

EMPIRE STATE
REALTY TRUST

**CONSTRUCTION RULES
AND REGULATIONS**

**1359 BROADWAY
New York, NY**

TABLE OF CONTENTS

<u>CONSTRUCTION RULES AND REGULATIONS</u>		
A.	<u>GENERAL INFORMATION</u>	2
B.	<u>COMPLIANCE WITH RULES AND STANDARDS</u>	2
C.	<u>SUBMISSION OF DRAWINGS, PLANS, ETC.</u>	2
D.	<u>PERMITS AND APPLICATION SPECIFICATIONS</u>	2
E.	<u>CONTRACTORS</u>	3
F.	<u>CERTIFICATE OF INSURANCE REQUIREMENTS</u>	3
G.	<u>ACCESS TO BUILDING/CONTRACTOR PASSES</u>	3
H.	<u>DELIVERIES AND BUILDING FREIGHT ELEVATORS</u>	3
I.	<u>PROTECTION OF PUBLIC AREAS & BUILDING EQUIPMENT</u>	4
J.	<u>CERTIFICATE AND COMPLETION OF WORK</u>	4
K.	<u>REFUSAL OF PERMISSION</u>	4
L.	<u>AMENDMENT TO RULES AND STANDARDS</u>	4
M.	<u>VIOLATION OF BUILDING RULES</u>	4
N.	<u>STRUCTURAL WORK</u>	5
O.	<u>BUILDING SERVICES AND RELATED FEES</u>	5
P.	<u>GENERAL CONDITIONS AND REQUIREMENTS FOR ALL WORK</u>	5

SECTION I
BUILDING RULES AND REGULATIONS

A. General Information

Main..... (212) 244-3125
Property Manager, Wendi Gibb (wgibb@empirestaterealtytrust.com)..... (212) 244-3125
Assistant Property Manager, Jorge Marrero (jmarrero@empirestaterealtytrust.com)..... (212) 244-3125
Superintendent, Richie Hesson (rhesson@empirestaterealtytrust.com)..... (212) 947-4894

ESRT 1359 Broadway, L.L.C.
c/o ESRT Management, L.L.C.
1350 Broadway, Mezzanine Level
New York, New York 10018
Phone: (212) 244-3125

B. Compliance with Rules and Standards

All construction work proposed for “Tenant Alterations” must comply with NYC Department of Buildings, New York City, New York State and Federal Government agencies having jurisdiction over the project, the Administrative Code of the City of New York, ADA, and 1359 Broadway Buildings Rules and Regulations and Performance Standards (the “Rules and Regulations”, which may be modified from time to time as Landlord/Building Management, may determine).

C. Submission of Drawings, Plans, Etc.

Tenant shall pay to Landlord as additional rent, on demand, an administrative fee equal to the sum of the reasonable fees of any architect, engineer or attorney employed by Landlord to review any plan, agreement or document submitted for Landlord’s review or approval, and Landlord’s administrative costs for same.

Tenant will submit to the Landlord for review and comment prior to commencement of any work, four (4) sets, 1/8” scale, one hundred percent completed (signed & sealed) Architectural, Mechanical, Electrical, Plumbing (including sprinklers), Fire Alarm and Structural submissions. The drawings sets will be provided to Landlord’s consulting engineers for their review/comment.

Request for existing base building drawings by Tenant’s architect or engineer must be made in writing to the Building Manager. The Tenant will be responsible for all related charges and costs. Landlord will not be responsible for base building drawings accuracy. Tenant’s architect(s) and engineer(s) to confirm accuracy of drawings.

The final “issue for construction”, conformed to Building Management’s (Landlord’s) comments, shall consist of one complete set of full-size and one “half-size” reduced drawings to Wendi Gibb, Property Manager, 1350 Broadway, Mezzanine Level, New York, NY 10018

D. Permits and Applications

All work shall be filed with the NYC Department. of Building and no work shall commence until the permits have been issued by the NYC Department of Buildings. Copies of the permits and perforated/stamped plans must be given to the Building Management as well as posted/maintained on the construction site at all times.

