

CHAPTER 801

AN ACT to amend the multiple residence law, generally; and to repeal section two hundred five of the general business law, relating to fire-escape ropes in hotel rooms

Became a law April 17, 1952, with the approval of the Governor.

Passed, by a majority vote, three-fifths being present

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The multiple residence law is hereby amended to read as follows:

CHAPTER SIXTY-ONE-B OF THE CONSOLIDATED LAWS

MULTIPLE RESIDENCE LAW

- Article 1. Introductory provisions; definitions (Secs. 1--4).
2. Miscellaneous application provisions (Secs. 8--16).
 3. Old multiple dwellings (Secs. 25--43).
 4. Hotels and similar dwellings (Secs. 50--72).
 5. New multiple dwellings-general provisions (Secs. 100--174).
 6. Fireproof new multiple dwellings (Secs. 200--215).
 7. Non-fireproof new multiple dwellings (Secs. 250--280).
 8. Requirements and remedies (Secs. 300--307).
 9. Review; rules; saving clauses; effective date (Secs. 325--330).

ARTICLE 1

INTRODUCTORY PROVISIONS; DEFINITIONS

- Section 1. Short title.
2. Legislative finding.
 3. Application to certain municipalities.
 4. Definitions.

Section 1. Short title. This chapter shall be known as the "multiple residence law."

§ 2. Legislative finding. It is hereby declared that intensive

occupation of multiple dwellings having three or more families, inadequate provision for light and air, insufficient protection against and defective provisions for escape from fire, as well as the amount of improper sanitation existing in multiple dwellings throughout this state are a menace to the health, safety, morals, welfare, and reasonable comfort of its citizens; and that the establishment and maintenance of proper housing standards requiring sufficient light, air, sanitation and protection from fire hazards are essential to the public welfare. Therefore the provisions hereinafter prescribed to provide more adequate protection in the event of fire, and sufficient light, ventilation and sanitation for certain multiple residence buildings are enacted and their necessity in the public interest is hereby declared as a matter of legislative determination.

§ 3. Application to certain municipalities. 1. This chapter shall apply to all cities of less than three hundred twenty-five thousand population and to all towns and villages.

2. Whenever the word "municipality" occurs in this chapter, it shall mean a city, town or village to which the chapter is applicable. The words "charter," "ordinance," "resolution," "regulation," "building code," "department of health," "department of water supply," "fire department," "department," "board," "municipal engineer," "building official," "corporation counsel," "municipal treasury," or "fire limits," shall be construed as if followed by the words "or corresponding authority of any municipality in which the dwelling or location referred to is situated."

3. Wherever in this chapter the installation or maintenance of a fire alarm system, fire detecting system, watchman's clock system, sprinkler system, fire-escape system or part thereof is required or permitted, such system or part thereof shall be constructed, installed, arranged and maintained in a manner satisfactory to the department in accordance with rules and regulations adopted by the commission pursuant to section three hundred twenty-six of this chapter.

§ 4. Definitions. Words and terms used in this chapter shall have the following meanings:

1. "Alteration." Any change in the structural parts or existing facilities of any building or the moving of any building from one location or position to another.

2. "Apartment," or "suite." That portion of a dwelling consisting of one or more living rooms, and occupied by the members of a family, which group of rooms is separated from all other groups within a dwelling.

3. "Basement." A story partly below the curb level but having at least one-half of its height above the curb level. A basement shall be counted as a story in determining height, except as otherwise provided in this chapter.

4. "Boarding house," "furnished room house," "rooming house," or "tourist house." A multiple dwelling, in which there are less than thirty sleeping rooms occupied primarily by transients who are lodged with or without meals, and in which there are provided such services as are incidental to its use as a temporary residence. Also a dwelling two or more stories in height, occupied by one or two families and with five or more transient boarders, roomers or lodgers residing with any one family.

5. "Cellar." An enclosed space in a dwelling having more than one-half of its height below the curb level. However, where a dwelling is set back from the curb level in such a manner that the enclosed space in the dwelling is above the curb level but at least one-half of its height is below the land immediately adjacent to the dwelling, such space shall be deemed a cellar. A cellar shall not be counted as a story.

5-a. "Child caring institutions." Institutions for the residential care of children operated by authorized agencies as defined by the social welfare law.

6. "Commission." The state building code commission in the executive department of the state of New York.

7. "Converted or conversion." A change from non-dwelling or private dwelling use to multiple dwelling occupancy after July first, nineteen hundred fifty-two.

8. "Court." A space, other than a yard, on the same lot as a dwelling and open to the sky. "Inner court." A court not extending to a street or yard. "Outer court." A court extending to a street or yard.

9. "Curb level." The level of the curb at the center of the front of the building, for the purpose of measuring the height of any portion of a 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 mean level of the land immediately adjacent to the dwelling shall be considered the curb level, unless the municipal engineer shall establish such curb level or its equivalent.

10. "Department." The department, bureau, division, agency or person charged with the enforcement of this chapter.

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

12. "Dormitory." Any room occupied for sleeping purposes by five or more persons. A "cubicle" is a small, partially enclosed sleeping space within a dormitory, with or without a window.

13. "Dwelling." A building or structure which is occupied in whole or in part as the home, residence or sleeping place of one or more persons.

14. "Family." One or more persons with whom there may be not more than four boarders, roomers or lodgers all living together in a common household. A boarder, roomer or lodger residing within the family household is a person who pays a consideration therefor and such

residence is not an incident of employment therein.

15. "Fire alarm system." An approved system of sounding a fire alarm or alarms installed in such a manner that it can be operated manually from any story.

"Fire-detecting system." An approved system which automatically detects a fire or an abnormal rise in temperature and actuates a fire alarm.

16. "Fire-escape." A combination of outside balconies and stairs of incombustible materials, providing an unobstructed means of egress from a building.

17. "Fireproof." Made of incombustible materials with standard fire-resistive ratings not less than those required for a fireproof multiple dwelling.

18. "Fireproof multiple dwelling." One in which the walls and other structural members are of incombustible materials or assemblies meeting all of the requirements of the local building code for fireproof construction, if any, and if there be none, then of the state building construction code for fireproof construction applicable to multiple dwellings.

19. "Fire-retarded." Covered with metal lath plastered with two or more coats of cement or gypsum plaster or otherwise protected against fire with materials of standard fire-resistive ratings of at least one hour. Fireproof or fire-resistive material shall always be accepted as meeting any requirement for fire-retarding.

20. "Fire-resistive." Covered or protected with incombustible materials of standard fire-resistive ratings of at least one hour. Fireproofing or fire-retarding shall always be accepted as meeting any requirement for "fire-resistive" materials.

21. "Fire-stair." 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.

22. "Fire-stopping." The closing of concealed draft openings with brick or other incombustible materials to form an effectual fire barrier between stories, and between the ceiling of the upper story and the space under the roof.

23. "Foyer." A space within an apartment or suite used as an entrance hall directly from a public hall.

24. "Frame dwellings." A non-fireproof dwelling of which any structural member of its exterior walls is of wood. A structural member shall not be deemed to include the veneer or facing of any such wall.

25. "Height." The vertical distance of a dwelling 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. An attic not used or arranged to be used for human occupancy shall not be considered in measuring the height of a dwelling.

26. "Hotel." A dwelling in which there are thirty or more sleeping rooms in one building or structure occupied primarily by transients who are lodged with or without meals; and there are provided such services as are incidental to the use thereof as a temporary residence.

27. "Kitchen." A space, fifty-nine square feet or more in floor area, used for cooking or warming of food.

28. "Kitchenette." A space, less than fifty-nine square feet in floor area, used for cooking or warming of food.

29. "Living room." Any room in a multiple dwelling except:

a. A public hall, public vestibule, public room or other public part of a dwelling;

b. A hall, corridor or passageway entirely within an apartment or suite;

c. A foyer, the floor area of which does not exceed ten percentum of the total floor area of the apartment or suite;

d. A kitchenette;

e. A dining bay, dining recess or dinette fifty-five square feet or less in area;

f. A bathroom or water-closet compartment.

30. "Local building code." The building code, if any, adopted or enacted by a city, town or village and which is in force in such city, town or village, or in such town or portion thereof outside the limits of any village or city, respectively, or the state building construction code where applicable with respect thereto.

31. "Lodging house." A dwelling, other than a hotel, in which persons are housed in a dormitory or dormitories, whether or not the space for sleeping accommodations therein is divided into cubicles, for a single night or for less than a week at one time.

32. "Lot." 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. "Corner lot." 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. Any other lot is an "interior lot." That portion of a corner lot in excess of one hundred feet from the widest street on which the lot abuts shall be considered an interior lot.

b. "Front of a lot." That boundary line which abuts on the street, or, if there be more than one street abutting, on the street designated by

the owner. "Rear of a lot" is the side opposite the front.

c. "Depth of a lot." The distance from the front of the lot to the extreme rear line of the lot. The depth of an irregular-shaped lot is its mean depth.

d. "Lot running through from street to street." A lot where the front and rear lines abut for their entire lengths upon streets or open public places. When either of such 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.

e. "Back to back lots." Lots or portions of lots which 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.

33. "Multiple dwelling." 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.

34. "Non-fireproof dwelling." A dwelling which does not meet the requirements for a fireproof dwelling.

35. "Occupied" or "used." Such terms shall be construed as if followed by the words "or arranged, designed, or intended to be occupied or used."

36. "Owner." 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.

37. "Premises." Land, improvements and appurtenances or any part thereof.

38. "Private dwelling." A dwelling occupied exclusively for residence purposes by one or two families and having not more than four boarders, roomers or lodgers residing with any one family.

39. "Public hall." A hall, corridor or passageway not within any apartment or suite of private rooms. "Public vestibule." A hall not within any 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 shaft opening upon such hall.

40. "Public part" or "public room." A space available for common usage or used exclusively for storage purposes or for mechanical equipment of the dwelling.

41. "Section." A part of a multiple dwelling other than an apartment or suite, separated as a unit from the rest of such dwelling by fireproof construction.

42. "Shaft." A space extending through one or more stories of a dwelling 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.

43. "Shall." The word "shall" is always mandatory.

44. "Single-room occupancy." The occupancy by one or two persons of a single room, or 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.

45. "Sprinkler system." A system of piping connected to one or more sprinkler heads with fusible struts which will be constructed to fuse at a specified temperature so as to discharge an effective spray to cover the area to be sprinkled. Such system may be either an automatic wet pipe type in which all pipes and sprinkler heads are at all times filled with water when the building is occupied, or a dry pipe system in which the pipes and sprinkler heads are filled with air, either compressed or at atmospheric pressure, and the water supply is controlled by a dry-pipe valve.

46. "Stair." A flight or flights of steps including any landings and parts of public halls through which it is necessary to pass in going from one level to another.

47. "Stair hall." A part of a public hall through which it is necessary to pass in going from the end of one flight of steps to the beginning of another but shall not include an area that is also used to provide direct ingress to and egress from an apartment or suite.

48. "Story." 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 of dwellings erected on or after July first, nineteen hundred fifty-two, 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.

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

50. "Suite." That portion of a dwelling consisting of one or more

living rooms and occupied by the members of a family, which group of rooms is separated from all other groups within a dwelling.

51. "Window dimensions." The measurements between the stop-beads or, if there are no stop-beads, between the sides and the head and sill of the sash opening.

52. "Yard." 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.

ARTICLE 2

MISCELLANEOUS APPLICATION PROVISIONS

Section 8. General application to all dwellings.

9. Buildings converted or altered.
10. Dwellings damaged.
11. Old dwellings.
12. Uncompleted dwellings.
13. Prohibited uses.
15. Smoke detecting devices.
16. Multiple residence emergency information.

§ 8. General application to all dwellings. Except as otherwise specifically provided in this chapter, every multiple dwelling shall be constructed and maintained in accordance with all applicable requirements of this chapter and other applicable laws.

§ 9. Buildings converted or altered. 1. On or after July first, nineteen hundred fifty-two, no multiple dwelling shall be enlarged or its lot diminished so that the yard or other unoccupied areas shall be diminished in size or area below the minimum requirements of this chapter.

2. A building not a dwelling, if converted on or after July first, nineteen hundred fifty-two, to a multiple dwelling, shall thereupon

become subject to all the provisions of this chapter applicable to new multiple dwellings of like class and kind. "Class" shall mean the use of a multiple dwelling for either permanent or transient occupancy or both. "Kind" shall mean the type of construction of a building, either fireproof or non-fireproof.

3. No dwelling shall be altered or converted so as to be in violation of any provision of this chapter relating to dwellings of like class and kind, and, except as provided in subdivision four, a dwelling, altered or converted to be occupied primarily for permanent-residence use, shall comply with article three; and a dwelling converted or altered to be occupied primarily for transient use shall comply with article four.

4. If any multiple dwelling three or more stories in height is altered after July first, nineteen hundred fifty-three so as to increase its height or bulk for living purposes or so as to increase the number of living rooms by more than twenty per centum, such dwelling shall be made to conform to the requirements of this chapter with respect to new dwellings of like class and kind erected after such date.

