§ 4. Definitions. Certain words and terms when used in this chapter, unless the context or subject matter requires otherwise, are defined as follows:

1. Wherever the word or words "occupied," "is occupied," "used" or "is used" appear, such word or words shall be construed as if followed by the words "or is intended, arranged or designed to be used or occupied."

2. The word "shall" is always mandatory.

3. The term "department" shall mean the department, bureau, division or other agency charged with the enforcement of this chapter.

4. A "dwelling" is any building or structure or portion thereof which is occupied in whole or in part as the home, residence or sleeping place of one or more human beings.

5. A "family" is either a person occupying a dwelling and maintaining a household, with not more than four boarders, roomers or lodgers, or two or more persons occupying a dwelling, living together and maintaining a common household, with not more than four boarders, roomers or lodgers. A "boarder," "roomer" or "lodger" residing with a family shall mean a person living within the household who pays a consideration for such residence and does not occupy such space within the household as an incident of employment therein.

6. A "private dwelling" is any building or structure designed and occupied exclusively for residence purposes by not more than two families.

A building designed for and occupied exclusively by one family is a "single-family private dwelling."

A building designed for and occupied exclusively by two families is a "two-family private dwelling."

Private dwellings shall also be deemed to include a series of

one-family or two-family dwelling units each of which faces or is accessible to a legal street or public thoroughfare provided that each such dwelling unit is equipped as a separate dwelling unit with all essential services, and also provided that each such unit is arranged so that it may be approved as a legal one-family or two-family dwelling.

7. A "multiple dwelling" is a dwelling which is either rented, leased, let or hired out, to be occupied, or is occupied as the residence or home of three or more families living independently of each other. On and after July first, nineteen hundred fifty-five, a "multiple dwelling" shall also include residential quarters for members or personnel of any hospital staff which are not located in any building used primarily for hospital use provided, however, that any building which was erected, altered or converted prior to July first, nineteen hundred fifty-five, to be occupied by such members or personnel or is so occupied on such date shall not be subject to the requirements of this chapter only so long as it continues to be so occupied provided there are local laws applicable to such building and such building is in compliance with such local laws. A "multiple dwelling" shall not be deemed to include a hospital, convent, monastery, asylum or public institution, or a fireproof building used wholly for commercial purposes except for not more than one janitor's apartment and not more than one penthouse occupied by not more than two families. For the purposes of this chapter "multiple dwellings" are divided into two classes: "class A" and "class B."

8. a. A "class A" multiple dwelling is a multiple dwelling that is occupied for permanent residence purposes. This class shall include tenements, flat houses, maisonette apartments, apartment houses, apartment hotels, bachelor apartments, studio apartments, duplex apartments, kitchenette apartments, garden-type maisonette dwelling projects, and all other multiple dwellings except class B multiple dwellings. A class A multiple dwelling shall only be used for permanent residence purposes. For the purposes of this definition, "permanent residence purposes" shall consist of occupancy of a dwelling unit by the same natural person or family for thirty consecutive days or more and a person or family so occupying a dwelling unit shall be referred to

herein as the permanent occupants of such dwelling unit. The following uses of a dwelling unit by the permanent occupants thereof shall not be deemed to be inconsistent with the occupancy of such dwelling unit for permanent residence purposes:

(1) (A) occupancy of such dwelling unit for fewer than thirty consecutive days by other natural persons living within the household of the permanent occupant such as house guests or lawful boarders, roomers or lodgers; or

(B) incidental and occasional occupancy of such dwelling unit for fewer than thirty consecutive days by other natural persons when the permanent occupants are temporarily absent for personal reasons such as vacation or medical treatment, provided that there is no monetary compensation paid to the permanent occupants for such occupancy.

