



**Effective: January 14, 2008**

McKinney's Consolidated Laws of New York Annotated [Currentness](#)

Executive Law ([Refs & Annos](#))

Chapter Eighteen. Of the Consolidated Laws

[Article 18](#). New York State Uniform Fire Prevention and Building Code Act ([Refs & Annos](#))

→ **§ 378. Standards for New York state uniform fire prevention and building code**

The uniform code shall address the following subjects:

1. Standards for the construction of all buildings or classes of buildings, or the installation of equipment therein, including standards for materials to be used in connection therewith, and standards for safety and sanitary conditions.
2. Standards for the condition, occupancy, maintenance, conservation, rehabilitation and renewal of certain existing buildings, structures and premises and for the safeguarding of life and property therein and thereabout from the hazards of fire, explosion or release of toxic gases arising from the storage, handling or use of combustible or hazardous substances, materials or devices.
3. Standards for passenger elevators to promote uniformity and ease of use for the handicapped including, but not limited to:
  - a. placement and identification of operating controls,
  - b. door jamb markings,
  - c. operation and leveling features,
  - d. operation, width, and safety features for doors,
  - e. hall buttons, and
  - f. hall lanterns.

4. Standards for areas of public assembly requiring:

- a. approved fire protection equipment and systems shall be installed;
- b. interior finishes shall be of appropriate grade to materially retard the spread of smoke and flame, taking into consideration the fire protection equipment and systems in place, and shall be maintained in that condition;
- c. no combustible material shall be placed in such amounts and locations as would cause existing fire protection equipment and systems to be substantially overburdened, nor shall any material be placed in such manner as would cause safe exit to be significantly impeded; and
- d. incorporation of the retroactivity provisions of article eighteen-AA of this chapter. [\[FN1\]](#)
- e. for buildings included in group C5 of [paragraph \(f\) of section 900.2 of title nine of the official compilation of codes, rules and regulations of the state of New York](#), that water closets and urinals provided for occupants, based upon capacity, shall be deemed sanitary fixtures and shall be distributed on a basis such that the number of such sanitary fixtures provided in rest facilities for men shall be equal to the number of water closets provided in rest facilities provided for women in buildings with an occupancy of four hundred or less. For buildings consisting of more than four hundred occupants, an additional water closet shall be added to a rest facility provided for women for each sanitary fixture added to a similarly situated rest facility provided for men.

The standards shall include provisions for the type, number, spacing and location of fire protection equipment and systems, the classification and maintenance of interior finishes, and the accumulation of materials.

5. Standards for hotels, motels and lodging houses, requiring that a notice be posted in a prominent place in each guest room, including but not limited to the following information:

- a. location of nearest exits and fire alarms;
- b. procedures to be followed when the fire or smoke detector gives warning; and
- c. procedures to be followed in the event of fire or smoke development.

5-a. Standards for installation of carbon monoxide detectors requiring that every one or two-family dwelling constructed or offered for sale after July thirtieth, two thousand two, any dwelling accommodation located in a building owned as a condominium or cooperative in the state constructed or offered for sale after July thirtieth, two thousand two, or any multiple dwellings constructed or offered for sale after August ninth, two thousand

five shall have installed an operable carbon monoxide detector of such manufacture, design and installation standards as are established by the council. Carbon monoxide detectors required by this section are required only where the dwelling unit has appliances, devices or systems that may emit carbon monoxide or has an attached garage. For purposes of this subdivision, multiple dwelling means a dwelling which is either rented, leased, let or hired out, to be occupied, or is occupied as the temporary or permanent residence or home of three or more families living independently of each other, including but not limited to the following: a tenement, flat house, maisonette apartment, apartment house, apartment hotel, tourist house, bachelor apartment, studio apartment, duplex apartment, kitchenette apartment, hotel, lodging house, rooming house, boarding house, boarding and nursery school, furnished room house, club, sorority house, fraternity house, college and school dormitory, convalescent, old age or nursing homes or residences. It shall also include a dwelling, two or more stories in height, and with five or more boarders, roomers or lodgers residing with any one family. For the purposes of this section, sale shall mean the transfer of ownership of a business or property, provided however, transfer of franchises shall not be deemed a sale. New construction shall mean a new facility or a separate building added to an existing facility.

