



**BUREAU OF
FIRE PREVENTION
PROCEDURAL
BULLETIN**

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Topic(s): Rooftop Access Variance (Modification to The Fire Code) Application

Purpose: To clarify when applicants must seek a variance to the requirements for rooftop access and clearances, and the application process.

Relevant Code 2022 New York City Fire Code:
FC504.4, FC504.5 and FC512

Sections:

I. INTRODUCTION

Requirements for rooftop access and clearance are set forth in the 2008, 2014 and 2022 Fire Codes. The current requirements for rooftop access and clearance are found in the 2022 Fire Code and are for purpose of allowing firefighters to access the rooftop externally, access critical areas on the rooftop and perform critical operations to protect life and property. The code works to balance facilitating these critical operations as well as the needs of industry and homeowners. It is understood that the code is not a perfect fit for every situation and therefore the Rooftop Access Variance process exists.

This document will outline when an applicant should seek a variance to the requirements found in FC504.4, FC504.5 and FC512 as well as what work on the rooftop would trigger the requirement to file and obtain rooftop variance approval. Further, it clarifies the process you must take to file a Rooftop Variance Request and specifies which documents and information are required for the Rooftop Access Unit to consider your request.

II. WHEN IS A VARIANCE NOT REQUIRED

A rooftop that is in full compliance with the requirements found in FC504.4, FC504.5 and FC512 of the 2022 Fire Code does not need to seek or obtain a Rooftop Access Variance from the FDNY's Rooftop Access Unit. Further, rooftops with existing conditions that are noncompliant to the current Fire Code do not necessarily need to seek a Fire Code Variance. The rooftop can exist in a **Legally Constructed State** while simultaneously not being compliant with the current Fire Code requirements. This occurs when the rooftop configuration is either:

1. Is not in compliance with the current Fire Code but was constructed during the effective dates of a prior Fire Code, is in full compliance with that code and no work has been done on the rooftop since the construction; or
2. Received FDNY variance approval for the rooftop configuration, and no work has been done on the rooftop since the construction of that approved configuration.

This is because the rooftop section of the 2022 Fire Code is not retroactive and is only triggered when work is done on the rooftop after the enactment of the code.

Ordinary maintenance and repair of the rooftop is **NOT** considered new work on the rooftop and therefore does not trigger the requirement to comply with the code. This is important for existing rooftops that are in **Legally Constructed but non-compliant state** as it allows for the maintenance of existing rooftop, rooftop structures and rooftop equipment without needing to seek a new variance from the FDNY Rooftop Access Unit. Ordinary maintenance and repair includes but is not limited to:

- Reroofing
- Parapet Repair
- Façade Repair
- Like-for-like replacement of equipment that is NOT an upgrade.