The following expediter shall be used for the purposes of filing for permits:

Rizzo Group
Miho Kishi
1333 Broadway, Suite 500
(212) 695-5980
mkishi@rizzogroup.com

All Permit applications shall be sent to:

ESRT 1359 Broadway, L.L.C.
c/o ESRT Management, L.L.C.
1350 Broadway, Mezzanine Level
New York, NY 10018
Attn: Wendi Gibb, Property Manager

All Contractors, Architects and Engineers applying for a permit for construction at 1359 Broadway are required to complete the applications as outlined below:

Business Name: ESRT 1359 Broadway, L.L.C.
Address: 1350 Broadway, Mezzanine Level
New York, NY 10018
Phone: (212) 244-3125
Name of Signator: Wendi Gibb
Property Manager
Name of 2nd Signator: Diane Fields
Portfolio Manger

E. Contractors

The Landlord will furnish a pre-approved list of Contractors and subcontractors to the Tenant. All alteration work requires the use of pre-approved contractors. All work must be performed with harmonious labor relations.

F. Certificate of Insurance Requirements

Before commencing any work to the premises, the Tenant is required to have their General Contractor and all subcontractors furnish a certificate of insurance to the Building Management office. See attached for Certificate of Insurance.

G. Access to the Building/Contractor Passes

Tenant to provide a list of contractors' names as well as a Tenant contact employees that will be working in the Building. List to be submitted to Building Management, ESRT 1359 Broadway, L.L.C. c/o ESRT Management, L.L.C., 1350 Broadway, New York, NY 10018.

Contractors will be required to register with and get passes from the loading dock guard booth every day that access is required. Contractors must present an Official Government photo ID in order to receive a pass. No Contractors' pass will be issued without Government issued photo ID presented.

The freight is staffed Monday to Friday, 9:00 AM to 5:45 PM. No access will be provided before/after-hours unless pre-approved by and scheduled with Building Management.

H. Deliveries and Building Freight Elevators

Delivery of all materials to the construction site must be made to the Freight Entrance, on West 36th Street.

All deliveries must be scheduled with Building Management or such personnel designated by the Building Management. To schedule delivery of materials and use of freight elevators, submit request (see sample) to Building Management or use Work Speed. The normal operating hours for the freight elevators are 9:00 AM to 5:45 PM. Elevators are subject to availability and are available on a "first come first serve" basis. After hours use of the freight elevator for transport of construction materials/personnel must be scheduled in advance and may be subject charges (levied to Tenant) at the prevailing rates. Should elevator mechanics be required for special delivery, the cost of having elevator mechanics on site shall be borne by Tenant, as applicable.

Passenger Elevator cars are not to be used in any way for transporting materials or construction personnel.
No material or equipment shall be carried under or on top of elevators.

All materials are to be brought in proper containers and deliveries must be made directly to space under alterations. No storage or staging of materials is allowed on loading dock, in freight elevator lobby, in public corridors, elevator lobbies or any space other than site of construction.

All dollies, hand trucks, jacks, etc. shall be in good condition; iron wheels are not permitted in the Building. Overflow or leakage from containers will not be tolerated.

All carpeted areas that will be affected by the moving of equipment or containers should be protected by pre-approved Building standard means. Refer to Building Rules and Regulations for protection requirements.

I. Protection of Public Areas & Building Equipment

All public areas such as elevator lobbies, corridors, lobbies, loading docks, toilets, etc. shall be maintained clean and protected using Building standard materials. Equipment and other property belonging to the Building shall also receive protection and shall be repaired if damaged in the course of construction, to the satisfaction of the Building Management. The wall to wall floor protection consists of brown paper, Masonite sheets taped together (brown tape or blue painters tape), covered by filmtex, and walls to be protected by Building corrugated paper (with Masonite underneath in freight areas), provided by Building at Tenant's expense.

