

**NEW YORK STATE
MULTIPLE DWELLING LAW**

**ARTICLE I
INTRODUCTORY PROVISIONS; DEFINITIONS**

- Section 1. Short title.
 2. Legislative finding.
 3. Application to cities, towns and villages.
 4. Definitions.

§ 1. **Short title.** This chapter shall be known as the "multiple dwelling law."

§ 2. **Legislative finding.** It is hereby declared that intensive occupation of multiple dwelling sites, overcrowding of multiple dwelling rooms, inadequate provision for light and air, and insufficient protection against the defective provision for escape from fire, and improper sanitation of multiple dwellings in certain areas of the state are a menace to the health, safety, morals, welfare, and reasonable comfort of the citizens of the state; 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 are enacted and their necessity in the public interest is hereby declared as a matter of legislative determination.

§ 3. **Application to cities, towns and villages.** 1. This chapter shall apply to all cities with a population of three hundred twenty-five thousand or more.

2. The legislative body of any other city, town or village may adopt the provisions of this chapter and make the same applicable to dwellings within the limits of such city, town or village by the passage of a local law or ordinance adopting the same; and upon the passage of such local law or ordinance all of the provisions of articles one, two, three, four, five, ten and eleven and such sections or parts of sections of the other articles of this chapter as such local law or ordinance shall enumerate, shall apply to such city, town or village from the date stated in such law or ordinance.

3. Except as herein otherwise specified, every multiple dwelling shall be constructed or maintained in conformity with other applicable laws.

4. a. Any city, town or village may make local laws, ordinances, resolutions or regulations not less restrictive than those provided in this chapter and may provide for their enforcement by legal or equitable actions or proceedings, and prescribe the penalties, sanctions and remedies for violations thereof. In the enforcement and administration of this chapter in a city of three hundred twenty-five thousand or more persons, the penalties, sanctions and remedies enacted by local law may be applied, notwithstanding their inconsistency with this chapter, or the provisions of this chapter.

b. In a city of three hundred twenty-five thousand or more persons, such local laws may authorize such actions or proceedings against the owner, lessee of a whole multiple dwelling, agent or other person having control of such dwelling, and any responsible party, or against the dwelling in rem. Such local laws may further authorize (1) that civil penalties may be enforced against the person liable therefor, and that in addition to the methods of enforcement for judgments established in the civil practice law and rules, a lien may be imposed against the premises and the rents therefrom; (2) that such civil penalties may be

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enforced against the dwelling by the imposition of a lien against the rents therefrom.

c. Such local laws may also authorize that all liens upon rents, whether authorized by state or local law, may be satisfied without further judicial proceedings by the collection of rents due or to become due.

5. Whenever a provision of any local law, ordinance, resolution or regulation is more restrictive in a requirement for height, area or use, such local law, ordinance, resolution or regulation shall govern and take precedence over any lesser requirements of this chapter. When, however, the provisions of this chapter impose more restrictive requirements, the provisions of this chapter shall govern.

6. A local law, ordinance, resolution or regulation shall not prohibit in any class A multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, in compliance with the provisions of this chapter, the use of wood for sleepers, grounds, nailing blocks, underflooring or finish flooring or, within apartments, doors with their assemblies, interior trim and assemblies of exterior windows, interior finish, closet fixtures, kitchen fixtures, shelving, cupboards, cabinets or wardrobes.

7. Except as provided in subdivisions four and five, a local law, ordinance, rule or regulation shall not modify or dispense with any provision of this chapter.

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

9. Wherever in any statute of the state other than this chapter, or in any local law, ordinance, resolution or regulation, reference is made to the tenement house law in relation to a city to which this chapter is applicable, such reference shall be construed as applying to the provisions of this chapter. If reference be made therein to any section or other part of the tenement house law, such reference shall be construed as applying to the provisions of this chapter relating to the same subject matter as the said section or part. If reference be made therein to a "tenement house," such reference shall be construed as applying to a class A multiple dwelling.

10. Wherever the date April eighteenth, nineteen hundred twenty-nine, shall appear in this chapter such date shall be construed as if followed by the words "or the date when this chapter or any of its provisions became or becomes applicable to any city, town or village outside the City of New York."

11. Notwithstanding any other provision of this section, the following enumerated articles, sections and subdivisions of sections of this chapter shall not apply to the construction or alteration of multiple dwellings for which an application for a permit is made to the department after December sixth, nineteen hundred sixty-nine in a city having a population of one million or more which adopts or has adopted local laws, ordinances, resolutions or regulations providing protection from fire hazards and making provision for escape from fire in the construction and alteration of multiple dwellings and in other respects

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as protective as local law seventy-six of the laws of the city of New York for nineteen hundred sixty-eight and covering the same subject matter as the following: subdivisions twenty-five, twenty-seven, twenty-eight, thirty-five-c, thirty-six and thirty-nine of section four, subdivision three of section twenty-eight, sections thirty-six, thirty-seven, fifty, fifty-one, fifty-two, fifty-three, fifty-five, sixty, sixty-one, sixty-seven, subdivisions one, two, four and five of section seventy-five, article four, article five, article five-A, article six and article seven-B; except that after December sixth, nineteen hundred sixty-nine where a multiple dwelling erected prior to December sixth, nineteen hundred sixty-nine is altered, or a building erected prior to December sixth, nineteen hundred sixty-nine is converted to a multiple dwelling pursuant to a permit applied for to the department having jurisdiction, the foregoing articles, sections and subdivisions of sections shall remain applicable where a local law of such city authorizes such alteration or conversion to be made, at the option of the owner, either in accordance with the requirements of the building law and regulations in effect in such city prior to December sixth, nineteen hundred sixty-eight or the requirements of the building law and regulations in effect after such date, and the owner elects to comply with the requirements of the building law and regulations in effect prior to December sixth, nineteen hundred sixty-eight.

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

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

2. The word "shall" is always mandatory.

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

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

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

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

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

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

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

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

8. a. A "class A" multiple dwelling is a multiple dwelling that is occupied for permanent residence purposes. This class shall include tenements, flat houses, maisonette apartments, apartment houses, apartment hotels, bachelor apartments, studio apartments, duplex apartments, kitchenette apartments, garden-type maisonette dwelling projects, and all other multiple dwellings except class B multiple dwellings. A class A multiple dwelling shall only be used for permanent residence purposes. For the purposes of this definition, "permanent residence purposes" shall consist of occupancy of a dwelling unit by the same natural person or family for thirty consecutive days or more and a person or family so occupying a dwelling unit shall be referred to herein as the permanent occupants of such dwelling unit. The following uses of a dwelling unit by the permanent occupants thereof shall not be deemed to be inconsistent with the occupancy of such dwelling unit for permanent residence purposes:

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

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

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

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

(B) A list of the designated dwelling units certified by an authorized representative of the college or university is kept on the

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premises by the owner or net lessee and made available upon request for inspection by the department or the fire department of such city;

(C) Only designated dwelling units on the certified list are used for occupancy for fewer than thirty consecutive days and only by (i) natural persons, other than persons whose only relationship with the college or university is as a student, for whom the college or university has undertaken to provide housing accommodations such as visiting professors and academics, graduate students with research or teaching fellowships, researchers and persons presenting academic papers, interviewing for positions of employment or having other similar business with the college or university, or (ii) natural persons for whom a hospital affiliated with such college or university has undertaken to provide housing accommodations such as patients, patients' families and/or accompanying escorts, medical professionals and healthcare consultants or persons having other similar business with such hospital. A log shall be maintained on the premises of the names and addresses of such persons and the duration and reason for their stay. Such log shall be accessible upon request for inspection by the department and the fire department of such municipality;

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

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

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

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

10. A "converted dwelling" is a dwelling (a) erected before April eighteenth, nineteen hundred twenty-nine, to be occupied by one or two families living independently of each other and subsequently occupied as a multiple dwelling, or (b) a dwelling three stories or less in height erected after April eighteenth, nineteen hundred twenty-nine, to be occupied by one or two families living independently of each other and subsequently occupied by not more than three families in all, with a maximum occupancy of two families on each floor in a two story building and one family on each floor in a three story building, in compliance with the provisions of article six of this chapter, including section one hundred seventy-a of said article. A converted dwelling occupied as a class A multiple dwelling is a class A converted dwelling; every other converted dwelling is a class B converted dwelling.

11. A "tenement" is any building or structure or any portion thereof, erected before April eighteenth, nineteen hundred twenty-nine, which is occupied, wholly or in part, as the residence of three families or more living independently of each other and doing their cooking upon the

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premises, and includes apartment houses, flat houses and all other houses so erected and occupied, except that a tenement shall not be deemed to include any converted dwelling. An "old-law tenement" is a tenement existing before April twelfth, nineteen hundred one, and recorded as such in the department before April eighteenth, nineteen hundred twenty-nine, except that it shall not be deemed to include any converted dwelling.

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

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

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

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

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

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

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

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

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

21. A "dormitory" in a lodging house is any place used for sleeping purposes. A "cubicle" is a small partially enclosed sleeping space within a dormitory with or without a window to the outer air.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

32. A "rear yard" is an open space on the same lot with a dwelling between the extreme rear line of the lot and the extreme rear wall of the dwelling. A "side yard" is a continuous open space on the same lot with a dwelling between the wall of a dwelling and a line of the lot from the street to a rear yard or rear line of a lot. A "court" is an open space other than a side or rear yard, on the same lot as a dwelling. A court not extending to the street or rear yard is an "inner court". A court extending to the street or rear yard is an "outer court".

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

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

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

35. a. The "height" of a dwelling is the vertical distance from the curb level to the level of the highest point of the roof beams; except that, in the case of pitched roofs, it is the vertical distance from the curb level to the mean height level of the gable or roof above the vertical street wall. When no roof beams exist or when there are structures wholly or partly above the roof, the height shall, except as otherwise expressly provided, be measured from the curb level to the level of the highest point of any such structure; except that where

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every part of the building is set back more than twenty-five feet from a street line, the height shall be measured from the average grade elevation calculated from the final grade elevations taken at intervals of ten feet around the exterior walls of the building.

b. Except as otherwise provided in section two hundred eleven, the following superstructure shall not be considered in measuring the height of a dwelling; parapet walls or guard railings, other superstructures twelve feet or less in height and occupying fifteen per centum or less of the area of the roof, elevator enclosures thirty feet or less in height used solely for elevator purposes, enclosures fifty feet or less in height used solely for tanks, cooling towers or other mechanical equipment; and, when approved by the department, pergolas, spires, chimneys, other ornamental treatments, roof gardens and playgrounds.

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

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

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

37. A "cellar" in a dwelling is an enclosed space having more than one-half of its height below the curb level; except that where every part of the building is set back more than twenty-five feet from a street line, the height shall be measured from the adjoining grade

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elevations calculated from final grade elevations taken at intervals of ten feet around the exterior walls of the building. A cellar shall not be counted as a story.

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

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

40. A "shaft" is an enclosed space extending through one or more stories of a building connecting a series of openings therein, or any story or stories and the roof, and includes exterior and interior shafts whether for air, light, elevator, dumbwaiter or any other purpose.

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

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

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

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

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

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

44. The term "owner" shall mean and include the owner or owners of the freehold of the premises or lesser estate therein, a mortgagee or vendee in possession, assignee of rents, receiver, executor, trustee, lessee, agent, or any other person, firm or corporation, directly or indirectly in control of a dwelling. Whenever a multiple dwelling shall have been declared a public nuisance to any extent pursuant to paragraph b of subdivision one of section three hundred nine of this chapter and such declaration shall have been filed as therein provided, the term "owner" shall be deemed to include, in addition to those mentioned hereinabove, all the officers, directors and persons having an interest in more than ten per cent of the issued and outstanding stock of the owner as herein defined, as holder or beneficial owner thereof, if such owner be a corporation other than a banking organization as defined in section two of the banking law, a national banking association, a federal savings and loan association, The Mortgage Facilities Corporation, Savings Banks Life Insurance Fund, The Savings Banks Retirement System, an authorized insurer as defined in section one hundred seven of the insurance law, or a trust company or other corporation organized under the laws of this state all the capital stock of which is owned by at least twenty savings banks or a subsidiary corporation all of the capital stock of which is owned by such trust company or other corporation.

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**ARTICLE 2
MISCELLANEOUS APPLICATION PROVISIONS**

Section 8. General application of chapter to dwellings.

9. Buildings converted or altered.
10. Time for compliance.
11. Dwellings damaged or moved.
12. Prohibited uses.
13. Application of chapter to existing dwellings.
14. Application of chapter to uncompleted dwellings.

§ 8. **General application of chapter to dwellings.** All the requirements of this chapter shall apply to all kinds and classes of multiple dwellings, except where there are specific provisions, requirements or exceptions for one or more kinds or classes. A specific provision for one kind or class of dwelling shall apply only to that kind or class of dwelling to which such reference is made. Whenever a specific provision is inconsistent with a general provision of this chapter, the specific provision shall apply and take precedence. The department shall have power to classify dwellings in accordance with the provisions of this chapter.

§ 9. **Buildings converted or altered.** 1. On or after December fifteenth, nineteen hundred sixty-one, no multiple dwelling shall be enlarged or its lot diminished so that the yard or other unoccupied areas shall be less in size or area than the minimum dimensions prescribed in section twenty-six.

2. A building not a dwelling, if converted or altered after April eighteenth, nineteen hundred twenty-nine, to a multiple dwelling, shall thereupon become subject to all the provisions of this chapter applicable to dwellings of like class and kind erected after such date.

3. A dwelling of one class or kind, altered or converted after April eighteenth, nineteen hundred twenty-nine, to another class or kind, except as hereinafter in this section and in articles six and seven otherwise provided, shall thereupon become subject to all the provisions of this chapter applicable to a building of that class or kind, erected after such date, to which it is altered or converted.

4. No dwellings shall be altered so as to be in violation of any provision of this chapter relating to dwellings of like class and kind erected after April eighteenth, nineteen hundred twenty-nine, except that it shall be sufficient for the purposes of this section that tenements shall comply with article seven, converted dwellings comply with article six, and lodging houses comply with section sixty-six. Nothing in this section shall, however, be deemed to prohibit the conversion or alteration of any multiple dwelling, other than a converted dwelling and a lodging house, from a class A to a class B multiple dwelling, or vice-versa, provided that the entire dwelling is of fireproof construction and is made to conform to the applicable provisions of section sixty-seven, and to all other provisions of this chapter applicable to multiple dwellings of like class and kind erected before April eighteenth, nineteen hundred and twenty-nine.

5. a. Any multiple dwelling may be altered to conform with any provision of this chapter applicable to dwellings of like class and kind and not expressly limited in application to dwellings erected after

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April eighteenth, nineteen hundred twenty-nine; or to conform to the provisions of this chapter relating to egress, or to exits from apartments, in dwellings of like class and kind erected after such date if such dwelling also conforms or is made to conform to all the requirements relating to stairs and public halls in dwellings erected after such date, except that existing dimensions of stair landings, treads and risers need not be changed.

b. An apartment in any part of a fireproof multiple dwelling erected before April eighteenth, nineteen hundred twenty-nine, may be altered or subdivided and need not conform to the requirements of paragraph a of this section relating to stairs and public halls provided each newly created apartment has access to a public hall which provides horizontal egress to at least two stairs. If both of such stairs are not arranged and designed as required by sections two hundred thirty-six and two hundred thirty-seven, at least one of such stairs shall be so arranged and designed, and the other shall be arranged and designed as required by section two hundred thirty-nine. Both stairs shall be protected by automatic sprinkler heads throughout.

6. Any tenement previously converted to other uses may be altered or reconverted to a tenement by complying with the provisions of article seven, provided, however, that its height and bulk were not enlarged prior to such alteration or reconversion except as permitted by and in accordance with the provisions of sections two hundred eleven and two hundred twelve of this chapter.

7. In any class B multiple dwelling, except a rooming house or lodging house, any apartment may be occupied as an apartment in a class A multiple dwelling, provided such apartment complies with all the requirements for apartments in class A multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine. In any rooming house or lodging house, one apartment may be occupied as an apartment in a class A multiple dwelling, provided such apartment is occupied solely by the owner, janitor, superintendent or caretaker.

8. Any apartment in any class A multiple dwelling may be occupied for single room occupancy only if such dwelling complies with the provisions of section two hundred forty-eight and all other provisions of this chapter applicable to such dwelling.

9. Excepting a frame dwelling, any dwelling three stories or less in height erected after April eighteenth, nineteen hundred twenty-nine as a one or two-family dwelling may be converted to a multiple dwelling to be occupied by not more than three families in all, with a maximum occupancy of two families on each floor in a two story building and one family on each floor in a three story building, provided however that it shall be unlawful for any such dwelling converted at any time since October fifteenth, nineteen hundred fifty-two, to have any boarders or roomers. In each such instance, compliance shall be required with all the provisions of article six, including section one hundred seventy-a of said article.

10. If any class A dwelling erected before April eighteenth, nineteen hundred twenty-nine, is altered so as to increase the number of living rooms by more than twenty per centum, such dwelling, except as otherwise provided in sections two hundred eighteen, two hundred thirty-five and two hundred thirty-six, shall be made to conform to the requirements of this chapter with respect to class A dwellings of like class and kind erected after such date.

§ 10. **Time for compliance.** All alterations required by this chapter upon dwellings erected before its adoption by or application to any

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city, town or village, in whole or in part, shall, unless specifically provided otherwise in this chapter, be made not later than five years after such adoption or application, or at such earlier date as may be deemed necessary by the department in order to remove a condition dangerous or detrimental to life or health.

§ 11. **Dwellings damaged or moved.** 1. If a 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 dwellings erected after April eighteenth, nineteen hundred twenty-nine.

2. If any non-fireproof stair in any multiple dwelling be damaged by fire or other cause to such extent that such stair or the first flight thereof above the entrance story is required to be rebuilt, such stair to the extent that it is required to be rebuilt shall be fire-retarded throughout.

3. If any dwelling be moved from one lot to another, such dwelling shall thereupon be made to conform to all the provisions of this chapter relative to light, ventilation, fire protection and egress of a dwelling erected after April eighteenth, nineteen hundred twenty-nine, but no frame building of any kind whatsoever shall be moved so as to be placed upon the same lot with any multiple dwelling, nor shall any multiple dwelling be moved so as to be placed upon the same lot with any frame building.

§ 12. **Prohibited uses.** 1. It shall be unlawful to use any multiple dwelling or any part of the lot or premises thereof for the purpose of prostitution or assignation of any description.

2. It shall be unlawful to keep any horse, cow, calf, swine, rabbit, sheep, goat, chicken or duck, or any pigeon except Antwerp or homing pigeons, in or on any multiple dwelling or on the lot or premises thereof unless permitted by and in accordance with local law or regulation.

3. It shall be unlawful to use any multiple dwelling or any part of the lot or premises thereof for the keeping, storing or handling of any combustible article or any article dangerous or detrimental to life or health, unless a permit is obtained for such use in conformity with provisions prescribed by local law, and where such local law does not exist, in conformity with provisions prescribed by the fire department.

§ 13. **Application of chapter to existing dwellings.** Any building erected and occupied on or before April eighteenth, nineteen hundred twenty-nine, or thereafter, as a tenement, which is not recorded as such in the department, shall be required to comply with all the provisions governing dwellings of like class or kind erected after such date. Except as otherwise expressly required in this section and in sections nine and twenty-five, subdivision six of section thirty-one, and sections thirty-three, sixty-six and sixty-seven and in articles six and seven, nothing in this chapter shall be construed to require any change in the construction, use or occupancy of any multiple dwelling lawfully occupied as such on April eighteenth, nineteen hundred twenty-nine, under the provisions of all local laws, ordinances, rules and regulations applicable thereto on such date; but should the occupancy of any such dwelling be changed to any other kind or class after such date,

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such dwelling shall be required to comply with the provisions of section nine.

§ 14. **Application of chapter to uncompleted dwellings.** 1. The provisions of this chapter relating to multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine, 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 August ninth, nineteen hundred twenty-nine, and the entire building shall have been completed according to the plans filed with the department, subject to any lawful subsequent amendment thereto, before July first, nineteen hundred forty-seven.

2. No provisions of any part of this section shall be deemed to prohibit the amendment of any plans filed and approved before April eighteenth, nineteen hundred twenty-nine, 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 class and kind existing before April eighteenth, nineteen hundred twenty-nine.

3. A permit to commence building issued by the department before April eighteenth, nineteen hundred twenty-nine, based upon plans filed and approved for a multiple dwelling described in subdivision one, shall be deemed to be in compliance with section three hundred.

4. The provisions of this chapter relating to multiple dwellings erected and occupied as such before April eighteenth, nineteen hundred twenty-nine, shall apply to the dwellings described in this section; except, however, that unless otherwise expressly required in article three nothing in this chapter shall be construed to require any change in the plans or occupancy of any such dwelling if it be fireproof and the plans therefore when filed were in compliance with the provisions of all local laws, ordinances, rules and regulations applicable thereto and in effect on April eighteenth, nineteen hundred twenty-nine, or were subsequently amended to comply with such provisions.

**ARTICLE 3
MULTIPLE DWELLINGS--GENERAL PROVISIONS**

Section 25. Application of article three.

TITLE 1
LIGHT AND AIR

- Section 26. Height, bulk, open spaces.
- 28. Two or more buildings on same lot.
 - 29. Painting of courts and shafts.
 - 30. Lighting and ventilation of rooms.
 - 31. Size of rooms.
 - 32. Alcoves.
 - 33. Cooking spaces.
 - 34. Rooms in basements and cellars.
 - 35. Entrance doors and lights.
 - 36. Windows and skylights for public halls and stairs.
 - 37. Artificial hall lighting.

TITLE 2
FIRE PROTECTION AND SAFETY

- Section 50. Entrance halls.
- 50-a. Entrances: doors, locks and intercommunication systems.
 - 50-c. Rights of tenants to operate and maintain a lobby

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- attendant service.
- 51. Shafts, elevators and dumbwaiters.
 - 51-a. Peepholes.
 - 51-b. Mirrors in connection with self-service elevators.
 - 51-c. Rights of tenants to install and maintain locks in certain entrance doors.
 - 52. Stairs.
 - 53. Fire-escapes.
 - 54. Cellar entrance.
 - 55. Wainscoting.
 - 56. Frame buildings and extensions.
 - 57. Bells; mail receptacles.
 - 58. Incombustible materials.
 - 59. Bakeries and fat boiling.
 - 60. Motor vehicle storage.
 - 61. Business uses.
 - 62. Parapets, guard railings and wires.
 - 63. Sub-curb uses.
 - 64. Lighting; gas meters; gas and oil appliances.
 - 65. Boiler rooms.
 - 66. Lodging houses.
 - 67. Hotels and certain other class A and class B dwellings.
 - 68. Smoke detecting devices.

TITLE 3

SANITATION AND HEALTH

- Section 75. Water supply.
- 76. Water-closet and bath accommodations.
 - 77. Plumbing and drainage.
 - 78. Repairs.
 - 79. Heating.
 - 80. Cleanliness.
 - 81. Receptacles for waste matter.
 - 82. Privacy.
 - 83. Janitor or housekeeper.
 - 84. Construction standards for the control of noise.

§ 25. **Application of article three.** Except as otherwise expressly provided, all the provisions of this article shall apply to every multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine. Except as otherwise expressly provided, only the following enumerated sections of this article, and then only to the extent required therein, shall apply to multiple dwellings, whether class A or class B, erected before such date:

- | | |
|--|---|
| § 28. Two or more buildings on same lot | 59. Bakeries and fat boiling |
| 29. Painting of courts and shafts | 60. Motor vehicle storage |
| 31. Size of rooms--subdivision six | 61. Business uses |
| 33. Cooking spaces | 62. Parapets, guard railings and wires--subdivision two |
| 35. Entrance doors and lights | 66. Lodging houses |
| 37. Artificial hall lighting | 67. Hotels and certain other class A and B dwellings |
| 50-a. Entrances: doors, locks and intercommunication systems | 75. Water supply |
| 52. Stairs | 76. Water-closet and bath accommodations |
| | 77. Plumbing and drainage |
| | 78. Repairs |
| | 79. Heating |

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55. Wainscoting	80. Cleanliness
56. Frame buildings and extensions	81. Receptacles for waste matter
57. Bells; mail receptacles	83. Janitor or housekeeper
58. Incombustible materials	

TITLE 1
LIGHT AND AIR

§ 26. **Height, bulk, open spaces.** 1. Dwellings affected. a. This section, except as may specifically be provided otherwise in articles six and seven, shall apply to all dwellings erected, enlarged, converted or altered pursuant to plans filed on or after December fifteenth, nineteen hundred sixty-one for the purpose of regulating their height and bulk and regulating and determining the area of yards, courts and other open spaces of such dwellings.

b. The construction, enlargement, conversion or alteration of any dwelling undertaken pursuant to plans filed prior to December fifteenth, nineteen hundred sixty-one in compliance with the provisions of sections twenty-six, twenty-seven and twenty-eight of this chapter, as they existed prior to the enactment of chapter ten hundred seventy-two of the laws of nineteen hundred sixty, effective July first, nineteen hundred sixty-one may be commenced, continued or completed as if such sections remained in full force and effect. Notwithstanding the provisions of subdivision four of section three hundred, the department shall not require any change or modification in the height or bulk or in the area of yards, courts and other open spaces of dwellings to be erected or enlarged pursuant to plans filed prior to December fifteenth, nineteen hundred sixty-one as a condition for the reissuance of a building permit or the renewal of an approval, except as may otherwise be provided by local law, ordinance or zoning ordinance.

c. Nothing in this section shall be construed to require any change in the height, bulk, or open space of any dwelling erected, enlarged, converted or altered pursuant to plans filed before December fifteenth, nineteen hundred sixty-one.

d. Notwithstanding the provisions of paragraphs a, b or c, the provisions of this section shall apply to buildings erected, enlarged, converted or altered pursuant to plans filed prior to December fifteenth, nineteen hundred sixty-one, where such compliance may be required by local law, ordinance or zoning ordinance.

2. Definitions. For the purpose of this section certain words are defined herein but such definitions shall not be held to modify or affect legal interpretations of such terms or words as used in any local law, ordinance, rule or regulation and shall apply in addition to and not in substitution for the provisions of section four of this chapter.

a. "Accessory use or accessory structure": a use or structure customarily incident to the principal use or building:

b. "Floor area": the sum of the gross horizontal areas of all of the several floors of a dwelling or dwellings and accessory structures on a lot measured from the exterior faces of exterior walls or from the center line of party walls, except:

- (1) cellar space;
- (2) attic space providing head room of less than eight feet;
- (3) space for mechanical equipment;
- (4) elevator and stair bulkheads, tanks and cooling towers;
- (5) open or roofed terraces, exterior balconies or porches, uncovered

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steps and open porte-cocheres or breezeways abutting or adjoining grade entrances;

(6) accessory space used for off-street motor vehicle parking or storage.

c. "Floor area ratio (FAR)": A figure determined by dividing the floor area of the several floors of all buildings on a lot by the area of such lot.

d. "Corner lot": A lot bounded entirely by streets or a lot which adjoins the point of intersections of two of more streets and in which the interior angle formed by the extensions of the street lines in the directions which they take at their intersections with lot lines other than street lines, forms an angle of one hundred thirty-five degrees or less. In the event that any street line is a curve at its point of intersection with a lot line other than a street line, the tangent to the curve at that point shall be considered the direction of the street line. The portion of such lot subject to the regulations for corner lots is that portion bounded by the intersecting street line and lines parallel to and one hundred feet from each intersecting street line. Any remaining portion of a corner lot shall be subject to the regulations for a through lot or for an interior lot, whichever is applicable.

e. "Tower": A dwelling or dwellings or portion thereof which has an aggregate horizontal area of not more than forty per centum of the area of a lot, or, for lots of less than twenty thousand square feet, the per centum set forth in the following table:

Area of lot (in square feet)	Maximum percent of lot coverage
10,500 or less	50 %
10,501 to 11,500	49
11,501 to 12,500	48
12,501 to 13,500	47
13,501 to 14,500	46
14,501 to 15,500	45
15,501 to 16,500	44
16,501 to 17,500	43
17,501 to 18,500	42
18,501 to 19,999	41

3. Floor area ratio (FAR). The floor area ratio (FAR) of any dwelling or dwellings on a lot shall not exceed 12.0, except that a fireproof class B dwelling in which six or more passenger elevators are maintained and operated in any city having a local zoning law, ordinance or resolution restricting districts in such city to residential use, may be erected in accordance with the provisions of such zoning law, ordinance or resolution, if such class B dwelling is erected in a district no part of which is restricted by such zoning law, ordinance or resolution to residential uses.

4. Height. A dwelling may be erected to any height and any number of stories so long as it does not exceed the bulk limitations hereinafter prescribed.

5. Rear yard. a. Except as otherwise provided in the zoning resolution of the city of New York and except as hereinafter provided for a corner lot, an interior lot within one hundred feet of the point of intersection of the two street lines intersecting at an angle of one hundred thirty-five degrees or less, an interior lot fronting on a block measuring less than two hundred thirty feet in length between two intersecting streets or a through lot, a rear yard shall be required for each dwelling and shall extend the entire width of the lot at every point. For dwellings occupying an entire block or a through lot, no rear

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yard shall be required. When dwellings do not exceed in area thirty-five per centum of the plot, the department shall permit such location of yards and courts as will promote the best possible plot ventilation. For purposes of this paragraph a, a block shall not be deemed less than an entire block because a portion thereof is conveyed after construction of such multiple dwelling or dwellings to a city for public park purposes.

b. Except as otherwise provided in the zoning resolution of the city of New York, the minimum depth of a required rear yard shall be thirty feet for the first one hundred twenty-five feet above curb level, and fifty feet above that point. The depth of a rear yard shall be measured at right angles from the rear lot line to the extreme exterior rear wall of the dwelling. The provisions of this paragraph requiring a rear yard fifty feet in depth for portions of a building in excess of one hundred twenty-five feet above the curb level shall not be applied to a tower.

c. Except as otherwise provided in the zoning resolution of the city of New York, on a corner lot no rear yard shall be required, provided, however, every required window shall open into either:

- (1) a lawful inner or outer court; or
- (2) a side or rear yard with a minimum width or depth of thirty feet in one direction; or
- (3) if such lot is less than ten thousand square feet in area, a side yard with a minimum width of twenty feet, or an inner space equivalent to the area of a lawful inner court.

d. Except as otherwise provided in the zoning resolution of the city of New York, on any through lot one hundred ten feet or more in maximum depth from street to street, one of the following rear yard equivalents shall be provided:

- (1) An open area with a minimum depth of sixty feet, extending across the entire lot and linking abutting rear yards, or if no such rear yards exist, then an open area, with a minimum depth of sixty feet, midway (or within five feet thereof) between the two street lines upon which such through lot fronts and provided further that the provisions of paragraph b of this subdivision shall apply above a height of one hundred and twenty-five feet above the curb level as if such rear yard equivalent were two adjoining rear yards; or
- (2) Two open areas, each abutting and extending along the full length of a street line, and each with a minimum depth of thirty feet measured from such street line; or
- (3) An open area adjoining and extending along the full length of each side lot line, with a minimum width of thirty feet measured from each side lot line.

e. When the maximum depth of any interior lot owned separately and individually from all other adjoining tracts of land on December fifteenth, nineteen hundred sixty-one is less than seventy feet, the required depth of the rear yard of a dwelling on such lot for the first one hundred twenty-five feet above curb level may be decreased one foot for each foot by which the maximum depth is less than seventy feet. However, any such yard shall never be less than ten feet in depth at any point above its lowest level.

f. Except for fireproof buildings and except as otherwise provided in this paragraph there shall be access from a street to the yard through a fireproof passage either in a direct line or through a court. Such passage shall be not less than three feet in clear width and seven feet in height. Such passage shall not be required for a multiple dwelling which does not exceed three stories in height and is not occupied by more than one family on any story or three families in all or for a dwelling which does not exceed two stories in height and is not occupied

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by more than two families on any story or four families in all provided every required means of egress from such dwelling leads directly to a street or to an outer court opening upon a street. When a dwelling does not exceed three stories in height and is not occupied by more than two families on any story, such passage may be of fire-retarded construction.

