

**NEW YORK CITY MAYOR'S OFFICE OF ENVIRONMENTAL COORDINATION  
TESTIMONY BEFORE THE NEW YORK CITY COUNCIL  
COMMITTEE ON HOUSING AND BUILDINGS  
JANUARY 24, 2023**

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Good afternoon Chair Sanchez and members of the Committee on Housing and Buildings. My name is Esther Brunner, and I am the Deputy Director of the Mayor's Office of Environmental Coordination. We are pleased to offer testimony in support of Intro. 0876, which seeks to update the City's green building standards for city-owned and some city-funded capital projects involving buildings, as organized in Charter Section 224.1 (Charter Section). The City's green building standards were established as part of Local Law 86 of 2005 and later updated as part of Local Laws 31 and 32 of 2016. These policies place energy efficiency and LEED design standards on city-funded and city-owned capital projects, ensuring that city buildings help deliver the deep carbon reductions we need to meet our ambitious climate goals. The recommended amendments as part of Int 0876 would streamline compliance, simplify the required pathways for rigorous energy reduction, align standards with the recently adopted New York City Energy Conservation Code, and align with Local Law 97 of 2019 to drastically reduce building carbon emissions, and Local Law 154 of 2021 to move toward electrification for new buildings. This effort largely centers on ensuring that the reference standards cited in the Charter Section are updated to current iterations and can be updated to versions of such standards being released without requiring legislation.

The Office is supportive of Int 0876, because as the entity responsible for issuing the rules for this Charter Section, as well as organizing the mandated reporting regarding the outcome of compliance and reporting related to the laws, we have become familiar with some of the implementation challenges and necessary updates to support capital building teams. These proposed changes to the laws are minor and are not policy changes but are critically needed to ensure the efficacy of the laws and improve their implementation. This legislation is needed to support the advancement of capital projects across the Citywide capital portfolio by providing much needed direction and guidance to ensure sustainability goals are met within their

development, and in a way that is mutually supportive and reinforcing of recent efforts around emission and renewable energy.

We thank the City Council for its continued support in advancing legislation to address the climate crisis and improve the sustainability of our building processes and the structures they create. We welcome any questions you may have.



**NEW YORK CITY DEPARTMENT OF BUILDINGS  
TESTIMONY BEFORE THE NEW YORK CITY COUNCIL  
COMMITTEE ON HOUSING AND BUILDINGS  
JANUARY 24, 2023**

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Good afternoon Chair Sanchez and members of the Committee on Housing and Buildings. I am Guillermo Patino, Deputy Commissioner for External Affairs at the New York City Department of Buildings (“the Department”). I am joined today by Joseph Ackroyd, Assistant Commissioner for Technical Affairs and Code Development. We are pleased to offer testimony in support of Intro. 875, which makes technical corrections, clarifications, and modifications to certain provisions of the 2022 New York City Construction Codes (“Construction Codes”), Intro. 886, which extends the moratorium on the issuance of business sign violations for two additional years, and Intro. 150, which expands electric vehicle charging readiness requirements and requires the installation of electric vehicle charging stations.

The Department is required to keep the Construction Codes up to date with the International Code Council’s I-Codes and began its previous Construction Code revision cycle in 2015. This public-private partnership, which spanned several years, involved over 650 industry professionals and stakeholders who volunteered their time and sat on various committees, which were organized by discipline. This code revision effort resulted in over 40,000 hours of service by committee members. Committee members included architects, engineers, attorneys, other city agencies, as well as representatives from the construction, labor, and real estate industry. The Department is extremely grateful to all the committee members who volunteered their time to modernize the City’s Construction Codes. This work resulted in the 2022 Construction Codes, which went into effect in November 2022.

The Department is supportive of Intro. 875, which consists of approximately 400 amendments to the 2022 Construction Codes. These amendments primarily address grammatical issues and make

other minor fixes. In addition, there are several changes that are more substantive in nature. These substantive changes expand on issues addressed in the Construction Codes, including:

- Eliminating the final inspection requirement for temporary construction equipment, which will result in cost savings for owners without impacting safety;
- Clarifying that the uses of renewable energy credits to comply with building emissions limits are for emissions generated by the consumption of electricity, and allowing the Department to limit the deductions allowed from renewable energy credits;
- Expanding the allowance for small encroachments into the public right-of-way when additional insulation is installed to reduce greenhouse gas emissions;
- Eliminating the requirement for the Department to witness fire pump acceptance tests, which are conducted by qualified individuals, while maintaining the ability to audit as needed; and
- Aligning site safety plan submission requirements according to application filing date, rather than the date of Department approval, which allows these requirements to be consistently applied in accordance with the Department's industry guidance regarding this matter.

Of note, the Department is already organizing a new series of committees to help draft the next set of revisions to the Construction Codes. Applications to join the upcoming code revision cycle will be accepted by the Department through the end of this month. Extensive outreach to industry stakeholders is being conducted and we encourage those who are interested in helping the Department shape the future of New York City's built environment to apply. The Department anticipates that it will begin to submit proposed revisions to the City Council updating the Construction Codes in 2024.

Turning now to Intro. 886 regarding business signs. Business signs must comply with requirements in both the New York City Building Code ("Building Code") and the New York City Zoning Resolution ("Zoning Resolution"). The regulations in the Building Code address permitting and structural issues and the regulations in the Zoning Resolution address issues including permissible surface area, projection, and height. Collectively, these regulations exist to protect the public from dangerous or illegally installed signs, and to reduce visual clutter.



The Department has taken the existing moratorium as an opportunity to focus on educating businesses about sign regulations and to introduce new resources to assist businesses with the process of installing signs. We have sent letters to businesses who have received violations from the Department for illegally installed signs in the past, accompanied by information about sign regulations and the moratorium on the issuance of business sign violations which went into effect in 2019. While educating businesses about existing regulations is critical, we believe more can be done to support businesses. Last summer, the Department launched an annual no-penalty business sign inspection program, which allowed businesses to request an inspection from the Department to determine if their sign complies with applicable regulations by calling 311. This type of compliance inspection incentivizes small business owners and other property owners to ensure their buildings are safe without the worry of a penalty if there is an issue that needs to be corrected. The Department has also updated the resources on its website pertaining to sign installation and has simplified the sign permit process. We also recently announced the availability of dedicated resources to assist small businesses with any issues they might have, including questions pertaining to installing a sign or about any other construction project they may be pursuing.

The Department is supportive of Intro. 886, which will extend the moratorium on the issuance of business sign violations for two additional years. We recognize the need to continue to support small businesses and this bill does just that. We look forward to working with this Committee to make it easier, and more affordable, for businesses to bring their signs into compliance with applicable regulations.

Finally, the Department is also supportive of the intent of Intro. 150, which would expand electric vehicle charging readiness requirements and requires the installation of electric vehicle charging stations. Electric vehicles present an opportunity to reduce greenhouse gas emissions and to improve air quality, which is aligned with New York City's goal of reaching carbon neutrality by 2050. This proposal builds upon existing Building Code requirements that require that parking lots be capable of supporting electric vehicle charging stations, and goes further by requiring that electric vehicle charging stations be installed in certain instances. We look forward to working with the City Council and our partner agencies on this proposal.

We thank the City Council for its continued support and look forward to continuing our work together to improve the Department for the benefit of all New Yorkers. We welcome any questions you may have.

**Testimony of the**  
**New York City Department of Housing Preservation and Development**  
**to the New York City Council Committee on Housing and Buildings regarding**  
**Accessory Dwelling Units**  
**Tuesday, January 24, 2023**

Good afternoon Chair Sanchez and members of the Committee on Housing & Buildings. My name is Kim Darga, Deputy Commissioner for Development at the New York City Department of Housing Preservation and Development (HPD). I am joined by my colleague Lucy Joffe, Assistant Commissioner for Housing Policy to discuss HPD's work related to Accessory Dwelling Units (ADUs).

ADUs are secondary, self-contained dwelling units located on the same lot as a primary dwelling. ADUs can play an important role in Mayor Adams' goal to address our longstanding housing and affordability crisis and to increase New York City's housing supply by 500,000 units over the next decade by providing additional housing opportunities in low-density communities. In addition, they represent an important tool in combatting the city's longstanding housing crisis and the city's legacy of housing segregation. Neighborhoods that are low density generally have had very few lower-cost housing options, including rental homes, effectively excluding low- and moderate-income New Yorkers of color. ADUs are another tool we can use to create housing opportunities in these neighborhoods that have been out of reach for generations.

We also recognize that many New Yorkers have created ADUs outside of current legal requirements for a variety of reasons. Some homeowners need rental income to be able to remain in their homes, to make space for an aging parent who needs to be close by, or to house a child who is having trouble finding somewhere to live in the city where they were raised. Many renters are finding that "illegal" ADUs, often located in basements and cellars, are the only housing they can afford in their community. These "basement apartments" already serve as an important supplement to the housing stock that disproportionately serves low-income owners and tenants, immigrants, and other New Yorkers who lack access to affordable options in the housing market.

While ADUs can provide much needed housing, complex and often outdated codes and regulations make it difficult to bring these units into safe and legal use, creating the potential for unsafe living conditions, where residents lack sufficient light, ventilation and egress. Flooding can exacerbate safety risks for basement occupants because their homes are below street level. As we tragically learned in the aftermath of Hurricane Ida, this can be a matter of life and death.

The City has been working to make it easier to create accessory dwelling units and to legalize basement apartments without compromising on safety. The City committed to making it easier to build new ADUs in Mayor Adams' *Housing Our Neighbors* blueprint and *Where We Live NYC*. The administration has most recently committed to local reforms to make it easier to build

new ADUs through the *City of Yes* Zoning for Housing Opportunity initiative. These commitments build on earlier work through which the City partnered with the City Council on a basement pilot program, launched in July 2019, in Brooklyn Community Board 5. The goal of the pilot was to test potential strategies to facilitate basement conversions, including understanding the impact of local code changes and the feasibility of bringing basements and cellars into safe and legal residential use. Working with Cypress Hills Local Development Corporation, HPD contacted roughly 8,000 homeowners, screened roughly 800 for preliminary eligibility, and conducted in-depth physical and financial home assessments for over 100 properties. Twelve of these homeowners met basic eligibility standards and expressed interest before the pandemic, and we are actively working with five owners. Working with homeowners to undertake these conversion projects has demonstrated that under current regulations too few basements can be legally converted and made safe. Even when it is possible, it is at a very significant cost. Regulatory changes at the local and state level to address requirements of the Multiple Dwelling Law, along with zoning and building code requirements are necessary to make basement legalization feasible as well as to facilitate the development of new ADUs. The City also needs the state legislature to amend existing loan authorities as part of a bill package called Affordability Plus so that HPD can provide sufficient financing to make basement legalization possible for low- and moderate-income homeowners.

Much of what we need requires state legislation, which is why HPD was supportive of the legislative efforts in Albany last session that would allow the City to waive sections of the Multiple Dwelling Law to facilitate the conversion of basements and cellars to apartments. We will also need local partnership to make it possible to build new accessory dwelling units and legalize basement apartments. And we need support from the Council and New Yorkers in recognizing the important function ADUs and safe, legal basement apartments can play in our housing market and in rectifying longstanding obstacles to fair housing that have limited housing choices for New Yorkers of color.

Some regulatory barriers to the development of ADUs and the legalization of basements are rooted in a history of discrimination and exclusion. Removing those obstacles and updating our zoning and housing regulations will allow us to better meet New Yorkers' current and very urgent housing needs and to combat the legacy of redlining and segregation in our city and the region.

We'd like to thank the City Council for hosting this conversation today since we are all going to need to work together along with our colleagues in Albany to address this issue holistically. Thank you for the opportunity to testify today and we look forward to your questions.



THE CITY OF NEW YORK  
OFFICE OF THE COMPTROLLER  
BRAD LANDER

**Testimony of New York City Comptroller Brad Lander  
Before the New York City Council Committee on Housing and Buildings  
Oversight Hearing on Accessory Dwelling Units and a Pathway to Basement Legalization  
January 24, 2023**

Thank you for the opportunity to testify on the need to create a pathway for basement legalization in New York City and across the state.

Basement and cellar apartments sit at the nexus of the city's housing and environmental crises. With a scarcity of affordable housing in New York City, these units are often the most practical option for vulnerable residents, especially working-class immigrants. However, these units exist outside of regulatory protections and tenancy rights, exposing residents to significant risks. Since most basement units are illegal, if a tenant files complaints about conditions in the unit, the Department of Building's only option is to issue a vacate order. Basement dwellers are left in the precarious position of choosing between accepting inadequate or unsafe conditions in their home or losing their home entirely. The deterrent to self-advocating, coupled with the reality that many homeowners often lack the necessary resources to meet onerous regulations, makes disasters nearly inevitable. In the summer of 2021, Hurricane Ida took the lives of 13 New Yorkers, including 11 who drowned in basement apartments. In addition to climate risks, fires remain a deadly risk for residents who lack proper egress, light, and ventilation.

A year and a half after Hurricane Ida, residents in basement and cellar units remain in limbo, although the City and State has multiple options for a path forward that would both protect tenants from fire and flooding and add significant contributions to the City's housing stock. I strongly support Councilmember Hanif's resolution for the State Legislature and the Governor to pass A.9802/S.8783 to create a program to legalize Accessory Dwelling Units in New York City. This legislation would also create an amnesty program for property owners with existing ADUs, reform the prohibitively costly requirements of the Multiple Dwelling Law, and set the path toward providing tenants with strong protections.

On August 30, 2022, the New York City Comptroller's Office published a report called "Bringing Basement Apartments Into the Light: Establishing a NYC Basement Board to Provide Basic Rights, Responsibilities, and Protections for Basement Apartment Residents and Owners." The report offers a proposal modeled on the response to the safety and legal challenges loft tenants faced in the 1980s. The State responded with the passage of the Loft Law, which created both immediate protections for tenants as well as a long-term conversion process to get their living spaces up to code. This model provides lifesaving physical improvements, rights and responsibilities to both owners and tenants, as well as a pathway to full legalization.

Our report proposes that the State adopt legislation to adopt a new "Basement Resident Protection Law" to achieve similar goals. The proposed legislation would:

1. Create a Basement Board reflective of the diverse constituencies affected to administer the program and financial support, develop inspection regimes, and enforce the provision of services and tenant protections;
2. Require owners to register all currently occupied basement and cellar units with the Basement Board (resident protections would not be contingent on registration);
3. Ensure robust, language accessible outreach to occupants in basement and cellar units to promote awareness of the new program;
4. Mandate and provide funding to owners for the installation of basic safety measures, including carbon monoxide and smoke detectors and backflow preventers, to mitigate flooding risks during severe rain events like Hurricane Ida;
5. Establish basic rights and responsibilities for basement-dwellers and owners, including the requirement to provide basic services and the legal right to collect rent;
6. Immediately protect basement-dwellers from harassment, eviction, and the denial of essential services, and create new pathways for proactive enforcement and better occupancy data for the implementation of early flood warning systems;
7. Provide a registration framework that supports and is coordinated with ongoing safety inspections and legalization efforts; and
8. Require the City and State to provide affordable housing to New Yorkers living in units deemed to be so unfit for living due to egregious fire safety, habitability and flood risks that they must be vacated.

The Basement Apartments Safe for Everyone (BASE) Coalition has laid the foundation for existing efforts to legalize basement and cellar apartments in New York City. Cypress Hills Local Development Corporation, a coalition member, led the way for the East New York Basement Apartment Conversion Pilot Program (BACPP), created through legislation passed by this Council. Although the COVID-19 pandemic and budget cuts hindered the program, BACPP nevertheless very helpfully elucidated the barriers homeowners face in legalizing basement units. The City must re-allocate funding to further build on the critical lessons learned and successes of this pilot program.

The City and State cannot wait to take action to protect the lives of vulnerable New Yorkers who live in basement and cellar apartments. As climate change brings more extreme weather patterns and flood risks are projected to increase, tenants need immediate protections as well as comprehensive legalization of basement apartments. Thank you for convening a critical hearing on this issue, and we look forward to collaborating with partners at the local and state level to both add to the city's much-needed supply of affordable housing and prevent future tragedies.



HARVEY EPSTEIN  
Assemblymember 74<sup>th</sup> District

THE ASSEMBLY  
STATE OF NEW YORK  
ALBANY

**Testimony in Support of Res 0161-2022**  
**Office of Assemblymember Harvey Epstein**  
**January 24, 2023**

My name is Harvey Epstein and I am the Assemblymember representing New York's 74th Assembly District, which includes the neighborhoods of Lower East Side, East Village, Stuyvesant Town/Peter Cooper Village, Gramercy, Murray Hill, Kips Bay, Tudor City and the United Nations. Thank you for the opportunity to testify today.

I strongly urge the adoption of Councilmember Hanif's State Legislative Resolution 161 in support of my bill to empower New York City to create a program for the safe legalization of basement apartments.

New York City has estimated at least 100,000 New Yorkers live in 50,000 or more illegal basement apartments. According to research by Pratt Center for Community Development and Chhaya CDC, the units are located in community districts that are predominantly communities of color.<sup>1</sup> Basement apartment residents are uniquely vulnerable because their units do not meet the same safety standards as typical apartments. By reporting unsafe conditions, basement residents expose themselves to the risk of eviction. Under the status quo, people of color, immigrants, and those with low-incomes are forced to choose between affordable and unsafe housing or homelessness. The solution to this problem is to create a process to safely upgrade basement apartments, which begins with adopting Resolution 161 and passing my bill.

The consensus among stakeholders is that the state's multiple dwelling law has and will continue to present major obstacles to the timely and economical conversion of basement apartments. Under my bill, the City would get the local control, legal tools, and discretion it needs to create a program to bring existing illegal basement units into conformance with the state's safety standards without having to comply with elements of the state multiple dwelling law that have historically inhibited the formalization of these units. Additionally, the bill grants New York City Department of Housing Preservation and Development the ability to make loans in excess of \$60,000 to support the rehabilitation necessary to make basement apartments safe.

In the FY 2022-23 state budget, the Governor allocated \$85 million in the budget for the rehabilitation and creation of accessory dwelling units, including basements. If my bill passes and the City enacts legislation, the City could access state funding to help make basement apartments safer.

I urge the Council to adopt Resolution 161. I thank the Chair for holding this hearing and I look forward to future opportunities to work with the Council to ensure that New Yorkers living in basement apartments live in safe and dignified housing.

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<sup>1</sup>[https://prattcenter.net/uploads/1021/1634833975615756/Pratt\\_Center\\_New\\_Yorks\\_Housing\\_Underground\\_13\\_Years\\_Later\\_102121.pdf](https://prattcenter.net/uploads/1021/1634833975615756/Pratt_Center_New_Yorks_Housing_Underground_13_Years_Later_102121.pdf)



PUBLIC ADVOCATE FOR THE CITY OF NEW YORK

# Jumaane D. Williams

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**STATEMENT OF PUBLIC ADVOCATE JUMAANE D. WILLIAMS  
TO THE NEW YORK CITY COUNCIL COMMITTEE ON HOUSING AND  
BUILDINGS  
JANUARY 24, 2023**

Good morning,

My name is Jumaane D. Williams and I am the Public Advocate for the City of New York. I would like to thank Chair Sanchez and the members of the Committee on Housing and Buildings for holding this important hearing.

Following the destruction and flooding caused by Hurricane Ida, which took the lives of 13 New Yorkers, my office introduced a number of bills aimed at establishing flash flood emergency evacuation plans and the maintenance of catch basins to prevent flooding. The Council, at the time, also enacted legislation establishing a pilot program to facilitate the creation and alteration of habitable apartments in basements and cellars.

However, despite significant efforts by the city, only 5 out of 8,000 potential units were able to participate in the pilot program. This was due to restrictive zoning and a lack of financial support from the city and state to facilitate the conversions. It is essential that we continue to create as many available housing units as possible, today, that work continues.

Accessory dwelling units are a critical component of meeting the need for housing stock in our city with an estimated 400,000 people living in basement and cellar dwellings across the five boroughs<sup>1</sup>. As we strive towards legalizing, regulating, and protecting these units and the countless tenants who call them home, we must also recognize the need to adapt our infrastructure to the realities of the climate crisis.

In coordination with the City Council, I support Resolution 161, which would establish a program to address the legalization of specified accessory dwelling units in a city with a population of one million or more. This resolution will hopefully send a signal to the state that the city is ready and willing to accept assistance for a fully formed basement legalization plan, which in its totality, should include less restrictive zoning laws and additional funding for participating property owners.

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<sup>1</sup> Office of the NYC Comptroller Brad Lander. *“Bringing Basement Apartments Into the Light: Establishing a NYC Basement Board to Provide Basic Rights, Responsibilities, and Protections for Basement Apartment Residents and Owners”*. August 30, 2022, available at: <https://comptroller.nyc.gov/reports/bringing-basement-apartments-into-the-light/>



**Submitted Testimony of Con Edison to the  
New York City Council Regarding Intro. Number 150  
January 24, 2023**

Con Edison submits this testimony in support of Intro 150.

As part of our Clean Energy Commitment, Con Edison is committed to leading and delivering the transition to a clean energy future in support of the ambitious climate goals of New York City (“City”) and New York State, including supporting our customers as they transition to clean transportation, particularly in our City’s environmental justice communities.

In fact, Con Edison has established the second largest electric vehicle (“EV”) charging infrastructure incentive program in the nation to support and advance these carbon reduction and equity goals by reducing the cost of installing EV chargers. Additionally, Con Edison has partnered with the New York City Department of Transportation to develop and pilot curbside EV chargers across all five boroughs.

As highlighted in a recent study published by the City and its utility partners<sup>1</sup>, large scale adoption of EVs is essential for New York City to achieve its climate goals. A clean transportation system also brings additional benefits to communities, including improved health outcomes from reduction of localized air pollution and noise levels. Access to clean and efficient transportation, which can include transit, EVs, and improved biking and pedestrian infrastructure, will be key to realizing such benefits.

Range anxiety due to insufficient access to EV charging has been widely recognized as a leading barrier to EV adoption, and it is a particularly acute challenge in our dense urban environment. The development of easily accessible, geographically diverse, and visible charging infrastructure across the City will be critical to driving EV adoption. However, getting to a future where any driver that wants to charge their vehicle can find convenient access to charging is not without challenges. Construction can be complex in the City, buildings and open lots will require new infrastructure and equipment, and existing infrastructure may need to be upgraded.

Intro. 150 encourages meaningful progress towards widespread EV charging access through requiring installation of EV chargers and the supporting electrical infrastructure. First, requiring installation of chargers in new and altered garages and open lots from the start drives immediate progress in charger network buildout, supporting EV adoption today. Second, requiring that supporting infrastructure like the electrical raceway and electrical room are future proofed to facilitate additional EV chargers will reduce barriers to EV charger installation in the future in a manner that is also cost efficient. Intro 150’s applicability city-wide and to existing buildings will promote development of a broad EV charging network across the city, bringing EV charging to all communities.

Finally, while we applaud the council for raising the important issue of compliance for low income and affordable housing in the exceptions to Intro. 150, we respectfully request that the Council consider the unintended consequences of these exceptions. Con Edison stands ready to assist and support the Council in this process.

Meeting the goals of a low carbon future entails using all the policy tools and levers available to facilitate an equitable and clean transportation system. Con Edison will continue to support the City and our customers as they continue their transition to cleaner transportation options to reach our climate goals.

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<sup>1</sup> <https://www1.nyc.gov/assets/sustainability/downloads/pdf/publications/Carbon-Neutral-NYC.pdf>



## **BOMA Testimony Int. 150-2022**

The Building Owners & Managers Association of Greater New York (BOMA) is pleased to submit testimony regarding NYC Council Intro 150, which would require electric vehicle charging infrastructure in public parking lots.

### **ABOUT BOMA**

BOMA represents commercial real estate professionals in the five boroughs – the largest industry in the market area, contributing approximately \$27 billion to the state economy. BOMA members are responsible for the ownership and management of approximately 529 million square feet of office space, including some of the world’s most prestigious properties. Members include building owners, professional property management firms, professional service providers (architects, engineers, systems consultants, etc.) and contract services providers in construction, elevator maintenance, cleaning services, and others.