Shoe – wiping mats (either wetted down or sticky) to be provided at all entry points to adjacent areas.

J. Certificate and Completion of Work

The General Contractor shall submit the following certificates to the Building Management Office upon completion of work, including, but not limited to:

1. Building Notice Application approvals and sign-offs issued by the Department of Buildings. Electrical and HVAC certificates issued by:
 - DOB
 - FDNY
 - Special Inspections
 - Equipment use permits
2. A properly executed air balancing report signed by the project's professional mechanical engineer shall be submitted to the Building Management upon completion of HVAC work.
3. Copies of release of lien from the GC and all sub-contractors.
4. In addition to the above, General Contractor to submit to Building Management upon completion of work a "close-out" book which will include all detailed "As-Built" documents for Architectural, Structural, HVAC, Sprinklers, Fire Alarm and Electrical Circuiting Plans. All Guarantees, warranties, and Operating Manuals of equipment installed shall be provided. Two (2) hard copies and digital copies in CAD (Autocad 2000 or later) and PDF formats are required.
5. At completion of project, General Contractor to complete Project Completion Checklist. See attached for Project Completion Checklist.

K. Refusal of Permission

The Building Management Office also reserves the right to halt construction, at General Contractor's expense, upon failure of the General Contractor to comply with the Building Rules and Regulations.

L. Amendment to Rules and Standards

Landlord/Building Management reserves the right to amend any of these Rules and Regulations at any time.

M. Violations of Building Rules

Repeated violations of any of the Building Rules and Regulations contained herein, including use of passenger elevators, shall constitute grounds for Landlord/Building Management requiring ejection of the offender, whether tradesman, subcontractor, or General Contractor. Depending on the severity of the violations, the offender may be barred from performing work throughout the Building and any building supervised by Empire State Realty Trust, Inc., ESRT Management, L.L.C.

Penalties will be charged for violations of certain Building Rules and Standards, in addition to any costs incurred by the Building.

Rules and penalty amounts are subject to change.

N. Structural Work

Any structural modification must be reviewed and approved by Building Structural Engineer prior to commencement of work. This includes core drilling or trenching. No conduits/core drilling or cutouts are permitted to be installed in the floor slab without written approval from the Building Management/Landlord. Building Management/Landlord reserves the right to restrict locations of such items to areas that will not interfere with the Buildings framing system or components. No Conduits or cut-outs are permitted outside of Tenant's premises.

O. Building Services and Related Fees

Contact the Building Management Office at 1350BMO@empirestaterealtytrust.com, or at (212) 244-3125 for current fee schedule.

P. General Conditions/Requirements for All Work

1. There is no smoking allowed anywhere in the Building.
2. No radio playing is permitted on the jobsite.
3. Use electric equipment only: fuel powered equipment is not permitted.
4. Do not burn materials or debris on premises.
5. All entrance locksets shall be master keyed as required by the Landlord/Building Management.
6. Windows shall not be opened without Landlord/Building Management approval. Any windows that are opened must be closed at the end of the work day.
7. No exterior hoisting will be permitted. All products specified are to be assembled on-site and delivered to the site in such a manner so as to allow unobstructed passage through the building freight elevators, lobbies, corridors, etc. The General Contractor will be responsible for protection of all finished spaces as required.
8. If suspected asbestos containing material is uncovered during renovation, Landlord/Building Management is to be notified immediately to remediate.
9. General Contractor to provide a superintendent or foreman (project manager) capable of communicating with Landlord/Building Management on premises at all times. In addition, a laborer capable of communicating with Landlord/Building Management is to be on site to police job at all times, continually keeping area safe, broom clean, and free of all debris.
10. Contractor to inform Landlord/Building Management of any incidents (e.g. damage, leaks, thefts, etc.) or injuries and submit a detailed incident report within one (1) Business Day of the incident.
11. If General Contractor or subcontractors are negligent in any of their responsibilities, Tenant shall be charged for any corrective work performed on Tenant's behalf by the Landlord/Building Management with administrative fee.
12. General Contractor to provide Landlord/Building Management with an emergency contact list.
13. Harmonious relations shall be used by all contractors and subcontractors performing any and all work in a professional manner. Labor shall work in close harmony with one another as well as with the Landlord/Building Management and Building's maintenance personnel.
14. Construction personnel are to use only the assigned bathroom and wash-up facilities as directed by Landlord/Building Management.
15. Contractors and vendors who operate cellular phones, PDA's and/or two-way communication devices should keep the volume on these devices no louder than necessary. When passing through Tenant or public spaces, the device should be set to vibrate. Where the use of the device is necessary in a work space, the contractor should be mindful of his or her surroundings and keep conversations and the volume on cellular phones and two-way communications to a minimum. There is to be no loitering in Building common areas for use of these devices.