5. It shall be unlawful to convert a frame dwelling to a multiple residence, except that a frame dwelling not more than two stories and attic in height and erected before July first, nineteen hundred fifty-two, as a one-family or two-family residence may be converted to a multiple dwelling for permanent occupancy by complying with article three; and if such residence is converted to be occupied, as a rule, for transient use, it shall comply with article four.

§ 10. Dwellings damaged. If an old or other existing multiple dwelling be damaged by fire or other cause to the extent of two-thirds or more of its value at the time of such damage exclusive of the value of the foundation, such dwelling shall not be repaired or rebuilt except in conformity with the provisions of this chapter relative to new multiple dwellings.

§ 11. Old dwellings. Except as required in section nine and articles three and four, nothing in this chapter shall be construed to require any change in the construction, use, or occupancy of any old or other existing multiple dwelling occupied as such on July first, nineteen hundred fifty-two, which on such date is in compliance with the provisions of all statutes, local laws, ordinances, rules and regulations applicable thereto.

§ 12. Uncompleted dwellings. 1. The provisions of this chapter relating to new multiple dwellings shall not apply to any multiple dwelling for which plans were on file with the department or a permit to commence building was issued by the department before July first, nineteen hundred fifty-two, or to any dwelling the plans for conversion of which to multiple dwelling occupancy, were on file with the department or a permit authorizing the commencement of the work of such conversion was issued by the department before such date, provided, however, a certificate of occupancy as required by the provisions of section three hundred two shall be obtained therefor prior to July first, nineteen hundred fifty-seven.

2. No provisions of any part of this section shall be deemed to prohibit the amendment of any plans filed and approved before July first, nineteen hundred fifty-two, if such amendment would have been lawful before such date, or if such amendment complies with the requirements of this chapter for alterations to buildings of like kind existing before such date.

§ 13. Prohibited uses: The storage or keeping of any combustible gaseous material within any multiple dwelling shall be unlawful unless a written permit therefor is issued by the department and any and all local laws or regulations applicable thereto are complied with. The provisions of this section shall not prevent the keeping of such gasoline, oil or other fuel as may be contained in a tank or receptacle of a motor vehicle stored in a space provided for automobiles in a multiple dwelling, nor shall this section apply to gaseous material used

for the cleaning or washing of a motor vehicle so stored. Such permit shall not be required for the keeping or storage of oil or kerosene in quantities not exceeding five gallons at any one time for domestic heating or cooking purposes, provided such oil or kerosene is in a container directly connected to the heating or cooking appliances in which it is to be used and is kept or stored in accordance with standards of safety prescribed by the department.

§ 15. Smoke detecting devices. 1. This section shall apply to all multiple dwellings, whenever constructed, provided however, that for the purposes of this section the term "multiple dwelling" shall also include any dwelling accommodation used as a temporary or permanent residence located in any building owned as a condominium or cooperative.

2. (a) The owner of every multiple dwelling to which the provisions of this section apply shall equip each apartment or other separate living unit in such multiple dwelling with approved and operational smoke detecting devices in conformity with the state fire prevention and building code; provided, however, that any multiple dwelling not subject to the provisions of such code may, in the alternative, be equipped with battery-operated smoke detecting devices of a type accepted by the division of housing and community renewal.

(b) In hotels, tourist houses, lodging houses, rooming houses, boarding houses, boarding and nursery schools, furnished room houses, club houses, sorority and fraternity houses, college and school dormitories, convalescent, old age and nursing homes, any dwelling which is two or more stories in height, with five or more boarders, roomers or lodgers residing with any one family, and any multiple dwelling used for single room occupancy, at least one smoke detecting device shall be located within each room used for sleeping purposes. In any other multiple dwelling or portion thereof, there shall be at least one smoke detecting device located within each apartment or separate living unit, in an area so that it is clearly audible in each bedroom or other room used for sleeping purposes, with intervening doors closed; provided, however, that no smoke detecting device be located more than ten feet from the entrance to any bedroom or other room used for sleeping

purposes.

(c) Each smoke detecting device shall include a test device to permit the occupant to readily determine if it is operational.

(d) In addition to complying with the provisions of this section, the type, location, number, and manner of installation of smoke detecting devices shall be in accordance with standards prescribed by the state fire prevention and building code council.

3. (a) With respect to multiple dwellings which are occupied for permanent residential purposes only, other than any portion of any such dwelling used for single room occupancy, and notwithstanding the provisions of sections forty and one hundred seventy-four or any other provision of this chapter, or of any other law or requirement, state or local, the duties of the owner and tenant with respect to smoke detecting devices installed pursuant to this section shall be as provided in subdivisions four and five of this section.

(b) With respect to multiple dwelling units as specified in paragraph (b) of subdivision two of this section, or any portion of any multiple dwelling used for single room occupancy, the provisions of subdivision five of this section shall not apply, and smoke detecting devices installed as required by this section shall be subject to the provisions of section forty or one hundred seventy-four of this chapter.

(c) The owner of every multiple dwelling shall keep such records as the state fire prevention and building code council shall prescribe relating to the installation and maintenance of smoke detecting devices in the building and make such records available to any local code enforcement official on request.

4. In addition to initially providing and installing the smoke detecting devices, the owner shall:

(a) replace within thirty days after the receipt of written notice any such device which becomes inoperable within one year of the installation of such device due to a defect in the manufacture of such device and through no fault of the occupant of the apartment or other unit;

(b) upon the occurrence of a vacancy, replace or properly equip any such device which has been removed or rendered inoperable, so as to provide operational smoke detecting devices for any new tenant; and

(c) notify tenants in writing, individually or through posting of a notice in a common area of the building, of the respective duties of owners and tenants under this section.

5. Except as provided in paragraph (b) of subdivision three of this section, the tenant shall keep and maintain any smoke detecting device installed pursuant to this section in good repair and replace any such device which becomes inoperable during his occupancy.

6. An owner need not furnish or install a smoke detecting device where one has already been installed, provided that (a) the type of such device and the manner of its installation comply with the provisions of this section and the standards prescribed by the state fire prevention and building code council, (b) the existing device is tested and found to be operational, and (c) the existence of such device in lieu of an owner-furnished device is noted on the records kept by the owner pursuant to paragraph (c) of subdivision three of this section.

§ 16. Multiple residence emergency information. 1. In the case of an emergency affecting a multiple residence, the owner or agent of such multiple residence shall provide emergency service personnel, upon the request of such emergency service personnel, including but not limited to local police and fire departments, with the names and contact information of all affected residents or occupants as listed in the lease of such multiple residence as is required to ascertain the safety of such residents or occupants. For the purposes of this section, an emergency shall include but not be limited to fires, gas leaks, building collapses, natural disasters, acts of terrorism and other events where the physical safety of residents must be accounted for by ascertaining their whereabouts.

2. The owner or agent of such multiple residence shall update the list of names and contact information of all affected residents or occupants of such multiple residence upon the execution of a new lease, lease renewal or lease amendment, or where such owner is an authority as such term is defined in section three of the public housing law, including

all such authorities established after the first day of January, nineteen hundred thirty-nine, upon annual recertification. Specific and informed written consent shall be obtained by the owner or agent of the multiple residence from each occupant or resident each time the list is updated and no occupant's or resident's name or contact information shall be included in such list without their specific and informed written consent. Written notice shall be provided to the occupant or resident about the contact list and shall include but not be limited to that such list is maintained by the owner and the potential impact of opting-out.

3. Such list of names and contact information shall only be maintained for the purpose of an emergency evacuation and shall not be disseminated, used or accessed by emergency services personnel or disseminated, used or accessed by the owner or agent of such multiple residence for any other purposes.

ARTICLE 3

OLD MULTIPLE DWELLINGS

Section 25. Application of article three.

TITLE 1

FIRE PROTECTION

Section 26. Egress from dwellings.

- 27. Fire-escapes.
- 28. Stairs and entrance halls.
- 29. Dumbwaiter shafts.
- 30. Cellar ceilings.
- 31. Inside cellar stairs.
- 32. Artificial lighting.

TITLE 2

SANITATION

Section 40. Repairs and cleanliness.

- 41. Water supply.
- 42. Water closet and bath accommodations.
- 43. Plumbing and drainage.

§ 25. Application of article three. The provisions of this article shall apply to all multiple dwellings existing on July first, nineteen hundred fifty-two, and shall also apply to dwellings converted to multiple dwelling occupancy on or after July first, nineteen hundred fifty-two, provided, however, that this article shall not apply to hotels and similar dwellings in any city, town or village with respect to which the provisions of article four are applicable. The provisions of this article shall apply in addition to and not in substitution for the provisions of article two. Provisions of this article shall be complied with on or before July first, nineteen hundred fifty-four.

TITLE 1 FIRE PROTECTION

§ 26. Egress from dwellings. In every such dwelling three stories or more in height there shall be from each story at least two independent means of egress accessible to each apartment or suite. The first means shall open into a public hall connected with a stair affording safe access to a street, or to a yard, court or passageway affording continuous, safe and unobstructed access to a street. The second means shall be directly to a fire-escape or to an enclosed stair without passing through the first means, except that where the first means includes an interior stair which is closed off at each floor level by fire-retarded construction with a fireproof self-closing door therein, the second means may be another such interior stair or a fire-escape directly accessible on the same story from a public hall therein whether or not such public hall is also a part of the first means provided such fire-escape is not a wire, chain, cable, vertical ladder or rope fire-escape. In lieu of a second means of egress a sprinkler system may be installed in the public halls and stairs.

Except as required by the provisions of article four of this chapter, the second means of egress shall not be required in a multiple dwelling of fireproof construction, six stories or less in height, erected before

July first, nineteen hundred fifty-two, if the egress arrangements thereof complied with requirements of law applicable at the time the dwelling was erected.

§ 27. Fire-escapes. Wire, chain, cable, combustible, vertical ladder or rope fire-escapes shall not be accepted as a required or alternative means of egress and, unless such fire-escapes are supplemental to the means of egress required by section twenty-six, they shall be removed and replaced by a system of fire-escapes constructed and arranged as provided in section one hundred thirty-three. All fire-escapes erected on or after July first, nineteen hundred fifty-three, to serve as a second means of egress shall be in conformity with the provisions of section one hundred thirty-three. It shall be unlawful to remove any fire-escape without permission from the department. Such system shall be installed, arranged and maintained in a manner satisfactory to the department and in accordance with rules adopted by the commission.

§ 28. Stairs and entrance halls. In every such dwelling three stories or more in height the wood wainscoting and other combustible materials on the wall and ceiling surfaces in all halls shall be removed and replaced with incombustible or other fire-resistive materials. In lieu of such removal, a sprinkler system may be installed in such halls or such wainscoting and the combustible surfaces may be treated or covered in a manner satisfactory to the department with a surface fire-retardant approved by the department. In such a dwelling, however, any entrance door and every door opening into any entrance hall, stair hall, or other public hall connected therewith, shall be self-closing. Every interior sash, or opening other than a door, in the walls or partitions of such halls and every window therein not opening to the outer air shall be sealed with fire-resistive materials.

§ 29. Dumbwaiter shafts. In every such dwelling three stories or more in height the doors of all dumbwaiter shafts shall be made self-closing and be covered on the shaft side with fire-resistive material.

§ 30. Cellar ceilings. In every such dwelling three stories or more in height the ceiling of the cellar, or of the lowest story if there be no cellar, shall be fire-retarded, or be equipped with a sprinkler system, unless such ceiling has already been plastered to the satisfaction of the department.

§ 31. Inside cellar stairs. Every stair leading from a cellar to the floor above in all old multiple dwellings shall be enclosed with fire-retarded partitions and shall be equipped with a fire-retarded self-closing door located as the department may approve.

§ 32. Artificial lighting. The owner shall provide a light or lights in every public hall, stair and fire-stair on every floor so that every such space shall be lighted adequately.

TITLE 2 SANITATION

§ 40. Repairs and cleanliness. All old multiple dwellings shall be maintained in conformity with the provisions of section one hundred seventy-four.

§ 41. Water supply. Every such dwelling shall be provided with an adequate supply of water obtained from the public water system or from a source approved by the public health officer having jurisdiction.

§ 42. Water closet and bath accommodations. Every water closet or bathroom installed in such dwellings on or after July first, nineteen hundred fifty-two, and in dwellings converted on or after such date,

shall be in conformity with the provisions of section one hundred seventy-one.

§ 43. Plumbing and drainage. Every such dwelling shall be provided with facilities for the disposal of sewage, waterborne waste, and excreta, and such facilities shall be connected with the public sewers, if available and practicable; otherwise, such waste matter shall be disposed of in a manner approved by the public health officer having jurisdiction.

ARTICLE 4

HOTELS AND SIMILAR DWELLINGS

Section 50. Application of article four.

TITLE 1

FIRE PROTECTION

Section 52. Public halls and stairs.

53. Storage compartments.

54. Kitchens and pantries.

55. Egress.

56. Exit and directional signs.

56-a. Posting of means of egress in hotels and motels.

57. Vertical and horizontal openings.

58. Cellar ceiling.

59. Ventilation for shafts.

60. Bulkheads and scuttles.

61. Fire alarm system; watchman.

62. Miscellaneous provisions.

63. Two story transient dwellings.

64. One story transient dwellings.

65. Artificial lighting.

TITLE 2

SANITATION

Section 70. Repairs and cleanliness.