(2) In a class A multiple dwelling owned by an accredited not-for-profit college or university or leased by such a college or university under a net lease for a term of forty-nine years or more, the use of designated dwelling units for occupancy for fewer than thirty consecutive days shall not be inconsistent with the occupancy of such multiple dwelling for permanent residence purposes if:

(A) No more than five percent of the dwelling units in such multiple dwelling but not less than one dwelling unit, are designated for such use and the designation of a unit once made may not be changed to another unit;

(B) A list of the designated dwelling units certified by an authorized representative of the college or university is kept on the premises by the owner or net lessee and made available upon request for inspection by the department or the fire department of such city;

(C) Only designated dwelling units on the certified list are used for occupancy for fewer than thirty consecutive days and only by (i) natural persons, other than persons whose only relationship with the college or university is as a student, for whom the college or university has undertaken to provide housing accommodations such as visiting professors and academics, graduate students with research or teaching fellowships, researchers and persons presenting academic papers, interviewing for positions of employment or having other similar business with the college or university, or (ii) natural persons for whom a hospital affiliated with such college or university has undertaken to provide

housing accommodations such as patients, patients' families and/or accompanying escorts, medical professionals and healthcare consultants or persons having other similar business with such hospital. A log shall be maintained on the premises of the names and addresses of such persons and the duration and reason for their stay. Such log shall be accessible upon request for inspection by the department and the fire department of such municipality;

(D) No rent or other payment is collected for such occupancy; and

(E) The fire department of such city shall require the filing of a fire safety plan or other appropriate fire safety procedure.

b. A "garden-type maisonette dwelling project" is a series of attached, detached or semi-detached dwelling units which are provided as a group collectively with all essential services such as, but not limited to, water supply and house sewers, and which units are located on a site or plot not less than twenty thousand square feet in area under common ownership and erected under plans filed with the department on or after April eighteenth, nineteen hundred fifty-four, and which units together and in their aggregate are arranged or designed to provide three or more apartments.

9. A "class B" multiple dwelling is a multiple dwelling which is occupied, as a rule transiently, as the more or less temporary abode of individuals or families who are lodged with or without meals. This class shall include hotels, lodging houses, rooming houses, boarding houses, boarding schools, furnished room houses, lodgings, club houses, college and school dormitories and dwellings designed as private dwellings but occupied by one or two families with five or more transient boarders, roomers or lodgers in one household.

10. A "converted dwelling" is a dwelling (a) erected before April eighteenth, nineteen hundred twenty-nine, to be occupied by one or two families living independently of each other and subsequently occupied as a multiple dwelling, or (b) a dwelling three stories or less in height erected after April eighteenth, nineteen hundred twenty-nine, to be occupied by one or two families living independently of each other and subsequently occupied by not more than three families in all, with a

maximum occupancy of two families on each floor in a two story building and one family on each floor in a three story building, in compliance with the provisions of article six of this chapter, including section one hundred seventy-a of said article. A converted dwelling occupied as a class A multiple dwelling is a class A converted dwelling; every other converted dwelling is a class B converted dwelling.

11. A "tenement" is any building or structure or any portion thereof, erected before April eighteenth, nineteen hundred twenty-nine, which is occupied, wholly or in part, as the residence of three families or more living independently of each other and doing their cooking upon the premises, and includes apartment houses, flat houses and all other houses so erected and occupied, except that a tenement shall not be deemed to include any converted dwelling. An "old-law tenement" is a tenement existing before April twelfth, nineteen hundred one, and recorded as such in the department before April eighteenth, nineteen hundred twenty-nine, except that it shall not be deemed to include any converted dwelling.

12. A "hotel" is an inn having thirty or more sleeping rooms.

13. A "rooming house" or a "furnished room house" is a multiple dwelling, other than a hotel, having less than thirty sleeping rooms and in which persons either individually or as families are housed for hire or otherwise with or without meals. An inn with less than thirty sleeping rooms is a rooming house.

14. A "lodging house" is a multiple dwelling, other than a hotel, a rooming house or a furnished room house, in which persons are housed for hire for a single night, or for less than a week at one time, or any part of which is let for any person to sleep in for any term less than a week.

15. An "apartment" is that part of a multiple dwelling consisting of one or more rooms containing at least one bathroom and arranged to be occupied by the members of a family, which room or rooms are separated and set apart from all other rooms within a multiple dwelling.

16. "Single room occupancy" is the occupancy by one or two persons of a single room, or of two or more rooms which are joined together, separated from all other rooms within an apartment in a multiple dwelling, so that the occupant or occupants thereof reside separately and independently of the other occupant or occupants of the same apartment. When a class A multiple dwelling is used wholly or in part for single room occupancy, it remains a class A multiple dwelling.