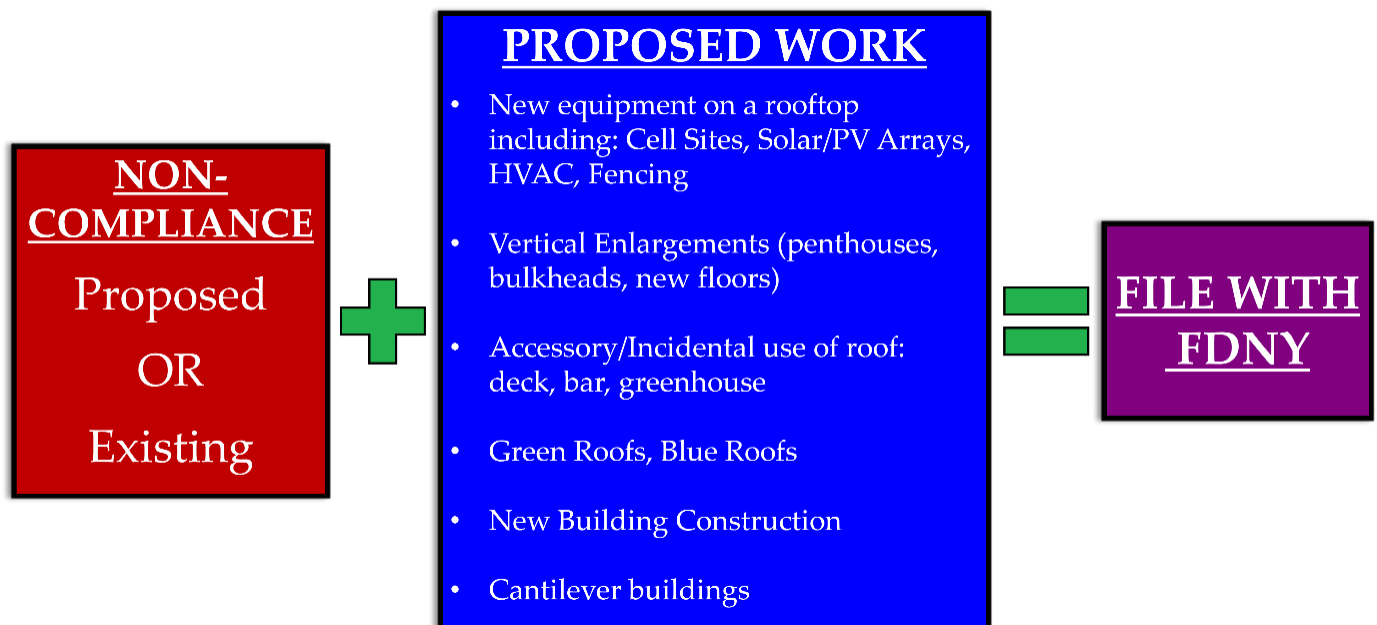
If you are repairing your rooftop or the equipment on it, the requirement to comply is not triggered on any rooftop that exists in a **Legally Constructed State**. It is critical to note that like for like replacement does not mean you can replace the equipment/part(s) with something similar. It must be the exact same equipment/part(s). Equipment/part(s) that have the same dimensions and/or that would fit in the existing equipment's/part location do **NOT** qualify as a like-for-like replacement. New equipment, relocation of equipment, change of equipment orientation or changes in the rooftop's configuration will trigger the requirement to comply with the Fire Code requirements.

It should be noted that the 2008, 2014 and 2022 Fire Codes all have requirements pertaining to rooftop access and clearances and any work done during the effective dates of those codes has to either be in full compliance with the requirements of the effective code at the time of construction or have received variance approval from the Rooftop Access Unit for that specific configuration.

III. WHEN IS A VARIANCE REQUIRED

If you are proposing to do new work on your rooftop and the rooftop has an existing non-compliance, or will have a non-compliant condition caused by your proposed work then you will need to seek and obtain a Rooftop Access Variance prior to the commencement of your work. The following diagram details when you will need to file for a Rooftop Access Variance and breaks down some commonly proposed work on rooftops that trigger the requirement to comply.

Note: It is critical that you obtain variance approval prior to the commencement of your work as failure to do so may result in enforcement action being taken. Further all rooftops with noncompliant conditions, no variance approval and work done on them during the effective dates of any current or previous Fire Codes that had rooftop access requirements will be subject to enforcement action.

