



To: New York City Council Committee on Housing & Buildings

From: Patricia Brady on behalf of the Master Plumbers Council Code Revision Committee

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Re: Testimony on Intro. No. 2261

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Introduction

My name is Patricia Brady and I am the Deputy Director of the Master Plumbers Council (MPC). I submit the following testimony on behalf of our Code Revision Committee.

Today, over twenty percent of active NYC licensed Master Plumbers are represented by the MPC. The MPC strives to promote the licensed plumbing industry and the benefits of hiring licensed and insured firms. In addition, we provide trade education and clarification on a wide assortment of Code issues. This not only benefits the trade, but all NYC property owners who are concerned about a legal and safe plumbing installations.

We absolutely applaud the process DOB utilized for stakeholders to provide valuable input. In our testimony, we will present you with recommendations to reverse or modify some of the Department's proposed changes. For the most part, they are simple clarifications to ensure that the intent of a Code section is not misinterpreted by a future administration. Other proposed changes are being requested to provide a public benefit for all NYC residents. All of our proposed changes in regard to clarifications and provisions for public benefits are in strict accordance with the intent of the Construction Codes specifically "with due regard for building construction and maintenance costs." We believe our proposals will continue to maintain the highest safety standards while providing the lowest possible cost for regulatory compliance.

The Department is eliminating the License Board and along with it the advisory role the licensed plumber takes in providing peer review for candidate selection and disciplinary review. Industry members have participated on this committee for the over fifty years volunteering their time and providing expert advice to the Department. The Department has always made the final decisions. Just this week the License Board had a meeting and there was a robust dialogue on several important issues. It is a valuable Board to have with no downside.

In addition to this issue please review our comments on ordinary plumbing work; deceased licensees and how Licensed Master plumbers are properly qualified to perform fire suppression work. We ask the city council to remember when, about six months ago, the Department launched a proposal that would have allowed unlicensed and unqualified persons to replace gas appliances without obtaining a permit. It was presented to the industry stating that NYC residents need immediate financial relief from the pandemic. If enacted, the proposal could have made it possible for the person responsible for the work that caused a Bronx building to blow up, to continue their career of illegal plumbing work with the Department's blessing. We greatly appreciate the Council's intervention in that matter, and it has since been tabled. We have incorporated this proposal into our Ordinary Plumbing Work proposed changes. The work will be done by licensed Master Plumbers and their qualified employees. If you enact this specific change you will reduce costs for your constituents while continuing for public safety to be maintained. In fact none of our proposals would increase the cost of compliance for any NYC resident.

In our expert opinion, the Department has not provided adequate justification for some of their proposed changes. We are confident that, after reading our specific comments, you will agree that some Department proposals need to be further explained and show a true public interest or benefit. The public for which we all serve is depending on the Council to gather all of the facts and make the final determination on these safety issues.

Licensed plumbing is as important to public safety as oxygen is to the human body. It reduces risks that include water contamination, cross connections, scalding and thermal shock. Faulty repairs can lead to leaks that create mold and fungus. Licensed Master Plumbers have the proper qualifications, knowledge and, most importantly, the legal permission to do this work.

The MPC would like to thank the Chairmen and the committee for all of their time and efforts dedicated to helping keep NYC residents safe. This Code, with some minor revisions, along with the ten gas safety bills you passed, will continue to provide NYC residents with the very best processes to keep them safe.

During your review, if you have any questions or need clarification on any of the information provided please contact us.

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§28-105.4.4 Ordinary plumbing work.

We propose that this section be overhauled to clarify the approved work scopes and to add work scopes that will provide relief to NYC residents.

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 maintains the high level of public safety that NYC residents have come to expect from licensed Master Plumbers. Today, when a *work without a permit* violation is issued, it will prohibit an owner's ability to obtain other permits. The correction process can be both long and expensive. In some cases, the Commissioner may deny a new permit application in that building for a year. These changes remove 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 signoffs. 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 signoff process was fraught with procedural and system issues. The Board members could have worked with the Department to help identify persons who were actually 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 recent decision by the Department to audit Ordinary Plumbing Work reports and issue 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 system did not indicate a previous filing that the plumber was not replacing but in fact installing a new appliance. That work is not permissible under Ordinary Plumbing Work. 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 in question have no records listed whatsoever. The Department eventually rescinded the violations but never acknowledged they were issued in error. One plumber was issued over one hundred violations and if he lost his cases, he would have been out of business. When this occurred, the entire industry, and many owners, became aware of it. Owners and plumbers alike are concerned that even if they follow the Code, they can be violated. Can you blame them? This could have the very negative effect where owners to 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 keep the License Board active and require that they utilize the Board to its full potential.

