
- (c) *Upper sash of double hung windows.* Limiting devices may be installed to the upper sash of a double hung window to prevent the sash from being opened by more than four and one-half (4½) inches from the top rail of the window opening, provided that a TWG or air conditioner is installed in the lower sash of the window in accordance with section 12-09.

§12-11 Registration of window guards.

- (a) *Registration required.* The manufacturer of a window fall prevention device that such manufacturer intends to sell in or for use in New York City must register such device with the Department using the Department website prior to its installation for use as a window guard.
- (b) *Required submissions.* Applications for registration must be submitted on forms provided by the Department and include the following:
- (1) *Certification.* A signed certification from a New York state licensed professional engineer or professional architect registered in the state of New York stating that the guard, device or window has been tested by an independent testing laboratory and complies with the standards specified in section 12-08.
- (2) *Applicable window types.* Detailed descriptions and drawings of the types and sizes of windows in which the guard or device is to be installed.
- (3) *Installation instructions, warnings and hardware.* Copies of instructions for installation, warnings about limitations and mounting hardware for each specific type of window, including screws to be used.
- (4) *Testing results.* Proposed window guards must be tested using simulated installation conditions showing that they limit window openings and withstand the weight stress specified by this Chapter and that the guard or device or window complies with all other applicable provisions. Laboratory certified test results must demonstrate the integrity of each size of guard or device after impact with a 150-pound weight and the guard or device's ability to maintain no more than four and one-half (4½) inch opening in any direction. "L-shaped" stops used with

TWGs do not require testing. “L-shaped” and other stops or devices used alone must be tested as required by this section.

(5) *Schematic drawings*. Schematic drawings of the guard, limiting device or window with built-in limiting device, indicating adherence to specifications in section 12-08 and specifying the range of sizes of windows in which such guard, device or window may be used. If the Department determines that the drawings submitted are not sufficient to demonstrate safety and efficacy, it shall require the applicant to submit more detailed information and/or sample prototypes.

(6) *Lead content and corrosion resistance*. A letter from the paint manufacturer stating that the paint used to coat the guard, device or window, if any, is not lead-based paint and is corrosion resistant.

(7) *Permanent identification*. Manufacturer's identification number, coding symbol and dating code for each size and model.

(c) *Method of application*.

(d) *Requests for additional information or materials*. When deemed necessary by the Department, submission of additional reports or tests may be required prior to granting approval for registration.

(e) *Completion of registration*. Once the Department has received all of the information it deems necessary to approve the proposed window guard, it will notify the applicant of such approval and assign a registration number to the window guard. Registration is not complete, and a product is not registered, until the Department has designated a registration number.

§12-12 Modification by Commissioner.

When the Department determines that the strict application of any provision of this Chapter presents practical difficulties, the Commissioner or their designee may, in a specific instance, modify the application of such provision consistent with the general purpose of this Chapter and upon such condition(s) as are necessary to protect life and health. Failure to comply with the terms of a modification may render such modification null and void and result in enforcement by the Department. The denial of a request for modification by the Commissioner shall be deemed a final agency determination.

§12-13 Civil Penalties.

- (a) Failure of an owner to provide a notice required pursuant to section 12-03(a) to any occupant of a multiple dwelling is punishable by a civil penalty of five hundred dollars per dwelling unit, per year.
- (b) Failure of an owner to post a notice required pursuant to section 12-03(b) is punishable by a civil penalty of five hundred dollars per violation, per year.
- (c) An owner's use of a notice form that was not provided or approved by the Department pursuant to section 12-03 is punishable by a civil penalty of five hundred dollars per dwelling unit per year.
- (d) Failure of an owner of a multiple dwelling to provide copies of completed notices received from occupants to the Department pursuant to section 12-03(e), is punishable by a civil penalty of five hundred dollars per multiple dwelling per year.
- (e) Failure of a manufacturer to register a window fall prevention device as required pursuant to section 12-11(a) is punishable by a civil penalty of one thousand dollars per violation.