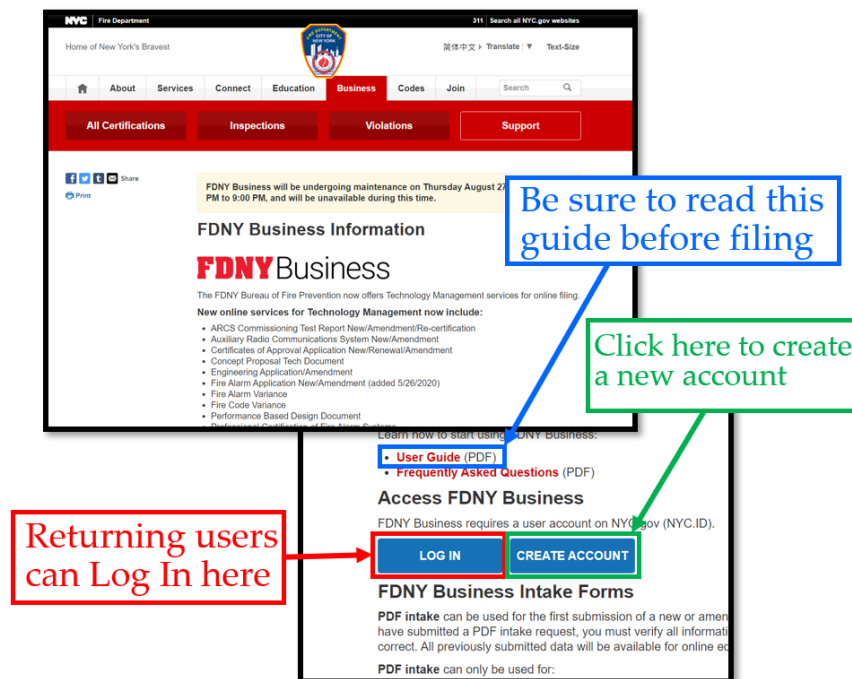


IV. HOW TO FILE

When filling a Rooftop Access Variance Request you must submit your application through the FDNY's Online Business Portal. For information about the system, how to file, and to apply through the FDNY Business Portal please go to the following Link:

<https://www.nyc.gov/site/fdny/business/support/fdny-business.page>

Once there you will find links to user guides and FAQs as well as the Login and Account Creation Buttons:



The screenshot shows the FDNY Business portal interface. A blue callout box points to the 'User Guide (PDF)' and 'Frequently Asked Questions (PDF)' links, stating: "Be sure to read this guide before filing". A green callout box points to the 'CREATE ACCOUNT' button, stating: "Click here to create a new account". A red callout box points to the 'LOG IN' button, stating: "Returning users can Log In here".

Once you have created an account or logged into your existing account you can select the type of application you wish to file. Be sure to select the correct application type, failure to do so will result in your application being routed to the wrong unit, being rejected and your application requiring a new submission.

Note:

Be sure to follow this Path:
Select "[Design and Installation](#)"
Then "[Technology Management Application](#)"
Finally select "[Rooftop Variance](#)"

DO NOT SELECT FIRE CODE VARIANCE.

FIRE CODE VARIANCE IS NOT USED FOR ROOFTOP VARIANCES

V. WHAT IS REQUIRED IN YOUR APPLICATION

You will need to include all relevant documentation and pay the required application fee. The application fee for a new submittal is \$420. Not every variance application will be approved on the first submission and may be rejected with deficiency comments. However, it is understood that this is part of the variance process and therefore there is no fee for resubmitting your application provided that the application is resubmitted within 6 Months of the Letter of Deficiency's issuance date and/or has not received a final determination from the Rooftop Access Unit.

All documents submitted with your Rooftop Variance Request must be in PDF format.

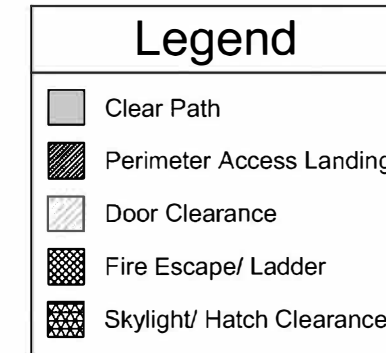
You must include the following documents with your application:

- TM-5 Application:
<https://www.nyc.gov/assets/fdny/downloads/pdf/business/tm-5-plan-review-rooftop-access.pdf>
- 11"x17" plans with original PE/RA stamp/seal & signature
- Narrative for scope of work including but not limited to:
 - All proposed work and equipment.
 - All noncompliant conditions on the rooftop.
 - All proposed mitigations to those noncompliant conditions.
- Photographs of current conditions on rooftop
- All other relevant docs such as determinations from other city agencies, FDNY summonses, etc.

It is critical that your plans be clear and accurately depict the existing and proposed rooftop conditions. The plans should also include:

- Entire rooftop, not only area of proposed work
- Label all existing building features
- Label all proposed work as "Proposed"
- Label all existing work and equipment as "Existing"
- Label all apparatus accessible exposures including parking lots
- Detail and label areas that are in compliance with required clearances
- Detail and label areas of non-compliance
- Clearly detail and label any and all proposed mitigation for non-compliance
- **All submitted plans must have an original signature and PE/RA stamp**
- **Plans must have a dedicated 1.5"x3.5" box for FDNY Stamps on each page of the plans.**

See the example plan on the following page for a better understanding of some of the information the examiners will be looking for and how it should be presented.



EX.
Designs

Address

Proposed Work

Rev.	DATE
1	1/20/2022
2	2/20/2022
3	3/31/2022

P.E.
Stamp

FDNY
STAMP

Sheet #