5-b. Standards for installation of single station smoke detecting alarm devices requiring that:

a. every one or two-family dwelling or any dwelling accommodation located in a building owned as a condominium or cooperative in the state used as a residence shall have installed an operable single station smoke detecting alarm device or devices,

b. such device or devices shall be installed in an area so that it is clearly audible in each bedroom or other room used for sleeping purposes, with intervening doors closed, in accordance with rules to be promulgated by the council,

c. such device or devices shall be in compliance with the uniform code, provided, however, that for purposes of this subdivision, battery operated devices shall be permitted,

d. upon conveyance of any real property containing a one or two-family dwelling or a condominium unit used as a residence and the transferor of the shares allocated to an apartment located in a building owned by a cooperative housing corporation where such apartment is used as a residence, the grantor shall deliver to the grantee at the time of conveyance an affidavit indicating that the grantor is in compliance with this subdivision. The grantee shall have ten days from the date of conveyance within which to notify the grantor if the alarm or alarms are not operable. Upon notification, the transferor shall bear any cost of compliance with the provisions of this subdivision,

e. notwithstanding any other provision of law, a failure to comply with the provisions of this subdivision shall not be a breach of any warranty in a conveyance of real property, nor shall it be a defense to any claim made under a policy of insurance issued to insure the property against fire or other casualty loss.

5-c. Standards for inspections of solid fuel burning heating appliances, chimneys and flues requiring:

a. prior to the installation of any solid fuel burning heating appliance, chimney or flue in any dwelling used as a residence, the owner thereof, or his agent, shall first secure a building permit from the appropriate local government official;

b. an appropriate and qualified inspector, as determined by the local government, shall cause an inspection to be made of the solid fuel burning heating appliance, chimney or flue at a time when such inspection will best determine conformity of such installation with the uniform code, provided, however, that the local government official may waive such inspection for good cause shown;

c. upon approval of such installation, the appropriate local government official shall issue a certificate evidencing compliance with the appropriate provisions of the uniform code;

d. no owner of any dwelling used as a residence shall operate, or cause to be operated, any solid fuel burning heating appliance until such installation, including chimney and flue, has been approved and a certificate indicating such approval obtained from the appropriate local government official;

e. in the event of an accidental fire, requiring the services of a fire department, in a solid fuel burning heating appliance, chimney or flue, the chief of the fire department so responding may issue a temporary thirty day certificate indicating substantial conformity with the uniform code, until such time as an official inspector, as determined by local law, or in the case of a locality that relies on state inspection, a state inspector, shall cause an inspection to be made and a certificate to be issued indicating conformity of such solid fuel burning heating appliance, chimney or flue with the uniform code;

f. the issuance of such certificate of compliance shall not be deemed to give rise to any claim or cause of action for damages against the local government or local official for damages resulting from operation or use of such solid fuel burning heating appliance, chimney or flue;

g. the local government in which such property is located may establish and collect a reasonable fee for such inspection from the owner of such property or his agent;

h. any violation of this subdivision shall be deemed a violation and be punishable by a fine not to exceed two hundred fifty dollars;

i. notwithstanding the foregoing provisions of this subdivision, in the event of an emergency, where a delay occasioned by the requirement of securing a building permit could reasonably be expected to cause irreparable [FN2] damage to the property or serious personal injury to the occupants or other person, the owner or his agent

may commence such installation without first obtaining such building permit provided application therefore [FN3] is filed within three business days after such work is commenced.

6. Standards for the use of lead in water supply systems constructed or portions added on or after January first, nineteen hundred eighty-six, including limiting the amount of lead in solder which may be utilized in piping to convey potable water to not more than two-tenths of one percent.

7. Standards for the construction of water supply systems which shall prohibit the use of asbestos cement pipe to convey potable water for any new or modified construction on or after January first, nineteen hundred ninety-two.

