

An aerial photograph of New York City, showing a dense grid of skyscrapers and buildings. The image is split horizontally: the top half is in grayscale, and the bottom half is in color. A semi-transparent blue band runs across the middle, containing the title text.

# AFTER HOURS VARIANCES

# **AFTER HOURS RULES: §24-222**

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- After hours and weekend limits on construction work. Except as otherwise provided in this subchapter, it shall be unlawful to engage in or to cause or permit any person to engage in construction work other than on weekdays between the hours of 7a.m. and 6 p.m. A person may however perform construction work in connection with the alteration or repair of an existing one or two family owner-occupied dwelling classified in occupancy group J-3 or a convent or rectory on Saturdays and Sundays between the hours of 10 a.m. and 4 p.m. provided that such dwelling is located more than 300 feet from a house of worship.

# §24-223 A

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- After hours work authorization.

(a) Notwithstanding section 24-222 of this subchapter, an agency authorized to issue permits for construction work may, along with such permit, issue an after hours work authorization for the work site. Such after hours authorization may permit construction work to be performed at the site before 7 a.m. or after 6 p.m. on weekdays and/or on Saturdays and/or Sundays subject to the conditions and restrictions set forth in this section.

# **§24-223 B**

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**(b) The agency issuing such authorization must obtain a certification from its permittee that the permittee has developed a noise mitigation plan for the site in accordance with this subchapter and that such plan is in compliance with the noise mitigation rules. In the case of emergency work such certification shall be submitted within 3 days after the commencement of the work.**

# §24-223 C

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**(c) If after hours work at the site is not being performed in compliance with such plan or where no plan is in effect, the department or the agency issuing such authorization, at the request of the commissioner or on its own account, may take appropriate action, including but not limited to the refusal to renew such after hours authorization.**



# **§24-223 D**

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(d) Where there is full compliance with the noise mitigation plan yet nevertheless aggregate sound levels from the site where an after hours authorization is in effect exceed 8dB(A) above the ambient sound level as measured in any residential receiving property dwelling unit (with windows and doors that may affect the measurement 14 closed), the commissioner may request the person performing the work to confer with representatives of the department regarding additional noise mitigation measures that may be employed at the site to reduce aggregate sound levels.

# **§24-223 D CONT'D**

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After such conference the commissioner may direct amendment of the noise mitigation plan for the site. Failure to respond to a request for a conference or to amend the noise mitigation plan within the time prescribed in a notice issued by the department shall be a violation of this code.

# **§24-223 E**

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**(e) Authorization for after hours construction work may only be issued in the following circumstances:**

**(1) Emergency work. Agencies shall authorize such after hours construction work for emergency conditions, inside or outside the property line, involving a threat to public safety or causing or likely to cause the imminent interruption of service required by law, contract or franchise. An emergency authorization issued pursuant to this paragraph shall expire as determined by the agency but no later than the ninetieth day after its issuance and shall be renewable in accordance with agency procedures while the emergency continues.**



# §24-223 E (2)

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**(2) Public safety.** Agencies may authorize such after hours work, inside or outside of the property line, where the agency determines that the work cannot reasonably or practicably be performed on weekdays between the hours of 7 a.m. and 6 p.m. because of traffic congestion and/or concern for worker and/or public safety. An authorization issued pursuant to this paragraph shall expire as determined by the agency but no later than the ninetieth day after its issuance and shall be renewable in accordance with agency procedures.

## **§24-223 E (3)**

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**(3) City construction projects. Agencies may authorize after hours work by or on behalf of city agencies for projects that are judicially mandated or the subject of consent orders and/or where a project is necessary in the public interest including but not limited to facilities, equipment, and infrastructure for the provision of water, sewerage, sanitation, transportation and other services necessary for the health or safety of the public. An authorization issued pursuant to this paragraph for a city construction project shall remain in effect for the duration of the project.**

# **§24-223 E (4)**

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**(4) Construction activities with minimal noise impact. The commissioner shall promulgate rules setting forth a list of construction activities with minimal noise impact and specific noise mitigation measures applicable to such activities. Agencies may authorize the performance of such construction activities after hours in accordance with such rules.**

# **§24-223 E (5)**

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**(5) Undue hardship. Agencies may authorize after hours work if the commissioner certifies that the permit holder has substantiated a claim of undue hardship resulting from unique site characteristics, unforeseen conditions, scheduling commitments and/or financial considerations outside the control of the permit holder and that the applicant has received approval from the department of an alternative noise mitigation plan pursuant to section 24-221 of this subchapter, specifying the activities and devices that will be used for such after hours construction and setting forth the additional mitigation measures, above and beyond those measures otherwise required for such devices and activities pursuant to the department's rules, that the applicant will use to significantly limit noise emissions from the site of such after hours work.**

## **§24-223 E (5) CONT'D**

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Applications for such certification shall be submitted to the department in a form and manner to be set forth in the rules of the department. The applicant for an after hours authorization under this paragraph shall submit such certification to the issuing agency.

# §24-224

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Construction work without noise mitigation plan unlawful. It shall be unlawful to perform work at any construction site in the city that is not in compliance 15 with a noise mitigation plan where such plan is required pursuant to this subchapter and with the noise mitigation rules adopted pursuant to this subchapter. Notwithstanding any other provision of this code, construction work performed in accordance with a noise mitigation plan that is in full compliance with this subchapter and such rules shall be deemed to be in compliance with all decibel level limits set forth in other subchapters of this code. The provisions of this subchapter shall supercede all other provisions of this code relating to construction activities or devices that are inconsistent with or in conflict therewith.

# ACTIVE AFTER HOURS VARIANCES MAP

<https://www.nyc.gov/assets/buildings/html/active-after-hour-variance.html>