6. Side yard. Except as otherwise provided in the zoning resolution of the city of New York, no side yard shall be required. If a side yard is provided it shall in no event be less than eight feet in width at any point. Such side yard need not exceed thirty feet in width.

7. Courts. Except as otherwise provided in the zoning resolution of the city of New York:

a. An inner court shall have minimum width of four inches per foot for each one foot of height of such court, but in no event less than fifteen feet in width at any point. The area of such inner court shall be twice the square of the width of the court dimension based on the height of such court, but in no event less than three hundred fifty square feet in area. The area of such court need not exceed one thousand two hundred square feet provided that the minimum horizontal distance between any required window of a living room opening on an inner court shall not be less than thirty feet from any wall opposite such window. For a dwelling three stories or less in height, an inner court may have a minimum width of three inches for each one foot of height of such court, but in no event less than ten feet in width at any point. The area of such court shall be twice the square of the required width of court dimension based on the height of such court but in no event less than two hundred fifty square feet in area. An air in-take of fireproof construction shall be provided at or near the lowest level of every inner court of dwellings exceeding two stories in height, and shall communicate directly with a street or yard. Such in-take shall have a vertical cross-sectional area of not less than twenty-one square feet and a minimum width of not less than three feet in its least dimension, and shall be open and unobstructed throughout, except that where the intake is not used as a passage or exit, gates or grilles which do not interfere with ventilation may be installed.

b. An outer court at any given height shall have a minimum width at least equal to twice the depth of such outer court if such outer court is less than thirty feet wide. Such outer court shall have a width at least equal to its depth if such court is thirty feet or more in width. An outer court need not exceed sixty feet in width. Except as provided in section sixty, an outer court on a side lot line may begin at the level of the floor of the lowest story in which there is a living room opening therefrom. Any outer court not on a side lot line may begin at any level, the height of such court to be measured from the level at which such court begins.

7-a. Lights in rear yards, side yards, front yards and courts. The owner of every dwelling shall install and maintain in every rear yard, side yard, front yard and court a light or lights of at least forty watts of incandescent illumination or equivalent illumination, in such locations as the department may prescribe, which shall be kept burning from sunset on each day to sunrise on the day following.

8. Level of areas adjoining living rooms. The bottom of any yard, rear yard equivalent, court or other open area which abuts or adjoins and gives light or ventilation to a living room shall be at the floor level or lower of such living room, except that:

a. If the depth of a yard exceeds the minimum required depth by as much as one-half, the bottom of such yard may be at any level not higher

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than six inches below the window sills of any such adjoining living room and not more than three feet above the floor of such room.

b. If the width of an outer court exceeds the minimum required by as much as forty per centum, the bottom of such court may be at any level permitted by paragraph a for a yard or rear yard equivalent.

9. Permitted obstructions. Every yard and court shall comply with all the requirements of this section and be open and unobstructed at every point from the lowest level to the sky except that the following shall not be deemed to obstruct or reduce the area of otherwise lawful yards, rear yard equivalents or courts, provided that required light and ventilation for living rooms and required egress from the dwelling are maintained to the satisfaction of the department:

a. Accessory off-street parking spaces, open or enclosed, conforming to the applicable provisions of section sixty.

b. Fire escapes erected as provided in paragraph b of subdivision two of section fifty-three.

c. In a yard or rear yard equivalent, boiler flues or chimneys projecting not more than three feet into such yard and provided every such flue or chimney does not exceed two per cent of the required area of the yard.

d. Outside stairways, fire towers, platforms or balconies or other similar projections which extend beyond the wall of the dwelling.

e. Enclosures of balconies or spaces erected as provided in subdivision four of section thirty.

f. Arbors, trellises, awnings or canopies, fences, flag poles, open steps, or breezeways.

g. Recreational or drying yard equipment except as otherwise provided in section fifty-six.

h. Walls not exceeding eight feet in height and not roofed or part of a structure.

i. Retaining walls to protect adjoining premises provided such walls are not more than fifteen feet in height measured from the curb level of the lot on which such walls are erected, do not extend above the sill of any required living room window on the first story facing such a wall and do not extend more than thirty-six inches into the required area of a yard, rear yard equivalent or court.

j. A party wall not more than twelve inches into the required area of a yard, or rear yard equivalent or court.

k. Nothing in this section shall be deemed to prevent cutting off the corners of any yard, rear yard equivalent or court, provided the running length of the wall at the angle of such yard or court does not exceed seven feet.

l. In a rear yard equivalent, an enclosed passageway connecting portions of separate buildings where such passageway does not exceed fourteen feet in height and fifteen feet in width measured between the outer faces of the walls thereof.

10. Nothing contained in this section shall be deemed to prevent the turfing over of any yard or court space or the planting of shrubs or trees therein when approved by the department.

11. Pending actions or proceedings. Nothing contained in this section shall affect or impair any act done, offense committed or right accruing or accrued or acquired, or liability, penalty, forfeiture or punishment incurred prior to December fifteenth, nineteen hundred sixty-one, but the same way may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent as if this section had not been enacted.

§ 28. **Two or more buildings on same lot.** 1. If any separate multiple

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dwelling is erected after April eighteenth, nineteen hundred twenty-nine, upon the rear of a lot which has another multiple dwelling on the front or upon the front of a lot which has another multiple dwelling on the rear, access shall be provided to the rear dwelling from a street by means of an unobstructed court at least twenty feet in width.

2. Except as otherwise provided for motor vehicle storage space in section sixty and for dwellings erected, enlarged, converted or altered pursuant to plans filed prior to December fifteenth, nineteen hundred sixty-one in accordance with the provisions of subdivision one of section twenty-six, if any building or dwelling is placed on the rear of the same lot with a multiple dwelling or a multiple dwelling is placed anywhere on the same lot with another building, there shall be left between the two buildings an open space unoccupied from the ground up and at least forty feet in depth, measured in the direction from one building to the other for the first one hundred twenty-five feet above the curb level, and eighty feet above that point. The provisions of this subdivision requiring an open space eighty feet in depth between portions of buildings in excess of one hundred twenty-five feet above the curb level shall not be applied when both such portions are towers.

3. If on the rear of a lot any such building or any portion thereof is used for business purposes, a separate passageway at least three feet six inches wide and seven feet high shall be provided leading from every such open space adjacent to such building to a street. No such passageway shall connect with, go through or form a part of any entrance hall or other public hall of a multiple dwelling upon the front of the lot.

§ 29. **Painting of courts and shafts.** The exterior surface of all walls of all courts and shafts of multiple dwellings, except of outer courts opening on a street, and courts having dimensions of at least fifty percent in excess of the minimum set forth in section twenty-six, shall be of a lightcolored brick or stone, or be thoroughly whitewashed or painted a light color by the owner and be so maintained. Such whitewash or paint shall be renewed whenever necessary, as may be determined and required by the department.

§ 30. **Lighting and ventilation of rooms.** 1. The provisions of this section shall apply only to multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine, and shall apply to all such dwellings unless otherwise expressly limited.

2. Except as in this section and in sections thirty-three, seventy-six, one hundred fifteen, one hundred sixty, one hundred seventy-six, two hundred, two hundred thirteen, two hundred fifty and two hundred fifty-one otherwise expressly provided, every room, including kitchens, water-closet compartments and bathrooms, shall have at least one window opening directly upon a street or upon a lawful yard, court or space above a setback upon the same lot as that occupied by the multiple dwelling in which such room is situated. Every such window shall be so located as to light properly all portions of the room.

3. No room in any apartment of three rooms or less, and no room in any non-fireproof apartment, shall extend in depth, from a street or yard on which it faces, more than thirty feet without a window opening on a lawful court.

4. a. Nothing in this section or section twenty-six shall be construed

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as prohibiting the windows or doors of any room from opening on a partially-enclosed balcony or space above a setback, provided such balcony or space opens directly to a street or to a lawful yard or court and the area of the front of the balcony or space which is open to the outer air is at least equal to seventy-five per centum of the floor surface area of such balcony or space. Any living room thus lighted and ventilated by windows or doors opening on such balcony or space shall be at most thirty feet in depth measured from the extreme outer face of the wall forming the partial enclosure of the balcony or space. The windows or doors providing light and ventilation for a room or rooms opening exclusively on such a balcony or space shall have altogether at least the area of one-tenth of the combined floor surface of such room or rooms and the portion of the balcony or space directly adjoining and in front of such room or rooms.

b. On a fireproof dwelling a balcony or space above a setback permitted under paragraph a of this subdivision may be completely enclosed, provided the outer enclosing wall or walls and roof are constructed of incombustible materials and the walls are glazed with clear plate glass or plastic equivalent and such glazed wall area is equal to at least fifty per centum of the area of the interior walls enclosing such balcony or space. At least fifty per centum of the glazed area shall be openable directly upon a street or upon a lawful yard or court. No window shall open from any bathroom, water-closet compartment or cooking space upon such enclosed balcony.

c. The enclosure on any balcony or a space above a setback shall not (1) be more than one story in height or (2) be erected in violation of the provisions of paragraph a of subdivision six of section one hundred two of this chapter.

5. No multiple dwelling shall be so altered as to diminish the light or ventilation of any room or public hall or stairs in any way not approved by the department.

6. No window shall be required in any public room of a fireproof multiple dwelling if such room is used solely for storage purposes or has adequate mechanical ventilation maintained to provide at least the number of changes of the air volume of such room approved by the department as necessary for the health and safety of the occupants of such dwelling. Any fresh air supply system required by the department for such purposes shall be provided with adequate means for removing dust from the incoming air and with adequate means to heat such air at least to sixty degrees Fahrenheit.

7. 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 cooking compartment less than eighty square feet in floor surface area.

8. (a) The windows in every room, except a water-closet compartment, bathroom, or cooking space less than eighty square feet in floor surface area, shall have a total area at least one-tenth of the floor surface area of such room and every window in such a room, including a mullioned casement window, shall be at least twelve square feet in area.

(b) All required windows shall be so constructed that at least one-half of their required area may be opened, except that a mullioned casement window, if otherwise large enough to supply the window requirements of the room, need be readily openable to the outer air only to the extent of five and one-half square feet of its area.

(c) Where fresh air is furnished in any room through a mechanical ventilating unit or system which is an integral part of the dwelling structure and capable of introducing not less than forty cubic feet of

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air per minute, the required window area in such room need be openable only to the extent of twenty-five per cent of such window area but in no event less than five and one-half square feet.

9. Transoms or partition sash, or louvres having a minimum area of 144 square inches and arranged to be opened or closed, shall be provided to private halls or to adjoining rooms to secure through-ventilation whenever required by the department, but no such transom or partition sash or louvre shall be required in a room having two windows opening to the outer air if each window is at least nine square feet in area, or in a room having a mullioned or single window with an aggregate area of at least eighteen square feet.

10. All windows and their assemblies in walls situated on a lot line, except those facing on a street, shall be fireproof, with assemblies having a fire-resistive rating of at least three-quarters of an hour and glazed with wire glass at least one-quarter of an inch thick. Every opening in a wall situated on a lot line which is less than fifty feet in a vertical direction above a non-fireproof roof of another structure within a distance of thirty feet of the wall in which the opening is located shall be an automatic fireproof window.

§ 31. **Size of rooms.** 1. The provisions of this section, except subdivision six, shall apply only to multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine, and shall apply to all such dwellings unless otherwise expressly limited.

2. Except as in this section and in section thirty-three otherwise expressly provided, rooms, except kitchens, water-closet compartments and bathrooms, shall meet the following minimum requirements as to size:

a. In each apartment in a class A multiple dwelling there shall be at least one living room containing at least one hundred thirty-two square feet of floor area.

b. Every living room, except as provided in paragraph e, shall contain at least eighty square feet of floor space.

c. Every room shall be at least eight feet high, the measurements to be taken from the finished floor to the finished underside of the ceiling beams except that as many as four beams crossing the ceiling of any basement room may be disregarded if none of them exceeds twelve inches in width or extends below the ceiling more than six inches.

d. Every living room shall be at least eight feet in its least horizontal dimension, except as provided in paragraph e and except that any number of bedrooms up to one-half of the total number in any apartment containing three or more bedrooms may have a least horizontal dimension of seven feet or more.

e. A one-room apartment in a class B multiple dwelling may be as small as sixty square feet in its floor area and six feet in its least dimension.

3. The requirements of this section with respect to the least horizontal dimension and the minimum area of rooms shall not be applicable to any room in a fireproof class B multiple dwelling occupied as a lodging house in which every apartment, other than one apartment occupied exclusively by a person or persons engaged in the maintenance or supervision of such multiple dwelling, consists of one room and in which every such room opens directly upon a public hall.

4. Dining bays with a floor area of fifty-five square feet or less shall not be considered as rooms or alcoves and shall not be required to comply with the provisions of section thirty-two. Every such dining bay shall be equipped with such appropriate permanent fittings as may be

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required by the department and shall be provided with at least one window opening directly upon a street or upon a lawful yard, court or space above a setback. Such window shall have an area of at least one-eighth of the floor area of such dining bay.

5. A portion of any apartment used as an entrance hall to such apartment may be designated as a foyer. Such a foyer shall not be considered a room if the department shall so permit and if either

a. Its floor area does not exceed ten per centum of the total floor area of such apartment, or

b. Every room in such apartment exceeds in area the minimum required area of such room by more than twenty per centum and the floor area of such foyer does not exceed twenty per centum of the floor area of such apartment.

6. a. Except in class B dwellings and dormitories, no room shall be occupied for sleeping purposes by more than two adults, considering children of twelve years of age or more as adults and two children between the ages of two and eleven years inclusive as the equivalent of one adult. Children under two years of age need not be considered as occupants. No room shall have sleeping accommodations for more persons than can be accommodated in conformity with the provisions of this subdivision.

b. Every room in every dwelling, whenever erected, shall have at least four hundred cubic feet of air for each adult, and two hundred cubic feet of air for each child occupying such room. Except in class B dwellings, dormitories and except as otherwise provided in subdivision two of section thirty-one or in section thirty-four for dwellings erected after April eighteenth, nineteen hundred twenty-nine, and in sections one hundred seventy-four, two hundred fourteen and two hundred sixteen, every living room shall (1) contain sixty square feet or more of floor space, (2) be at least six feet wide at its narrowest part, (3) if a sleeping room, contain seventy-five square feet or more of floor space and (4) if less than seventy-five square feet in floor area, shall not be occupied by more than one adult.

§ 32. **Alcoves.** 1. Every alcove, except a lawful cooking space, opening from any room in any multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, shall be separately lighted and ventilated as provided for other rooms in section thirty. It shall have a floor area of at least seventy square feet, a least horizontal dimension of at least seven feet and an opening at least sixty square feet in area into the room which it adjoins.

2. Except for cubicles permitted in lodging houses, no part of any room in any multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, shall be enclosed or subdivided at any time, wholly or in part, by a curtain, portiere, fixed or movable partition or other contrivance or device, unless each such enclosure or subdivision shall contain a separate window as required for a room by section thirty and a floor space of at least seventy square feet.

§ 33. **Cooking spaces.** 1. Every space which is intended, arranged or designed for cooking or warming of food shall be either a kitchen or kitchenette. The term "kitchen" shall mean such a space eighty square feet or more in floor area. The term "kitchenette" shall mean such a space which is less than eighty square feet in floor area.

2. Every cooking space shall be deemed to be in compliance with this section if such space was accepted or approved by the department on or

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before June thirtieth, nineteen hundred ninety-five, and is maintained in accordance with such acceptance or approval.

3. Except as provided in sections sixty-one and sixty-seven and subdivision two of this section, 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 at least one-half inch inside diameter.

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 asbestos at least three-sixteenths of an inch in thickness and twenty-six gauge metal or with fire-resistive material of equivalent rating, except where such apparatus is installed in accordance with requirements established by the department in conformity with generally accepted safety standards for such apparatus. There shall always be at least two feet of clear space above any exposed cooking surface of such apparatus.

c. Every kitchenette constructed after July first, nineteen hundred forty-nine, shall be provided with a window opening upon a street or upon a yard, court, shaft, or upon any space above a setback. 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, such kitchenette may be provided with mechanical ventilation to provide at least six changes per hour of the air volume of such kitchenette or, when such kitchenette is on the top story, may have a skylight at least one foot wide with a total area of at least four square feet or one-eighth of the area of the kitchenette, whichever is greater, and shall have ventilating openings of at least one-half of the area of the skylight.

d. Every kitchenette constructed after July first, nineteen hundred forty-nine, 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 bottom of the door and the floor, and the other between the top of each such door and the head jamb.

e. Every kitchen and kitchenette shall be provided with gas or electricity or both, and shall be equipped for artificial lighting.

§ 34. **Rooms in basements and cellars.** 1. In any multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, every room in a cellar or basement shall have a permit as provided in subdivision five of section three hundred and, except as provided in subdivision six of this section, shall comply with the following conditions:

a. Such rooms shall be everywhere at least eight feet high from the floor to the ceiling, except that in a basement room as many as four beams twelve inches or less in width and extending six inches or less below the ceiling may be disregarded.

b. Except as otherwise provided in paragraph f, the ceiling of every such room in the front part of the dwelling, or in an apartment or suite extending to the front part, shall be at every point of such room at

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least four feet six inches above the curb level directly in front of such point on the street in front of the dwelling; and the ceiling of every other such room, unless the yard of the dwelling is sixty feet or more in depth or extends to a street along its entire width, shall be at every point of such room at least two feet above the curb level directly in front of such point on the street in front of the dwelling. Every yard or court upon which any such cellar or basement room or apartment opens shall, conform to the requirements of subdivision eight of section twenty-six. Every such room, except as otherwise provided in paragraphs e and f, shall be an integral part of an apartment or suite containing at least one room with a window opening directly upon a street or yard. Except as provided in paragraphs e and f, and if the yard of such a dwelling is less than sixty feet in depth there shall be not more than one apartment or suite in any cellar therein and any such apartment or suite shall contain not more than five rooms, shall be supplied with water closet and bath accommodations, and shall not open upon any court less than five feet in width. Every part of such an apartment or suite shall either be within twenty-five feet of the inner surface of the front or rear wall of the dwelling or have a window opening upon a court of at least the dimensions prescribed in section twenty-six but never less than ten feet wide.

c. Every such cellar or basement room shall have access to a water-closet constructed and arranged as prescribed in section seventy-six.

d. Every such room shall have a window or windows complying with the requirements of section thirty. The aggregate area of windows in each such room, except as provided in paragraph f, shall be at least one-eighth of the horizontal area of the room. Each such window shall be constructed so that the upper half of its area can be opened, and shall open upon a street, court or yard. The underside of the top stop-bead of each such window shall be within twelve inches of the ceiling. One window in each such room shall have an area of at least twelve square feet.

e. In addition to a janitor's apartment three rooms or less may also be provided in the cellar of such a dwelling exclusively for the use of persons regularly and continuously employed in the maintenance of such dwelling. Every such room shall be completely separated from any other room or private hall and shall comply with all the provisions respecting a janitor's apartment except those relating to water-closet and bath, but there shall be at least one water-closet and bath accessible from each such room without passing through a janitor's apartment. No other rooms in such a cellar shall be occupied for living or sleeping purposes, except as permitted in paragraphs b and f. Whenever a janitor's apartment in the cellar of such a dwelling, or a room therein, is expressly excepted from a requirement in any provision of this chapter, such exception shall apply also to any cellar room lawfully occupied as in this paragraph provided.

f. (1) When the lot of such a dwelling abuts upon two or more streets and the difference in level between the highest and the lowest points of the curbs adjoining the lot is more than ten feet, a room below the highest curb point may be used for living purposes provided it opens upon a street or upon a lawful court or yard which connects directly with a street or, if the floor of such room is not more than twelve feet below the highest curb point, upon an interior court with a least dimension of not less than thirty feet if such court is situated on a lot line, and otherwise with a least dimension not less than fifty feet. Every such room shall be at least nine feet high from finished floor to

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finished ceiling. When any such room or an apartment containing it faces a street, the ceiling of the room at every point shall be at least four feet six inches above the curb level of such street directly in front of such point. For the purpose of determining the required dimensions of a court or yard of any dwelling subject to the provisions of this sub-paragraph, the height of such dwelling shall be measured from the lowest point of such court or yard.

(2) When the lot of such a multiple dwelling does not run through from street to street and there is a difference in level exceeding twenty feet between the highest point of the curb in front of the dwelling and the lowest point of the curb on a street directly in the rear of the dwelling which street is within one hundred twenty-five feet of the rear line of the lot, a room below the level of the highest point of the curb in front of the dwelling may be used for living purposes provided such room opens upon a yard or a court adjoining a yard. The floor of any such room shall be at least six inches above the level of every part of every yard and court upon which such room opens and of the curb on the street in the rear of such dwelling and also of all intervening ground between the rear street and the rear lot line. Every such room shall be at least nine feet high from finished floor to finished ceiling. The required dimensions of a yard, or of a court adjoining a yard, on which such a room opens in any dwelling subject to the provisions of this sub-paragraph, shall be determined by the height of such dwelling measured from the lowest point of such yard or court.

(3) In any portion of a multiple dwelling arranged for living purposes below the curb level under authority of either of the sub-paragraphs above there shall be no wood beams, wood lintels or other wood structural members, nor shall any wood or other inflammable material be used in any partitions, furrings or ceilings.

2. Every multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, whenever the department shall deem it necessary, shall have all walls below the ground level and all cellar or lower floors damp-proofed and water-proofed. Such damp-proofing and water-proofing shall run throughout the cellar or other lowest floor and through and up the walls as high as the ground level.

3. Every cellar and basement in every multiple dwelling shall be properly lighted and ventilated to the satisfaction of the department.

4. In every multiple dwelling the cellar walls and ceilings, except in rooms occupied as provided in paragraph f of subdivision one or in subdivision six, shall either be constructed of light-colored material or be thoroughly whitewashed or painted a light color by the owner, and shall be so maintained. Such whitewash or paint shall be renewed whenever necessary, as may be determined and required by the department.

5. Notwithstanding any provisions of this section or of subdivision five of section three hundred, an apartment or room in a cellar which was occupied for living purposes at any time on or after October first, nineteen hundred fifty-two may thereafter continue to be occupied for such purposes until July first, nineteen hundred sixty-seven, in accordance with the conditions imposed by subdivision five of section two hundred sixteen.

6. An apartment in a cellar or basement of any multiple dwelling may be used for living purposes provided all of the following conditions are complied with:

a. Such apartment has at least one half of its height and all of its window surfaces above every part of an "adequate adjacent space." Such "adequate adjacent space" shall be open to the sky, shall be properly drained to the satisfaction of the department, and shall be a continuous

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surface area outside the dwelling not less than thirty feet in its least dimension and abutting at same level, or directly below, every part of the exterior walls of such apartment and of every other apartment on the same floor. Such "adequate adjacent space" shall include only space which is located on the same lot or plot as the dwelling or on a street or public place or space.

b. Every living room of such apartment is everywhere at least eight feet high from the floor to the ceiling in dwellings erected after July first, nineteen hundred fifty-seven, and seven feet in dwellings erected prior thereto.

c. All parts of the exterior walls of the dwelling which are below ground level and on the same floor as such apartment or above such floor are dampproof to the satisfaction of the department and the floor of such apartment is dampproof and waterproof.

d. The yard and every court of the dwelling containing such apartment are adequately drained to the satisfaction of the department.

e. If any part of the apartment is below the "adequate adjacent space" referred to in paragraph a of this subdivision, all ceilings, walls and partitions of such apartment are fire-retarded or the rooms and spaces within such apartment are protected by a sprinkler system to the satisfaction of the department.

f. Such apartment and every part of the floor on which it is situated meet all of the requirements which would be in effect for such floor if none of the rooms thereon were used for living purposes.

g. Such apartment complies with all of the requirements for apartments in the same dwelling which are not in a cellar or basement.

h. The floor on which such apartment is situated, if a cellar, shall nevertheless be counted as a story for the purpose of all requirements except those relating to the height of the dwelling.

§ 35. **Entrance doors and lights.** In every multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, every door giving access to an entrance hall from outside the dwelling shall contain at least five square feet of glazed surface. The width of every such door shall be at least seventy-five per centum of the required clear width of such entrance hall as provided in section fifty, except that when a series of such entrance doors is provided their aggregate clear width shall not be less than seventy-five per centum of the required width of the entrance hall and the clear width of each of the doors separately shall be at least two feet six inches. Such a door opening upon a street or a court extending to a street may be of wood. Such a door opening upon a yard or upon a court not extending to a street shall be fireproof.

The owner of every multiple dwelling shall install and maintain a light or lights at or near the outside of the front entrance-way of the building which shall in the aggregate provide not less than fifty watts incandescent illumination for a building with a frontage up to twenty-two feet and one hundred watts incandescent illumination for a building with a frontage in excess of twenty-two feet, or equivalent illumination and shall be kept burning from sunset every day to sunrise on the day following. In the case of a multiple dwelling with a frontage in excess of twenty-two feet, the front entrance doors of which have a combined width in excess of five feet, there shall be at least two lights, one at each side of the entrance way, with an aggregate illumination of one hundred fifty watts or equivalent illumination. In enforcing this provision the department shall permit owners to determine

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for themselves the actual location, design and nature of the installation of such light or lights to meet practical, aesthetic and other considerations, so long as the minimum level of illumination is maintained.

§ 36. **Windows and skylights for public halls and stairs.** 1. In every multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, one at least of the required windows provided to light each public hall or part thereof shall be at least two feet six inches wide and five feet high. Every required window in such a hall shall open upon a street, court, yard or space above a setback. 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. In every multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, there shall be in the roof, directly over each required stair, fire-stair and fire-tower, a ventilating skylight provided with ventilators having a minimum opening of forty square inches or with fixed or movable louvres. The roof of every such skylight shall be glazed with plain glass and equipped with suitable wire screens above and below. The glazed area of every such skylight shall be at least twenty square feet, except that in a class A dwelling or section thereof two stories or less in height and occupied by not more than two families on each story and in dwellings three stories in height erected pursuant to plans filed with the department on or after May first, nineteen hundred fifty-nine and occupied by not more than one family on each story, 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 building, and at least ten feet in length, measured parallel to the wall of the building, there may be provided in lieu of such a skylight a fireproof door and assembly with the door self-closing giving access from such stair, fire-stair or fire-tower 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 fixed or movable louvres with an opening of at least forty square inches.

§ 37. **Artificial hall lighting.** 1. In every multiple dwelling the owner shall provide a light or lights, each of at least sixty watts incandescent or twenty watts cool white fluorescent or equivalent illumination, for every vestibule and entrance hall in every public hall, stair, fire-stair and fire-tower on every floor. Said light or lights shall be located as prescribed by the department, but, in every stair, fire-stair or fire-tower, shall be so located that every part thereof shall be lighted.

2. Except as provided in subdivision three, every such light shall be turned on by the owner at sunset every day and shall not be turned off by the owner until the following sunrise. Every such light shall be kept burning daily from sunset until sunrise, but if it becomes extinguished and remains so without the knowledge or consent of the owner he shall not be liable. The burden shall be upon the owner to show that the light became and remained extinguished without his knowledge or consent.

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3. Every light in every fire-stair and fire-tower at every story, and in every stair and public hall at every story where there is no window opening to the outer air, shall be kept burning continuously except that this provision shall not apply to public halls lighted as provided in subdivision eleven of section two hundred seventeen.

4. When the natural light in any public hall in a multiple dwelling is not sufficient to permit a person to read the names on a mail box or other receptacle for mail, the owner shall install a lighting fixture directly over such mail box or receptacle and maintain it in serviceable condition, so that a light may be turned on at any time for the convenience of tenants or the mail carrier.

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§ 50. **Entrance halls.** Every entrance hall in every multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, shall be at least four feet in clear width from the entrance to the first stair, and beyond that shall be at least three feet eight inches in clear width. If such an entrance hall is the only entrance to more than one flight of stairs, the required 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.

§ 50-a. **Entrances: doors, locks and intercommunication systems.** 1. Every entrance from the street, passageway, court, yard, cellar, or similar entrance to a class A multiple dwelling erected or converted after January first, nineteen hundred sixty-eight, except an entrance leading to the main entrance hall or lobby which main entrance hall or lobby is equipped with one or more automatic self-locking doors, shall be equipped with automatic self-closing and self-locking doors and such doors shall be locked at all times except when an attendant shall actually be on duty. Every entrance from the roof to such a dwelling shall be equipped with a self-closing door which shall not be self-locking and which shall be fastened on the inside with movable bolts, hooks or a lock which does not require a key to open from inside the dwelling.

2. Every class A multiple dwelling erected or converted after January first, nineteen hundred sixty-eight containing eight or more apartments shall also be equipped with an intercommunication system. Such intercommunication system shall be located at an automatic self-locking door giving public access to the main entrance hall or lobby of said multiple dwelling and shall consist of a device or devices for voice communication between the occupant of each apartment and a person outside said door to the main entrance hall or lobby and to permit such apartment occupant to release the locking mechanism of said door from the apartment.

3. On or after January first, nineteen hundred sixty-nine, every class A multiple dwelling erected or converted prior to January first, nineteen hundred sixty-eight, shall be equipped with automatic self-closing and self-locking doors, which doors shall be kept locked except when an attendant shall actually be on duty, and with the intercommunication system described in paragraph two of this section, provided that tenants occupying a majority of all the apartments within the structure comprising the multiple dwelling affected request or consent in writing to the installation of such doors and intercommunication system on forms which shall be prescribed by the

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department, except that in the event a majority of tenants in occupancy request or consent on or after January first, nineteen hundred sixty-eight, to the installation of such doors or intercommunication system such installation shall be started within ninety days, but need not be completed until six months after the owner's receipt of requests or consents by a majority of the tenants, except that in any such multiple dwelling owned or operated by a municipal housing authority organized pursuant to article thirteen of the public housing law, such installation need not be completed until one year after the owner's receipt of requests or consents by a majority of the tenants. If the dwelling is subject to regulation and control of its residential rents pursuant to the local emergency housing rent control act, the local city housing rent agency shall upon the filing of executed forms containing the required requests or consents, prescribe the terms under which the costs of providing such doors and intercommunication systems may be recovered by the owner from the tenants. In any multiple dwelling built pursuant to the provisions of the redevelopment companies law in which residential rents are limited by contract, the costs of providing such doors and intercommunication systems may be recovered by the owner from the tenants. The terms under which such costs may be recovered shall be the same as those prescribed by the local city housing rent agency in the city in which the multiple dwelling is located for dwellings subject to regulation and control of rent pursuant to the local emergency housing rent control act. Such costs shall not be deemed to be "rent" as that term is limited and defined in the contract.

4. All such self-closing and self-locking doors, and intercommunication systems shall be of a type approved by the department and by such other department as may be prescribed by law and shall be installed and maintained in a manner prescribed by the department and by such other department.

5. Every owner who shall fail to install and maintain the equipment required by this section, in the manner prescribed by the department, and by such other department as may be prescribed by law, and any person who shall willfully destroy, damage, or jam or otherwise interfere with the proper operation of, or remove, without justification, such equipment or any part thereof shall be guilty of a misdemeanor as provided in subdivision one of section three hundred four of the multiple dwelling law and shall be punishable as provided therein.

§ 50-c. Rights of tenants to operate and maintain a lobby attendant service. 1. Tenants of every class A multiple dwelling containing eight or more apartments shall be entitled to maintain and operate a lobby attendant service for such multiple dwelling at any time or times when an attendant hired or furnished by the owner thereof shall not be on duty. Such lobby attendants so maintained by such tenants shall be engaged solely for security purposes and shall perform no acts or duties other than those which shall be directly related to the safety and security of occupants and visitors to such building while in and about the public portions thereof and no owner shall unreasonably hinder, interfere with, obstruct or prohibit the maintenance and operation of such service, provided that each attendant so engaged by tenants shall at all times when on duty be stationed at and remain in the entrance halls or public lobbies of the building adjacent to the main entrance thereto, and provided further that no owner of such building shall be in any manner liable or responsible for any injury to any such attendant or for any damage or injury arising out of or resulting from any act or omission of any such attendant or for the payment of any wages or other

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compensation to such attendants. The lobby attendants furnished, operated or maintained by tenants pursuant to this section may consist of or include tenants or other occupants of the multiple dwelling and may include either volunteer or paid personnel or a combination thereof.