8. Standards for hotels, motels and lodging houses requiring (in addition to any other requirement) portable smoke-detecting alarm devices for the deaf and hearing impaired of audible and visual design, available for three percent of all units available for occupancy, with a minimum of one unit. If any other law or regulation requires a central, closed circuit interior alarm system, such device shall be incorporated into or connected to the system so as to be capable of being activated by the system. Incorporation into the existing system shall be in lieu of the portable alarms. Standards shall require operators of any such establishment to post conspicuously at the main desk or other similar station a notice in letters at least three inches in height stating that smoke-detector alarm devices for the deaf and hearing impaired are available. The council shall mandate by rule and regulation the specific design of the smoke-detector alarm devices.

9. Standards for buildings (designated as "Group B3-senior citizens" in regulations promulgated pursuant to the New York state uniform fire prevention and building code act) housing senior citizens, intended primarily for persons sixty-two years old or more, who are in good physical condition and do not require physical assistance, requiring that a notice be posted in a prominent place in each residential unit, including but not limited to the following information:

- a. location of nearest exits and fire alarms;
- b. procedures to be followed when the fire or smoke detector gives warning; and
- c. procedures to be followed in the event of fire or smoke development.

10. Standards for assistive listening systems for new construction commenced after January first, nineteen hundred ninety-one requiring the installation of assistive listening systems at all places of public assembly so designated by the appropriate building and fire code for use by hearing impaired persons who require use of such a system to improve their reception of sound.

a. For purposes of this subdivision, the term (i) “assistive listening system” shall mean situational-personal acoustic communication equipment designed to improve the transmission and auditory reception of sound; and

(ii) “place of public assembly” shall mean a facility which is open to the public as a theater, meeting hall, hearing room, amphitheater, auditorium, or in any other similar capacity.

b. Standards for such systems shall be developed by the state fire prevention and building code council upon receiving recommendations from the advisory board on assistive listening systems in places of public assembly.

c. The appropriate building code or ordinance shall designate such places of public assembly which shall be required to install such assistive listening systems.

11. Standards for buildings shall authorize the installation of potable water heaters for all domestic uses, including space heating.

12. [As added by L.1995, c. 132. See, also, subd. 12 below.] a. Standards for bed and breakfast dwellings shall be promulgated for fire safety. Notwithstanding any other provision of this article, for the purposes of this subdivision a “bed and breakfast dwelling” shall include an owner-occupied residence providing at least three but not more than five rooms for temporary transient lodgers with sleeping accommodations and a meal in the forenoon of the day. Such standards shall distinguish bed and breakfast dwellings from one and two family dwellings, provide specific options for hard-wired single-station smoke detectors and provide a notice to each guest that contains:

(i) the location of nearest exits and fire alarms;

(ii) procedures to be followed when fire or smoke detectors give warning; and

(iii) procedures to be followed in the event of fire or smoke development.

b. Such standards shall also include egress design options to preserve the aesthetic charm and historical significance of such dwellings that shall be limited to one of the following:

(i) an automatic sprinkler head in the stairwell area of any means of egress;

(ii) an external second floor egress; or

(iii) a portable escape device for each guest room.

c. The standards required by this subdivision shall be promulgated and implemented not later than one hundred twenty days after the effective date of this paragraph.

12. [As added by L.1995, c. 532. See, also, subd. 12 above.] Standards for hospice residences, as defined in [section four thousand two of the public health law](#), which shall be deemed to be either a single family dwelling or a two family dwelling for the purposes of local laws and ordinances relating to fire safety and building construction standards.

