

CHAPTER 12 WINDOW GUARDS

§12-01 Definitions.

When used in these regulations, the following words or terms shall have the following meaning:

Child or children. "Child or children" shall mean any person 10 years of age or younger.

Department. "Department" shall mean the New York City Department of Health.

Installation of window guard. "Installation of window guard" shall mean proper installation and maintenance of window guards in a manner approved by the Department.

Landlord. "Landlord" shall mean owner, lessee, agent, or other person who manages or controls a multiple dwelling or dwelling unit.

Tenant. "Tenant" shall mean lessee or other occupant regularly residing within a dwelling unit, regardless of whether said occupant is a party to a lease agreement.

§12-02 Lease Notice.

- (a) All leases offered to tenants in multiple dwellings shall contain, as a rider to the lease, a notice the form and content of which shall be as specified in Appendix A hereto.
- (b) Said notice shall be printed in not less than ten (10) point type, and shall bear the title "Window Guard Required" underlined and in bold face.
- (c) Said notice shall be separately signed and dated by the tenant who signed the lease indicating clearly whether a child ten years of age or under is, or will be, residing in the leased premises.

§12-03 Annual Notice.

- (a) Each year the landlord shall deliver to each dwelling unit, a notice, the form and content of which shall be in English and Spanish as specified in Appendix B, no earlier than January 1 and no later than January 16 of the year for which the notice is delivered. The foregoing notwithstanding, if such notice is delivered to the tenant by enclosure with the rent bill pursuant to §12-03(b)(3) below, then the notice may be delivered by the landlord at such time as the rent bill for the month of January is delivered. In addition said notice shall be so delivered within thirty (30) days of a change in occupancy not involving a written lease. This provision shall be effective January 1, 1987.
- (b) The landlord shall deliver said notice by any one of the following methods:
 - (1) by first class mail addressed to the tenant at the dwelling unit;
 - (2) by hand delivery to the tenant at the dwelling unit;
 - (3) by enclosure with the rent bill.
- (c) If by February 15th of the year for which the notice was sent a landlord does not have a written communication signed by the tenant, and does not otherwise have actual knowledge of the need or desire for window guards, then the landlord or his agent shall at reasonable times inspect the dwelling unit to ascertain whether a child 10 years of age or younger resides in the dwelling and if so, whether approved window guards are properly installed and maintained.

- (d) If by March 1 a landlord who has fully complied with subdivisions (b) and (c) of this section has been unable to ascertain the need or desire for window guards in any dwelling unit or units, then he shall write to the Department's Window Falls Prevention Program, 125 Worth Street, New York, New York 10013, fully describing what efforts have been made to comply with §131.15 of the New York City Health Code and these regulations, for the purpose of requesting assistance in regard to his further compliance. Such request shall include the name and telephone number of the landlord or his representative.

§12-04 Variation in Form of Notices Prohibited.

The wording and form of notices specified in this regulation shall not be altered or varied in any manner, except as permitted after an application made to the Commissioner under §12-08.

§12-05 Notice that Installation is Optional or That There is a Tie-in between Installation and Tenant Payment Prohibited.

- (a) No communication from a landlord to a tenant shall indicate that the installation of window guards is optional or in any manner dependent upon payments by the tenant.
- (b) Landlords shall not impose any type of pre-condition such as fees or any other psychological deterrent, preliminary to the installation of window guards.

§12-06 Tenant Obligation to Provide Information and Access.

- (a) No tenant in a dwelling unit shall refuse or unreasonably fail to provide accurate and truthful information regarding the residency of children therein, or refuse, prevent or obstruct any inspection required by §12-03(c) above.
- (b) A landlord who has been denied access to a dwelling unit for the purpose of installing window guards required by §131.15(a) of the New York City Health Code, shall write to the Department's Window Falls Prevention Program, 125 Worth Street, New York, New York 10013. Said statement shall specify the landlord's efforts to gain access and the circumstances of the denial thereof.
- (c) Tenants or occupants must respond to mandated inquiries by landlord as to their window guard needs or desires. It is a violation of the law to fail to do this. Tenants or occupants must also provide access and permit installation of guards and stops, where required.

§12-07 Selective Window Guard Installation Prohibited.

Window guards may not be installed selectively. They must be installed in all windows except fire escape access windows and a secondary egress window in a first floor apartment, where there are fire escapes on the upper floors. Choice of unguarded window is optional, in the latter cases.

§12-08 Procedures for Manufacturers Applying for Approval of Window Guards.