17. A "public hall" is a hall, corridor or passageway within a building but outside of all apartments and suites of private rooms. A "public vestibule" is a corridor, not within an apartment or suite of private rooms, providing access to a stair or elevator and not wider than seven feet nor longer than twice the width of the stair or elevator shafts opening upon it. A "public room" or "public part" of a dwelling is a space used in common by the occupants of two or more apartments or rooms, or by persons who are not tenants, or exclusively for mechanical equipment of such dwelling or for storage purposes.

18. A "living room" is a room which is not a public hall, public vestibule, public room or other public part of a dwelling. Every room used for sleeping purposes shall be deemed a living room. Dining bays and dinettes fifty-five square feet or less in floor area, foyers, water-closet compartments, bathrooms, cooking spaces less than eighty square feet in area, and halls, corridors and passageways entirely within an apartment or suite of rooms shall not be deemed living rooms. "Floor space" shall mean the clear area of the floor contained within the partitions or walls enclosing any room, space, foyer, hall or passageways of any dwelling.

19. A "dining bay," "dining recess" or "dinette" is a recess used for dining purposes off a living room, foyer or kitchen.

20. A "foyer" is a space within an apartment or suite of rooms used as an entrance hall directly from a public hall.

21. A "dormitory" in a lodging house is any place used for sleeping

purposes. A "cubicle" is a small partially enclosed sleeping space within a dormitory with or without a window to the outer air.

22. "Premises" shall mean land and improvements or appurtenances or any part thereof.

23. "Structure" shall mean a building or construction of any kind.

24. "Alteration," as applied to a building or structure, shall mean any change or rearrangement in the structural parts or in the egress facilities of any such building or structure, or any enlargement thereof, whether by extension on any side or by any increase in height, or the moving of such building or structure from one location or position to another.

25. A "fireproof multiple dwelling" is one in which the walls and other structural members are of incombustible materials or assemblies meeting all of the requirements of the building code and with standard fire-resistive ratings of not less than one of the following sets of requirements:

a. For any multiple dwelling more than one hundred feet in height, four hours for fire walls, party walls, piers, columns, interior structural members which carry walls, girders carrying columns, and for exterior walls other than panel walls; three hours for other girders, fire partitions, floors including their beams and girders, beams, roofs, floor fillings, and stairway enclosures; and two hours for exterior panel walls.

b. For any multiple dwelling one hundred feet or less in height, the provisions of preceding paragraph a shall apply, except that the minimum requirements shall be three hours for exterior walls other than panel walls, which shall be two hours; two hours for protection of interior columns; one and one-half hours for roofs and for floors and beams; provided, however, that for a multiple dwelling three stories or less in height, the requirement for all floors and the roof shall be one hour.

26. The term "fireproof," as applied to a part or parts of a building, means such part or parts are made of incombustible materials with standard fire-resistive ratings not less than those required for the corresponding part or parts of a fireproof dwelling.

27. A "non-fireproof dwelling" is one which does not meet the requirements for a fireproof dwelling.

28. A "frame dwelling" is a dwelling of which the exterior walls or any structural parts of such walls are of wood. A dwelling which would not otherwise be a frame dwelling shall not be deemed a frame dwelling by reason of the existence on such dwelling of frame oriel, bay or dormer windows, frame porches not more than one story in height, or frame extensions not more than one story in height and fifty-nine square feet in area if such windows, porches or extensions were erected prior to April thirteenth, nineteen hundred forty.

29. The term "fire-retarded," as applied to a part or parts of a building, means such part or parts are either covered with metal lath plastered with two or more coats of mortar or otherwise protected against fire in a manner approved by the department with materials of standard fire-resistive ratings of at least one hour. Fireproofing shall always be accepted as meeting any requirement for fire-retarding.

30. "Fire-stopping" means the closing of all concealed draft openings to form an effectual fire barrier at floors, ceilings and roofs with brick, concrete, gypsum, asbestos, mineral wool, rock wool, metal lath with cement or gypsum plaster, or other approved incombustible materials.

