

TEXT OF RULE  
19 NYCRR PART 1203

1. Part 1203 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is repealed.

2. Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended by adding a new Part 1203 to read as follows:

PART 1203

UNIFORM CODE: MINIMUM STANDARDS FOR ADMINISTRATION AND ENFORCEMENT

1203.1 Introduction. Section 381 of the Executive Law directs the Secretary of State to promulgate rules and regulations for administration of the Uniform Fire Prevention and Building Code (Uniform Code). These rules and regulations are to address the nature and quality of enforcement and are the subject of this Part.

1203.2 Program for administration and enforcement. (a) Every city, village, town, and county, charged under subdivision 2 of section 381 of the Executive Law with administration and enforcement of the Uniform Code shall provide for such administration and enforcement by local law, ordinance or other appropriate regulation. Any such instrument or combination thereof shall include the features described in section 1203.3 of this Part.

(b) Every state agency accountable under section 1201.2(d) of this Title for administration and enforcement of the Uniform Code shall provide for such administration and enforcement in accordance with Part 1204 of this Title.

(c) Every agency accountable under section 1201.2 of this Title for administration and enforcement of the Uniform Code and not otherwise included in subdivisions (a) and (b) of this section shall provide for such administration and enforcement in regulation. Any such regulation shall include the features described in section 1203.3 of this Part.

(d) Every government or agency thereof charged with administration and enforcement of the Uniform Code shall exercise its powers in due and proper manner so as to extend to the public protection from the hazards of fire and inadequate building construction.

(e) (1) Where a government or agency charged with or accountable for administration and enforcement of the Uniform Code relies upon the contracted-for services of an individual, partnership, business corporation or similar firm for the principal part of an administration and enforcement program, it shall satisfy itself that any such provider has qualifications comparable to those of an individual who has met the requirements of Part 434 of this Title.

(2) No agreement shall be made by which building permits, certificates, orders or appearance tickets related to administration and enforcement of the Uniform Code are issued by other than public officers.

(f) The persons, offices, departments, agencies or combinations thereof authorized and responsible for administration and enforcement of the Uniform Code, or any portion thereof, shall be clearly identified.

1203.3 Minimum features of a program for administration and enforcement of the Uniform Code. A program for administration and enforcement of the Uniform Code shall, include all features described in subdivisions (a) through (j) of this section. A government or agency charged with or accountable for administration and enforcement of the code must provide for each of the listed features through legislation or other appropriate means.

(a) Building permits. (1) Building permits shall be required for work which must conform to the Uniform Code. A government or agency charged with or accountable for administration and enforcement of the Uniform Code may exempt from the requirement for a permit the categories of work listed in subparagraphs (i) through (xii) of this paragraph. An exemption from the requirement to obtain a permit shall not be deemed an authorization for work to be performed in violation of the Uniform Code. The following categories of work

may be excluded from the requirement for a building permit:

(i) construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88m<sup>2</sup>);

(ii) installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(iii) installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;

(iv) installation of fences which are not part of an enclosure surrounding a swimming pool;

(v) construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;

(vi) construction of temporary motion picture, television and theater stage sets and scenery;

(vii) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(viii) installation of partitions or movable cases less than 5'-9" in height;

(ix) painting, wallpapering, tiling, carpeting, or other similar finish work;

(x) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

(xi) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications;

(xii) repairs, provided that such repairs do not involve: (a) the removal or cutting away of a loadbearing

wall, partition, or portion thereof, or of any structural beam or load bearing component;

(b) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;

(c) the enlargement, alteration, replacement or relocation of any building system;

(d) the removal from service of all or part of a fire protection system for any period of time.

(2) An application for a building permit shall request sufficient information to permit a determination that the intended work accords with the requirements of the Uniform Code and shall require submission of the following information and documentation:

(i) a description of the proposed work;

(ii) the tax map number and the street address;

(iii) the occupancy classification of any affected building or structure;

(iv) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and

(v) at least 2 sets of construction documents (drawings and/or specifications) that define the scope of the proposed work.