- (a) A window guard application, available from Window Falls Prevention, must be completed and submitted with:
 - (1) a sample or prototype of the smallest and the largest of each model being submitted.

- (2) a schematic drawing of the guard indicating adherence to the specifications of the Health Department, and indicating the range of sizes for which approval is being sought.
- (3) installation hardware and stopping devices for each model.
- (4) a Professional Engineer's certification of the testing results for the largest and smallest guards, the test having been administered simulating the installation conditions and weight stress applied as recommended by the manufacturer in compliance with the specifications.
Testing certifications shall include information relative to the temporary and permanent deflection of the guards under 150 lb. weights.
- (5) a letter from the paint manufacturer attesting to the lead content of the paint.
- (6) installation instructions for each type of window guard.
- (7) manufacturer's identification number and/or coding symbol.
- (8) manufacturer's dating code.
- (b) When approved, the Health Department Approval Number, i.e., HDWG 06-88-99, must be indelibly imprinted on a flat surface of one vertical stile of each window guard fabricated. This imprint must be so located as to be readily visible from the inside of a room when the guard has been installed.
- (c) A packet containing the approved hardware/screws, and the stopping devices for installation, must be attached or accompany each window guard sold.

§12-09 Procedures for Requesting Window Guard Variances.

- (a) All requests for variances must be submitted in writing for review by the Window Guard Policy and Acceptance Board.
- (b) When necessary, the presence of the submitter at a meeting of the Board may be required to amplify or respond to questions.
- (c) Requests for variances will be entertained only if submitted by the owner or management of a building or by his authorized representative.
- (d) Requests for variances will be entertained when the installation of an approved Health Department window guard proves to be impossible for structural reasons or infeasible.
- (e) A letter of application shall be submitted to the Window Guard Policy & Acceptance Board of the N.Y.C. Department of Health, Box 43, 125 Worth Street, New York, N.Y. 10013.
 - (1) Letters of application shall include the following:
 - (i) Name, address, and phone number of applicant.
 - (ii) Address of premise or premises for which variance is being requested, and the type and number of windows involved.
 - (iii) Reason for the request.
 - (iv) Description of condition or conditions warranting the request including a photo and/or mechanical drawing of the windows in question, depicting the particular structural idiosyncrasy or aberration making the request necessary.
 - (v) The alternative device presented for consideration must meet the same criteria and standards of safety as the prescribed window guards.
 - (vi) If requesting consideration of a limiting device, the submission must include: a sample of the alternative device with hardware for installation; namely: one-way screws or a viable approved equivalent tamper-proof mechanism.

- (vii) Application statement must commit to scheduled regular inspections and monitoring of the alternative installation by management, to ensure the ongoing integrity of the device.
- (f) All variances will be granted on a time limited basis, and will be subject to review, renewal or retraction at the expiration of the prescribed period or before should abuse of the procedural requirements be identified.

§12-10 Specifications for Window Guards for Double Hung Windows.

- (a) Guards shall be constructed of rigid metal, free of sharp projections, edges, or rough surfaces.
- (b) Guards shall be so constructed as to reject the passage of a solid five (5) inch sphere at every space and interval.
- (c) Guards shall bear a one hundred and fifty pound (150 lb.) load at centerspan when extended to maximum width. A test with the guard attached in accordance with the manufacturer's instructions for installation must be performed, and the results, including information as to temporary or permanent distortion, certified by a Professional Engineer, or independent testing laboratory.
- (d) (1) On guards utilizing non-telescoping bars, there shall be a permanent spot weld on at least two of the horizontal bars so as to provide a minimum of two (2) inches overlap when the guard is fully extended.
(2) On telescoping bars, when the guard is extended to the maximum allowable width, there shall be a minimum overlap of five (5) inches or 1/3 of the length of the bar, whichever is greater.
(3) A permanent label shall be affixed on at least one horizontal bar, on each facing surface. Said label shall read: **WARNING! EXTENSION OF THIS GUARD BEYOND ____ INCHES IS DANGEROUS AND ILLEGAL.** * (Insert the number of inches appropriate to the particular model in the space.)
(4) On telescoping guards, there shall be an additional stile or other approved support(s), at the telescopic opening of the outer tubing of the bars, that shall prevent any spreading of the bars.
- (e) Guards shall be a minimum of 15 inches high measured along the vertical stiles.
- (f) The channel stiles shall each have at least two (2) holes for permanent window mounting. If guards are more than 15" in height, additional mounting holes are required to provide a maximum interval of 18" between mounting holes.
- (g) *Stops.*
 - (1) Rigid metal "L" shaped stops, to be a minimum of one half the width of the window track and each leg of which shall measure at least two (2) inches, shall be installed securely with two (2) screws in the upper tracks of each side of the bottom window to prevent the lower window from being raised more than 4 1/2 inches above the lowest section of the top horizontal bar of the window guard.
 - (2) Where "L" shaped stops cannot be placed in the window track without interfering with the normal operation of the window, a rigid metal strip may be securely fastened* across the track of the bottom window to prevent the lower window from being raised more than 4 1/2 inches above the lowest section of the top horizontal bar of the window guard. Strips shall be mounted on each of the windows and shall be secured by (2) screws on each side of the window track.