71. Water closet and bath accommodations.

72. Water supply; plumbing and drainage.

§ 50. Application of article four. 1. As used in this article, the term "transient dwellings" shall mean and include hotels, lodging houses, boarding and nursery schools, sorority houses, fraternity houses, college and school dormitories, convalescent, old age and nursing homes, and dwellings used for single room occupancy. The term "transient occupancy" shall mean the occupancy of a room for sleeping purposes by the same person or persons for a period of ninety days or less.

2. Except as provided in sections sixty-three and sixty-four with respect to one and two story transient dwellings only, this article shall apply to all transient dwellings three or more stories in height and in existence on July first, nineteen hundred fifty-two, provided, however, that the provisions of article two and sections fifty-three, fifty-six and sixty-one of this article shall apply to new transient dwellings.

3. As to such existing transient dwellings, the provisions of sections fifty-six, sixty-one and sixty-two of this article shall be complied with on or before July first, nineteen hundred fifty-four, and all other sections of this article shall be complied with on or before July first, nineteen hundred fifty-five.

TITLE 1 FIRE PROTECTION

§ 52. Public halls and stairs. The walls and ceiling of every entrance hall, stair hall or other public hall, every hall or passage not within an apartment or suite of rooms, every dumbwaiter, elevator, and, every other shaft, including stairs, connecting more than two successive stories, shall be sealed off from every other portion of the dwelling with fire-retarded materials, or, in lieu thereof, except in the case of elevator shafts, shall be equipped with an automatic sprinkler system.

Except as provided in subdivision five of section fifty-five, nothing contained in this article shall be deemed to exempt an interior required means of egress from the enclosure requirements or the equipment provided for in this section. A fire-detecting system shall not be acceptable for any of the requirements of this section.

§ 53. Storage compartments. There shall be one or more completely enclosed compartments for the storage of mattresses, furniture, paints, floor wax, linens, brooms, mops and other such inflammable or combustible paraphernalia incidental to the occupancy and maintenance of the dwelling, and such paraphernalia shall be stored in no other portion of such dwelling. Such compartments shall be completely protected by an automatic sprinkler system or a fire-detecting system. Closets which do not exceed one hundred square feet in floor area may be used for the temporary storage of such paraphernalia, except mattresses, furniture, paints and insecticides containing inflammable materials and are excluded from the requirements of this section. Where such storage compartments are located at least thirty feet distant from such dwelling, no sprinklers or fire-detecting system shall be required.

§ 54. Kitchens and pantries. All kitchens and pantries serving restaurants or dining rooms in a non-fireproof transient dwelling shall be equipped with an automatic sprinkler system or a fire-detecting system. Where such kitchens and pantries are located at least thirty feet distant from such dwelling, no sprinkler or fire-detecting system shall be required.

§ 55. Egress. 1. In every transient dwelling to which this article is applicable there shall be from each story at least two independent means of egress accessible to each room, apartment or suite, except as otherwise provided in section sixty-three with respect to two story transient dwellings.

2. The first means of egress shall be an enclosed stair extending

directly to a street, or to a yard, court or passageway affording continuous, safe and unobstructed access to a street, or by an enclosed stair leading to the entrance story, which story shall have direct access to a street. That area of the dwelling immediately above the street level and commonly known as the main floor, where the occupants are registered and the usual business of the dwelling is conducted, shall be considered a part of the entrance story; and a required stair terminating at such main floor or its mezzanine shall be deemed to terminate at the entrance story. An elevator or an unenclosed escalator shall not be acceptable as a required means of egress.

3. The second means of egress shall be by an additional enclosed stair, conforming to the provisions of subdivision two of this section, a fire-stair or an outside fire-escape. In a non-fireproof dwelling when it is necessary to pass through a stair enclosure which may or may not be a required means of egress to reach a required means of egress, such stair enclosure and that part of the public hall or corridor leading thereto from a room, apartment or suite, shall be fire-retarded as provided in section fifty-two or protected by a sprinkler system; in a fireproof dwelling only that part of the hall or corridor leading to such stair enclosure need be so protected.

4. Where it is impractical in such existing transient dwellings to provide a second means of egress, the department may order, in lieu of the second means of egress, additional alteration to the first means of egress and to shafts, stairs and other vertical openings as the department may deem necessary to safeguard the occupants of the dwelling, may require the public halls providing access to the first means of egress to be equipped on each story with an automatic sprinkler system, and, in non-fireproof dwellings, may also require automatic sprinkler heads in the stair which serves as the only means of egress.

5. Nothing in this section shall be deemed to require the enclosure of a stair which is ornamental provided such stair does not connect more than two stories.

6. A stair, fire-stair or fire-escape supplementary to the egress

requirements of subdivisions two, three and four of this section need not lead to the entrance story or to a street, or to a yard or a court which leads to a street, provided the means of egress therefrom is approved by the department.

7. A fire-detecting system shall not be acceptable for any of the requirements of this section.

8. In lieu of enclosing stairways as required by subdivisions two and three of this section, an automatic sprinkler system may be provided on such stairs.

9. All fire-escapes erected on or after July first, nineteen hundred fifty-three, in compliance with this section, shall be arranged, constructed and maintained in accordance with the provisions of section one hundred thirty-three. Such system shall be installed, arranged and maintained in a manner satisfactory to the department and in accordance with rules adopted by the commission. It shall be unlawful to remove any fire-escape without permission from the department.

§ 56. Exit and directional signs. Every means of egress shall be indicated by a sign reading "EXIT" in red letters at least eight inches high on a white background, or vice versa, illuminated at all times during the day and night by a red light of at least twenty-five watts or equivalent illumination. Such light shall be maintained in a keyless socket. On all stories where doors, openings or passageways giving access to any means of egress are not visible from all portions of such stories, directional signs shall be maintained in conspicuous locations, indicating in red on a white background, or vice versa, the direction of travel to the nearest means of egress. At least one sign shall be visible from the doorway of each room or suite of rooms. Existing signs and illumination may be accepted if, in the opinion of the department, such existing signs and illumination serve the intent and purpose of this section. Supplementary stairs, fire-stairs or fire-escapes which do not lead to the entrance story or to a street or to a yard or court, leading to a street, shall be clearly marked "NOT AN EXIT" in black

letters at least four inches high on a yellow background, and at the termination of each such stair, fire-stair or fire-escape, there shall be a directional sign indicating the nearest means of egress leading to a street. All signs shall be constructed, located and illuminated in a manner satisfactory to the department.

§ 56-a. Posting of means of egress in hotels and motels. On each floor of every hotel or motel having two or more stories where the rooms or suites are connected by an interior hallway there shall be posted by each stairway, elevator or other means of egress a printed scale floor plan of the particular story, which shall show all means of egress, clearly labeling those to be used in case of fire. Such signs shall be posted in other conspicuous areas throughout the building. Said floor plan shall be no smaller than eight inches by ten inches and shall be posted in such a manner that it cannot be readily removed.

§ 57. Vertical and horizontal openings. In order to prevent the vertical and horizontal spread of fire, smoke and gases, it shall, in addition to other applicable provisions of this article, be necessary to comply with the requirements of this section.

1. All doors opening from shafts, stair halls or stairs and the door assemblies shall be fire-retarded with the doors self-closing and without transoms or any other opening. Except in the case of elevator shafts, such shafts, stair halls or stairs may be protected by an automatic sprinkler system in lieu of fire retarding.

2. All other doors opening upon entrance halls or other public halls or corridors in every part of the dwelling shall be self-closing, except where such dwelling is equipped throughout with an approved type automatic sprinkler or fire-detecting system. It shall be unlawful to attach to or maintain on or about any door required to be self-closing any device which prevents the self-closing of such door.

3. Every existing interior glazed sash, window or opening, other than

a door, or a fireproof sash, window or opening glazed with wire glass, in any partition forming required enclosures around stairs or shafts shall be removed and the openings closed up and fire-retarded.

§ 58. Cellar ceiling. The ceiling of the cellar shall be fire-retarded or be equipped with a sprinkler system, or the entire cellar shall be equipped with a fire-detecting system. Any room within the dwelling in which a boiler or furnace is used for generating heat or hot water to service the dwelling shall be enclosed with fire-retarded partitions and every door opening therefrom and its assembly shall be fireproof with the door self-closing. The ceiling of such room shall also be fire-retarded or be equipped with a sprinkler system, or the room shall be equipped with a fire-detecting system.

§ 59. Ventilation for shafts. 1. There shall be provided in the roof directly over each stair, fire-stair, dumbwaiter, elevator or similar shaft which extends to or within one story of a roof, a ventilating metal skylight of the cross-sectional area of such shaft. Such skylight need not, however, exceed twenty square feet in area. Where an existing skylight is smaller than the dimensions or area prescribed in this subdivision, no structural change shall be required, but a ventilating metal skylight fitting the existing opening in the roof shall be sufficient. Every skylight shall be glazed with plain glass in the roof of such skylight and shall be equipped with metal screens over and under the skylight. In lieu of a skylight a window of the same area at the top story shall be accepted.

2. Whenever there is a flooring of solid construction at the top of any enclosed stair, fire-stair, elevator or similar shaft, openings shall be left near the top of such shaft for ventilation. Such openings shall provide at least two hundred eighty-eight square inches of unobstructed ventilation and shall communicate directly with the outer air, or be otherwise ventilated in accordance with the provisions of the local building code.

3. It shall be unlawful to discharge into any such shaft any inflammable or volatile gases, liquids or other thing or matter which would endanger life.

§ 60. Bulkheads and scuttles. 1. There shall be a fire-resistive bulkhead in the roof over, or connecting directly by means of a public hall with the highest portion of every stair extending to the highest story below the main roof. Stairs leading to such bulkheads shall be fire-retarded as required for other public stairs and shall have at the top fireproof doors and assemblies with the doors self-closing. All stairs to required bulkheads shall be provided with a guide or handrail. A scuttle so constructed as to be readily opened may be substituted for a bulkhead in dwellings not exceeding three stories and a basement in height. Such scuttle shall be at least twenty-one inches in width and twenty-eight inches in length, covered on the outside with metal and provided with a stationary iron or steel ladder leading thereto.

2. When a dwelling has a pitched or sloping roof with a pitch or slope of more than fifteen degrees, no bulkhead or scuttle, or stair or ladder leading thereto shall be required.

3. A bulkhead door or scuttle shall never be locked with a key, but may be fastened on the inside with movable rustproof bolts or hooks. All key locks shall be removed.

4. Bulkheads and stairs leading thereto existing on July first, nineteen hundred fifty-two, shall be permitted provided the stairs have such angle of ascent and treads of such dimensions as may be approved by the department.

§ 61. Fire alarm system; watchman. 1. Except as provided in subdivision three, in every transient dwelling containing thirty or more sleeping rooms for transient occupancy, there shall be an interior fire alarm system.

2. Except as provided in subdivision three, in every fireproof transient dwelling containing fifty or more sleeping rooms for transient occupants, and in every non-fireproof transient dwelling containing thirty or more such rooms, when thirty-five per centum or more of such rooms are occupied, there shall be, in addition to the interior fire alarm system, one or more watchmen or clerks, employed by the owner, whose duty it shall be to visit every portion of the dwelling at frequent regular intervals between the hours of eleven p.m. and seven a.m. for the purpose of detecting fire or other sources of danger and giving immediate and timely warning thereof to all the occupants. There shall be provided a watchman's clock system or other device to record the movement of such watchman.

3. Where throughout such dwelling a fire-detecting system, or an approved type automatic sprinkler system is provided which actuates a fire alarm by the flow of water through such system so as to give warning to all the occupants of the dwelling, and is installed in a manner satisfactory to the department in conformity with rules and regulations adopted by the commission, the provisions of subdivisions one and two shall not be applicable.

§ 62. Miscellaneous provisions. 1. An existing sprinkler installation, fire alarm, watchman's clock or fire-detecting system which has been approved or accepted by the department having jurisdiction and installed before July first, nineteen hundred fifty-two, in conformity with rules and regulations adopted by the commission, shall, after inspection by the said department, be deemed to be in compliance with the requirements of this chapter.

2. Where a sprinkler system is required by this article, such system shall be constructed to fuse at a temperature not higher than one hundred sixty-five degrees Fahrenheit, spaced so as to protect the area which is required to be sprinklered.

3. In furnace, boiler, laundry rooms and other parts of the dwelling where high temperature usually prevails, sprinkler heads may fuse at a

higher temperature. Where such rooms are located at least thirty feet distant from such dwelling, no sprinklers shall be required.

4. Except as otherwise provided in sections fifty-two and fifty-five, an approved fire-detecting system shall be accepted as meeting any requirement for a sprinkler system under this article.

§ 63. Two story transient dwellings. 1. All nursing and convalescent homes, homes for the aged, and boarding and nursery schools, two stories in height, shall conform with all of the provisions of article four.