2. Any agent, owner or other person who shall unreasonably interfere, hinder, obstruct or prohibit the installation, maintenance and operation of any such lobby attendant or shall unreasonably hinder or interfere with the performance of the duties of such lobby attendant engaged pursuant to this section, shall be guilty of a violation with a maximum fine not to exceed fifty dollars.

§ 51. **Shafts, elevators and dumbwaiters.** 1. Every shaft constructed after April eighteenth, nineteen hundred twenty-nine, in any multiple dwelling shall be enclosed on all sides with fireproof walls and shall have fireproof doors and assemblies at all openings, with the doors self-closing. Dumbwaiter shafts, except those adjoining public halls, may be constructed with walls of gypsum plaster blocks approved by the department, at least two inches thick if solid and at least three inches thick if hollow.

2. All dumbwaiter doors constructed after such date shall be fastened by an interior lock in the shaft operated and controlled from a central point in the cellar or lowest story if there be no cellar.

3. The doors of every elevator shaft constructed after such date shall be provided with an automatic device approved by the department 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 may have a vision panel of wire glass not exceeding one square foot in area.

4. Every elevator installed after such date shall be equipped with a gate with an automatic device approved by the department to prevent the normal operation of such elevator unless such gate is closed.

5. When any elevator or dumbwaiter constructed after such date opens into more than one stair, elevator vestibule or other public hall on any floor, such elevator or dumbwaiter shall be placed in a separate shaft. Not more than three elevators or two dumbwaiters shall ever be placed in the same shaft.

6. Every dwelling erected after such date which exceeds six stories or sixty feet in height shall be equipped with one or more passenger elevators, operative at all times, at least one of which shall be accessible to every apartment above the entrance story.

7. In every multiple dwelling, elevator shafts, not previously enclosed to the satisfaction of the department, shall be enclosed with fireproof walls and shall have fireproof doors and assemblies, with the doors self-closing.

§ 51-a. **Peepholes.** In every multiple dwelling the owner shall provide and maintain a peephole in the entrance door of each housing unit. Such peephole shall be located, as prescribed by the department, but shall be so located as to enable a person in such housing unit to view from the inside of the entrance door any person immediately outside of the entrance door to such housing unit. The provisions of this section shall not apply to hotels or apartment hotels or to college or school dormitories.

§ 51-b. **Mirrors in connection with self-service elevators.** In all multiple dwellings in which there are one or more self-service passenger elevators, there shall, pursuant to such regulations as the department

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shall prescribe, be affixed and maintained in each such elevator a mirror which will enable persons prior to entering into such elevator to view the inside thereof to determine whether any person is in such elevator.

§ 51-c. **Rights of tenants to install and maintain locks in certain entrance doors.** Every tenant of a multiple dwelling, except a tenant of a multiple dwelling under the supervision and control of a municipal housing authority, occupied by him, except as a hotel or motel, or college or school dormitory, shall have the right to install and maintain or cause to be installed and maintained in the entrance door of his particular housing unit in such multiple dwelling, a lock, separate and apart from any lock installed and maintained by the owner of such multiple dwelling, not more than three inches in circumference, as an ordinary incident to his tenancy, provided that a duplicate key to such lock shall be supplied to the landlord or his agent upon his request; and every provision of any lease hereafter made or entered into which reserves or provides for the payment by such tenant of any additional rent, bonus, fee or other charge or any other thing of value for the right or privilege of installing and/or maintaining any such lock, shall be deemed to be void as against public policy and wholly unenforceable.

§ 52. **Stairs.** 1. In every multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, every interior stair, fire-stair and fire-tower and every exterior stair in connection with any dwelling altered or erected after January first, nineteen hundred fifty-one, shall be provided with proper balustrades or railings and all such interior and exterior stairs shall be kept in good repair and free from any encumbrance. Every such stair, fire-stair and fire-tower more than three feet eight inches wide shall be provided with a handrail on each side.

2. The upper surface of every balustrade or railing placed in any stair after April eighteenth, nineteen hundred twenty-nine, shall be at least two feet six inches and at most two feet eight inches above the front edge of the stair treads, and at any stair landing shall be at least two feet eight inches and at most three feet above the level of such landing.

3. The treads and risers of every stair, fire-stair and fire-tower constructed after April eighteenth, nineteen hundred twenty-nine, in any multiple dwelling shall be of uniform height and width in any one flight. Each tread, exclusive of nosing, shall be not less than nine and one-half inches wide; each riser shall not exceed seven and three-quarters 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 most seventy-five.

4. No winding stairs shall be constructed in any multiple dwelling.

5. a. Except as otherwise provided in paragraph b of this subdivision, every stair constructed after April eighteenth, nineteen hundred twenty-nine, leading to a cellar or basement from the first story above shall be entirely enclosed with fireproof walls and be provided with fireproof doors and assemblies at both top and bottom, with the doors self-closing; except that, in a non-fireproof multiple dwelling erected before such date, where such a stair is permitted such enclosing walls may be fire-retarded.

b. When the first floor or a part thereof, in a fireproof multiple dwelling, is used for business purposes, a stair leading to a cellar or basement from such business space shall be enclosed in fireproof walls

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having a fire-resistive rating of at least three hours and be provided with a fireproof door and assembly at the bottom, with the door self-closing. No opening shall be permitted between such business space and the remainder of the dwelling.

6. The department shall have the power to make supplementary regulations relating to fire-towers.

7. In every multiple dwelling erected under plans filed with the department after January first, nineteen hundred sixty, on every story above the entrance story every door opening into such stair shall be so hung and arranged that in opening and when opened it shall at no point reduce the clear and unobstructed required width of the stair or stair landing.

8. The provisions of this section shall not apply to a stair within an apartment provided that each level of the apartment is provided with required means of egress complying with the provisions of this article.

§ 53. **Fire-escapes.** Every fire-escape erected after April eighteenth, nineteen hundred twenty-nine, shall be located, arranged, constructed and maintained in accordance with the following provisions:

1. Access to a fire-escape shall be from a living room or private hall in each apartment or suite of rooms at each story above the entrance story, and such access shall not include any window of a stairhall.

a. Such room or private hall shall be an integral part of such apartment or suite of rooms and accessible to every room thereof without passing through a public hall.

b. When one or more living rooms of any apartment are rented to boarders or lodgers, every such room shall be directly accessible to a fire-escape without passing through a public hall, and for separately occupied living rooms access to fire-escapes shall be direct from such rooms without passing through a public hall or any other separately occupied room, except as may be permitted for dormitories in section sixty-six.

c. Access to any fire-escape shall not be obstructed by sinks or kitchen fixtures or in any other way. Iron bars, grilles, gates, or other obstructing devices on any window giving access to fire-escapes or to a required secondary means of egress shall be unlawful unless such devices are of a type approved by the board of appeals and are installed and maintained as prescribed by the board; provided, however, that in a city having a population of one million or more, such devices shall be of a type approved, installed and maintained as prescribed by the fire commissioner, or as previously approved and prescribed by the board of standards and appeals of such city, except as otherwise provided by said commissioner.

d. Every such fire-escape shall be accessible to one or more exterior doors or windows opening from the room, apartment, suite of rooms or other space which it serves as means of egress, 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.

2. A required fire-escape may be erected in any of the following places:

a. On a wall facing a street or yard;

b. In a court of a non-fireproof multiple dwelling to serve an apartment or suite of rooms which does not contain any room fronting upon a street or yard, or in any inner court thirty-five feet or more in its least horizontal dimension, provided the fire-escape does not project more than four feet from the wall of the dwelling and is

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directly connected at the bottom of such court with a fireproof passageway at least three feet wide and seven feet high leading directly to a street unless the court itself leads to a street;

c. In any outer court eighteen feet or more in width and thirty feet or less in length;

d. In any outer court more than eighteen feet in width the length of which does not exceed its width by more than seventy per centum;

e. In any outer court ten feet or more in width at every point and situated on a lot line;

f. In any outer court seven feet or more in width at every point which is situated on a lot line and extends from a street to a yard;

g. In a recess on the front wall of a multiple dwelling, provided the recess does not exceed five feet in depth, is used solely for fire-escape purposes and has seventy-five per centum or more of its area open to the street, and is otherwise unenclosed and open at the top. No such recess shall be counted as a part of the unoccupied area of the premises or be construed as a court unless its entire area is open to the street.

3. No fire-escape may project more than four and one-half feet into a public highway from the lot line of the multiple dwelling it serves. Every part of such fire-escape shall be at least ten feet above any sidewalk directly below.

4. a. Every fire-escape shall be constructed of open balconies and stairways of iron or stone capable of sustaining a load of at least eighty pounds per square foot. The use or reuse of old materials or cast iron in the construction of fire-escapes shall be unlawful.

b. Balconies for fire-escapes shall be three feet or more in clear width except that a party-wall balcony as permitted by paragraph f of subdivision one of section one hundred eighty-seven may be two feet in clear width.

c. Every stairway shall be placed at an angle of sixty degrees or less with flat open 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.

5. a. There shall be provided from the lowest balcony a drop ladder fifteen inches in width and of sufficient length to reach to a safe landing place beneath. Such ladder shall be constructed, located and arranged so as to be held in proper position at all times and, unless properly counter-balanced, shall be placed in guides so that it can be easily lowered.

b. The distance from the lowest balcony to the ground or safe landing place beneath shall be not more than sixteen feet, except that the department may permit such lowest balcony to be up to eighteen feet above a public sidewalk because of structural conditions in any multiple dwelling erected before April eighteenth, nineteen hundred twenty-nine.

c. No drop ladder shall be required where the distance from the lowest balcony to a safe landing place beneath is five feet or less.

6. The balcony on the top story shall be provided with a stairway or a gooseneck ladder from such balcony to and above the roof and securely fastened thereto, except that no such stairway or ladder shall be required:

a. On multiple dwellings two stories or less in height erected after April eighteenth, nineteen hundred twenty-nine; or

b. Wherever there is a peak roof with a pitch in excess of twenty degrees;

c. When the fire-escape is on the front of the dwelling, in a recess

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on the front of the dwelling, or on an outer court opening to a street.

7. Every fire-escape if constructed of material subject to rusting shall be painted with two or more coats of good paint in contrasting colors; in the case of a new fire-escape the first coat before erection, and the second coat after erection. Whenever a fire-escape becomes rusty, the owner shall repaint it with two additional coats of good paint.

8. a. Whenever a non-fireproof multiple dwelling is not provided with sufficient means of egress in case of fire, the department may order such additional fire-escapes or balconies as in its judgment may be deemed necessary.

b. The owner of a multiple dwelling shall keep and maintain every fire-escape thereon in good order and repair.

c. No person shall at any time place any encumbrance of any kind before or upon any fire-escape, or place or keep a cover of any kind over the stairway opening in a balcony of such fire-escape. An occupant or tenant of a multiple dwelling who shall violate or assist in the violation of the provisions of this paragraph shall be guilty of a misdemeanor punishable as provided in section three hundred four.

9. No fire-escape shall be removed from or constructed on any existing multiple dwelling without permission from the department. No fire-escape shall be removed from any apartment without due precaution against leaving occupants of such apartment without adequate means of egress in case of fire. A wire, chain cable, vertical ladder or rope fire-escape is an unlawful means of egress. Every such fire-escape, if required as a means of egress, shall be removed and replaced by a system of fire-escapes constructed and arranged as provided in this section.

10. The department shall have the power to make supplementary regulations relating to fire-escapes.

§ 54. **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 erected after April eighteenth, nineteen hundred twenty-nine, except that in non-fireproof multiple dwellings erected after such date which are three stories or less in height and occupied by not more than two families on any story, 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. No such outside entrance existing in any multiple dwelling on April eighteenth, nineteen hundred twenty-nine, shall be obstructed.

§ 55. **Wainscoting.** 1. Whenever the surface of walls, partitions or ceilings in any apartment or suite of rooms of any non-fireproof multiple dwelling is covered, sheathed or wainscoted wholly or in part after April eighteenth, nineteen hundred twenty-nine, such covering shall be backed solidly with plaster. In fireproof multiple dwellings such covering shall be backed solidly and continuously or filled with incombustible material. In the case of walls and partitions in fireproof dwellings, such backing and filling shall extend to the fireproof floor construction and in non-fireproof dwellings to the floor beams. All such backing and filling shall be fire-stopped.

2. No wood wainscoting other than fireproofed wood complying with the provisions of section fifty-eight shall be erected in any public hall, stair or shaft of any multiple dwelling.

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§ 56. **Frame buildings and extensions.** 1. Except as provided in section one hundred ninety-three and subdivision seven of this section, no frame multiple dwelling shall be erected and no frame dwelling not used as a multiple dwelling on April eighteenth, nineteen hundred twenty-nine, shall be altered or converted to such use or occupancy.

2. No existing frame multiple dwelling shall be increased in height nor shall it be altered to permit a greater occupancy on any story than provided for on April eighteenth, nineteen hundred twenty-nine; except that, if the walls of such a frame dwelling are faced with brick veneer or with another material or combination of materials having a fire resistive rating of at least one hour, and the entrance story thereof is occupied by not more than one family, such entrance story may be altered so that it may be occupied by not more than two families.

3. No frame building of any kind whatsoever shall be placed or built upon the same lot with any multiple dwelling.

4. No multiple dwelling shall be placed or built upon the same lot with any frame building.

5. No frame multiple dwelling, no wooden structure of any kind or class on the same lot with any frame dwelling or with any multiple dwelling, and no other building on the same lot with any frame dwelling, shall be altered or converted so as to be enlarged, extended or increased in height or bulk or in the number of rooms, apartments or dwelling units therein; except that:

a. An extension seventy square feet or less in ground area the side walls of which are of frame and brick filled or of masonry construction may be added to any existing frame multiple dwelling if used solely for bathrooms or waterclosets; and

b. An extension constructed with fireproof walls may be made to a frame building if the first story of such extension is used solely for business not prohibited by any local law or ordinance, or if such extension contains not more than one living room on any story. No yard or court shall be diminished by such extension so that its area or least dimension is less than required by this chapter for a yard or court of a multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine.

6. None of the provisions of this section shall apply to dwellings erected under the provisions of article five-a of this chapter.

7. In any city the department may approve for any such dwelling three stories or less in height, the alteration and conversion of that portion of said dwelling used as a store or other non-residential use to no more than one additional dwelling unit; provided, however, that: (a) such space has been vacant for at least one year, and (b) such space has a minimum of three hundred square feet of floor area, and (c) the conversion must be for a class "A" use, and (d) said unit shall contain a cooking space and a complete bathroom, and (e) all walls and ceilings of the new dwelling unit shall be fire-retarded with one hour rated fire-retarding materials, and (f) the height and bulk of the dwelling shall not be increased, and (g) the dwelling will be in full compliance with this chapter and other related and local ordinances, except that the owner of said dwelling shall be entitled to consideration for variances permitted in subdivision one and subparagraph five of paragraph a of subdivision two of section three hundred ten of this chapter for multiple dwellings and buildings existing prior to November first, nineteen hundred forty-nine.

§ 57. **Bells; mail receptacles.** 1. Whenever bells are installed at the entrance to any multiple dwelling or at any door of an individual

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apartment in a multiple dwelling, they shall be kept in good working order.

2. Whenever the owner of a multiple dwelling has not arranged for mail to be delivered to occupants thereof by himself, his agent or employees, arrangements shall be made for the delivery of such mail in conformity with regulations of the post office department.

§ 58. **Incombustible materials.** Except as may be specifically provided otherwise in this chapter, all required incombustible materials, including fireproofed wood, shall be capable of withstanding successfully standard fire tests as prescribed by the building code. In the absence of any such prescribed requirements, the department shall have the power to make supplementary regulations relative to standard fire tests for incombustible materials.

§ 59. **Bakeries and fat boiling.** 1. It shall be unlawful to construct or maintain a bakery or a place of business where fat is boiled in any non-fireproof multiple dwelling or upon the lot on which such dwelling is situated, unless the ceiling, side walls and all exposed iron or wooden beams, girders and columns within the said bakery or business place where fat is boiled, are covered with fireproof materials.

2. There shall be no door, window, dumbwaiter shaft or other opening between such a bakery or business place where fat is boiled and any other part of the dwelling, except that:

a. There may be access to the public parts of the dwelling from any bakery maintained therein if the product of such bakery is consumed exclusively within such dwelling.

b. In a fireproof hotel where a retail bakery is maintained therein, there may be access to the public parts of the hotel, provided the door openings leading thereto from such bakery and the door assemblies are fireproof with the doors self-closing, and provided the public parts of such bakery premises are protected by one or more sprinkler heads.

c. In bakeries in which no fat is boiled and on the premises of which there is no apparatus for fat boiling, a dumbwaiter communicating between the place where the baking is done and a bakery store above may be maintained if entirely enclosed in a brick shaft with walls eight inches or more in thickness, without any openings whatever except one door opening into the bakeshop and one into the bakery store. Every such opening shall be provided with a fireproof door and assembly so arranged that when one door is open, the other is entirely closed.

3. Every part of a bakery, its plumbing, and the yards and open spaces adjoining shall be kept in good repair, in sanitary condition and free from rodents and vermin.

§ 60. **Motor vehicle storage.** A space may be provided and maintained in any multiple dwelling or upon the premises thereof, or a structure may be erected and maintained at the rear or side thereof, for the storage of passenger motor vehicles but only with a written permit therefor when required by local law and in accordance with every applicable local law, ordinance, resolution, code provision or regulation and with the following provisions:

1. a. It shall be unlawful to sell, store, handle or furnish gasoline, oil or other fuel, or any article, accessory or service except storage, or to construct or maintain repair or grease pits in any such space or structure. The provisions of this section shall not prevent the keeping of such gasoline, oil or other fuel as may be contained in the tank of any such motor vehicle, and the cleaning or washing of such motor

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vehicles.

b. Such space or structure shall be used solely for the storage of passenger motor vehicles of the occupants of the multiple dwelling or of multiple dwellings under common ownership, except that, in the event such space or structure or part thereof is not used by such occupants, it may be rented by the owner or owners of such dwelling or dwellings to persons other than the occupants thereof. The space which has thus been rented shall be made available to an occupant within thirty days after written request therefor. Except as otherwise provided in paragraph d herein transient parking for any period of less than one month by non-occupants is unlawful. However, such space may be used also for the storage of any type of mechanical or motor-driven equipment or other accessory device or passenger bus required for the proper maintenance of the site and of the dwellings thereon.

c. If any of the provisions contained in paragraphs a and b of this subdivision is violated, the department charged with the enforcement of this chapter or the fire department shall order and direct that no motor vehicle may be stored or kept in such space or structure thereafter for such period as either department shall determine, and thereupon the permit shall be suspended and no motor vehicle shall be stored or kept in such space or structure for such period.

d. A city may, by local law or ordinance, or the duly constituted planning or appeal board or commission of a city may by granting an approval, exception or variance, authorize transient parking for any period of less than one month of motor vehicles in dwellings by non-occupants in any space that is not let to an occupant pursuant to the other provisions of this section. Such city may require a license and impose a fee therefor, and adopt supplementary rules, regulations and conditions under which such parking shall be permitted.

2. a. Every such space or structure shall be designed and constructed to accommodate not more than two passenger motor vehicles for each family in such multiple dwelling.

b. Such space or structure shall have a floor area within its enclosing walls not greater than three hundred square feet per vehicle for each such family, including car parking spaces and aisles.

c. Every such storage space or structure shall be fireproof throughout, except that any extension of such storage space or structure beyond the exterior walls of a fireproof dwelling not exceeding one story in height and any separate structure on the same lot as a fireproof dwelling may be of incombustible material with a fire-resistive rating of at least two hours, if such extension or separate structure complies with the provisions of paragraph e of this subdivision.

d. When constructed within a multiple dwelling such storage space shall be equipped with a sprinkler system and also with a system of mechanical ventilation in no way connected with any other ventilating system. Such storage space shall have no opening into any other part of the dwelling except through a fireproof vestibule. Any such vestibule shall have a minimum superficial floor area of fifty square feet and its maximum area shall not exceed seventy-five square feet. It shall be enclosed with incombustible partitions having a fire-resistive rating of three hours. The floor and ceiling of such vestibule shall also be of incombustible material having a fire-resistive rating of at least three hours. There shall be two doors to provide access from the dwelling to the car storage space. Each such door shall have a fire-resistive rating of one and one-half hours and shall be provided with a device to prevent the opening of one door until the other door is entirely closed. One of

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these doors shall swing into the vestibule from the dwelling and the other shall swing from the vestibule into the car storage space. The door from the vestibule to the dwelling shall be at least twenty feet distant in a non-fireproof dwelling or twelve feet in a fireproof dwelling from any stair enclosure, elevator shaft, or any opening to any other vertical shaft. Such vestibule shall also be equipped with sprinklers and with an exhaust duct having a minimum cross-sectional area of one hundred forty-four square inches and shall not be connected with any other ventilating system.

e. Such storage space may be extended beyond the exterior walls of a fireproof dwelling without any separating walls between its interior and exterior portion provided that such extension is roofed over and equipped with sprinklers throughout. Such extension shall be open to the outer air on at least two sides and in no event shall more than fifty percent of its vertical surface area be enclosed in any manner. Any such extension shall not be deemed to be a storage space within a multiple dwelling. Any enclosed sub-surface space beneath such an extension shall however, comply with all the provisions of this section applicable to storage space within a multiple dwelling. Any portion of such extension of storage space or of a separate structure for such storage purposes appurtenant to a multiple dwelling which face any dwelling within a distance of twenty feet therefrom or which is within thirty feet of any living room window of any dwelling shall be unpierced except for door openings for vehicles. A separate structure for such storage purposes appurtenant to a multiple dwelling may adjoin such dwelling provided that the part of the wall separating such space from the dwelling is fireproof and unpierced, except by a fireproof vestibule as provided in subdivision d. Such extension or separate structure shall be adequately screened at grade level. That part of the roof of an extension within thirty feet of any living room window of any dwelling shall not be used for parking or storage of motor vehicles or the ingress thereto or egress therefrom by motor vehicles.

f. Any such structure one story in height or any extension of a storage space within a multiple dwelling beyond the exterior wall of such dwelling where such extension is one story in height, shall not be deemed an encroachment upon a yard or its equivalent or a court. Any such structure or extension in excess of such height shall be deemed an encroachment thereupon.

g. In a completely enclosed storage structure or a storage space within a multiple dwelling except for vehicle entrance doors, all doors, windows and their assemblies in the exterior walls of any such space or structure accommodating more than five motor vehicles shall be fireproof and such windows shall be either fixed windows or automatic fire windows and glazed with wire glass. Any door or vehicle entrance to such space or structure accommodating more than five motor vehicles shall be at least twenty feet distant from any door giving access to any required entrance hall from outside of the dwelling and shall be at least eight feet distant from any other entrance or exit of such dwelling. However, in such space the windows in an exterior wall which faces the street may be of incombustible material and be glazed with plain glass, provided that such windows are thirty feet or more, measured in a horizontal direction, from any opening in the exterior wall of the dwelling.

h. Notwithstanding any other provision of this section when such storage space or structure is designed and constructed within or appurtenant to a converted dwelling to accommodate not more than three motor vehicles, (1) the ceiling and the enclosing walls may be of materials having a fire-resistive rating of not less than one hour and

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the floors shall be fireproof; (2) only one opening shall be permitted in the enclosure partition between the garage and the dwelling and such opening shall be protected by a fireproof door and assembly with the door self-closing; (3) a sprinkler system for such space shall not be required; and (4) in lieu of mechanical ventilation, such space may have fixed ventilation of not less than one hundred and forty-four square inches for each motor vehicle.

3. The agency of a city authorized by law to make rules supplemental to laws regulating construction, maintenance, use and area of buildings and to grant variances of the zoning resolution shall have the power to make rules to supplement the requirements of this section and, after public hearing, may grant variances of local laws, resolutions, code provisions or regulations which are more restrictive than the provisions of this section, subject to such conditions as, in the opinion of such agency, will best promote health, safety and welfare and carry out the permissive intent of this section. All owners of property within a radius of one hundred fifty feet of the entrance or entrance passage to such space or structure shall be duly notified of any such public hearing and shall be given due opportunity to be heard thereon. Nothing in this section shall be deemed to prohibit the use of a part of such lot or plot as a parking area for the exclusive use of the occupants of such dwelling.

4. No parking area or space to be used for the storage of motor vehicles upon the premises of a multiple dwelling shall encroach upon any part of the lot or plot which is required by any provision of this chapter to be left open and unoccupied.

5. None of the provisions of this section shall be construed as permitting such space or structure or part thereof to be rented or leased for the storage or warehousing of passenger or commercial type of motor vehicles, which are part of stock of any person, firm or corporation engaged in the purchase, sale or rental of such motor vehicles.

§ 61. **Business uses.** 1. Except as may be otherwise provided by any local law, ordinance, rule or regulation, business may be conducted in any multiple dwelling including:

a. Baking and fat-boiling as provided in section fifty-nine,
b. Storage of passenger motor vehicles as provided in section sixty,
and

c. Any manufacturing business in which seven or more persons are employed, or any employment agency as defined in section one hundred seventy-one of the general business law other than a non-profit employment agency in a fireproof class B multiple dwelling owned and occupied by a non-profit corporation organized for and engaged exclusively in promoting religious, education or philanthropic purposes, provided that every means of egress from such a business space shall be separate and distinct from and without means of communication with any means of egress from the dwelling portion of the building.

2. The number of means of egress from the portion of any multiple dwelling where business is conducted shall be in conformity with those provisions of the local laws, ordinances, rules and regulations covering means of egress from buildings in which a like business is conducted.

3. There shall be no manufacturing business conducted above the second floor of any non-fireproof multiple dwelling.

4. Where business is conducted in any multiple dwelling erected before April eighteenth, nineteen hundred twenty-nine, such business space shall also comply with all the following requirements in a manner which

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the department shall deem adequate to prevent the spread of fire:

a. Within or appurtenant to such space, all pipe chases and openings around flues shall be fire-stopped, and such flues shall be kept in good order and repair.

b. All other openings from such space into non-fireproof shafts or into entrance halls shall either be sealed with fire-retarded material or equipped with a self-closing fire-retarded door or window with fire-retarded assemblies.

5. Where business is conducted in any non-fireproof multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, the walls and ceiling of such business space shall be fire-retarded. The department may also require the walls and ceilings of any business space in any multiple dwelling erected before such date to be fire-retarded when the department shall deem such requirement necessary for the protection of the occupants.

6. If the ground story of any non-fireproof multiple dwelling is extended for business purposes, the underside of the roof of such extension shall be fire-retarded. If there are fire-escapes above such extension, its roof shall be fireproof.

§ 62. **Parapets, guard railings and wires.** 1. Every open area of a roof, terrace, areaway, outside stair, stair landing, retaining wall or porch and every stair window of a multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, shall be protected in a manner approved by the department by a parapet wall or a guard railing three feet six inches or more in height above the level of such area, or, in the case of a stair window, above the level of the floor adjacent thereto, unless the department shall deem that such protection is not necessary for safety. In any multiple dwelling where a bulkhead door or scuttle cover opens within four feet of the edge of the roof, that part of the roof which is immediately adjacent to such door or cover shall be adequately protected. Such protection shall consist of guard rails or parapet walls extending at least three feet six inches above the level of the roof, and shall be arranged and placed in a manner approved by the department, but shall not be required for such bulkhead door or scuttle cover when the bulkhead or scuttle on such dwelling is immediately adjacent to, and also on the same level as or on a lower level than, the roof of a contiguous building. This subdivision shall not apply to the open area of a roof of a garden-type maisonette dwelling project.

2. All radio, antennae or other wires over any roof shall, unless otherwise permitted by the department, be kept ten feet or more above such roof, and no radio, television antennae or other wires shall be attached to any fire escape or to any soil or vent line extending above the roof.

§ 63. **Sub-curb uses.** 1. When any living room is below the level of the highest curb in front of any multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, in accordance with the provisions of paragraph f of subdivision one of section thirty-four, all portions of such dwelling below such level shall be fireproof throughout except that windows therein need not be fireproof but shall be of incombustible material and may be glazed with plain glass.

2. Except in multiple dwellings which do not exceed eighty feet in height measured from the lowest point of any curb on which any part of the dwelling faces, at least one means of egress from any apartment or suite of rooms below the level of the highest curb in front of such a

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dwelling shall lead directly to the street in front of said dwelling and at least one such means to the yard or street in the rear of said dwelling. Every yard in the rear of every such multiple dwelling, regardless of the height of such dwelling, shall at the lowest level of such yard be provided with a fire passage in compliance with the requirements for such a passage in paragraph f of subdivision five of section twenty-six.

3. Notwithstanding any other provisions of this section the department may require such additional means of egress from the said dwelling or protection from fire as the department may deem necessary for the safety of the occupants.

§ 64. **Lighting; gas meters; gas and oil appliances.** 1. Every multiple dwelling after July first, nineteen hundred fifty-five, shall be adequately equipped throughout all stories and cellars for lighting by gas or electricity, with proper fixtures at every light outlet, including lighting for all means of egress leading to the street, yards or courts, and for every room, water-closet compartment, bathroom, stair or public hall.

2. No gas meter, other than a replacement meter, installed in a multiple dwelling after July first, nineteen hundred fifty-five, shall be located in any boiler room or other room or space containing a heating boiler, nor in any stair hall, nor in any public hall above the cellar or above the lowest story if there is no cellar, except that in any multiple dwelling where there is an existing gas meter located in any boiler room or other room or space containing a heating boiler, one additional gas meter may be installed in such room or space, provided such additional gas meter is installed adjacent to such existing gas meter and is used in conjunction with the supply of gas for a gas-fired heating boiler or a gas-fired water heater used as a central source of supply of heat or hot water for the tenants residing in such multiple dwelling. Such additional gas meter may be installed only upon condition that space heaters or hot water appliances in the apartments are eliminated. For the purposes of this subdivision, the term "gas meter" shall not include any instrument, device or apparatus used to measure the consumption of gas where no gas, manufactured, natural or mixed, is contained in or flows through such instrument, device or apparatus, provided that such instrument, device or apparatus is approved by and installed under the supervision of the city agency vested by law with jurisdiction to inspect and test wiring and appliances for electric light, heat and power and provided further that the location of such instrument, device or apparatus is approved by the department.

3. It shall be unlawful to place, use, or to maintain in a condition intended, arranged or designed for use, any gas-fired cooking appliance, laundry stove, heating stove, range or water heater or combination of such appliances in any room or space used for living or sleeping in any new or existing multiple dwelling unless such room or space has a window opening to the outer air or such gas appliance is vented to the outer air. All automatically operated gas appliances shall be equipped with a device which shall shut off automatically the gas supply to the main burners when the pilot light in such appliance is extinguished. A gas range or the cooking portion of a gas appliance incorporating a room heater shall not be deemed an automatically operated gas appliance. However, burners in gas ovens and broilers which can be turned on and off or ignited by non-manual means shall be equipped with a device which shall shut off automatically the gas supply to those burners when the operation of such non-manual means fails. All gas appliances shall be

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connected directly to the gas supply by means of rigid piping or other approved connectors or connections of incombustible materials. All such automatically operated gas appliances and devices shall be approved by the local agency empowered to grant the same.

4. It shall be unlawful to use, or to maintain in a condition intended, arranged or designed for use, in any multiple dwelling any oil-burning equipment for heating or cooking, unless such equipment has been approved for design, manufacture and appropriate safety and ventilating requirements by the local board of standards and appeals; provided, however, that in a city having a population of one million or more, approval of such equipment for use in any multiple dwelling shall be made by the commissioner of buildings or the fire commissioner, as appropriate, in accordance with local law.

5. All appliances in use after June thirtieth, nineteen hundred fifty-five, shall conform to the provisions of subdivisions three and four of this section except that appliances now in use shall conform to such provisions not later than June thirtieth, nineteen hundred fifty-six.