- (3) In situations where the stops described in (1) and (2) above cannot be used, such as in ballast windows, rigid metal "L" shaped stops may be securely fastened to the frame of the window to prevent the lower window from being raised more than 4 1/2 inches above the lowest section of the top horizontal bar of the window guard. A stop shall be securely mounted on each side of the exterior lower window frame and shall be secured by two (2) approved screws in each stop.
- (4) In special situations where the stops described in (1), (2) and (3) above cannot be used, application may be made to the Window Guard Policy and Acceptance Board for approval of an alternative stopping device.
- (5) Stops are not required where approved window guards are installed that are of sufficient height to prevent an opening of more than 4 1/2 inches above the lowest section of the top horizontal bar of the window guard when the lower window is raised to its maximum open position.
- (h) *Screws.* Screws used to mount window guards and stopping devices shall be one-way sheet metal screws or metal tamper resistant screws. Tamper resistant screws are defined as screws requiring special tools for their installation and/or removal, which tools are not readily available in retail hardware stores. All tamper resistant screws must be counter sunk flush with the stile or stopping device. Appropriate screws shall be:
 - (1) minimum size #10 and long enough to penetrate one (1) inch into a wooden window frame or
 - (2) of an adequate type, size and length to be securely fastened to a metal window frame. Manufacturer shall supply all required screws with guards.
- (i) The coating of guards shall be unleaded. A statement from the paint manufacturer attesting to this fact must accompany application for window guard approval.
- (j) Coded manufacturer's identification symbol (guard model), Health Department Approval number, and fabrication date symbols, (month and year) shall be imprinted indelibly (die stamped), on one of the end stiles, so located as to be readily visible when viewed from within the room where the guard has been installed.
- (k) Each guard sold by a manufacturer shall be sold with a self-contained envelope or plastic bag containing:
 - (1) approved installation instructions
 - (2) "L" shaped or other approved stops, and
 - (3) specified screws for installation of guard and stops. If wood screws are supplied by the manufacturer, a warning label should be included stating that for metal installations, appropriate type, size, and length screws must be substituted. This warning shall be imprinted on the packaging container.
- (l) Instructions for safe installation shall be provided with each guard by manufacturer.
 - (1) Instructions shall specify maximum window width for which the guard is intended, and shall contain the following prominently printed wording: **WARNING: USE OF THIS GUARD BEYOND SPECIFIED MAXIMUM WIDTH IS DANGEROUS AND ILLEGAL.**
 - (2) Instructions shall prominently warn that guards and stops must be installed only in sound (non-rotting) window tracks.
 - (3) Instructions shall prominently specify: **WINDOW GUARDS MAY NOT BE INSTALLED IN WINDOWS PROVIDING ACCESS TO FIRE ESCAPES.**

- (4) Instructions shall specify that guards be installed so that the bottom horizontal members are mounted a maximum of 4 1/2 inches above the window sill.
- (5) Instructions shall specify the use of the supplied "L" shaped stops to be installed with screws provided, or alternative approved stopping devices also provided with prescribed screws, to limit the opening above the lowest section of the top horizontal bar to 4 1/2 inches when the bottom sash is raised.

§12-11 Specifications for Window Guards for Other Than Double Hung Windows.