### **BOMA & SUSTAINABILITY**

BOMA is actively invested in the promotion and implementation of green and sustainable energy in our industry. BOMA’s Energy and Sustainability Committee encourages the efficient use of energy while engaging in sustainable business and social practices. This committee plans and executes the Annual Energy Action Day program and keeps our membership informed on changes to the policy landscape and best practices.

### **RECOMMENDATIONS ON INTRO 150**

BOMA broadly supports the goals of the legislation that would allow for more electric vehicles, but we do have the following concerns/recommendations surrounding Introduction 150 as currently drafted:

- Retrofitting existing garages to comply with this legislation, as currently written, would be extremely challenging and expensive, and without incentives could cause further disruption in the commercial real estate market, which has not fully recovered since the COVID-19 pandemic.
  - BOMA respectfully suggests amending this legislation to apply to new parking facilities only—while working with the city, state, and federal governments to outline an appropriate incentive program to allow for building owners and managers to more favorably adjust to changes mandated by this legislation.
- Additionally, BOMA has concerns about the reliability of the current electric grid if all buildings were mandated to complete these updates as laid out in this legislation.
- Furthermore, as the DOB’s LL97 Advisory Report recently stated as a goal, we would like to see legislation such as this be brought in line with the standards New York State is proposing. This would ensure that there are not duplicative, slightly different regulations that seek to accomplish the same goal, but require onerous adjustments in construction and compliance.

BOMA is ready to work with the sponsors, staff, and the entire Council to help achieve the overall goals of this legislation while addressing the concerns of numerous stakeholders across New York City. Thank you for listening to our concerns.



**Lori Raphael**

Executive Director

Building Owners & Managers Association of Greater New York

Secondary Contact:

Brian Fagnoli

Senior Account Manager

Yoswein New York, Inc.

[Brian@yny.com](mailto:Brian@yny.com)



Testimony Submitted to the New York City Council  
Committee on Housing and Buildings  
Re. Accessory Dwelling Units and a Pathway to Basement Legalization and Res. No. 161

January 24, 2023

My name is Ariana Shirvani, and I am a Senior Policy and Research Associate at the Center for NYC Neighborhoods. Thank you for the opportunity to submit the following testimony concerning Accessory Dwelling Units and a Pathway to Basement Legalization.

### **About the Center for NYC Neighborhoods**

The Center for NYC Neighborhoods (“the Center”) promotes and protects affordable homeownership in New York so that middle- and working-class families are able to build strong, thriving communities. Established by public and private partners including the City Council, the Center meets the diverse needs of homeowners throughout New York by offering free, high quality housing services. Since our founding in 2008, our network has assisted over 280,000 homeowners with matters ranging from foreclosure prevention, climate-related disaster recovery, and more. The Center also manages the HomeFix Program in partnership with the City’s Housing and Preservation Department (HPD). HomeFix provides a comprehensive approach to addressing homeowner repair needs and technical assistance, including access to affordable low- or no-interest and potentially forgivable loans, scoping of repair work, and construction management.

### **The Center’s Participation in the Basement Legalization Movement**

The Center for NYC Neighborhoods has long been a supporter of legalizing safe basement apartments. Our organization’s basement advocacy stems from our specialization in serving LMI owners of 1-4 family buildings, which have the largest share of below-grade basements that can be converted into residential units. In 2015, the Center joined our partners at Chhaya CDC and Cypress Hills Local Development Corporation (CHLDC), in addition to the Citizens Housing and Planning Council (CHPC) and Pratt Center for Community Development, as steering members of the BASE campaign, a coalition that advocates at the City and State levels for pathways to legalize safe basement apartments. We have also worked closely with HPD and CHLDC to help homeowners who applied for the East New York Basement Apartment Conversion Pilot Program (BACPP). As a result, the Center is well-versed in the ways that basement legalization can vastly improve the lives of New Yorkers and why it is desperately needed today.

## Basement Legalization, Equity, and the Affordable Housing Supply

Basement apartments are a critical, naturally occurring form of affordable housing. Research estimates that 100,000 New Yorkers live in basement apartments today.<sup>1</sup> Immigrants, people of color, seniors, and LMI residents reside in basements at a disproportionately higher rate than their white, higher-income counterparts.

Unfortunately, many basement units exist in the shadows, which puts their homeowners and tenants at risk in a variety of ways. Working with LMI homeowners, we know that many could offset their mortgage costs by renting out their basement spaces. Absent basement legalization, however, these homeowners are unable to do so without running afoul of the Department of Buildings, or leaving their tenants without basic protections and safety measures in the event of an emergency.

A lack of basement legalization overall works to ensure that safe basement spaces, which could become new rental housing with minimal cost and effort, remain offline. Meanwhile, New York City's shortage of affordable housing has reached a crisis point. The obvious solution is to create a pathway for homeowners to convert their basement spaces legally. Doing so would bring approximately 10,000–38,000 below-market rental units to the market with minimal property investment, and would cost the City nothing in terms of land acquisition.<sup>2</sup>

## Basement Legalization to Improve the Health and Safety of Homes

New York City has some of the oldest housing stock in the county, with approximately sixty percent of its homes built before 1960. Construction to make these homes more resilient and safer, such as the installation of backwater valves, walls to retain flooding, and elevating mechanical appliances is much more expensive and complex because of their obsolete construction. Complicating matters are outdated zoning, building, and multiple-dwelling restrictions, which can coalesce to render basement conversions impossible, or trigger the necessity of “whole home solutions,” which are prohibitively expensive to complete.<sup>3</sup> This last point is something our HomeFix program associates are all too familiar with as they

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<sup>1</sup> *New York Times*, “Underground Lives: The Sunless World of Immigrants in Queens,” October 23, 2019. Available at: <https://www.nytimes.com/interactive/2019/10/23/nyregion/basements-queens-immigrants.html?mtrref=www.google.com&assetType=REGIWALL>

<sup>2</sup> Citizens Housing and Planning Council, *Hidden Housing: The Case for a Conversion Program for Basement Apartments in New York City*, 2016. Available at: <https://chpcny.org/assets/Hidden-Housing.pdf>

<sup>3</sup> Chapter 12 of the Building Code requires every window in a multiple dwelling to be at least twelve square feet when contributing to natural light. Under the current regulatory regime, when a two-family home converts a basement space into a habitable unit, it triggers the multiple-dwelling law and requires that every window in the dwelling, not just the basement unit, meet the twelve-square-foot requirement. This standard can be very costly to undertake, especially in older homes. For more information, please see Citizens Housing and Planning Council, *Basement & Cellar Regulatory Reforms*, December 2020. Available at [https://chpcny.org/wp-content/uploads/2020/12/CHPC\\_Base-and-Cellar-Reforms.pdf](https://chpcny.org/wp-content/uploads/2020/12/CHPC_Base-and-Cellar-Reforms.pdf).

have been working closely with the East New York BACPP to secure loan funding for basement conversions, subsequent to the abrupt cut to the pilot's funding early in the pandemic.<sup>4</sup>

Faced with such onerous and expensive requirements for bringing basement spaces up to code, many homeowners forgo the necessary safety updates and proceed into the darkness, often renting out apartments with outdated electrical equipment, too few points of escape, and no backflow prevention devices to prevent contaminated (or storm) water from flowing back into the unit. Prohibitive regulations stemming from the code revision process have also resulted in safe basement apartments being kept off the market because of parking and FAR requirements. Both scenarios could be avoided through basement legalization. For one, legalization would create a reasonable process for homeowners to follow in order to bring their basement spaces up to code. Legalization would also facilitate the installation and access to tools that will make basements safer for residents, including carbon monoxide and smoke detectors, and backflow preventers. Finally, basement legalization would likely decrease the per-unit cost of conversion by six figures.

### **Basement Legalization as Climate Disaster Mitigation**

On September 1, 2021 the National Weather Service in New York declared the City's first flash flood emergency, when the remnants of Hurricane Ida swept across the State. A historic three inches of rain fell each hour across the five boroughs, which resulted in flooding throughout the City. Thirteen people were tragically killed – eleven of whom drowned in unlicensed basement apartments. Unfortunately, the dangers of living in an unregulated basement are not a deterrent for individuals seeking an affordable home.

Basement legalization is one of several emergency interventions the City should undertake to mitigate the effects of climate disaster in our communities. Legalization would harden our infrastructure by facilitating a more accurate count of the basement apartment population, and by providing accurate contact information, in cases of emergency, for warning and welfare checks. Basement legalization would also ensure that homeowners' basement spaces are covered by flood insurance, or that they are actually eligible for desperately needed relief funds, when climate disasters like Hurricanes Sandy and Ida occur.

We are in a critical moment that requires bold, progressive and swift action in order to protect the structural integrity of our City's homes and buildings, and the people who reside within them. We implore the City Council to establish a legalization program for basement apartments as a way to honor the hundreds of thousands of New Yorkers who already call basement apartments home, and to provide them the dignity of living in the light. To that end, the Center is especially grateful to Councilmembers

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<sup>4</sup> The East New York BACPP was an explicit promise made to the East New York community during its 2016 rezoning. East New York was one of the city's hardest-hit neighborhoods in the foreclosure crisis. When the market collapsed in 2008, thousands of East New York families found themselves underwater on their mortgages, with property values worth less than their home loans. Since the foreclosure crisis, the East New York area has maintained a high foreclosure rate, and often has the highest rate in the city. The East New York BACPP was, therefore, intended to directly address the urgent need to stabilize homeownership in the neighborhood.

Hanif and Krishnan, and the nineteen other members who signed onto Resolution 161, which called upon the New York State Legislature to pass, and the Governor to sign, A.9802/S.8783. Our organization wholeheartedly supported both bills last legislative session and hopes that more councilmembers will rally behind the basement legalization movement at both the City and State levels this year.

Thank you for the opportunity to provide comments regarding Accessory Dwelling Units and a Pathway to Basement Legalization and Resolution 161. The Center looks forward to working with the City Council, as well as other City and State agencies on this issue.



**chhaya**  
Community Development Corporation

TESTIMONY ON BASEMENT LEGALIZATION & IN SUPPORT OF RESOLUTION 161

PRESENTED BEFORE:

The New York City Council Committee on Housing and Buildings

PRESENTED BY:

Sadia Rahman, Director of Policy  
sadia@chhayacdc.org

January 24, 2023

Good afternoon, I am Sadia Rahman. I am the Deputy Director of Policy at Chhaya CDC, which was founded to address the housing and economic needs of low-income South Asian and Indo-Caribbean New Yorkers. Chhaya is a founding member of the New York City Basement Apartments Safe for Everyone (BASE) Campaign. For over 15 years, the BASE Campaign has been fighting on behalf of low-to-moderate income homeowners and basement tenants to make basement apartments a safe legal part of our housing stock. Our coalition consists of multiple groups representing Housing Policy, Homeowners, Tenants, Legal Services, and Community & Economic Development. We support the resolution introduced by Councilmember Hanif, which calls on the state legislature to pass A.9802/S.8783.

As you are all aware, New York has long had an affordable housing crisis. The COVID-19 pandemic has exacerbated the issues of struggling tenants and homeowners. On the frontline of this crisis are low- and moderate-income immigrants, communities of color, and essential workers. Many are undocumented or have limited English proficiency. Basement apartments are one of the few affordable housing options available to many in our communities. Tenants are struggling to find affordable housing. Aspiring homeowners can no longer afford to buy in their neighborhoods. Existing homeowners are struggling to make their mortgage payments with rising inflation costs.

Legalizing basement units can be the difference between sustainable homeownership and displacement. Basement apartments are a means to help stabilize homeownership, significantly add to the affordable housing stock, preserve our diverse communities, and prevent displacement. However, without the city council's support of this state bill, it would nearly be impossible to build basement apartments in NYC.



With the passage of this legislation, in time, thousands of affordable housing units would be created without costly development. Best of all, the beneficiaries of the rental income wouldn't be large developers, but instead individual homeowners. This bill is a strong tool to prevent the type of displacement that threatens low- and moderate-income communities—particularly immigrants and communities of color who have been historically marginalized.

In September 2021, New York City saw the catastrophic effects of climate change when 11 of our neighbors died as a result of flooding in their basement homes caused by Hurricane Ida. The event became proof that the city's pre-pilot policy of heightened enforcement, with DOB fines, vacate orders and evictions was simply not working. Instead, this ban on basement legalization has led to a culture of fear among both immigrant homeowners and tenants. The passage of state bills, A.9802/S.8783 will be the starting point to ensuring that NY families residing in basements will be safe and protected.

As such we strongly urge the Council to pass Resolution 161.

Thank you.



**TESTIMONY SUBMITTED TO THE COMMITTEE ON HOUSING AND BUILDINGS  
NEW YORK CITY COUNCIL**

**CITIZENS HOUSING AND PLANNING COUNCIL  
KATHERINE LEITCH, SENIOR POLICY ANALYST  
JANUARY 24, 2023**

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Thank you for the opportunity to testify to the urgent need for a basement legalization program and why New York State must take the important first step of enacting A9802/S8783. My name is Katherine Leitch, and I am a Senior Policy Analyst at the Citizens Housing and Planning Council (CHPC). CHPC is a non-profit civic organization dedicated to addressing the City's housing and planning needs.

Our organization has spent over a decade researching basement conversions and other forms of accessory dwelling units (ADUs) that play an essential but often overlooked role in New York City's housing stock. We are also the program evaluator for the East New York basement pilot. In all facets of our basements work, we have seen that overlapping, outmoded, or unnecessarily restrictive regulations make it financially or physically infeasible for homeowners to bring their basement apartments into compliance. The proposed State bill makes important strides towards a legalization process that ensures the safety and habitability of these units.

The legalization of basement apartments is a policy issue at the intersection of housing, climate change, and social equity. New York's expensive and highly constrained housing market drives many low-income families with little housing choice into informal rental apartments that exist outside City oversight. As a result, some New Yorkers end up living in substandard or even hazardous conditions. Hurricane Ida cruelly exposed the dangers of living in apartments that haven't been vetted for safety.<sup>1</sup>

In response to this urgent issue, New York City must develop a program that streamlines a path to legalization and ensures that critical safety standards, like emergency egress, are met. But without State action, the City can only improve conditions in single-family homes, leaving out the greater part of New York City's housing stock.<sup>2</sup> This is because two-family homes or multiple dwellings that add a basement apartment are dually regulated by the City and State through City's comprehensive Construction Codes, Housing Maintenance Code, and Zoning Resolution, and the State's Multiple Dwelling Law (MDL).<sup>3</sup> Even if the City thoughtfully implemented reforms to

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<sup>1</sup> Leitch & MacLean, *From Lot to Neighborhood to City: An Action Plan for Basement Flood Safety & Stormwater Equity*, Citizens Housing and Planning Council (CHPC). Aug 2022.

<sup>2</sup> None of the Hurricane Ida fatalities related to basement or cellar occupancy were within single-family homes. The City cannot unilaterally create a program that would fully address these properties.

<sup>3</sup> Adopted in 1929—before NYC had a citywide building code or Department of Buildings—the MDL set light and ventilations standards, addressed sanitation and crowding concerns, instituted fire safety practices, and established height and bulk limitations, most provisions coming directly from the Tenement Housing Act of 1901. The requirements of the MDL are organized according building classes, defined in part by when a residential property was built or converted, and reflect the esoterica of each regulatory period and class. Many of the MDL's provisions are addressed in New York

improve the safety and quality of multifamily units, the State's unamended and more restrictive requirements would govern. By passing legislation empowering New York City to address this issue locally, the State would clear a path to legalization and more responsive policymaking.

Overlapping or redundant City and State regulations not only make it more difficult and costly for the City to administer regulations, and for homeowners and practitioners to comply with them; it also makes amending these regulations needlessly complex and difficult. This is the central reason why government has not yet acted to meet the urgent needs of tenants and homeowners.

The City has undertaken significant efforts, including the East New York pilot, to identify and remedy the challenges of basement conversion. The expertise on these issues resides locally within the City agencies that administer the regulations, including those of the MDL, and with nonprofits and community groups that have spent years navigating the complexities of legalization. By giving the City authority to provide relief from the MDL, the State would enable the City to assert its own rigorous building and occupancy standards in circumstances that are endemic to the City. This would profoundly improve a basement legalization effort and allow the city to refine and adapt a program as implementation challenges arise or as the city's needs evolve.

The State must confront the fact that unregulated basement apartments present a pressing health and safety concern, and that they are a predictable result of the current housing shortage. These dual crises disproportionately impact low-income homeowners and tenants in New York City. Passing A9802/S8783 is an opportunity for the State to cut through a layer of unnecessary regulation, set programmatic expectations, and empower the City to meet its own needs.

Thank you.

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City's codes and zoning. Once the City adopts the forthcoming Existing Building Code (EBC), which is intended to fully cover all multiple dwelling construction standards, the MDL's duplicative standards will be outmoded.

**New York City Council Committee on Housing and Buildings**  
**Testimony of Stephen Sears, Executive Director & CEO of EIMA, Introduction No. 875-2023**

January 24, 2023

Good afternoon, my name is Stephen Sears, and I am the Executive Director of EIMA, the EIFS Industry Members Association. EIFS are multi-function, exterior wall cladding systems that are cost-effective, weatherproof, reduce energy costs, have a low carbon footprint, and provide an attractive appearance. I represent a broad array of stakeholders in the industry—from manufacturers, to contractors, unions, and suppliers—all of whom ensure the best products are installed and protect buildings of all shapes and sizes from the elements. In the City of New York, nearly every neighborhood has a multitude of buildings with EIFS, and across the five boroughs, of which there are many. Presently, New York City has effectively changed the recent building code in a way that makes our products in many contexts unworkable. A key issue is the revisions around the ‘gold standard’ in fire testing and prevention for exterior cladding, NFPA 285. It is vitally important for the restoration of NFPA 285 to continue projects—particularly deep retrofitting—like we have seen, in addition to the variety of developments for small-to-large buildings, and the future of quality testing.

Right now, EIFS are being used in building retrofits both in the public and private sectors. In a profile of NYCHA’s Baychester Houses, where after deep retrofitting, *The New York Times* lauded the re-development. In a piece entitled, “A Rebirth in the Bronx: Is This How to Save Public Housing?” the author noted, “Baychester was never properly waterproofed, its buildings enduring a history of cracked and spalled masonry...Today the campus looks spotless...The buildings have been reclad with a waterproof material and faux-wood paneling<sup>1</sup>.” The product highlighted in the glowing profile were EIFS. The article went on to mention the development across the street—set to undergo a similar issue—standing as a stark contrast. With the current building codes, the same development could not happen with EIFS.

There are many other buildings in a similar predicament. Given the scale and application of EIFS—from one panel on a single-family home to large, commercial buildings in midtown, EIFS are an integral material for modern building construction. EIFS are installed by both union and non-union workers on all different kinds of projects and buildings. There are buildings like 803 Knickerbocker Avenue in Brooklyn that have served as a national model for both being passive house and affordable housing, in part because of EIFS. Another example is the new Caudwell Wingate development on West 47<sup>th</sup> Street; just topped, EIFS were incorporated into the metal framing of this innovative building. EIFS as a material are resilient and key for controlling costs and quality.

It is critical for New York City Building Codes to align with long-term actions. With Local Law 97 going into effect, buildings are required to be more efficient with their energy consumption—this has been the goal of products like EIFS for over half-a-century. Compared to brick, glass, and any other material, EIFS are not only more climate efficient and easier to transport but cost significantly less to install per square foot than other materials, in part because of the efficiencies. This energy, construction and transportation efficiency means lower utility bills and overall costs for taxpayers and tenants. What the NFPA 285 standard provides are materials consistent with the fire standards of the International Building Code (IBC,) and in turn, efficient and climate friendly.

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<sup>1</sup> <https://www.nytimes.com/2021/08/05/arts/design/bronx-public-housing.html>

We implore the city of New York to reconsider its position on NFPA 285, and not unnecessarily deviate from the proven, long-standing status this standard has held in the International Building Code. As the City of New York seeks solutions to the long-term climate crisis, we must ensure the prescriptive building codes are aligned with the codified standards of the next half century. EIFS and NFPA 285 play a critical role in the future of resiliency and building energy consumption.

Alan Levine  
*President*

Twyla Carter  
*Attorney-in-Chief*

Adriene L. Holder  
*Chief Attorney*  
Civil Practice

## **TESTIMONY OF THE LEGAL AID SOCIETY**

Committee on Housing and Buildings

Hearing on Accessory Dwelling Units and a Pathway to Basement Legalization

January 24, 2023

Thank you, Chairperson Sanchez and members of the above Committee for holding this important hearing. My name is Jishian Ravinthiran (pronouns: he/him), and I thank you for the opportunity to submit testimony on behalf of the Legal Aid Society. Many of our clients, particularly immigrants and people of color, live in the basement units at the heart of this Resolution, which seeks to support the state legislative proposal, A1075, allowing the City to establish a program to safely legalize these units. We believe A1075 is a step forward for ensuring tenants have a right to live somewhere with security, peace, and dignity.<sup>1</sup> However, we also have concerns about its lack of protections for tenants to meaningfully exercise those rights.

### **A1075 Advances Tenant Safety**

Too often, our clients face devastating consequences as a result of the unsafe conditions in these illegal apartments. To name just one example, in one of my cases, the ceiling collapsed on my client and her three-year-old daughter. A1075 will prevent these unacceptable harms from occurring in the first place.

### **A1075 Lacks Protections to Ensure Tenants Can Remain in Their Homes**

However, while A1075 provides landlords with amnesty from prosecution for creating these illegal apartments, gives landlords an additional revenue stream, and even provides for a loan program to help landlords legalize units, A1075 lacks sufficient countervailing protections for tenants.

It guarantees tenants only an option to return to the unit after necessary alterations. Since these apartments are unregulated, there is nothing to stop a landlord from giving tenants their right to return, but also hiking the price of the unit or even terminating their unregulated tenancy as currently allowed by law to make them leave. This is common now and will get worse as landlords seek to justify rent increases based on these alterations. For example, in the case in which the ceiling

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<sup>1</sup> OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS, THE RIGHT TO ADEQUATE HOUSING 3 (2014).

collapsed on my client and her daughter, the landlord had tried to hike their rent from 1000 to 1700 per month.

Ultimately, A1075 needs to empower the City to enact good cause eviction protections, so the City can cap rent hikes and guarantee tenants in these basement homes a right to lease renewals. The City must enact good cause eviction protections for basement units, particularly because the NY State Legislature's Good Cause Eviction Proposal will leave out protections for these units, which are typically a part of the owner-occupied buildings currently excluded from the proposal's protections. Enacting these safeguards will ensure that tenants can meaningfully exercise their right to return to these units, without fear of radical rent hikes or the termination of their tenancy that would force them to leave. Otherwise, the right to return will be empty of meaning.

Lastly, there's nothing in A1075 to address the displacement of tenants for these necessary alterations. I don't know where I would have told my previously mentioned client to go, as a single mother with two minor kids, if she needed to vacate her home temporarily for the required modifications. Therefore, A1075 should address resources and temporary housing for clients in these circumstances, just as it already takes into consideration the financial circumstances of landlords with the aforementioned loan programs.

### **Conclusion**

A1075 is a significant step forward for providing safe, secure housing for all. However, without good cause eviction protections and resources to address the displacement of tenants, it will be challenging for tenants to benefit from the proposal. We urge the Committee and Council to work with their colleagues in Albany to provide essential protections and resources for displaced tenants as A1075 advances.

Respectfully Submitted:

The Legal Aid Society  
199 Water Street, 6th Floor  
New York, NY 10038  
212-577-3339



To: New York City Council Committee on Housing & Buildings

From: George Bassolino on behalf of the Master Plumbers Council

Date: January 24, 2023

Re: Testimony on Intro. No. 875

A Local Law to amend the Administrative Code of the City of New York, the New York City Plumbing Code, the New York City Building Code, the New York City Mechanical Code and the New York City Fuel Gas Code, in relation to technical corrections, clarifications and modifications to provisions of the New York City Construction Codes.



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## **Introduction**

My name is George Bassolino, Technical Director of the Master Plumbers Council (MPC). I submit the following testimony on Intro 875-2023 which is being proposed to provide technical corrections, clarifications and modifications to provisions of the New York City Construction Codes.

