

NEW YORK CITY LOFT BOARD

Notice of Adoption

The New York City Loft Board hereby gives notice—pursuant to the authority granted by Multiple Dwelling Law § 282 and New York City Charter § 1043—of the adoption of amendments to its rules in Title 29 of the Rules of the City of New York.

The amendments in this rule were proposed and published on June 3, 2024. A public hearing was held on July 18, 2024. The Loft Board received 6 comments from the public.

Statement of Basis and Purpose of Rules

Background

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

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

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

Summary of the Proposed Amendments

Section 1 amends 29 RCNY § 2-04(a) to add definitions of fire escape, stair, corridor, and means of egress.

Section 2 amends the requirements for basic services set forth in 29 RCNY § 2-04(b) to require that egress components and pathways be maintained in proper condition. It also amends the requirements to prohibit storage of lithium battery charging devices at

or near a means of egress. It also adds a requirement to post a notice in the lobby of an IMD building to inform tenants that personal items may not be stored on a fire escape, corridor, stair, or other means of egress.

Section 3 amends 29 RCNY § 2-04(e)(2) to authorize the Loft Board to request a report from a structural engineer and issue additional violations if conditions related to egress are not corrected within fifteen (15) days after the mailing date of a violation.

Section 4 amends the enforcement and penalty schedule set forth in 29 RCNY § 2-04(e)(8) to provide for the assessment of penalties against owners who fail to comply with the obligations regarding maintenance of egress components and pathways and fail to post the required notice pursuant to 29 RCNY § 2-04(b)(11)(iii).

Section 5 amends the annual registration requirements in 29 RCNY § 2-05 to include a requirement that owners file a certification that fire escapes and/or stairs have been inspected within the fourteen (14) days prior to annual registration. If defects are found, the Owner or Responsible Party must inform the Loft Board and indicate that repairs will be completed by August 1st and repair the defect on or before August 30th. A new certification must be filed with the Loft Board after repairs have been completed on or before August 30th.

Section 6 amends the penalty schedule in 29 RCNY § 2-11.1 to include a penalty for failure to file an annual certification of inspection of the means of egress.

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

A public hearing was held on July 18, 2024. The Loft Board received 6 comments from the public. Four of the comments are in support of the proposed rule. Two comments provided substantive feedback about the proposed rule. In response to the comments provided, the Loft Board amended the rule to add a procedure for reporting a defect in the means of egress and to provide a time frame within which necessary repairs must be completed. The rule was also modified to state that if an alteration permit is required, a Letter of No Objection must also be obtained from the Loft Board.

In response to the comments, the rule has also been modified to clarify who must sign the annual certification of inspection of the egress, and to provide that the Loft Board reserves the right to request an inspection report from a registered professional engineer.

In addition to changes described above, the Loft Board also:

1. Added definitions of the terms Corridor, Means of Egress, and Stair. These definitions were added to clarify the impacted areas;
2. Clarified that defects include but are not limited to rust and other signs of deterioration; and
3. Added a penalty for failure to post the required notice prohibiting the storage of personal property in the Corridor, Stairs or Fire Escape.

New material is underlined.

[Deleted material is in brackets.]

“Shall” and “must” denote mandatory requirements and may be used interchangeably in the rules of this department, unless otherwise specified or unless the context clearly indicates otherwise.

Section 1. Subdivision (a) of section 2-04 of Title 29 of the Rules of the City of New York is amended by adding new definitions of fire escape and fire stair, in alphabetical order, to read as follows:

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

Stair(s) means a combination of the landings, handrails and steps providing a means of egress from a building.

Corridor means an enclosed public passage providing a means of access to an exit from a building.

Means of Egress means a continuous and unobstructed path of travel from any occupied portion of a building to the street, including Corridors and Stairs.

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

(11) Egress – The owner of an IMD building must maintain the Fire Escapes, Corridors and other Means of Egress in good working order. Owners must inspect Fire Escape(s) and Stair(s) (indoor and outdoor) annually for defects. Defects include but are not limited to rust and other signs of deterioration.