- (a) Applications for approval of window guards for use in other than double hung windows shall specify the window type(s) for which the guard submitted is intended. Mounting materials and instructions for installation for each specific type of window must be included with the application and must be provided to the consumer with the guards.
- (b) Guards shall be constructed so as to reject the passage of a solid five (5) inch sphere at every space and interval.
- (c) Guards intended for casements, sliders, and other types or combinations of windows in which the height of the openings are not subject to limitation, must be of such size as to fill the entire aperture, and must reject passage of a solid five (5) inch sphere at every space and interval.
 - (1) When approved limiting devices are utilized in lieu of window guards the size of any unguarded opening may not exceed 4 1/2 inches so as to reject passage of a solid 5 inch sphere at every space or interval.
 - (2) On guards utilizing non-telescoping bars, there shall be a permanent spot weld on at least two of the horizontal bars so as to provide a minimum of two (2) inches overlap when the guard is fully extended.
 - (3) On telescoping bars, when the guard is extended to the maximum allowable width, there shall be a minimum overlap of five (5) inches or 1/3 of the length of the bar, whichever is greater.
 - (4) A permanent label shall be affixed on at least one horizontal bar on each facing surface. Said label shall read: WARNING! EXTENSION OF THIS GUARD BEYOND ____ INCHES IS DANGEROUS AND ILLEGAL. * (insert the number of inches appropriate to the particular model in this space.)
 - (5) On telescopic guards, there shall be an additional stile or other approved support(s), at the telescopic opening of the outer tubing of the bars, that shall prevent any spreading of the bars.
- (d) Guards shall bear a one hundred and fifty pound (150 lb.) load at its centerspan when extended to its maximum width. A test with guards attached in accordance with the manufacturer's instructions for installation must be performed and results certified by a Professional Engineer or independent testing laboratory. The information shall include any finding of a temporary or permanent distortion.
- (e) Each channel stile shall have at least two (2) mounting holes. If guard is more than 15 inches high, additional mounting holes are required to provide a maximum of 18 inches between mounting holes.
- (f) Coating of guards shall be unleaded. Statement from paint manufacturer attesting to this fact must accompany the application for window guard approval.
- (g) Coded manufacturer's identification symbol (guard model), Health Department Approval number, and fabrication date symbols, (month and year), shall be imprinted on one of the

end stiles so located as to be readily visible when viewed from within the room where the guard has been installed.

- (h) Sliding windows and vertical pivoting windows may use stopping devices in lieu of window guards as follows:
 - (1) *Sliding windows.* A solid metal block, measuring at least one half the depth of the window track and one half the width, shall be securely fastened by two (2) screws into the bottom window track, and a solid metal block or an "L" shaped metal stop shall be securely fastened* by two (2) screws into the upper window track, to prevent the window from opening more than 4 1/2 inches.
 - (2) *Vertical pivoting windows.* Metal stopping devices shall be securely fastened to the upper and lower window frames by two (2) screws so as to prevent the window from pivoting open more than 4 1/2 inches. The height of the stopping devices shall extend no less than one inch nor more than two inches beyond the window frame as needed to stop the window. The protruding edge of the stopping device shall be smooth and rounded.
- (i) For types of non-double hung windows, other than those described in subdivision (h), and in special situations where the stops described in subdivisions (h)(1) and (h)(2) cannot be used, application may be made to the Window Guard Policy & Acceptance Board for approval of an alternative stopping device.
- (j) Screws used to mount window guards and stopping devices shall be one-way metal screws or metal tamper resistant screws. Tamper resistant screws are defined as screws requiring special tools for their installation and/or removal, which tools are not readily available in retail hardware stores. All tamper resistant screws shall be counter-sunk flush with the stile or stopping device.
 - (1) Appropriate screws shall be a minimum size #10 and shall be long enough to penetrate one inch into a wooden window frame, or;
 - (2) shall be of adequate type, size and length to be securely fastened to a metal window frame. Manufacturers shall supply all required screws.
- (k) Each guard sold shall be sold with a self-contained envelope or plastic bag containing:
 - (1) approved installation instructions,
 - (2) approved stopping devices, and
 - (3) specified screws needed for installation of the window guard and/or stopping devices. If wood screws are supplied by a manufacturer, a warning label or message imprinted on the packaging container shall warn that for metal installations, appropriate type, size, and length screws must be substituted. This warning shall be imprinted on the packaging container.
- (l) Instructions for safe installation of window guards shall be provided by the manufacturer for each specific type of window for which they are intended.
 - (1) Instructions shall specify that window guards may not be installed on windows providing access to fire escapes.
 - (2) Instructions shall specify maximum window width and height for which guard is intended, and shall contain the following prominently printed wording: **WARNING! USE OF THIS GUARD BEYOND SPECIFIED MAXIMUM WIDTH IS DANGEROUS AND ILLEGAL!**
 - (3) Instructions shall prominently warn that guards must be installed only in sound (non-rotting) mountings or tracks.

§12-12 Modification by Commissioner.