The MPC last provided testimony regarding these Codes on June 16, 2021. We had submitted proposed amendments to clarify the intent of Code sections and ensure they would not be misinterpreted by a future administration. Other proposed changes were requested to provide a public benefit for all NYC residents. All of our proposed changes are in strict accordance with the intent of the Construction Codes specifically “*with due regard for building construction and maintenance costs.*” Our amendments if adopted would continue to maintain the highest safety standards while providing the lowest possible cost for regulatory compliance.

After the Code was signed into law in 2021, we attended a meeting with the Department on November 04, 2021, to review our suggested changes. At that meeting and during others since then, the Department has stated that there would be a cleanup bill to make changes to the 2022 New York City Construction Codes. We also met with Council members and staff on February 25, 2022, to discuss some of our proposed changes. The meeting was productive and three of the proposals (28-105.4.4 Ordinary Plumbing Work; Article 318 Periodic Gas Inspections and Article 417 Plumbing and Fire Suppression Contractor License Board) were referred to Legal staff to draft legislation. We met with the legislative team on May 10, 2022, to review the proposals. The legislative team subsequently has sent them to the Department for review and comments. We have requested a meeting with the Department to discuss each of them.

When Intro-875 was made public, we reviewed the content. None of our proposed amendments are included in the legislation. We believe that our proposed amendments should be considered for inclusion in Intro 875. Since we have already presented three of these proposed amendments to Council they can be reviewed quickly. Please see the attachments that list our proposed amendments.

During your review, if you have any questions or need clarification on any of the information provided, please contact us. We are available for a meeting to discuss them at your earliest convenience.

George Bassolino  
Technical Director  
Master Plumbers Council  
240-21 Braddock Avenue, Bellerose, NY  
11426 Phone: 718-793-6300 | [www.nycmpc.org](http://www.nycmpc.org)  
CC: Arthur Goldstein Esq. Davidoff Hutcher & Citron LLP

#### **§28-105.4.4 Ordinary Plumbing Work.**

*We propose that this section be modified to clarify the approved work scopes and add work scopes that will provide relief to NYC residents. This is accomplished by lowering costs and streamlining the regulatory process. With these changes, compliance will increase, and the public will be safer having licensed and qualified persons doing this work.*

Ordinary Plumbing Work (OPW) is the most important tool available to owners and plumbers to conduct repair and replacement plumbing work. The OPW process was adopted prior to the inception of the 2008 Code and was the Department's response to the need for owners to have plumbers get into a building to provide immediate repairs and avoid having to wait for a Code-required inspection. To accomplish this, a reporting system was created that allowed the Department to modify the standard permit fees and waive inspections for the completed work. The required reporting system also provides the Department with the ability to audit the completed work at any time.

The OPW was only modified once during the 2014 Code revision process. This process is presently underutilized by owners and the plumbing community. There are several reasons for this, the main one being the lack of clarity in the permissible work scopes. During this latest Code revision cycle, the Department declined to allow this section to be discussed. The committee was told that it would be included during the review of the proposed Existing Building Code (EBC). During the EBC revision process, the entire work scope section was revamped. In addition to clarifying the existing work scopes, there were some important additions. We are proposing to incorporate those changes into this Code, as the EBC may not go into effect for two more years. NYC residents and owners need the immediate relief that these proposed changes would provide.

Please find below a few of our proposed changes:

- Clarification of existing work scopes.
- Addition of fixtures that can be installed.
- Change of verbiage to eliminate confusion regarding permitted work scopes.
- Modification of building caps for branch piping work scopes.
- Additional permitting for the replacement of residential gas appliances.

Our proposed modifications and additions are commensurate with the intent of this section. If adopted, they will greatly enhance a licensed plumber's ability to conduct extensive repairs and appliance replacement, without the added expenses of obtaining a work permit and conducting an inspection. The work is performed by a licensed Master Plumber and their qualified employees. This helps maintain the high level of public safety that NYC residents have come to expect from licensed Master Plumbers. These changes negate many of the incentives for owners to use unlicensed and unqualified persons to do these work scopes. At the same time, it also lowers the cost of compliance. We believe that these changes will increase the overall compliance rate for this work.

#### **§28-417.1 Plumbing and fire suppression piping contractor license board.**

*We implore the Council to maintain the Plumbing and Fire Suppression Piping Contractor License Board, including all of its current duties.*

The License Board is a panel of trade practitioners and others appointed by the Commissioner, with the purpose of advising the Commissioner regarding the character and fitness of applicants for a license or certificate of competence, allegations of illegal practices by persons licensed, or other matters as the Commissioner may see fit. The License Board serves a very important role in the Licensed Plumbing and Fire Suppression industry. It serves four basic functions:

*1- To advise the Commissioner regarding the character and fitness of applicants for certificates of competence and licensees who have passed the required examination.*

Passing a test measures a person's knowledge of subject matter. However, it does not measure the character and fitness of a candidate. Today, from the time a candidate submits their paperwork until it is reviewed by the Board is the fastest in history. Some applications are reviewed less than two weeks after they are received by the Department. The majority of the candidate applications submitted to the Board sail through the review process. These applicants checked off all the boxes, are approved and are issued a license. Every once in a while, a candidate comes along where something just doesn't seem to fit. It is at these times when the members of the Board are able to review the candidate and apply their professional trade knowledge to advise the Department how to move forward. Mind you that these candidates have already made it through the initial Department review. What would happen if there were no panel of professionals to advise on their findings?

The Department believes that their personnel who review all other licenses can handle the Plumbing and Fire Suppression candidates on their own. Plumbing candidates are not like any other candidates, as they perform a life safety trade that is at the forefront of protecting public safety. LL152 of 2016 provides licensed Master Plumbers and their qualified employees with the ability to inspect active gas piping systems. They are entrusted to conduct inspections of active gas piping systems. Peer review of candidates seeking to obtain a Master Plumbers license is essential to ensure the person has the requisite experience with no downside to evaluating the Boards advice.

*2. To advise the Commissioner regarding allegations of illegal practices on the part of licensed master plumbers, licensed master fire suppression piping contractors, master plumber businesses or master fire suppression piping businesses.*

During the process where a licensed Master Plumber is evaluated for a disciplinary action that can lead to fines; probation; suspension or revocation, shouldn't a panel of experts be asked to advise and consult on the issue first? Plumbing is a very technical trade. Even the administrative portions of the Code that govern the permitting and overall inspection process for the work plumbers do are complicated. A review of the stipulations for such disciplinary cases reveals that they are not always clear cut and the punishment for each level of offense is not always consistent. This illustrates just how important the advice, which is non-binding, could make the difference in a person's livelihood. At the same time, the advice if accepted could remove an unsafe licensee. This very issue occurred at the June 15, 2021 Board meeting. It is unfair for a licensed Master Plumber to be evaluated and judged by persons without plumbing knowledge or experience equal to their own.

In 2018, the Department started to discipline plumbers for failing an "excessive" number of requests for gas authorization and sign-offs. Each plumber was offered to settle or go to trial and face a stiffer penalty. The Department, to this day, has never defined what "excessive" means. Had these actions been brought before the Licensed Board, the Department would have been advised that the entire inspection and sign-off process was fraught with procedural and system issues. The Board members could have worked with the Department to help identify persons who were negligent, incompetent or disregarded the Code. The Department paused writing these violations. The systemic issues with procedures and the inspections system still exist today. Will licensed Master Plumbers face these violations again? While the MPC will advocate for our members, it is not a substitute for a panel of experts providing direct advice to the Department. The Board only operates in an advisory role. Why are they not willing to hear from experts?

*3. To advise the Commissioner regarding plumbing and fire suppression piping practices, code applications, regulations, and legislation.*

The industry holds vital quarterly meetings with the Department to discuss important industry issues. Up until 2021, these meetings were held on a monthly basis. An example of an issue that was recently discussed is the issuance of violations by the Department to contractors for failing an initial boiler inspection. This issue has the potential to easily lead to disciplinary actions and we wanted to discuss the root causes of the failures. The Department agreed to have a separate meeting with the industry, and we are hopeful that by working together we can resolve this issue.

Removing the Board eliminates the written Code requirement for a future administration to conduct these important meetings. While we anticipate that these meetings will continue, we are concerned that without a Code-based requirement for them, a future administration could refuse to have them.

*4. To perform such other responsibilities as may be requested by the Commissioner and as set forth in rules promulgated by the department.*

Although this section is rarely utilized, there is a lot of potential for it. We believe that Master Plumbers and Fire Suppression Contractors should be involved in advising on the development and implementation of the master license testing process. When the gas work qualification exam was developed, the Department declined to take input from the industry or even the ICC Code authority who offered to provide written questions.

Another possible role would be to discuss and advise on issues that the Department perceives are problematic before they start to take blanket enforcement actions against contractors. We already pointed out two examples where this type of dialogue may have helped all parties involved in the process.

This is evidenced by the Department issuance of hundreds of violations to licensed Master Plumbers who performed work replacing existing gas appliances in one- and two-family residences. The Department claimed that because their record did not indicate a previous filing, the plumber was not replacing but in fact installing a new appliance. The Department issued violations to the licensed Master Plumbers for work without a permit and some received an additional violation for filing a false statement. A review of Department records indicates that the vast majority of the buildings violated had no records listed whatsoever. The Department eventually rescinded the violations but never acknowledged they were issued in error. When this occurred, owners, and plumbers were concerned that even if they follow the Code, they could be violated. This could have the very negative effect where owners refuse to use a licensed Master Plumber to avoid scrutiny by the Department. If the Department had consulted a panel of professionals for advice this may have been prevented.

Measures that diminish the Master Plumbers license have the potential to erode public safety. Plumbing is an essential life safety trade that protects NYC residents from a multitude of potential hazards. We believe that we have laid out a compelling case for the Council to require the Department to reactivate the License Board active and require that they utilize the Board to its full potential.

### **§28-318 Periodic Gas Inspections**

The proposed amendments have been reviewed by Council legal staff who have drafted legislation and sent it to the Department of Buildings for final review. We have requested a meeting with the Department to address any questions or concerns. Highlights of our proposed amendments include clarification of the work scope, removal of exceptions that may threaten public safety, adding safeguards to ensure only properly qualified individuals conduct these inspections and clarification of the reporting process. We believe that passage of these proposed amendments are essential if this very important law is to increase public safety in regards to gas piping.

### **§28-423 Qualifications for Gas Work**

MPC committee members recently served on the Mayor's 90 day commission to discuss all aspects of Licensing. Some of our proposed changes are listed below. We believe that inclusion and passage of these proposed amendments will help provide clarity for this very important law.

1. Modification to add the term FULL to gas work qualification. This is how the industry refers to a gas work qualification. This change simply provide clarity for all stakeholders.
2. Modification to remove the exclusion that prohibits the term "gas work" from applying to periodic inspections required pursuant to Article 318 of Chapter 3 of Title 28 of the Administrative Code.
3. Limited gas work application can be applied for with less than 6 months' work experience. This is a reflection of several factors. There is no public safety benefit derived from making a person wait six months to obtain a certificate that would allow them to perform gas work under the proper supervision. It has become an impediment to employer's ability to staff positions that requires this certification. It also hinders an employee's ability to earn income and gain work experience.
4. Add requirements that applicants for "full" gas work qualification must possess a limited gas work qualification to claim experience towards that qualification. We have proposed amendments that would require any candidate seeking to obtain a "full" gas work qualification to possess a limited gas work qualification for the period time commensurate with experience they are claiming under a NYC licensed Master Plumber but in no case less than one year. The law requires that applicants for a "full" gas work qualification have five years' experience related to gas work.

### **§28-303 Periodic Boiler Inspections**

The changes made to this section during the 2022 Code revision process were minimal. When the 2008 Code went into effect, the inspections scope was written in such a manner that it greatly expanded the inspection scope that would require an inspection of all of the component of a buildings heating system. The purpose and intent of a boiler inspection is to require that a boiler shall be of such quality throughout and shall have such protective and control devices and shall be so maintained and operated as to provide practical assurance against its being or becoming defective. The nature of the inspections is to the extent and by such practical methods as the inspector shall find sufficient to determine whether the boiler is safe.

The Code as written expands the inspection scope outside of the boiler room and into areas that exceed the qualifications of the approved boiler inspectors. The Department has stated this was not the intent of the Code and offered to limit the scope. The fact that the Department must consider making allowance to the work scope requires that it be addressed through a Code revision. If the Department believes that additional inspections and/or testing of heating systems is required, they should request that Council pass legislation to mandate this to be done.

The changes we are proposing will align the inspections scope with the NYS Codes and national standards. It also moves all periodic boiler inspection information to one section in the Code. They provide the minimum reasonable standards, based on current scientific and engineering knowledge to both protect the public and minimize the cost of an inspection.

#### **§28-105.4.1 Emergency work.**

*We request that this section be modified to add verbiage that will clarify the intent of this section and remove language that is potentially restrictive.*

This section of the Code is the most important tool a plumber has in order to provide immediate relief to an owner with an emergency condition, as it provides them with the ability to respond to the site and make any required repairs to a system that is out of service.

The plumber is not required to submit a permit application for two business days after the commencement of the work.

This section is the basis for the emergency gas restoration work procedures (EWN) established by the Department in 2016. This section permits the licensee to perform work without a permit to the extent necessary to relieve an emergency condition and having the ability to restore essential services such as gas, heat, hot water and sanitary facilities. Recently, there have been assertions made by mid-level Department personnel that a hazard is mitigated when the gas or water is shut off. This was never the intent of this section. The NYC Administrative Code 28-301.1 requires owners to maintain their buildings and all of its systems in good working condition at all times. We are proposing to add in the verbiage to restore the system to a good working condition. This would ensure that the intent of this Code section would not be misinterpreted by a future administration.

In the past, the Department adopted a position that there had to be 9 or more residential units at a dwelling to utilize this procedure to restore cooking gas. The vast majority of NYC's approximately one million structures have less than 9 units. The MPC protested that this was both unfair and contrary to the intent of this section and it was removed.

Imagine finally getting your business open and having an unwanted expense like your boiler breaking. What if your plumber told you that this did **not** qualify as an emergency repair? The Code contains verbiage that may be interpreted to restrict a plumber's ability to repair or replace heating and domestic hot water appliances in other than educational and residential occupancies. While this section maintains that emergency work may include but shall not be limited to any specific items, we are concerned this may be interpreted differently in the future. We are proposing verbiage be modified to correct this unequitable provision. The last change is required to provide for emergency repair of **any** standpipe system.

We respectfully request the Council to adopt these simple clarifications to ensure that this very important section continues to enable licensed Master Plumbers to provide immediate and fully effective relief to NYC residents during a time of an emergency.

#### **§28-101.5 Definitions Limited Alteration Applications.**

*We request that a portion of the definition be stricken to unnecessarily prevent the utilization of an LAA in conjunction with an Alteration permit.*

The verbiage Exception 1. Such work shall not include any associated work that would otherwise require an alteration permit including, but not limited to, any construction of fire rated partitions and enclosures should be removed.

As proposed, this verbiage may be interpreted to preclude the use of an LAA permit in conjunction with an Alteration permit. A Limited Alteration Application should only be limited by the permitted work scopes. It is unnecessary to include a reminder that associated work requires a separate permit. The fees for the permitted work as well as the installation and inspection processes are the same as for any Alteration permit of the filing process and can easily make any changes. This could also help to increase the sign-off rate of projects. The cost for filing an LAA may be one tenth or less of what an alteration permit can cost. Utilization of this permit in conjunction with an alteration permit **does not negatively affect public safety** in any way. It provides a public benefit.

*We propose that the monetary cap associated with a Category 1 work scope be removed.*

Today, it is quite possible that some work scopes that would be permissible to undertake would be prohibited because of the monetary cap. One example of this would be the installation of domestic water booster pump system. Some building have to install these to increase the water pressure to residents dwelling units. Depending upon the size of the building the pump cost could increase the cap. Today's inflationary economy has doubled the cost of pipe and fittings over the past three years. The cap is an arbitrary number. There is no science or mathematical formula for calculating what it should be. The Build filing system does not have an automatic stop on permits when a particular buildings cap is reached. If a work scope is permitted, why should it be limited by a monetary cap? What is the public benefit to this? It may provide a justification for owners not to file a job if they will be "punished" by having to hire a registered design professional.

**We propose that the verbiage and provided further that all such sprinkler heads were legally installed off of a domestic water system; be stricken from items 12,13,14 in a Category 2 Plumbing Limited Alteration Application.**

The Codes make a general assumption that existing work was legally installed. As written, the Department has **added** an extra requirement for an owner to prove the legality of an existing installation. We respectfully request that the Council requires the Department to strike this language. There is no definition of legally installed in the Code. There is no threat to public safety posed by removing it. This creates a burden for owners and could have the unintended consequence them seeking to undertake this work without the required permits or qualified persons.

**§28-401.13 Late renewal**

***We request that this section be modified to permit the continued use of the reinstatement portion of this section.***

The removal of the reinstatement period poses a huge hardship to contractors who may suffer an unforeseen issue that prevents them from applying for renewal for a year or more. A perfect example was the Covid pandemic. In 2020, the MPC had members who were hospitalized for extended periods of time. Reinstatement provides plumbers suffering hardships from losing their licensed Master Plumber status and having to start the entire licensing process all over again. NYC Administrative Code §28-401.22 allows a plumber to apply for deactivation of their license. This would allow the licensee to reactivate the company pursuant to Department rules. The deactivation process can only be used if there are no open work permits on your license. That stipulation eliminates deactivation as a potential option for almost all licensees. The Department could refuse to reinstate a license or certificate of competence on any grounds on the basis of which it could deny, suspend or revoke such license.

We request that the Council require the Department to reinstate the ability for a licensee to reinstate their license. Even with a period that is shortened to three years, it could help a licensee in the near future maintain the ability to one day continue their business.

**§28-401.18 New York City location required.**

***We request that the phrase “dedicated to the licensee’s” and “during usual business hours” be stricken from this section.***

Today, there are only a handful of plumbers who still rely on their neighborhood office for their customer relationships. While times have changed, this section of the Code has remained consistent until now. This Code revision (NYC Administrative Code 28-103.34) will require a licensee to provide the Department with an active, electronic email address for the purpose of receiving communications from the Department. Another added section (NYC Administrative Code 28-401.18.1) requires licensees to notify the Department of any changes to their address, telephone number or email address within thirty days of the change. This Code revision (28- 401.18.2) will also require licensed Master Plumbers with established places of business to post their licenses conspicuously near the entrance to their place of business.

The MPC supports that a licensee must have an established place of business within the city of New York. The Department’s proposed addition of “dedicated to the licensee’s business” is troublesome for the fact that the Department has declined to specify exactly what that means. They also have not provided any justification for the requested change. The legal definition for *dedicated* refers to property and the dictionary version generally states *exclusively allocated to or intended for a particular service or purpose*. In the licensed plumbing industry, it has been a tradition that newly minted licensees generally lease space within an established plumbing business. Would this new verbiage prevent such an arrangement?

Entry into the plumbing industry requires a very large investment in both time and money. Passage of this verbiage could also create a retroactive requirement affecting hundreds of licensees that would have to come into compliance with a yet undefined term. The pandemic along with the astronomical inflation and material shortages facing our industry are putting enormous pressure on these businesses. Small businesses are the backbone of the City and the leading employer of NYC residents. The original intent of this law was for the Department to have the ability to “find” the licensee. In 2023 with email, cell phones and written letters, if a licensee is not responsive to a Department request that is a bigger problem than the fact they have a virtual office. We respectfully request that unless there is a clearly stated public benefit, that the Council strikes this verbiage.

The phrase “*during usual business hours*” should be stricken. What is the purpose of including it? The federal definition of this means between the hours of 9am and 5pm during a weekday. Licensed Master Plumbers do not need to staff an office to accept mail or email. This verbiage could lead to arbitrary interpretations in the future.

## **§28-408.5 Surrender of license or seal.**

*We request that this section be modified to remove the verbiage* Retired licensees and the legal representatives of deceased licensees shall schedule for inspection, withdraw or have another licensee re-file any open application filed under such license in accordance with department procedures.

This verbiage created a perhaps impossible requirement for a retired licensee or a deceased licensee's estate by attempting to make them responsible for signing-off any open work permits. This section also **unlawfully** creates a retroactive requirement for jobs permitted before the effective date of the new Code be included.

The Department's assertion that a retired licensee or a deceased licensee's estate is responsible for signing-off **any** open work permits is inconsistent with the intent of the Code. While the Department has a reasonable expectation that all permits will be eventually signed off, the reality is that for a number of reasons beyond the licensee's control this is just not always possible. The Code is clear (28-105.12.1) that the applicant, the owner, their agents, employees, and contractors **all** shall carry out the permitted work in accordance with the provisions of this Code. There is no Code basis for the Department to impose this requirement on the party with the least control over the process. We implore the Council to strike this language.

Licensed plumbers generally do not get paid without getting a sign-off. There are four reasons why a permit does not get signed off:

- 1- Plumbers
- 2- Owners
- 3- Registered Design Professionals
- 4- The Department

There are varied reasons why a plumber does not have a job signed-off. In some cases, the plumber is culpable. In others, it may be caused by an owner's refusal to complete the work or make required changes to a project. Some of the required construction documents can only be provided by the Registered Design Professional. In other cases, the Department may have imposed a condition that required the owner's or Registered Design Professional's cooperation. Today, the launch of the BUILD filing systems has further complicated some of these issues. The MPC encourages all licensed Master Plumbers to make every effort to close out their permits and when they cannot continue, to submit a withdrawal request. Even though a withdrawal can be made at any time, a licensee is still associated with a permit and the Department seldom will remove that permit from the licensee's open permit portfolio. At our Industry meetings with the Department, we have requested a process be implemented to help increase the sign-off rate.

## **§28-408.3.1 Experience.**

*We request that these two sections be modified to reflect the experience requirements for a licensed Master Plumber.*

The proposed Code language, in regard to required experience, requires modification to clearly indicate that in addition to installation of new work, alterations and Ordinary Plumbing Work will qualify as satisfactory proof of the experience required to obtain a Master Plumbers license. The Department has stated that Ordinary Plumbing Work would count as required experience, but not for all of the seven years. How many years would it count for? Is a person who works at a repair and alteration shop less qualified than persons who only engaged in new work? The Department has also failed to define what exactly "design" consists of and how much "design" experience is required. All experience must be properly credited to the applicant. The Department has deactivated the License Board and therefore removed the expert peer review process that could accurately measure a person's true work experience. An applicant could be denied for "lack of experience" or in the opposite case, approved if the Department investigator does not pick up something in their application.

Applicants claiming experience after January 1, 2020, should be required to obtain a Gas Work Qualification. Without this requirement, it is possible that a person granted a Master Plumbers license **has no gas work experience**. The Department stated that the Master Plumbers license exam includes gas questions. However, the few questions that may appear on the exam do not measure a person's practical gas work experience. In 2008, the Department required all candidates to obtain a journeyman registration and made this a requirement to obtain a license. In 2020, it became a requirement to have a Gas Work Qualification to perform any gas work and this should also be a requirement to obtain a plumbing license.



It is imperative that the type of work that will count toward experience is clearly defined. A candidate for a Master Plumbers license dedicates at least a year of their life and many thousands of dollars to navigate the licensed Master Plumber process. The Department requires candidates to pass all the exams before they review their final application and verify their claimed experience. Imagine going through this entire process and being told you do not have “proper” experience. We request the Council to modify this language to make the process more transparent and also help ensure that the licensed Master Plumbers of tomorrow continue to maintain the same high standards that exist today. The public safety of New York City residents depends on it.

#### **§28-410.4.1 Experience**

*We propose that this section be modified to allow a NYC licensed Master Plumber to claim three years’ experience towards the experience requirement for a Master Fire Suppression Contracting License.*

The 1968 Code (26-146) permitted an applicant for a Master Fire Suppression Piping Contractor certificate with four years’ experience in the design and installation of plumbing systems and three years in the design and installation of Fire Suppression Piping systems in the United States, for the class of license for which application was being made to qualify for a Master Fire Suppression license. This allowed an active NYC licensed Master Plumber to apply for a Master Fire Suppression license after obtaining three years of additional work experience. The Department has not provided us with an explanation as to why this process was not continued into the 2008 Code. That process was in effect for over sixteen years without **any** public safety issues. Licensed Master Plumbers are permitted to perform work on Fire Suppression piping systems as defined by the Code.