13. Standards for the abandonment or removal of heating oil storage tanks and related piping in connection with the conversion of liquid fuel burning appliance to alternative fuel requiring:

a. The entire contents of the heating oil storage tank and related piping shall be emptied, cleaned and purged of all vapor. The contents of the storage tank and related piping shall be removed from the premises or property and disposed of in accordance with applicable local, state or federal rules and regulations;

b. If the heating oil storage tank is to be abandoned in place, the vent line shall remain open and intact, unless the tank is filled with an inert material. The oil fill pipe and other related piping shall either be removed, or the oil fill pipe shall be filled with concrete;

c. If the heating oil storage tank is to be removed, the vent line, oil fill pipe and related piping shall also be removed, or the oil fill pipe shall be filled with concrete;

d. An appropriate and qualified inspector, as determined by the local government, shall cause an inspection to be made of the abandonment or removal in connection with the conversion to determine conformity with the uniform code; provide [\[FN4\]](#), however, that the local government official may waive such inspection for good cause shown; and

e. No approval of such abandonment or removal shall be granted unless written proof of the heating oil storage tank's oil fill pipe having been removed or filled with concrete in accordance with appropriate provisions of the uniform code has been provided by the property owner to the local inspector or, in the event that an inspection has been waived for good cause shown, to the local government official.

f. For the purposes of this subdivision, "heating oil storage tank" shall mean a tank used for storing heating oil for consumptive use on the premises where stored.

g. In cities with a population of over one million, such cities' local code provisions shall be at least as stringent as the provisions of this subdivision.

14. Provide that any:

a. gates required to be provided in a swimming pool enclosure shall be self-closing and self-latching with the latch handle located within the enclosure and at least forty inches above grade, and shall be securely locked with a key, combination or other child proof lock sufficient to prevent access to such swimming pool through such gate when such swimming pool is not in use or supervised;

b. residential or commercial swimming pool constructed or substantially modified after the effective date of this paragraph shall be equipped with an acceptable pool alarm capable of detecting a child entering the water and of giving an audible alarm; and

c. [As added by L.2007, c. 75. See, also, par. c below.] hot tub or spa with a safety cover which complies with American Society of Testing and Materials International standard F1346 (2003) or any similar standard which may be approved by the council or swimming pool, other than a hot tub or spa, with an automatic power safety cover which complies with American Society of Testing and Materials International standard F1346 (2003) or any similar standard which may be approved by the council shall be exempt from the provisions of paragraph b of this subdivision.

c. [As added by L.2007, c. 234. See, also, par. c above.] temporary swimming pool enclosure shall be required to be replaced by a permanent enclosure which is in compliance with New York state codes, regulations or local laws within ninety days from the issuance of a local building permit or the commencement of the installation of an in-ground swimming pool, whichever is later. A local building department may issue a waiver to allow an extension of such ninety day time period for good cause including but not limited to adverse weather conditions delaying construction.

15. a. Except as otherwise provided by statute, no change to the building code shall become effective until at least ninety days after the date on which notice of such change has been published in the state register, unless the council finds that:

(i) an earlier effective date is necessary to protect health, safety and security; or

(ii) the change to the code will not impose any additional compliance requirements on any person.

b. Notwithstanding the provisions of paragraph a of this subdivision, the council may provide that, in the period during which changes to the code have been adopted but are not yet effective pursuant to paragraph a of this subdivision, a person shall have the option of complying with either the provisions of the code as changed or with the code provisions as they were set forth immediately prior to the change.

16. Standards for temporary swimming pool enclosures used during the installation or construction of swimming pools requiring that any such enclosure shall sufficiently prevent any access to such swimming pool by any person not engaged in the installation or construction of such swimming pool and shall sufficiently provide for the safety of any such person.

#### CREDIT(S)

(Added L.1981, c. 707, § 1; amended L.1984, c. 374, § 1; L.1984, c. 864, § 1; L.1984, c. 971, § 1; L.1985, c. 190, § 1; L.1986, c. 435, § 1; L.1987, c. 157, § 1; L.1987, c. 412, § 1; L.1987, c. 763, § 1; L.1988, c. 96, § 1; L.1988, c. 295, § 3; L.1988, c. 506, § 1; L.1989, c. 23, § 2; L.1989, c. 82, § 1; L.1989, c. 270, § 2; L.1991, c. 494, § 1; L.1994, c. 310, § 1; L.1995, c. 132, § 1; L.1995, c. 532, § 3; L.1996, c. 463, § 1; L.1997, c. 98, § 1, eff. June 11, 1997; L.1997, c. 636, § 1, eff. Sept. 24, 1997; L.1998, c. 398, § 1, eff. Sept. 1, 1998; L.2002, c. 257, § 1, eff. Nov. 27, 2002; L.2005, c. 438, § 2, eff. Dec. 7, 2005; L.2006, c. 94, §§ 3, 4, eff. June 7, 2006; L.2006, c. 202, § 1, eff. July 26, 2006, deemed eff. Dec. 7, 2005; L.2006, c. 450, § 2, eff. Dec. 14, 2006; L.2007, c. 75, § 1, eff. June 12, 2007, deemed eff. Dec. 14, 2006; L.2007, c. 234, §§ 1, 2, eff. Jan. 14, 2008.)

