§ 381. Administration and enforcement of the New York state uniform fire prevention and building code and the New York state energy conservation construction code. 1. The secretary shall promulgate rules and regulations prescribing minimum standards for administration and enforcement of the uniform fire prevention and building code promulgated in accordance with sections three hundred seventy-seven and three hundred seventy-eight of this article and the state energy conservation construction code adopted in accordance with article eleven of the energy law. Such rules and regulations shall become effective not later than the first day of January, nineteen hundred eighty-five. The secretary shall promulgate such regulations after public hearing and after considering reaction to initial administration and enforcement of the uniform building and fire prevention code, including how local governments have organized to provide for such initial administration and enforcement. Such rules and regulations shall address the nature and quality of enforcement and shall include, but not be limited to the following:

a. frequency of mandatory inspections for compliance with the uniform code and the state energy conservation construction code,

b. number and qualifications of staff, including requirements that inspectors be certified pursuant to this chapter,

c. required minimum fees for administration and enforcement,

d. adequacy of inspections,

e. adequacy of means for insuring compliance with the uniform code and the state energy conservation construction code, including provisions intended to achieve compliance with the state energy conservation construction code consistent with the compliance goals set forth in section 410(2)(C) of the American Recovery and Reinvestment Act of 2009,

f. establishment of a procedure whereby any provision or requirement of the uniform code may be varied or modified in cases where strict compliance with such provision or requirement would entail practical

difficulties or unnecessary hardship or would otherwise be unwarranted. Such procedure shall be designed to insure that any such variance or modification shall not substantially affect adversely provisions for health, safety and security, and that equally safe and proper alternatives may be prescribed. Requests for a variance shall be resolved within sixty days of the date of application unless a longer period is required for good cause shown,

g. procedures for inspection of certain classes of buildings based upon design, construction, ownership, occupancy or use, including, but not limited to, mobile homes, factory manufactured homes and state-owned buildings,

h. minimum basic training and in-service training requirements for personnel charged with administration and enforcement of the state energy conservation construction code;

i. standards and procedures for measuring the rate of compliance with the state energy conservation construction code, and provisions requiring that such rate of compliance be measured on an annual basis; and

j. procedures requiring the documentation of compliance with regulations adopted pursuant to section thirteen hundred seventy-seven of the public health law as a condition to issuance of a certificate of occupancy or certificate of compliance following a periodic fire safety and property maintenance inspection for multiple dwellings.

Nothing in the rules shall require or be construed to require regular, periodic inspections of (A) owner-occupied one and two-family dwellings, or (B) agricultural buildings used directly and solely for agricultural purposes, provided, however that this shall not be a limitation on inspections conducted at the invitation of the owner or where conditions on the premises threaten or present a hazard to public health, safety, or welfare.

2. Except as may be provided in regulations of the secretary pursuant

to subdivision one of this section, every local government shall administer and enforce the uniform fire prevention and building code and the state energy conservation construction code on and after the first day of January, nineteen hundred eighty-four, provided, however, that a local government may enact a local law prior to the first day of July in any year providing that it will not enforce such codes on and after the first day of January next succeeding. In such event the county in which said local government is situated shall administer and enforce such codes within such local government from and after the first day of January next succeeding the effective date of such local law, in accordance with the provisions of paragraph b of subdivision five of this section unless the county shall have enacted a local law providing that it will not enforce such codes within that county. In such event the secretary in the place and stead of the local government shall, directly or by contract, administer and enforce the uniform code and the state energy conservation construction code. A local government or a county may repeal a local law which provides that it will not enforce such codes and shall thereafter administer and enforce such codes as provided above. Two or more local governments may provide for joint administration and enforcement of the uniform code, the state energy conservation construction code, or both, by agreement pursuant to article five-G of the general municipal law. Any local government may enter into agreement with the county in which such local government is situated to administer and enforce the uniform code, the state energy conservation construction code, or both, within such local government. Local governments or counties may charge fees to defray the costs of administration and enforcement.

3. On and after the first day of July, nineteen hundred eighty-five, the secretary shall have power to investigate and conduct hearings relative to whether administration and enforcement of the uniform fire prevention and building code complies with the minimum standards promulgated pursuant to subdivision one of this section. At least ten days written notice of any such hearing shall be provided to the elective or appointive chief executive officer or, if there be none, the chairman of the legislative body of the local government or county whose administration and enforcement of the uniform code is at issue.

4. If the secretary determines that a local government has failed to administer and enforce the uniform fire prevention and building code in accordance with the minimum standards promulgated pursuant to subdivision one of this section, the secretary shall take any of the following actions, either individually or in combination in any sequence:

a. The secretary may issue an order compelling compliance by such local government with the standards for administration and enforcement of the uniform code.

b. The secretary may ask the attorney general to institute in the name of the secretary an action or proceeding seeking appropriate legal or equitable relief to require such local government to administer and enforce the uniform code.

c. the secretary may designate the county in which such local government is located to administer and enforce the uniform code in such local government. In the case of such designation, the provisions of subdivision five of this section shall apply.

d. The secretary may, in the place and stead of the local government, administer and enforce the uniform code in accordance with the minimum standards promulgated pursuant to subdivision one of this section. In such event, the provisions of subdivision five of this section shall apply.

5. Where the secretary has designated a county to administer and enforce the uniform fire prevention and building code within a local government or has assumed authority for administration and enforcement pursuant to subdivision two or paragraph d of subdivision four of this section:

a. Such local government or county government shall not administer and enforce the uniform code, and shall not charge or collect fees for such administration and enforcement.

b. Such county shall administer and enforce the uniform code within such local government from and after the date of such designation. Such administration and enforcement shall apply the minimum standards promulgated by the secretary pursuant to subdivision one of this section. Notwithstanding any other provisions of law, such county shall have full power to administer and enforce the uniform code in accordance with such minimum standards, including the power to charge and collect fees for such administration and enforcement.

c. The secretary shall designate the local government or county government to resume administration and enforcement of the uniform code when the secretary is satisfied that such local government or county will provide such administration and enforcement in compliance with the minimum standards promulgated pursuant to subdivision one of this section.

d. The provisions of subdivisions three and four of this section shall apply to counties which have been designated to administer and enforce the uniform code in such local government.

6. The secretary shall study and from time to time make recommendations to the governor and legislature concerning:

a. Appropriate means to provide encouragement, support and inducements for local governments and counties to exercise their responsibilities pursuant to this section; and

b. Appropriate means to provide encouragement, support and inducements to facilitate compliance with the provisions of the uniform code.