

June 27, 2013

### **Emergency Shelter Regulations**

As neighborhoods consider how to be better prepared to cope with a future disaster one of the issues they are examining is the provision of emergency shelter and whether there are ways that appropriate shelter can be provided locally. Organizations that want to open their doors as an emergency shelter will need to determine whether that shelter can be safely provided and whether the organization is protected.

#### **Fire Code**

Effective July 1, 2010 buildings seeking to serve as emergency shelters must comply with a complex set of rules and regulations and report to the New York City Department of Buildings and the New York City Bureau of Fire Prevention. These regulations *only* apply if a group wishes to be certified to shelter fifteen or more people for thirty or more days cumulatively throughout the year.<sup>1</sup> If a group only plans to provide shelter to less than fifteen people *or* for less than 30 days throughout the year, the Fire Code regulations will not apply.

Any organization hoping to operate an emergency shelter must first register with the New York City Department of Buildings and the Public Buildings Unit at the New York City Bureau of Fire Prevention. The aspiring shelter must comply with extensive space and safety requirements, including:<sup>2</sup>

- The shelter must provide a livable area of at least 80 square feet per occupant, with aisles of at least 36 or 48 inches, depending on the setup.
- Each shelter must prepare a fire safety and evacuation plan in compliance with New York City's Fire Code, and shelter staff must participate in monthly fire drills and quarterly fire safety trainings. Fire safety plan requirements are detailed and highly regulated and creation of such a plan will likely take months and require collaboration with the Fire Department.<sup>3</sup>

---

<sup>1</sup> Buildings Temporarily Occupied as Emergency Shelters, New York City, N.Y., Rules, Tit. 3, § 901-04.

<sup>2</sup> *Id.*

<sup>3</sup> Fire Safety and Evacuation Plans and Emergency Action Plans, New York City, N.Y., Rules, Tit. 29, § 404.2.1.

See [http://www.nyc.gov/html/fdny/pdf/fire\\_prevention/office\\_guidelines.pdf](http://www.nyc.gov/html/fdny/pdf/fire_prevention/office_guidelines.pdf) for detailed fire safety plan requirements.

See

[http://www.nyc.gov/html/fdny/pdf/fire\\_prevention/fsp\\_t3/a\\_instruction\\_for\\_submittal\\_of\\_ifa\\_temporal\\_3\\_fire\\_safety\\_plan.pdf](http://www.nyc.gov/html/fdny/pdf/fire_prevention/fsp_t3/a_instruction_for_submittal_of_ifa_temporal_3_fire_safety_plan.pdf) for submission requirements.

- While occupied, all parts of the shelter must be patrolled by an easily-identifiable staff member who has participated in fire safety plan training.
- Any below-ground areas (including basements) may not be used as sleeping quarters for shelter occupants.
- The shelter space must have Building Code-compliant sprinkler and fire alarm systems, including a one-way speaker system for the fire department to make announcements throughout the shelter.
- Each shelter must maintain a detailed record with the Fire Department of testing and inspections of all fire and safety systems and equipment, as well as dates of fire drills, staff trainings, and emergency staffing plans.

Further, any structure certified to operate as an emergency shelter will be classified as a Category IV building under the New York City Building Code, the highest building category subject to the most stringent structural and safety requirements. Among other things, category IV buildings must be able to withstand more severe earthquakes, stronger winds, and heavier snowfalls than other types of buildings.<sup>4</sup> This will require coordination with the Department of Buildings and likely a reassessment of the proposed shelter building.

### **Pending Legislation**

A pending New York City Council bill, if passed, may impose further requirements on buildings seeking to serve as emergency shelters. The bill mandates the appointment of a commissioner to develop a city-wide emergency shelter plan and to examine concerns such as shelter disability accessibility, shower and laundry facilities, and staffing requirements.<sup>5</sup>

### **Additional Considerations**

Any organization considering offering emergency shelter should determine whether operating a shelter is consistent with its lease agreement or certificate of occupancy. Additionally, the organization should consult with its insurance broker or agent to ensure that the activity will be covered by the organization's insurance.

***This alert is meant to provide general information only, not legal advice. If you have questions about this alert, please contact Linda Manley at (212) 219-1800 ext. 239 or visit our website at [www.lawyersalliance.org](http://www.lawyersalliance.org) for further information.***

---

<sup>4</sup> New York City, N.Y., Local Law No. 8 Int. No. 659-A (2008) (amending the New York City Building Code regarding building classifications).

<sup>5</sup> NYC Council Sheltering Law, on agenda 6/12/13, Bill 2013-1070, CC Member Palma (adding §30-108 to New York, N.Y., Rules, Tit. 30, Chap. 1).

Lawyers Alliance for New York is the leading provider of business and transactional legal services for nonprofit organizations that are improving the quality of life in New York City neighborhoods. Our network of pro bono lawyers from law firms and corporations and staff of experienced attorneys collaborate to deliver expert corporate, tax, real estate, employment, intellectual property, and other legal services to community organizations. By connecting lawyers, nonprofits and communities, we help nonprofits to develop affordable housing, stimulate economic development, promote community arts, strengthen urban health, and operate and advocate for vital programs for children and young people, the elderly, and other low-income New Yorkers.