2. Except as provided in subdivision one of this section, the only provisions of article four which shall apply to two story transient dwellings in existence on July first, nineteen hundred fifty-two, shall be sections sixty, sixty-one, sixty-five, title two and the following:

a. Every such transient dwelling shall have at least two means of egress. The first means of egress shall be by an interior stair closed off at the top or bottom. The second means of egress shall be by an additional interior stair closed off at the top or bottom or a fire stair or fire escape. A second means of egress shall not be required in a dwelling containing less than thirty sleeping rooms if the sill of the second story window does not exceed fourteen feet in vertical height above the ground or other safe landing place immediately below such window sill.

b. Where it is impractical in such transient dwellings to provide a second required means of egress, the department may order, in lieu thereof, additional alterations to the first means of egress and to shafts, stairs and other vertical openings to safeguard the occupants of the dwelling, may require the public halls providing access to the first means of egress to be equipped on both stories with an automatic sprinkler system, and may also require automatic sprinkler heads in the stair which serves as the only means of egress.

c. Where two means of egress are required by this section and one is

an ornamental stair, the provision for closing off the stair at top or bottom shall not be applicable to the ornamental stair.

§ 64. One story transient dwellings. The only provisions of article four which shall apply to one story transient dwellings in existence on July first, nineteen hundred fifty-two, shall be sections sixty, sixty-one, sixty-five and title two.

§ 65. Artificial lighting. The owner shall provide a light or lights in every public hall, stair and fire-stair on every floor so that every such space shall be lighted adequately.

TITLE 2 SANITATION

§ 70. Repairs and cleanliness. Every transient dwelling shall be maintained in conformity with the provisions of section one hundred seventy-four.

§ 71. Water closet and bath accommodations. Every water closet or bathroom installed in transient dwellings on or after July first, nineteen hundred fifty-two, and in transient dwellings converted on or after such date shall be constructed in conformity with the provisions of section one hundred seventy-one.

§ 72. Water supply; plumbing and drainage. Every such dwelling shall comply with the provisions of sections forty-one and forty-three.

ARTICLE 5 NEW MULTIPLE DWELLINGS--GENERAL PROVISIONS

Section 100. Application of article five.

TITLE 1

LIGHT AND AIR

Section 101. Height and bulk.

102. Yards and courts.

103. Lighting and ventilation of rooms.

104. Size of rooms.

105. Cooking spaces.

106. Rooms in cellars.

107. Entrance doors.

108. Windows and skylights for public halls and stairs.

109. Artificial lighting.

TITLE 2

FIRE PROTECTION AND SAFETY

Section 130. Entrance halls.

131. Shafts, elevators and dumbwaiters.

132. Stairs.

133. Fire-escapes.

134. Cellar entrance.

135. Frame buildings.

136. Motor vehicle storage.

137. Business uses.

138. Parapets and guard railings.

139. Boiler rooms.

TITLE 3

SANITATION AND HEALTH

Section 170. Water supply.

171. Water-closet and bath accommodations.

172. Plumbing and drainage.

173. Heating.

174. Repairs and cleanliness.

§ 100. Application of article five. All the provisions of this article shall apply to every multiple dwelling of permanent or transient occupancy erected on or after July first, nineteen hundred fifty-two, and shall apply in addition to and not in substitution for the

provisions of article two, articles six or seven, and in the case of transient dwellings, sections fifty-three, fifty-six, and sixty-one of article four.

TITLE 1 LIGHT AND AIR

§ 101. Height and bulk. The height and bulk of any new multiple dwelling shall be in accordance with the provisions of any applicable local law, ordinance, resolution, code provision or regulation.

§ 102. Yards and courts. Yards and courts in connection with any such multiple dwelling shall be in accordance with the provisions of any applicable local law, ordinance, resolution, code provision or regulation.

§ 103. Lighting and ventilation of rooms. 1. Except as in this section and in sections one hundred five, one hundred seventy-one and articles three and four otherwise expressly provided, every living room shall have at least one window opening directly upon a street, yard or court upon the same lot as that occupied by the dwelling in which such room is situated.

2. Nothing in this section shall be construed as prohibiting the windows of any room from opening on a partially-enclosed terrace provided such terrace opens directly to a street, yard or court and the area of the front of the terrace which is open to the outer air is at least equal to seventy-five per centum of the floor surface area of the terrace.

3. No required window shall open upon any offset or recess less than six feet in width except a window of a water-closet compartment, bathroom, or stair or of a kitchenette.

4. The total window area in every living room shall be at least one-tenth of the floor surface area of such room.

§ 104. Size of rooms. 1. Every living room, except kitchens, shall contain at least eighty square feet of floor space and shall be not less than eight feet in its least horizontal dimension. However, in every permanently occupied dwelling, one living room in each apartment or suite shall have at least one hundred thirty-two square feet of floor space.

2. Every living room shall be at least seven and a half feet high, the measurements in all cases to be taken from the finished floor to the finished underside of the ceiling. Beams crossing the ceiling may be disregarded if none of them extends below the ceiling more than six inches.

§ 105. Cooking spaces. 1. Every space which is intended, arranged or designed for cooking or warming of food shall be either a kitchen or kitchenette.

2. A kitchen or kitchenette shall be unlawful unless it is constructed, arranged and maintained in compliance with the following applicable provisions:

a. The ceiling and walls, exclusive of doors, of all kitchenettes shall be fire-retarded or in lieu thereof such space shall be equipped with one or more sprinkler heads to fuse at a temperature not higher than two hundred twelve degrees Fahrenheit. Such heads shall be connected to the water supply through a pipe of adequate size.

b. In every kitchen and kitchenette, all combustible material immediately underneath or within one foot of any apparatus used for cooking or warming of food shall be fire-retarded or covered with fire-resistive material.

c. Every kitchenette shall be provided with a window opening upon a street or upon a yard, court or shaft. Such window shall be at least one foot wide, have a total area of at least three square feet and be at least ten per centum of the superficial floor area of such kitchenette. In lieu of such window, in such kitchenette it shall be lawful to install a system of mechanical or gravity ventilation to provide at least six changes per hour of the air volume of such kitchenette.

d. Every kitchenette may be equipped with a door or doors, provided the lower portion of each such door has a metal grille containing at least forty-eight square inches of clear openings or, in lieu of such a grille, there are two clear open spaces, each of at least twenty-four square inches, one between the floor and each such door, and the other between the top of each such door and the head jamb.

§ 106. Rooms in cellars. It shall be unlawful to occupy all or any part of a cellar for sleeping purposes, but all or part of such cellar may be used for storage or other general utility purposes accessory to the occupancy, use or management of the dwelling.

§ 107. Entrance doors. Every door giving access to an entrance hall from outside the dwelling shall contain at least five square feet of glazed surface. Every such door shall open outwardly. The width of every such door shall be at least forty-four inches. However, when double doors are provided each of the doors separately shall be at least two feet six inches.

§ 108. Windows and skylights for public halls and stairs. 1. Where a window or windows are required to light a public hall or part thereof, at least one of such windows shall be not less than two feet six inches wide and five feet high. Every required window in such a hall shall open upon a street, yard or court. On the top story of such a dwelling a ventilating skylight of the same dimensions shall be accepted in lieu of

a window for that story.

2. There shall be in the roof, directly over each required stair and fire-stair a ventilating skylight provided with louvres or ventilators having a minimum open area of forty square inches. The roof of every such skylight shall be glazed with plain glass and equipped with suitable metal screens above and below. The glazed area of every such skylight shall be at least twenty square feet, except that in such a dwelling or section thereof two stories or less in height the glazed area of such a skylight need be only nine square feet. In lieu of a skylight, a window of the same area as prescribed in subdivision one may be provided. If such a window is used in lieu of a skylight, fixed louvres having a minimum opening of forty square inches shall also be installed in or directly adjacent to such window.

3. When any stair, fire-stair or fire-tower in such a dwelling terminates at the level of a setback of an outer wall and such setback consists of a terrace at least four feet in width, measured between the inside of the parapet wall and the wall of the dwelling and at least ten feet in length, measured parallel to the wall of the dwelling, there may be provided in lieu of such skylight a fireproof door and assembly with the door self-closing giving access from such stair or fire-stair to such terrace. Such door shall have a panel at least five square feet in area glazed with wire glass and shall be equipped with louvres having a minimum open area of forty square inches.

§ 109. Artificial lighting. The owner shall provide a light or lights in every public hall, stair and fire-stair on every floor so that every such space shall be lighted adequately.

TITLE 2 FIRE PROTECTION AND SAFETY

§ 130. Entrance halls. Every entrance hall shall be at least three

feet eight inches in clear width from the entrance to the first stair. If such an entrance hall is the only entrance to more than one required stairs, the width of such hall shall be increased in every part, for each such additional flight of stairs, by one-half the width required for one flight of stairs.

§ 131. Shafts, elevators and dumbwaiters. Every shaft shall be enclosed on all sides with fireproof walls and shall have fireproof doors and assemblies at all openings, with the doors self-closing. Not more than three elevators or dumbwaiters shall ever be placed in the same shaft. All dumbwaiter doors shall be fastened by an interior lock in the shaft operated and controlled from a central point. The doors of every elevator shaft shall be provided with an automatic device to prevent the normal operation of the elevator unless the hoistway door at which the car is standing is closed and locked, or unless all hoistway doors are locked in a closed position. Such doors, except for power-operated sliding doors, shall have a vision panel of wire glass not exceeding one square foot in area. Every elevator shall be equipped with a gate or door with an automatic device to prevent the normal operation of such elevator unless such gate or door is closed.

§ 132. Stairs. Every interior and exterior stair and fire-stair shall be provided with proper balustrades and handrails. Every such stair and fire-stair three feet eight inches or more in width shall be provided with a handrail on each side. Each tread, exclusive of nosing, shall be not less than nine and one-half inches wide; each riser shall not exceed seven and three-quarter inches in height; and the product of the number of inches in the width of the tread and the number of inches in the height of the riser shall be at least seventy and at the most seventy-five. Winding stairs shall be unlawful in any public part of the dwelling.

§ 133. Fire-escapes. 1. Every fire-escape shall be located, arranged, constructed and maintained in accordance with the following provisions:

a. Each fire-escape shall be accessible to one or more exterior doors or windows opening from the room, apartment or suite, and such window or door shall be two feet or more in clear width and two feet six inches or more in clear height. The sill of any such window shall be within three feet of the floor.

b. Access to any fire-escape shall not be through any public toilet, or be obstructed by any bathroom fixture, kitchen fixture, sink, or in any other way. Bars, grilles, gates or other obstructing devices on any window or door giving access to any fire-escape shall be unlawful. A required fire-escape shall never include a window of a stair hall or public stairs.

c. Every fire-escape shall be constructed of open balconies and stairways of incombustible material and designed to support a uniformly distributed live load of at least eighty pounds per square foot. The use of cast iron in the construction of fire-escapes shall be unlawful.

d. No fire-escape shall be removed from or erected upon any multiple dwelling without a permit from the department. No fire-escape shall be removed or replaced unless a secondary means of egress is available or provided in lieu thereof.

2. a. Every balcony for a fire-escape shall be three feet or more in clear width.

b. Every lowest balcony more than five feet above a safe landing beneath shall have a drop ladder fifteen inches in width and of sufficient length to reach such landing. Such ladder shall be held in a proper position at all times, and, unless properly counterbalanced, shall be placed in guides so that it can be lowered easily. The lowest balcony shall not be more than fourteen feet above the ground or safe landing place beneath.

c. Every stairway shall be placed at an angle of sixty degrees or less with steps at least six inches in width and twenty inches in length and

with a maximum rise of nine inches. The opening in any balcony for such a stairway shall be at least twenty-one by twenty-eight inches.

d. A stairway shall be provided from every balcony on the top story to the roof of a multiple dwelling three or more stories in height except where the roof is sloped or pitched in excess of fifteen degrees.

§ 134. Cellar entrance. There shall be a direct entrance to the cellar, or to the lowest story if there be no cellar, from the outside of every multiple dwelling, except that any stair leading to such cellar or lowest story may be located inside the dwelling provided it is enclosed in fireproof walls and fireproof doors and assemblies, with the doors self-closing, at both the level of such cellar or lowest story and that of the story above.

§ 135. Frame buildings. It shall be unlawful to erect a frame multiple dwelling exceeding two stories in height.

§ 136. Motor vehicle storage. A space or a structure may be provided and maintained in any multiple dwelling or upon the premises thereof for the storage of passenger motor vehicles but only with a written permit therefor from the department and in accordance with every applicable local law, ordinance, resolution, code provision or regulation and the rules and regulations of the commission.

§ 137. Business uses. When business is conducted in a non-fireproof multiple dwelling, the ceiling of the business space shall be covered with fire-resistive materials or be equipped with a sprinkler system.

§ 138. Parapets and guard railings. Except as hereinafter provided every open area of a roof, terrace, areaway, outside stair, retaining wall or porch shall be protected by a parapet wall, a guard railing, or

both, extending three feet six inches or more in height above the level of such area or, in the case of a stair landing, stair window or window in a public hall, above the level of the floor adjacent thereto. In dwellings two stories in height, it shall be sufficient if the guard railing is erected at least five feet distant from and encloses any required bulkhead or scuttle opening to the roof. This section shall not apply to dwellings one story in height.

§ 139. Boiler rooms. In every dwelling the boiler or furnace of a central heating plant shall be enclosed in a fireproof room or space and all openings therefrom to other portions of the dwelling shall be equipped with fireproof doors and assemblies with the doors self-closing, except that in any dwelling three stories or less in height, such room or space may in the alternative be enclosed with walls or partitions constructed of fire-resistive materials and the ceiling fire retarded.