§ 65. **Boiler rooms.** 1. Except as hereafter provided, in every multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, which is four stories or more in height the boiler shall be enclosed in a room or space constructed with fireproof walls extending from the floor construction to the ceiling construction, and all openings therefrom to other portions of the dwelling shall be equipped with fireproof doors and assemblies with the doors self-closing. However, in all multiple dwellings, on and after January first, nineteen hundred sixty-six, a room or space provided with a central heating plant shall be completely enclosed with incombustible materials having a standard fire-resistive rating of at least one hour.

2. In such a dwelling access to a cellar or lowest story in which a boiler is located shall not be through any boiler room, nor shall any cellar or basement stair or any shaft be installed within a boiler room.

3. The department shall have the power to make supplementary regulations relating to boiler or furnace rooms.

§ 66. **Lodging houses.** 1. It shall be unlawful to occupy any lodging house unless such dwelling conforms to the provisions of the specific sections enumerated in section twenty-five to the extent required therein, including the provisions of this section, and to all other applicable provisions of this chapter.

2. a. No wood or other combustible facing shall be permitted on the walls, partitions or ceilings of entrance halls or other public halls or stairs, except a flat baseboard ten inches or less in height. The stair string, handrails, soffits, fascias, railings, balustrades and newel posts shall be constructed of hard incombustible material and shall be of such sizes and secured in such manner as approved by the department.

b. The walls and ceilings of all entrance halls, stair halls and other public halls and stairs shall be fire-retarded on the hall or stair side with half-inch plaster board covered with twenty-six gauge metal or other materials approved by the department.

c. Except partitions forming existing cubicles, flat baseboards not more than ten inches high and door and window assemblies not otherwise required to be fire-retarded, all wood partitions and all combustible coverings on walls or partitions throughout the portion of the dwelling used for lodging-house purposes shall be protected with incombustible material approved by the department.

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d. The cellar ceiling and the ceiling of every story shall be fire-retarded. The department may accept an existing ceiling if it is in good condition and plastered, or covered with metal or with half-inch plaster board covered with metal, or other materials approved by the department, except that the ceiling over and the floor beneath any furnace, stove, boiler or hot-water heater shall be fire-retarded and such fire-retarding shall extend for a distance of at least four feet beyond the sides and rear and eight feet in front of such furnace, stove or heater. Metal breechings and flues connected to such devices shall be made secure and be protected in conformity with regulations adopted by the department.

e. Every window not opening to the outer air in an entrance, stair or other public hall shall be removed, and the opening closed and fire-retarded, except that interior windows or similar openings in partitions forming the enclosure of entrance, stair or other public halls may be retained if they are used in the operation and maintenance of the lodging house and are protected by automatic fire windows.

f. There shall be one or more completely enclosed compartments remote from any stairway for the storage of mattresses, linens, brooms, mops and other paraphernalia incidental to the occupancy and maintenance of the lodging house, and such paraphernalia shall be stored in no other portion of such dwelling. The partitions forming each such compartment shall be fire-retarded and shall be provided with a fireproof door and door assembly with the door self-closing. Each such compartment shall be ventilated in accordance with regulations adopted by the department. Any space which is used for the storage of mattresses, in addition to conforming to the other provisions of this section, shall be provided with a window ten square feet or more in area, and such window shall open upon a street or yard.

g. There shall be provided on each lodging-house story one or more containers of metal or other hard incombustible material, with self-closing lids, in which all scrap and refuse of a combustible nature shall be placed until its disposal.

h. Insecticides and other fluids containing inflammable, volatile or combustible material shall be stored in a completely enclosed fire-retarded room or compartment, ventilated in accordance with regulations adopted by the department, and only under authority of a permit from the fire department.

3. a. In non-fireproof lodging houses there shall be in all dormitories, entrance and other public halls, stairs, storage rooms, cellars and other parts of the dwelling an automatic wet-pipe sprinkler system, installed and maintained in conformity with regulations adopted by the department. In connection with such sprinkler system there shall be an automatic closed-circuit alarm system so arranged and installed as to give warning, at a recognized central station satisfactory to the fire department, of the closure of any valve controlling water supply to any of the sprinklers and of the operation of any sprinkler head. Such alarm system shall also be so installed and maintained that when a sprinkler operates an alarm bell satisfactory to the fire department, eight inches in diameter or at least capable of being heard clearly throughout the room, will sound in each dormitory and in the office of the lodging house, and that such alarm system can also be operated manually. Such sprinkler and alarm systems shall have supervisory and maintenance service satisfactory to the department and the fire department respectively. Any existing fire alarm or sprinkler system which can be altered or adapted to meet the requirements of this paragraph may be so used instead of a completely new system.

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b. In fireproof lodging houses all dormitories, entrance and other public halls, stairs, storage rooms, cellars and other parts of the dwelling shall either be equipped with a combined sprinkler and fire alarm system as required for the lodging houses provided for in paragraph a or be equipped throughout with an automatic, thermostatic, closed-circuit fire alarm system. Such alarm system shall be so arranged and installed that it can also be operated manually and that it will give warning, at a recognized central station satisfactory to the fire department, of the operation of any part of the alarm system. Such alarm system shall also be so installed and maintained as to actuate an alarm bell satisfactory to the fire department and at least eight inches in diameter in each dormitory in the dwelling and in the lodging-house office when the alarm system operates. Such alarm system shall have supervisory and maintenance service satisfactory to the fire department.

4. a. There shall be at least two means of unobstructed egress from each lodging-house story, which shall be remote from each other. The first means of egress shall be to a street either directly or by an enclosed stair having unobstructed, direct access thereto. If the story is above the entrance story, the second means of egress shall be by an outside fire-escape constructed in accordance with the provisions of section fifty-three or by an additional enclosed stair. Such second means of egress shall be accessible without passing through the first means of egress.

b. All doors opening upon entrance halls, stair halls, other public halls or stairs or elevator, dumbwaiter or other shafts, and the door assemblies, shall be fireproof with the doors made self-closing by a device approved by the department, and such doors shall not be held open by any device whatever. All openings on the course of a fire-escape shall be provided with such doors and assemblies or with fireproof windows and assemblies, with the windows self-closing and glazed with wire glass, such doors or windows and their assemblies to be acceptable to the department.

c. There shall be unobstructed aisles providing access to all required means of egress in all dormitories. Main aisles, approved as such by the department to provide adequate approaches to the required means of egress, shall be three feet or more in width, except that no aisle need be more than two feet six inches wide if it is intersected at intervals of not more than fifty feet by crossover aisles at least three feet wide leading to other aisles or to an approved means of egress.

d. Every required means of egress from the lodging-house part of the dwelling shall be indicated by a sign reading "EXIT" in red letters at least eight inches high on a white background illuminated at all times during the day and night by a light of at least twenty-five watts or equivalent illumination. Such light shall be maintained in a keyless socket. On all lodging-house stories where doors, openings, passageways or aisles are not visible from all portions of such stories, and in other parts of the dwelling which may be used in entering or leaving the lodging-house part and in which a similar need exists, signs with easily readable letters as least eight inches in height, and continuously and sufficiently illuminated by artificial light at all times when the natural light is not sufficient to make them easily readable, shall be maintained in conspicuous locations, indicating the direction of travel to the nearest means of egress. At least one such sign shall be easily visible from the doorway of each cubicle.

e. Access from the public hall at the top story to the roof shall be provided by means of a bulkhead or a scuttle acceptable to the department. Every such scuttle and the stair or ladder leading thereto

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shall be located within the stair enclosure.

5. The number of persons accommodated on any story in a lodging house shall not be greater than the sum of the following components.

a. Twenty-two persons for each full multiple of twenty-two inches in the smallest clear width of each means of egress approved by the department, other than a fire-escape.

b. Twenty persons for each lawful fire-escape accessible from such story if it is above the entrance story.

6. Existing cubicles complying with all other provisions of this section may be maintained, provided the top of the enclosure of every cubicle is at least two feet from the ceiling. Any rearrangement of existing cubicles that may be made necessary by the provisions of this section shall be lawful. Cubicles authorized by this section shall not be considered rooms or alcoves but parts of the rooms in which they are constructed.

7. The department shall cause all lodging houses to be inspected at intervals of three months or less. All sections and parts of every lodging house shall also be inspected by a clerk or watchman in the employ of the owner at least once in every two hours.

8. a. The department shall have power to make supplementary regulations relating to fire-escapes, protection from fire, and the installation of sprinkler systems in lodging houses and the fire department shall have power to make such regulations relating to fire alarms therein.

b. Nothing in this section shall be deemed to abrogate any powers or duties vested in the fire commissioner or the fire department of the city of New York by chapter nineteen of the administrative code of the said city.

§ 67. **Hotels and certain other class A and class B dwellings.** 1. It shall be unlawful to occupy any class A or class B multiple dwelling, including a hotel, unless it conforms to the provisions of the specific sections enumerated in section twenty-five to the extent required therein, including the applicable provisions of this section and all other applicable provisions of this chapter except that the provisions of this section shall not apply to:

a. Converted dwellings;

b. Tenements;

c. Lodging houses;

d. Class A multiple dwellings erected under plans filed with the department after April eighteenth, nineteen hundred twenty-nine.

2. Any such multiple dwelling, altered or erected after April fifth, nineteen hundred forty-four, and which is required to conform to the provisions of articles one, two, three, four, five, eight, nine and eleven, shall not be required to conform to the provisions of subdivisions three, six, nine and ten of this section.

3. 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 dumb-waiter, elevator, and, except as provided in paragraph d of subdivision six, every other shaft, including stairs, connecting more than two successive stories, shall be sealed off from every other portion of the dwelling with fire-retarding materials approved by the department, or, in lieu thereof, except in the case of elevator shafts, shall be equipped with one or more automatic sprinkler heads. Nothing contained herein shall be deemed to exempt from enclosure an interior required means of egress. The provisions of this subdivision and similar requirements of section sixty-one shall not apply to a store or space

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used for business on any story where there are no sleeping rooms, when such store or space is protected with sprinkler heads.

4. 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 one or more automatic sprinkler heads. Every door from any such compartment shall be self-closing. 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 subdivision.

5. All kitchens and pantries serving restaurants in such non-fireproof dwellings shall be equipped with one or more automatic sprinkler heads.

6. Except in fireproof class A multiple dwellings erected under plans filed after January first, nineteen hundred twenty-five, and which were completed before December thirty-one, nineteen hundred thirty-three, and except as otherwise provided in paragraph c of this subdivision, in every such dwelling three or more stories in height there shall be from each story at least two independent means of unobstructed egress located remote from each other and accessible to each room, apartment or suite.

a. 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 never be accepted as a required means of egress.

b. The second means of egress shall be by an additional enclosed stair conforming to the provisions of paragraph a of this subdivision, a fire-stair, a fire-tower 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 protected by one or more sprinkler heads; in a fireproof dwelling only that part of the hall or corridor leading to such stair enclosure need be so protected.

c. Where it is impractical in such existing dwellings to provide a second means of egress, the department may order 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 one or more automatic sprinkler heads, and, in non-fireproof dwellings, may also require automatic sprinkler heads in the stair which serves as the only means of egress.

d. 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.

e. A stair, fire-stair, fire-tower or fire-escape which is supplementary to the egress requirements of paragraphs a, b and c of

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this subdivision 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. All doors opening from shafts, stair halls or stairs and the door assemblies shall be fire-resistive with the doors self-closing and without transoms or any other opening.

b. All other doors opening upon entrance halls or other public halls or corridors in every part of the dwelling shall be self-closing. In non-fireproof dwellings any existing openings in such doors, except in doors to public toilet rooms or bathrooms, shall be closed and sealed in such manner as to provide a fire-resistive rating equal to the fire-resistive rating of the remainder of the door. Except as provided in this paragraph, any existing transoms over such doors in such non-fireproof dwellings shall be firmly secured in a closed position, or removed and the openings closed, in a manner satisfactory to the department. If such doors or transoms are glazed with plain glass, such glass shall be removed and replaced with wire glass one-quarter of an inch in thickness or replaced with material approved by the department. In non-fireproof dwellings existing transoms or ventilating louvres in public halls or corridors, and any openings in partitions separating sleeping rooms from public halls or corridors to provide ventilation, need not be replaced, closed or sealed provided such public halls or corridors are protected by automatic sprinkler heads. When existing ventilating louvres are located in the lower half of any such door they may be retained and new ventilating louvres may be installed in the lower half of any new or existing doors provided the openable area of every such louver does not exceed one hundred forty-four square inches and the bottom of the opening is one foot or more above the finished floor of the public hall or corridor upon which such door opens and, in such case, no sprinkler system shall be required.

c. Every existing interior glazed sash, window or opening, other than a door, in any partition forming required enclosures around stairs or shafts shall be removed and the openings closed up and fire-retarded. Where an existing sash provides borrowed light to a public hall or corridor from a living room and there is no glass panel in the door providing access to such room, such sash shall be made stationary in a closed position and be glazed with wire glass one-quarter inch in thickness, or be entirely removed and the opening closed up with incombustible material.

d. All openings which provide direct access to a fire-escape from a public hall or corridor shall be equipped with fireproof doors and assemblies with the door self-closing or fireproof windows glazed with clear wire glass. Doors providing access to fire-escapes from public halls or corridors may be glazed with clear wire glass.

e. 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.

8. a. (i) 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, lighted or reflective 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. In addition to being posted in

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conspicuous locations, such signs located near the floor, giving direction to the nearest means of egress, shall also be maintained. 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 subdivision. Supplementary stairs, fire-stairs, fire-towers 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, fire-tower 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.

b. On each floor of every hotel or motel having two or more stories where the rooms or suites of rooms 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.

9. The ceiling of the story immediately below the entrance story shall be fire-retarded or be equipped with one or more sprinkler heads. Any boiler or furnace room within the dwelling used in connection with supplying heat or hot water 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 one or more sprinkler heads.

10. a. There shall be provided in the roof directly over each stair, fire-stair, fire-tower, dumb-waiter, elevator or similar shaft which extends to or within one story of a roof, a ventilating metal skylight having horizontal dimensions equal at least to seventy-five per centum 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 paragraph, 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.

b. Whenever there is a flooring of solid construction at the top of any enclosed stair, fire-stair, fire-tower, 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.

c. 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.

11. a. There shall be a fire-retarded 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

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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 such dwellings two stories or less 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.

b. 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.

c. A bulkhead door or scuttle shall never be self-locking and shall be fastened on the inside with movable rustproof bolts, hooks, or a lock which does not require a key to open from the inside of the dwelling.

d. Bulkheads and stairs leading thereto existing on April fifth, nineteen hundred forty-four, shall be permitted provided the stairs have such angle of ascent and treads of such dimensions as may be approved by the department.

12. In every such dwelling containing thirty or more rooms used for living or sleeping purposes by transient occupants there shall be a closed-circuit interior fire alarm system. Such alarm system shall be so installed and maintained that it can be operated manually from any story to sound an alarm or alarms capable of being heard clearly in all parts of the dwelling. Such alarm system shall be installed, arranged and maintained in a manner satisfactory to the fire department.

13. When the local building code requires a standpipe system such system shall comply with all of the applicable requirements of such code.

14. In every such fireproof dwelling containing fifty or more rooms used for living or sleeping purposes by transient occupants and in every such non-fireproof dwelling containing thirty or more such rooms, the owner shall employ one or more watchmen or clerks whose duty it shall be to visit every portion of the dwelling at frequent regular intervals 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 movements of such watchman. Such system shall be installed, supervised and maintained in a manner satisfactory to the fire department. However, the provisions of this subdivision shall not apply where, throughout the dwelling, a closed-circuit, automatic, thermostatic fire-detecting system is installed which actuates a fire alarm, or where, throughout the dwelling, an approved-type automatic sprinkler system is installed which actuates a fire alarm by the flow of water through such system.

15. a. Nothing in this section shall be construed as permitting partitions or materials which are not fireproof in any fireproof dwelling; nor shall anything in this section be deemed to abrogate any powers or duties vested by law in the fire commissioner or fire department, except that an existing sprinkler installation, fire alarm or standpipe system which has been approved or accepted by the department having jurisdiction and installed before July first, nineteen hundred forty-eight, shall, after inspection by the said department, be deemed to be in compliance with the requirements of this section or may be altered or adapted to meet such requirements instead of a completely new installation or system.

b. All automatic sprinkler heads required by this section 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

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required to be sprinklered, and installed, arranged and maintained in conformity with regulations adopted by the department.

c. For the purposes of subdivisions twelve and fourteen of this section, the term "transient occupancy" shall mean the occupancy of a room for living purposes by the same person or persons for a period of ninety days or less.

16. a. Notwithstanding any other provision of law to the contrary, within a dwelling to which this section is applicable the use of dwelling units as a hotel for other than permanent residence purposes, as defined in paragraph a of subdivision eight of section four of this chapter, that would otherwise be prohibited shall be permitted to continue for a period of two years after the effective date of this subdivision provided that:

(1) such dwelling units were used for other than permanent residence purposes on January first, two thousand nine and on the effective date of this subdivision and fifty-one percent or more of the total number of dwelling units in such dwelling were used for other than permanent residence purposes on such dates;

(2) such dwelling was occupied as a hotel for other than permanent residence purposes on December fifteenth, nineteen hundred sixty-one;

(3) such dwelling is of fireproof construction and was of fireproof construction on January first, two thousand nine;

(4) such dwelling units used for other than permanent residence purposes have at least two lawful means of egress, including exit stairs, fire towers or exterior stairs but excluding fire escapes and had such lawful means of egress on January first, two thousand nine;

(5) such dwelling has operational exit signs and a fire alarm system complying with the provisions for existing transient occupancies in accordance with local law and had such exit signs and fire alarm system on January first, two thousand nine; and

(6) such dwelling units used for other than permanent residence purposes are registered with the department within one hundred eighty days after the effective date of this subdivision in a form and manner to be provided by such department, including a requirement that the applicant submit certification of compliance with subparagraphs three, four and five of this paragraph, signed and sealed by a registered architect or licensed professional engineer in good standing under the education law. The department may assess fees to cover all costs associated with such registration. The department may refuse to register dwelling units or may revoke such registration if it determines such dwelling units or dwelling do not comply with the conditions for registration set forth in subparagraphs one through five of this paragraph.

b. The owner shall obtain a certificate of occupancy for the use of registered dwelling units for other than permanent residence purposes within two years after the effective date of this subdivision. Upon application prior to the expiration of such two year period, the department may, for good cause, extend such time for up to one additional year but no such extension shall be granted unless the department finds that:

(1) the owner has obtained the necessary permit or permits for all work necessary to bring such dwelling into compliance with the requirements of this chapter and all local housing, building and fire codes for the use of dwelling units for other than permanent residence purposes;

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(2) all construction authorized by such permit or permits has been substantially completed; and

(3) there are no considerations of public safety, health and welfare that have become apparent since the issuance of the above described permit or permits that indicate an overriding benefit to the public in enforcing the requirement that the applicant obtain a certificate of occupancy for the use of registered dwelling units for other than permanent residence purposes within two years after the effective date of this subdivision.

c. Upon application prior to the expiration of the time for obtaining a certificate of occupancy, as extended by the department pursuant to paragraph b of this subdivision, the board of standards and appeals may grant a further extension of time to obtain a certificate of occupancy in a case where there are circumstances beyond the applicant's control or hardship in the way of obtaining such certificate within the time allowed by the department but no more than one such extension of fifteen months shall be granted for a building and no such extension shall be granted unless the board finds that there are no outstanding building or fire code violations of record at the property.

d. The department shall issue such certificate of occupancy upon proof that said dwelling conforms in all respects to the requirements of this chapter and all local housing, building and fire codes for the use of dwelling units for other than permanent residence purposes. If no such certificate of occupancy is issued within two years after the effective date of this subdivision or, if applicable, within the time as extended by the department or as further extended by the board of standards and appeals, all use of dwelling units for other than permanent residence purposes shall thereafter cease.

e. If after a certificate of occupancy is issued pursuant to paragraph d of this subdivision, the use of such dwelling units for other than permanent residence purposes is discontinued, nothing in this subdivision shall be construed to limit the application of the local zoning resolution with respect to such discontinuance.

§ 68. **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 and other class B multiple dwellings, and in any portion of a class A 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

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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 class A multiple dwellings, other than any portion of any such dwelling used for single room occupancy, and notwithstanding the provisions of section seventy-eight or any other provision of this chapter, or of any 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 a class B multiple dwelling, or any portion of a class A 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 seventy-eight 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.

7. This section shall not apply within cities with a population of one million or more, provided however, any local law in such cities relating to smoke detecting devices shall provide for the installation and maintenance of smoke detecting devices in dwelling accommodations located in buildings owned as condominiums or cooperatives.

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§ 75. **Water supply.** 1. In every multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, where space is provided for cooking there shall be in every apartment a proper sink with running water and with a two-inch waste and trap.

2. The owner of every multiple dwelling shall provide proper appliances to receive and distribute an adequate supply of water, to and in every apartment or suite of rooms at all times of the year, during all hours. Failure in the general supply of water from the street service main shall not be construed as a failure on the part of the owner, if suitable appliances to receive and distribute such water have been provided in the dwelling.

3. For dwellings three or more stories in height erected on or after April eighteenth, nineteen hundred twenty-nine, and for all dwellings erected after January first, nineteen hundred fifty-one, such supply shall include both hot and cold water at all times of the year, during all hours, except that hot water service shall not be required by this section in a dwelling erected before April eighteenth, nineteen hundred twenty-nine, if the owner establishes to the satisfaction of the department that such service was not furnished or required before such date.

4. No multiple dwelling shall be erected unless it is connected with a street service water main.

5. No required sink shall be placed within any water-closet compartment or within any bathroom containing a water-closet.

§ 76. **Water-closet and bath accommodations.** 1. General requirements. This section shall apply to all dwellings whenever erected or converted except as herein provided.

a. No water-closet shall be installed, kept or maintained in any yard, court or other open space, and every water-closet or other receptacle to receive fecal matter, urine or sewerage, located in any such yard, court or other open space, shall be completely removed, and the place where they were located shall be disinfected under the direction of the department.

b. No water-closet shall be installed, kept or maintained in a cellar or basement unless it is provided for lawful cellar or basement living rooms, or is supplementary to the required water-closet accommodations.

c. No water-closet shall open directly into any kitchen or kitchenette in a multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine.

d. Every water-closet compartment shall be at least two feet four inches in clear width and, except in a general toilet or bathroom, shall be enclosed with partitions which shall extend from the floor to the ceiling and which shall be plastered or tiled or covered with similar materials approved by the department.

e. The floor of every such compartment, bathroom or general toilet room shall be made waterproof with material approved by the department, and such waterproofing material shall extend six inches or more above the floor, except at doors.

f. The use of drip trays is unlawful.

g. No plumbing fixture or water-closet shall be enclosed wholly or in part with woodwork.

h. Every water-closet compartment, bathroom and general or public toilet room, and every other room containing one or more water-closets or urinals, except as specifically provided otherwise in this section, shall have at least one window opening upon a street or lawful court, yard or space above a setback. Every such window shall be at least three

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square feet in area and shall be made so that half its area can be readily opened.

i. No window shall be required when each such compartment, bathroom or general toilet room is located on the top story or underneath the bottom of a lawful shaft or court and is lighted and ventilated in either case by a skylight the roof of which contains at least three square feet of glazed surface and is arranged to be readily opened.

j. In lieu of a required window or skylight, it shall be lawful to install a system of ventilation, approved for construction and arrangement by the department, for water-closet compartments used for the business portions of any dwelling or for compartments containing water-closets, bathrooms or general toilet room in any dwelling. Such system of ventilation shall be maintained and operated continuously to provide at least four changes per hour of the air volume of each such water-closet compartment, bathroom or general toilet room daily from seven o'clock in the morning until seven o'clock at night in any business parts of such dwelling and from six o'clock in the morning until midnight in all parts used for dwelling purposes.

k. Every water-closet compartment or bathroom shall be provided with electricity and fixtures to light the same properly.

l. In a fireproof dwelling in which two or more rooms, all of which open directly upon the same public hall, are occupied exclusively by persons employed by the tenants thereof, there shall be provided for the occupants of such rooms and accessible therefrom directly or through such public hall, at least one water-closet compartment for the first four such rooms or fraction thereof and at least one additional water-closet compartment for each additional seven such rooms or fraction thereof, and no further water-closet accommodations for such rooms shall be required.

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

n. Except as herein provided if any living rooms in a fireproof dwelling open directly upon a public hall without any intervening room, foyer or passage, or if any suites of two living rooms in such a dwelling open upon a foyer giving direct access to a public hall, only one water-closet compartment shall be required for every three such living rooms on each story. Every such water-closet compartment shall be accessible to one or more of said rooms without passage through a public hall or any bedroom.

2. Class A dwellings.

a. Every apartment in a class A dwelling, except old-law tenements, shall be provided with a water-closet which shall be placed in a compartment completely separated from any other water-closet. b. Every apartment in a class A dwelling, except old-law tenements, shall also contain a bath, which may be in a separate compartment or together with the water-closet in a bathroom. There shall be access to at least one such compartment or bathroom from every bedroom without passing through any other bedroom.

3. Class B dwellings.

a. The requirements of paragraph n, of subdivision one of this section shall not apply to a fireproof class B dwelling, every living room of which, except those used only by employees employed exclusively in the management and maintenance of such dwelling, has direct access to a public hall without passing through any other room, foyer or private hall and in which water-closet accommodations are provided in accordance with the provisions of this subdivision.

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b. In such a fireproof dwelling there shall be on each story upon which there is any living room at least two water-closet compartments for the first twenty such living rooms or fraction thereof and at least one additional water-closet compartment for each additional fifteen such living rooms or fraction thereof, and no further water-closet accommodations for such rooms shall be required.

c. There shall be on each story of such fireproof dwelling, in addition to the water-closet accommodations required in paragraph n of subdivision one hereof, at least one water-closet compartment for every fifteen living rooms or fraction thereof not having access to a water-closet compartment without passage through a public hall or bedroom, and every such room shall have access to such a compartment through a public hall. If two or more such compartments be required on any story by the provisions of this paragraph, they may be placed in a general toilet room.

d. For every urinal supplied on any story of such fireproof dwelling on which seventeen rooms or more are occupied exclusively by males, one water-closet compartment less than the number otherwise required may be provided on such story; except that the number of water-closet compartments on such story may not be reduced to less than three-quarters of the number otherwise required.

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

f. In a non-fireproof class B dwelling there shall be at least one water-closet compartment and one wash basin for every seven sleeping rooms and there need not be more than that number except that there shall be at least one on each story. At least one such water-closet compartment and one wash basin on each story of such dwelling shall be accessible from every living room on the same story.

4. Converted dwellings.

a. Every apartment in a class A converted dwelling shall be provided with a water-closet which shall be placed in a compartment or bathroom within each apartment completely separated from any other water-closet. Every such apartment shall also contain a bath or shower and a wash basin.

b. In every class B converted dwelling there shall be at least one water-closet compartment on any floor containing any room used for class B occupancy and at least one bathroom or shower room and one wash basin for every six persons and for any remainder of less than six persons who may lawfully occupy any room or rooms for class B occupancy.

(c) Additional required water-closets and wash basins which are installed in order to comply with the provisions of this paragraph whether provided separately or in combination, shall be in a compartment separate and apart from every bath or shower required under the provisions of paragraph b, and each such additional required bath or shower shall be in a compartment separate and apart from every water-closet and wash basin required under the provisions of paragraph b, except that any such additional required water-closet, bath or shower or wash basin may be included in a single compartment containing any or all of such facilities, if such compartment is accessible only from or only within a room, apartment or suite of rooms and the occupant or occupants of such room, apartment or suite are exclusively entitled to use all such facilities contained in such compartment.

5. Old-law tenements. In every old-law tenement there shall be provided for the exclusive use of each family at least one water-closet compartment located within the dwelling. Such compartment shall be

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constructed and ventilated as approved by the department but such compartment shall be located on the same story as that on which the apartment occupied by each such family is situated and shall be equipped with lock and key. The provisions of this subdivision shall not apply

(a) to any dwelling which the department of city planning certifies is in an area to be acquired for a public improvement and for which a request for acquisition has been submitted to the board of estimate by a public agency; or (b) to any dwelling in an area for which an urban renewal plan has been submitted to the planning commission, as provided in section five hundred five of the general municipal law, if the planning commission shall certify that compliance with the provisions of this subdivision would be inconsistent with the plan; or (c) for which a demolition permit has been or shall be issued by the municipality pursuant to local law or ordinance. The exemption provided in (a), (b), and (c) of this subdivision shall be valid for a period of six months after the date of the acquisition request or the date of the submission of the urban renewal plan to the commission or the date of the issuance of the demolition permit as the case may be. Such exemption may be extended from time to time by the department provided, however, that such exemption shall not extend beyond November first, nineteen hundred sixty-five.

6. Single room occupancy.

a. Every apartment used for single room occupancy shall have at least one bath or shower, one wash-basin and one water-closet for each six adult persons who may lawfully occupy the rooms in such apartment as provided in section two hundred forty-eight, and for any remainder of less than six persons. If additional baths or showers or water-closets are installed within an apartment in order to comply with the provisions of this paragraph each water-closet shall be in an enclosure separate and apart from every bathroom or shower room and each bath or shower shall be in an enclosure separate and apart from every water-closet.

b. There shall be access to each required water-closet and bathroom without passing through any sleeping room, except that any water-closet, wash-basin or bathroom which connects directly with any sleeping room shall be deemed to be available only to the occupants of such room and shall not be included in the computations for the required number of water-closets and bathrooms.

7. Saving clause. No change need be made in the number, construction, arrangement, lighting or ventilation of water-closet compartments, bathrooms or general toilet rooms in any portion of any dwelling if the number, construction, arrangement, lighting or ventilation of such water-closet compartments, bathrooms or general toilet rooms was lawful on July first, nineteen hundred sixty-one.

§ 77. **Plumbing and drainage.** 1. In every multiple dwelling 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. It shall be unlawful to erect a multiple dwelling which is to be occupied by five families or more unless a connection is made with a street sewer or combined street storm-water main and sewer.

2. For every multiple dwelling where neither kind of sewer is available, provision shall be made for disposing of such waste as may be required by local law.

3. All roofs, terraces, shafts, courts, areas and yards in every multiple dwelling shall be properly graded, drained and connected with a street storm-water main or combined sewer and street storm-water main so

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that all storm water may pass freely into it, except that where no street storm-water main or combined sewer and street storm-water main exists, the department may permit the storm water from such areas and spaces to drain into a street gutter which leads to a natural channel or water course, or into a dry well. When required by the department, the shafts, courts, areas and yards shall be properly concreted. Every roof shall be so drained that all storm water shall be conveyed therefrom in a manner that will prevent dripping to the ground or the causing of dampness in walls, ceilings, yards, shafts or areas. Nothing in this section shall be deemed to prevent the turfing over of any yard or court space or the planting of shrubs or trees therein when approved by the department.

4. The owner of every multiple dwelling or part thereof shall thoroughly cleanse and keep clean at all times, and in good repair, the entire plumbing and drainage system including every water-closet, toilet and sink and every other plumbing fixture therein.

5. Whenever the plumbing, sewerage or drainage of any multiple dwelling or part thereof or of the lot on which it is situated is in the opinion of the department in a condition or in its effect dangerous to life or health, the department may order or cause any such plumbing, sewerage or drainage to be purified, cleansed, disinfected, removed, altered, repaired or improved, or, as provided in section three hundred nine, take such other action as it may deem necessary to remove such danger to life or health.

§ 78. **Repairs.** 1. Every multiple dwelling, including its roof or roofs, and every part thereof and the lot upon which it is situated, shall be kept in good repair. The owner shall be responsible for compliance with the provisions of this section; but the tenant also shall be liable if a violation is caused by his own willful act, assistance or negligence or that of any member of his family or household or his guest. Any such persons who shall willfully violate or assist in violating any provision of this section shall also jointly and severally be subject to the civil penalties provided in section three hundred four.