§28-401.3 Definitions FIRE SUPPRESSION PIPING WORK.

We request that the Council strike the proposed 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 the Council strike this incorrect verbiage.

§28-410.4.1.1 Non-qualifying experience.

We propose that this section be renamed and language be added that will permit a licensed Master Plumber to claim experience for the Fire Suppression Piping Work they are permitted under the Code to perform.

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 meant that an active NYC licensed Master Plumber could apply for a Master Fire Suppression license after obtaining an additional three years of experience. We are unsure as to why this was not continued into the 2008 Code and the Department has not provided us with an explanation. That provision was in effect for over sixteen years and, to the best of our knowledge, there were never any issues. As we have already established in our testimony, licensed Master Plumbers are permitted to perform work on Fire Suppression piping systems as defined by the Code. For an unknown reason, the Department has proposed not to consider this work as qualifying experience for a Master Fire Suppression License. We request that the Council require the Department to provide a fact-based reason as to why this change was made in direct opposition to the licensed professionals that are regularly engaged in this work.

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. Some licensed Master Plumbers do undertake this process because having a second license increases their ability to grow their business. 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. We have already established that 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. Two years of such experience must be as a registered journeyman fire suppression installer in accordance with the provision of Article 411.

We 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 may create public benefit. A licensed Master Plumber will still 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.

§28-411.2 Experience.

We propose to add language to this section that is needed for the proposed changes requested in 28-410.4.1.1.

This verbiage change is required to allow the proposed changes requested in 28-410.4.1.1. It would permit a licensed Master Plumber to apply for Journeyman fire suppression piping installer registration with a minimum of one year of full-time experience in the performance of fire suppression piping work under the direct and continuing supervision of a NYC Licensed Master Fire Suppression Piping Contractor or equivalent, where such experience shall have been in the City of New York.

We ask that if the Council is in agreement with our proposed changes to 28-410.4.1.1, that you also adopt this revised language.

§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 proposed 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 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 service 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.

Imagine finally getting your restaurant open and having an unwanted expense like your boiler breaking. What if your plumber told you that this did qualify as an emergency repair? The Department has proposed verbiage that would 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.

The present Administration has never prohibited any type of emergency work nor limited heat or domestic water appliance work to a specific occupancy. At one point, they did try to enforce a prohibition against doing any emergency gas work for residential cooking on a building with less than nine units. The MPC protested that this was both unfair and contrary to this section and it was removed.

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.

§28-408.5 Surrender of license [~~,plate~~] or seal.

We request that this section be modified to remove the verbiage the Department is proposing to add. 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.

The Department has proposed changes to this section that create a perhaps impossible requirement for a retired licensee or a deceased licensee's estate to be responsible for signing off any open work permits. Passage of this section would also create an unfair retroactive requirement for jobs permitted before the effective date of the new Code be included.

The MPC opposes this new requirement as written. While the Department has a reasonable expectation that all permits will be eventually signed off, the reality is that this is just not always possible. The Code is abundantly clear (28-105.12.1) that the applicant, the owner, their agents, employees, and contractors 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

In the past, there were varied reasons why a plumber did not have a job signed off. In some cases, the plumber was culpable. In others, it may have been 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 actually 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.

§28-401.13 Late renewal [and reinstatement].

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

The removal of any reinstatement period potentially poses a huge hardship to contractors who suffer an unforeseen issue that could prevent them from applying for renewal for a year or more. A perfect example is the current pandemic. Last year, we had members who were hospitalized and this year we have members who may be forced to close their business, hopefully only temporarily, due to financial hardships. Maintaining reinstatement provides plumbers suffering hardship from having to suffer even further by starting 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 prohibit the Department from removing 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.

§28-408.3.1 & §28-408.4.4 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? All experience must be properly counted. The Department has proposed to deactivate the License Board and therefore remove the expert peer review that could accurately measure a person's true work experience. In the future, a person 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 Full 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 between 8-12 months of their life and thousands of dollars to navigate the licensed Master Plumber process. The Department requires you to pass all of the exams before they review your final application and qualify your experience. Imagine going that far and finding out 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.

§28-101.5 Definitions Limited Alteration Applications.

We request that a portion of the proposed language added to the new definition of a Limited Alteration Application (LAA) be either stricken or rewritten, so it does not have the potential to prohibit the use 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 or rewritten.