TITLE 3 SANITATION AND HEALTH

§ 170. Water supply. The owner shall provide proper appliances to receive and distribute in such dwelling an adequate supply of water obtained from the public water supply system or from a source approved by the public health officer having jurisdiction at all times when the building is occupied and during all hours and hot water between six o'clock in the morning and midnight.

§ 171. Water-closet and bath accommodations. 1. Every dwelling arranged for permanent occupancy shall contain a water-closet in every apartment.

2. The floor of every compartment, bathroom or general toilet room shall be made waterproof and such waterproofing shall extend six inches

or more above the floor so that the floor can be washed or flushed out without leaking. No plumbing or plumbing fixture shall be enclosed wholly or in part with woodwork.

3. Water-closets may be placed together in a general toilet room provided such water-closets are supplementary to the water-closet accommodations required for the exclusive use of tenants of the dwelling, or are solely for the use of business portions of the dwelling.

4. Every apartment arranged for permanent occupancy shall contain a bath or shower accessible from every bedroom without passing through any other bedroom. In dwellings arranged for transient occupancy there shall be at least one shower or bath for every eight resident occupants.

5. Except as specifically provided otherwise in this chapter, every water-closet compartment and bath or shower room shall have a window opening upon a street or upon a lawful court or yard.

6. In lieu of a required window or skylight, it shall be lawful to install a system of mechanical or gravity ventilation for water-closet compartments or bathrooms in any portion of a dwelling. Such system of ventilation shall be constructed, arranged and maintained continuously to provide at least four changes per hour of the air volume of each such water-closet compartment or bathroom.

§ 172. Plumbing and drainage. All liquid or water-borne waste from plumbing fixtures shall be conveyed by a house drain and house sewer to a street sewer or to a combined street storm water main and sewer, unless no such sewers are available. Where neither kind of sewer is available, provision shall be made for disposing of such waste as may be permitted pursuant to article five of the public health law and as required by local law or ordinance.

§ 173. Heating. Every new dwelling shall be provided with heat in all

living rooms sufficient to maintain the minimum temperatures required by local law, ordinances, rules or regulation, or by the local public health officer, provided, however, that such minimum temperature shall, notwithstanding the provisions of subdivision one of section three hundred twenty-nine of this chapter, be sixty-eight degrees Fahrenheit during the hours between six o'clock in the morning and ten o'clock in the evening during the months between October first and May thirty-first, whenever the outdoor temperature falls below fifty-five degrees Fahrenheit.

§ 174. Repairs and cleanliness. The owner shall keep all and every part of a dwelling and the lot on which it is situated in good repair, clean and free from vermin, rodents, dirt, filth, garbage or other thing or matter dangerous to life or health; but the tenant shall also be liable if a violation is caused by his own wilful act, assistance or negligence or that of any member of his family or household or his guests.

ARTICLE 6

FIREPROOF NEW MULTIPLE DWELLINGS

Section 200. Application of article six.

TITLE 1

FIRE PROTECTION

Section 201. Requirements for fireproof construction.

202. Egress from dwellings.

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TITLE 2

SANITATION

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§ 200. Application of article six. The provisions of this article shall apply only to fireproof new multiple dwellings of permanent or transient occupancy, and shall apply in addition to and not in substitution for the provisions of articles two and five, and in the case of transient dwellings, sections fifty-three, fifty-six, and sixty-one of article four.

TITLE 1 FIRE PROTECTION

§ 201. Requirements for fireproof construction. 1. Every new multiple dwelling exceeding six stories or seventy-five feet in height shall be fireproof.

2. The foregoing requirements shall not be construed as prohibiting:

a. Elsewhere than within, or in the openings to, the public halls, stairs and shafts, the use of wood for sleepers, grounds, nailing blocks, underflooring, finish flooring, interior doors with their assemblies and saddles, floor base not more than one foot in height, picture and wall moulding, shelving, closet and kitchen fixtures, cupboards, cabinets and wardrobes.

b. The use of wood for window and for interior trim and finish backed solidly against, or filled with, incombustible material and elsewhere than within, or in the openings to, the public halls, stairs and shafts.

§ 202. Egress from dwellings. 1. Nursing and convalescent homes, homes for the aged and boarding and nursery schools, two stories in height erected after July first, nineteen hundred fifty-seven, child caring institutions, two stories in height erected after July first, nineteen hundred sixty-two, and all dwellings three or more stories in height shall have at least two fire-stairs. Except as otherwise specifically provided in subdivision four, such fire-stairs shall extend from the

entrance story to the roof and be equipped with fireproof self-closing doors glazed with wire glass and without transoms. No windows shall be required in such stairs, but any openings in exterior walls, except any window openings facing a street or yard, shall be equipped with fireproof frame and sash and glazed with wire glass.

2. Every such fire-stair shall have an entrance on the entrance story from a street or an entrance at the side or rear of the dwelling from a yard, court or passageway having continuous, safe and unobstructed access to a street. Every required stair and stair-landing shall be at least three feet eight inches in clear width.

3. There shall be horizontal access from every apartment to at least two fire-stairs, at least one of which shall be within one hundred feet horizontally in the line of travel from a required means of egress from such apartment.

4. A dwelling as a rule transiently or temporarily occupied, in which at least eighty per centum of the living rooms above the second story open directly upon a public hall without any intervening foyer or private hall, shall have at least two fire-stairs accessible at each story from each room through a public hall. Such fire-stairs shall be so located that at least one fire-stair shall be not more than one hundred twenty-five feet along the line of travel from the means of egress from any living room. Every such fire-stair shall have a clear width of at least three feet eight inches. Two such fire-stairs shall be deemed adequate for seventy living rooms on any story.

5. Nursing and convalescent homes, homes for the aged, and boarding and nursery schools, one story in height, erected after July first, nineteen hundred fifty-seven, and child caring institutions, one story in height, erected after July first, nineteen hundred sixty-two, shall have at least two means of egress from the dwelling accessible to every apartment providing free and unobstructed egress by a door opening to the outer air.

§ 203. Egress from apartments. 1. There shall be at least one means of egress from each apartment or suite on each and every story of such apartment or suite, and a second means of egress if the first means is not within forty feet of every living room in such apartment or suite on such story.

2. No means of egress from any apartment or suite shall open into any stair or fire-stair required under the provisions of this section except through a vestibule or public hall.

§ 204. Bulkheads. Every stair and fire-stair required by this chapter to extend to the level of the roof shall extend to and through a fireproof bulkhead or other fireproof enclosure in such roof. Such bulkhead or enclosure shall give unobstructed access at all times to such roof by means of a fireproof door and door assembly with the door self-closing. Stairs to a bulkhead or enclosure shall have a handrail. Where the roof of a dwelling is pitched or sloped more than fifteen degrees, no bulkhead or stairs leading thereto shall be required.

§ 205. Separation and ventilation of stairs. 1. All stairs and fire-stairs shall be completely separated from one another and from every elevator or other shaft by fireproof walls. They shall be constructed of fireproof material throughout and shall contain no wood or other inflammable material of any kind, except that handrails of hardwood may be provided.

2. Access to stairs and fire-stairs from any public vestibule or other public hall shall be through fireproof doors and assemblies, with the doors self-closing and at least three feet wide, or through pairs of such doors at least four feet wide, containing in either case a fixed sash glazed with wire glass at least one-quarter inch thick and at least three hundred sixty square inches in area.

3. At the highest level of every stair and fire-stair there shall be provided a window or a skylight. At such termination, there shall also

be an opening of at least one hundred forty-four square inches which shall communicate directly to the outer air, which opening may be a part of such window or skylight. Except as herein provided, such skylight shall comply with the provisions of subdivision two of section one hundred eight.

§ 206. Cellar and basement stairs. All inside cellar or basement stairs shall be entirely enclosed with fireproof walls and be provided with fireproof doors and assemblies, with the doors self-closing, at all openings.

§ 207. Public halls. 1. Every public vestibule or other public hall shall comply either with the applicable provisions of section two hundred fifty-eight for non-fireproof dwellings, or with all of the following provisions:

a. Every such public vestibule or hall shall be everywhere at least three feet eight inches in clear width and shall be separated from all other parts of the dwelling by fireproof floors and walls.

b. All openings from such a public vestibule or hall to stairs, fire-stairs, shafts, apartments or suites shall be protected by fire-proof doors and assemblies, with the doors self-closing, except that such doors and assemblies shall not be required in any transiently or temporarily occupied fireproof dwelling for any apartment consisting of one room opening directly upon a public hall.

c. Such a public vestibule or hall shall not be required to have a window, but if it does not have a window opening to the outer air it shall be equipped for artificial lighting and ventilation.

d. Any part of a public hall that is shut off from any other part of such hall by a door or doors shall be deemed a separate hall.

TITLE 2
SANITATION

§ 215. Interior water-closets and bathrooms. 1. Except as otherwise provided in this section, water-closets, bath and shower rooms may be ventilated by windows or mechanically ventilated as prescribed in section one hundred seventy-one.

2. In transiently occupied dwellings there shall be on each story at least two water-closet compartments for the first twenty living rooms or fraction thereof and at least one additional water-closet compartment for each additional fifteen living rooms or fraction thereof.

a. The water-closet compartments on each story shall be accessible from every such living room on the story. Such water-closet compartments may be placed in one or more general toilet rooms.

b. Every water-closet compartment of a general toilet containing water-closet compartments permitted under this subdivision shall have a window opening to the outer air of the dimensions, kind and location required in a living room of the same area by section one hundred three, or be provided with a system of mechanical ventilation as prescribed in subdivision six of section one hundred seventy-one.

ARTICLE 7

NON-FIREPROOF NEW MULTIPLE DWELLINGS

Section 250. Application of article seven.

TITLE 1

FIRE PROTECTION

Section 251. Height limitation.

252. Sub-curb uses.

253. Construction of first floor.

254. Egress from dwellings.

255. Egress from apartments.

256. Bulkheads and scuttles.

- 257. Public stairs.
- 258. Public halls.
- 259. Cellar and basement stairs.
- 260. One and two-story frame dwellings; area limitation.

TITLE 2

SANITATION

Section 280. Water-closets and bathrooms.

§ 250. Application of article seven. The provisions of this article shall apply only to non-fireproof new dwellings of permanent or transient occupancy, and shall apply in addition to and not in substitution for the provisions of articles two and five, and in the case of transient dwellings, sections fifty-three, fifty-six, and sixty-one of article four.

TITLE 1

FIRE PROTECTION

§ 251. Height limitation. A dwelling not exceeding seventy-five feet or six stories in height may be non-fireproof construction.

§ 252. Sub-curb uses. In all portions of such dwellings below the level of the highest curb all structural members, partitions, furrings and ceilings shall be constructed of incombustible materials.

§ 253. Construction of first floor. The first floor above the lowest cellar, or, if there be no cellar, above the lowest story, shall be fireproof or, if the dwelling be three stories or less in height, fire-retarded.

§ 254. Egress from dwellings. 1. Nursing and convalescent homes, homes

for the aged and boarding and nursery schools, two stories in height erected after July first, nineteen hundred fifty-seven, child caring institutions, two stories in height, erected after July first, nineteen hundred sixty-two and all dwellings three or more stories in height shall have at least two means of egress and, except as otherwise provided in the case of a pitched or sloped roof, shall extend to the roof from an entrance story, street, court or yard. The entrances to such means of egress at every story shall be at least fifteen feet distant from each other unless they are on opposite sides of a public hall. One means of egress shall be a stair constructed as provided in section two hundred fifty-seven. The other means of egress shall be either another such stair or a fire-stair or a fire-escape constructed as provided in section one hundred thirty-three.

2. If the number of living rooms on any story, or in any section of any story, above the entrance story exceeds twenty, there shall be an additional stair or a fire-stair extending from the entrance story to the roof for each twenty rooms or fraction thereof on such story or section thereof in excess of twenty, except that no additional stair shall be required for such excess on any story or section thereof if the number of living rooms thereon does not exceed thirty and if in addition one stair serving such story or section and every entrance hall or other public hall connected therewith is everywhere four feet six inches or more in clear width.

3. There shall be accessible from every apartment two means of egress from the dwelling, one of which shall be an enclosed stair complying with the provisions of section two hundred fifty-seven within fifty feet from a means of egress from such apartment.

4. Nursing and convalescent homes, homes for the aged, and boarding and nursery schools, one story in height, erected after July first, nineteen hundred fifty-seven, and child caring institutions, one story in height, erected after July first, nineteen hundred sixty-two, shall have at least two means of egress from the dwelling accessible to every apartment providing free and unobstructed egress by a door opening to the outer air.

§ 255. Egress from apartments. 1. A dwelling three or more stories in height shall have at least two means of egress from every apartment or suite. Such means shall be remote from each other. Except where it opens into a stair as permitted in subdivision three, one means shall be to a public hall connecting with an enclosed stair or fire-stair not more than fifty feet distant from such means. The other required means of egress shall open either directly upon a fire-escape or a public vestibule or other public hall connecting with a stair or fire-stair.