31. A "lot" is a parcel or plot of ground which is or may be occupied wholly or in part by a dwelling, including the spaces occupied by accessory or other structures and any open or unoccupied spaces thereon, but not including any part of an abutting public street or thoroughfare.

a. A "corner lot" is a lot of which at least two adjacent sides abut for their full length upon streets or public places not less than forty

feet in width. That portion of a corner lot in excess of one hundred feet from any street on which the lot abuts shall be considered an interior lot.

An "interior lot" is a lot which is neither a corner lot nor a through lot.

b. The "front" of a lot is that boundary line which abuts on the street, or, if there be more than one street abutting, on the street designated by the owner. The "rear" of a lot is the side opposite the front.

c. The "depth" of a lot is the distance from the front of the lot to the extreme rear line of the lot. In the case of an irregular-shaped lot the mean depth shall be taken.

d. A "through lot" is a lot running through from street to street whose front and rear lines abut for their entire lengths upon streets or open public places; provided, however, that when either of said lines exceeds the other in length by more than twenty per centum, that part of the lot contiguous to the excess length of the longer line shall be deemed an interior lot. The department may designate which part of the longer line is the excess in length and make any reasonable interpretation of the part of the lot to be regarded as contiguous to such excess.

e. Lots or portions of lots shall be deemed "back to back" when they are on opposite sides of the same part of a rear line common to both and the opposite street lines on which the lots front are parallel with each other or make an angle with each other of not more than forty-five degrees.

32. A "rear yard" is an open space on the same lot with a dwelling between the extreme rear line of the lot and the extreme rear wall of the dwelling. A "side yard" is a continuous open space on the same lot with a dwelling between the wall of a dwelling and a line of the lot from the street to a rear yard or rear line of a lot. A "court" is an

open space other than a side or rear yard, on the same lot as a dwelling. A court not extending to the street or rear yard is an "inner court". A court extending to the street or rear yard is an "outer court".

32-a. "A rear yard equivalent" is an open area which may be required on a through lot as an alternative to a required rear yard.

33. The "curb level", for the purpose of measuring the height of any portion of a building, is the level of the curb at the center of the front of the building; except that where a building faces on more than one street, the curb level is the average of the levels of the curbs at the center of each front. Where no curb elevation has been established the average elevation of the final grade adjoining all exterior walls of a building, calculated from grade elevations taken at intervals of ten feet around the exterior walls of the building, shall be considered the curb level, unless the city engineer shall establish such curb level or its equivalent.

34. A "street wall" of a building, at any level, is the wall of the building nearest to a street line abutting the property.

35. a. The "height" of a dwelling is the vertical distance from the curb level to the level of the highest point of the roof beams; except that, in the case of pitched roofs, it is the vertical distance from the curb level to the mean height level of the gable or roof above the vertical street wall. When no roof beams exist or when there are structures wholly or partly above the roof, the height shall, except as otherwise expressly provided, be measured from the curb level to the level of the highest point of any such structure; except that where every part of the building is set back more than twenty-five feet from a street line, the height shall be measured from the average grade elevation calculated from the final grade elevations taken at intervals of ten feet around the exterior walls of the building.

b. Except as otherwise provided in section two hundred eleven, the following superstructure shall not be considered in measuring the height

of a dwelling; parapet walls or guard railings, other superstructures twelve feet or less in height and occupying fifteen per centum or less of the area of the roof, elevator enclosures thirty feet or less in height used solely for elevator purposes, enclosures fifty feet or less in height used solely for tanks, cooling towers or other mechanical equipment; and, when approved by the department, pergolas, spires, chimneys, other ornamental treatments, roof gardens and playgrounds.

c. When on the main roof of any fireproof multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, in which one or more passenger elevators are operated, a penthouse dwelling is erected the height of which does not exceed twelve feet and the walls of which are set back as provided in this paragraph, the height of such multiple dwelling shall be measured as though no such penthouse had been erected thereon. Such penthouse walls shall be set back from the outer face of the front parapet wall at least five feet, from the outer face of the yard parapet wall at least ten feet, and from the inner face of every other parapet wall at least three feet; except that the setback so required from any parapet wall facing any court or yard or recess therefrom but not facing any street may be reduced one-third for each ten per centum by which the area of such court or yard exceeds the required minimum area thereof at the highest level of such parapet wall, and the setback so required from any parapet wall facing any street may be reduced one foot for each foot that such parapet wall is set back from the building line established by law at the highest level of such parapet wall, provided that in the opinion of the department safe and sufficient passage is provided to and from every part of the main roof. Any penthouse wall which may be flush with the inner face of any parapet wall may be flush with the outer face thereof.