While the current requirements do not make obtaining both licenses impossible, they do require a huge personal commitment to obtain the fourteen years of required work experience prior to the implementation of the Master Fire Suppression Piping Contractor License, it was mainly licensed Master Plumbers that did the majority of this work. Plumbers continue to do so today as almost three quarters of the Fire Suppression Licensees are also licensed Master Plumbers. Licensed master plumbers regularly engage in Fire Suppression Piping Work. Our proposed Code change would allow a NYC licensed Master Plumber to apply for a B license by working for a NYC licensed Master Fire Suppression Piping Contractor for three years

The MPC would never approach the Council and propose to relax any regulations simply to make it easier to create more licenses. This is a life safety trade and an emphasis should solely be placed on granting a license to the most qualified candidates. The changes we are proposing will not have any adverse effects to public safety. The reality is it will benefit the public. A licensed Master Plumber would be required to obtain three additional years of experience and pass a written test. Nothing has changed since the inception of the 2008 Code to diminish a licensed Master Plumber’s ability to successfully conduct fire suppression work provided they obtain additional experience. By the time a licensed Master Plumber is issued a license, they are generally well established and would be a valuable addition to the licensed Master Fire Suppression Piping Contractor community. If that extra experience benefits the consumer economically, that is just an added benefit.

*We ask that the Council consider our proposed changes and if you also believe that licensed Master Plumbers already possess the basic experience and skills to be effective Master Fire Suppression Piping Contractors that you agree to adopt this revised language.*

#### **§28-401.3 Definitions FIRE SUPPRESSION PIPING WORK.**

*We request that the Council strike the new Code language in this definition.*

Fire suppression piping work shall not include plumbing work.

The proposed Code defines a **Fire Suppression Piping System** as any system including any and all equipment and materials in connection therewith, the purpose of which is to control, contain, suppress or extinguish fire and shall include:

2. Up to thirty sprinkler heads off the domestic water in any one building; or

The proposed Code defines a **STANDPIPE SYSTEM** as a piping, installed in a building or structure that serves to supply water to hose connections at one or more locations in a building or structure, for firefighting purposes.

The Code defines **PLUMBING WORK** as the installation, maintenance, repair, modification, extension or alteration of plumbing, **standpipe** where a sprinkler is not connected or is not now being connected, domestic water, connections to the domestic water, combination domestic water and reserve standpipe supply tank up to and including the roof tank check valve, gas piping or any piping system referred to in the New York City plumbing code, and/or **up to thirty sprinkler heads off the domestic water** in any building in the city of New York.

The proposed Code defines a **Fire Suppression Piping Work** as the installation, maintenance, repair, modification, extension, or alteration or testing of a fire suppression piping system in any building in the city of New York. Fire suppression piping work shall not include plumbing work.

How is that possible since it is a direct contradiction of the other definitions?

While reading these definitions, it is evident that there is a major issue with the exclusion of plumbing work from the definition of Fire Suppression Piping Work. A plumbing standpipe meets the definition of a Fire Suppression Piping System and up to thirty sprinkler heads off the domestic water is included in the definition of *plumbing work*. The verbiage stating *Fire Suppression Piping Work shall not include plumbing work* is incorrect and should be stricken. Licensed Master Plumbers are permitted under the Code to perform Fire Suppression Piping Work. We believe this verbiage may have been added in order to justify the Department's proposed language in Section §28-410.4.1.1 Non-qualifying experience.

*We request that this verbiage be stricken.*

### **Mechanical Code Section 202 Definitions**

This section defines Appliance existing and Equipment existing. Each definition references that the appliance or equipment was legally installed. This can be interpreted two ways. In one way it would be assumed the existing appliance or equipment was legally installed. The other interpretation can lead someone to question the legality of the existing appliance or equipment.

The Codes make a general assumption that existing work was legally installed. As written, it the Department has **added** an extra requirement for an owner to prove the legality of an existing installation. We respectfully request that the Council requires the Department to strike this language. There is no definition of legally installed in the Code. There is no threat to public safety posed by removing it. This creates a burden for owners and could have the unintended consequence them seeking to undertake this work without the required permits or qualified persons.

### **§28-401.19.4 Restriction on disciplined licensees.**

*We request that this section be modified to require the licensee to request permission prior to appointing a previously disciplined licensee.*

We believe the intent of adding this section was to regulate the ability of a previously disciplined person from joining another licensed company and possibly continuing the illicit activities that led to their license being disciplined. We request that the verbiage be amended to have the license holder of the company submit a notification to the Department that they intend to appoint any previously disciplined licensee from serving in one of the prohibited positions. It would then be incumbent on the Department to provide a reason for prohibiting this appointment. The way the section is written now, the Department may or may not approve the candidate, yet the licensee could be disciplined for the appointment.

### **§28-120.1 Tenant protection plan.**

*We request that this section have a specific exception added for Limited Alteration work permits.*

The Code states that the registered design professional is responsible for preparing the document and filing it with the Department. A Limited Alteration work application does not require a registered design professional and is therefore exempt from this requirement. Tenant Protection plans are proposed to be excluded in the upcoming Existing Building Code.

### **§28-105.5.2 Application for permit where a building is occupied.**

*We request that this section have a specific exception added for Limited Alteration work permits.*

We do not believe the intent of this section is to include Limited Alteration Applications. Limited Alteration Applications (LAA) are generally limited in scope and duration. This section requires the permit applicant to determine and list the total number of units in the building at the time of application and the number of units to be occupied during the course of the work. It also requires post approval amendments if occupancy changes during the course of the work. Strict compliance with this section will be extremely difficult and would add unnecessary costs and delays to the application process.

**In support of industry partner positions:**

**Article 419 Seizure and forfeiture.**

The fact that this Article has not been amended to include all unlicensed work wherever it occurs is hard to comprehend. As written, it is limited to a very narrow work scope of new work. The real danger to public safety is in existing buildings during the repair and alteration process.

This modification would finally provide the Department with a tool they need to conduct effective enforcement of unlicensed and unregistered plumbers. A primary function of the Department is to enforce the Codes. This makes it easier for them to do that.

**§28-408.1 Master Plumber license required.**

**§28-410.1 Master Fire Suppression Piping Contractor license required.**

These changes were proposed by the Department and opposed by the industry. The issue was mediated and the Department determined that their position was correct. The MPC respects the Code revision process which does not allow us to resubmit an issue after it has been mediated. That is the reason why we have not included it as one of our recommend changes. We respect that our industry partners felt strongly enough to reintroduce this issue. This issue was briefly discussed during oral testimony. We anticipate that it will be reviewed by the Council as part of this process and want to reaffirm our position on this proposed change.

We agree with the Department that a licensed Master Plumber should not have any restrictions placed upon the work they can perform. They have passed all of the required tests and were reviewed by the License Board. Why are we opposing this proposed change?

The Department's proposal would expand the ability of the city agency licensed Master Plumbers to undertake any plumbing or fuel gas work. The city agency licensed Master Plumbers are not in a position to provide effective supervision and are not in strict adherence with other aspects of the Code. This issue is not about whether a licensed plumber is qualified to perform a work scope; it is whether they are capable to do so. Under the present system they are not. They do not appear to maintain effective control over the work, fail to file reports for work, and the work is not inspected by the Department of Buildings. There may be city agencies employing plumbers that do not have a city agency licensed Master Plumber on staff. Recently, city agency plumbers were stopped by Department enforcement personnel from performing gas work without a required gas work qualification. To the best of our knowledge, no disciplinary actions were taken. If that were to happen to a private sector plumber, they would have been fined five thousand dollars per person found on the job. There are no city plumbers that maintain the required qualification to work on utility gas piping. How are they performing this work? In the past, city agency licensed Master Plumber candidates for a Master Plumber's license have been denied because the city agency licensed Master Plumber refused to provide a letter stating they supervised them thereby denying their experience. That is a perfect example of lack of effective supervision and in the private sector, could lead to disciplinary actions against the plumber. The reality is that without the ability to provide effective supervision city agency plumber should only be permitted to perform ordinary repair work. Please contact us if you require any additional information.

## MPC PROPOSED CHANGES

1. §28-105.4.4 Ordinary Plumbing Work
2. §28-417.1 Plumbing and fire suppression piping contractor license board
3. §28-318 Periodic Inspection of Gas piping systems
4. §28-423 Qualification for Gas Work
5. §28-303 Periodic Boiler Inspections
6. §28-105.4.1 Emergency Work
7. §28-101.5 Definition of Limited Alteration Application
8. §28-401.13 Late renewal
9. §28-401.18 NYC Location required
10. §28-408.5 Surrender of License or Seal
11. §28-408.3.1 Experience
12. §28-410.4.1 Experience
13. §28-401.3 Definitions Fire Suppression Work
14. Mechanical Code Section 202 Definitions
15. §28-401.19.4 Restrictions on a disciplined license
16. §28-120.3 Tennant Protection Plan
17. §28-105.5.2 Application for permit where building is occupied

## MPC PROPOSED CHANGES INTRO 875-2023

**NOTE: This document has been provided to Council legal staff to draft into legislation.**

**§28-105.4.4 Ordinary plumbing work.** The following ordinary plumbing work may be performed without a permit, provided that the licensed plumber performing such work: (i) provides a monthly report listing completed work and work in progress during the preceding month, including the block, lot and address of each job, a description of the work performed or in progress at each address, and the location in each building where the work was performed or is in progress; (ii) pays the fees for such work in accordance with this code; and (iii) submits to the department a certification that the work was performed in accordance with this code and all applicable laws and rules. Ordinary plumbing work shall include:

1. The relocation of up to two plumbing fixtures within the same room to a maximum of 10 feet (3048 mm) distant from the original location, and the replacement or alteration of related supply, waste, and vent piping associated with the fixture relocation, except in health care facilities.
2. The installation, replacement or repair of a food waste grinder (food waste disposal); dishwasher; instant hot water dispenser; icemaker; coffee machine; secondary back flow preventer and the replacement or repair of a sump pump.
3. The repair or replacement of a plumbing fixture; faucet or fixture fitting from the exposed stop valve to the inlet side of a trap not constituting an ordinary repair.
4. The repair of components of a plumbing appliance or plumbing appurtenance.
5. The replacement of a plumbing appurtenance.
6. In residential buildings occupied by five families or fewer, the replacement of a gas water heater or a gas fired boiler with a capacity of 350,000 BTU or less where the existing appliance gas cock is not moved, provided that the plumber has inspected the chimney and found it to be in good operational condition.
7. In buildings classified in occupancy group R-3, the replacement of a gas furnace with a capacity of 350,000 BTU or less where the existing appliance gas cock is not moved, provided that the plumber has inspected the chimney and found it to be in good operational condition.
8. The repair or replacement of plumbing piping, except gas piping, not longer than 25 feet (7620mm), or connected piping previously repaired or replaced under this provision.
9. The repair or replacement of plumbing branch piping except gas piping, serving the dwelling unit and including the placement of fixtures, limited to two bathrooms and one kitchen per dwelling unit.
10. The replacement of gas-burning domestic appliances limited to ranges, ovens, stoves, barbecues, and clothes dryers where the existing appliance valve remains and when such appliance replacement is in accordance with this code and the New York City Fuel Gas Code. The existing gas cock or appliance valve shall be accessible, in good working condition with no noticeable corrosion or deterioration, and in the closed off position.
11. The replacement of an appliance connector serving a domestic appliance where the existing appliance valve remains and when such appliance replacement is in accordance with this code and the New York City Fuel Gas Code. The existing gas cock or appliance valve shall be accessible, in good working condition with no noticeable corrosion or deterioration, and in the closed off position.

## **MPC PROPOSED CHANGES INTRO 875-2023**

### **ARTICLE 417** **BOARDS**

**§28-417.1 Plumbing and fire suppression piping contractor license board.** The commissioner shall appoint annually and may remove in his or her discretion each member of a plumbing and fire suppression piping contractor license board that shall have as its purpose the following:

1. To advise the commissioner regarding the character and fitness of applicants for certificates of competence and licenses who have passed the required examination.
2. To advise the commissioner regarding allegations of illegal practices on the part of licensed master plumbers, licensed master fire suppression piping contractors, master plumber businesses or master fire suppression piping businesses.
3. To advise the commissioner regarding plumbing and fire suppression piping practices, code applications, regulations and legislation.
4. To perform such other responsibilities as may be requested by the commissioner and as set forth in rules promulgated by the department.

**§28-417.1.1 Removal.** The commissioner may remove any member of the license board and shall fill any vacancy therein.

**§28-417.1.2 Membership.** Membership of the board shall consist of:

1. Two officers or employees of the department;
2. Five licensed master plumbers, three of whom shall be selected from nominees of the New York city contracting plumbing association whose members perform the largest dollar value of work within the city and one of whom shall be the holder of a class A or class B master fire suppression piping contractor license. The two remaining licensed master plumber board member positions shall be from the next largest plumbing association in the city of New York.
3. Two licensed master fire suppression piping contractors, both of whom shall hold a class A license and shall be selected from nominees of the New York city sprinkler/fire suppression piping contractors association whose members perform the largest dollar value of work within the city;
4. A registered journeyman plumber from the organization representing the largest number of registered journeyman plumbers;
5. A registered journeyman fire suppression piping installer from the organization representing the largest number of registered journeyman fire suppression piping installers;
6. An engineer having at least five years experience in the planning or design, and installation, of plumbing systems;
7. An architect;
8. An engineer who is a full member of the society of fire protection engineers;
9. Two officers or employees of the fire department representing the fire commissioner; and
10. A real estate owner or manager or representative thereof.

**§28-417.1.3 Organization of the board.** A member of the board who is an officer or employee of the department representing the commissioner shall serve as chairperson and all members shall serve without compensation. Nine members including the chairperson, who shall be entitled to vote, shall constitute a quorum of the board for the transaction of business. In the absence of a member or in the event of a vacancy, an alternate member of the board, may vote in the place and stead of the member for whom he or she is the alternate or on account of whom the vacancy exists. Alternate members shall be appointed and removed at the commissioner's discretion. All actions shall be conducted by majority vote except as otherwise provided, and the board shall keep minutes of its proceedings and records of its investigations. Except as otherwise determined by the chairperson, the board shall meet at least once a month.

**§28-417.1.4 Advisory and support personnel.** The board may request the commissioner to appoint duly authorized representatives to conduct investigations and other activities incidental to the functions of the license board. Such appointees shall be non-voting members of the committee to which they are appointed, and may include personnel who are not department employees who shall serve without compensation. In addition the commissioner may designate such employees of the department as the commissioner deems necessary to the service and support of the license board.

## **MPC PROPOSED CHANGES INTRO 875-2023**

§ 28-318.1 General.

Commencing January 1, 2019, building gas piping systems, other than gas piping systems of buildings classified in occupancy group R-3, shall be periodically inspected in accordance with this article.

[Exceptions:]

1. As part of the inspection, if it is determined that a building that contains no gas piping and is not currently serviced by a utility for gas [and for which the owner of such building has submitted to the commissioner, in a form and manner determined by the commissioner, a certificate of a registered design professional], a licensed master plumber or an individual under the direct and continuing supervision of a licensed master plumber with appropriate qualifications under section 28- 318.3.1, [or a person satisfying other qualifications that the commissioner may establish,] shall submit, in a form and manner determined by the commissioner, certification that such building contains no gas piping.

2. As part of the inspection, if it is determined that a building [that] contains gas piping but that is not currently supplied with gas, a licensed master plumber or an individual under the direct and continuing supervision of a licensed master plumber with appropriate qualifications under section 28- 318.3.1, [or a person satisfying other qualifications that the commissioner may establish,] shall submit, in a form and manner determined by the commissioner, certification that such building is not currently supplied with gas. [that does not contain any appliance connected to any gas piping and that complies with section ] 28-318.3.5.

§ 28-318.2 Frequency of inspection. An inspection of a building's gas piping system shall be conducted at periodic intervals as set forth by rule of the commissioner, but such inspection shall be conducted at least once every five years.

Exceptions:

1. If the New York state public service commission adopts a **revised** rule or other requirement for periodic inspections of service lines, as defined in section 255.3 of title 16 of the New York codes, rules and regulations, with a frequency other than five years, the commissioner may, by rule, require that the periodic inspections required by this article be conducted with such frequency.

2. The initial inspection for a new building shall be conducted in the tenth year after the earlier of (i) the issuance by the department of a letter of completion or, if applicable, a temporary or final certificate of occupancy for such building or (ii) the date such building was completed as determined by department rule.

§ 28-318.3 Inspection process.

Gas piping systems shall be inspected and tested in accordance with sections 28-318.3.1 through 28-318.3.4.

§ 28-318.3.1 Inspection entity. Inspections of gas piping systems shall be conducted on behalf of the building owner by a licensed master plumber or by an individual **holding a journeyman plumber registration issued in accordance with article 409 of chapter 4 of title 28 of the administrative code of the city of New York and working** under the direct and continuing supervision of a licensed master plumber, with appropriate qualifications as prescribed by department rule **but shall include successful completion of a training program acceptable to the department. The department shall require proof of such qualifications on any report and certification as required under Section 28-318.3.3.**

§ 28-318.3.2 Scope. At each inspection, in addition to the requirements prescribed by this article or by the commissioner, all [exposed] **visually accessible** gas lines from point of entry of gas piping into a building, [including building service meters, up to individual tenant spaces] **through the point of connection to**



any appliance that uses gas supplied by such piping, shall be inspected for evidence of [excessive atmospheric corrosion or piping deterioration] abnormal operating conditions that represents [has resulted in dangerous an] immediately hazardous condition, illegal connection[s], and or non-code compliant installation[s]. The inspection entity shall also [test] conduct a leak survey of all visually accessible gas lines from the point of entry of gas piping into a building through the point of connection to any appliance that uses gas supplied by such piping to determine if there is any indication of a gas leak. In addition to the above, all public spaces, hallways, and corridors, [and mechanical and boiler rooms;] on floors that contain gas piping or gas utilization equipment shall also be leak surveyed. [with a portable combustible gas detector to

Determine if there is any gas leak, provided that such testing need only include public spaces, hallways and corridors on floors that contain gas piping or gas utilization equipment.] The leak survey shall be conducted utilizing an instrument approved for leak surveys by the New York State Department of Public Service. The scope of the inspection shall be in compliance with Part 255 of Title 16 of the New York State Codes, Rules, and Regulations.

Exception: Other than as required to provide access to a point of entry location, gas piping or gas utilization equipment located inside of an individual dwelling unit in a building other than a building classified in occupancy group R-3, as defined by section 1102.1 of the New York City Building Code, shall not be required to be inspected.

§ 28-318.3.3 Report and certificate of inspection.

The inspection entity conducting an inspection of a building pursuant to this article and the owner of such building shall comply with the following requirements:

1. No later than 30 days after such inspection, such inspection entity shall submit to such owner (i) a report of such inspection, on a form and in a manner determined by the

department, and (ii) a certification of the licensed master plumber who performed or exercised direct and continuing supervision over such inspection that an inspection pursuant to this article has been completed for such building. Such report shall be certified by such licensed master plumber and, where applicable, by any individual who performed such inspections under the direct and continuing supervision of such licensed master plumber, and shall include, for each gas piping system inspected, a list of conditions including instances where a part or parts of such system is worn to such an extent that the safe and reliable operation of such system may be affected, gas leaks, any observed non-code compliant installations or illegal connections, any conditions described in section 28-318.3.4 and any additional information required by the department.

2. No later than the due date for such inspection, in accordance with department rules, and no earlier than 60 days before such due date, such owner shall submit a certification from a licensed master plumber that an inspection pursuant to this article has been completed by such licensed master plumber for such building, provided that the department may by rule establish an alternative timeframe for such submissions.

3. No later than 90 days after the due date for such inspection, in accordance with department rules, such owner shall electronically submit, or cause to be submitted by such inspection entity, such report to the utility company providing gas service to such building. Such submission shall only be required if, before the date that such submission would be required, the department has determined and set forth in a rule that such utility company will accept such electronic submission at no cost to such owner.

4. No later than 120 days after the due date for such inspection, in accordance with department rules, such owner shall submit to the department, in a form and manner determined by the department, (i) a certification from a licensed master plumber that all conditions that were identified in the inspection report for which a certification was submitted pursuant to item 2 of this section have been corrected, except that such certification may note that correction of one or more

conditions identified in such report, other than conditions referred to in section 28-318.3.4, will reasonably take additional time to complete and (ii) a certification from such owner that such owner is in compliance with item 3 of this section. If such certification notes that one or more conditions will take additional time to complete, such owner shall, no later than 180 days after the due date for such inspection, or by such later date as the department shall determine, submit to the department, in a form and manner determined by the department, a certification from a licensed master plumber that all conditions identified in such report have been corrected.

5. All reports and certifications required by this section shall be kept on file by the inspection entity and the building owner for at least eight years after the date of inspection and made available to the department at the department's request.

§ 28-318.3.4 Reporting and correction of [unsafe or hazardous condition.] **abnormal operating conditions that present an immediately hazardous condition.** If an inspection reveals [any of the following conditions]**an abnormal operating condition presenting an immediate hazard the inspection entity shall immediately take safety actions to protect life or property.**[t]The inspection entity shall notify the building owner, the utility, and the department immediately and the building owner shall immediately take action to correct such condition in compliance with the New York city construction codes.

1. [A gas leak;
2. Evidence of illegal connections or non-code compliant installations; or
3. Any other conditions which (i) if verified by a utility company or utility corporation , would constitute a class A condition as described in part 261 of title 16 of the New York Codes, rules and regulations or (ii) constitutes an imminently dangerous condition.]

**§ 28-318.3.4.1 Reporting and correction of abnormal operating conditions that do not present an immediate hazard. If an inspection reveals an abnormal operating condition that does**

not present an immediate hazard, the inspection entity shall:

1. For abnormal operating conditions occurring on service piping, the inspection entity shall follow the requirements under Part 261 of Title 16 of the New York State Codes, Rules, and Regulations, and follow the applicable utility procedure(s). The condition(s) shall be noted on the inspection form submitted to the Department.
2. For abnormal operating conditions occurring downstream of the point of delivery, the inspection entity shall notify the Department in a manner prescribed by the Department as well as the utility in a manner prescribed by the utility. The inspection entity shall note the conditions on the report form. For abnormal operating conditions that do not pose an immediate hazard, where the remediation of which could potentially increase risk of a piping system failure or would require a shutdown of the gas piping system, the Department shall notify the building owner of the abnormal operating condition while allowing for it to remain in service. The Department shall determine by rule the corrective work that will be required to remediate the conditions. Gas service shall only be interrupted when necessary to eliminate an immediate hazard to life or property. The Department shall notify the local gas utility company and the building owner of the decision prior to taking such action. The building owner shall take action to correct such conditions in compliance with the New York City Construction Codes. For conditions that are classified as non-hazardous and are permitted to remain in service, the owner shall remediate those conditions in accordance with Department rule. If the Department determines that no remedial work is required that information shall be noted on the report form by the inspection entity.

[§ 28-318.3.5 Buildings without active gas service.

A building otherwise required to undergo an inspection pursuant to section 28-318.1 that is not currently supplied with gas, and that has no appliance connected to any gas piping, shall not be required to undergo such inspection when the following is submitted to the department:

1. A signed statement from a person with authority to sign such statement on behalf of any utility company that would be responsible for the provision of gas service if such service were provided containing the following:

1.1. The last date upon which gas was supplied to the building; and

1.2. The date upon which gas service was no longer provided to the building.

2. A signed statement from the owner of such building containing the following:

2.1. A certification that the building no longer receives gas service; and

2.2. A certification that the building no longer contains appliances connected to gas piping.]

[§ 28-318.3.6 Resumption of gas service.

Where the owner of a building that has complied with section 28-318.3.5 seeks to resume gas service to such building, the owner must:

1. Obtain a certificate of approval of gas installation from the department; and

2. Comply with the inspection and certification requirements of sections 28-318.1, 28-318.2 and 28-318.3 and the rules of the department before gas service is resumed, regardless of whether such inspection and certification would otherwise be required for that building at that time.]

§ 28-318.3.7 Extension of time to complete inspection.