When the strict application of any provision of this regulation presents practical difficulties or unusual hardships, the Commissioner, in a specific instance, may modify the application of such provision consistent with the general purpose of this regulation and upon such condition as, in his opinion, are necessary to protect life and health.

§12-13 Penalties.

Penalties for violation of these regulations shall be as provided for in §17-123* of the Administrative Code of the City of New York.

**APPENDIX A
LEASE NOTICE TO TENANT**

**WINDOW GUARDS REQUIRED
LEASE NOTICE TO TENANT**

You are required by law to have window guards installed if a child 10 years of age or younger lives in your apartment.

Your Landlord is required by law to install window guards in your apartment:

if you ask him to put in window guards at any time (you need not give a reason)

OR

if a child 10 years or younger lives in your apartment.

It is a violation of law to refuse, interfere with installation, or remove window guards where required.

CHECK ONE

- CHILDREN 10 YEARS OF AGE OR YOUNGER LIVE IN MY APARTMENT
- NO CHILDREN 10 YEARS OF AGE OR YOUNGER LIVE IN MY APARTMENT
- I WANT WINDOW GUARDS EVEN THOUGH I HAVE NO CHILDREN 10 YEARS OF AGE OR YOUNGER

TENANT (PRINT)

TENANT SIGNATURE

DATE

FOR FURTHER INFORMATION CALL:

Window Falls Prevention Program
New York City Department of Health
125 Worth Street, Room 222A
New York, New York 10013
(212) 566-8082

Window Falls Prevention Program
New York City Department of Health
125 Worth Street, Room 222A
New York, New York 10013
(212) 566-8082

* Except windows giving access to fire escapes or windows on the first floor that are required means of egress from the dwelling unit.

APPENDIX B¹
NOTICE TO TENANT OR OCCUPANT
[SPANISH]

DEPARTMENT DE SALUD
CIUDAD DE NEUVA YORK
AVISO A LOS INQUILINOS O A LOS OCUPANTES

Usted esta' obligado por ley a hacer instalar rejas en todas las ventanas si un nino de 10 anos de edad, o menor, vive en su apartamento. Su Casero esta obligado por ley a instalar rejas en las ventanas de su apartamento si:*

- un nino de 10 anos de edad, o menor, vive en su apartamento; o si
- usted le *solicita* en cualquier oportunidad que instale rejas en las ventanas (no necesita dar una explicacion).

Constituye una infraccion de la ley negarse, interferir con la instalacion, o retirar las rejas de las ventanas cuando se requiere tenerls, o dejar de llenar y devolver este formulario a su casero. Si este formulario no es devuelto oportunamente, se procedera a realizar una inspeccion por parte del casero.

MARCAR SEGUN CORRESPONDA:

- | | |
|--|---|
| <input type="checkbox"/> NINOS DE 10 ANOS DE EDAD O MENORES VIVEN EN MI APARTAMENTO | <input type="checkbox"/> SE HAN INSTALADO REJAS EN TODAS LAS VENTANAS* |
| <input type="checkbox"/> NINGUN NINO DE 10 ANOS DE EDAD O MENOR VIVE EN MI APARTAMENTO | <input type="checkbox"/> NO SE HAN INSTALADO REJAS EN TODAS LAS VENTANAS* |
| <input type="checkbox"/> DESEO QUE SE INSTALEN REJAS EN LAS VENTANAS AUN CUANDO NO TENGO NINOS DE 10 ANOS DE EDAD OR MENORES | <input type="checkbox"/> LAS REJAS DE VENTANAS NECESITAN MANTENIMIENTO O REPARACION |
| | <input type="checkbox"/> AS REJAS DE VENTANAS NO NECESITAN MANTENIMIENTO O REPARACION |

Nombre del
Inquilino: _____
(Letra de Imprenta) (Direccion/No. de Apto)

Nombre del
Inquilino: _____ Fecha: _____
(Signature)

DEVOLVER

A: _____
NOMBRE Y DIRECCION DEL PROPIETARIO, AGENTE O ADMINISTRADOR

PARA PEDIR MAYORES INFORMES DIRIGASE A:

Programa de Prevencion de Accidentes en Ventanas Departamento de Salud de la Ciudad de
Neuva York

125 Worth Street, Oficina 222A

New York, New York 10013

Telefono: (212) 566-8082

* Con excepcion de las ventanas que den acceso a las salidas de incendios o las ventanas del primer piso que constituyan un medio obligatorio de salida de la vivienda.