2. Whenever, the light, ventilation, or any matter or thing in or about a multiple dwelling or part thereof, or in or about the lot on which it is situated, is in the opinion of the department in a condition or in its effect dangerous to life or health, the department may order or cause any such light, ventilation, matter or thing to be repaired or improved or, as provided in section three hundred nine, take such other action as it may deem necessary to remove such danger to life or health.

§ 79. **Heating.** 1. Every multiple dwelling exceeding two stories in height and erected after April eighteenth, nineteen hundred twenty-nine, and every garden-type maisonette dwelling project erected after April eighteenth, nineteen hundred fifty-four, shall be provided with heat. On and after November first, nineteen hundred fifty-nine, every multiple dwelling shall be provided with heat or the equipment or facilities therefor. During the months between October first and May thirty-first, such heat and the equipment or facilities shall be sufficient to maintain the minimum temperatures required by local law, ordinance, rule or regulation, in all portions of the dwelling used or occupied for living purposes provided, however, that such minimum temperatures shall be as follows: (a) sixty-eight degrees Fahrenheit during the hours between six o'clock in the morning and ten o'clock in the evening, whenever the outdoor temperature falls below fifty-five degrees

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Fahrenheit, notwithstanding the provisions of paragraph a of subdivision four of section three of this chapter, and (b) at least fifty-five degrees Fahrenheit during the hours between ten o'clock in the evening and six o'clock in the morning, whenever the outdoor temperature falls below forty degrees Fahrenheit. Nothing in this section shall be deemed to relieve any owner of the duty of providing centrally supplied or other approved source of heat prior to November first, nineteen hundred fifty-nine in any case where such heat is required by this chapter or any other law, ordinance, rule or regulation to be supplied in a dwelling prior to said date. The heating system in dwellings used for single room occupancy shall be in conformity with the requirements of section two hundred forty-eight.

2. The provisions of subdivision one shall not apply to any dwelling (a) which is located in a resort community and is rented or occupied on a seasonal basis between April fifteenth and October fourteenth during any calendar year and is not occupied for living purposes during the remainder of such year, except that occupancy of any such dwelling by the family of a caretaker thereof or by the family of the owner thereof during the remainder of the year shall be permitted; or (b) which the department of city planning certifies is in an area to be acquired for a public improvement or for development or redevelopment and for which (1) a request for acquisition has been submitted to the mayor by a public agency or (2) a plan for a development or redevelopment project has received preliminary or first approval of the city planning commission; or (c) for which a demolition permit has been or shall be issued by the municipality pursuant to local law or ordinance.

3. The exemption provided in subdivisions two (b) and two (c) of this section shall be valid for a period of six months after the date of the approval of the slum clearance or urban renewal plan or the date of such certification or the date of the issuance of the demolition permit, as the case may be, but such exemption may be extended from time to time by the department provided, however, that such exemption shall not extend beyond November first, nineteen hundred sixty-one.

§ 80. **Cleanliness.** 1. The owner shall keep all and every part of a multiple dwelling, the lot on which it is situated, and the roofs, yards, courts, passages, areas or alleys appurtenant thereto, clean and free from vermin, dirt, filth, garbage or other thing or matter dangerous to life or health.

2. The owner of every multiple dwelling or part thereof shall thoroughly cleanse and keep clean at all times, to the satisfaction of the department, every public or service part thereof, including every room, passage, stair, floor, window, door, wall, ceiling, water-closet or toilet compartment, cesspool, drain, hall and cellar in such public or service part.

3. All carpets and rugs which are permitted in any public part of a multiple dwelling shall be taken up and cleaned by the owner at least once a year or as much oftener as the department shall deem necessary.

4. The interior surfaces of walls throughout every part of every multiple dwelling, whether in public or in tenant-occupied parts, shall be painted or papered and the ceilings kalsomined or painted by the owner. The walls and ceilings shall be rekalsomined, repapered or repainted by the owner whenever necessary to keep the said surfaces in a sanitary condition. No wall paper shall be placed upon such a wall or ceiling surface unless all existing wall paper shall be first removed therefrom and such wall or ceiling thoroughly cleaned and repaired.

5. Any tenant shall be punishable as provided in section three hundred

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four for the existence of conditions in violation of the provisions of this chapter within his apartment to the extent that such conditions are caused by him, by members of his family or by his guests, and are under his control; but this provision shall not be construed to relieve the owner of any liability or duty under this section, except where a violation is caused and continued solely by the tenant or those under his control.

6. Every dwelling erected after January first, nineteen hundred forty-seven, shall be so constructed as to be rat-proof. The agency of a city authorized by law to make rules supplemental to laws regulating construction, maintenance, use and area of buildings shall have the power to make rules and regulations to supplement the requirements of this subdivision.

§ 81. **Receptacles for waste matter.** 1. The owner of every multiple dwelling shall provide proper and suitable conveniences or receptacles for ashes, rubbish, garbage, refuse and other waste matter and shall arrange for the removal of such waste matter daily.

2. No person shall place ashes, garbage, rubbish, filth, urine or fecal matter in any place in a multiple dwelling other than the place provided therefor, or keep any such matter in his apartment or upon his premises such length of time as to create a nuisance as defined in section three hundred nine.

§ 82. **Privacy.** In every apartment of three or more rooms in every class A multiple dwelling erected after April eighteenth, nineteen hundred twenty-nine, there shall be access to every living room and bedroom without passing through any bedroom.

§ 83. **Janitor or housekeeper.** Whenever there are thirteen or more families occupying any multiple dwelling and the owner does not reside therein, there shall be a janitor, housekeeper or some other person responsible on behalf of the owner who shall reside in said dwelling, or within a dwelling located within a distance of two hundred feet from said dwelling, and have charge of such dwelling, except that where two or three multiple dwellings are connected or adjoining, one resident janitor shall be sufficient. In every garden-type maisonette dwelling project erected after April eighteenth, nineteen hundred fifty-four, adequate personnel shall be provided for the lawful care and maintenance of such project.

§ 84. **Construction standards for the control of noise.** On or before January first, nineteen hundred sixty-nine, the department shall formulate, adopt, promulgate and thereafter from time to time amend standards of sound retardation for the walls, partitions and floors and ceilings between apartments and between apartments and public spaces situated therein based on the direct measurement of sound transmission loss determined in decibels for various frequencies or in accordance with the ASTM sound transmission class system or in accordance with such other recognized method or system for measuring reduction of sound transmission as the department may determine to be appropriate. Any construction of a multiple dwelling commenced after January first, nineteen hundred seventy shall comply with the standards promulgated pursuant to this section in effect at the time of commencement of such construction.

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FIREPROOF MULTIPLE DWELLINGS**

Section 100. Application of article four.

TITLE 1

FIRE PROTECTION

Section 101. Requirements for fireproof construction.

- 102. Stairs.
- 103. Egress from apartments.
- 104. Bulkheads.
- 105. Separation and ventilation of stairs.
- 106. Cellar and basement stairs.
- 107. Public halls.
- 108. Partitions.

TITLE 2

SANITATION

Section 115. Interior water-closets and bathrooms.

- 116. Water-closets in certain class B multiple dwellings.
- 117. Employees' water-closets.

TITLE 3

CERTAIN CLASS A MULTIPLE DWELLINGS ERECTED PRIOR TO
DECEMBER 15, 1961

Section 120. Use of dwelling units in a class A multiple dwelling for other than permanent residence purposes.

§ 100. **Application of article four.** The provisions of this article shall apply to fireproof multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine, and to such dwellings only. They shall apply to all such fireproof dwellings unless their application is expressly limited to dwellings of a particular class. They shall apply in addition to, and not in substitution for, the provisions of article three.

TITLE 1

FIRE PROTECTION

§ 101. **Requirements for fireproof construction.** 1. Every such dwelling exceeding six stories or seventy-five feet in height shall be fireproof. No multiple dwelling shall be altered so as to exceed either of such heights without being made fireproof.

2. In a fireproof multiple dwelling the walls, floors, roof, stairs and public halls shall all be fireproof except as provided in subdivision three. No beams, lintels or other structural members shall be of wood. No wood or other inflammable material shall be used in any of the partitions, furrings or ceilings. For the portion of a multiple dwelling more than one hundred fifty feet above the curb level, no wood shall be used except as provided in subdivision three and except for interior trim of windows.

3. 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, under flooring, finish flooring, interior doors with their assemblies and saddles, floor base not more than one foot in height, picture and wall molding, shelving, closet and kitchen fixtures, cupboards, cabinets and wardrobes.

b. The use of wood for windows and for interior trim and finish backed solidly against, or filled with, incombustible material when located not

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more than one hundred fifty feet above the curb level and elsewhere than within, or in the openings to, the public halls, stairs and shafts.

c. The use within apartments of wood for decorative wall paneling, wainscoting, mantels or other interior finish, and the use in an entrance hall of wall paneling or wainscoting made of fireproof wood or other material capable of successfully withstanding standard fire tests prescribed in the local building code and in a manner approved by the department.

d. Where fireproof doors are required, the use for such doors, with their assemblies and saddles, of material and construction capable of successfully withstanding a one-hour standard fire test prescribed in the local building code and in a manner approved by the department. Should any door required to be fireproof be found to have deteriorated so that it shall after installation fail to conform to the standard fire tests prescribed, such door shall be removed by the owner and replaced by him with a door capable of successfully withstanding such tests.

4. All materials combustible in their natural state which are constructed, processed or protected so that they will not support combustion shall, before being installed in a multiple dwelling for any of the uses herein specified, be permanently identified by label or marking with the name of the manufacturer and the year of manufacture in a manner approved by the department.

5. When required to be fireproof, any outer wall or any wall or partition which carries any load in addition to its own weight shall, unless otherwise in this chapter expressly required, be constructed of materials capable of successfully withstanding a four-hour standard fire test prescribed in the local building code and in a manner approved by the department. When required to be fireproof, any wall or partition which carries only its own weight, other than an outer wall, shall be constructed of materials capable of successfully withstanding a one-hour standard fire test prescribed in the local building code and in a manner approved by the department.

§ 102. **Stairs.** 1. Except as otherwise specifically provided in subdivisions three and four and in paragraphs b to j inclusive of subdivision six, every multiple dwelling which exceeds two stories in height shall have at least two fire-stairs. 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 glazed with wire glass. Entrances to such fire-stairs shall be at least fifteen feet distant from each other and from the entrance to every other fire-stair or fire-tower, except that the distance between two such entrances may be less if they are on opposite sides of an elevator vestibule or other public hall or are separated by an elevator shaft. The doors giving access to such stairs shall not be held open by any device whatever.

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. Except as otherwise expressly provided in paragraphs b to j inclusive of subdivision six, in a dwelling not exceeding one hundred twenty-five feet in height every stair, fire-stair and fire-tower shall be at least three feet in clear width, and where only one fire-stair or fire-tower is required such fire-stair or fire-tower shall be at least three feet eight inches in clear width. In a dwelling

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exceeding one hundred twenty-five feet in height every required fire-stair shall be at least three feet eight inches in clear width from the entrance story up to a floor level not more than one hundred feet below the ceiling of the highest story, and above such level every fire-stair shall be at least three feet in clear width. Every stair landing at every floor level shall be at least three feet eight inches in clear width in every direction.

3. Except in dwellings erected under plans filed with the department before April twenty-eighth, nineteen hundred thirty, and except as otherwise provided in paragraphs b to j inclusive of subdivision six there shall be horizontal access from every apartment to at least two fire-stairs, at least one of which shall be within seventy-five feet horizontally in the line of travel from a required means of egress from such apartment.

4. Except as provided in paragraphs b, c and d of subdivision six, a fire-tower may be substituted for any required fire-stair. When a fire-tower is substituted for a fire-stair, such fire-tower shall comply with all the applicable requirements for the fire-stair it replaces and shall have its means of egress directly to a street or to a yard or court having direct, unobstructed access to a street without passing through any entrance hall; except that a fire-tower may have its means of egress into a public vestibule if such means is not more than fifteen feet from a street in the line of travel.

5. The stairs in a tower or dwelling containing a passenger elevator and meeting the conditions of paragraphs f, g or h of subdivision six may conform to the provisions of such paragraph and paragraph i of such subdivision in lieu of the different provisions which would otherwise be applicable thereto.

6. Under the special conditions described in paragraphs a to j inclusive and in the following table, which applies only to class A dwellings, stairs shall conform to the applicable provisions of such paragraphs and table.

NOTE: TABLE FOUND IN CHAP. 234 OF THE LAWS OF 1964

a. Except as otherwise expressly provided in this paragraph and in paragraphs b to j inclusive of subdivision six, if the number of living rooms on any story above the entrance story exceeds forty, there shall be an additional fire-stair for each twenty living rooms or fraction thereof in excess of forty on any story above the entrance story. Such an additional fire-stair shall not be required if the number of living rooms on no story above the entrance story exceeds fifty and in addition the clear width of one fire-stair is at least one and one-half times the width specified for a fire-stair in subdivision two, the clear width of every public hall connected with such fire-stair is at least one and one-half times the width specified for a public hall in section one hundred seven and the clear width of every entrance hall connected with such fire-stair is at least one and one-half times the width specified for an entrance hall in section fifty. Any additional fire-stair constructed pursuant to this paragraph need not be carried to a greater height than the level of a roof, or of a terrace formed by a setback, above the highest story on which the number of rooms requires such additional stair. When any fire-stair terminates at the level of a setback of any outer wall, such setback shall form a terrace at least four feet in depth 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.

b. In a class A dwelling or section thereof not exceeding six stories in height, for which plans shall have been filed in the department

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before September first, nineteen hundred fifty-one, only one stair shall be required, provided the number of apartments having access to such stair on each story does not exceed six and the aggregate number of living rooms in such apartments does not exceed twenty, except that the total number of rooms above the first story shall not exceed one hundred and the total number of apartments above the first story shall not exceed thirty. Such stair shall in addition comply with all the provisions of section one hundred forty-eight relating to stairs in non-fireproof dwellings, except that in lieu of a window such stair may have at each story an opening to a street or to a lawful yard or court other than a court on a lot line. Such opening shall be at least forty square feet in area and five feet in width, and shall be furnished with a properly secured guard railing at least five feet in height and approved by the department. Such opening shall be kept continuously open to the outer air. No means of egress from any apartment to such stair shall be more than twenty-five feet distant therefrom.

c. In a class A dwelling or section thereof not exceeding six stories in height only one stair shall be required, provided the number of living rooms on any story above the entrance story does not exceed twenty. If the number of living rooms on any story or section thereof above the entrance story exceeds twenty, there shall be an additional stair for each twenty rooms or fraction thereof on any such floor or section in excess of twenty, except that if the number of living rooms on no such story or section above the entrance story exceeds thirty, in lieu of an additional stair one stair and every public hall connected therewith may be four feet six inches in clear width. Such stair shall be completely separated from every other stair, fire-stair, fire-tower, public hall and shaft by fireproof walls. Doors to stairs, fire-stairs and fire-tower balconies from any public hall in such a dwelling or section shall be at least three feet wide, self-closing and fireproof, with their assemblies also fireproof. The panels of every such door shall be glazed with clear wire glass and no pane thereof shall exceed three hundred sixty square inches in area. Those portions of the enclosure partition which separate the public hall from the stair shall be glazed with wired plate glass at least one-quarter inch in thickness, with no pane more than three hundred sixty square inches in area, so as to provide so far as practicable an unobstructed view of the stair from each public hall. Glass panels shall be at least twelve inches and not more than sixteen inches above the floor of the public hall. Public halls providing access to any such enclosed stair shall be lighted and ventilated as prescribed for non-fireproof dwellings in section one hundred forty-nine. No means of egress from any apartment to such a stair shall be more than fifty feet distant therefrom.

d. In a class A dwelling or section thereof not exceeding six stories in height only one stair shall be required, provided the number of apartments having access to such stair at each story does not exceed eight and the aggregate number of living rooms in such apartments does not exceed twenty-five, except that the total number of living rooms above the first story shall not exceed one hundred twenty-five and the total number of apartments above the first story shall not exceed forty. No means of egress from any apartment to such stair shall be more than twenty-five feet distant therefrom. Doors and stair enclosures shall conform to the provisions of paragraph c.

e. In a dwelling conforming to the provisions of paragraph b, c or d the lowest story may be designated as a basement if such story is not used for living purposes but is used solely for storage or other general utility purposes accessory to the occupancy, use and management of the

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dwelling. Such a basement shall not be deemed a story in computing the height of the dwelling.

f. Every tower erected pursuant to plans on or after December fifteenth, nineteen hundred sixty-one in a fireproof dwelling shall be provided with at least one passenger elevator. Such elevator shall be operated between the ground story and the highest story of such tower containing any living room and horizontal access thereto shall be provided at each story for every apartment in the tower. Stairs in such a tower may comply with the following provisions of this paragraph in lieu of the different provisions otherwise applicable. In such case there shall be provided at least one fire-stair. If there are more than fifteen living rooms on any story of the tower, there shall be an additional fire-stair for each additional fifteen such rooms or fraction thereof. Every fire-stair so required shall extend from the top story of the tower to the entrance hall of the dwelling and be horizontally accessible from each story of every apartment in the tower. If the tower was erected under plans filed with the department on or after April twenty-eighth, nineteen hundred thirty, it shall also have an additional means of egress as provided in paragraph i of this subdivision.

g. In a dwelling in which one or more passenger elevators are operated with horizontal access from every apartment in the dwelling and in which every story has an area of not more than twenty-five hundred square feet exclusive of elevator shafts, public halls, stairs and fire-stairs and contains not more than fifteen living rooms, stairs may comply with the provisions of this paragraph in lieu of the different provisions otherwise applicable. In such case there shall be at least one fire-stair, and there need not be more than one, accessible from each apartment on each story and extending from the roof to the entrance story with unobstructed access to a street. If the dwelling was erected under plans filed with the department on or after April twenty-eighth, nineteen hundred thirty, it shall also have an additional means of egress as provided in paragraph i.

h. When a dwelling is divided into sections by unpierced fireproof construction extending from the second tier of beams above the ground story to the roof, and one or more passenger elevators are operated in each such section with horizontal access from each apartment therein, and every story of each such section above the entrance story contains not more than ten living rooms where there are four or more apartments on such story or not more than fifteen living rooms where there are three apartments or less on such story, stairs may comply with the provisions of this paragraph in lieu of the different provisions otherwise applicable. In such case there shall be in each such section at least one fire-stair, and there need not be more than one, extending from the roof to the entrance story with unobstructed access to a street. If the dwelling was erected under plans filed with the department on or after April twenty-eighth, nineteen hundred thirty, each such section shall also have an additional means of egress as provided in paragraph i.

i. The main means of egress from every apartment in a tower or dwelling erected pursuant to the provisions of paragraph f, g, or h shall be within twenty-five feet of a fire-stair meeting the requirements of such paragraph. If the tower or dwelling was erected under plans filed with the department on or after April twenty-eight, nineteen hundred thirty, egress shall also be provided, in addition to the required fire-stairs, by means of another stair extending from the main roof of the dwelling, or in the case of a tower from the highest story thereof, to the entrance story, with unobstructed access to a

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street. Such additional stair shall be horizontally accessible from each apartment at each story through a vestibule or other public hall and shall conform with all the requirements for a fire-stair except that its clear width may be reduced to a minimum of twenty-eight inches, its risers may be increased to a maximum of nine inches in height, and its treads, exclusive of nosing, may be reduced to a minimum of eight inches in width. No door giving access thereto shall swing into such stair.

j. A class B dwelling 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. For each thirty-five living rooms or fraction thereof in excess of seventy on any story there shall be one additional fire-stair; except that if such fractional excess number of living rooms is not more than twenty per centum of the total number of living rooms provided for by the required two fire-stairs and one additional fire-stair for each thirty-five living rooms, if any, in excess of seventy, in lieu of another fire-stair for such fractional excess number of living rooms, the area of every fire-stair landing at such story may be increased by not less than two square feet for each living room of such fractional excess number of living rooms. In every such dwelling each living room which is occupied by three persons or more shall be counted as one additional room for each four hundred cubic feet or fraction thereof in excess of eight hundred cubic feet in the cubic content of such room.

§ 103. **Egress from apartments.** 1. a. Except as provided in paragraph b of this subdivision, there shall be at least one means of egress from each apartment on each and every story of such apartment, and a second means of egress if the first means is not within fifty feet of every living room in such apartment on such story. When two means of egress are required, they shall open from different rooms.

b. In any class A fireproof dwelling or section thereof erected under plans filed in the department after September first, nineteen hundred fifty-one, an apartment occupying parts of not more than two stories shall have at least one means of egress. Such required means of egress shall be not more than forty feet from any room within such apartment and shall open directly upon a public hall. Such public hall shall provide access to at least two fire-stairs. Any stair within an apartment shall be at least two feet six inches in width and a terminus shall be not more than twenty feet from the door which provides the required egress to a public hall, provided, however, that such stair within an apartment shall extend downwards or upwards to the story which provides the required access to at least two fire-stairs. In the event of but one such means of egress, and if the stair within the apartment extends downwards to provide egress to a public hall, there shall be a balcony upon the upper story of the apartment. If, however, such stair extends upwards to provide egress to a public hall, the balcony shall be located on the lower story of the apartment. Such balcony shall provide access from the apartment to a room of an adjoining apartment on the same story. Such balcony shall be constructed of incombustible material and be capable of sustaining a load of at least eighty pounds per square foot. Access to such balcony shall not be obstructed by sinks or kitchen

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fixtures or in any other way, and shall be maintained unobstructed at all times. Bars, gates, grilles or other obstructing devices on any window or door giving access to or egress from such balcony shall be unlawful.

2. Except as otherwise expressly provided in paragraph b of subdivision six of section one hundred two for certain dwellings six stories or less in height, at least one fire-stair shall be within seventy-five feet of at least one means of egress from each apartment on each story thereof.

3. When any such fire-stair serving any apartment as a required means of egress from the dwelling opens on the entrance story of the dwelling exclusively into an entrance hall, no other fire-stair serving the same apartment as a required means of egress from the dwelling shall open on such story exclusively into the same entrance hall. Any required fire-stair not opening on such story exclusively into an entrance hall shall open on a street or in a yard, court or passageway affording continuous, safe and unobstructed access to a street; but any such required fire-stair serving any apartment as a means of egress from the dwelling may have a supplementary entrance into the same entrance hall as that into which any other fire-stair serving the same apartment as a required means of egress from the dwelling opens exclusively.

4. When any apartment occupies parts or all of three or more stories, every stair within such apartment leading to the third or any higher story of such apartment shall be enclosed with fireproof partitions with a fireproof door and assembly with the door self-closing at the second story landing of such stair and at every higher story landing from which the stair continues upward within the apartment; or in lieu of such fireproof partitions and doors at least two means of egress from such apartment opening from different rooms shall be provided on the first, third and alternate higher stories, if any, of such apartment.

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

§ 104. **Bulkheads.** 1. Every stair, fire-stair and fire-tower required by this chapter to extend to the level of the roof or to any terrace formed by a setback shall extend to and through a fireproof bulkhead or other fireproof enclosure in such roof or terrace approved by the department. Such bulkhead or enclosure shall give unobstructed access at all times to such roof or terrace by means of a fireproof door and door assembly with the door self-closing. Such a door shall never be self-locking and shall be fastened on the inside by movable bolts, hooks or a lock which does not require a key to open from the inside of the dwelling. Stairs to a bulkhead or enclosure shall have a handrail. When a dwelling has a pitched or sloping roof with a pitch or slope of more than fifteen degrees, no bulkhead or stair leading thereto shall be required.

2. The roof of any penthouse may for the purpose of this section be deemed part of the main roof if unobstructed access be provided and maintained between all required fire-stair landings on the main roof adjoining such penthouse, on the roof of such penthouse and on the roof of any other penthouse extending above such main roof. Such unobstructed access, where horizontal, shall be by means of a passage at least three feet in clear width. It may include one or more stairs necessary to provide access from any penthouse roof to any main roof adjoining such penthouse. Such stairs shall conform to all the requirements of section fifty-three for stairways of fire-escapes. There shall be a passageway

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at least four feet in clear width between such stairs and the parapet wall or guard railing of the main roof.

§ 105. **Separation and ventilation of stairs.** 1. In a dwelling in which one or more passenger elevators are maintained and operated opening upon a public hall at every story, all stairs, fire-stairs and fire-towers shall be completely separated from one another and from every elevator 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, fire-stairs and fire-tower balconies 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 three hundred sixty square inches in area.

3. Every stair hall shall be ventilated by a window, or by movable louvres in the skylight having an opening of at least one hundred forty-four square inches, or by an opening of at least one hundred forty-four square inches near the top of the stair shaft and communicating directly with the outer air. If a window is provided which does not open upon a street or yard, it shall be fireproof and glazed with wire glass of good quality and have no pane more than three hundred sixty square inches in area.

§ 106. **Cellar and basement stairs.** A cellar or basement stair may be located inside the dwelling, but shall not be located underneath a stair leading to the upper stories unless it is a basement stair leading upward from a basement which is the main entrance story of the dwelling, or unless it is a stair leading downward from the entrance story which is separated by a fireproof arch from the stair leading upward from the entrance story. Except as otherwise provided in subdivision five of section fifty-two, 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.

§ 107. **Public halls.** 1. Every public vestibule or other public hall shall comply either with the provisions of section one hundred forty-nine for non-fireproof multiple dwellings, so far as applicable, or with the provisions of subdivision two of this section, except that the provisions as to ventilation shall not apply to any part of an entrance hall within sixty feet in a straight line from an entrance door.

2. If such a dwelling does not comply with the applicable provisions of section one hundred forty-nine, it shall comply with all of the following:

a. Every public vestibule or hall shall be everywhere at least three feet eight inches in clear width.

b. Every such public vestibule or hall shall be separated from all other parts of the dwelling by fireproof walls.

c. All openings from such a public vestibule or hall to stairs, fire-stairs, fire-tower balconies, shafts, apartments or suites of rooms shall be protected by fireproof doors and assemblies, with the doors self-closing, except that such doors and assemblies shall not be required in any fireproof class B multiple dwelling for any apartment consisting of one room opening directly upon a public hall or for any apartment of three rooms or less in a college or school dormitory.

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d. 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 be properly lighted at all times.

e. Except for that part of an entrance hall within sixty feet in a straight line from an entrance door such a public vestibule or hall without a window to the outer air shall be ventilated to the outer air by means of gravity vent flues at least twelve inches in each dimension or by mechanical means approved by the department. There shall be at least one vent flue opening of at least twelve inches in each dimension for each one thousand cubic feet of air content of such public vestibule or hall. Such vent flues shall be continuous for the height of the dwelling and the openings at each story shall be equipped with fire dampers held open by a fusible link at each opening and properly hooded or provided with louvres at the top above the roof.

f. If a window to the outer air is provided in any such public vestibule or hall, such vestibule or hall shall nevertheless be ventilated as provided in paragraph e, except that if such a window has a glazed area of at least twelve square feet and at least one tenth of the superficial floor area of the vestibule or hall, readily accessible to the outer air to the extent of at least five and one-half square feet of its area, no vent flues need be provided within a distance of forty feet from each side of such window.

3. The requirements of this section as to ventilation shall apply to all parts of an entrance hall more than sixty feet distant in a straight line from an entrance door, to all returns or recesses that lead to elevators and extend farther from the hall which they adjoin than four times their width, and to all other returns or recesses from entrance halls that extend farther than their width.

4. 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.

§ 108. **Partitions.** All partitions shall rest directly upon the fireproof floor construction and never upon any wood flooring, and shall extend to the fireproof construction of the floor or roof above.

TITLE 2
SANITATION

§ 115. **Interior water-closets and bathrooms.** Interior water-closet compartments and bathrooms contained in fireproof multiple dwellings shall comply with the applicable provisions of section seventy-six.

§ 116. **Water-closets in certain class B multiple dwellings.** Water-closets contained in certain class B multiple dwellings shall comply with the applicable provisions of section seventy-six.

§ 117. **Employees' water-closets.** Water-closet compartments provided for domestic servants of tenants in multiple dwellings shall comply with the applicable provisions of section seventy-six.

§ 120. **Use of dwelling units in a class A multiple dwelling for other than permanent residence purposes.** 1. Notwithstanding any other provision of law to the contrary, within a class A multiple dwelling to which this article is applicable the use of dwelling units as a hotel for other than permanent residence purposes, as defined in paragraph a of subdivision eight of section four of this chapter, that would

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otherwise be prohibited shall be permitted to continue for a period of two years after the effective date of this section provided that:

a. such dwelling units were used for other than permanent residence purposes on January first, two thousand nine and on the effective date of this subdivision and fifty-one percent or more of the total number of dwelling units in such dwelling were used for other than permanent residence purposes on such dates;

b. (1) such dwelling was initially constructed as and identified on its initial certificate of occupancy as "apartment hotel" or "class A hotel" and occupied as a hotel for other than permanent residence purposes on December fifteenth, nineteen hundred sixty-one or, if such dwelling was under construction and not yet complete on such date, was occupied as a hotel for other than permanent residence purposes at the time the dwelling was completed, or (2) such dwelling is in zoning district C5 as designated in the New York city zoning resolution and was initially constructed as a hotel for other than permanent residence purposes prior to December fifteenth, nineteen hundred sixty-one and occupied as a hotel for other than permanent residence purposes on December fifteenth, nineteen hundred sixty-one, or (3) such dwelling (A) is within twelve hundred feet of zoning district C5 as designated in the New York city zoning resolution, (B) was initially constructed as a hotel for other than permanent residence purposes in accordance with a permit that was issued prior to December fifteenth, nineteen hundred sixty-one, and (C) was completed after December fifteenth, nineteen hundred sixty-one and was initially occupied as a hotel for other than permanent residence purposes;

c. such dwelling is of fireproof construction and was of fireproof construction on January first, two thousand nine;

d. such dwelling units used for other than permanent residence purposes have at least two lawful means of egress, including exit stairs, fire towers or exterior stairs but excluding fire escapes and had such lawful means of egress on January first, two thousand nine;

e. such dwelling has operational exist signs and a fire alarm system complying with the provisions for existing transient occupancies in accordance with local law and had such exit signs and fire alarm system on January first, two thousand nine; and

f. such dwelling units used for other than permanent residence purposes are registered with the department within one hundred eighty days after the effective date of this section in a form and manner to be provided by such department, including a requirement that the applicant submit certification of compliance with paragraphs d and e of this subdivision, signed and sealed by a registered architect or licensed professional engineer in good standing under the education law. The department may assess fees to cover all costs associated with such registration. The department may refuse to register dwelling units or may revoke such registration if it determines such dwelling units or dwelling do not comply with the conditions for registration set forth in paragraphs a through e of this subdivision.

2. The owner shall obtain a certificate of occupancy for the use of registered dwelling units for other than permanent residence purposes within two years after the effective date of this section. Upon application prior to the expiration of such two year period, the department may, for good cause, extend such time for up to one additional year but no such extension shall be granted unless the department finds that:

a. the owner has obtained the necessary permit or permits for all work necessary to bring such dwelling into compliance with the requirements of this chapter and all local housing, building and fire codes for the use of dwelling units for other than permanent residence purposes;

b. all construction authorized by such permit or permits has been substantially completed; and

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c. there are no considerations of public safety, health and welfare that have become apparent since the issuance of the above described permit or permits that indicate an overriding benefit to the public in enforcing the requirement that the applicant obtain a certificate of occupancy for the use of registered dwelling units for other than permanent residence purposes within two years after the effective date of this section.

3. Upon application prior to the expiration of the time for obtaining a certificate of occupancy, as extended by the department pursuant to subdivision two of this section, the board of standards and appeals may grant a further extension of time to obtain a certificate of occupancy in a case where there are circumstances beyond the applicant's control or hardship in the way of obtaining such certificate within the time allowed by the department but no more than one such extension of fifteen months shall be granted for a building and no such extension shall be granted unless the board finds that there are no outstanding building or fire code violations of record at the property.

4. The department shall issue such certificate of occupancy upon proof that said dwelling conforms in all respects to the requirements of this chapter and all local housing, building and fire codes for the use of dwelling units for other than permanent residence purposes. If no such certificate of occupancy is issued within two years after the effective date of this section or, if applicable, within the time as extended by the department or as further extended by the board of standards and appeals, all use of dwelling units for other than permanent residence purposes shall thereafter cease.