d. If a rear multiple dwelling is erected after April eighteenth, nineteen hundred twenty-nine, on the same lot as a front multiple dwelling, and the depth of the yard of the front multiple dwelling is more than sixty feet and the lowest point of such yard is below the curb level and below the floor of a cellar of the front multiple dwelling or of the lowest story thereof if there is no cellar, the height of the rear multiple dwelling shall be measured from such lowest point instead

of from the curb level.

36. A "story" is a space between the level of one finished floor and the level of the next higher finished floor, or, if the top story, of the space between the level of the highest finished floor and the top of the highest roof beams, or, if the first story, of the space between the level of the finished floor and the finished ceiling immediately above. For the purpose of measuring height by stories in multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine, one additional story shall be added for each twelve feet or fraction thereof that the first story exceeds fifteen feet in height, and for each twelve feet or fraction thereof that any story above the first story exceeds twelve feet in height.

37. A "cellar" in a dwelling is an enclosed space having more than one-half of its height below the curb level; except that where every part of the building is set back more than twenty-five feet from a street line, the height shall be measured from the adjoining grade elevations calculated from final grade elevations taken at intervals of ten feet around the exterior walls of the building. A cellar shall not be counted as a story.

38. A "basement" is a story partly below the curb level but having at least one-half of its height above the curb level; except that where every part of the building is set back more than twenty-five feet from a street line, the height shall be measured from the adjoining grade elevations calculated from final grade elevations taken at intervals of ten feet around the exterior walls of the building. A basement shall be counted as a story in determining height, except as provided in paragraph e of subdivision six of section one hundred two.

39. A "section" of a multiple dwelling is a part thereof, other than an apartment or suite of rooms, separated as a unit from the rest of such dwelling by fireproof construction.

40. A "shaft" is an enclosed space extending through one or more stories of a building connecting a series of openings therein, or any

story or stories and the roof, and includes exterior and interior shafts whether for air, light, elevator, dumbwaiter or any other purpose.

41. A "stair" is a flight or flights of steps together with any landings and parts of public halls through which it is necessary to pass in going from one level thereof to another.

42. a. A "fire-tower" is a fireproof stair, enclosed in fireproof walls, without access to the building from which it affords egress other than by a fireproof self-closing door opening on a communicating balcony or other outside platform at each floor level.

b. A "fire-stair" is a fireproof stair, enclosed in fireproof walls, within the body of the building which it serves, to which access may be had only through self-closing fireproof doors.

c. A "fire-escape" is a combination of outside balconies and stairs providing an unobstructed means of egress from rooms or spaces in a building.

d. A "panel wall" is a non-bearing wall in skeleton construction erected between columns or piers and wholly supported at each story.

43. Window dimensions shall always be taken between stop-beads or, if there are no stop-beads, between the sides, head and sill of the sash opening.

44. The term "owner" shall mean and include the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent, or any other person, firm or corporation, directly or indirectly in control of a dwelling. Whenever a multiple dwelling shall have been declared a public nuisance to any extent pursuant to paragraph b of subdivision one of section three hundred nine of this chapter and such declaration shall have been filed as therein provided, the term "owner" shall be deemed to include, in addition to those mentioned hereinabove, all the officers, directors and persons having an interest in more than

ten per cent of the issued and outstanding stock of the owner as herein defined, as holder or beneficial owner thereof, if such owner be a corporation other than a banking organization as defined in section two of the banking law, a national banking association, a federal savings and loan association, The Mortgage Facilities Corporation, Savings Banks Life Insurance Fund, The Savings Banks Retirement System, an authorized insurer as defined in section one hundred seven of the insurance law, or a trust company or other corporation organized under the laws of this state all the capital stock of which is owned by at least twenty savings banks or a subsidiary corporation all of the capital stock of which is owned by such trust company or other corporation.