(3) Construction documents shall not be accepted as part of an application for a building permit unless such documents:

(a) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;

(b) indicate with sufficient clarity and detail the nature and extent of the work proposed;

(c) substantiate that the proposed work will comply with the Uniform Code and the State Energy

Conservation Construction Code.

(d) where applicable, include a site plan that shows any existing and proposed structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the structures and the lot lines.

(4) Applications for a building permit or for an amendment thereto shall be examined to ascertain whether the proposed construction is in substantial conformance with the requirements of the Uniform Code. Provisions shall be made for construction documents accepted as part of a permit application to be so marked in writing or by stamp. One set of accepted construction documents shall be retained by the government or agency charged with or accountable for administration and enforcement of the code. One set shall be returned to the applicant to be kept at the work site so as to be available for use by the code enforcement official.

(5) A building permit shall contain a statement directing that all work shall be performed in accordance with the construction documents submitted and accepted as part of the application. In addition, a permit shall include the directive that the government or agency responsible for enforcement of the code shall be notified immediately in the event of changes occurring during construction.

(6) Building permits shall be issued with a specific expiration date. A local government or agency responsible for enforcement of the Uniform Code may provide that a permit shall become invalid unless the work authorized is commenced within a specified period following issuance.

(7) When a building permit has been issued in error because of incorrect, inaccurate or incomplete information, or the work for which the permit was issued violates the Uniform Code, such permit shall be revoked or suspended until such time as the permit holder demonstrates that all work completed and all work proposed shall be in compliance with applicable provisions of the code.

(8) Building permits shall be required to be visibly displayed at the work site and to remain visible until

the project has been completed.

(b) Construction inspections. (1) Permitted work shall be required to remain accessible and exposed until inspected and accepted by the government or agency enforcing the Uniform Code. Permit holders shall be required to notify the government or agency when construction work is ready for inspection.

(2) Provisions shall be made for inspection of the following elements of the construction process, where applicable:

- (i) work site prior to the issuance of a permit;
- (ii) footing and foundation;
- (iii) preparation for concrete slab;
- (iv) framing;
- (v) building systems, including underground and rough-in;
- (vi) fire resistant construction;
- (vii) fire resistant penetrations;
- (viii) solid fuel burning heating appliances, chimneys, flues or gas vents;
- (ix) energy code compliance; and
- (x) a final inspection after all work authorized by the building permit has been completed.

(3) After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to where the work fails to comply with the Uniform Code. Construction work not in compliance with code provisions shall be required to remain exposed until it has been brought into compliance with the code, been reinspected, and been found satisfactory as completed.

(c) Stop work orders. Stop work orders shall be used to halt work that is determined to be contrary to

provisions of the Uniform Code, or is being conducted in a dangerous or unsafe manner, or is being performed without obtaining a required permit. A stop work order shall state the reason for its issuance and the conditions which must be satisfied before work will be permitted to resume.

(d) Certificates of occupancy; certificates of compliance. (1) A certificate of occupancy or a certificate of compliance shall be required for any work which is the subject of a building permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued shall be granted only by issuance of a certificate of occupancy or a certificate of compliance.

(2) Issuance of a certificate of occupancy or a certificate of compliance shall be preceded by an inspection of the building, structure or work. Where applicable, a written statement of structural observations and/or a final report of special inspections, prepared in accordance with the provisions of the Uniform Code, must be received prior to the issuance of the certificate. Also, where applicable, flood hazard certifications, prepared in accordance with the provisions of the Uniform Code must be received prior to the issuance of the certificate. A certificate of occupancy or certificate of compliance shall contain the following information:

- (i) the building permit number, if any;
- (ii) the date of issuance of the permit, if any;
- (iii) the name, address and tax map number of the property;

(iv) if the certificate is not applicable to an entire structure, a description of that portion of the structure for which the certificate is issued;

- (v) the use and occupancy classification of the structure;

(vi) the type of construction of the structure;

(vii) the assembly occupant load of the structure, if any;

(viii) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;

(ix) any special conditions imposed in connection with the issuance of the building permit; and

(x) the signature of the official issuing the certificate and the date of issuance.