2. Except as hereinafter provided for dwellings two stories or less in height, such vestibule, hall or stair shall be separated from the public hall or stair, on which the first means of egress opens, by a fireproof wall, unpierced except by a fireproof door and assembly with the door self-closing. In a dwelling two stories or less in height, the separating wall may be fire-retarded.

3. In a dwelling three stories or less in height and occupied by four families or less on each story, and in any section of a permanently occupied dwelling which is two stories or less in height and occupied by four families or less on each story, a means of egress from an apartment may open directly into a stair without the intervention of a public hall. Such means shall have a fireproof door and assembly with the door self-closing and without a transom.

§ 256. Bulkheads and scuttles. 1. Every required stair and fire-stair in a dwelling three stories or more in height shall have a bulkhead constructed as provided for fireproof dwellings in section two hundred four.

2. A dwelling which is two stories or less in height shall be provided at each required stair or fire-stair either with such bulkhead or with a scuttle at least two feet by three feet in size, located in the ceiling of the public hall on the top story. Every such scuttle shall be arranged to be readily opened, shall be covered on the outside with

metal and shall be provided with stairs or a stationary metal ladder leading thereto and easily accessible to all the occupants of the dwelling.

3. When the roof of a dwelling is pitched or sloped more than fifteen degrees, no bulkhead or scuttle, or stair or ladder leading thereto, shall be required.

§ 257. Public stairs. 1. Every stair and fire-stair shall, except as otherwise provided in subdivisions three and four of this section and in section two hundred fifty-nine, be constructed as provided for fire-stairs in sections two hundred two and two hundred five for fireproof dwellings.

2. Every stair and fire-stair shall be at least three feet in clear width throughout, and at all floor levels shall have landings at least three feet eight inches in clear width.

3. Every stair and fire-stair shall be completely separated from every other stair and fire-stair and from every public hall and shaft by fireproof walls, with fireproof doors and assemblies, with the doors self-closing and without transoms, at all openings, except that in dwellings two stories or less in height such walls may be fire-retarded. The doors giving access to such stairs shall not be held open by any device whatever.

4. Except in the case of an interior enclosed stair separated from and directly accessible to the public hall by a self-closing fireproof door and except as provided in subdivision five, there shall be provided to light and ventilate every stair at every story a window or windows opening on a street, court or yard.

5. In a dwelling occupied by two families or less on every story:

a. If such dwelling is three stories or less in height, there may be provided for any stair, in lieu of windows, a stairwell sixteen inches

or more in clear width extending from the entrance story to the roof.

b. If such dwelling is a permanently occupied dwelling and is two stories or less in height, there may be provided for any stair, in lieu of windows, a stairwell six inches or more in clear width. For the purposes of this paragraph, a section of a permanently occupied dwelling may be deemed a separate multiple dwelling.

c. If such dwelling is two stories in height and has no public hall on the first story, no stairwell or stair windows need be provided.

§ 258. Public halls. 1. Every public hall shall be everywhere at least three feet in clear width.

2. Except as herein provided, every public hall shall be completely enclosed with fireproof floor, ceiling and walls, and separated from every stair by fireproof partitions or walls, and all doors and their assemblies opening therefrom shall be fireproof, with the doors self-closing and without transoms. In a dwelling three stories or less in height occupied by not more than four families on each story, or in a permanently occupied dwelling or any section thereof two stories or less in height, any such hall which furnishes access to only one stair need not be separated from such stair by any partition or door and the walls of a public hall may be fire-retarded and the floors may be provided with three inches or more of incombustible materials between the beams.

3. Except in dwellings three stories or less in height and occupied by two families or less on every story, every public hall shall have at least one window opening directly upon a street or upon a lawful yard or court. There shall be such a window at the end of such hall and at right angles to its length, with an additional window in each forty feet of hall or fraction thereof beyond the first sixty feet from such end window; or the hall shall have one window opening directly upon a street, yard or court, in every forty feet of the length of such hall or fraction thereof measured from one end of the hall. Any part of a public hall that is shut off from any other part of such hall by a door or

doors shall be deemed a separate hall.

4. The foregoing provisions of this section with regard to lighting and ventilation shall not apply to a vestibule or other public hall which serves as a means of access from one or more apartments opening thereon to a fire-stair meeting the requirements of section two hundred two if such vestibule or public hall is lighted and ventilated as required by sections one hundred nine and two hundred seven.

§ 259. Cellar and basement stairs. A cellar or basement stair located inside the dwelling shall be entirely enclosed with fireproof walls and be provided, at all openings, with fireproof doors and assemblies, with the doors self-closing, except that in any dwelling three stories or less in height, such stair may be enclosed with walls or partitions constructed of fire-resistive materials.

§ 260. One and two-story frame dwellings; area limitation. A frame dwelling not exceeding two stories in height erected pursuant to plans filed after April first, nineteen hundred fifty-nine, and containing an area greater than three thousand square feet must, in addition to any other applicable provisions of this article, comply with the following provisions:

1. Fire-stopped partitions shall be constructed between apartments in such dwelling so as to prevent the passage of fire, smoke or gases from one apartment to another.

2. No section of such dwelling shall contain more than three thousand square feet. Each such section shall be separated from all other sections of the dwelling by fire walls of masonry or other materials having a fire resistive rating of at least two hours. Such wall (1) shall be unpierced except for openings for heat, utility and other service lines and ducts with such openings sealed with incombustible materials (2) shall extend continuously from the floor of the lowest level of the dwelling, to at least two feet above the level of the

finished roof and (3) be fire-stopped at floors and roof in such manner as to prevent the passage of fire, smoke or gases between sections. Where there is a peaked or sloped roof, such wall may terminate at the top of the roof boards.

TITLE 2 SANITATION

§ 280. Water-closets and bathrooms. The requirements for water-closet compartments, bath and shower rooms shall be the same as provided in section two hundred fifteen for fireproof dwellings, except that each required water-closet compartment, bath or shower room in an apartment shall be ventilated by a window opening to the outer air as provided in section one hundred seventy-one. Water-closet compartments, bath and shower rooms which are supplementary to those required under the provisions of sections one hundred seventy-one and two hundred fifteen may be mechanically or gravity ventilated as provided in section one hundred seventy-one.

ARTICLE 8 REQUIREMENTS AND REMEDIES

- Section 300. Registry of owner.
- 301. Permits.
 - 302. Certificate of occupancy.
 - 302-a. Unlawful occupation.
 - 303. Enforcement.
 - 304. Penalties for violations.
 - 305. Nuisances.
 - 305-a. Abatement of rent in the case of serious violations.
 - 305-c. Right of tenant to offset payments for heat failure;
certain cases.
 - 306. Service of notices and orders.
 - 307. Records and searches.

Owner of record:
Street No. or other identifying description:
Type of construction:
(frame, brick, stucco, etc.)
Height of building:No. of stories:
Number of rooms or apartments for which designed:
Number of persons in occupancy:

2. No person shall be recognized as the agent of the owner unless he shall file with the department a written instrument, signed by the owner, designating him as such agent. Upon the filing of such instrument, the person designated therein as such agent shall be deemed to be and shall be known as the certified agent of the owner.

3. The department shall have power to issue, refuse, revoke or cancel any permit or approval in case of any failure to comply with any of the provisions of this chapter, or in case any false allegation or representation is made in any plans or statements submitted or filed for such permit or approval. If such permit is refused, revoked or cancelled, the reason for such action shall be recorded by the department.

4. All plans, statements and permits filed in any department shall be public records and shall not be destroyed or removed from the department.

§ 302. Certificate of occupancy. 1. No multiple dwelling shall be occupied in whole or in part until the issuance of a certificate by the department that said dwelling conforms in all respects to the requirements of this chapter, except that no such certificate shall be required for any multiple dwelling existing on July first, nineteen hundred fifty-two, for which a certificate of occupancy was not required before such date and in which no changes or alterations commenced on or after such date have been made except in compliance with this chapter, and except that a certificate shall be required prior to July first, nineteen hundred fifty-seven for any dwelling, the plans for the alteration or conversion of which to multiple dwelling occupancy were on file with the department or a permit authorizing such conversion was issued before such date and for which a certificate of occupancy upon completion of such conversion or alteration was not required before such date. This exception shall not be deemed to relieve any owner from the obligation to make such dwelling comply with the applicable provisions of this chapter.

2. Except as above provided, no dwelling constructed as or altered or converted into a multiple dwelling on or after July first, nineteen hundred fifty-two, shall be occupied in whole or in part until the issuance of a certificate of occupancy.

3. The department shall, on request of the owner or of his certified agent, issue a certificate of occupancy for any old multiple dwelling not requiring such certificate, provided that, after an inspection by the department, no violations are found against such dwelling.

4. A certificate of occupancy shall be issued within ten days after written application therefor, if the dwelling shall be entitled thereto. When the department does not issue such certificate within ten days, the head of the department shall, on the request of the owner or his

certified agent, issue a temporary certificate of occupancy for a multiple dwelling or a section or a part thereof for a period of ninety days or less, provided that such certificate shall bear the endorsement that the dwelling has been inspected by the department and complies with all the requirements of this chapter, and that such temporary occupancy will not jeopardize life, health or property. Such temporary certificate may be renewed at the discretion of the head of the department for similar periods but shall not extend, together with such renewals, beyond one year from the date of its original issuance.

5. A certificate, a record in the department, or a statement signed by the head of the department that a certificate has been issued, may be relied upon by every person who in good faith purchases a multiple dwelling or who in good faith lends money upon the security of a mortgage covering such a dwelling. Whenever any person has so relied upon such a certificate, no claim that such dwelling had not, prior to the issuance of such certificate, conformed in all respects to the provisions of this chapter shall be made against such person or his successor in title or ownership with respect to such multiple dwelling or mortgage, or against the interest of any such person with respect thereto.

6. Notwithstanding any general or local law to the contrary, a certificate issued for any multiple dwelling organized pursuant to the provisions of article nine-B of the real property law, shall be deemed issued for each dwelling unit contained within such multiple dwelling in full compliance with the requirements of this section.

§ 302-a. Unlawful occupation. 1. If any dwelling or structure be occupied in whole or in part for human habitation in violation of section three hundred two of this article, no rent shall be recovered by the owner of such premises for said period, and no action for possession of said premises for nonpayment of such rent shall be maintained therefor.

2. The department charged with the enforcement of this chapter may

cause to be vacated any dwelling or any part thereof which contains a nuisance as defined in section three hundred five of this article, or is occupied by more families or persons than permitted in this chapter, or is erected, altered or occupied contrary to law. Any such dwelling shall not again be occupied until it or its occupancy, as the case may be, has been made to conform to law.

§ 303. Enforcement. 1. The provisions of this chapter shall be enforced within each municipality by a person or department charged with such duty as provided in this section, provided, however, that in the case of a town such person or department shall have power and jurisdiction concerning such enforcement only with respect to such part of the town as is outside the limits of any village or city. Whenever in any city or village there is a person or department enforcing any building code, or in any town there is a person or department enforcing any building code with respect to the whole or the portion thereof outside the limits of any village or city, the provisions of this chapter shall be enforced by such person or department in such city or village, or in such town or portion thereof, respectively. If there be no such person or department in and for a city or village, or in a town for the whole or the portion thereof outside the limits of any city or village, the chief executive officer or, if there be none, the chief administrative body or board of the city, village, or town, respectively, shall have the power to and shall organize a department or shall designate or employ a person or department for the enforcement of this chapter in such city or village, or in such town or portion thereof, respectively, and the provisions of this chapter shall be enforced therein by the department so organized or the person or department so designated or employed. The person so designated or employed to enforce this chapter in a city or village or in a town or portion thereof, or in two or more of them acting jointly, as hereinafter provided, need not be an elector of the city, village or town, or of any of them, as the case may be, in or for which he is so designated or employed. A person assigned as a fire department inspector pursuant to subdivision four of this section shall not by virtue of such assignment be disqualified from holding the office of enforcement

officer.

2. One such person or department may be designated or employed by two or more cities, villages or towns, acting jointly, for the enforcement of this chapter in such cities or villages, or in such towns or portions thereof, respectively, and such cities, villages and towns may make and perform agreements in connection therewith. Where two or more municipalities are so jointly acting, provision shall be made by each municipality for the appropriation, custody, audit, approval and payment of funds sufficient to defray the expense of operation of such person or department, including salaries, in such municipality or municipalities or portion or portions thereof. Any joint agreement made as provided in this section shall include provisions for the proportionate cost of the expense of operation of such person or department, including salaries, to be borne by each municipality or portion thereof and the manner of employment of personnel and may provide that a fiscal officer of one such municipality shall be the custodian of the moneys made available for expenditure for the purposes of such enforcement by all such municipalities or portions thereof and that such fiscal officer may make payments therefrom upon audit of the appropriate auditing body or officer of his municipality. In providing for the enforcement of this chapter in any municipality or portion thereof, a municipality may also contract with another municipality to enforce this chapter within such municipality or portion thereof as required by this chapter, under such terms and conditions as may be stated in such contract, and any amount agreed to be paid under such contract shall be a charge upon the municipality or portion thereof for which such enforcement is provided and shall be paid in the same manner as other charges of the municipality.