Owners who are unable to obtain an inspection of a building pursuant to this article by the date set forth in the rules of the department may receive a 180 day extension of the due date for such inspection, and the filing of any certification required to be filed after such inspection, upon notification to the department in a manner established by the department. The department shall conduct periodic outreach to owners of buildings with gas piping systems that must be inspected pursuant to this article regarding the availability of this extension.

§ 28-318.4 Fees.

The department may charge filing fees for the certifications required by section 28-318.3.3, as set forth in the rules of the department.

§ 28-318.5 Enforcement.

Failure by a building owner to submit a certification required by this article shall be classified as a major violation for the first offense and shall be liable for a civil penalty of ten thousand dollars (\$10,000.00), payable to the department. Failure by a building owner of a building classified in occupancy group r-3 to submit a certification required by this article shall be classified as a major violation for the first offense and shall be liable for a civil penalty of two thousand five hundred (\$2,500.00), payable to the department. A building owner may challenge the imposition of such civil penalty by submitting satisfactory proof of a timely and acceptable filing to the department, no later than thirty (30) days following the issuance of such violation by the department. Challenges must be made in writing, in a form and manner determined by the department. After such thirty (30) day period and for each subsequent offense, the building owner shall be liable for the civil penalty as prescribed above. The department shall issue civil penalties of no less than five thousand dollars (\$5,000.00) and no more than ten thousand dollars (\$10,000.00) for each additional thirty (30) day period such building owner fails to submit a certification required by this article. If such building owner fails to submit a certification within six (6) months of the due date as determined by department rule, the commissioner may request, in writing, pursuant to section six hundred forty-five of the New York city charter that the board of standards and appeals or a court of competent jurisdiction revoke the applicable certificate of occupancy of such building.

§ 2. This law shall take effect immediately.

**MPC PROPOSED CHANGES INTRO 875-2023**

**ARTICLE 423  
QUALIFICATION FOR GAS WORK**

**§28-423.1 Qualification required.** For the purposes of this article, “gas work” means work covered by section 101.2 of the New York city fuel gas code, where such work is required by this code to be performed under the direct and continuing supervision of a licensed master plumber, [~~provided that the term “gas work” shall not include periodic inspections required pursuant to article 318 of chapter 3 of title 28 of the administrative code.~~] On and after January 1, 2020, it shall be unlawful to perform gas work unless such work is performed by:

1. A licensed master plumber; or
2. A person working under the direct and continuing supervision of a licensed master plumber if such person:
  - 2.1. Holds a **full** gas work qualification pursuant to this article; or
  - 2.2. Holds a limited gas work qualification pursuant to this article and is performing such work under the direct supervision of (i) a person who holds a gas work qualification pursuant to this article or (ii) a licensed master plumber.

**Exception:** The provisions of this article shall not apply to gas work performed, serviced and maintained by utility corporations and subject to the jurisdiction of the New York state public service commission.

**§28-423.2 Applications for full gas work qualification.**

The commissioner shall issue a **full** gas work qualification to a person who submits satisfactory proof establishing that such person:

1. Has demonstrated an understanding of and proficiency and competency with gas work, including (i) a working familiarity with the fuel gas code and the ability to apply the requirements of such code correctly, (ii) the application of skills relating to gas work on the job site, (iii) a working knowledge of the tools for gas work and the ability to utilize such tools properly and (iv) an ability to draft simple diagrams and interpret from drawings for the purpose of performing gas work, by satisfying a requirement that the commissioner shall establish by rule; and
2. Satisfies one or more of the following:
  - 2.1. Such person is a registered journeyman plumber pursuant to article 409 of this chapter;
  - 2.2. Such person successfully completed an apprenticeship in plumbing through a program approved by the New York state department of labor and has at least one year of full-time experience performing or supervising plumbing work under the direct and continuing supervision of a licensed master plumber; or

- 2.3. Such person has at least five years of full-time experience **within the past seven years** performing or supervising [plumbing] **fuel gas** work under the direct and continuing supervision of a licensed master plumber, provided that at least one (1) year of such experience occurred in the city **under the direct and continuing supervision of a NYC licensed master plumber.**
- 2.4 **Such person possess a limited gas qualification for the period of time claimed working under the direct and continuing supervision of a NYC licensed master plumber.**

**§28-423.2.1 Concurrent applications.** The commissioner shall establish a procedure for concurrently applying for a journeyman plumber registration pursuant to article 409 of this chapter and a gas work qualification pursuant to this section. No application fee shall be charged to an applicant for a **full** gas work qualification if such applicant (i) is, at the time such application is filed, a registered journeyman plumber pursuant to such article or (ii) is applying concurrently for a journeyman plumber registration pursuant to such article and a gas work qualification.

### **§28-423.3 Applications for limited gas work qualification.**

The commissioner shall issue a limited gas qualification to a person who submits satisfactory proof establishing that such person:

1. Has at least [~~six~~] **three** months of full-time experience performing plumbing work under the direct and continuing supervision of a licensed master plumber; and
2. Satisfies one or more of the following:
  - 2.1. Such person has successfully completed a training program that (i) relates to gas work, (ii) is at least 16 hours and (iii) is approved by the commissioner;
  - 2.2. Such person is an apprentice in plumbing registered in an apprenticeship program approved by the New York state department of labor; or
  - 2.3. Such person satisfies such other requirement for demonstrating competence with gas work as the commissioner may establish by rule.

**§28-423.4 Expiration.** The gas work qualification shall have no expiration and need not be renewed or reissued. The limited gas work qualification shall expire five (5) years after issuance and may not be renewed.



## **MPC PROPOSED CHANGES INTRO 875-2023**

### **ARTICLE 303 PERIODIC BOILER INSPECTIONS**

**§28-303.1 General.** Periodic boiler inspections shall be performed in accordance with this article ~~[and the provisions of section 1011.3 of the New York City mechanical code.]~~

**§28-303.2 Annual inspections.** Except as otherwise provided in this article, each owner of a boiler, as defined in section 204 of the New York state labor law, excepting those boilers listed in subdivision [five] **§ 4-1.3 Application** of such section of such labor law, shall have such boiler inspected at least once a year in accordance with this article. ~~[All individuals who perform periodic inspections pursuant to this article shall be qualified under section 204 of the New York state labor law and the rules promulgated by the commissioner of labor or the commissioner of buildings.]~~

**§28-303.2.1 Internal inspection required.** All high pressure boilers shall have an annual internal inspection performed in accordance with section 204 of New York state labor law and the rules of the department. Where construction of a low pressure boiler allows, an internal inspection shall be performed on a periodic schedule in accordance with section 204 of the New York state labor law and the rules of the department.

**§28-303.2.2 External inspection required.** All high and low pressure boilers shall have an annual external inspection performed in accordance with section 204 of New York state labor law and the rules of the department. ~~[Such inspection shall include chimney connectors.]~~

**§28-303.2.3 Electric high pressure boilers.** Electric boilers operating at pressures or temperatures classified as high pressure boilers, as defined in the New York City mechanical code, shall be annually inspected as high pressure boilers in accordance with this article.

**§28-303.3 Qualifications of boiler inspectors.** All individuals who perform periodic inspections pursuant to this article shall have the qualifications set forth in the rules of the department [ and in section 28-303.3.1 or section 28-303.3.2 of this code, as applicable].

**Exception:**

**§28-303.3.1 High-pressure boilers.** Inspections required by section 28-303.2 of this code of a high-pressure boiler must be performed, in accordance with the rules of the department, on behalf of the owner, by boiler inspectors in the employ of a duly authorized insurance company who are qualified in accordance with section 204 of the New York state labor law.

~~[§28-303.3.2 Low-pressure boilers. Inspections required by section 28-303.2 of a low pressure boiler must be performed, in accordance with the rules of the department, on behalf of the owner, by boiler inspectors who are qualified in accordance with section 204 of the New York state labor law.]~~

**§28-303.4 Staggered inspection cycles.** The commissioner may by rule establish staggered inspection cycles for buildings required to comply with this article.

**§28-303.5 Repair of defects.** The owner of each boiler that is subject to periodic inspection shall correct any defects identified in the annual boiler inspection.

**§28-303.6 Reporting an unsafe or hazardous condition.** If an inspection reveals that any boiler is unsafe or hazardous to life and safety, ~~the device is to be immediately taken out of service by ]~~ the ~~[approved boiler ]~~ inspection agency performing the inspection ~~[and]~~ **shall notify** the building owner ~~[shall be notified],~~ **the utility and the department immediately.** ~~[Such agency shall notify the department of the unsafe or hazardous condition of the boiler within 24 hours after the condition is discovered.]~~ **and the building owner shall immediately take action to correct such condition in compliance with the New York City construction codes.** Notification to the department may be made by telephone, electronically or in writing.

**§28-303.7 Owner's annual boiler inspection report.** The owner of each boiler that is subject to inspection pursuant to section 28-303.2 shall file a signed annual report with the commissioner in accordance with the rules of the department within 14 days after the required annual inspection of the boiler has been performed. Extensions of time to file such report may be granted in accordance with the rules of the department. The report shall include, but shall not be limited to:

1. The location of the boiler.
2. The name and address of the inspector, the qualification of the inspector to perform the inspection, the date of inspection and if the inspector is a qualified boiler inspector in the employ of a duly authorized insurance company, the policy number covering the boiler.
3. A list of all defects found in the inspection for each device inspected.

**§28-303.7.1 Affirmation of correction.** **The owner must file an affirmation that a**~~[A]~~ll defects identified in the annual boiler inspection report shall be corrected within 90 days after the date of initial inspection. The department may grant an extension of 45 days upon submission of an application by the owner demonstrating a practical difficulty in complying within the 90 day timeframe. In no case shall a single extension request be granted for more than 45 days, and no more than two such extensions be granted for a specific defect. An affirmation of correction shall be filed within 14 days of the date of correction.

**§28-303.8 Scope of inspection.** During required inspection ~~[and testing, in addition to any other requirements prescribed by this code or the rules of the department ]~~the **boiler(s)** ~~[equipment]~~ shall be inspected to ~~[determine]~~ **provide practical assurance** that they are in safe operating condition ~~[and that parts subject to wear have not worn to such an extent as to affect the safe and reliable operation of the boiler.]~~

The required inspections shall:

1. Be completed in accordance with 12 NYCRR Part 4 and 12 NYCRR Part 14 of section 204 of the NYS Labor Law.
2. Be completed in accordance with applicable sections of the *National Board Inspection Code.*
3. Be completed in accordance with the rules of the Department.
4. Include the **review** of testing documentation for all controls and safety devices.
5. Be subject to the quality control measures of the department.

**§28-303.9 Removal or discontinuance notice.** The owner of a boiler that is removed or discontinued from use shall file a written notice of such removal or discontinuance with the commissioner within 30 days of the date of removal or discontinuance.

**§28-303.10 Additional inspections.** In addition to the inspections required by this article, the commissioner may make such additional inspections as required to enforce the provisions of this code.

**§28-303.11 Fees.** The owner of each boiler subject to periodic inspection pursuant to this article shall pay to the department an annual fee for each boiler in the amount prescribed by this code to cover the city's administrative and supervisory costs. The fee shall be payable at the time of the filing of the owner's annual boiler inspection report. No fee shall be charged for additional inspections made by the department pursuant to section 28-303.10.

## **MPC PROPOSED CHANGES INTRO 875-2023**

**§28-105.4.1 Emergency work.** Work that would otherwise require a permit may be performed without a permit to the extent necessary to relieve an emergency condition **and to restore the system to a good working condition.** An application for a permit shall be submitted within 2 business days after the commencement of the emergency work and shall include written description of the emergency condition and the measures undertaken to mitigate the hazard. Emergency work may include but shall not be limited to:

1. Erection of sidewalk sheds, fences, or other similar structures to protect the public from an unsafe condition.
2. Stabilization of unsafe structural conditions.
3. Repair of gas leaks.
4. Repair or replacement of heating **appliances or equipment** [~~or hot water equipment servicing education or residential occupancies~~] during the heating season, which is [~~between~~] **from** October 1 [~~and~~] **through** May 31 [, as established by the New York city housing maintenance code or education occupancies between].
5. Replacement of parts required for the operation of a [~~combined~~] standpipe or sprinkler system.

## **MPC PROPOSED CHANGES INTRO 875-2023**

**Note: Only sections with proposed changes are included here**

**§28-101.5 DEFINITIONS. AS USED IN THIS CHAPTER AND ELSEWHERE IN THIS TITLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT OR SUBJECT MATTER REQUIRES OTHERWISE:**

**LIMITED ALTERATION APPLICATION.** Application for limited oil-burning appliance alterations, limited plumbing alterations, limited sprinkler alterations and limited standpipe alterations submitted pursuant to exception 1 of section 28-104.6. ~~[Such work shall not include any associated work that would otherwise require an alteration permit including, but not limited to, any construction of fire-rated partitions and enclosures.]~~

**Category 1** work shall be limited to a new installation into an existing building or system. ~~[The utilization of this category shall be limited by an annual monetary cap.]~~

**LIMITED PLUMBING ALTERATIONS.** An installation, replacement, repair or alteration to a plumbing or fuel gas piping system, including fixtures and appliances, that is limited in scope, falling into one of the following categories:

**Category 1.** An addition to an existing plumbing or fuel gas piping system or service ~~[where the total cost of the proposed Category 1 work in the building does not exceed \$50,000 in any 12-month period and]~~ where the proposed work is limited to the following:

**Category 2.** The repair, replacement of or alteration to an existing plumbing or fuel gas piping system that is not subject to cost or duration limitations and that is limited to the following:

12. Rearrangement of not more than 20 sprinkler heads in areas classified in light hazard occupancy, as such term is defined in NFPA 13 as amended by appendix Q of the New York City building code, provided such areas are already sprinklered and such areas will remain in such occupancy. ~~[, and provided further that all such sprinkler heads were legally installed off of a domestic water system]~~ ; **and**
13. Rearrangement of not more than 20 sprinkler heads in restaurant service areas classified in Group 1 ordinary hazard occupancy, as such term is defined by NFPA 13 as amended by appendix Q of the New York city building code, provided such areas are already sprinklered and such areas will remain in such occupancy. ~~[, and provided further that all such sprinkler heads were legally installed off of a domestic water system];~~ and
14. Rearrangement of not more than 20 sprinkler heads in mercantile areas classified in Group 2 ordinary hazard occupancy, as such term is defined by NFPA 13 as amended by appendix Q of the New York city building code, provided such areas are already sprinklered and such areas will remain in such occupancy. ~~[, and provided further that all such sprinkler heads were legally installed off of a domestic water system].~~

## **MPC PROPOSED CHANGES INTRO 875-2023**

**§28-401.13 Late renewal and reinstatement.** If a license or certificate of competence expires, the individual may apply for late renewal of the license or certificate of competence within one (1) year of the date of its expiration without examination but subject to applicable late renewal fee. **Thereafter, and up to three years after the date of expiration, the commissioner may reinstate the license or certificate of competence without examination upon the applicant's demonstration to the commissioner's satisfaction of continued competence in the respective trade and satisfaction of any applicable continuing education requirements but subject to applicable late renewal and reinstatement fees. Applicants for late renewal and reinstatement shall provide evidence satisfactory to the department that he or she is fit to perform the work authorized by the particular license as provided by department rule. A license or certificate of competence shall not be reinstated after three years from date of expiration. The department may refuse to reinstate a license or certificate of competence on any grounds on the basis of which it could deny, suspend or revoke such license.**

## **MPC PROPOSED CHANGES INTRO 875-2023**

**§28-401.18 New York City location required.** Except as otherwise noted for a particular license, the holder of a license, other than an employee of a city agency, shall have or be employed by a business entity that has an established place [~~dedicated to the licensee's~~] business with an address within the city of New York at which such person can be contacted by the public and the department by mail, telephone, electronic mail or other modes of communication [~~during usual business hours~~]. A post office box [~~or virtual office~~] is not acceptable.

## **MPC PROPOSED CHANGES INTRO 875-2023**

**§28-408.5 Surrender of license or seal.** Upon the death or the retirement of a licensed master plumber, or upon the surrender, revocation or suspension of his or her license, his or her license, and seal shall immediately be surrendered to the commissioner. **If applicable, any licensee associated with the business shall assume any open applications filed on or after the effective date of this Code by the retired or deceased licensee under such license in accordance with department procedures** Nothing contained herein shall be construed to prevent the legal representative of a deceased licensee, with the consent of the commissioner, from retaining such seal for the purpose of completing all unfinished work of the deceased licensee for which ~~[plans have been approved and]~~ a permit issued, provided such work is performed by or under the direct and continuing supervision of a licensed master plumber and is completed within one (1) year from the date of the death of the original licensee.~~[ Retired licensees and the legal representatives of deceased licensees shall schedule for inspection, withdraw or have another licensee re-file any open application filed under such license in accordance with department procedures.]~~



## **MPC PROPOSED CHANGES INTRO 875-2023**

**§28-408.3.1 Experience.** All applicants for a master plumber license shall submit satisfactory proof establishing that the applicant:

1. Has at least seven (7) years total experience, within the ten (10) years prior to application, in the installation; **alteration and repair** of plumbing systems and the planning or design of plumbing systems under the direct and continuing supervision of a licensed master plumber in the United States, with at least two (2) years of such experience as a registered journeyman plumber **with a gas work qualification** in accordance with the provisions of article 409 **and 423**;
2. Has received a bachelor's degree in mechanical engineering or appropriate engineering technology from an accredited college or university and has at least five (5) years total experience, within the seven (7) years prior to application, in the installation; **alteration and repair** of plumbing systems and the planning or design of plumbing systems under the direct and continuing supervision of a licensed master plumber in the United States, where at least two (2) years of such experience were in New York city;
3. Is an architect or engineer with at least three (3) years of experience, within the five (5) years prior to application, in the installation; **alteration and repair** of plumbing systems and the planning or design of plumbing systems. All required experience must be under the direct and continuing supervision of a licensed master plumber in the United States, and at least one (1) year of such experience must be in New York city;
4. Has at least seven (7) years total experience, within the ten (10) years prior to application, with at least two (2) years of such experience working with installation; **alteration and repair** of plumbing systems and in the planning or design of plumbing systems under the direct and continuing supervision of a licensed master plumber in the United States. The balance of such required experience may be obtained by performing maintenance, replacement and repair plumbing work on existing buildings while in the employ of a city agency under the direct and continuing supervision of a licensed master plumber supervisor employed by the city agency. The two (2) years' experience in the installation of plumbing systems and in the planning or design of plumbing systems set forth above may only be satisfied by working as a registered journeyman plumber **with a gas work qualification in accordance with the provisions of article 409 and 423**or
5. Has experience as an employee of a government agency, or a private inspection agency or other entity as specified in department rules, whose duties primarily involve the inspection of plumbing work for compliance with the New York city plumbing code and/or other laws relating to the installation, alteration or repair of plumbing systems that shall be credited for fifty percent (50%) of the number of years that he or she has been satisfactorily employed in such duties within the ten (10) year period prior to application, which, however, in no event, shall exceed two and one-half (2.5) years credit of satisfactory experience. The balance of the required seven (7) years must have been obtained by working with installation of plumbing systems and in the planning or design of plumbing systems under the direct and continuing supervision of a licensed master plumber in the United States, except that the requirement of paragraph 1 of this section that an applicant's working experience must have been

within the ten (10) year period prior to application shall not apply to such balance of the work experience required pursuant to this paragraph.

## **MPC PROPOSED CHANGES INTRO 875-2023**

**§28-410.4.1 Experience.** All applicants for a master fire suppression piping contractor license shall submit satisfactory proof establishing that the applicant:

- 6- Is a NYC licensed master plumber with at least three 3 years of experience, within the five 5 years prior to application, in the performance of fire suppression piping work, including the planning or design of fire suppression piping systems. All required experience must be under the direct and continuing supervision of a NYC licensed master fire suppression piping contractor. Applicants may only apply for a Class B license.

## **MPC PROPOSED CHANGES INTRO 875-2023**

**§28-401.3 Definitions.** As used in this chapter, the following terms shall have the following meanings unless the context or subject matter requires otherwise.

**FIRE SUPPRESSION PIPING WORK.** The installation, maintenance, repair, modification, extension, or alteration or testing of a fire suppression piping system in any building in the city of New York. [~~Fire suppression piping work shall not include plumbing work.~~]

## **MPC PROPOSED CHANGES INTRO 875-2023**

### **SECTION MC 202 GENERAL DEFINITIONS**

**APPLIANCE, EXISTING.** Any appliance regulated by this code that was [~~legally~~] installed prior to the effective date of this code, or for which a permit to install has been issued.

**EQUIPMENT, EXISTING.** Any equipment regulated by this code that was [~~legally~~] installed prior to the effective date of this code, or for which a permit to install has been issued.

## **MPC PROPOSED CHANGES INTRO 875-2023**

**§28-401.19.4 Restriction on disciplined licensees. Prior approval from the Department is required before a** [A] person who previously held a license that was surrendered subsequent to commencement of a Department disciplinary action, or had their license revoked or was denied renewal, may ~~[be prohibited from ]~~ serve ~~[ing]~~ as an officer, director, partner, manager, or licensed individual of a licensed business, ~~[ whether or not the individual had knowledge of or participated in the prohibited acts or omissions for which the license was surrendered, revoked or denied renewal ]~~. The election or appointment of that person by another licensee **prior to Department approval may** ~~[shall]~~ constitute grounds for disciplinary action.

## **MPC PROPOSED CHANGES INTRO 875-2023**

**§28-120.3 Contractor statement.** The permit holder for the underlying alteration, construction, or partial demolition shall sign a statement certifying that the tenant protection plan submitted by the registered design professional coordinates with the scope of work intended.

**Exception:** This statement shall not be required for:

1. Work in occupied one- and two-family homes.
2. Work limited to the interior of a single dwelling unit of an occupied multiple dwelling with no disruption to the essential services of other units, where such dwelling is owner -occupied. For a dwelling unit within a property that is owned by a condominium or held by a shareholder of a cooperative corporation under a proprietary lease, the unit must be occupied by the owners of record for such unit.
- 3- **Work completed under a Limited Alteration Application**

## **MPC PROPOSED CHANGES INTRO 875-2023**

**§28-105.5.2 Application for permit where a building is occupied.** All applications for permits for work on a building having more than three dwelling units shall state (i) the total number of units in the building at the time the application is filed, (ii) the number of units occupied at the time the application is filed, and (iii) the number of units to be occupied during the course of the work. The work permit application shall be amended prior to occupancy of any units that were not initially counted as being occupied during the course of the work.

**Exception:** This statement shall not be required for:

1. Work in occupied one- and two-family homes.
2. Work limited to the interior of a single dwelling unit of an occupied multiple dwelling with no disruption to the essential services of other units, where such dwelling is owner -occupied. For a dwelling unit within a property that is owned by a condominium or held by a shareholder of a cooperative corporation under a proprietary lease, the unit must be occupied by the owners of record for such unit.
- 3- **Work completed under a Limited Alteration Application**



To: Honorable Pierina Sanchez  
New York City Council Committee on Housing & Buildings

From: Melissa Barbour, Mechanical Contractors Association of New York's  
New York Fire Sprinkler Council, [melissa@nymca.org](mailto:melissa@nymca.org)

Date: January 24, 2023

Re: Testimony on Intro. 875/2023 – A Local Law to amend the administrative code of the city of New York, the New York city plumbing code, the New York city building code, the New York city mechanical code and the New York city fuel gas code, in relation to technical corrections, clarifications and modifications to provisions of the New York city construction codes

*Building Code Sections:*

Article 417 - BOARDS

§28-401.18 New York city location required.

§28-410.1 Master fire suppression piping contractor license required.

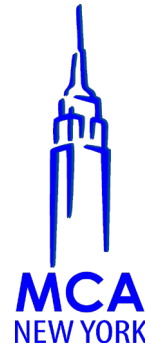
§28-410.4.1.1 Domestic water-supplied system experience.

§28-101.5 Definitions. Limited Sprinkler Alteration.