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. The fees for the permitted work as well as the installation and inspection processes are the same as for any Alteration permit. With an LAA permit, the plumber is in control of

the filing process and can easily make any changes. This could help to ensure that projects are signed off. 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 actually provides a public benefit.

Note: We requested that the Department clarify this language prior to testimony submission but have yet to receive a response.

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

Today it is quite possible that some permitted work scopes would not be able to utilize this permit because the total cost of the work would exceed the monetary cap. The cap is based on fifty thousand dollars in any 12-month period versus on an annual basis. That is not the same as on an annual basis. That may be feasible for a five-family unit, it may not work in a three hundred-unit building or a commercial space. It is extremely difficult to monitor the amount of work being done in a specific building through the BUILD system. The BUILD system does not have a built-in system to identify when the cap is reached and does not prevent permit issuance if a building's cap is exceeded. This can cause a licensee to inadvertently violate the Code by submitting an application that exceeds the cap. Imagine two neighbors living in the same building trying to do a renovation project. One files first and hits the cap. The second is required to spend additional money for an engineer to file the work. If a work scope is permitted, why should it be limited by a monetary cap? What is the public benefit to this?

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

The Codes make a general assumption that existing work was legally installed. As written, it appears that the Department is adding an extra requirement for an owner to prove the legality of an existing installation. This may create an additional burden for owners and could have the unintended consequence them seeking to undertake this work without the required permits or qualified persons. If a plumber encounters a non-compliant installation, they are prohibited from doing any work on that system. This verbiage is not included for the same rearrangement work scope on a Sprinkler LAA. We anticipate that this verbiage will be removed when the Existing Building Code is adopted. We respectfully request that the Council requires the Department to strike this language. There is no threat posed to public safety by removing it.

§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.

When this section was instituted into the Code, NYC was a much different place. Many plumbing businesses were located in the neighborhood in which they did the vast majority of their work. Some conducted their business using pushcarts instead of trucks because they could walk to their customers' houses. Customers would stop in to request a service call or to pay a bill. 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 plates 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. We respectfully request that unless there is a clearly stated public benefit, that the Council rejects this proposed change.

The phrase “during usual business hours” should be stricken. If you ask a jobbing (repairs) plumber what their “normal” business hours are, you will be informed that there is no such thing. This term is also not defined and we request that it is stricken. Leaving this language in could lead to arbitrary interpretations in the future.

§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 this section is 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 revoked. 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 423 revisions.

We fully support the proposed changes to be made to this section of the Code.

These include:

- Renaming the Gas Work Qualification to Full Gas Work Qualification.
- The requirement to have held a Limited Gas Work Qualification as a condition of obtaining a Full Gas Work Qualification.
- Reducing the duration requirement for a limited application to three months.
- This change also requires a change to §28-401.3 Definitions.
- Recognizing that gas work should include periodic inspections required pursuant to Article 318 of Chapter 3 of Title 28 of the New York City Administrative Code.
- Elimination of supervision as qualified experience.

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.

The DOB Marshals office presently investigates unlicensed plumbing complaints. We believe they would fully support this proposal. This modification would finally provide them with a tool they need to conduct effective enforcement of unlicensed and unregistered persons. 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

15. §28-105.4.4 Ordinary plumbing work.

No proposed changes to the definition.

We request that the Council adopts the following work scopes as presented.

§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 replacement 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.

16. **§28-417.1 Plumbing and fire suppression piping contractor license board.**

We propose to have the Board remain with no changes.

17. **§28-401.3 Definitions FIRE SUPPRESSION PIPING WORK**

We propose to ~~strike~~ the proposed changes.

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.]~~

18. **§28-410.4.1.1 Non-qualifying experience**

We propose to rename this section and modify the language. ~~Strikethrough~~ to be deleted. Underlined to be added.

~~**§28-410.4.1.1 Non-qualifying experience.** Notwithstanding section 28-410.4.1, work on 30 or fewer sprinkler heads off the domestic water shall not be considered qualifying experience for a master fire suppression piping contractor license.~~

28-410.4.1.1 Alternative qualifying experience: Active NYC licensed master plumbers applying for a B license must have at least (3) years total experience within a (7) years prior to application; in the performance of fire suppression piping work including the planning or design of fire suppression piping systems under the direct and continuing supervision of a NYC licensed master fire suppression piping contractor. Two of the years of such experience must be as a registered journeyman fire suppression installer in accordance with the provision of Article 411.

19. **§28-411.2 Experience.**

We propose to add the language below.