(3) Temporary occupancy. A certificate allowing temporary occupancy of a structure may not be issued prior to the completion of the work which is the subject of a building permit unless the structure or portions thereof may be occupied safely, any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and all required means of egress from the structure have been provided. The effectiveness of a temporary certificate shall be limited to a specified period of time during which the permit holder shall undertake to bring the structure into full compliance with applicable provisions of the Uniform Code.

(4) A certificate of occupancy or certificate of compliance issued in error or on the basis of incorrect information shall be suspended or revoked if the relevant deficiencies are not corrected within a specified period of time.

(e) Notification regarding fire or explosion. Procedures shall be established for the chief of any fire department providing fire fighting services for a property to notify the code enforcement official of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

(f) Procedures regarding unsafe structures and equipment. Procedures shall be established for identifying and addressing unsafe structures and equipment.

(g) Operating permits. (1) Operating permits shall be required for conducting the activities or using the

categories of buildings listed below:

(i) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4), of the Fire Code of New York State (see 19 NYCRR Part 1225);

(ii) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;

(iii) use of pyrotechnic devices in assembly occupancies;

(iv) buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and

(v) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by the government or agency charged with or accountable for administration and enforcement of the Uniform Code.

(2) Parties who propose to undertake the types of activities or operate the types of buildings listed in paragraph (1) of this subdivision shall be required to obtain an operating permit prior to commencing such operation. An application for an operating permit shall contain sufficient information to permit a determination that quantities, materials, and activities conform to the requirements of the Uniform Code. Tests or reports necessary to verify conformance shall be required.

(3) An inspection of the premises shall be conducted prior to the issuance of an operating permit.

(4) A single operating permit may apply to more than one hazardous activity.

(5) Operating permits may remain in effect until reissued, renewed or revoked or may be issued for a specified period of time consistent with local conditions.

(6) Where activities do not comply with applicable provisions of the Uniform Code, an operating permit

shall be revoked or suspended.

(h) Fire safety and property maintenance inspections. Provisions shall be made for:

(1) fire safety and property maintenance inspections of buildings which contain an area of public assembly at intervals not to exceed one year;

(2) fire safety and property maintenance inspections of all multiple dwellings and all nonresidential occupancies at intervals consistent with local conditions, but in no event shall such intervals exceed one year for dormitory buildings and three years for all other buildings.

(i) Procedure for complaints. Procedures shall be established for addressing bona fide complaints which assert that conditions or activities fail to comply with the Uniform Code or with local laws, ordinances or regulations adopted for administration and enforcement of the Uniform Code. The process for responding to such complaints shall include, when appropriate, provisions for inspection of the conditions and/or activities alleged to be in violation of the code or the laws and/or regulations adopted for administration and enforcement of the code.

(j) Record keeping. A system of records of the features and activities specified in subdivisions (a) through (i) of this section and of fees charged and collected, if any, shall be established and maintained.

1203.4 Program review and reporting. (a) Every city, village, town, and county, charged under subdivision 2 of section 381 of the Executive Law with administration and enforcement of the Uniform Code shall annually submit to the Secretary of State, on a form prescribed by the Secretary, a report of its activities relative to administration and enforcement of the Uniform Code.

(b) Upon request of the Department of State, every municipality or other agency subject to this Part shall provide from the records and related materials it is required to maintain excerpts, summaries, tabulations, statistics and other information and accounts of its activities in connection with administration and enforcement

of the Uniform Code. Failure to produce the requested materials shall permit an inference that the minimum standards of this Part have not been met.