**Introduction:**

My name is Melissa Barbour. I represent the Mechanical Contractors Association of New York, Inc.'s New York Fire Sprinkler Council. MCA represents licensed fire suppression contractors that are responsible for the installation, inspection, testing and maintenance of fire-suppression systems in tens of thousands of high-density residential, commercial, and industrial buildings, including hospitals, universities, power plants and water treatment facilities across the New York region. We represent the most competent, informed and highly skilled contractors in New York City and Long Island and regularly provide internal educational seminars and programs for our members that further the life-saving message of the importance of proper fire protection. I am currently a member of the Department of Buildings Sub-Operations Committee, and I served as a member of the Department of Buildings Administrative & Enforcement Advisory Code Committee as well as the Administrative & Enforcement Existing Building Code Committee. The Department of Buildings and committee members spent a substantial amount of time thoroughly reviewing, updating, and making some significant positive changes to the Code including the expansion of work performed through Limited Alterations. We truly appreciated being a part of this process.

While the Administrative and Enforcement Committee did solicit significant industry input, it was not a committee that needed to reach a consensus for changes to move forward in the process. Therefore, when the Department of Buildings felt strongly about something they wanted to change, the Department had the option to move that item along despite industry concerns or committee member objections. Today I ask that Intro. 875 be amended regarding four proposed changes that moved forward despite industry objections, and we ask the Council to consider the addition of one section. Everything I am discussing is found in General Administrative Provisions Chapters 1-4.



**Item 1. DOB's Elimination of the Plumbing and Fire Suppression Piping Contractor License Board.** The new Building Code strikes out the Plumbing and Fire Suppression Piping Contractor License Board. We urge the Council to reintroduce this provision in the Code.

**ARTICLE 417-BOARDS**

~~§28-417.1 Plumbing and fire suppression piping contractor license board. The commissioner shall appoint annually and may remove in his or her discretion each member of a plumbing and fire suppression piping contractor license board that shall have as its purpose the following:~~

- ~~1. To advise the commissioner regarding the character and fitness of applicants for certificates of competence and licenses who have passed the required examination.~~
- ~~2. To advise the commissioner regarding allegations of illegal practices on the part of licensed master plumbers, licensed master fire suppression piping contractors, master plumber businesses or master fire suppression piping businesses.~~
- ~~3. To advise the commissioner regarding plumbing and fire suppression piping practices, code applications, regulations and legislation.~~
- ~~4. To perform such other responsibilities as may be requested by the commissioner and as set forth in rules promulgated by the department.~~

The primary purpose of a licensing board is to protect the public by helping to ensure that people entering a certain field have met all qualifications; to advise the Department on certain industry practices; to advise on potential legislation, new regulations, or products; and make recommendations to the Department regarding disciplinary action against entities who have violated the building code.

When I began attending New York City Department of Buildings License Board meetings (over 25 years ago), the above practices took place. The Department looked to the industry as a partner and found that the input provided by licensed contractors, engineers, trade unions, the New York City Fire Department and others was a valuable resource. Slowly over the past several years, this has changed. The Department no longer seems receptive to License Board member feedback. The Department should reevaluate its perspective and utilize the knowledge and skill set of this talented pool of individuals willing to volunteer their time to improve the industry.

Plumbing & Fire Suppression License Boards are present in a significant number of jurisdictions in New York State and around our country. They are an industry norm.

Local governments are continually looking at how to improve the quality of life for their citizens. The best decision-making is a result of multiple perspectives, including the perspectives of community and industry members. The existence of licensing boards may help consumers to feel safe and secure with the knowledge that those providing a service are subject to oversight and regulation. Eliminating this established license board will eradicate an important Department resource and remove a vital layer of transparency.

We urge you to reinstate License Board language.

**Item 2. Opposition to language change in §28-401.18 requiring “Dedicated” Office Space.**

***§28-401.18 New York city location required.*** *Except as otherwise noted for a particular license, the holder of a license, other than an employee of a city agency, shall have or be employed by a business entity that has an established place [of] dedicated to the licensee’s business with an address within the city of New York at which such person can be contacted by the public and the department by mail, telephone, email or other modes of communication during usual business hours. A post office box or virtual office is not [an] acceptable [address].*

We question the intent of adding the wording ‘dedicated to the licensee’s’. During the administrative code review, we were not able to obtain an answer from the Department as to the intent of this provision. We are supportive of the Department’s intent to have a permanent physical location where a licensee can be contacted. However, we also think that the City needs to be cognizant of the cost of New York City office space. Many New York City businesses share space and rent rooms from other businesses. In certain circumstances, a shared space or lease of a room may be the only feasible solution for a small mom and pop business, someone newly licensed, especially an individual who spends the majority of his or her time in the field. We believe that the language “dedicated to the licensee’s” should be struck. The license holder will still be required to have physical space located in New York City and meet the intent of the code.

**Item 3. Opposition to Removing the Current Code Restrictions on Work Performed by Licensed City Employees**

***§28-410.1 Master fire suppression piping contractor license required.*** *It shall be unlawful for any person:*

*1. To perform fire suppression piping work unless such person is a licensed master fire suppression piping contractor or working under the direct and continuing supervision of a licensed master fire suppression piping contractor, except that a city employee who holds a license may only perform [~~replacement, maintenance and repair~~] fire suppression piping work on existing buildings in the course of his or her employment.*

The updated Code now allows licensed city employees to conduct all fire sprinkler work including major alterations. Previously, the Code limited city-employed persons with a fire suppression license to replacement, maintenance, and repair work. Major alteration work could only be performed by licensed fire sprinkler firms owned and operated by one or more licensed individuals who were in direct control of their company. In addition, anyone who performed such work had to be in the “direct employ” of the licensed firm. Licensed firms must provide insurance and be supervised, owned, and controlled by individuals who are licensed. Licensed firms also have a strong financial incentive to properly train, require safe work practices and supervise those working under their license. Licensed Master Fire Suppression Contractors also have the authority to hire and fire the individuals working for them. The current licensing provisions help ensure the safety of the public. Since fire sprinkler systems are passive life safety systems it is essential that they are installed correctly and operate properly when activated, not only to protect building property but also to allow occupants enough time to evacuate. City employed license holders do not have the ability to exercise the same control of who performs work under their supervision.

We believe that the City is opening itself up to potential problems by utilizing its own employees to perform major fire sprinkler alteration or installation work. If these systems are not installed properly, significant liability and safety concerns will arise. Fire sprinkler systems provide a critical role in providing safe conditions for occupants and property. Major alteration work should be limited to licensed individuals maintaining control and supervision of their business.

**Item 4. Remove the allowance for domestic water-supplied system experience to count towards a Master Fire Suppression Piping Contractor License.** The new code language reads: §28-410.4.1.1 *Domestic water-supplied system experience. Work on 30 or fewer sprinkler heads off the domestic water shall be considered qualifying experience for a master fire suppression piping contractor license pursuant to this section. Such experience shall qualify when the applicant is working as a licensed master plumber, or an individual working under the direct and continuing supervision of either a licensed master plumber or a master fire suppression piping contractor. The balance of the experience required under all qualification bases must be in the performance of fire suppression piping work as defined in section 28-401.3 under the direct and continuing supervision of a licensed fire suppression piping contractor.*

We believe that the above language should be struck for the following reasons:

In the new Building Code, Section 903.8 has been significantly modified regarding limited area sprinklers (sprinklers off a domestic water system.) The revised code language limits the number of sprinklers that can be installed in any single fire area. It also requires that limited area sprinklers are only installed in areas classified by NFPA 13 as Light Hazard or Ordinary Hazard Group 1. Furthermore, where a limited area sprinkler system is installed in a building with an automatic wet standpipe system, sprinklers shall be supplied by the standpipe system.

This change was put forth and approved by the Fire Protection Code Committee. Similar language can be found in the 2018 ICC. A few of the reasons that support the adoption of this code change include; domestic water systems are not capable of being supplemented by the FDNY during an emergency (no fire department connection); there are very few, if any, circumstances that would require any sort of electronic supervision of tamper or waterflow conditions on systems tied into domestic water systems; and the previous standard for limited area sprinkler installation did not take into effect the use of domestic water by plumbing fixtures during sprinkler operation.

Experience installing sprinklers off a domestic water system is extremely limited in scope and the credit now being granted through the updated code is neither justified nor earned.

This change can only serve to harm the integrity of the New York City Master Fire Suppression license. During the last Code Revision Cycle, the plumbing industry advocated for plumbing experience to count toward a fire sprinkler license and the Department pushed back on this ask, standing firm in its correct conviction that plumbing and sprinkler are two distinct trades. It was the consensus of the Administrative Code Committee and the Department that this experience should not count towards a Master Fire Suppression Piping Contractor License. The adoption of the above language in §28-410.4.1.1 was put in last minute and was done outside the parameters of the code revision process.

**Item 5. Expand Limited Alteration Applications to Include a New Category of Work that Does Not Require DOB Inspections.**

Our final recommendation is regarding **§28-101.5 Definitions. Limited Sprinkler Alteration**. The MCA of New York applauds all of the changes the Buildings Department made regarding Limited Sprinkler Alterations Category 1 & 2. The Department and Industry worked many hours together to create positive changes that will benefit owners, the Department, and the industry. The Existing Building Code committee is also addressing Limited Sprinkler Alterations. The EBC will include a new Limited Alteration category of work, Category 3. Category 3 work does not require DOB inspections. This would allow the Department to capture work that is most likely not currently filed (but is supposed to be) at a minimal cost. Category 3 work has already been agreed to and accepted in the EBC process by the Department and the committees. Rather than wait for the Existing Building Code to come before the Council in a separate bill, we respectfully request the agreed to Category 3 work be included in Intro. 875. It is found below:

*Category 3. An alteration, repair, or replacement of components of an existing sprinkler system that may be performed without the requirement of associated department inspections and that are limited to:*

- 1. Direct replacement of drain piping.*
- 2. Direct replacement of water flow, valve tamper, high-low pressure and similar switches, provided that any electrical wiring is performed in accordance with the provision of the New York City Electrical Code and this code.*
- 3. Direct replacement of fire suppression related valves, gauges and controls.*
- 4. Repair or replacement of fire pump system components of same type and capacity including seals and repacking of pump shafts.*
- 5. The emergency replacement of up to 6 defective sprinkler heads, provided that orifice sizes, type and deflector positions remains the same.*

Thank you for your consideration. Please contact me with any questions.

January 27, 2023

Adrienne E. Adams, Speaker  
The New York City Council  
250 Broadway  
New York, NY 10007

**Re: Proposed NYC Code Revisions Introduced by Local Laws 875 and 876**

Dear Speaker Adams:

The Brooklyn Union Gas Company d/b/a National Grid NY (“National Grid” or the “Company”) submits these comments in response to the proposed amendments to the New York City charter and New York city administrative, building, mechanical, fuel gas, and plumbing codes introduced as Local Laws 875 and 876 on January 4, 2023 by Council Member Pierina Ana Sanchez. The changes were reviewed at a hearing held on January 25, 2023 by the Council’s Committee on Housing and Buildings.

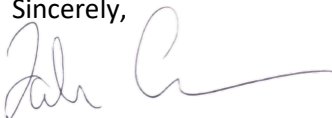
Local Laws 875 and 876 propose various technical corrections, clarifications, and modifications to existing definitions and requirements in the codes. The bills also propose new language to incorporate green building and energy standards applicable to new construction and certain reconstruction and/or restoration work performed on existing buildings within the city. The changes would establish new requirements for construction and building activities based on, *inter alia*, a project’s cost, occupancy groups, energy use, and scope of work (ex. electrical, HVAC, or plumbing). The proposed changes do not directly impact the Company’s operations as a gas distribution utility, and primarily appear to affect work performed by contractors, plumbers, and building owners on buildings and customer jurisdictional piping. However, if adopted, the changes will impact New York City housing and construction requirements, and impose additional, and potentially more onerous, requirements on building owners, contractors, and plumbers performing that work.

National Grid supports a clean energy transition that is balanced, fair, and affordable for customers, building owners, the trade community, and other impacted stakeholders. To that end, the Company published our Clean Energy Vision last year, outlining our plan to be a leader in the clean energy transition by reducing emissions and providing customers with affordable and reliable options to support clean energy choices. State, federal, and local legislation will play a pivotal role in the clean energy transition. Legislation to advance the transition needs to be supportable and sustainable to ensure a fair and affordable transition for all impacted stakeholders. Changes that simplify and add clarity to requirements to allow affected stakeholders to perform their work more efficiently will support the transition. Conversely, changes that are too onerous, restrict available choices, and not appropriately phased may exclude certain groups and alternative fuel options from the transition. The

proposed legislation will potentially make it more difficult for customers, building owners, and plumbers to maintain existing customer jurisdictional gas piping, and restrict the ability to utilize such piping in the future. It is imperative that any proposed legislative changes recognize the need to provide safe, reliable, and affordable service to customers and businesses in the near-term, and appreciate the role that existing fuel sources and infrastructure, such as natural gas, will need to play as we shift to renewable and carbon-free energy sources. Indeed, as we have seen with recent discussions at the federal level regarding a potential gas stove ban, any such legislation needs to be supported by credible research from the academic community, and provide affected industries and consumers with reasonable timelines and alternatives for the transition.

National Grid appreciates the opportunity to comment on changes that will impact the customers and communities it serves. The Company believes that additional dialogue between impacted parties regarding the changes proposed in Local Laws 875 and 876, and their projected impact, will help advance informed legislation that supports the clean energy transition and is appropriately paced to include all customers and businesses in New York City. The Company looks forward to continuing to work with New York City and affected stakeholders on clean energy transition initiatives.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Aaron Choo', with a long horizontal flourish extending to the right.

Aaron Choo

Vice President

Gas Field Ops & Programs



**Written Testimony by the New York State Nurses Association  
(Part of the Climate Works for All Coalition)  
Committee on Housing and Buildings  
January 24, 2023**

**Nella Pineda-Marcon, BSN, RN-BC  
Mount Sinai Morningside  
Board Secretary; Chair of the Climate and Environmental Justice Committee**

As nurses on the frontlines of patient care we have seen up close the horrors of the COVID-19 pandemic. We have seen the deep impact that the pandemic has had on low income communities of color. We know that this is just a preview of what lay ahead if we do not take climate change seriously. It is critical that we heed the warning.

In fact, we have already seen the destruction that climate change and environmental degradation has had on the health of our patients. Increases in heat have contributed to an increase in hypertension. Pollutants are being discharged into our city air, causing a steady increase in chronic asthma conditions in our most vulnerable communities. In addition, these communities also face environmental injustices like contaminated water supplies and tainted soil. They are also the ones that are usually hit the hardest by catastrophic events such as Superstorm Sandy.

We are proud members of the Climate Works for All coalition, a coalition of unions, climate and environmental justice organization and advocacy groups. We fought hard to ensure that Local Law 97 was enacted and now we must ensure it is implemented in the best, most efficient way possible. We have an opportunity with Local Law 97 to create 40,000 good, green jobs for New Yorkers. We urge this body to commit to prioritizing labor standards throughout its implementations. These should be public jobs and include the hiring of city workers.



Additionally, we are in agreement with the Climate Works for All Coalition in asking the council to amend the legislation to make changes to Section 28-320.6.1.1 of the Admin. Code relating to renewable energy credits. We are asking for the following:

- Add an amendment to the legislation to include a timeline for when the regulations on the limits of renewable energy credits will be determined
- Limiting renewable energy credits to 10% of a building's overages. A strict limit on renewable energy credits will assist with aggressively reducing targeted emissions from the building sector. The report released by the Comptroller's office shows that capping renewable energy credits to 10% would result in 93% reduction in emissions from buildings covered by the law. Without limits, far too many buildings could choose to comply by purchasing renewable energy credits instead of carrying out upgrades.
- The Department of Buildings must explain what they are considering as "Environmental Justice impacts" as mentioned in the proposed legislation and clarify whether experts will be consulted by the Department of Buildings on this issue.
- We are calling on the Department of Buildings to change language in the proposed legislation from "may" to "shall" to ensure that a limit on the purchase of renewable energy credits will in fact be implemented.

Thank you for your time and consideration.



**Testimony of Alia Soomro, Deputy Director for New York City Policy  
New York League of Conservation Voters  
City Council Committee on Housing and Buildings  
Oversight Hearing on Accessory Dwelling Units and a Pathway to Basement Legalization  
January 24, 2023**

Good afternoon, my name is Alia Soomro and I am the Deputy Director for New York City Policy at the New York League of Conservation Voters (NYLCV). NYLCV is a statewide environmental advocacy organization representing over 30,000 members in New York City. Thank you, Chair Sanchez and members of the Committee on Housing and Buildings for the opportunity to testify today.

One of NYLCV's top policy goals is moving New Yorkers away from fossil fuel-powered vehicles to fight climate change and improve the City's air quality. Fossil fuel-powered vehicles damage our public health by emitting harmful pollutants, most often concentrated in low-income and communities of color due to environmental racism in the siting of toxic waste facilities and our country's historic highway construction.

NYLCV supports the passage of Intro 150, sponsored by Councilmember Justin Brannan, which would increase the number of electric vehicle (EV) charging stations in open parking lots and parking garages. This bill would require that 40% of all parking spaces in existing garages and open lots be capable of supporting electric vehicle charging stations (EVCS) by 2030. This bill would also require that 10% of parking spaces in existing garages and open lots install electric vehicle supply equipment (EVSE) by 2030 and 20% of such spaces install EVSE by 2035.

Expanding EV charging infrastructure is vital as the City strives to meet the State's emissions reduction goals set out in the Climate Leadership and Community Protection Act. Intro 150 will make EV charging infrastructure more accessible throughout the City, especially since the [majority of the City's publicly-accessible charging stations are located in Manhattan](#). According to the City's 2021 [Electrifying New York report](#), by the end of the decade, the City will need to switch nearly 400,000 fossil fuel vehicles to EVs, up from 15,000 today. To serve these EVs, the City will need over 40,000 publicly-accessible level 2 (L2) charger plugs and 6,000 fast charger plugs (there are currently over 1,400 publicly-accessible L2 plugs and 117 publicly-accessible fast charging plugs).

As our power grid switches to renewable energy such as solar, wind, and hydropower, EVs will become an even cleaner way to get around as they have a much smaller carbon footprint on average than conventional cars. EV adoption can lower both pollution-related health outcomes, such as asthma, and greenhouse gas emissions. With potential programs and opportunities

made available by newly-created federal funding streams from the Infrastructure Investment and Jobs Act and the Inflation Reduction Act, including funding for EV charging infrastructure and modernized electric transmission, New York City has more incentives to accelerate the transition to a just, carbon-free economy.

While we recognize that EVs are not the sole solution to fighting climate change, it is one tool in our mitigation toolbox. Prioritizing more EV charging infrastructure in existing parking lots and garages, along with policies that invest in our public transportation system, make our streets safer and more pedestrian-friendly, and encourage alternative modes of transportation are key to making our City more equitable.

Vehicle electrification and expanding EV charging infrastructure are top priorities for NYLCV. This legislation was included in our 2021 City Council Scorecard and will be included in our 2022 City Council Scorecard. We urge you to prioritize Intro 150 and vote yes when the bill comes up for a vote.

Thank you for the opportunity to speak.



## **New York City Environmental Justice Alliance Testimony to NYC City Council Committee on Housing and Buildings (in support of Intro 0875)**

**January 24, 2023**

Good afternoon Chair Sanchez and members of the Council. My name is Shrvanthi Kanekal and I am the Resiliency Planner with the New York City Environmental Justice Alliance (NYC-EJA). Founded in 1991, NYC-EJA is a non-profit citywide membership network linking 11 grassroots organizations from low-income neighborhoods and communities of color in their struggle for environmental justice.

I am testifying today on behalf of NYC-EJA and the Climate Works For All (CW4A) coalition, which has been actively working first to pass LL97, then towards its equitable implementation since the law was introduced in 2019. While Int 875 addresses many aspects of building code, I will be speaking to the sections that are related to LL97, specifically around the use of Renewable Energy Credits (RECs).

CW4A strongly supports the need to limit the percentage of a building's electricity overage that can be offset by RECs. This will encourage more building retrofits, reduce emissions, and uphold the intent of LL97 to decarbonize our buildings. Ensuring that buildings transition away from using fossil fuels can have a number of beneficial air quality and health impacts, especially on EJ communities across NYC.

As per analysis conducted by the Comptroller's office, if RECs were applicable to only 10% of electricity overage, buildings would reduce 93% of emissions overall. If the limit was set at 30% of electricity overage, buildings would reduce 79% of emissions overall<sup>1</sup>. This analysis makes it clear that restrictions on the use of RECs for compliance would preserve the ability of LL97 to achieve its goal to significantly reduce emissions from NYC's building sector and catalyze a green economy. CW4A supports limiting RECs to 10% of overages but no more than 30% of a building's overage. Lastly, we firmly believe that limiting RECs is within DOB's authority based on preliminary legal analysis and would like to see DOB take on clear, full ownership of that.

Our coalition wants to see rapid decarbonization of our buildings to meet state and city climate goals. False solutions and technologies such as carbon capture, that don't actually reduce carbon emissions, are not the path forward to LL97 compliance and we are increasingly concerned technologies like this are being deployed in this city as we speak with minimal oversight.

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<sup>1</sup> <https://comptroller.nyc.gov/reports/cap-the-credits/>

While we generally support the language around RECs in Int 875, to summarize the points I made above, we suggest that the following amendments and additions be considered to strengthen the provision:

- We are calling on the administration to amend language in the proposed legislation from “The department may by rule limit the amount of a deduction...” to “The department shall by rule limit...” to confirm DOB’s authority and ensure that a limit on the purchase of RECs will in fact be implemented.
- We recommend that the administration add an amendment to either include a REC limit now OR a clear timeline for when the regulations on RECs limits will be determined
- DOB must clearly explain what “EJ impacts” are being considered when determining REC limits, as mentioned in Int 875, and clarify who, if anyone, will be consulted by DOB on this issue. When assessing EJ impacts, DOB should ensure emission and co-pollutant reductions are in EJ communities and that there are NO unintended consequences in communities that have historically suffered the most from air pollution.

Thank you for your time and the opportunity to testify today.



**PLUMBING  
FOUNDATION  
CITY OF NEW YORK**

**To:** NYC Council Committee on Housing & Buildings

**From:** April McIver, Executive Director, The Plumbing Foundation

**Date:** January 24, 2023

**Re:** Testimony on Int. No. 875-2022

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## INTRODUCTION

My name is April McIver and I am the Executive Director of the Plumbing Foundation City of New York, Inc. The Plumbing Foundation was founded in 1986 and is a non-profit organization of small and large, union and non-union plumbing contractors, engineering associations, supply houses, and manufacturers whose mission is to protect the public health and safety of New York City through the enactment and enforcement of safe plumbing codes.

The Plumbing Foundation is honored to be a part of the NYC Department of Buildings (DOB) Code Revision process for the past 15+ years. The Code Revision Committees are no doubt composed of well-known and respected experts in their fields who collectively volunteer thousands of hours towards the Code Revision process. We commend the DOB for its involvement of the stakeholder community and diligence in completing the revision. However, DOB submitted legislation and the NYC Council passed legislation (Local Law 126 of 2021) that the industry believes must be revisited. In addition, the industry has been urging the Council for the past seven years to amend Local Law 152 of 2016 (gas inspections). Therefore, Int. No. 875-2022 presents an opportunity for the Council to amend not just technical provisions but to make pertinent substantive changes to the Code as detailed below.

## COMMENTS

### **I. Make Necessary Amendments to Gas Inspection Law (Local Law 152/2016)**

The Plumbing Foundation urges the NYC Council Committee on Housing and Buildings to pass important safety measures under the NYC Building Code. As you are aware, the NYC Council passed a host of gas safety laws in 2016 in response to two deadly gas explosions (East Harlem in 2014 and Lower East Side in 2015). Now that those laws are in effect, specifically Local Law 152 requiring periodic inspections of building gas piping, we are seeing flaws and loopholes that are otherwise undermining the purpose of the important 2016 gas safety law, as explained in more detail below. Therefore, we have worked with industry partners, including utility companies, to devise a comprehensive revision to the law (attached as **Addendum 1**). Please see a summary of the revisions below.

- Clarify and streamline the process for owners to obtain certification of no gas piping or if their building has gas piping, certification it is not being supplied with gas. The process to require a utility letter is not a procedure the utility companies can or will do, rendering the law impracticable. Licensed Master Plumbers (LMP) are in the best position and best qualified to certify gas supply/piping status.