[FN1] Former Executive Law §§ 399-a to 399-g.

[FN2] So in original.

[FN3] So in original. Probably should read “therefor”.

[FN4] So in original. Probably should be “provided”.

#### HISTORICAL AND STATUTORY NOTES

##### 2009 Electronic Update

L.2007, c. 75 legislation

L.2007, c. 75, § 2, provides:

“This act shall take effect immediately and shall be deemed to have been in full force and effect on the same date and in the same manner as chapter 450 of the laws of 2006, took effect.”

L.2005, c. 438 legislation

L.2005, c. 438, § 1, provides:

“This act shall be known and cited as ‘Daniel's Law’.”

## 2005 Main Volume

## L.1991, c. 494 legislation

## L.1991, c. 494, § 2, provided:

“This act [amending this section] shall take effect on the one hundred eightieth day after it shall have become a law [Jan. 15, 1992], provided however, that effective immediately [July 19, 1991], the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of the foregoing sections of this act on their effective date are authorized and directed to be made and completed on or before such effective date.”

## L.1989, c 270 legislation

## L.1989, c. 270, § 3, provided:

“This act [amending this section and enacting provision set out as a note under this section] shall take effect on June 1, 1990 and shall only apply to buildings constructed on or after such effective date.”

## L.1989, c. 270, § 1, eff. June 1, 1990, provided:

“The legislature finds that the current standards regarding the number of sanitary fixtures, including water closets, urinals and lavatories under paragraph (f) of section 900.2 of title nine of the official compilation of codes, rules and regulations of the state of New York, relating to the New York state uniform fire prevention and building code for buildings under group C5, assembly, do not adequately provide for the sanitary needs of women at the places of public assembly named therein.

“The legislature further finds that this inadequacy of sanitary facilities in such places of public assembly causes not only a gender-specific inconvenience, but a threat to public health, safety and comfort.

“The legislature further finds that such inequity of public rest facilities in such C5 buildings is attributable to provisions in the New York state uniform fire prevention and building code which provide equality in the number of water closets and urinals in C5 buildings but which do not include provisions for an equal distribution of such fixtures for use among men and women.

“The legislature therefore finds that legislation must be introduced which will provide for the equal distribution of such fixtures for use among such men and women.”

## L.1989, c. 82 legislation

L.1989, c. 82, § 2, provided:

“This act [amending this section] shall take effect on the one hundred eightieth day after it shall have become a law [eff. Nov. 7, 1989], provided however, that effective immediately [May 11, 1989], the addition, amendment and/or repeal of any rule or regulation necessary for the timely implementation of this act on its effective date is authorized and directed to be made and completed on or before such effective date.”

L.1988, c. 506 legislation

L.1988, c. 506, § 5, provided:

“This act [amending Executive Law § 378, [Multiple Dwelling Law § 68](#), and [Multiple Residence Law § 15](#)] shall take effect on the one hundred twentieth day after it shall have become a law [eff. Nov. 29, 1988], provided however, that effective immediately [Aug. 1, 1988], the addition, amendment and/or repeal of any rules or regulations necessary for the implementation of the foregoing sections of this act on their effective date are authorized and directed to be made and completed on or before such effective date.”