5. If after a certificate of occupancy is issued pursuant to subdivision four of this section, the use of such dwelling units for other than permanent residence purposes is discontinued, nothing in this section shall be construed to limit the application of the local zoning resolution with respect to such discontinuance.

**ARTICLE 5
NON-FIREPROOF MULTIPLE DWELLINGS**

Section 140. Application of article five.

TITLE 1
FIRE PROTECTION

Section 141. Height

- 142. Sub-curb uses.
- 143. Construction of first floor.
- 144. Egress from dwellings.
- 145. Fire-escapes.
- 146. Egress from apartments.
- 147. Bulkheads and scuttles.
- 148. Public stairs.
- 149. Public halls.
- 150. Cellar and basement stairs.
- 151. Spaces under stairs.
- 152. Fire-stopping.

TITLE 2
SANITATION

160. Water-closets.

§ 140. **Application of article five.** The provisions of this article shall apply to non-fireproof multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine, and to such dwellings only. They shall apply to all such non-fireproof dwellings unless their application is expressly limited to dwellings of a particular class. They shall apply in addition to, and not in substitution for, the

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provisions of article three. However the provisions of this article shall not apply to a multiple dwelling three stories or less in height to be occupied by not more than three families in all, with a maximum occupancy of two families on each floor in a two story building and one family on each floor in a three story building, provided however that all the provisions of article six are complied with, including section one hundred seventy-a of said article.

TITLE 1
FIRE PROTECTION

§ 141. **Height.** Any such dwelling which is seventy-five feet or less in height above the curb level and has six stories or less may be of non-fireproof construction.

§ 142. **Sub-curb uses.** 1. When such a dwelling is more than eighty feet in height measured from the lowest point of the yard or of any curb on which any part of the dwelling faces, whichever is lower, and any room in such dwelling below the level of the highest curb which any part of such dwelling faces is occupied for living purposes as permitted in paragraph f of subdivision one of section thirty-four, the yard at the level of such highest curb shall be set back so as to be at least eight feet greater in depth than the yard below such level unless the yard opens directly upon a street.

2. If such a dwelling is erected upon an interior lot running through from street to street, the wall of the dwelling facing the lowest street shall, at the level of the highest curb on which any part of such dwelling faces, be set back at least eight feet.

3. The setback of the yard or wall required by each of the two preceding subdivisions shall be a fire-terrace. Nothing herein contained shall be construed to permit a yard of smaller dimensions below the level of such fire-terrace than required by paragraph f of subdivision one of section thirty-four.

4. From each apartment below the level of such highest curb at least one means of egress shall lead directly to such fire-terrace in a manner approved by the department. Such fire-terrace shall be protected by a guard railing approved by the department, and shall afford safe and unobstructed access either directly to a street or to a covered fireproof passage at least three feet in width and seven feet in height leading directly and without obstruction to a street.

5. 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.

6. Apartments may also be occupied for living purposes in cellars and basements in accordance with the provisions of subdivision six of section thirty-four.

§ 143. **Construction of first floor.** 1. 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. Said first floor shall be unpierced except for a stair leading to a cellar as provided in section one hundred fifty, for lawful pipes, conduits and ducts and for dumbwaiter and elevator shafts. Any such dumbwaiter and elevator shafts shall be equipped at all openings below the said first floor with fireproof doors and assemblies with the doors self-closing.

2. Whenever the lowest cellar does not extend over more than half the

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area of the dwelling, that portion of the first floor directly over such cellar and the entire second floor above such cellar shall be constructed as in this section prescribed for the first floor above the lowest cellar. Whenever the lowest cellar extends over more than half, but not all, of the area of the dwelling, only that portion of the first floor directly over such cellar need be constructed as in this section prescribed for the first floor above the lowest cellar.

§ 144. **Egress from dwellings.** 1. A dwelling three or more stories in height shall have at least two means of egress extending 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 one hundred forty-eight. The other means of egress shall be either another such stair or a fire-escape constructed as provided in section fifty-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 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, or fire-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 are 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 a stair within fifty feet from a means of egress from such apartment. For such dwellings erected under plans filed in the department after September first, nineteen hundred fifty-one, such stair shall also be enclosed and comply with the provisions of section one hundred forty-eight.

4. Whenever more than two stairs are required, one or more of such stairs may be fire-stairs or fire-towers, provided that there shall never be more than one such fire-stair or fire-tower for each two other required stairs.

§ 145. **Fire-escapes.** Every fire-escape shall be located, arranged, constructed and maintained as provided in section fifty-three.

§ 146. **Egress from apartments.** 1. There shall be 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 a stair, fire-stair or fire-tower, not more than fifty feet distant from such means. In dwellings erected under plans filed in the department after September first, nineteen hundred fifty-one, such stair, fire-stair or fire-tower shall be enclosed. The other required means of egress shall open either directly upon a fire-escape or directly on a fire-tower balcony or a public vestibule or other public hall connecting with a stair, fire-stair or fire-tower balcony.

2. Except as hereinafter provided for dwellings two stories or less in height such balcony, 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 unless by an opening equipped with a fireproof door and assembly with the door self-closing. Such door shall not be

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held open by any device whatever. In a dwelling two stories or less in height, the separating wall may be fire-retarded on both sides in lieu of being fireproof.

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 class A 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.

§ 147. **Bulkheads and scuttles.** 1. Except as otherwise provided in subdivision two of this section, every required stair, fire-stair and fire-tower in dwellings three stories or more in height shall have a bulkhead constructed as provided for fireproof dwellings in section one hundred four, except that the bulkhead of any required stair which is not required to be fireproof may be built of wood covered on the outside with twenty-six gauge metal and on the inside with wire or metal lath covered with two coats of cement plaster or other fire-retarding material approved by the department.

2. Such a dwelling which is two stories or less in height, or is three stories in height and erected pursuant to plans filed with the department on or after May first, nineteen hundred fifty-nine and occupied by not more than one family on each story, shall be provided at each required stair, fire-stair or fire-tower either with such a 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 and so arranged as to provide direct and uninterrupted access to the roof. 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 iron ladder or ladders leading thereto and easily accessible to all the tenants of the dwelling.

3. No bulkhead or other superstructure on the roof shall be used for human occupancy.

4. 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.

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

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

3. Every stair, fire-stair and fire-tower shall be completely separated from every other stair, fire-stair and fire-tower 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 on both sides in lieu of being fireproof. 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, yard or space above a setback. At least one

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such window shall be at least two feet six inches wide and five feet high unless it opens on a street, in which case its minimum height shall be four feet. The aggregate area of such window or windows at each story shall be at least eighteen square feet. On the top story a ventilating skylight may be substituted for a window. At the entrance story or at the roof level a sash door, such as described in section thirty-five, opening to the outer air may be substituted for such window.

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 class A 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 class A multiple 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.

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

2. Every public hall shall be completely enclosed with fireproof floor, ceiling and walls, and, in dwellings erected under plans filed in the department after September first, nineteen hundred fifty-one, such hall shall be separated from every stair by fireproof partitions or walls. All doors and their assemblies opening from such hall or stairs shall be fireproof, with the doors self-closing and without transoms, except that in a dwelling three stories or less in height occupied by not more than four families on each story, or in a class A 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 deafening materials between the beams instead of being fireproof.

3. Except in dwellings three stories or less in height and occupied by two families or less on every story, and except as provided in subdivisions four to seven inclusive, 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 each 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 or upon a lawful yard or court in every forty feet of its length or fraction thereof measured from one end of the hall.

4. When the length of any recess or return off a public hall does not exceed twice the width of such recess or return, no window shall be required therein. But whenever the length of a recess or return exceeds twice its width, there shall be an additional window or windows meeting the requirements for a separate public hall. No entrance hall shall have a return or recess which exceeds in length twice its width.

5. 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 or fire-tower meeting the requirements of section one hundred forty-four if such vestibule or public hall is lighted and ventilated as required for fireproof dwellings by sections

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thirty-seven and one hundred seven.

6. The foregoing provisions of this section with regard to lighting and ventilation shall not apply to that portion of an entrance hall between the first flight of stairs and the entrance provided the entrance door contains five square feet or more of glazed surface or such entrance hall does not extend from the outer entrance of the dwelling more than sixty feet.

7. A passenger elevator vestibule not exceeding in length twice the parallel length of the elevator shaft or shafts opening into it need not be equipped with a window if it conforms to the requirements of sections thirty-seven and one hundred seven for public halls in fireproof multiple dwellings. Every door and its assembly separating such a vestibule from any public hall connected with a stair, fire-stair or fire-tower shall be fireproof, with the door self-closing and glazed with good quality wire glass ten square feet or more in area. No such door shall be kept open by any device whatever.

8. 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.

§ 150. **Cellar and basement stairs.** 1. Except as otherwise provided in this section, there shall be no inside stair communicating between the lowest cellar or the lowest story, if there be no cellar, and the floor next above, but any stair communicating between such floors shall be located outside the dwelling and if enclosed shall be fireproof in a fireproof enclosure with fireproof doors and door assemblies, with the doors self-closing, at all openings.

2. This provision, however, shall not apply to any stair not extending through more than one story and leading from an entrance hall to the upper stories where the walls enclosing such hall are fireproof and unpierced except for openings to stairs, elevators, apartments, public reception rooms, professional offices and the outer air. In no event shall there be any other opening from such an entrance hall, and all apartments and such professional offices opening therefrom shall be entirely separated from any space within such dwelling used for any other purposes by fireproof walls which shall be unpierced except for means of egress into the entrance hall. The provisions of this subdivision shall not apply to openings which are protected with fireproof vestibules. Any such vestibule shall have a minimum superficial floor area of fifty square feet and its maximum area shall not exceed seventy-five square feet. It shall be enclosed with incombustible partitions having a fire-resistive rating of three hours. The floor and ceiling of such vestibule shall also be of incombustible material having a fire-resistive rating of at least three hours. There shall be two doors to provide access from the entrance hall and any other space not used for openings to stairs, elevators, apartments, public reception rooms and the outer air. Each such door shall have a fire-resistive rating of one and one-half hours and shall be provided with a device to prevent the opening of one door until the other door is entirely closed. One of these doors shall swing into the vestibule from the entrance hall and the other shall swing from the vestibule into space which it serves. Such vestibule shall also be equipped with sprinklers and with an independent exhaust duct having a minimum cross-sectional area of one hundred forty-four square inches for each one thousand cubic feet, or fraction thereof, of air content, and such exhaust duct shall not be connected with any other ventilating system.

3. In dwellings three stories or less in height which are occupied by two families or less on every story, any stair leading to the cellar may

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be located inside the dwelling provided it is entirely enclosed with fireproof walls and with fireproof doors and door assemblies at both the cellar level and the story above, with the doors self-closing.

4. The provisions of subdivision one shall not prohibit or apply to an inside stair extending from a space used for commercial purposes in the cellar or lowest story to a store on the story next above, provided such stair is of incombustible materials, has closed risers, is enclosed between the two lowest floors with walls having a three-hour fire resistive rating and has fireproof doors and door assemblies at top and bottom, with the doors self-closing, and provided such commercial space in the cellar or lowest story is completely enclosed with partitions having a fire-resistive rating of at least two hours and there is no opening between the store on the story next above and any entrance hall or other public hall or public portion of the dwelling.

§ 151. **Spaces under stairs.** 1. It shall be unlawful to have a closet of any kind under any public stair.

2. The space beneath every stair from the foot of the stair to a point where the soffit is four feet or more above the floor shall be entirely enclosed with unpierced fire-retarded partitions. Such enclosure beneath a flight of public stairs leading from the entrance story to the story next above shall be fireproof.

3. Any unenclosed portion of the space beneath a flight of public stairs leading from the entrance story to the story next above shall be left entirely open and kept clear and free from encumbrance.

§ 152. **Fire-stopping.** 1. In every wall where wooden furring is used every course of masonry from the under side to the top of any floor beams shall project a distance of at least two inches beyond each face of the wall that is not on the outside of the dwelling; and whenever floor beams run parallel to a wall and wooden furring is used, every such beam shall always be kept at least two inches away from the wall, and the space between the beams and the wall shall be built up solidly with brickwork from the under side to the top of the floor beams.

2. Whenever a wall is studded off, the space between an inside face of the wall and the studding at any floor level shall be fire-stopped. Every space between beams directly over a studded-off space shall be fire-stopped by covering the bottom of the beams with metal lath and plaster and placing a loose fill of incombustible material at least four inches thick on the plaster between the beams, or hollow-burned clay tile or gypsum plaster partition blocks, at least four inches thick in either case and supported by cleats, shall be used to fill the spaces between beams.

3. Partitions which are not parallel with the wood floor beams and which separate one apartment or suite from another or any part of an apartment or suite from a public hall or other part of the dwelling outside the apartment or suite shall be filled in solidly with incombustible material between the floor beams from the plate of the partition below to the full depth of the floor beams.

4. If a dwelling is within ten feet of another non-fireproof building or of a side lot line, such dwelling shall have its eaves or cornices built up solidly with masonry.

5. The wooden frames in any cornice on any row of buildings shall be separated between buildings by a complete fire-stop.

6. Every space between stair carriages of any non-fireproof stair shall be fire-stopped by a header beam at top and bottom. Where a stair run is not all in one room or open space, the stair carriages shall have

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an intermediate firestop, so located as to cut off communication between portions of the stair in different rooms or open spaces. The underside and stringers of every unenclosed stair of combustible material shall be fire-retarded.

7. All partitions required to be fire-retarded shall be fire-stopped with incombustible material at floors, ceilings and roofs. Fire-stopping over partitions shall extend from the ceiling to the underside of any roofing above. Any space between the top of a partition and the underside of roof boarding shall be completely fire-stopped.

TITLE 2
SANITATION

§ 160. **Water-closets.** Water-closet compartments in class B non-fireproof multiple dwellings shall comply with the applicable provisions of section seventy-six.

**ARTICLE 5-A
GARDEN-TYPE MAISONNETTE DWELLING PROJECTS**

Section 161. Application of article five-A.

162. Single ownership.

163. Construction and arrangement.

§ 161. **Application of article five-A.** The provisions of this article shall apply to garden-type maisonette dwelling projects erected under plans filed with the department on or after April eighteenth, nineteen hundred fifty-four. They shall apply to all such dwellings unless their application is expressly limited to dwellings of a particular class. They shall apply in addition to, and not in substitution for, the provisions of article three. Such dwellings need not comply with the provisions of sections twenty-eight, thirty-five, thirty-six, fifty, fifty-four, and sixty-five, or with articles four, five, six or seven of this chapter, but such dwellings shall comply with all of the provisions of the building code applicable to residential buildings of this type and kind. A garden-type maisonette dwelling project, which is erected in accordance with the applicable provisions of this chapter for fireproof or non-fireproof dwellings other than the provisions of this article five-A, shall not be required to comply with the provisions of this article.

§ 162. **Single ownership.** The owner of any site or plot upon which a garden-type maisonette dwelling project is proposed to be erected shall execute and file in the office of the recording officer in the county where deeds of conveyances are recorded an instrument in writing which shall declare that, so long as any of the buildings proposed to be erected remain standing, a conveyance of any part or parts of such project shall, thereupon, cause all the buildings on such site or plot to be and become unlawful structures, and any prior certificate of occupancy issued for such structures shall thereupon become void. Nothing in this section shall be deemed to prohibit the sale of any part of such project, provided, however, that the part which is so conveyed and the remaining part of the project shall be made to comply to all of the applicable provisions of this chapter.

§ 163. **Construction and arrangement.** Garden-type maisonette dwelling projects may be erected on condition that they comply with the following

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provisions:

1. The dwelling units in such projects, together, or in their aggregate, do not exceed in superficial area thirty-five per centum of the area of the site or plot upon which such projects are erected.

2. The units in such projects do not exceed two stories in height.

3. Each section contains not more than two apartments in any unit.

4. Every one or two-family unit is separated from all other such units by an unpierced partition constructed of materials having a fire-resistive rating of at least one hour and such partition extends from the first floor above the basement or cellar of the dwelling to the top of the roof boards in such manner as to prevent the passage of fire, smoke or gases between units.

5. a. A project section shall not be constructed of units which, together, are of a greater area than three thousand square feet unless divided by unpierced fire walls of masonry or other materials having a fire-resistive rating of at least three hours. Such wall shall be continuous from the floor of the lowest level of the dwelling to the top of the roof boards and be fire-stopped at floors and roof in such manner as to prevent the passage of fire, smoke or gas between areas.

b. Fire walls shall extend at least two feet above the level of the finished roof or, in lieu thereof, where there is a peaked or sloped roof, the ceiling of the attic of all units comprising such section shall be covered with gypsum plaster-boards three-eighths of an inch in thickness or with other materials having the same fire-resistive rating.

6. The facing of the exterior walls shall be of brick veneer not less than four inches in thickness or may be of one or a combination of other materials; and the interior facing of such walls shall be covered with one-half-inch thick plaster boards and three-eighths-inch thick sanded gypsum plaster or a combination of other materials which, when combined with the exterior materials shall have a fire-resistive rating of at least one hour.

7. Cellar ceilings throughout shall be covered with gypsum plaster boards three-eighths of an inch in thickness or with other materials having the same fire resistive rating. A heating plant located within a section shall be completely enclosed with incombustible materials having a fire resistive rating of at least three hours and all openings therefrom to other parts of the dwelling shall be equipped with fire-proof doors and assemblies with the doors self closing.

8. Concealed vertical and horizontal draft openings shall be fire-stopped with incombustible materials.

**ARTICLE 6
CONVERTED DWELLINGS**

Section 170. Application of article six and other provisions to converted dwellings.

170-a.

171. Alterations.

**TITLE 1
LIGHT AND AIR**

Section 172. Yards and courts.

173. Windows in rooms.

174. Size of rooms.

175. Alcoves.

176. Cooking spaces.

177. Rooms in basements and cellars.

178. Lighting and ventilation of stairs.

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179. Privacy.

TITLE 2

FIRE PROTECTION

- Section 185. Cellar ceilings.
- 186. Extension roofs.
- 187. Egress.
- 188. Bulkheads and scuttles.
- 189. Stair and public hall construction.
- 190. Cellar stairs.
- 191. Wainscoting.
- 192. Cellar entrance.
- 193. Frame buildings.
- 194. Sprinkler heads in rooms.

TITLE 3

SANITATION

Section 200. Water-closets.

§ 170. Application of article six and other provisions to converted dwellings.

The provisions of this article shall apply to converted dwellings and to such dwellings only. They shall apply to all converted dwellings unless their application is expressly limited to dwellings of a particular class. The following enumerated articles and sections shall also apply to all converted dwellings unless so limited:

- Article 1. Introductory provisions; definitions.
- 2. Miscellaneous application provisions.
- 7-a. Temporary provisions.
- 8. Requirements and remedies.
- 9. Registry of names and service of papers.
- 10. Prostitution.
- 11. Laws repealed; saving clause; legislative intent; effect.
- Sec. 28. Two or more buildings on same lot
- 29. Painting of courts and shafts
- 31. Size of rooms--- subdivision six
- 35. Entrance doors and lights
- 37. Artificial hall lighting
- 52. Stairs
- 55. Wainscoting
- 56. Frame buildings and extensions
- 57. Bells; mail receptacles
- 58. Incombustible materials
- 59. Bakeries and fat boiling
- 60. Motor vehicle storage
- 61. Business uses
- 62. Parapets, guard railings and wires--- subdivision two
- 75. Water supply
- 76. Water-closet and bath accommodations
- 77. Plumbing and drainage
- 78. Repairs
- 79. Heating
- 80. Cleanliness
- 81. Receptacles for waste matter
- 83. Janitor or housekeeper

§ 170-a. Notwithstanding any other provision of this chapter, a dwelling, other than a frame dwelling, three stories or less in height erected after April eighteenth, nineteen hundred twenty-nine as a one or

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two-family dwelling may be converted to a multiple dwelling to be occupied by not more than three families in all, with a maximum occupancy of two families on each floor in a two story building and one family on each floor in a three story building, provided however that all the provisions of this article are complied with and provided further that

1. No part of such dwelling shall be used for business purposes.

2. No part of such dwelling shall be arranged, designed for or occupied by roomers, boarders or lodgers.

3. The public hall or stair partitions and soffit of stairs shall be fire-retarded and said partitions fire-stopped. The apartment entrance doors and door assemblies in such hall shall be fire-proof and self-closing.

4. The required stairs shall comply with the provisions of subdivision three of section fifty-two of this chapter.

5. No door opening shall be permitted from a garage within the building to the stair hall or public hall. However, any other opening to the residential portion shall be provided with a fire-proof self-closing door, and the door assemblies shall be fire-proof.

6. The cellar shall not be used for any purpose other than household storage and mechanical equipment or appliances, and the cellar ceiling shall be fire-retarded.

§ 171. **Alterations.** 1. A building, other than a frame building, originally occupied as a one-family or two-family dwelling may be altered to a converted dwelling if its bulk and volume has not been increased since April eighteenth, nineteen hundred twenty-nine, and if it is converted in conformity with the other provisions of this article.

2. Except as permitted in subdivision nine of section nine and subdivision six of section one hundred seventy-two, it shall be unlawful:

a. To increase the height or number of stories of any converted dwelling or to increase the height or number of stories of any building in converting it to a multiple dwelling.

b. To reduce the room or window area of any converted dwelling or make any other alteration therein if such alteration decreases the light, ventilation, fire protection or sanitation thereof.

c. To convert to a multiple dwelling any dwelling which exceeds six stories in height unless it was occupied as a multiple dwelling on April fifteenth, nineteen hundred thirty;

d. To convert any dwelling to a class A multiple dwelling occupied by five families or more upon any story unless such dwelling is fireproof or is converted in conformity with the requirements of subdivision three or was occupied as a class A multiple dwelling on April fifteenth, nineteen hundred thirty.

e. To combine any converted dwelling with another building which exceeds six stories in height.

f. To enlarge or extend any converted dwelling so as to exceed by more than twenty-five per centum the area which such dwelling had on any floor at the time of its conversion, except as provided in paragraph h.

g. To convert to a multiple dwelling any dwelling not so converted before April fifteenth, nineteen hundred thirty, if after such date it has been increased in number of stories or combined with another building more than six stories in height or enlarged or extended so as to exceed by more than twenty-five per centum the area of such dwelling or its area on any floor as shown by the plan approved by the department before its erection, except as provided in paragraph h.

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h. Paragraphs f and g shall not apply to, or be deemed to prohibit, any rear extension of the first story of any converted dwelling permitted under the provisions of section one hundred seventy-two.

3. Converted dwellings six stories or less in height may be combined if such dwellings when combined conform to the requirements of this subdivision.

a. No frame building shall be a part of any such combination.

b. Every entrance hall, stair hall, public hall, stair and stair enclosures shall be constructed of fireproof materials throughout and every door opening therefrom and door assembly shall be fireproof with the door self-closing and without transoms. Every public hall shall be at least three feet six inches in clear width and enclosed with masonry walls not less than eight inches in thickness. Every stair and stair hall shall be constructed and arranged throughout as provided in sections thirty-five, thirty-six, fifty and fifty-two, and as provided in sections one hundred two, one hundred five and one hundred six for fireproof dwellings erected after April eighteenth, nineteen hundred twenty-nine, and shall be at least three feet in clear width with all landings at floor levels at least three feet six inches in clear width. In every combination of three or more such dwellings, fire-stairs shall be located so that there shall be horizontal access in the public hall from every apartment to two or more fire-stairs, one or more of which shall be within fifty feet horizontally in the line of travel of one or more required means of egress from such apartment. Every stair, fire-stair and fire-tower shall extend to the roof through a fireproof bulkhead constructed in compliance with the provisions of section one hundred four for fireproof multiple dwellings.

c. The ceiling of the cellar, or of the lowest story, if there be no cellar, shall be fire-retarded.

d. There shall be at least two means of egress from every apartment or suite of rooms containing three or more living rooms. Such means shall be remote from each other, with the first means opening to a public hall which is connected with a stair not more than fifty feet distant from such means of egress. The second means of egress shall be directly accessible to a fire-tower or fire-stair, or to an outside fire-escape.

e. No window to the outer air shall be required opening from any public hall, vestibule, stair, or stair hall artificially lighted and ventilated mechanically as provided in section one hundred seven for fireproof multiple dwellings. If any windows are provided, they and their assemblies shall be fireproof and glazed with wire glass, and if such windows are used in lieu of mechanical ventilation and artificial lighting, they shall also be arranged as provided for stairs and public halls in non-fireproof multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine.

f. No elevator shall be required, but should one be installed it shall conform to the provisions of section fifty-one relating to elevators and section one hundred five for fireproof dwellings.

g. None of the combined dwellings shall be required to comply with sections one hundred seventy-eight, one hundred eighty-five, one hundred eighty-seven, one hundred eighty-eight and one hundred ninety or with subdivisions one, two and three of section one hundred eighty-nine.

h. When any business is conducted in any portion of dwellings so combined, the ceilings and walls of such portion shall be fire-retarded and every door and door assembly shall be fireproof with the door self-closing.

4. Nothing in this article shall be deemed to prohibit a combination of class A and B occupancy in any converted dwelling. If more than fifty

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per centum of the rooms therein are used for class A occupancy, the dwelling shall be deemed a class A dwelling, otherwise a class B dwelling.

TITLE 1
LIGHT AND AIR

§ 172. **Yards and courts.** 1. Except as provided in subdivision two, there shall be a yard thirteen feet or more in depth across the entire lot in the rear of every converted dwelling, or an outer court three feet or more in width which alone or with any open space at the rear of the dwelling equals the required area of such a yard.

2. On a corner lot there shall be a yard ten feet or more in depth across the entire lot. Such yard shall be thirteen feet or more in depth for any part of the yard which is more than sixty feet from any side street bounding such lot. The provisions of this subdivision need not apply to a dwelling situated on a corner lot if (a) the required windows of all living rooms in such a dwelling open directly upon a street (b) the height and bulk of the dwelling are not increased and (c) the bulk of the dwelling above the first story is not increased.

3. The bottom of a yard may be as high as but not above the second tier of beams, provided the first story is used exclusively for business purposes and there is no living room in or below the first story; and provided also that whenever any means of egress from the upper stories opens into such yard, a portion of the yard ten feet or more in depth and open from the ground up shall be maintained at the rear of any extension of the dwelling.

4. In the rear of every converted dwelling on a corner lot an extension of the dwelling over the yard may be built up to the second tier of beams, provided such extension does not obstruct any required means of egress from the upper stories.

5. Except as provided in subdivisions three and four, the required yard or court and unoccupied space shall be open and unobstructed from the ground up.

6. The restrictions of this section and those of subdivisions one and two of section one hundred seventy-one in regard to bulk and volume shall not apply to extensions erected before April thirteenth, nineteen hundred forty, in conformity with the provision of a local zoning resolution which restricted bulk and volume.

7. Nothing in this section shall be deemed to permit extensions in the yards or courts of any converted dwelling, or to permit business or commercial uses therein, which may be contrary to any local zoning law, ordinance or regulation.

§ 173. **Windows in rooms.** 1. Except as provided in subdivision four of section one hundred seventy-seven every living room shall have one or more windows opening directly upon a street or upon a yard or court with dimensions conforming to those specified in section one hundred seventy-two, or upon an inner court or shaft three feet nine inches or more in width and eight feet or more in length.

2. Such windows shall be so located as to light properly all portions of the room and in each room shall have an aggregate glazed area of at least one-tenth of the floor area of the room, unless in the opinion of the department such room is already adequately lighted and ventilated. The top of at least one window in each living room shall be seven feet

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or more above the floor except when such room is in the basement or on the top story, in which case the top of at least one window shall be six feet or more above the floor. Every such window shall be twelve square feet or more in area, and shall be so constructed that one-half or more of its area may be opened. However, such window need not be twelve square feet in area provided that each room shall have an aggregate glazed window area of at least one-eighth of the superficial floor area of the room.

3. Whenever a basement conforming to the provisions of subdivision four of section one hundred seventy-seven is permitted to be occupied for living purposes, every living room, bathroom, water-closet compartment, kitchen and cooking space therein shall have one or more windows opening directly upon a street; or upon a yard which is at every point at least fifteen feet in depth and, above the window sill level of the first story above the basement, at least twenty feet; or upon a court at least two feet in width and extending the entire depth of the lot from the street to the yard. All such yards and courts shall be measured at the ground level from the lot line to the building line opposite on the same lot. The windows in each such room shall have an aggregate glazed area of at least one-eighth of the total floor area of the room, and in no event less than twelve square feet. The top edge of the glazed area of every window shall be nine inches or more below the finished ceiling and one foot or more above the level of the adjoining ground. Every such window shall be so constructed that one-half or more of its area may be opened, and shall be so located as to light and ventilate adequately all portions of the room.

4. Any room on a top story may be lighted and ventilated by a skylight of the dimensions specified for windows and arranged to provide ventilating openings of six square feet or more. Such a skylight shall be accepted in lieu of a window. Nothing in this subdivision shall be construed to prohibit the installation of a skylight without ventilating openings of six square feet or more, provided, however, that such skylight shall be equipped with at least one hundred forty-four square inches of ventilation and provided that the glazed area of such skylight together with the glazed area of any existing window shall be not less than one-eighth the superficial floor area of such room.

5. When required by the department transoms, or louvres, or partition sash to private halls or to adjoining rooms in the same apartment shall be provided to secure thorough ventilation, but no such transom or louvres or partition sash shall be required in rooms having two windows opening to the outer air if each window contains at least twelve square feet of area nor in rooms having a mullioned window with an aggregate area of at least twenty-four square feet.

§ 174. **Size of rooms.** Every living room shall contain five hundred fifty cubic feet or more of air, shall be at least six feet wide at its narrowest part and shall have a minimum height of seven feet if such room is in the basement, of seven feet at all points more than six feet from the front of such room if it is on the top story, and of eight feet if on any other story, except that whenever a basement conforms to the provisions of subdivision four of section one hundred seventy-seven the living rooms in such basement may have a minimum height of six feet eight inches from the finished floor to the bottom of any beams projecting below the level of the finished basement ceiling and of seven feet to the ceiling between such beams.

§ 175. **Alcoves.** 1. Every alcove, except a cooking space or foyer,

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shall be deemed a living room and shall open into an immediately adjoining living room which opens directly on a yard or street and in buildings not over two stories in height, such living room may open directly on an outer court or on a court, not less than four feet in width, extending from street to yard. Such an alcove shall be separately lighted and ventilated, and of such size as provided for other living rooms, unless it has an opening at least thirty-two and one-half square feet or more in area opening into a living room immediately adjoining.

2. No part of any room shall be enclosed or subdivided at any time, wholly or in part, by a curtain, portiere, fixed or movable partition or any other device unless each enclosed or subdivided part meets all of the requirements for a separate living room or a lawful alcove.

§ 176. **Cooking spaces.** If space exists or is provided for cooking, such space shall comply with the provisions of section thirty-three.

§ 177. **Rooms in basements and cellars.** 1. No room in any cellar shall be occupied for living purposes, except as provided in subdivision six of section thirty-four or in subdivision three of this section.

2. A room occupied for living purposes in a basement shall comply with the requirements of sections one hundred seventy-three and one hundred seventy-four except as provided in subdivision four of this section.

3. Where more than sixty per centum of the height of a cellar is below the level of the curb on which a dwelling faces, but the floor of such cellar is approximately at the level of the yard thereof and such yard is not less than thirty feet in depth at every point, the department may permit the use of such cellar for living purposes if it shall deem such cellar adequately lighted and ventilated and habitable. When permission is granted such a cellar shall be deemed a basement.

4. The basement of a converted dwelling may be used for living purposes without meeting the requirements of subdivisions one and two of section one hundred seventy-three if such dwelling meets the other applicable requirements of such section and of this chapter, including the following:

a. Such a dwelling shall not exceed three stories, including the basement, in height.

b. It shall be occupied by not more than one family on any story, including the basement. For the purposes of this subdivision a family shall not be deemed to include any boarders, lodgers or roomers.

c. It shall have at least one court two feet or more in width extending across the entire depth of the lot from the street to the yard.

d. The department shall deem the basement to be adequately lighted and ventilated, free of any dampness, sanitary and habitable.

e. There shall be a separate water-closet compartment within the basement apartment conforming to the provisions of section two hundred.

f. Such dwelling shall not be required to comply with section one hundred eighty-seven if a scuttle is provided conforming to section one hundred eighty-eight.