16. All work shall be accomplished in strict conformance to the applicable local, state, OSHA and Building Rules and Regulations. Removal of materials and equipment items shall be done when safely disconnected from operating services by contractor skilled in this trade.
17. Do not allow demolished materials to accumulate inside or outside of Building. Remove from the site all rubbish and debris resulting from work of demolition. Wet down debris to control dust.
18. The General Contractor shall be responsible for all temporary services and utilities during the course of demolition including adjacent Tenants. Cost or use charges for temporary facilities are chargeable to the Tenant.
19. All fire exits and/or stairways to be kept clear, marked and accessible and doors are to remain closed at all times to maintain fire evacuation integrity of stairwell.
20. At all times contractor shall maintain: 1) Operable exit signage & egress lighting; 2) Safe egress passage to all exits; 3) Active fire detection/suppressing systems or fire watch.
21. Use designated transportation routes to the work area. Contractor is not to use fire exits, stairways or passenger elevator cars as a means of daily access to and from construction site, or for storage of equipment and materials.
22. The practice of "chocking" open doors or making hardware inoperative will not be permitted.
23. Avoid and prevent the disturbance to other Tenants. Work in or around other Tenant areas must be coordinated in advance with Landlord/Building Management and proper security must be provided at Tenant's expense.
24. No work is to be performed in Building's mechanical equipment rooms, service areas or electrical closets without first checking in with Landlord/Building Management and its engineering consultant.
25. Restore damaged fireproofing at existing structure due to new construction.
26. Electric panel covers are not to be left off at any time unless when being worked on. Cover shall be replaced each night before leaving the site.
27. General Contractor to provide temporary lighting and power per code for duration of project. The contractor shall clearly label lighting panels and breakers used for lighting. Temporary lighting to be removed at the completion of construction.
28. All work shall be subject to inspection by Landlord/Building Management. Such supervision and inspection shall be at Tenant's expense, if applicable. Any and all deficiencies noted, as a result of the inspection, shall be corrected by the Tenant, or the Tenant's contractor at the Tenant's expense, if applicable. Any and all punch list items identified by Landlord/Building Management shall be corrected within 20 Business working Days, unless such items affect life safety in which case they should be addressed immediately, Landlord/Building Management has the right to back-charge Tenant for additional Building Management and consultant services.
29. Landlord/Building Management shall not be responsible for any disturbance or deficiency created in the air conditioning or other mechanical, electrical or structural facilities within the building as a result of the alterations. If such disturbance or deficiency results, it shall be the Tenant's responsibility to correct the resulting conditions immediately and to restore the services to the complete satisfaction of the Landlord/Building Management, its architect and engineers. Landlord/Building Management reserves the right to make such corrections at the Tenant's expense.
30. All equipment shall be identified by system number, and their performance/operating data on the design drawings. All equipment shall be specified, with manufacturers name, model number, etc.
31. Contractor's Drawings, Tagging and Labeling: All wires must be properly tagged at panel, and all panels properly phase balanced after addition of separate circuits where change were made. All valves must likewise be properly tagged. Failure to properly tag all wires and valves will result in additional charges to Tenant as Landlord/Building Management test and tags all wires and valves where General Contractor has made changes. All plumbing lines, electrical lines and telephone wires in another Tenants' premises must be tagged to the Landlord/Building Management's approval before completion of project if services traverse other occupied Tenant spaces or building common areas. Any slab penetrations must be properly tagged with suite and purpose. A typed completed directory in the electrical panel must be upgraded by the General Contractor to reflect all circuits both new and existing. A dated, 8 1/2" x 11" complete panel directory, on the Electrical