3. An active NYC licensed master plumber with a minimum of five (1) year of full-time experience in the performance of fire suppression piping work under the direct and continuing supervision of a NYC licensed master fire suppression piping contractor

20. **§28-105.4.1 Emergency work**

We propose to add language that is underlined and to remove language that is ~~strikethrough~~.

§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 or hot water equipment servicing education or residential occupancies during the heating season, which is between October 1st and May 31st, as established by the New York city housing maintenance code [or education occupancies between [November 1st and May 1st].~~
4. Repair or replacement of heating equipment during the heating season, which is between October 1st and May 31st, as established by the New York city housing maintenance code and/or the repair or replacement of domestic water heating equipment at any time.
5. Replacement of parts required for the operation of a ~~combined~~ standpipe or sprinkler system.

21. **§28-408.5 Surrender of license [~~plate~~] or seal.**

We propose to add language that is underlined and to remove language that is ~~strikethrough~~.

§28-408.5 Surrender of license, plate 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, plate and or seal shall immediately be surrendered to the commissioner. 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 plate and 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.

22. **§28-401.13 Late renewal [~~and reinstatement~~]**

We propose to allow reinstatement to remain and limit it to three years. Add language that is underlined and to remove language that is ~~strikethrough~~.

§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.

23. §28-408.3.1 & §28-408.4.4 Experience.

We propose to add the new language in *italic and underlined*.

§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 [~~and installation,~~] 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 gas work qualification in accordance with the provisions of article 409 and 423 [~~except that during the three years immediately following July 1, 2008, there shall be no requirement for such registered journeyman plumber experience~~];
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 [~~and installation,~~] 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 [~~and installation,~~] of plumbing systems. All required experience must be under the direct and continuing supervision of a licensed master plumber in the United States, [~~where~~] and at least one (1) year of such experience [~~was~~] 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 [~~in the~~] with installation; *alteration and repair* of plumbing systems and in the planning or design [~~and installation,~~] 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. [~~Three years after July 1, 2008 the~~] The two (2) years' experience in the installation; *alteration and repair* of plumbing systems and in the planning or design [~~and installation,~~] of plumbing systems set forth above may only be satisfied by working as a registered journeyman plumber; or

§28-408.4.4 [~~Effect of failure~~] Failure to obtain [~~plate and/or~~] seal. If a holder of a certificate of competence has held the certificate for five (5) years without a [~~plate and/or~~] seal, then the commissioner may require said person to submit an affidavit and supporting documentation satisfactory to the department stating that over the five (5) year period the individual has been engaged in the installation; *alteration and repair* of plumbing systems and the planning or the design [~~and installation,~~] of plumbing systems in the United States under the direct and

24. §28-101.5 Definitions Limited Alteration Applications

We propose to add new language in *italic and underlined*.
Verbiage with strikethrough to be removed.

LIMITED ALTERATION APPLICATION. Application for limited oil-burning appliance alterations, limited plumbing alterations, limited sprinkler alterations, and limited standpipe alterations submitted pursuant to section 28-104.6, ~~[Exception 1. Such work shall not include any a] Associated work [that would otherwise require an alteration permit]~~ including, but not limited to, any construction of fire rated partitions and enclosures *shall be filed under a separate alteration permit .Nothing contained herein shall prohibit the use of a limited alteration application in conjunction with a separate alteration permit.*

We propose that the verbiage with strikethrough be removed.

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 ~~[alteration]~~ addition to [a] 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 [thirty five] fifty thousand dollars in any 12 month period and]~~ where the proposed work is limited to the following:

Category 2 work scopes

We propose that the verbiage with strikethrough be removed.

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;~~

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.~~

25. §28-401.18 New York City location required

We propose the verbiage with strikethrough be removed.

§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].~~

26. §28-401.19.4 Restriction on disciplined licensees

§28-401.19.4 Restriction on disciplined licensees. Proposed Changes

We propose to add new language in italic and underlined.
Verbiage with strikethrough to be removed.

§28-401.19.4 Restriction on disciplined licensees. [A] *Prior approval from the Department is required before 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~~ *may 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 shall]~~ *prior to Department approval may* constitute grounds for disciplinary action.

27. §28-120.1 Tenant protection plan

We propose to add the new language that is underlined.

Exception: In the following instances, the tenant protection plan may be prepared and filed by the registered design professional of record for the alteration, construction, or partial demolition work as part of the underlying application:

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. Limited alteration applications are not required to comply with this section.

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

We propose to add the new language that is underlined.

~~§28-105.5.1~~ §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, ~~[and]~~ (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:

Limited alteration applications are not required to comply with this section.