(g) This subdivision is applicable only to buildings noted, classified or recorded as such converted dwellings in the department prior to January first, nineteen hundred sixty-six.

5. Notwithstanding any provisions of this section or of subdivision five of section three hundred, an apartment or room in a cellar which was occupied for living purposes at any time on or after October first, nineteen hundred fifty-two may thereafter continue to be occupied for such purposes until July first, nineteen hundred sixty-seven in

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accordance with the conditions imposed by subdivision five of section two hundred sixteen.

§ 178. **Lighting and ventilation of stairs.** Where the stair and public halls are not provided on each story with windows opening to a street, yard or court, a skylight equipped with ridge ventilators having an opening of forty square inches or more shall be provided in the roof over the stair, except as otherwise provided in paragraph g of subdivision three of section one hundred seventy-one. The glazed roof of such skylight shall not be less in area than nine square feet nor less than two feet in its least dimension, provided the ventilating and glass areas in such skylight are not less than herein required; except that in dwellings converted before April eighteenth, nineteen hundred twenty-nine, where a skylight smaller than such prescribed dimensions was in existence on such date, no structural change shall be required, but a ventilating skylight fitting the existing skylight opening in the roof beams shall be deemed sufficient.

§ 179. **Privacy.** In every apartment of three or more rooms in every class A converted dwelling there shall be access to every living room without passing through any bedroom, and to at least one water-closet compartment within the apartment from every bedroom without passing through any other bedroom.

TITLE 2
FIRE PROTECTION

§ 185. **Cellar ceilings.** 1. Except as provided in paragraph g of subdivision three of section one hundred seventy-one, the ceiling of the cellar, or of the lowest story if there be no cellar, shall be fire-retarded unless such dwelling is three stories or less in height and the ceiling has already been plastered in a manner satisfactory to the department.

2. In lieu of the requirements set forth in subdivision 1. hereof, buildings existing November first, nineteen hundred forty-nine, in cities having a population between five hundred thousand and one million having three stories or less in height and containing no more than six families or eight roomers or lodgers, with no human occupancy in the cellar or basement may comply by:

I. providing two means of egress to any area of the third floor used for human occupancy; and

II. providing approved safety controls on all fuel burning devices in basement or cellar; and

III. fire-stopping of all openings in cellar or basement ceiling or openings leading to the floors above from cellar or basement such as, but not limited to, stud channels, openings around conduits, soil and water pipes, ducts, pipe chases, and by complying with either IV or V hereof;

IV. providing an approved sprinkler system throughout entire cellar or basement area; or

V. a. providing fire-retarded ceilings at the first floor level; and

b. providing sprinkler head or heads above each hot water heater, furnace and all other fuel burning devices in basement or cellar; and

c. fire-stopping all the interior entrances to any area of the third floor used for human occupancy at the second floor level with fire-retarded partitions, or equal construction, and a fire-retarded

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self-closing door and assembly.

§ 186. **Extension roofs.** The under-surface of the roof of any extension shall be fire-retarded or sprinklered unless such ceiling has already been plastered in a manner satisfactory to the department.

§ 187. **Egress.** 1. Except as provided in paragraph g of subdivision three of section one hundred seventy-one, egress from every apartment on each story shall be provided as follows:

a. If a dwelling is two stories or less in height, or if it is three stories including a basement in height and conforms to the conditions of subdivision four of section one hundred seventy-seven, a single means of egress from each story to the street shall be sufficient.

b. Every other dwelling shall have either two independent means of egress or one means of egress equipped with a sprinkler system.

c. At least one means of egress shall be a stair extending to and through the roof by a bulkhead, except that a scuttle may be used in lieu of a bulkhead if the dwelling does not exceed a basement and three other stories in height, or if it does not exceed a basement and four other stories in height and is occupied by not more than two families on any story, and except that no bulkhead or scuttle, or stair or ladder leading thereto, shall be required where the roof is a peak roof with a pitch of more than fifteen degrees.

d. Whenever a second means of egress is required, it shall, except as provided in paragraph f, extend from the entrance story to the roof, and shall be located eight feet or more from the first means of egress unless separated therefrom by a public hall or elevator vestibule. Such second means of egress shall be directly accessible at each story to each apartment without having to pass through the first means of egress.

e. A required second means of egress shall be either a system of outside fire-escapes, constructed and arranged as provided in section fifty-three for fire-escapes erected after April eighteenth, nineteen hundred twenty-nine, a fire-stair, a fire-tower or a connection with an adjoining dwelling as provided in paragraph f below.

f. If the department upon the application of the owner shall deem it feasible and so permit, the owner shall provide, and at all times maintain unobstructed, a first means of egress extending by means of a stair from the street through a bulkhead to the roof and thence from the roof of such dwelling to the roof of an adjoining dwelling and through such adjoining dwelling to the street and a second means of egress from each apartment to a room on the same story or level in an adjoining dwelling by means of a balcony. Every such balcony shall comply with the requirements for a fire-escape balcony, except that its minimum clear width shall be two feet instead of three feet. If at any time such access to the street shall in the opinion of the department be obstructed or be otherwise unsafe the department shall revoke the permit, and upon such revocation the owner shall provide one of the other types of egress permitted in this section.

g. When the department shall find it impractical to erect an independent fire-escape and shall refuse to permit egress by means of balconies to an adjoining dwelling, the department may permit the erection or use of a fire-escape to which the occupants of such dwelling have safe, unobstructed access in common with the occupants of an adjoining dwelling.

h. Where a required means of egress leads to a yard less than thirty feet in depth, except as provided in paragraph f of subdivision four of

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section one hundred seventy-seven, there shall be access from such yard to the street through a court or fireproof passage, or to the yard or court of adjoining premises by a gate or door through an intervening fence, or, if the department deems such gate or door impracticable and so certifies, by a ladder to the top of an intervening fence or wall or by such other means as the department may require.

2. Where a sprinkler system is required such system shall be equipped on each story with one or more automatic sprinkler heads with fusible struts which shall be constructed to fuse at a temperature not higher than one hundred sixty-five degrees Fahrenheit and all of which shall be constructed, located and arranged in every stair and entrance hall, and in every closet opening therefrom, in such manner as the department may require. Such system may be attached to the city water supply main if the normal minimum pressure thereon, measured in pounds per square inch at the street level at the point of connection with said main, is not less than the number of stories in the height of the dwelling, multiplied by five, plus fifteen. If such normal minimum pressure is less than the required amount or such system is not attached to the city water supply main, it shall be supplied with water from a tank located on the roof of the dwelling of such capacity and construction as the department may deem necessary. Such sprinkler system shall be maintained continuously in good repair and serviceable condition.

§ 188. **Bulkheads and scuttles.** Except as provided in paragraph g of subdivision three of section one hundred seventy-one, bulkheads and scuttles shall conform to the following provisions: 1. Every required bulkhead to and through the roof shall be fireproof or constructed of wood covered with metal on the outside and fire-retarded on the inside, and shall have a fire-retarded door and assembly with the door self-closing. Every stair extending through a bulkhead shall have a hand rail.

2. Every 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 stair or a stationary iron ladder leading thereto and easily accessible to all occupants of the dwelling. Every scuttle shall be located in the ceiling of the stair hall on the top story and access to the roof through the scuttle shall be direct and uninterrupted. It shall be unlawful to enclose in any manner the ladder or stair leading to a scuttle.

3. Every bulkhead door or scuttle shall not be self-locking and shall be fastened on the inside with movable bolts, hooks, or a lock which does not require a key to open from the inside of the dwelling.

4. Where a dwelling has a peak roof with a pitch of more than fifteen degrees, no bulkhead or scuttle, or stair or ladder leading thereto, shall be required.

§ 189. **Stair and public hall construction.** Except as provided in paragraph g of subdivision three of section one hundred seventy-one, stairs and public halls shall conform to the following provisions:

1. In a dwelling more than a basement and three other stories in height or occupied by four families or more, the soffit and stringers of every stair between the lowest entrance story and the next higher story and the walls and ceilings of every lowest entrance hall shall be fire-retarded and in such dwellings converted on and after July first, nineteen hundred fifty-eight, all doors opening to such entrance hall and stairs, and the door assemblies, shall be fireproof with the doors self-closing. In lieu of the requirements of this subdivision, a

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sprinkler system may be installed in accordance with the provisions of section one hundred eighty-seven.

2. Every door opening from any stair, entrance hall or other public hall to any other part of the dwelling shall be self-closing. Every glazed transom over any such door shall be glazed with wire glass. Every transom shall be stationary. On and after July first, nineteen hundred fifty-seven, every glazed panel or other glazed opening in any such door shall be glazed with wire glass.

3. Every stair, except a basement or cellar stair, shall be two feet six inches or more in clear width. Any wooden stair may be replaced by an iron stair of like dimensions. Every entrance hall shall be two feet eight inches or more in clear width.

4. If the number of rooms in a class B dwelling is increased and there are sixteen sleeping rooms or more above a basement or, if there be no basement, above the main entrance story, all partitions and ceilings enclosing public halls and stairs shall be fire-retarded throughout. All doors opening to such public halls and stairs, and their assemblies, shall be fireproof with the doors self-closing. Stairs shall be fireproof and shall extend from the main entrance story through a bulkhead to the roof.

5. On and after July first, nineteen hundred fifty-seven, every interior sash, or opening other than a door, in the walls or partitions of any stair, entrance hall or other public hall, and every window therein not opening to the outer air, shall be removed and the openings closed up with material similar to the adjacent walls.

§ 190. **Cellar stairs.** 1. Except as provided in paragraph g of subdivision three of section one hundred seventy-one, and except as otherwise provided in subdivision two hereof, every stair leading from a cellar to the floor above shall be constructed of incombustible materials, shall have closed risers, shall be completely enclosed with partitions of incombustible materials and shall be equipped at the bottom with a fireproof door and assembly with the door self-closing.

2. Every existing stair leading from a cellar to the floor above in a converted dwelling accepted or approved by the department on or before July first, nineteen hundred sixty shall be deemed in compliance with this section.

§ 191. **Wainscoting.** Wainscoting in any stair or public hall shall be removed unless such wainscoting is backed against a fire-retarded wall or the stair or hall is equipped with a sprinkler system conforming to the provisions of section one hundred eighty-seven. Where wainscoting is removed in order to fire-retard a public hall or stair, such wainscoting may be replaced or additional wainscoting may be applied to make the surfaces of any new partitions or walls conform to existing partitions or walls provided such additional wainscoting is similarly backed with fire-retarded materials.

§ 192. **Cellar entrance.** a. If there is a cellar, there shall be an independent entrance thereto from outside the dwelling by means of a metal fire ladder or fireproof stair leading to an opening in the outside cellar wall at least two feet six inches in width and six feet in height. Such entrance to the cellar may be through an areaway or through a fireproof passageway leading directly to the street. The entrance to the cellar may be closed off with a grating or doors which shall not be locked or bolted unless they can be readily unbolted or

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unlocked from the inside without a key and shall be arranged and constructed so as to be readily opened at all times.

b. In lieu of the requirements set forth in subdivision a hereof, buildings existing November first, nineteen hundred forty-nine in cities having a population between five hundred thousand and one million may comply with the following:

1. shall have an unobstructed entrance through a yard or court from a street:

(a) directly to exterior dwelling entrance with interior entrance to basement or cellar direct from said entrance, or from a fire retarded public hall or stair landing, and

(b) to one or more cellar or basement walls containing accessible windows.

2. The stairway leading to cellar or basement shall be enclosed with fire retarded partitions or equal construction and shall have a minimum fire rating of one hour. Said cellar or basement entrance shall be equipped with a one hour self-closing fire door assembly.

§ 193. **Frame buildings.** No frame building shall be erected or maintained upon the same lot with a dwelling converted after April twenty-eighth, nineteen hundred thirty, nor shall any frame building not occupied on April thirteenth, nineteen hundred forty, as a multiple dwelling be altered or converted to such use; except that if the walls of a frame converted dwelling are faced with a veneer of brick and the entrance story is occupied by not more than one family, such entrance story may be altered so that it may be occupied by two families.

§ 194. **Sprinkler heads in rooms.** 1. On and after July first, nineteen hundred fifty-seven, in every room used for class B occupancy whether in a class A or class B non-fireproof converted dwelling, there shall be one or more sprinkler heads. Such sprinkler heads shall be installed in accordance with the supplementary rules and regulations of the department. This requirement shall not apply to dwellings which have a required second means of egress.

2. The requirements of this section shall not apply to a dwelling located within an area designated on the master plan as an area suitable for development and redevelopment, provided (a) that the agency in charge of such clearance shall have certified to the department on or before February first, nineteen hundred fifty-nine that the dwelling will be demolished within one year after the service of notice of violation and (b) that the dwelling is not in violation of any rules and regulations relating to over occupancy, egress or fire protection. Such temporary exemption from the requirements of this section may be extended for an additional period of not more than six months upon renewal of such certification of demolition and safety.

TITLE 3
SANITATION

§ 200. **Water-closets.** Water-closet compartments or bathrooms containing water-closets in converted multiple dwellings shall comply with the applicable provisions of section seventy-six.

**ARTICLE 7
TENEMENTS**

Section 210. Application of article seven and other provisions to

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tenements.

TITLE 1
LIGHT AND AIR

- Section 211. Height and bulk.
212. Yards and courts.
213. Lighting and ventilation of rooms.
214. Size of rooms.
215. Alcoves.
216. Rooms in basements and cellars.
217. Lighting and ventilation of public halls and stairs.
218. Alterations.

TITLE 2
FIRE PROTECTION

- Section 230. Chimneys and fireplaces.
231. Egress.
232. Fire-escapes.
233. Bulkheads and scuttles.
234. Stairs and public halls.
235. Stairs in non-fireproof tenements.
236. Stairs in fireproof tenements.
237. Stair construction.
238. Stair and entrance halls.
239. Tower fire-escapes and supplemental stairs.
240. First tier of beams.
241. Partitions; fire-stopping.
242. Cellar and basement stairs in non-fireproof tenements.
243. Cellar and basement stairs in fireproof tenements.
244. Spaces under stairs.
245. Cellar entrance.

TITLE 2-A
SINGLE ROOM OCCUPANCY

- Section 248. Single room occupancy.

TITLE 3
SANITATION

- Section 250. Water-closets.
251. Vent flues.
252. Privacy.

§ 210. Application of article seven and other provisions to tenements.

Except as provided in section two hundred forty-eight, the provisions of this article shall apply only to tenements, as defined in subdivision eleven of section four, occupied as such before April eighteenth, nineteen hundred twenty-nine. Unless in this article otherwise specifically prescribed, none of its provisions shall be deemed to require any structural alteration in any tenement erected after April eleventh, nineteen hundred one and lawfully occupied as such on April eighteenth, nineteen hundred twenty-nine. Nothing in this article shall apply to converted dwellings. In addition to the provisions of this article, the following enumerated articles and sections shall, to the extent required therein, apply to tenements:

- Article 1. Introductory provisions; definitions
2. Miscellaneous application provisions
7-a. Temporary provisions
8. Requirements and remedies
9. Registry of names and service of papers
10. Prostitution
11. Laws repealed; saving clause; legislative intent; effect

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|------|-----|---|
| Sec. | 28. | Two or more buildings on same lot |
| | 29. | Painting of courts and shafts |
| | 31. | Size of rooms--subdivision six |
| | 33. | Cooking spaces |
| | 34. | Rooms in basements and cellars |
| | 35. | Entrance doors and lights |
| | 37. | Artificial hall lighting |
| | 51. | Shafts, elevators and dumbwaiters |
| | 52. | Stairs |
| | 53. | Fire-escapes |
| | 55. | Wainscoting |
| | 56. | Frame buildings and extensions |
| | 57. | Bells; mail receptacles |
| | 58. | Incombustible materials |
| | 59. | Bakeries and fat boiling |
| | 60. | Motor vehicle storage |
| | 61. | Business uses |
| | 62. | Parapets, guard railings and wires--subdivision two |
| | 75. | Water supply |
| | 76. | Water-closet and bath accommodations |
| | 77. | Plumbing and drainage |
| | 78. | Repairs |
| | 79. | Heating |
| | 80. | Cleanliness |
| | 81. | Receptacles for waste matter |
| | 83. | Janitor or housekeeper |

TITLE 1
LIGHT AND AIR

§ 211. **Height and bulk.** 1. No tenement shall be increased in height so that its height shall exceed by more than one-half the width of the widest street upon which it stands. Except as otherwise provided in subdivision four of this section, no non-fireproof tenement shall be increased in height so that it shall exceed five stories, except that any tenement may be increased to any height permitted for multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine, if such tenement conforms to the provisions of this chapter governing like multiple dwellings erected after such date.

2. If there are bulkheads, superstructures or penthouses exceeding ten feet in height or exceeding in aggregate area ten per centum of the area of the roof, the measurement of height shall be taken to the top of such bulkhead, superstructure or penthouse, except that this shall not apply to elevator enclosures not exceeding twenty-three feet in height used solely for elevator purposes, nor to open pergolas or similar open ornamental treatment of roof-gardens or playgrounds.

3. In a fireproof tenement house in which one or more passenger elevators are operated, penthouses may be erected on the main roof. Such penthouses shall be set back at least five feet from the front walls and ten feet from the rear walls of the dwelling and at least three feet from any court wall. Such penthouses shall have a clear inside height of not less than nine feet from finished floor to finished ceiling, and shall not exceed twelve feet in height from the high point of the main roof to the highest point of the penthouse roof. Such penthouses shall not be deemed to affect the measurement of height of the dwelling. All such penthouses shall be entirely fireproof except that windows shall not be required to be glazed with wire glass.

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4. Any non-fireproof old-law tenement five stories in height may be increased in number of stories to six provided that such increase in number of stories does not result in an increase in the height of the roof beams above the curb level. In any tenement so altered, the first floor above the lowest cellar, or, if there be no cellar, above the basement or other lowest story, shall be fireproof. Any yard or court of such altered tenement shall not be less in any dimension than the minimum dimensions prescribed in section twenty-six.

§ 212. **Yards and courts.** 1. No tenement shall be enlarged or its lot diminished in any way which would leave any yard or court less in any dimension than the minimum dimensions prescribed for yards or courts in section twenty-six.

The restrictions of this subdivision shall not apply to tenements erected after April twelfth, nineteen hundred one, on lots which run through from one street to another street and do not exceed one hundred feet in depth.

2. Any court constructed on or after December fifteenth, nineteen hundred sixty-one in a tenement to ventilate any room, public hall, water-closet compartment or bathroom shall be of the dimensions prescribed in section twenty-six, and such court shall under no circumstances be roofed or covered over at the top. Every such court, if an inner court, shall be provided at the bottom with one or more horizontal air-intakes constructed as provided in section twenty-six.

3. Any shaft or court constructed after April eighteenth, nineteen hundred twenty-nine, which is used to light or ventilate any room occupied for living purposes in any old-law tenement shall be at least twenty-five square feet in area and four feet in width in every part, and shall under no circumstances be roofed or covered over at the top. Every such shaft shall be provided at the bottom with a horizontal air-intake or duct at least four square feet in area communicating directly with a street or yard and so arranged as to be easily cleaned.

4. In every old-law tenement there shall be a door at the bottom of every shaft and inner court giving access to the shaft or court and whenever the shaft or inner court is less than two hundred square feet in area or ten feet in any dimension, such door and its assembly shall be fireproof with the door self-closing. Where a window or door existing on April eighteenth, nineteen hundred twenty-nine, gives proper access to such a shaft or court, such window or door shall be deemed sufficient.

§ 213. **Lighting and ventilation of rooms.** 1. No tenement, its lot or any room, public hall or stairs therein shall be so altered as to have its light or ventilation diminished in any way not approved by the department.

2. In every tenement erected after April twelfth, nineteen hundred one, every stair hall, public hall and living room and at least one water-closet compartment or bathroom containing a water-closet in each apartment, shall have at least one window opening directly upon a street or upon a lawful yard or court existing on April eighteenth, nineteen hundred twenty-nine. Such window shall be so located as to properly light all portions of such hall, room or compartment. Every part of an apartment of three rooms or less in such a tenement shall be within eighteen feet of a street or yard or have a window opening upon a lawful inner or outer court existing on April eighteenth, nineteen hundred twenty-nine. When a room in a tenement opens upon an inner court on a lot line and less than ten feet wide from the lot line to the opposite

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wall of the dwelling, such room shall be provided with a sash window communicating with another room in the same apartment. Such window shall contain at least ten square feet of glazed surface and be made so as to open readily.

3. No room in any old-law tenement shall be occupied for living purposes unless it meets the conditions in one of the following paragraphs:

a. Such room has a window opening directly upon a street, or upon a yard at least four feet in depth, or above the roof of an adjoining building, or upon a court or shaft at least twenty square feet in area open to the sky.

b. Such room is located on the top story and is adequately lighted by a ventilating skylight opening directly to the outer air.

c. Such room has a sash window opening directly into an immediately adjoining room in the same apartment which latter room opens directly on a street or yard at least four feet in depth. Such window shall have a vertically sliding pulley-hung sash not less than three feet by five feet, except that when it is impossible to construct a window of such size, the department may permit such window to be narrower. Both halves of the sash shall be made so as to open readily, and the lower half shall be glazed with translucent glass, or with obscure wire glass if the department shall so require. So far as possible such window shall be in line with windows in outer rooms opening on a street or yard, so as to afford a maximum of light and ventilation.

d. Such room has an alcove opening, of no less dimension than required for such a sash window, to such an adjoining room, in addition to the usual door openings.

4. In every existing tenement the department, in addition to the requirements of subdivision four of section eighty, may, as often as it deems necessary, require the walls and ceilings of every room that does not open directly on a street to be kalsomined or painted white to improve the lighting of such room.

5. Notwithstanding anything in this section to the contrary, no room in any old-law tenement in an apartment which is vacant on June thirtieth, nineteen hundred sixty, or thereafter becomes vacant, and, on and after June thirtieth, nineteen hundred seventy no room in any old-law tenement shall be used for living purposes unless such room shall have a window opening directly upon the street, or upon a yard not less than four feet deep, or above the roof of an adjoining building, or upon a court or shaft of not less than twenty square feet in area, open to the sky without roof or skylight, unless such room is located on the top floor and is adequately lighted and ventilated by a skylight opening directly to the outer air.

An alcove shall be deemed to comply with the requirements of this subdivision if (1) it opens directly into an immediately adjoining room in the same apartment, and (2) such adjoining room opens directly on a street or yard, and (3) a single unbroken open space occupies at least sixty per centum of the area of the vertical plane between the alcove and such adjoining room. The required open space between any such alcove and an adjoining room through which it receives light and ventilation shall not be obstructed by any curtain, portiere, fixed or movable partition or other contrivance or device.

§ 214. **Size of rooms.** 1. In every tenement erected after April twelfth, nineteen hundred one, the sizes of living rooms shall meet the following requirements:

a. In each apartment there shall be at least one living room

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containing at least one hundred twenty square feet of clear floor area, and every other living room except a kitchen shall contain at least seventy square feet of clear floor area.

b. Every living room which contains less than eighty square feet of clear floor area or which is located in the cellar or basement shall be at least nine feet high, and every other living room at least eight feet high; these measurements to be taken from finished floor to finished ceiling.

c. Every living room shall have a least horizontal dimension of at least six feet and, if the tenement was erected after April eighteenth, nineteen hundred twelve, of at least seven feet; except that the minimum horizontal dimension of any kitchen and of a maid's or servant's sleeping room in a fire-proof tenement in which one or more passenger elevators are operated, shall be six feet.

2. In any tenement, apartments containing three or more rooms may have dining bays, which shall not exceed fifty-five square feet in floor surface area and shall not be deemed separate rooms or subject to the requirements for separate rooms or alcoves. Every such dining bay shall be equipped with such appropriate permanent fittings as may be required by the department and shall also be provided with at least one window opening directly upon a street or upon a yard or court which was lawful on April eighteenth, nineteen hundred twenty-nine. The area of such window shall be one-eighth at least of the floor surface area of such dining bay. No dining bay shall be permitted in any apartment containing less than three rooms.

§ 215. **Alcoves.** No part of any room shall be enclosed or subdivided, wholly or in part, by a curtain, portiere, fixed or movable partition or other contrivance or device unless each such enclosure or subdivision shall contain a separate window conforming to the provisions of section thirty for rooms in multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine, and have a clear floor area of at least seventy square feet.

§ 216. **Rooms in basements and cellars.** No room in the basement or cellar of any tenement shall be occupied for living purposes unless there is a written permit therefor as provided in subdivision five of section three hundred and it either is part of an apartment which complies with the conditions of subdivision six of section thirty-four or complies with the following conditions:

1. a. There shall be appurtenant to every such room a water-closet constructed and accessible in accordance with the provisions of section seventy-six for dwellings erected after April eighteenth, nineteen hundred twenty-nine.

b. Every such room and all cellars and basements shall be lighted and ventilated to the satisfaction of the department.

2. If such room is in a tenement erected after April twelfth, nineteen hundred one:

a. Such room shall be at least nine feet high in every part from floor to ceiling.

b. Every part of the ceiling of such room shall be at least four feet six inches above the curb level of the street in front of such part when such room or the apartment containing it is located in the front part of the dwelling, and at least two feet above such curb level in front of the dwelling when such room or the apartment containing it is located in the rear of the dwelling and the yard is less than sixty feet in depth and does not extend to a street along its entire width.

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c. The level of any yard or court upon which such a room or apartment opens shall conform to the requirements of subdivision eight of section twenty-six.

d. Every such room shall have a window opening upon a street, yard or court, and shall be an integral part of an apartment containing a room with a window opening directly upon a street or yard or upon an outer court at least eighteen feet in width and not more than thirty feet in depth or upon a larger outer court whose depth does not exceed its width by more than one-half.

e. Except when the yard is sixty feet or more in depth there shall be not more than one apartment in any cellar. It shall contain not more than five rooms and bath, and no such room shall open upon any court less than five feet six inches in width. Every part of such apartment shall either be located within twenty-five feet of the inner line of the front or rear wall of the dwelling or have a window opening upon a court which is at least twelve feet in width. No other rooms in the cellar shall be occupied for living purposes.

f. The area of every window in such a room shall be at least twelve square feet, and the total area of windows in every such room shall be at least one-eighth of the total floor area of the room. At least half of each window shall be made to open, and the top of each window shall be within twelve inches of the ceiling.

g. All walls enclosing such room shall be dampproof and its floor dampproof and waterproof. The dampproofing and waterproofing shall run through and up the walls to the ground level.

h. The entire cellar, or lowest story if there be no cellar, shall be properly constructed so as to prevent dampness or water from entering.

3. If such room is in the cellar of any old-law tenement either the conditions enumerated in subdivision two or the following conditions shall be complied with:

a. Such room shall be at least eight feet high in every part from floor to ceiling.

b. Every part of the ceiling of every such room shall be at least four feet above the surface of the street in front of every part of such room, or at least half the height of such room shall be everywhere above the highest level of the ground outside of and adjoining every part of the exterior wall of such room for a distance of thirty feet measured at a right angle to the outer surface of such wall.

c. Such adjoining ground shall be effectively drained and shall be open and unoccupied in every part.

d. Such room shall have a window or windows opening directly to the required unoccupied area of ground outside of and adjoining such room or to a street or yard. Every such window shall be made so as to open readily and such window or windows shall provide at least twelve square feet of clear openings for ventilation.

e. Such room shall be thoroughly dry and fit for human habitation.

f. If the tenement is over marshy ground, or ground on which water lies or on which there is upward water pressure, the entire cellar, or lowest story if there be no cellar, shall be made dampproof and waterproof.

4. If such room is in the basement of any old-law tenement the provisions of subdivision one and in addition the provisions of subdivision two or of subdivision three, or the provisions of paragraph f of subdivision three and of either of the following paragraphs, shall be complied with:

a. Such room shall be everywhere seven feet or more in height from floor to ceiling and occupied solely by a family which occupies the

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entire story above, and such room shall not be used for sleeping purposes; or

b. Such room shall be everywhere seven feet six inches or more in height from floor to ceiling and shall have a window or windows opening directly to a street, or to a yard at least twelve feet in depth, or to a court at least six feet in its least dimension and twelve feet in its greatest dimensions; every such windows shall be made so as to open readily; such window or windows shall provide at least twelve square feet of clear opening for ventilation, and the apartment containing such room shall have one or more rooms opening upon a street or yard.

5. Notwithstanding any provisions of this section or of subdivision five of section three hundred of this chapter, an apartment or room in a cellar or basement which was occupied for living purposes on April first, nineteen hundred fifty-three may thereafter continue to be occupied for such purposes until July first, nineteen hundred sixty-seven, upon the issuance of a joint certificate by the department and the department of health. Such certificate shall be renewed for any such apartment or room which continues to be occupied in an old-law tenement after June thirtieth, nineteen hundred fifty-seven. The certificate shall indicate their joint belief that such occupancy is not detrimental to life and health with due regard to the following conditions:

- a. that the apartment or room is reasonably lighted and ventilated,
- b. that adequate sanitary facilities are provided, including water supply and water closet accommodations,
- c. that the premises are clean and free from rodents and vermin,
- d. that the walls and ceilings are sound and reasonably free of dampness and there is a minimum of seven feet in height from floor to ceiling,
- e. that the apartment or room is adequately heated from a central heating system or by other approved means,
- f. that the structural arrangement, including egress facilities, of the apartment or room does not constitute a fire hazard,
- g. that notwithstanding the provisions of this subdivision, any apartment occupied pursuant to the provisions of this subdivision which becomes vacant on or after June first, nineteen hundred fifty-five shall not thereafter be occupied for dwelling purposes. This paragraph shall also apply to any room which becomes vacant on or after June first, nineteen hundred fifty-six.

§ 217. **Lighting and ventilation of public halls and stairs.** 1. In every tenement erected after April twelfth, nineteen hundred one, which exceeds four stories in height or is occupied by three families or more on any story, every public hall shall have at least one window opening directly upon a street, yard or court. Such window shall be located at the end of the hall and at right angles to its length, with an additional window in each thirty feet of hall or fraction thereof beyond the first sixty feet from such end window if the tenement was erected after April eighteenth, nineteen hundred twelve; or, if the window is not thus located at the end of the hall, there shall be at least one window opening directly upon a street, yard or court in every twenty feet of the length of the hall or fraction thereof, measured from one end of hall; but the foregoing provisions shall not apply to that portion of an entrance hall between the entrance and the first flight of stairs if the entrance door contains five square feet or more of glazed surface.

2. When the length of any recess or return off of a public hall in

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such a tenement does not exceed twice its width, no window shall be required therein. But wherever the length of a recess or return exceeds twice its width there shall be an additional window or windows meeting the requirements for a separate public hall.

3. Except as provided in subdivision four, a tenement erected after April twelfth, nineteen hundred one, which is four stories or less in height and occupied by not more than two families on any story shall either have windows in its public halls as above provided or a stairwell twelve inches or more in width extending from the entrance story to the roof. In such a tenement, except as provided in subdivision four, every entrance door shall contain five square feet or more of glazed surface, and all doors leading from the public halls shall be provided with translucent glass panels five square feet or more in area for each door and fixed transoms of translucent glass over each door.

4. Neither such windows nor such a stairwell shall be required in cities of one million or more population in tenements which do not exceed three stories in height or fifty-five feet in depth and which are occupied by not more than one family on any story and in which the stairs descend in a straight and continuous run from the top story to the entrance story with proper landings at each story. Such tenements shall not be required to have glass panels or transoms in the doors leading from the public halls.

5. In every public hall that is provided with a window or windows in a tenement erected after April twelfth, nineteen hundred one, at least one such window shall be at least two feet six inches wide and five feet high.

6. In every such tenement there shall be provided, at every floor level, a window opening upon a street, yard, court or space above a setback to light and ventilate every stair. Every such required window shall be of the size required by subdivision five, except that a window opening upon a street need be only four feet high. On the top story a ventilating skylight of the same dimensions shall be accepted in lieu of a window for that story.