subcontractor's letterhead shall be furnished to Landlord/Building Management as part of the project closeout documentation.

32. "Safe-off", with valves, caps or plugs, all services supplying plumbing fixtures and equipment in areas designated for demolition, prior to the start of demolition work.
33. All mechanical and plumbing connections to building water systems, waste and vent lines, etc. are to be performed after normal working hours and coordinated with Landlord/Building Management and their Engineer. Provide isolation/shut-off valves for all water lines (Mechanical and Plumbing) with no interruption of Tenant service during normal business hours and not without being coordinated with building.
34. Base Building fire alarm system integrity shall be maintained at all times. Existing ceiling mounted speakers, smoke detectors and strobes shall be carefully removed from ceiling tiles and walls and placed high in space, secured to the structural steel. Do not disconnect or remove or paint over any fire alarm wiring, devices or fire alarm panels without active participation from Building Management. Carefully protect BBFAS wiring during construction.
35. Per New York City code requirements for floor coverage, the Fire Detection and Protection System must be on-line and the Class "E" system must be maintained. If the above cannot be met, a fire watch must be maintained with a minimum of twenty-four (24) hour advance notification to the Landlord/Building Management that the General Contractor requires fire detection/protection systems to be off-line. The fire watch is to meet all applicable and governing agency codes, and provide adequate and proper documentation. Fire watch shall perform no other duties while on watch. The fire watch shall be provided by the Landlord/Building Management at the Tenant's expense. If requested, certified fire watch can be provided by The Building Management at the Tenant's expense. If the fire watch is provided by the General Contractor, all responsibilities/duties of such fire watch shall be in compliance with NYC Local Law 5. Any work performed on the Class "E" System must be done by 1359 Broadway's Fire Alarm contractor. Terminations and contacts provided by **Casey**. All requests to take the Class "E" System off-line including sprinkler drain downs requests, if applicable, must be made in writing to the Landlord/Building Management through the Building Management Office with a minimum of 48 hours in advance. Failure to comply may result in the issuance of monetary fines. All associated fees/fines will be submitted to and are the sole responsibility of the Tenant.
36. Provide and maintain filter on supply and return grille openings as applicable, to keep dust from entering the Building's air supply systems. Provide double filters, or apply bulk filter media over package filters at all HVAC equipment running during construction, including perimeter induction units. Upon completion of demolition/construction all filters are to be removed, equipment cleaned to Management satisfaction and unit primary filters to be replaced. If this is not completed, Landlord/Building Management will perform cleaning at Tenant's expense.
37. Core drilling and trenching will be allowed before 8 AM or after 6 PM only after complete survey and probe of slab and fill is performed to assure they are clear of any existing conduit or obstructions. Permission to perform such drilling and trenching must be obtained from the Building Manager. All work shall be properly fire stopped and safed. Core drilling in electrical closets is strictly forbidden.
38. Adhesives, sealants and sealant primers must comply with volatile organic compound (VOC) limits as outlined in south coast air quality management district (SCAQMD) Rules 1168 effective July 1, 2005 and amended on January 7, 2005.
39. Aerosol adhesives must comply with green seal standard for commercial adhesives GS-36 requirements in effect on October 19, 2000.