L.1988, c. 96 legislation

L.1988, c. 96, § 2, provided:

“This act [amending this section] shall take effect on the one hundred eightieth day after it shall have become a law [Nov. 23, 1988], provided however, that effective immediately [May 27, 1988], the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of the foregoing section of this act on its effective date are authorized and directed to be made and completed on or before such effective date.”

L.1987, c. 157 legislation

L.1987, c. 157, § 2, provided:

“This act [amending this section] shall take effect on the one hundred twentieth day after it shall have become a law [became law June 29, 1987; eff. Oct. 27, 1987], except that any rules and regulations necessary for the timely implementation of this act on its effective date shall be promulgated on or before such date.”

L.1985, c. 190 legislation

L.1985, c. 190, § 2, provided:

“This act [amending this section] shall take effect January first, nineteen hundred eighty-six, provided that rules and regulations may be promulgated prior to such date to insure effective implementation of this act.”

L.1984, c. 374 legislation

L.1984, c. 374, § 2, provided:

“This act [amending this section] shall take effect on the one hundred twentieth day after it shall have become a law [July 18, 1984], except that any rules and regulations necessary for the timely implementation of this act on its effective date shall be promulgated on or before such date.”

L.1981, c. 707 legislation

Unless and until otherwise provided by legislature, section is not applicable to buildings constructed or under construction before Jan. 1, 1984, and provided further that this section shall not apply to any provision of article 18 which is similar to a provision of a code, local law or ordinance to which an existing building was subject prior to Jan. 1, 1984, pursuant to L.1981, c. 707, § 19, set out as a note under [Executive Law § 381](#).

Rights and remedies unimpaired by L.1981, c. 707, and all functions, powers, duties, rights and obligations under act transferred to secretary and department of state and division of the budget, pursuant to L.1981, c. 707, §§ 5 to 11, set out as a note under [Executive Law § 381](#).

#### Derivation

Former § 375, enacted L.1951, c. 800, amended L.1951, c. 580, § 6; repealed by L.1980, c. 707, § 12.

#### Former Sections

Former § 378, L.1951, c. 800, amended L.1961, c. 197, § 9, related to powers of building code council and was repealed by L.1981, c. 707, § 12. See [Executive Law § 375](#).

#### CROSS REFERENCES

Assistive listening devices in public buildings, see [Legislative Law § 7-e](#); [Public Buildings Law §§ 3, 53](#).  
New York State Uniform Fire Prevention and Building Code Act, see [Executive Law § 370](#).  
Violation defined, see [Penal Law § 10.00](#).


#### RULES OF THE CITY OF NEW YORK

2005 Main Volume

Smoke detectors, see 1 RCNY Chapter 28, 2 RCNY Chapter 22.

#### LIBRARY REFERENCES

2005 Main Volume

[Health](#)  392, 393.

Westlaw Topic No. 198H.

#### RESEARCH REFERENCES

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Encyclopedias

[NY Jur. 2d, Buildings, Zoning, & Land Controls § 3](#), Validity of Regulations--Regulations Requiring Changes in Existing Buildings.

[NY Jur. 2d, Buildings, Zoning, & Land Controls § 7](#), Standards for Uniform Fire Prevention and Building Code.

[NY Jur. 2d, Buildings, Zoning, & Land Controls § 21](#), Cities, Towns, and Villages.

[NY Jur. 2d, Buildings, Zoning, & Land Controls § 23](#), Fire or Smoke Detection, Warning, and Extinguishing Apparatus.

[NY Jur. 2d, Buildings, Zoning, & Land Controls § 24](#), Access and Egress.

[NY Jur. 2d, Businesses & Occupations § 847](#), State of New York.

Forms

[McKinney's Forms, Real Property Practice § 1:3](#), Statutory Concerns.

[McKinney's Forms, Real Property Practice § 1:6](#), Affidavit of Compliance With Statutory Smoke-Alarm Requirements (Form: N.Y. Exec. Law S378, Sub. 5).

[McKinney's Forms, Real Property Practice § 1:7](#), Carbon-Monoxide Detectors (Form: N.Y. Exec. Law S378(5-a)).