3. The person or department charged with the duty of enforcing the provisions of this chapter in a municipality or portion thereof shall have power to enter, examine, and inspect, or cause to be examined and inspected, any building or property for the purpose of carrying out the duties of such person or department under this chapter. Such person or department is authorized and empowered to issue departmental notices and orders and is authorized to institute appropriate judicial action or

proceeding to enforce any building code.

4. The fire department of any city, village or fire district, the fire department of any town which as such has a fire department, and any fire company located in the area of a town outside villages and fire districts, may, with the approval of the chief executive officer or, if there be none, the chief administrative body or board of the city, village or town, respectively, assign to one or more members of the fire department or company, as the case may be, the duty of making inspections of buildings and properties which are subject to the provisions of this chapter and are located in the area regularly served and protected by such fire department or company including areas protected pursuant to a contract. The purpose of any such inspection shall be to determine whether the provisions of this chapter and the rules and regulations adopted and promulgated pursuant thereto in relation to fire protection and safety are being complied with. Firefighters assigned to such duty shall have full power and authority to enter, examine and inspect any such building or property at such times and hours as are reasonably convenient. It shall be the duty of any firefighter so assigned to report any violations of such provisions of this chapter or of such rules and regulations to the person or department charged with the duty of enforcing the provisions of this chapter in the city, town or village in which the building or property is located and also to the chief of his or her fire department or fire company, as the case may be. In the event that an area is served pursuant to a fire protection contract by more than one fire department or fire company, the firefighter or firefighters assigned to perform such duty in such area shall report violations to the chief of each fire department and fire company serving such area. The failure of any such firefighter to discover and properly report any such violations or his neglect or omission to perform such duties, shall not subject him or her, his or her fire department, fire company, or the city, village, fire district or town in which or of which he or she is a firefighter to any civil or other liability. Any such firefighter shall not be liable civilly for any act or acts done by him or her as a firefighter in the performance of such duties, except for wilful negligence or malfeasance, but the provisions of this subdivision shall not relieve any such city,

village, fire district, town, or fire company from liability, if any, for the negligent or wrongful acts of the firefighter in the actual performance of such duty. Firefighters assigned to any such duty may be known as fire inspectors but shall not, by reason of this law, be an officer of any city, village, fire district or town or of any fire department or fire company. Unless otherwise provided by some other law, general, special or local, any such assignment of duty and the termination of any such assignment shall be made by the chief of the fire department or the fire company, as the case may be. Before any such inspection is made, the firefighter assigned to perform such duty must be approved by the chief executive officer or, if there be none, the chief administrative body or board of the city, village or town, respectively, in which the inspection will be made.

5. Pending the organization of a department or designation of a person or department for the enforcement of this chapter in any city or village, or in a town outside any city or village, the chief executive officer, or if there be none, the chief administrative body or board of the city, village or town, shall be charged with the duty of enforcing the provisions of this chapter in such city or village, or in such town outside a city or village, until such time as a department is organized or a person or department is designated or employed to enforce the provisions of this chapter.

6. Notwithstanding the foregoing provisions of this section, this chapter shall be enforced within the county of Hamilton, in the manner provided in this subdivision. On or before September first, nineteen hundred fifty-four, the board of supervisors of such county may, by local law, create an office or department, or designate a county office or department, for the purpose of enforcing the provisions of this chapter within such county. The office or department so created or designated shall succeed to and become vested with the duty of enforcing the provisions of this chapter within each municipality in such county. All provisions of this chapter, not inconsistent with this subdivision, shall apply to the enforcement of this chapter within such county by the office or department so created or designated. The cost and expense of such enforcement shall be a county charge. In the event such board of

supervisors shall fail to provide for the enforcement of this chapter pursuant to the foregoing provisions of this subdivision by such date, then and in such event, the provisions of this chapter shall be enforced within each municipality in such county in the manner hereinbefore provided in this section.

§ 304. Penalties for violations. 1. Any person, who having been served with a notice or order to remove any violation of this chapter or of any nuisance, fails to comply therewith within thirty days or within such further reasonable time therefore fixed by the department, shall be guilty of a misdemeanor punishable for each offense by a fine of not exceeding five hundred dollars or by imprisonment for a period of one year, or by both such fine and imprisonment. However, every person who shall violate or assist in a violation of any provision of sections forty, seventy and one hundred seventy-four shall be guilty of an offense punishable by a fine of not less than ten dollars nor exceeding five hundred dollars or by imprisonment for a period not exceeding six months, or by both such fine and imprisonment. Courts of special sessions shall have exclusive jurisdiction in the municipalities to which this chapter is applicable to hear and determine charges of violations constituting misdemeanors or offenses under this chapter.

2. The term "person" as used in this section shall include the owner, 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 or part thereof.

§ 305. Nuisances. 1. The term nuisance shall be held to embrace whatever is dangerous to human life or detrimental to health and shall include but not be limited to: (a) a public nuisance as known at common law, statutory law and in equity jurisprudence, and (b) a dwelling that, in violation of this chapter or of any other state or local law, ordinance or regulation, does not have adequate egress, safeguards against fire, adequate electrical service, installation and wiring,

structural support, ventilation, plumbing, sewerage or drainage facilities, is overcrowded or inadequately cleaned or lighted and the condition constituting such violation is dangerous to human life or detrimental to health. All such nuisances are hereby declared to be unlawful.

2. Whenever the department shall declare that a dwelling is a nuisance, it shall serve a notice or order in the manner prescribed by section three hundred six of this chapter, reciting the facts constituting such nuisance, specifying in what respect the dwelling is dangerous to human life or detrimental to health and requiring the owner to remove such nuisance within thirty days after service of such notice or order or such lesser period of time where an emergency exists as may be determined by the department head. Such notice or order shall provide that, if the owner fails to remove such nuisance within such period for compliance so prescribed, the department may remove or cause the removal of such nuisance by cleansing, repairing, vacating, demolishing or by taking such other corrective action deemed necessary and shall notify the owner of his right to a hearing as hereinafter provided.

Wherever such notice is given, the owner may request a hearing before the head of the department charged with enforcement, and a hearing shall be given such owner prior to the expiration of the period for compliance so prescribed.

3. a. If such nuisance is not removed by the owner within the time heretofore prescribed after service of such notice or order, the department may proceed with the removal of such nuisance as provided in the notice or order.

b. If the owner refuses to permit the department to remove or cause the removal of such nuisance by cleansing, repairing, vacating, demolishing or by taking such other corrective action as may be necessary, or interferes in any way with the department or causes delay to the taking of corrective action, the department may cause such dwelling, in whole or in part, to be vacated and sealed up or vacated and demolished, but, in such case, the department shall commence a

special proceeding in the supreme court for such relief. During the pendency of such proceeding, the department may obtain a temporary order for the immediate vacating of such dwelling, upon proof of a present danger to human life or detriment to health. In addition to the owner, all tenants, mortgagees and lienors of record shall be necessary parties to such special proceeding.

4. a. If the department proceeds to execute a notice or order issued by it or by the court for the removal of a nuisance, the department may let contracts therefor, in accordance with the provisions of any local laws, ordinances, rules and regulations of the municipality applicable to the letting of contracts for municipal improvements. The cost of executing such notice or order or orders whether or not carried out pursuant to court order shall be met from any appropriation made therefor, or if such appropriation has not been made or is insufficient, from the proceeds of the sale of obligations pursuant to the local finance law. The department shall keep a record of such notices and orders together with the acts done and the items of cost incurred in their execution.

b. The municipality shall have a lien upon the premises of the dwelling for the cost of executing such notice or order or orders for the removal of a nuisance and shall file a notice of such lien in the office of the clerk where notices of mechanics' liens are filed; and all proceedings with respect to such lien, its enforcement and discharge shall be carried on in the same manner as proceedings with respect to mechanics' liens under the lien law.

c. Notwithstanding the foregoing and in addition to any other remedy available, the department may maintain an action against the owner to recover the cost of executing such notice or order or orders.

§ 305-a. Abatement of rent in the case of serious violations. 1. The provisions of this section shall apply to all cities of less than five hundred thousand population and to all towns and villages.

2. a. A "rent impairing" violation within the meaning of this section shall designate a condition in a multiple dwelling which, in the opinion of the state building code council, constitutes, or if not promptly corrected, will constitute, a fire hazard or a serious threat to the life, health or safety of occupants thereof.

b. The determination as to which violations are "rent impairing" shall be made in the following manner. Within six months after the enactment of this section, the state building code council shall promulgate a list of conditions constituting violations of the provisions of this chapter and of any regulations promulgated pursuant to the provisions of subdivision three of section three of this chapter. Such list shall contain a brief description of the condition constituting the violation, the section of this chapter or regulation violated, and the order number assigned thereto. Such council may from time to time change the number or description of violations on such list, as may seem appropriate to such council. Such list shall be available at all times to the public.

c. At the time of the promulgation of the list of violations, the state building code council shall also designate, by reference to the order number, those violations which it proposes to classify as rent impairing as above defined. Within thirty days thereafter, such council shall hold a public hearing at which all persons interested may be heard as to the propriety of the classification of such violations as rent impairing. Within a reasonable time after the hearing, such council shall make and publish a list of those violations which are classified as rent impairing. Any person interested may, within four months thereafter, seek a review by the supreme court of the propriety of the classification of any of such violations as "Rent Impairing" by a special proceeding pursuant to article seventy-eight of the civil practice law and rules. No other body or officer shall have the power to review said classification.

d. The state building code council may at any time change the number or description of rent impairing violations but no such change shall be made except in the manner above set forth after notice and public hearing.

3. a. If (i) the official records of the department shall note that a rent impairing violation exists in respect to a multiple dwelling and that notice of such violation has been given by the department, by mail, to the owner last registered with the department and (ii) such note of the violation is not cancelled or removed of record within six months after the date of such notice of such violation, then for the period that such violation remains uncorrected after the expiration of said six months, no rent shall be recovered by any owner for any premises in such multiple dwelling used by a resident thereof for human habitation in which the condition constituting such rent impairing violation exists, provided, however, that if the violation is one that requires approval of plans by the department for the corrective work and if plans for such corrective work shall have been duly filed within three months from the date of notice of such violation by the department to the owner last registered with the department, the six-months period aforementioned shall not begin to run until the date that plans for the corrective work are approved by the department; if plans are not filed within said three-months period or if so filed, they are disapproved and amendments are not duly filed within thirty days after the date of notification of the disapproval by the department to the person having filed the plans, the six-months period shall be computed as if no plans whatever had been filed under this proviso. If a condition constituting a rent impairing violation exists in the part of a multiple dwelling used in common by the residents or in the part under the control of the owner thereof, the violation shall be deemed to exist in the respective premises of each resident of the multiple dwelling.

b. The provisions of subparagraph a shall not apply if (i) the condition referred to in the department's notice to the owner last registered with the department did not in fact exist, notwithstanding the notation thereof in the records of the department; (ii) the condition which is the subject of the violation has in fact been corrected, though the note thereof in the department has not been removed or cancelled; (iii) the violation has been caused by the resident from whom rent is sought to be collected or by members of his family or by his guests or by another resident of the multiple dwelling

or the members of the family of such other resident or by his guests, or (iv) the resident proceeded against for rent has refused entry to the owner for the purpose of correcting the condition giving rise to the violation.

c. To raise a defense under subparagraph a in any action to recover rent or in any special proceeding for the recovery of possession because of non-payment of rent, the resident must affirmatively plead and prove the material facts under subparagraph a, and must also deposit with the clerk of the court in which the action or proceeding is pending at the time of filing of the resident's answer the amount of rent sought to be recovered in the action or upon which the proceeding to recover possession is based, to be held by the clerk of the court until final disposition of the action or proceeding at which time the rent deposited shall be paid to the owner, if the owner prevails, or be returned to the resident if the resident prevails. Such deposit of rent shall vitiate any right on the part of the owner to terminate the lease or rental agreement of the resident because of nonpayment of rent.

d. If a resident voluntarily pays rent or an installment of rent when he would be privileged to withhold the same under subparagraph a, he shall not thereafter have any claim or cause of action to recover back the rent or installment of rent so paid. A voluntary payment within the meaning hereof shall mean payment other than one made pursuant to a judgment in an action or special proceeding.

e. If upon the trial of any action to recover rent or any special proceeding for the recovery of possession because of non-payment of rent it shall appear that the resident has raised a defense under this section in bad faith, or has caused the violation or has refused entry to the owner for the purpose of correcting the condition giving rise to the violation, the court, in its discretion, may impose upon the resident the reasonable costs of the owner, including counsel fees, in maintaining the action or proceeding not to exceed one hundred dollars.