- Ensure DOB keeps abreast of the NYS Public Service Commission (PSC) inspection regulations on jurisdictional gas piping and any changes to inspection cycles in order to align inspection cycles to ease burden on owners.
- Require that the inspection is conducted by an LMP or individual under the LMP that is a journeyman plumber registered with the DOB. This is consistent with DOB's rule that a person has 5 years' experience to conduct these inspections but provides an easier and clearer way to certify that the experience requirement is met. Currently, upon information and belief, DOB is not verifying the experience of these gas piping inspectors working under LMPs.
- Clarify that the scope of the inspection includes commercial tenant spaces but not residential tenant spaces and clarify that the point of entry of the gas piping must be inspected regardless of location. This ensures a more thorough and accurate safety inspection, especially in restaurants, etc.
- Replace "imminently dangerous" with "immediately hazardous" conditions to ensure law aligns with industry training.
- Clarify the provision on reporting and correction of unsafe or hazardous conditions to adopt industry training and terminology, e.g., use of "abnormal operating conditions" (AOC), and to distinguish between immediately hazardous and non-immediately hazardous AOCs.
- Increase fines for non-compliance to ensure required inspections are completed.

We appreciate your time and attention to this important gas safety matter and consideration of the proposed revisions. While the NYC Council passed a gas ban bill in 2021 for new construction in 2024, gas piping infrastructure still exists and will exist for many decades to come. This means we must do our due diligence to ensure NYC residents, workers, and visitors have safe and reliable gas piping in their buildings.

## II. Revert Law Back to Restricting City Employees<sup>1</sup>

Prior to Local Law 126 of 2021, all plumbing work (e.g., repairs, replacements, and alterations to water distribution, drainage, and installation of gas piping, medical gas) in New York City could only be performed by licensed plumbing firms owned, operated, and supervised by one or more individuals who are licensed and in control of the company.<sup>2</sup> Furthermore, anyone performing plumbing work must have been in the "direct employ" of the licensed plumbing firm.<sup>3</sup> These requirements are to assure the safety of plumbing and gas work. Licensed plumbing firms must provide multiple insurances, and be supervised, owned, and controlled by individuals who are licensed. These licensed individuals are **liable for any mistake made by their firms**. Any mistake by an employee can jeopardize the entire firm owned by the licensee, thereby strongly encouraging safe work practices, adequate training, and supervision.

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<sup>1</sup> NYC Council Intro. No. 2261-2021, at 269-70 (NYC Admin. Code § 28-408.1(1)).

<sup>2</sup> See NYC Administrative Code § 28-408.6.

<sup>3</sup> *Id.* at 28-408.6(4).

Licensees do not want to risk their entire business or major increases in insurance premiums by shoddy work practices. Furthermore, licensees often have to secure various bonds with personal guarantees, sometimes including their homes. To help assure the licensee's ability to control his/her firm's work, the Code also requires that any plumbing must be performed by people in the "direct employ" of the licensee.<sup>4</sup> The licensee has the ability to hire and fire any of his/her workers, provide raises, and grant safety bonuses. This system, a licensed firm supervising and controlling the plumbing work of its employees, has worked well for decades to protect the public.

However, Local Law 126 changed that. The prior code allowed city-employed plumbing certificate holders to supervise "repair and replacement work" in their own agency's buildings. This allowed, for example, a City-employed license holder working for the Housing Authority to supervise the work of other Housing Authority employees to fix broken water pipes, replace toilets, and similar repairs. Local Law 126 allows these same Housing Authority employees to go well beyond "repairs" to essentially allow them to do "major alteration work" and in areas such as natural gas piping, medical gas piping (Health and Hospital buildings), and so forth. Local Law 126 allows the person supervising the work to be a city employee **who would not risk his/her business, home, or personal finances if another city employee makes a safety mistake.** Perhaps most importantly, the city plumbing license holder has **no control of who performs the work supposedly under his/her supervision.** Unlike licensed plumbing firms, city plumbing certificate holders cannot hire or fire the people who actually perform the plumbing work. DOB has demonstrated no benefit or practical justification to warrant changing the Code.<sup>5</sup> Indeed, the amended Code now presents **a severe risk to public safety.**

**We urge the Council to revert sec. 28-408.1(1) to its original language as there is no public safety benefit from this proposal and it exposes the public's wellbeing.**

#### **TEXT OF LOCAL LAW WITH OUR CHANGES:**

§28-408.1 Master plumber license required. It shall be unlawful for any person: 1. To perform plumbing work unless such person is a licensed master plumber or working under the direct and continuing supervision of a licensed master plumber, except that a city employee who holds a master plumber license may only perform **replacement, maintenance and repair** plumbing work on existing buildings in the course of his or her employment. 2. To use the title licensed master plumber, master plumber or any other title in such manner as to convey the impression that such person is a licensed master plumber,

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<sup>4</sup> See 28-408.6 (4) and 28-401.3.

<sup>5</sup> Upon information and belief, a major factor in seeking the expansion of the kind of work a city-employed plumbing certificate holder can perform is simply to reduce the possibility of bad press. The NYC's Comptroller's Prevailing Work Schedule provides two rates for plumbing work, one rate for "repair and replacement" and another rate for "alterations and new construction." While the present Code only allows City workers to perform "repair and replacement," the agencies and the local plumbing union, which represents these city plumbers, have agreed to collective bargaining agreements that mandate wage payments for repair work at the "alteration" rate, some 60% higher than the "repair and replacement" rate. In other words, these City workers are getting paid at the higher "alteration rate" which they legally cannot perform. Changing the Code to allow these city workers to perform alteration work would justify them being paid the higher rate.



unless such person is licensed as such in accordance with the provisions of this article.

### **III. Reinstate License Board<sup>6</sup>**

The Master Plumber and Master Fire Suppression Piping Contractor License Board was in service for the betterment of the industry for over 50 years, ending in November 2022 once the new Code came into effect. It was composed of 17 members, each of whom was appointed by the DOB Commissioner and each of whom could be removed at the Commissioner's sole discretion. As was clearly delineated in sec. 28-417.1 of the prior Article 417, the License Board's function is to "advise" the Commissioner regarding the character and fitness of applicants for licenses and on allegations of illegal practices, including violations of Code and plumbing practices. However, DOB's own administrative units conduct all license application reviews and disciplinary investigations. Once those reviews and investigations are completed, DOB then presents its findings and recommendations to the License Board for input. All decision-making authority remains solely with the Commissioner. The License Board meets once a month. Nevertheless, DOB sought to eliminate the License Board.

Upon information and belief, virtually all jurisdictions that license trades have a license board composed partly of licensees. It is also common practice in many professions to have peer review (e.g., medical and legal professions). DOB explained that its sole rationale to eliminate the License Board is to speed up the licensing process. DOB's license application process typically takes several months, therefore waiting an additional couple of weeks until the next monthly meeting of the License Board is not a significant delay to the applicant. In addition, there is no reason DOB could not hold the meetings more frequently as the prior Code provision required at minimum a monthly meeting (which DOB rarely complied with). Rather, the "delay" rationale may not be the real reason for the proposed change. There have been instances when some members of the License Board have questioned the conclusions made by the DOB staff (e.g., amount of time credited for experience). Even though everyone agrees that decision-making rests solely with the Department, government agencies do not relish anyone questioning their decisions. There was no demonstrated reason to eliminate the License Board. DOB's elimination of the Board simply removes a level of transparency and oversight that exists all throughout the state and a peer review process that occurs in many other professions.

### **We urge the Council to reinstate the Master Plumber and Master Fire Suppression Contractor License Board.**

### **IV. Expand Seizure & Forfeiture Abilities of the Department<sup>7</sup>**

As presently written, the Code permits forfeiture of tools and vehicles when there is unlicensed work but only at construction sites involving new residential construction of 3 units or less. That is typically not where the problem of unlicensed work exists, since a builder cannot obtain a Certificate of Occupancy (CO) for a new building from the DOB without documentation from a licensed firm. The real problem of unlicensed work is on alteration work, wherein the

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<sup>6</sup> Intro. No. 2261, *supra* note 1, at 288-90 (Article 417).

<sup>7</sup> Intro. No. 2261, *supra* note 1, at 292 (§ 28-419.1).

rogue builder brings in unlicensed entities and the work is completed without having to obtain COs. Accordingly, DOB's authority to seize tools and vehicles should be expanded to include ALL unlicensed and unpermitted work other than work in residential buildings containing 3 units or less.

DOB stated it is opposed to having this expanded enforcement tool based upon "budget and personnel" constraints. However, the need to enforce the laws against unlicensed construction activity, i.e., to stop dangerous conditions and to deter future unlicensed construction work, severely outweighs DOB's position. Enforcement against unlicensed construction activity is an important safety matter that the City should be making a priority with taxpayer funds. We believe a simple revision as set forth below will resolve this issue:

§ 28-419.1 General. [~~On and after November 1, 2008~~] ~~The vehicles and tools used in connection with unlicensed or unregistered activity at the work sites of a new residential structure containing no more than three dwelling units other than a residential structure containing three dwelling units or less shall be subject to seizure and forfeiture.~~

**We urge the Council to adopt the above proposed changes to section 28-419.1.**

## V. Remove "Dedicated" Office Space<sup>8</sup>

Finally, Local Law 126 included a requirement that licensees have an office located within New York City which is "dedicated" to the licensee's business:

§28-401.18 New York city location required. Except as otherwise noted for a particular license, the holder of a license, other than an employee of a city agency, shall have or be employed by a business entity that has an established place **dedicated to the licensee's** business with an address within the city of New York at which such person can be contacted by the public and the department by mail, telephone, electronic mail or other modes of communication during usual business hours. A post office box or virtual office is not acceptable.<sup>9</sup>

The plumbing industry is aware of the intent and reasons behind requiring an NYC office and is in support of the requirement to have one located within the five boroughs, which licensees have been subject to for some time. However, we are concerned with the use of the phrase "dedicated to the licensee's business" as it is unclear what the intention is behind this proposed revision. As the Council is no doubt aware, office space rental costs are extremely high in the City, and many businesses share space and rent rooms from other businesses. This is a well-known and

<sup>8</sup> Intro. No. 2261, *supra* note 1, at 253 (§ 28-401.18).

<sup>9</sup> *Id.* (emphasis added).

established practice in the City for businesses and organizations across the board. By proposing to change the language and require the licensee's office space to be "dedicated" to the licensee's business it would impact many plumbing licensees who rent shared spaces. It makes absolutely no difference to a customer, to DOB, or anyone else whether a licensee's office is in a rented room in shared floor space, or the licensee rents an entire unit. There is no practical explanation for this requirement, at least to the industry's knowledge, and it only impedes the ability for licensees to find and establish affordable office space. This is yet another hit to small, mom-and-pop shops in New York City.

When DOB was asked why they were changing this provision, the claim was that they did not want licensees to use "virtual" offices; but if that was the real purpose behind this change, DOB failed to use the phrase "physical" location which would have been more practical. Rather, DOB used the phrasing "dedicated to the licensee's business" may be interpreted as described above. Further, the current Code language already says a "virtual office" is not an option, which makes DOB's apparent reason for use of "dedicated" make even less sense.

**We urge the City Council to strike the language "dedicated to the licensee's" in section 28-401.18.**

### **CONCLUSION**

We thank the NYC Council for their consideration of our comments. Please do not hesitate to contact us for any reason.

## ADDENDUM 1

Section 1. Article 318 of chapter 3 of title 28 of the administrative code of the city of New York is amended to read as follows:

§ 28-318.1 General.

Commencing January 1, 2019, building gas piping systems, other than gas piping systems of buildings classified in occupancy group R-3, shall be periodically inspected in accordance with this article.

[Exceptions:]

1. **As part of the inspection, if it is determined that a** building that contains no gas piping **and is not currently serviced by a utility for gas** [and for which the owner of such building has submitted to the commissioner, in a form and manner determined by the commissioner, a certificate of a registered design professional], a licensed master plumber or an individual under the direct and continuing supervision of a licensed master plumber **with appropriate qualifications under section 28-318.3.1,** [or a person satisfying other qualifications that the commissioner may establish,] **shall submit, in a form and manner determined by the commissioner, certification** that such building contains no gas piping.
2. **As part of the inspection, if it is determined that a** building [that] contains gas piping but that is not currently supplied with gas, a licensed master plumber or an individual under the direct and continuing supervision of a licensed master plumber **with appropriate qualifications under section 28-318.3.1,** [or a person satisfying other qualifications that the commissioner may establish,] **shall submit, in a form and manner determined by the commissioner, certification that such building is not currently supplied with gas.** [that does not contain any appliance connected to any gas piping and that complies with section ] 28-318.3.5.

§ 28-318.2 Frequency of inspection. An inspection of a building's gas piping system shall be conducted at periodic intervals as set

forth by rule of the commissioner, but such inspection shall be conducted at least once every five years.

Exceptions:

1. If the New York state public service commission adopts a **revised** rule or other requirement for periodic inspections of service lines, as defined in section 255.3 of title 16 of the New York codes, rules and regulations, with a frequency other than five years, the commissioner may, by rule, require that the periodic inspections required by this article be conducted with such frequency.
2. The initial inspection for a new building shall be conducted in the tenth year after the earlier of (i) the issuance by the department of a letter of completion or, if applicable, a temporary or final certificate of occupancy for such building or (ii) the date such building was completed as determined by department rule.

§ 28-318.3 Inspection process.

Gas piping systems shall be inspected and tested in accordance with sections 28-318.3.1 through 28-318.3.4.

§ 28-318.3.1 Inspection entity. Inspections of gas piping systems shall be conducted on behalf of the building owner by a licensed master plumber or by an individual **holding a journeyman plumber registration issued in accordance with article 409 of chapter 4 of title 28 of the administrative code of the city of New York and working** under the direct and continuing supervision of a licensed master plumber, with appropriate qualifications as prescribed by department rule **but shall include successful completion of a training program acceptable to the department. The department shall require proof of such qualifications on any report and certification as required under Section 28-318.3.3.**

§ 28-318.3.2 Scope. At each inspection, in addition to the requirements prescribed by this article or by the commissioner, all [exposed] **visually accessible** gas lines from point of entry of gas piping into a building , [including building service meters, up to

individual tenant spaces] through the point of connection to any appliance that uses gas supplied by such piping, shall be inspected for evidence of [excessive atmospheric corrosion or piping deterioration] abnormal operating conditions that represents [has resulted in dangerous an] immediately hazardous condition, illegal connection[s], and or non-code compliant installation[s]. The inspection entity shall also [test] conduct a leak survey of all visually accessible gas lines from the point of entry of gas piping into a building through the point of connection to any appliance that uses gas supplied by such piping to determine if there is any indication of a gas leak. In addition to the above, all public spaces, hallways, and corridors, [and mechanical and boiler rooms;] on floors that contain gas piping or gas utilization equipment shall also be leak surveyed. [with a portable combustible gas detector to determine if there is any gas leak, provided that such testing need only include public spaces, hallways and corridors on floors that contain gas piping or gas utilization equipment.] The leak survey shall be conducted utilizing an instrument approved for leak surveys by the New York State Department of Public Service. The scope of the inspection shall be in compliance with Part 255 of Title 16 of the New York State Codes, Rules, and Regulations.

Exception: Other than as required to provide access to a point of entry location, gas piping or gas utilization equipment located inside of an individual dwelling unit in a building other than a building classified in occupancy group R-3, as defined by section 1102.1 of the New York City Building Code, shall not be required to be inspected.

§ 28-318.3.3 Report and certificate of inspection.

The inspection entity conducting an inspection of a building pursuant to this article and the owner of such building shall comply with the following requirements:

1. No later than 30 days after such inspection, such inspection entity shall submit to such owner (i) a report of such inspection, on a form and in a manner determined by the department, and (ii) a certification of the licensed master plumber who performed or exercised direct and continuing supervision over such inspection that an inspection pursuant to this article has been completed for

such building. Such report shall be certified by such licensed master plumber and, where applicable, by any individual who performed such inspections under the direct and continuing supervision of such licensed master plumber, and shall include, for each gas piping system inspected, a list of conditions including instances where a part or parts of such system is worn to such an extent that the safe and reliable operation of such system may be affected, gas leaks, any observed non-code compliant installations or illegal connections, any conditions described in section 28-318.3.4 and any additional information required by the department.

2. No later than the due date for such inspection, in accordance with department rules, and no earlier than 60 days before such due date, such owner shall submit a certification from a licensed master plumber that an inspection pursuant to this article has been completed by such licensed master plumber for such building, provided that the department may by rule establish an alternative timeframe for such submissions.

3. No later than 90 days after the due date for such inspection, in accordance with department rules, such owner shall electronically submit, or cause to be submitted by such inspection entity, such report to the utility company providing gas service to such building. Such submission shall only be required if, before the date that such submission would be required, the department has determined and set forth in a rule that such utility company will accept such electronic submission at no cost to such owner.

4. No later than 120 days after the due date for such inspection, in accordance with department rules, such owner shall submit to the department, in a form and manner determined by the department, (i) a certification from a licensed master plumber that all conditions that were identified in the inspection report for which a certification was submitted pursuant to item 2 of this section have been corrected, except that such certification may note that correction of one or more conditions identified in such report, other than conditions referred to in section 28-318.3.4, will reasonably take additional time to complete and (ii) a certification from such owner

that such owner is in compliance with item 3 of this section. If such certification notes that one or more conditions will take additional time to complete, such owner shall, no later than 180 days after the due date for such inspection, or by such later date as the department shall determine, submit to the department, in a form and manner determined by the department, a certification from a licensed master plumber that all conditions identified in such report have been corrected.

5. All reports and certifications required by this section shall be kept on file by the inspection entity and the building owner for at least eight years after the date of inspection and made available to the department at the department's request.

§ 28-318.3.4 Reporting and correction of [unsafe or hazardous condition.] **abnormal operating conditions that present an immediately hazardous condition.** If an inspection reveals [any of the following conditions]**an abnormal operating condition presenting an immediate hazard the inspection entity shall immediately take safety actions to protect life or property.**[t]The inspection entity shall notify the building owner, the utility, and the department immediately and the building owner shall immediately take action to correct such condition in compliance with the New York city construction codes.

1. **[A gas leak;**
  2. **Evidence of illegal connections or non-code compliant installations; or**
  3. Any other conditions which (i) if verified by a utility company or utility corporation , would constitute a class A condition as described in part 261 of title 16 of the New York Codes, rules and regulations or (ii) constitutes an
- imminently dangerous condition.]

**§ 28-318.3.4.1 Reporting and correction of abnormal operating conditions that do not present an immediate hazard. If an inspection reveals an abnormal operating condition that does not present an immediate hazard, the inspection entity shall:**



1. For abnormal operating conditions occurring on service piping, the inspection entity shall follow the requirements under Part 261 of Title 16 of the New York State Codes, Rules, and Regulations, and follow the applicable utility procedure(s). The condition(s) shall be noted on the inspection form submitted to the Department.

2. For abnormal operating conditions occurring downstream of the point of delivery, the inspection entity shall notify the Department in a manner prescribed by the Department as well as the utility in a manner prescribed by the utility. The inspection entity shall note the conditions on the report form. For abnormal operating conditions that do not pose an immediate hazard, where the remediation of which could potentially increase risk of a piping system failure or would require a shutdown of the gas piping system, the Department shall notify the building owner of the abnormal operating condition while allowing for it to remain in service. The Department shall determine by rule the corrective work that will be required to remediate the conditions. Gas service shall only be interrupted when necessary to eliminate an immediate hazard to life or property. The Department shall notify the local gas utility company and the building owner of the decision prior to taking such action. The building owner shall take action to correct such conditions in compliance with the New York City Construction Codes. For conditions that are classified as non-hazardous and are permitted to remain in service, the owner shall remediate those conditions in accordance with Department rule. If the Department determines that no remedial work is required that information shall be noted on the report form by the inspection entity.

[§ 28-318.3.5 Buildings without active gas service.

A building otherwise required to undergo an inspection pursuant to section 28-318.1 that is not currently supplied with gas, and that has no appliance connected to any gas piping, shall not be required to undergo such inspection when the following is submitted to the department:

1. A signed statement from a person with authority to sign such statement on behalf of any utility company that would be responsible for the provision of gas service if such service were provided containing the following:

1.1. The last date upon which gas was supplied to the building; and

1.2. The date upon which gas service was no longer provided to the building.

2. A signed statement from the owner of such building containing the following:

2.1. A certification that the building no longer receives gas service; and

2.2. A certification that the building no longer contains appliances connected to gas piping.】

【§ 28-318.3.6 Resumption of gas service. Where the owner of a building that has complied with section 28-318.3.5 seeks to resume gas service to such building, the owner must:

1. Obtain a certificate of approval of gas installation from the department; and

2. Comply with the inspection and certification requirements of sections 28-318.1, 28-318.2 and 28-318.3 and the rules of the department before gas service is resumed, regardless of whether such inspection and certification would otherwise be required for that building at that time.】

§ 28-318.3.7 Extension of time to complete inspection. Owners who are unable to obtain an inspection of a building pursuant to this article by the date set forth in the rules of the department may receive a 180 day extension of the due date for such inspection, and the filing of any certification required to be filed after such inspection, upon notification to the department in a manner established by the department. The department shall conduct periodic outreach to owners of buildings with gas piping systems that must be inspected pursuant to this article regarding the availability of this extension.

§ 28-318.4 Fees. The department may charge filing fees for the

certifications required by section 28-318.3.3, as set forth in the rules of the department.

§ 28-318.5 Enforcement. Failure by a building owner to submit a certification required by this article shall be classified as a major violation for the first offense and shall be liable for a civil penalty of ten thousand dollars (\$10,000.00), payable to the department. Failure by a building owner of a building classified in occupancy group r-3 to submit a certification required by this article shall be classified as a major violation for the first offense and shall be liable for a civil penalty of two thousand five hundred (\$2,500.00), payable to the department. A building owner may challenge the imposition of such civil penalty by submitting satisfactory proof of a timely and acceptable filing to the department, no later than thirty (30) days following the issuance of such violation by the department. Challenges must be made in writing, in a form and manner determined by the department. After such thirty (30) day period and for each subsequent offense, the building owner shall be liable for the civil penalty as prescribed above. The department shall issue civil penalties of no less than five thousand dollars (\$5,000.00) and no more than ten thousand dollars (\$10,000.00) for each additional thirty (30) day period such building owner fails to submit a certification required by this article. If such building owner fails to submit a certification within six (6) months of the due date as determined by department rule, the commissioner may request, in writing, pursuant to section six hundred forty-five of the New York city charter that the board of standards and appeals or a court of competent jurisdiction revoke the applicable certificate of occupancy of such building.

§ 2. This law shall take effect immediately.

The New York City  
Council Committee on  
Housing and Buildings

Pierina Ana Sanchez,  
Chair  
January 24, 2023  
Remote Hearing

Note: This testimony reflects  
the position of Pratt Center for  
Community Development and  
not necessarily Pratt Institute

**Oversight - Accessory Dwelling Units and a Pathway to Basement  
Legalization and Resolution calling upon the New York State Legislature to  
pass and the Governor to sign A.9802/S.8783**

**Re: T2023-2822 and Res 0161-2022**

Good afternoon Chair Sanchez and members of the Committee on Housing and Buildings, and thank you for holding this hearing on the urgent issue of basement legalization. I am Sylvia Morse, Policy Program Manager at the Pratt Center for Community Development, which has been working on basement apartment safety for fifteen years with the Basement Apartments Safe for Everyone (BASE) coalition.

Basement apartment safety and affordability disproportionately affects low-income tenants and homeowners of color living at the forefront of climate change. **We urge this Committee and the City Council to pass Resolution 161 in support of State legislation to help legalize basement apartments in New York City**, and to continue to work with advocates and City Hall to pass city regulatory reforms and budgets in support of a citywide basement conversion program.

*1. Basement apartment safety is a racial, economic, and climate justice issue*

Basement apartments are a critical part of the city's low-income housing stock, home to tens of thousands of New Yorkers, many of whom are working class immigrants and people of color. **Pratt Center's 2021 report, *New York's Housing Underground: 13 Years Later* found that unaccounted-for housing units are concentrated in Community Districts that are majority people of color and where rent burden and poverty rates are higher than the citywide average.** Amidst New York City's ever-worsening housing affordability crisis, in which less than 1% of apartments renting for less than \$1,500 a month are vacant, many low-income New Yorkers will continue to rely on basement apartments for stable housing. Yet, because this housing is unregulated, residents lack basic tenant protections and may be living in unsafe conditions. To ensure that these homes have adequate safety features to protect tenants and homeowners in the event of fire or the increasingly urgent citywide risk of flooding, as tragically shown by the deaths of 11 New Yorkers living in basements during Hurricane Ida, basement apartments must be legalized.