(i) Fire Escapes.

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

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

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

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

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

(ii) Stairs and Corridors.

- (A) Stairs and Corridors must be kept clear and unobstructed.
- (B) Stairs and Corridors must be maintained in good working order. Stairs and Corridors must have working lights that produce an illumination level no less than one foot-candle, measured at the floor level, at all times.
- (C) The door leading to indoor Stairs must be a self-closing door and must otherwise be in compliance with Administrative Code §§ 28-315.10 and 27-2041.1 regarding doors in corridors in a multiple dwelling.

(iii) Personal Property Stored in the Means of Egress.

- (A) Storage of items in a Means of Egress is prohibited.
- (B) Owner, Landlord or Responsible Party must post a notice in the form provided by the Loft Board that personal items may not be stored in a Corridor used for egress or on a Fire Escape. Such notice must be posted every lobby and above the mailbox(es).

(C) Lithium battery charging devices may not be stored in or near the front door of an IMD unit or a Means of Egress.

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

(2) *Inspections and notices of violation.*

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

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

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

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

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

<u>Section</u>	<u>Violation</u>	<u>Range of Fines</u>
<u>29 RCNY § 2-04(b)(11)</u>	<u>Failure to Maintain Egress</u>	<u>\$5000 per violation</u> <u>Aggravated Penalty: \$150 per day up to \$500 if violation not corrected within 72-hours after service of the violation.</u>
<u>29 RCNY § 2-04(b)(11)(iii)(B)</u>	<u>Failure to Post Notice</u>	<u>\$1,000 per violation</u>
<u>29 RCNY § 2-04(e)(2)(iv)</u>	<u>Failure to Comply with Request for Inspection Report by a Professional Engineer</u>	<u>\$5000</u>

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

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

(2) Annual Certification Requirements Regarding Egress.

(i) Each annual renewal of the registration package filed with the Loft Board must include a certification signed by the Owner, Landlord or Responsible Party that the Fire Escapes, if applicable, the Stairs and other Means of Egress, as defined in § 2-04 of these Rules, have been inspected within fourteen (14) days of the submission of the renewal application and indicate whether or not they are in compliance with Section 2-04(b)(11) of these Rules. The certification must include the name of the person who performed the inspection.

- (ii) If defects are found during the annual inspection, the certification must identify the defects that exist and indicate that repairs will be completed on or before August 1st.
- (iii) If a DOB permit is needed to repair a defect, Owner must file an application with DOB and seek a Letter of No Objection from the Loft Board prior to approval.
- (iv) An application filed with DOB for repair of a Fire Escape must list only the Fire Escape repair in the description of the proposed work.
- (v) Owner must file a new certification with the Loft Board no later than August 30th indicating that repairs have been completed.
- (vi) For applications due on July 1, 2025, a certification submitted no later than July 1, 2025 or forty-five (45) days after the effective date of this rule amendment, whichever is later, will be deemed timely. The inspection and the certification must be dated within fourteen (14) days of the filing.

Section 6. Paragraph (3) of subdivision (b) of section 2-11.1 of Title 29 of the Rules of the City of New York is amended to read as follows:

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

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

VIOLATION DESCRIPTION	SECTION OF LAW	CURE	PENALTY
Failure to Timely Renew Registration	29 RCNY § 2-05(f)(2), § 2-11(b)	Yes	\$7,500 for one year; \$15,000 for two consecutive years; \$25,000 for three consecutive years or more

(ii) Failure to file annual certification of inspection of egress pursuant to § 2-05(g)(2): An Owner who fails to comply with the requirements regarding certification of

inspection of egress systems set forth in § 2-05(g)(2) may be subject to a civil penalty as follows:

<u>VIOLATION DESCRIPTION</u>	<u>SECTION OF LAW</u>	<u>CURE</u>	<u>PENALTY</u>
<u>Failure to Comply with Annual Certification of Inspection of Egress</u>	<u>29 RCNY § 2-05(g)(2)</u>	<u>No</u>	<u>\$7,500</u>