[McKinney's Forms, Real Property Practice § 1:8](#), Affidavit of Compliance With Statutory Smoke-Alarm Requirements (Form: N.Y. Exec. Law S378(5-B)).

[McKinney's Forms, Real Property Practice § 3:23](#), Contract for Sale of Real Estate; Multibar Form (Form).

[McKinney's Forms, Real Property Practice § 3:186](#), Contract for Sale of Condominium Unit.

[McKinney's Forms, Selected Consol. Law, Executive Law § 378 Form 1](#), Affidavit of Compliance With Statutory Smoke Alarm Requirements.

## NOTES OF DECISIONS

Public buildings or space [1](#)

Rules and regulations [2](#)

Safety precautions [3](#)

### 1. Public buildings or space


Cellar of convent building owned by church was not “public space” available for use as temporary shelter, within meaning of state Uniform Fire Prevention and Building Code, as church could close cellar to anyone. [Village of Hempstead v. Roman Catholic Church of Our Lady of Loretto at Hempstead \(2 Dept. 1993\) 198 A.D.2d 409, 604 N.Y.S.2d 131. Health ↪ 393](#)


Genuine issues of material fact, as to whether seller of convent building owned by church constituted “public space” within meaning of State Uniform Fire Prevention and Building Code, whether certain ground level window in subject facility constituted a second exit, and propriety of main exit to cellar, precluded grant of injunctive relief for village against violation of local ordinance through use of that cellar as overnight shelter. [Village of Hempstead v. Roman Catholic Church of Our Lady of Loretto at Hempstead, 1991, 151 Misc.2d 750, 573 N.Y.S.2d 599, reversed 198 A.D.2d 409, 604 N.Y.S.2d 131. Injunction ↪ 138.48](#)

Exclusion of elevators to serve handicapped from alteration of public transit stations could not be justified on ground that definition of a public building is one likely to be used and that transit authority statistics revealed that subject stations were not likely to be used by the wheelchair bound. [Eastern Paralyzed Veterans Ass'n v. Metropolitan Transp. Authority, 1982, 117 Misc.2d 343, 458 N.Y.S.2d 815. Civil Rights ↪ 1021](#)



### 2. Rules and regulations


State Fire Prevention and Building Code Council had authority to promulgate swimming pool enclosure regulation as part of its authority to create general building and structural regulations to prevent injuries from falls and other accidents; Council was not limited to hazards of fire and toxic gases. [Tarquini v. Town of Aurora, 1991,](#)

77 N.Y.2d 354, 568 N.Y.S.2d 538, 570 N.E.2d 186, on remand 171 A.D.2d 1001, 569 N.Y.S.2d 222. Health  392

Under regulation, when addition to building made within any six-month period exceeds replacement cost of building by 50%, entire building, including original structure, must be made to conform with requirements of State Uniform Fire Prevention and Building Code. *Cole v. Emunah General Contracting Inc.* (3 Dept. 1996) 227 A.D.2d 877, 642 N.Y.S.2d 977. Health  393

### 3. Safety precautions

Property owner did not create dangerous condition when she constructed her walkway steps without handrails and otherwise violated provisions of the New York State Uniform Fire Prevention and Building Code that applied to buildings and exterior stairways adjoining a building. *DiGrazia v. Lemmon* (3 Dept. 2006) 28 A.D.3d 926, 813 N.Y.S.2d 560, leave to appeal denied 7 N.Y.3d 706. Negligence  1126; Negligence  1204(1)

Roof that was accessible only through tenants' bedroom window was not "walking surface to which persons have access" within meaning of building code, and, thus, landlord did not violate it by failing to install parapet or railing to prevent tenants' guest from falling from roof. *Lesocovich v. 180 Madison Ave. Corp.* (3 Dept. 1992) 185 A.D.2d 599, 586 N.Y.S.2d 681, reversed 81 N.Y.2d 982, 599 N.Y.S.2d 526, 615 N.E.2d 1010. Health  392

McKinney's Executive Law § 378, NY EXEC § 378  
Current through L.2009, chapters 1 to 14 and 16 to 87.

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