New York City has made some strides in recognizing the importance of legalization to ensure basement apartment safety, most notably through the creation of the East New York Basement Apartment Conversion Pilot Program. The Pilot established basement conversion eligibility criteria that can be built upon for a citywide program, including that units must be outside the 100-year floodplain, and conform to zoning and building code criteria agreed upon by a City-led Task Force that included the NYC Department of Buildings, Department of City Planning, Department of Housing Preservation and Development, and the Fire Department, the Mayor's Office, and community-based organizations. **We know how to safely convert basement apartments, but more urgent action is needed to complete the pilot and enact a citywide program.**

*2. The Pathway to Basement Legalization*

*a. State-level regulatory reform. Pass Res 0161-2022 calling upon the New York State Legislature to pass and the Governor to sign A.9802/S.8783 to enable New York City to create a basement legalization program and reduce conversion costs*

The most crucial next step on the pathway to basement legalization in New York City is amending State law to allow New York City to create a basement apartment conversion program, as proposed in the state bill S8783/A9802 introduced by Assembly Member Epstein and Senator Kavanagh last year, and most recently echoed in Governor Hochul's Housing Compact. Under current law, two- and three-family small homes would become subject to the state's Multiple-Dwelling Law (MDL) upon converting a basement unit. A key learning from the East New York Pilot is that this adds significant regulatory complexity and, most importantly, prohibitive six-figure increases to conversion costs. Contrary to some reports that suggest the pilot shows that basement conversions are too costly for citywide implementation, aligning state and city regulations would significantly reduce costs while ensuring uniform safety standards. **According**

to Pratt Center's internal analysis, half of the city's potentially-convertible basement and cellar units are in two- and three-family homes which would be effectively excluded from a basement conversion program absent State reform. State legislation to grant New York City "amnesty" from the MDL for basement conversions would allow the city both to carry out its promise for the East New York Pilot and to create a robust citywide basement conversion program in which all small homes are subject to the same safety standards for conversions. **We urge this Committee and the City Council to pass Resolution 161 in support of an amendment to the New York Multiple-Dwelling Law** and show strong support for the city's many vulnerable tenants and homeowners who rely on basement housing.

*b. Creation of a Citywide Basement Legalization Program, zoning reform, and funding*

Significant regulatory reform and investment will also be needed at the City level. Following the passage of state MDL reform, the City will need to enact its own regulatory relief package to establish a citywide basements legalization program. **The City will need to enact zoning changes to enable basement and cellar conversions, including allowing accessory dwelling units, amending parking requirements, and addressing how cellar conversions are accounted for in FAR calculations.** While we are encouraged that the city has signaled support for these zoning text amendments, they are not expected to go through ULURP until 2024. City Council members will play a key role in the public's understanding of the necessity of zoning changes for basement conversions as a housing justice issue, and ultimately in the approval of these reforms.

Beyond regulatory reform, the city will also need to ensure that the basement conversion program is included in the city budget with adequate resources for low-income homeowners to access the program and strong tenant protections. Further, while basement legalization and conversions are necessary to ensure that units meet basic safety standards, the city must invest in additional climate resiliency and flood risk mitigations at the property level and across neighborhoods. Basement apartment safety requires not just in-unit upgrades but a broader climate adaptation and flood mitigation strategy including infrastructure upgrades to the city's sewer system and expanding the porous pavement program and Flood Sensor Network.

Basement apartments are at the nexus of our housing and climate crises, both of which disproportionately affect low-income people of color. Legalizing basements and cellars as accessory dwelling units will, first and foremost, help prevent deaths like the drownings during Hurricane Ida by ensuring units are up to code and that emergency outreach efforts can reach basement residents where they live. Recognizing basement housing will also help prevent displacement of low-income tenants and homeowners and preserve and increase the stock of low- and moderate-income apartments citywide. We appreciate the Committee on Housing and Building Safety drawing attention to this urgent housing and climate justice issue, and look forward to working with the City Council to take decisive action for basement apartment legalization and safety.

**For more information, contact**

Sylvia Morse  
smorse@prattcenter.net





## **TESTIMONY OF ROBERT SANDERMAN, LEGAL SERVICES NYC, TO THE NEW YORK CITY COUNCIL COMMITTEE ON HOUSING & BUILDINGS REGARDING NYC COUNCIL RESOLUTION 0161-2022**

**January 24, 2023**

My name is Robert D. Sanderman and I am a senior staff attorney in the community economic development and housing rights units at Queens Legal Services—a borough office of Legal Services NYC. Thank you for the opportunity to submit testimony regarding City Council Resolution 0161-2022, related to New York State legislation—A.9802/S.8783—on the subject of Accessory Dwelling Units.

### **About Legal Services NYC**

Legal Services NYC is a non-profit organization that fights poverty and seeks racial, social, and economic justice for low-income New Yorkers. LSNYC is the largest civil legal services provider in the country, with deep roots in all of the communities we serve. Our staff members assist more than 80,000 low-income New Yorkers each year and, along with other legal services providers in the city, Legal Services NYC is at the forefront of the fight to prevent evictions, preserve affordable housing, and ensure that our clients' apartments are safe and our clients are not subject to harassment. A significant part of Legal Service NYC's work is in the areas of tenant rights, eviction defense, and foreclosure defense—in addition to a range of other legal matters.

### **The Need for Affordable Accessory Dwelling Units**

The chronic shortage of affordable housing in New York shapes the lives of our clients and

the communities in which they live. In Queens, where the majority of the housing stock consists of small buildings and one-to-four family homes that are not subject to rent regulations, we regularly see families priced out of their homes as rents rise. We likewise represent dozens of homeowners each year facing foreclosure because of a single financial setback. Against this backdrop, it is unsurprising that we also see many clients who live in unregulated—and often illegal—basement apartments. Simply put, in a city with so few options for affordable housing, people are forced to choose between the risks associated with unregulated ADUs and facing homelessness.

Basement apartments (also called ADUs) provide a much-needed supply of affordable housing for low-income renters and a much-needed source of income for low-income or struggling homeowners. This is particularly true in the outer boroughs, where 95% of the dwelling units that have not been legalized are located. There are thousands of basement apartments in New York City. While the exact number of units is not known, eliminating these housing units would likely displace tens of thousands of residents and cause rents to rise even more steeply, especially among unregulated apartments, as demand for other “non-basement” units would skyrocket. In addition to the ADUs already occupied by tenants, there are many more basements that could provide additional affordable housing if homeowners were authorized to use them. Therefore, the inclusion of currently unoccupied as well as occupied basement units in this bill has the potential to meaningfully increase the availability of affordable housing in New York City.

In addition to being a valuable and heavily relied-upon source of affordable housing, especially for immigrants and other people of color, ADUs also provide a critical source of income in working-class homeowner communities. The Homeowner and Consumer Rights practice at Queens Legal Services serves hundreds of homeowners each year, predominately in Southeast

Queens, which is historically made up of Black homeowners and remains among the few neighborhoods in New York City where working-class people can still afford to purchase a home. Many homeowners in these neighborhoods are a single financial setback away from defaulting on their mortgages. Many also rely on unregulated rental income to pay their mortgages and property taxes. However, under existing laws, relying on income from an illegal basement apartment is a risky proposition for a homeowner. Provisions in A.9802/S.8783 would help to address some of those risks.

### **Tenant Protections and Low-to-moderate Income (LMI) Homeowners**

Based on decades of working with tenants and homeowners, we at Legal Services NYC know that safely converting basement apartments into lawful dwelling units, without penalizing homeowners for renting their basements prior to the enactment of A.9802/S.8783, could greatly benefit both homeowners and renters. More importantly, this bill, which would allow the City Council to create a program for the safe conversion of accessory dwelling units, would help ensure the health and safety of the many tenants currently residing in basement apartments throughout NYC.

Existing laws governing basement apartments leave tenants unprotected in the face of maintenance and safety hazards. Worse, the existing codes do not adequately differentiate between those units that are safe and habitable and those that are truly dangerous. The sheer number of basement units in the City also presents an enforcement challenge in NYC: with so many basement units across the city, the New York City Department of Buildings is unable to identify and prioritize eliminating those units that are actually unsafe. This puts tenants' health at risk and denies many homeowners the opportunity to rent out habitable and affordable units that would



provide desperately needed affordable housing.

Currently, basement tenants lack the most basic protections and have no means of redress if their landlord fails to make repairs or maintain the property. If they attempt to report unsafe conditions, they may be locked out and lose their home permanently. Additionally, tenants need sufficient means of ingress and egress, among other essential safety measures, in case of emergency and/or natural disaster. As we have tragically seen, not all existing basement units have these measures in place. Community groups, such as BASE, and climate-conscious organizations are equipped to provide city agencies with significant guidance on how to improve existing basement apartments and mitigate the potential damage of future tragedies such as flooding. Low-income New Yorkers do not only need inexpensive places to live – they also need safe and stable homes.

Basement apartments have traditionally been a safe haven for LMI residents, immigrants, and communities of color. However, rising rents can make it extremely difficult for basement tenants to maintain rent payments. One way to help tenants is to ensure that they can rent an apartment at an affordable base rent and that future rent increases are affordable for people with low incomes. The current version of A.9802/S.8783 does not do this, but because it leaves room for the local government to develop a program for the accessory dwelling units, the bill doesn't foreclose the possibility of tenant protections being developed on the City level. For many of our clients, affordable basements apartments, rent-stabilized apartments, and rent subsidies are the main reason they can continue to reside in NYC. Under current law, however, a landlord of a basement apartment does not need to have a reason to evict a longtime resident. A requirement that landlords only evict tenants for good cause would help maintain the long-term affordability of basement units. Additionally, basement residents often do not have lease agreements, which

contributes to great housing instability and increases the likelihood that they will face eviction proceedings. Therefore, if an ADU bill passes without protections for tenants regarding base rent, rent increases, and eviction, there is a risk that existing tenants of basement apartments will lose their homes and the newly-regulated units will not be affordable for low income tenants, undermining one of the purposes of the legislation.

A.9802/S.8783 has the potential to benefit low and moderate-income homeowners, as well. Under the current law, if a homeowner attempts to rent their unregulated basement to bring in additional income to support their mortgage payment, they risk substantial fines and have little recourse if the tenant refuses to pay rent. Allowing more homeowners to convert their basement apartments into lawful dwelling units will give homeowners a legal option to subsidize their mortgage and avoid foreclosure. Additionally, A.9802/S.8783 contains provisions requiring homeowners to offer existing tenants a right of first refusal upon conversion of a basement apartment. However, on a local level, clearer guidelines regarding a tenant's right of first refusal, notice requirements, tenant relocation, and rent-setting could help avoid unnecessary litigation, tenant displacement, and loss of income for homeowners. This would also be helpful in allowing homeowners—and potential homebuyers—to determine whether they can safely add an ADU to their homes.

The ability to convert their basements into legal ADUs will benefit homeowners the most if they are not burdened with unnecessary compliance requirements that do not further the health and safety of tenants. For example, requiring a higher tax class for converting a two-family housing into a three-family house would be a huge financial burden and disincentive for LMI homeowners. Conversely, providing financial support to homeowners in low-income communities and communities of color would increase their opportunities to build individual and collective equity,

have direct involvement in building the resources of their community, and remain in neighborhoods that are increasingly becoming too expensive for LMI families throughout the city.

To close, ADU conversions would benefit our client communities because they would expand affordable housing options while also ensuring that all housing units are safe and habitable. They could also provide a critical source of additional income for LMI homeowners. While there could be stronger protections for tenants and homeowners beyond those included in A.9802/S.8783, A.9802/S.8783 does not foreclose the possibility of New York City establishing a program to convert basement apartments into lawful ADUs that fully protects tenants and clarifies homeowners' rights. Now more than ever, we need to preserve safe and affordable housing as well as the diversity that makes NYC great.

For more information, please contact Robert Sanderman, Esq. at 347-592-2217 or [rdsanderman@lsnyc.org](mailto:rdsanderman@lsnyc.org).

January 20<sup>th</sup>, 2023

Dear Housing and Buildings Committee Members,

Please enter my strong support for the legislation sponsored by Councilman Brannon to ensure that electric vehicle charging stations are installed in all parking lots and garages in New York City.

As you know, transitioning away from fossil-fueled vehicles is essential in combating climate change. Plentiful availability of charging stations will reassure drivers that they will easily be able to charge the electric cars that they are considering purchasing.

**Importantly, Level 3 fast chargers are preferable to the more standard Level 2 chargers.**

An electric car can charge up in less than 1 hour with a Level 3 charging station, as opposed to 6-8 hours required by a Level 2 charging station.

Parking lot and garage owners will be able to accommodate charging many more cars per day if they install Level 3 stations.

Thanks in advance for considering the inclusion of recommendations for installing Level 3 fast chargers into the proposed legislation.

Sincerely,

Jacqueline Crawley  
Member, 350NYC  
Resident of Murray Hill, NYC



Dear City Council,

Thank you for the opportunity to comment on Int. No. 150.

I'm Leslie Stevens, the chair of the Transportation Committee at 350NYC (including EVs and charging). We are climate activists working in NYC. A number of our members are interested in legislation which incentivizes the use of Electric Vehicles over internal combustion engine vehicles (e.g. gasoline-based). This Intro 150 seems to be encouraging that. This is a good for NYC and the planet.

To improve this legislation, we encourage you to reduce the timelines for revisiting EV charging in parking garages and open parking spots. If you revisit this timeline after, say 2 years, the Council will have a clearer view of how this Intro is being implemented across the city. Are the garages and lots mainly being used by tourists, for the wealthy, for commuters who live outside the city? This might help guide decisions more uniquely.

Currently, with the proposed changes, this legislation seems to need clearer guidelines on when EV-related equipment needs to be at X% level (e.g. 20% by 2030 and 40% by 2035). For example, which building types have date-deadlines (2030 vs. 2035) vs which building types may also have different % of use for the type of building.

Separately, for new parking garages (p.4 line 24), the power requirements are discussed with respect to the number of parking spaces (60%). But where does time factor in? Is it that the power requirements to be installed in 60% of the parking spaces before 2030?

Also, the current proposed legislation allows many waivers – this should be improved (with more criteria to accept or reject the waiver). The number of waivers per year (and rationale) should be tracked and reported to the Comptroller.

Our members have been walking the city and notice that there are many private garages or parking lots which do not have EV charging, or they do not share EV charging (that is, only 1 car exclusively uses the solo charger). For example, in a large garage, with fast DC (Level 3) charging, multiple cars could share one EVSE. Or a garage could decide to dedicate a parking spot to the same car and charging station. That would make this an exclusive charging-station-parking-spot. Does exclusivity for parking spots play a role in this legislation?

Has the council considered having a series of Town Halls (listening meetings) for each district to understand what the needs are for open EV parking lots and garages? This would add clarity and specificity to each District's needs and directions.

Thank you, Leslie Stevens, 350NYC, Transportation Chair

REBNY Testimony | January 24, 2023

## The Real Estate Board of New York to The Committee on Housing and Buildings of the New York City Council Regarding Electric Vehicle Charging Equipment in Parking Garages and Lots

The Real Estate Board of New York (REBNY) is the City's leading real estate trade association. Founded in 1896, REBNY represents commercial, residential, and institutional property owners, builders, managers, investors, brokers, salespeople and other organizations and individuals active in New York City real estate. REBNY strongly supports data-driven policies that will spur housing construction, create good jobs, and house New Yorkers. REBNY thanks Chair Sanchez and the members of the Committee for this opportunity to submit testimony on the topic of accessory dwelling units and Int 150-2022, which requires garages and open parking lots to install certain electric vehicle (EV) charging equipment.

New York City is plagued by a shortage of rental housing units, particularly rental units for lower income households. With persistently high rates of homelessness and overcrowding,<sup>[1]</sup> there are simply too few available affordable options for New Yorkers' housing needs. This crisis is dire, complex and requires a multipronged approach of preservation, new production, and conversion of underutilized existing space to meet our needs.

While we need every tool at the City's disposal to address this crisis, expanding the safe and legal use of accessory dwelling units in New York City would help address the City's housing needs. Introduced last session, the state bill A.9802/S.8783 would authorize New York City to pursue a program best suited to local considerations. REBNY supports this measure and as such supports City Council Res 0161-2022.

ADUs are one potential source of additional housing units and REBNY is supportive of efforts to create a pathway to legalize such units. Legalizing apartments that people already live in and providing the funding to owners to make those units safer is a common-sense solution to which all should be able to agree. The tenant protection of right of first refusal is important and the state bill appropriately balances tenant and owner rights in the bill language.

**BILL:** Intro 150-2022

**SUBJECT:** This legislation would require that (1) 10% of spaces in existing parking garages and lots install electric vehicle supply equipment (EVSE) by 2030, rising to 20% of such spaces by 2035 and further require that these structures have the capability of supporting EVSE in 40% of spaces

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<sup>[1]</sup> [Basic Facts About Homelessness in New York City; Coalition for the Homeless, November 2021.](#)

by 2030;; (2) that when certain alterations occur that 10% of spaces have EVSE installed and 40% of spaces be capable of supporting EVSE; and (3) that, for new garages and lots, 20% of spaces have EVSE installed and 60% of spaces are capable of supporting EVSE.

**SPONSORS:** Justin L. Brannan, Tiffany Cabán, Althea V. Stevens, Eric Dinowitz, Lincoln Restler, Sandy Nurse, Erik D. Bottcher, Nantasha M. Williams, Alexa Avilés, Jennifer Gutiérrez, Lynn C. Schulman, Pierina Ana Sanchez, Gale A. Brewer, Kevin C. Riley, Selvena N. Brooks-Powers, James F. Gennaro, Rita C. Joseph, Crystal Hudson, Shaun Abreu, Shahana K. Hanif, Shekar Krishnan, Carmen N. De La Rosa, Diana I. Ayala, Marjorie Velázquez, Keith Powers, Carlina Rivera, Christopher Marte, Sandra Ung, Julie Won, Mercedes Narcisse, Rafael Salamanca, Jr., Amanda Farías, Kamillah Hanks, Robert F. Holden, Linda Lee, Kristin Richardson Jordan, Charles Barron, Chi A. Ossé, Farah N. Louis, Oswald Feliz, (by request of the Queens Borough President)

REBNY supports the goal of this bill to make electric vehicle charging equipment more available. Doing so will further the City and State’s ambitious plans to cut greenhouse gas emissions (GHG) from the transportation sector by facilitating the transition from gas-powered to electric vehicles. Scaling up EV infrastructure, along with intensive efforts to green the electric grid, will also help to improve local air quality.

REBNY urges the Council to consider the following practical challenges that must be addressed should this legislation move forward.

The legislation requires that parking structures both install a certain amount of EVSE and be capable of installing additional EVSE in the future. While this standard appropriately recognizes that it is not necessary or appropriate to require parking structures to install EVSE before demand for EV-charging exists, it does create practical challenges. Specifically, to meet this standard, a building or parking structure owner or operator would approach Con Edison to obtain additional electrical capacity for the installed charging stations and any future charging stations. However, a key challenge is that Con Edison does not approve the installation of electrical infrastructure based on what future electrical demand will be. As such, the legislation will result in significant demands on Con Edison to process requests and do the work needed to provide electrical capacity to all covered parking structures in a way that is potentially inconsistent with their existing policies.

Relatedly, it is important that policymakers carefully evaluate the ability of the electric grid and local distribution systems to manage the additional load that will result from the deployment of EV charging infrastructure and building electrification. EV charging, particularly fast charging infrastructure, requires significant additional load and will place burdens on the system. Combined with building electrification, these burdens could be significant and must be managed to ensure electric reliability.

These two issues could be addressed by focusing the legislation on new construction only, rather than existing structures. In existing structures, installing the infrastructure needed to upgrade electricity capacity can take years, can be very disruptive, and carries prohibitive costs. For these reasons, we encourage the Council to focus this bill on new parking facilities while owners, operators, utility companies, and policymakers work to craft an appropriate set of standards for existing parking facilities.

An additional consideration that should be considered is the need to create a coherent policy framework between the City and the State to ensure the efficient and rational deployment of EV charging stations. The State's EV Make-Ready program, a critical part of which was recently [approved by the Public Service Commission](#), intends to increase EV charging stations by 10-fold, to approximately 50,000 stations, by 2025. The PSC has developed a program to keep the costs of such charges down and to incentivize charging vehicles at times that will put the least strain on the grid. In addition, the State Senate is considering a bill ([S1736](#)) that would require EV charging equipment in new parking facilities only at a different standard than Intro 150. REBNY encourages City and State policymakers to work together and align on a single standard for the deployment of EV charging infrastructure.

Finally, New York City's unique infrastructure needs raise other practical challenges. For example, many garages in the City have parking equipment that parks cars vertically. Installing and powering EVSE in these kinds of vertical arrangements is more complicated and expensive than doing so in lots or single-floor structures. Other parking structures operate under a valet parking structure in which cars are parked very closely together, sometimes not in specific spaces, to ensure they can fit. Findings ways of addressing these kinds of challenge will be important moving forward.

Once again, REBNY appreciates and supports the Council's desire to increase the capacity to charge EVs in New York City. Such an effort is vital to cutting the use of fossil fuels and therefore greenhouse gas emissions. We look forward to collaborating with you to help shape the smartest and most effective approach to doing so.

Thank you for this opportunity to submit testimony on this proposed legislation.

## CONTACT:

**Ryan Monell**

*Vice President of Government Affairs*

Real Estate Board of New York

Rmonell@rebny.com



**THE COUNCIL  
THE CITY OF NEW YORK**

Appearance Card

I intend to appear and speak on Int. No. 875 Res. No. \_\_\_\_\_

in favor  in opposition

Date: Jan. 24, 2023

(PLEASE PRINT)

Name: Kyra Armstrong

Address: \_\_\_\_\_ Brooklyn, NY 11221

I represent: New York lawyers for the Public Interest

Address: \_\_\_\_\_

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in favor  in opposition

Date: 1-24-23

(PLEASE PRINT)

Name: Guillermo Patino

Address: \_\_\_\_\_ Deputy Commissioner, EXTERNAL AFFAIRS

I represent: Nyc Department of Buildings

Address: \_\_\_\_\_

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in favor  in opposition

Date: 1/24/2023

(PLEASE PRINT)

Name: Jishian Ravinthiran

Address: \_\_\_\_\_

I represent: The Legal Aid Society

Address: 120-46 Queens Blvd., 3 Fl., Kew Gardens, NY 11424

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I intend to appear and speak on Int. No. 150 Res. No. \_\_\_\_\_

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Date: 1/24/23

(PLEASE PRINT)

Name: ALIA SOOMRO

Address: \_\_\_\_\_

I represent: NY League of Conservation Voters

Address: \_\_\_\_\_

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Name: LUCKY JOFFE

Address: HPD 100 Gold Street

I represent: HPD

Address: 100 Gold Street

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in favor  in opposition

Date: 1-24-23

(PLEASE PRINT)

Name: Kim Darga

Address: HPD 100 Gold Street

I represent: NYC Dept Housing Pres + Dev

Address: 100 Gold



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Date: 1-24-2023

(PLEASE PRINT)

Name: Moses Gates

Address: 1 Whitehall

I represent: RPA

Address: \_\_\_\_\_

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in favor  in opposition

Date: 1/24/2023

(PLEASE PRINT)

Name: Esther Brunner

Address: Brooklyn, NY 11213

I represent: Mayor's Office of Environmental Coordi-

Address: nation; 100 Gold St. NY NY 10038

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THE CITY OF NEW YORK

Appearance Card

I intend to appear and speak on Int. No. 875 Res. No. \_\_\_\_\_

in favor  in opposition

Date: 1/24/23

(PLEASE PRINT)

Name: Joe Ackroyd

Address: 280 Broadway, 7<sup>th</sup> Floor NY NY

I represent: NYC DOB

Address: 280 Broadway, NY NY 10007

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