§ 305-c. Right of tenant to offset payments for heat failure; certain

cases. 1. Any tenant acting alone or together with other tenants of a multiple dwelling employing an oil fired heating device for which the owner is responsible and wherein there exists a lack of heat due to the owner's failure to have oil supplied to the premises, may contract and pay for the delivery of such oil in accordance with the provisions of this section. Any payment so made shall be deductible from rent providing the following provisions have been substantially complied with by the tenant or someone acting on his behalf:

a. Reasonable efforts were made to contact the owner or his agent to inform the owner of such failure to supply oil.

b. Reasonable efforts were made to have the normal fuel supplier to the premises deliver the requested fuel.

c. Delivery of fuel oil to the premises was secured from a fuel supplier regularly engaged in such business at a price within the range of prices listed by the department in the index provided for in subdivision three of this section.

d. The fuel supplier from whom oil is secured provided a written statement containing the following:

- (1) The name of the person or persons who requested the delivery; and
- (2) The date, time of and premises to which delivery was made; and
- (3) The amount, grade and price of the oil delivered; and
- (4) A certification that the usable fuel supply before the delivery was exhausted; and
- (5) The charge, if any, for refiring the burner; and
- (6) The amounts and from whom any payments were received.

e. A tenant shall not be required to comply with the provisions of paragraph a or b hereof unless the owner has continuously kept posted in a conspicuous place at the premises a notice containing his name, address and telephone number or that of his agent and the name, address and telephone number of the fuel supplier to the premises.

f. For purposes of this section, a multiple dwelling shall be

considered to lack heat if, during the months between October first and May thirty-first, while its usable fuel supply was exhausted, the outdoor temperature fell below fifty-five degrees Fahrenheit at any time during the hours between six o'clock in the morning and ten o'clock in the evening.

2. The deduction from rent allowed by this section shall also include a reasonable charge, if any, made by the supplier for refiring the oil burner at the premises.

3. The department charged with the enforcement of laws, ordinances and regulations in relation to multiple dwellings shall:

a. Maintain and, to the extent practicable, update at least bi-weekly an index reflecting the range of prices of fuel oil according to grade and quantity paid per gallon on deliveries within the jurisdiction of the department during the last two week period for which statistics are available; and

b. Maintain and keep current and available a list of suppliers which have agreed to make deliveries of fuel oil in the circumstances, and to render such assistance as is otherwise required hereby to enable tenants to obtain the benefits, contemplated by this section.

4. The payment for fuel oil at a price within the range of prices permitted by paragraph c of subdivision one of this section shall be conclusively presumed to have been a reasonable price.

5. The introduction into evidence in any action or proceeding of any statement rendered in compliance with the provisions of paragraph d of subdivision one of this section shall be presumptive of the facts stated therein. Sufficient foundation for the allowance into evidence of such statement shall consist in the oral testimony of any person named as a payer of all or part of the amount indicated thereon relating the facts and circumstances in which the statement was rendered.

6. Any tenant who has in good faith secured and paid for fuel oil

otherwise in conformance with the provisions of this section and against whom an action or proceeding to recover possession of the premises for nonpayment of rent or any other action or proceeding attributable at least in part to the tenant seeking or taking a deduction from rent as allowed by this section shall, in addition to any other amounts, be entitled to recover reasonable costs and attorney's fees against an owner bringing such action or proceeding.

7. No owner or agent shall be entitled to recover any amounts in damages from any fuel oil supplier who attempts in good faith and acts reasonably to carry out the intendment of this section except damages arising out of gross negligence.

8. The remedy provided in this section shall not be exclusive and a court may provide such other relief as may be just and proper in the circumstances. Nothing in this section shall be construed to limit or deny any existing constitutional, statutory, administrative or common law right of a tenant to contract and pay for the delivery of fuel oil for the multiple dwelling in which he resides or to pay for the cost of any other goods and services for such multiple dwelling. This section shall not be construed to preclude any defense, counterclaim or cause of action that may otherwise exist with respect to an owner's failure to provide heat or any other service.

9. Any agreement by a tenant of a dwelling waiving or modifying his rights as set forth in this section shall be void as contrary to public policy.

10. The provisions of this section shall be liberally construed so as to give effect to the purposes set forth herein.

* 11. Nothing contained in this section and no payment made pursuant to this section shall be deemed to discharge the liability of a renter with an interest in real property pursuant to subdivision two of section three hundred four of the real property tax law from taxes levied on such interest.

* NB (Effective pending ruling by Commissioner of Internal Revenue of the United States)

§ 306. Service of notices and orders. Every notice or order issued by the department relative to a premises shall be served at least thirty days before the time for compliance therewith. It shall be sufficient service of a departmental notice or order, if it is posted in a conspicuous place upon the premises affected and a copy thereof mailed, on the same day it is posted, to the person to whom it is directed at the address filed by him in the department, and, if his address is not so filed in the department, then in such case, such notice shall be sent by registered mail to his last known address or place of residence.

§ 307. Records and searches. All records of the department shall be public. Upon request the department shall be required to make a search and issue a certificate of any of its records, including violations, and shall have the power to charge and collect reasonable fees for searches or certificates.

ARTICLE 9

REVIEW; RULES; SAVING CLAUSES; EFFECTIVE DATE

Section 325. Review boards.

326. Rules and regulations.

327. Saving clauses.

328. Effect of invalidity in part.

329. Laws superseded.

330. Time of taking effect.

§ 325. Review boards. 1. There may be in each county a review board, to consist of three members, who shall be appointed by the board of supervisors of the county. One member shall be a registered architect or a professional engineer. The term of office of each member of such a review board shall be for three years, provided, however, that of the members first appointed in the case of any such board one shall be appointed for a term of one year, one for a term of two years, and one

for a term of three years. Such members shall receive no compensation unless the board of supervisors shall otherwise determine but each member shall be entitled to his expenses actually and necessarily incurred by him in the performance of his duties. The board shall elect its chairman from among its own members. Two members of the board shall constitute a quorum. The concurring vote of at least two members of the board shall be necessary for action. Any member chosen to fill a vacancy occurring otherwise than by expiration of term shall be appointed for the unexpired term of the member whom he is to succeed. The board of supervisors shall have power to remove any member of the review board for cause and after public hearing.

2. The board may appoint such employees as may be authorized by the board of supervisors, and prescribe their duties.

3. Each county board shall have power within its county, except as stated to the contrary in subdivision eight of this section, and each local board of review, as provided in said subdivision eight, shall have power within its own applicable area:

a. With respect to dwellings existing on the effective date of this chapter only, to vary or modify, in whole or in part, the application of any provision of this chapter or of any rule or regulation of the department or commission, relating and limited to

- (1) secondary means of egress from dwellings,
- (2) fire retarding of public halls, stairs, and cellar ceilings,
- (3) requisite open spaces, and

(4) requirements with respect to bulkheads and scuttles; provided, however, that in the instance of each such variance or modification, the basic spirit and intent of the law are maintained and public health, safety and welfare are preserved, and further provided that in connection with any such variance or modification the board may prescribe alternative or substitute requirements where such requirements are appropriate or necessary to effectuate the basic purposes of this chapter. Any such variance or modification shall be granted only after satisfactory proof, at a public hearing, of practical difficulties or unnecessary hardships to be encountered or caused by compliance with the

strict letter of such law, rule or regulation.

b. To fix a reasonable time for the hearing of an application, requiring that due notice be given of the time and place of such hearing to the applicant and to the department or to other persons affected. In every case the board shall state the reason or reasons for its decision. A record of all orders, requirements and decisions of each such board, indexed according to the section or sections of this chapter affected thereby shall be kept in the office of the board, and such record shall be open to public inspection at all times during normal business hours.

c. To enter, or delegate to any employee or officer of such a board power to enter, any building or property for the purpose of conducting investigations, surveys, or inspections necessary to carry out the provisions of this article.

d. To adopt a seal and to alter the same at its pleasure, and to require that it be used for the authentication of orders and proceedings and for such other purposes as it may prescribe.

e. To conduct examinations and investigations, administer oaths, hear testimony and take proof, under oath, if the board should so determine, of any matter relevant or necessary to carry out the provisions of this article.

f. To do all other things convenient and necessary to carry out its powers.

4. No member of such a board, nor any of its employees, shall pass upon any question relating to any premises in which he or any corporation in which he is a stockholder or security holder has any interest directly or indirectly.

5. An application for such variance or modification may be made within thirty days after service of a notice or order to remove any violation of this chapter or any nuisance, by any person aggrieved, or by the head of an agency or department within the area in which such board has

jurisdiction. An aggrieved person shall be construed as one who is directly and adversely affected by a provision of this chapter or a rule or regulation of the department or commission. Any action or decision of such a board may be reviewed on the law or the facts in the manner provided by the provisions of article seventy-eight of the civil practice law and rules.

6. An appeal shall stay all proceedings, both civil and criminal, in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall file with the board to which the appeal has been taken a certificate that, by reason of facts stated therein, a stay would, in his opinion, cause imminent peril to life or property, in which case, proceedings shall not be stayed otherwise than by a restraining order which, upon good cause shown, may be granted by such board or by the supreme court, on application, at least three days notice of which shall be given to the officer from whom the appeal is being taken.

7. Each review board shall have power to charge and collect reasonable fees and to make rules governing such charges.

8. A municipality may continue an existing local board of review, which is in existence on July first, nineteen hundred fifty-four, to have jurisdiction solely within the territorial limits of such municipality. In any such case, the jurisdiction of a county board of review shall not extend to any such municipality or municipalities. In the event that no such local board exists in a municipality and in the event that, and so long as, there shall not be in such county a review board appointed pursuant to subdivision one of this section, a review board to consist of three members, one of whom shall be a registered architect or a professional engineer, may be established by such municipality before September thirty, nineteen hundred sixty-six located within such county to have jurisdiction solely within the territorial limits of such municipality. The powers and duties of a local board of review, insofar as the operation of the provisions of this chapter is concerned, shall be the same, within the territorial limits of the municipality, as those of a county board created pursuant to this

section.

9. In the event that, and so long as, there shall not be in any county or municipality a review board authorized to be established in this section, appeals authorized to be taken to such county or municipal review board, as herein provided, within the area in which such board would, if established, have jurisdiction, may be taken to the commission instead, and in such event and with respect to any such county or municipality, the commission shall have the same powers and jurisdiction as is herein provided for a county or municipality review board in such county.

§ 326. Rules and regulations. 1. The commission shall have the power to adopt and promulgate rules and regulations carrying into effect such provisions of the sections of this chapter wherein reference is made to the rules and regulations of or to be adopted by the commission, and also in other cases where the approval of the department or the existence of conditions satisfactory to it is a requisite under this chapter for compliance with any provision of this chapter or the exercise of discretionary powers by the department with respect to alternative requirements, is authorized.

2. Such rules and regulations shall be designed within the limitations of the specifically applicable provisions of this chapter:

a. To effectuate the general purposes of this chapter.

b. To provide reasonably uniform standards, ratings and requirements, consonant with accepted standards of engineering, fire prevention and safety practices.

c. To formulate such standards and requirements, so far as may be practicable, in terms of performance objectives, so as to make adequate performance for the use intended the test of acceptability.

d. To permit to the fullest extent possible, use of modern technical

methods, devices and improvements which tend to reduce costs of construction, installation and maintenance without substantially affecting reasonable requirements for the health, safety and security of the occupants or users of dwellings.

3. Every rule or regulation or modification, amendment or repeal of a rule or regulation shall, immediately after adoption, be certified by the commission and transmitted to the secretary of state for filing in the office of the department of state. Upon such filing, the rule or regulation or modification, amendment or repeal of a rule or regulation, shall have the force and effect of law. The commission shall cause copies thereof to be sent to the appropriate department or departments of all municipalities having jurisdiction over multiple dwellings therein which are affected thereby.

4. The commission shall invite the cooperation and advice of fire departments and organizations in connection with the promulgation of rules and regulations relating to fire protection and fire prevention.

§ 327. Saving clauses. The provisions of this chapter shall supersede any local law, ordinance, resolution or regulation of municipalities to which this chapter is applicable, but shall not affect or impair any act done, offense committed or right accruing, accrued or acquired, or liability, penalty, forfeiture or punishment incurred or imposed prior to the time this chapter takes effect, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent and same manner as if such provisions had not been enacted.

§ 328. Effect of invalidity in part. If any term, part, provision, article, section, subdivision or paragraph of this chapter shall be held unconstitutional, or ineffective in whole or in part, then to the extent that it is not unconstitutional or ineffective this chapter and such term, part, provision, article, section, subdivision or paragraph thereof shall be in full force and effect; and such determination shall not be deemed to invalidate the remaining terms, parts, provisions,

articles, sections, subdivisions or paragraphs thereof.

§ 329. Laws superseded. 1. The provisions of this chapter shall supersede all other state laws and all local laws, ordinances and regulations of municipalities to the extent that such laws, ordinances or regulations are inconsistent with the provisions of this chapter; provided, however, that the provisions of any other state law or of any local law, ordinance or regulation of any municipality, or the supplementary rules or regulations of any state department having the force and effect of law, now in effect or hereafter enacted or adopted, which are more restrictive than those provided in this chapter, shall govern during the period in which they are in effect.

2. Upon the adoption by any municipality of any state building construction code as to multiple residences pursuant to the provisions of article eighteen of the executive law which code contains provisions relating to the construction of multiple dwellings to which the provisions of articles four, five, six and seven of this chapter are applicable in whole or in part, then and in such event, the provisions of such articles four, five, six and seven and the definitions used in conjunction therewith shall become inoperative with respect to the construction of such dwellings in any such municipality so long as the state building construction code is applicable and operative.

§ 330. Time of taking effect. This chapter shall take effect July first, nineteen hundred fifty-two.