7. In every such tenement there shall be in the roof, directly over each stairwell, a ventilating skylight provided with ridge ventilators having an opening of at least forty square inches, or provided with fixed or movable louvres. The roof of every such skylight shall have at least twenty square feet of glazed surface. If the stairs and public halls are not provided at each story with windows opening directly to the outer air, the skylights shall be provided with ridge ventilators and also with fixed or movable louvres or movable sashes.

8. A sash door shall be deemed the equivalent of a window for the purposes of this section if it contains the amount of glazed surface prescribed for such windows.

9. In all old-law tenements the public halls and stairs shall be provided with such skylights, ventilators, windows in bulkheads or other means of lighting and ventilation as may be deemed practicable by the department.

10. All skylights installed in old-law tenements after April eighteenth, nineteen hundred twenty-nine, shall be provided with ridge ventilators having an opening of at least forty square inches and also with fixed or movable louvres or with movable sashes. They shall be of such size as may be determined to be practicable by the department, and the roofs of such skylights shall be glazed with plain glass equipped with suitable wire screen above and below.

11. Whenever a public hall in any old-law tenement four stories or more in height is not light enough in the daytime to permit a person to

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read in every part thereof without the aid of artificial light, every door at the end of such hall or opening therefrom into a room shall have a wire glass panel or panels of an aggregate area of at least four square feet; or in lieu thereof such hall may be lighted by a window or windows opening upon a street or upon a lawful yard, court or shaft, with the plane of each such window at right angles to the length of the hall. In any such tenement any public hall or stair which is not provided with a window opening directly upon a street or yard and which is not sufficiently lighted in the opinion of the department shall be provided by the owner with artificial light, which shall be kept burning at all times.

12. 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 for the purposes of this section.

§ 218. **Alterations.** 1. Any non-fireproof tenement erected after May fifteenth, nineteen hundred two, having apartments extending from street to yard and having one or more outer courts on a side lot line four feet or more in width or inner courts which alone or together with adjoining courts are eight feet or more in width and twelve feet six inches or more in depth, may be altered into apartments opening either on the street or the yard, provided all such altered apartments also have windows opening on such a court. All such altered apartments shall be provided with a second means of egress as required by section two hundred thirty-one. The entrance and stair halls of such tenement shall be fire-retarded.

2. No room in the cellar or basement of any tenement shall be constructed or altered to be occupied for living purposes unless all of the conditions of section thirty-four and of subdivision eight of section twenty-six in regard to multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine, are complied with, except that the minimum depths of yards and courts prescribed for tenements in subdivision one of section two hundred twelve shall be substituted for the minimum depths referred to in section thirty-four.

3. Any additional room or hall constructed or created in a tenement shall comply in all respects with the provisions of this article respecting rooms or halls in tenements erected after April eighteenth, nineteen hundred twelve, except that in any tenement erected after April fourteenth, nineteen hundred three, such rooms or halls may be of the same height as the other rooms or halls on the same story.

4. The number of apartments or suites of rooms on any story in any tenement erected after April twelfth, nineteen hundred one, may be altered so as to increase or decrease the number of living rooms provided such dwelling shall conform with the applicable provisions of sections two hundred thirty-five and two hundred thirty-six.

5. If the number of apartments or suites of rooms in any old-law tenement is increased, the entrance hall and both sides of the walls of the stair halls adjoining the altered apartment shall be fire-retarded, the stairs shall extend to the roof and there shall be no inside stairs from the entrance story to a cellar, or to a basement or other story below the entrance story. However, such inside stair may be permitted provided such stair is constructed of incombustible material, has closed risers, is enclosed between the entrance story and the next lowest story with fireproof materials having a standard fire-resistive rating of at least three hours, and has fireproof doors and door assemblies at the top and bottom with the doors and door assemblies at the top and bottom with the doors self-closing. The soffit of any stair immediately above

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an inside cellar stair shall be fire-retarded and the jib partitions enclosing such cellar stair at the first story shall be of incombustible material or fire-retarded on both sides with materials having a standard fire-resistive rating of at least one hour.

6. If any old-law tenement shall be so altered as to increase the number of rooms therein by one-third or more, or if such tenement is increased both in number of rooms and in height and after such alteration is more than four stories or parts of stories above the curb level, or if such tenement is over three stories in height and is combined with another old-law tenement and the combined area on any story exceeds three thousand square feet, the stair halls, entrance halls and other public halls of the whole dwelling shall be made to conform to the requirements of subdivision two of section two hundred thirty-three and sections two hundred thirty-four to two hundred thirty-eight inclusive, except that such combined tenements, if over three stories in height, shall have in the roof a fireproof bulkhead with a fireproof self-closing door.

7. In lieu of fire retarding required under subdivision five, there may be installed in public halls an automatic dry pipe valve system or, where halls are heated, an automatic wet pipe system. Where a sprinkler system is installed it shall be equipped on each story with heads in such number and spaced to protect the complete area of the public halls and stairs and shall be constructed, located and arranged on every stair and entrance hall and in every closet opening therefrom in such a manner as the department may require. Such sprinkler system shall be maintained continuously in good repair and serviceable condition.

TITLE 2
FIRE PROTECTION

§ 230. **Chimneys and fireplaces.** In every existing tenement which is not heated from a central heating plant there shall be adequate flues or chimneys through every floor with a fireplace or place for a stove properly connected with one of such flues or chimneys for every apartment.

§ 231. **Egress.** 1. Every non-fireproof tenement exceeding two stories in height and every fireproof tenement erected after May sixteenth, nineteen hundred thirteen, shall have at least two independent means of egress, which shall extend from the ground story to the roof, be located remote from each other and be separated from each other by walls.

2. One of such means of egress shall be a flight of stairs constructed as provided in sections two hundred thirty-three to two hundred thirty-eight inclusive; but this sentence shall not be construed to require any alteration in the material or width of any stair or its treads and risers lawfully permitted on April eighteenth, nineteen hundred twenty-nine.

3. The other required means of egress shall be directly accessible at each story to each apartment without having to pass through the first means of egress. Such other means of egress shall be any one of the following, as the owner may elect:

a. A system of outside fire-escapes constructed as provided in section fifty-three.

b. An additional stair, either inside or outside, constructed and arranged as provided in sections two hundred thirty-three to two hundred thirty-eight inclusive.

c. A fire-tower or fire-stair constructed and arranged as provided in

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section two hundred thirty-nine.

d. Except as provided in subdivision nine of section fifty-three, any means of egress lawfully permitted on April eighteenth, nineteen hundred twenty-nine, except wire, chain, cable, vertical ladder, or rope fire-escapes.

§ 232. **Fire-escapes.** 1. All fire-escapes erected after April eighteenth, nineteen hundred twenty-nine, shall be arranged and constructed in conformity with the provisions of section fifty-three.

2. As specifically indicated in subdivision nine of section fifty-three, a wire, chain, cable, vertical ladder, or rope fire-escape is an unlawful means of egress from any apartment. Every such fire-escape shall be removed and replaced, if required as a means of egress, by a system of fire-escapes constructed and arranged as provided in section fifty-three.

§ 233. **Bulkheads and scuttles.** 1. Every tenement, except as in this section otherwise provided, shall have in the roof a fireproof bulkhead with a fireproof door and after January first, nineteen hundred fifty-seven, the door shall be self-closing. Bulkheads existing on April eighteenth, nineteen hundred twenty-nine, shall be lawful and may be replaced or repaired with material conforming to the material of which such bulkhead consisted on such date.

2. A bulkhead in the roof of an old-law tenement which is more than a basement and four other stories in height or which is a basement and four other stories in height and occupied by three or more families on any story, may be of wood covered with metal on the outside and fire-retarded on the inside. Such a bulkhead shall be equipped with a fire-retarded door and assembly with the door self-closing.

3. In any old-law tenement which is four stories or less in height or which is a basement and four other stories in height and occupied by not more than two families on any story, no bulkhead shall be required provided such tenement is equipped with a scuttle located in the ceiling of a public hall on the top story and with access thereto direct, uninterrupted and easily accessible to all tenants. All such scuttles shall be at least twenty-one inches in width and twenty-eight inches in length. They shall be constructed so as to be readily opened, covered on the outside with metal and provided with stairs or stationary iron ladders leading thereto.

4. Every required stair in every tenement erected after April eighteenth, nineteen hundred twelve, which is more than a basement and three other stories in height shall extend to and through a bulkhead in the roof. Such bulkhead shall have a fireproof door and assembly with the door self-closing and may be constructed of wood covered with metal on the outside and fire-retarded on the inside.

5. Stairs leading to required bulkheads shall be fireproof and constructed as specified in sections two hundred thirty-four to two hundred thirty-eight inclusive, except that any such stairs existing on April eighteenth, nineteen hundred twenty-nine, shall be permitted without alteration, and that any such stairs constructed after such date in any old-law tenement may have such width and angle of ascent, and risers and treads of such dimensions, as approved by the department. All stairs to required bulkheads shall be provided with a guide or hand rail.

6. Bulkhead doors and scuttles shall not be self-locking, and shall be fastened on the inside with movable bolts, hooks, or a lock which does not require a key to open it from the inside of the dwelling. All key

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locks are unlawful and where existing shall be removed.

§ 234. **Stairs and public halls.** 1. In every tenement erected after April eighteenth, nineteen hundred twelve, all stairs shall extend from the entrance story to the roof, except as otherwise provided in section two hundred thirty-three, and the stairs and public halls shall each be at least three feet in clear width. Every apartment in such a tenement shall be directly accessible at each story to such stairs and public halls, and every story of such apartment shall be so accessible to such a stair and public hall or to a tower fire-escape or stairway, as provided in this section and sections two hundred thirty-five to two hundred thirty-nine inclusive.

2. In every tenement erected after April twelfth, nineteen hundred one, except as provided in paragraph b of subdivision two of section two hundred thirty-eight, all stairs and public halls shall be completely separated from all other stairs and from every elevator by brick walls or partitions of terra cotta blocks at least four inches thick, or hollow cement blocks at least four inches thick which have successfully withstood a three-hour standard fire test and been approved by the department and have fireproof doors and assemblies with the doors self-closing at all openings. From any portion of a public hall in such a tenement there may be a recess which shall not be deemed a public hall if the walls, floor and ceilings enclosing it are fire-retarded and such recess is at all times adequately lighted by electric lights of at least fifteen watts or equivalent illumination. Such a recess shall not be more than twenty feet long and shall not be used as a means of egress from more than three apartments.

§ 235. **Stairs in non-fireproof tenements.** 1. Every non-fireproof tenement erected after May fifteenth, nineteen hundred two, containing more than twenty-six apartments or suites of rooms above the entrance story shall have an additional stair for every additional twenty-six apartments or suites or fraction thereof; except that if such tenement contains not more than thirty-six apartments above the entrance story, in lieu of an additional stair the stairs, stair halls and entrance halls throughout the entire tenement may each be at least one-half wider than is specified in sections two hundred thirty-four, two hundred thirty-seven and two hundred thirty-eight.

2. The number of apartments on any story in any non-fireproof tenement may be altered, if the number of living rooms on such story is not increased by more than twenty per centum. If the number of living rooms on any story or section thereof above the entrance story exceeds twenty, there shall be an additional stair for each twenty rooms or fraction thereof on any such story or section thereof, except that if the number of living rooms on any such story or section does not exceed thirty, in lieu of an additional stair one stair and every public hall connected therewith may be at least one-half wider than is specified in sections two hundred thirty-four, two hundred thirty-seven and two hundred thirty-eight.

3. Whenever the total number of rooms, exclusive of bathrooms, water-closet compartments, and cooking spaces less than eighty square feet in area, in any non-fireproof tenement or section thereof is decreased through the process of an alteration, the number of apartments may be altered and the provisions of this section which relate to additional stairs shall not be applicable.

§ 236. **Stairs in fireproof tenements.** 1. Except as in this section

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otherwise provided, every fireproof tenement erected after May fifteenth, nineteen hundred two, containing more than thirty-six apartments or suites of rooms above the entrance story shall have an additional stair for every additional thirty-six apartments or suites or fraction thereof.

2. If such a tenement contains not more than forty-eight apartments or suites above the entrance story, in lieu of an additional stair the stairs, stair halls and entrance halls throughout the entire tenement may each be at least one-half wider than is specified in sections two hundred thirty-four, two hundred thirty-seven and two hundred thirty-eight.

3. If such a tenement contains more than seventy-two apartments or suites but not more than eighty-four above the entrance story, in lieu of three stairs there may be only two stairs, provided that one of such stairs and the stair and entrance halls connected therewith are at least one-half wider than is specified in sections two hundred thirty-four, two hundred thirty-seven and two hundred thirty-eight.

4. For the purposes of this section a janitor's apartment in a penthouse shall not be construed as an additional apartment.

5. The number of apartments on any story in any fireproof tenement may be altered, if the number of living rooms on such story is not increased by more than thirty per centum. If the number of living rooms on any story or section thereof above the entrance story exceeds thirty, there shall be an additional stair for each thirty rooms or fraction thereof on any such story or section thereof, except that if the number of living rooms on any such story or section does not exceed forty, in lieu of an additional stair one stair and every public hall connected therewith may be at least one-half wider than is specified in sections two hundred thirty-four, two hundred thirty-seven and two hundred thirty-eight; but in every such tenement erected before May sixteenth, nineteen hundred thirteen, and altered as herein permitted, the occupants of each additional apartment shall have access to at least two independent means of egress, which shall be made to conform to the requirements of section two hundred thirty-one for fireproof tenements erected after such date.

6. Whenever the total number of rooms, exclusive of bathrooms, water-closet compartments, and cooking spaces less than eighty square feet in area, in any fireproof tenement or section thereof is decreased through the process of an alteration, the number of apartments may be altered and the provisions of this section which relate to additional stairs shall not be applicable.

§ 237. **Stair construction.** 1. Every stair in a tenement erected after April twelfth, nineteen hundred one, shall be accessible on the entrance story from a street or street court, or from an inner court which connects directly with a street.

2. All such stairs shall have risers of eight inches or less and treads at least ten inches in clear width and three feet in clear length.

3. Winding stairs shall be unlawful except in a tenement provided with a passenger elevator. When winding stairs or radial steps are installed or used, the strings from which the risers radiate shall be curved on a circle of at least one foot diameter, the treads shall be at least four inches wide at the string, not including the nosing, and the angle formed by the face of each riser and the string shall not diverge more than forty degrees from a line normal to the string at the intersection of such riser. It shall be unlawful to construct new winding stairs.

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4. Stairs constructed after April eighteenth, nineteen hundred twenty-nine, shall comply with the provisions of subdivisions two to six inclusive of section fifty-two.

§ 238. **Stair and entrance halls.** All stair and entrance halls in tenements shall be constructed as provided in this section.

1. In tenements erected after April twelfth, nineteen hundred one:

a. On every story there shall be fireproof doors and assemblies with the doors self-closing separating every such stair and entrance hall from all non-fireproof parts of the tenement.

b. There shall be no transom, sash or similar opening of any kind from such stair and entrance halls to any other part of the tenement.

c. If such tenements are non-fireproof, and are occupied by three families or more on any story or are five stories or more in height, the stair and entrance halls shall be enclosed with brick walls, except as provided in paragraph a of subdivision three.

2. In tenements erected after April fourteenth, nineteen hundred three:

a. Every entrance hall shall be at least three feet six inches in clear width from the entrance up to and including the stair enclosure, and beyond that at least three feet in clear width. If such entrance hall is the only entrance to two stairs or more, that portion of the hall between the entrance and the first stair, including the stair enclosure, shall be at least five feet three inches in clear width.

b. Such halls shall comply with the requirements of sections two hundred thirty-four to two hundred thirty-seven inclusive as to construction of stair and entrance halls, except that if such tenements are fireproof entrance hall enclosures need only withstand a fire test of two and one-half hours and angle iron construction may be substituted for brick walls.

c. In every such tenement access shall be provided from a street to the yard either in a direct line or through a court.

d. If such tenements are occupied by not more than two families on any story and are not more than four stories in height, the floors of the stair and entrance halls shall be fireproof or filled in between the floor beams with at least five inches of concrete deafening. The stairs shall be fireproof, or may be of wood provided the soffits of the stairs are fire-retarded, or covered with plaster board at least one-half inch thick, with all joints true and well pointed. The stair and entrance halls in such tenements shall be enclosed on all sides with brick walls or with partitions of angle iron and fireproof blocks four inches or more in thickness, except as provided in paragraph e.

e. If such tenements are occupied by not more than two families on any story and are not more than three stories in height, the stair and entrance halls may be enclosed in wood stud partitions, fire-retarded on both sides, or covered with plaster board at least one-half inch thick, with all joints true and well pointed and with the spaces between the studs filled in with brick to the height of the floor beams.

3. In tenements erected after April eighteenth, nineteen hundred twelve:

a. If such tenements are occupied by three or more families on any story, or are five stories or more in height, the stairs and entrance halls shall be fireproof throughout and all stairs provided with handrails, except that stair treads two inches or more in thickness and handrails may be of hard wood. All windows in such halls shall be fireproof and, except for windows opening on a street in a tenement six stories or less in height, shall be glazed with wire glass. Such halls

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shall be enclosed with brick walls, except that one or more sides may be left open to a street, yard or court.

b. Public halls which are more than forty feet in length and are used as a means of egress from four or more apartments shall be fireproof throughout and doors opening therefrom and their assemblies shall be fireproof with the doors self-closing.

4. In old-law tenements four stories or more in height:

a. Whenever the entrance halls of any such tenements adjoin they shall be separated by a fire-retarded wall.

b. The walls and ceilings of every entrance hall and stair hall, and every public hall connected therewith, and the soffit of every stair shall be fire-retarded. In all such halls all wood wainscoting except a flat base and stair stringers ten inches or less in height, and all wood railings, balustrades and newel posts shall be removed completely and replaced with metal or other hard incombustible materials of such size and secured in such manner as may be approved by the department, except that handrails may be of hard wood.

c. Every door opening into any entrance hall or stair, or into any public hall connected therewith, shall be self-closing; every glazed opening or glazed panel in such a door shall be glazed with wire glass, and every transom opening into any public hall shall be glazed with wire glass and permanently secured in a closed position.

d. 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 removed and the openings closed up and fire-retarded.

§ 239. **Tower fire-escapes and supplemental stairs.** In fireproof tenements tower fire-escapes or stairs which are supplemental to the stairs required by law may be installed providing such tower fire-escapes or stairs shall be shut off from all other parts of the dwelling by brick walls or partitions of terra cotta blocks at least four inches thick, or hollow cement blocks at least four inches thick which have successfully withstood a three-hour standard fire test and been approved by the department, and have fireproof doors and assemblies with the doors self-closing at all openings. Whenever such supplementary stairs are provided they shall be constructed in accordance with such supplementary regulations as may be adopted by the department. Such tower fire-escapes or stairs shall not be used as service stairs and shall be kept adequately lighted at all times and free from encumbrance.

§ 240. **First tier of beams.** 1. In all tenements erected after April twelfth, nineteen hundred one, which are five stories or more in height, the first floor above the lowest cellar, or, if there be no cellar, above the basement or other lowest story, shall be fireproof; and all exposed portions of any iron or steel beams below the floor arches shall be fire-retarded.

2. In all non-fireproof tenements erected after such date which are four stories or less in height, the ceiling of the lowest cellar, or, if there be no cellar, of the basement or other lowest story, shall be fire-retarded or covered with plaster boards at least one-half inch in thickness, with all joints made true and well pointed.

3. In all old-law tenements which are four stories or more in height the ceiling of the cellar, or, if there be no cellar, of the basement or other lowest story, shall be fire-retarded.

§ 241. **Partitions; fire-stopping.** 1. In tenements erected after April

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eighteenth, nineteen hundred twelve, wood stud apartment partitions which are directly over each other shall run through the wood floor beams and rest upon the plate of the partition below. In fireproof tenements erected after such date all partitions shall rest directly upon the fireproof floor construction and extend to the fireproof beam filling above. Apartment partitions within the meaning of this section are partitions crossing the floor beams at any angle and separating one apartment from another or any part of an apartment from any public part of the dwelling.

2. In tenements erected after April eighteenth, nineteen hundred twelve, apartment studding shall be filled in solidly between the uprights to the depth of the floor beams with incombustible materials.

3. In non-fireproof tenements erected after April twelfth, nineteen hundred one, in every wall where wood furring is used, every course of masonry from the under side to the top of any floor beams shall project a distance of two inches or more beyond each face of the wall that is not on the outside of the dwelling, so as to provide an effective fire stop; and whenever floor beams run parallel to a wall and wood furring is used, every such beam shall always be kept two inches away from the wall, and the space between the beams and the wall shall be built up solidly with brickwork from the underside to the top of the floor beams so as to form an effective fire stop.

§ 242. Cellar and basement stairs in non-fireproof tenements. 1.

Cellar stairs in non-fireproof tenements erected after April twelfth, nineteen hundred one, which are occupied by three families or more on any story or which are five stories or more in height, shall be governed by the provisions of section one hundred fifty for non-fireproof multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine. In all other non-fireproof tenements erected after April twelfth, nineteen hundred one, any stair leading to a cellar may be located inside the building, provided it is enclosed with fireproof walls and is provided with fireproof doors and assemblies at both the top and bottom, with the doors self-closing.

2. In old-law tenements exceeding a basement and three other stories in height and provided with an inside cellar stair communicating between the entrance story and a cellar or lower story, the opening to such stair if located underneath the main stair leading to the upper stories shall be enclosed from the level of the entrance story up to the underside of the first flight of such main stairs. The soffit of such first flight of main stairs and the partitions forming such enclosure shall be fire-retarded or covered with twenty-six gauge metal. The opening to such enclosure shall be provided with a fireproof door and assembly with the door self-closing.

§ 243. Cellar and basement stairs in fireproof tenements. In fireproof tenements erected after April eighteenth, nineteen hundred twelve, the cellar and basement stairs shall be located, arranged and constructed as provided in section one hundred six for fireproof dwellings erected after April eighteenth, nineteen hundred twenty-nine.

§ 244. Spaces under stairs. In non-fireproof tenements erected after April twelfth, nineteen hundred one, no closet of any kind shall be constructed or maintained under any stair leading from the entrance story to the upper stories, and such space shall be kept entirely open and clear of any encumbrance.

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§ 245. **Cellar entrance.** In tenements erected after April twelfth, nineteen hundred one, there shall be an entrance to the cellar, or to the basement or other lowest story if there be no cellar, from the outside of the tenement.

TITLE 2-A
SINGLE ROOM OCCUPANCY

Section 248. Single room occupancy.

§ 248. **Single room occupancy.** 1. It shall be unlawful to occupy any frame multiple dwelling for single room occupancy. It shall be unlawful to occupy any other existing class A dwelling or part thereof as a rooming house or furnished room house or for single room occupancy unless such dwelling or part shall conform to the provisions of this section and to such other provisions of this chapter as were applicable to such dwelling before such conversion. This section shall not be construed to prohibit the letting by a family of one or more rooms within their apartment to not more than a total of four boarders, roomers or lodgers provided, however, that every room in such apartment shall have free and unobstructed access to each required exit from such apartment as required by the provisions of paragraphs a, b and c of subdivision four of this section. A dwelling occupied pursuant to this section shall be deemed a class A dwelling and dwelling units occupied pursuant to this section shall be occupied for permanent residence purposes, as defined in paragraph a of subdivision eight of section four of this chapter.

2. Any such dwelling may be so occupied without increasing the number of stairs.

3. The number of rooms shall not be increased nor shall the light or ventilation of any room be impaired.

4. a. No room in any apartment shall be so occupied unless each room therein shall have free and unobstructed access to each required means of egress from the dwelling without passing through any sleeping room, bathroom or water-closet compartment.

b. There shall be access to a second means of egress within the apartment without passing through any public stair or public hall. On and after July first, nineteen hundred fifty-seven every tenement used or occupied for single room occupancy in whole or in part under the provisions of this section and which does not have at least two means of egress accessible to each apartment and extending from the ground story to the roof, shall be provided with at least two means of egress, or, in lieu of such egress, every stair hall or public hall, and every hall or passage within an apartment, shall be equipped on each story with one or more automatic sprinkler heads approved by the department. Elevator shafts in such tenements shall be completely enclosed with fireproof or other incombustible material and the doors to such shafts shall be fireproof or shall be covered on all sides with incombustible material.

c. Where access to a required means of egress is provided through a room, such access to such room shall be through a clear opening at least thirty inches wide extending from floor to ceiling and such opening shall not be equipped with any door or door frame, or with any device by means of which the opening may be closed, concealed or obstructed.

d. All doors which open to any public hall or required stair hall and the door assemblies shall be fireproof with the doors self-closing.

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e. All doors opening from any room to any hall or passage within an apartment shall be self-closing and all transoms within an apartment shall be permanently closed. All plain glass shall be removed from such doors and transoms and replaced with wire glass, wood or other non-shatterable material satisfactory to the department.

f. Directly over the opening to every required means of egress within an apartment, there shall be a sign of a type approved by the department marked "Fire Exit" and lighted in red at all times to indicate clearly the location of the means of egress, and on the walls of any hall or passage within the apartment leading to such means of egress there shall be maintained at all times arrows to indicate clearly the direction and location of the fire exit.

g. Every hall or passage within an apartment shall be unobstructed and well lighted at all times with a minimum of one foot-candle of light.

h. All wood wainscoting except a flat base not exceeding ten inches in height shall be removed from every hall or passage within an apartment.

5. In every such dwelling which is not fireproof every hall or passage within an apartment shall be equipped with a sprinkler system, which shall be extended so as to have at least one sprinkler head in every room. The construction and arrangement of such sprinkler system shall comply with the requirements of the department.

6. There shall be provided in each such dwelling an adequate and reliable fire alarm system, approved by the fire commissioner by means of which alarms of fire or other danger may be instantly communicated to every portion of the dwelling. Where, throughout the dwelling, a closed-circuit, automatic thermostatic fire-detecting system is installed which actuates an interior fire alarm system, or where, throughout the dwelling, an approved-type automatic sprinkler system is installed which actuates an interior fire alarm system by the flow of water through such sprinkler system, a watchman need not be provided as required in subdivision fifteen of this section.

7. There shall be a fire-retarded bulkhead in the roof connecting directly with the highest portion of any stairway to the roof, which bulkhead shall contain a fireproof door and assembly with the door self-closing. The stairs leading to such bulkhead shall be fireproof or fire-retarded as required for public stairways in the other parts of such dwelling.

8. a. Every wash basin, bath, shower, sink and laundry tub shall be provided with an adequate supply of hot and cold water.

b. When the number of occupants of such a dwelling is eleven or more, there shall be provided for them in such dwelling at least one laundry tub and facilities for drying clothes.

9. Cooking shall be permitted only in kitchens and cooking spaces complying with the provisions of section thirty-three. Any gas fixture in such spaces shall be connected with permanent, rigid piping. The use of any movable cooking apparatus in any sleeping room is unlawful.

10. a. There shall be a central heating system adequate to heat every sleeping room in a dwelling to the temperature requirements prescribed by subdivision one of section seventy-nine of this chapter.

b. The use of any movable heating apparatus in any sleeping room is unlawful.

c. Every boiler room shall be constructed in accordance with the provisions of section sixty-five and shall be adequately ventilated.

11. a. No room may be occupied for sleeping purposes unless it has a window or windows with an aggregate glazed area of at least ten per centum of the total floor area of such room. Each such window shall be at least twelve feet in area and so constructed that at least half of

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its area may be opened.

b. Any room on a top story may be lighted and ventilated by a skylight of the same area as required for windows and arranged to provide an opening of at least six square feet for ventilation.

c. In every sleeping room, except a room on the top story so lighted and ventilated, there shall be at least one window meeting the requirements of section two hundred thirteen, except as otherwise specified in this subdivision, opening upon a street or upon a yard, court or shaft meeting the requirements of section two hundred twelve, but in no case shall such a court or shaft be less than twenty-eight inches in width.

d. Every room shall be adequately lighted by electricity. The use of gas or any other type of open flame lighting is unlawful.

12. No room may be occupied for sleeping purposes by more than two adults considering children of twelve years or more as adults and two children between the ages of two and eleven years inclusive as the equivalent of one adult. Children under two years of age need not be considered as occupants.

13. Every room rented for single room occupancy and all furniture and bedding therein shall be thoroughly cleansed before occupancy and every sleeping room at least once a week thereafter. When bed linens are provided they shall be changed at least once every week. When the rent includes the use of towels, at least one bath towel and two hand towels shall be provided every week for each occupant. Such cleansing and service shall be the exclusive obligation of the person from whom the occupant rents such room.

14. Except as provided in subdivision thirteen, the owner shall maintain the dwelling in conformity with section eighty relating to cleanliness.

15. There shall be a competent manager living on the premises, who shall be responsible for the conduct, operation and maintenance of the dwelling, and, except as provided in subdivision six of this section, there shall also be on the premises at all times a competent watchman in charge of the dwelling.

17. In each such dwelling a register shall be kept, which shall show the name, signature, residence, date of arrival and date of departure of each occupant and the room occupied by him.

TITLE 3
SANITATION

§ 250. **Water-closets.** Water-closet compartments in tenements shall comply with the applicable provisions of section seventy-six.

§ 251. **Vent flues.** Supplementary water-closet compartments and bathrooms in fireproof tenements shall be ventilated and lighted in accordance with the applicable provisions of section seventy-six.

§ 252. **Privacy.** In every apartment of three or more rooms in any tenement erected after April twelfth, nineteen hundred one, there shall be access to every living room and bedroom and to at least one compartment or bathroom containing a water-closet without passing through any bedroom.

**ARTICLE 7-A
TEMPORARY PROVISIONS**

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* Section 260. Recovery of rent for certain non-complying premises restricted during emergency period.

* NB Expired July 1, 1949

* 261. Recovery of possession of certain non-complying premises restricted during emergency period.

* NB Expired July 1, 1949

262. Alteration of uncompleted buildings.

* 264. Conversion of certain dwellings.

* NB Expired July 1, 1949

* § 260. **Recovery of rent for certain non-complying premises restricted during emergency period.** 1. Legislative finding. It is hereby declared that in cities of this state with a population of over one million there exists an acute shortage of dwelling accommodations available to low-income families; that many dwellings formerly occupied by them have been and are continuing to be vacated and demolished because of structural inadequacy or danger, obsolescence and dilapidation, or because owners have refused to comply with the law, or for other reasons; that the freedom of contract has been impaired in consequence thereof, and unjust, unreasonable and oppressive increases in the rents of dwelling accommodations available to such families are being and will continue to be exacted; that world war II has necessitated an almost complete paralysis of building construction; that the extent of construction of decent, safe and sanitary dwellings, conforming with the minimum standards prescribed by law, has failed to produce a sufficient number of dwellings for the accommodation of families unable to pay higher rentals; that there has been a rapid absorption of rentable vacancies in said dwellings and a sharp increase in rentals; that such communities are threatened with wholesale evictions; that an emergency exists by reason of these conditions, which constitute a menace to the health, safety, morals, welfare and comfort of the citizens of the state, undermine the standard of living of a large number thereof, tend to impair and impede the enforcement of existing statutes, cause overcrowding and congestion, foster crime, encourage the spread of vice and disease and increase the death rate; that adequate housing accommodations to relieve the hardships and suffering resulting therefrom cannot be sufficiently provided, with or without public assistance, during the period of the emergency as herein declared; and the necessity for legislative intervention, by the enactment of the provisions of this section and their application until July first, nineteen hundred forty-nine, is hereby declared as a matter of legislative determination, and the provisions of this section shall remain in force and effect only until such date.

2. For the period during which any old-law tenement or any converted dwelling shall fail to comply with the applicable provisions of article six or seven, as the case may be, no rent therefor or for any part thereof shall be recovered by the owner, nor shall any action or special proceeding be maintainable for such rent or to recover possession of such dwelling or part thereof for non-payment of rent, except rent at such rate as shall not exceed the lowest rent charged therefor for any month between September thirtieth, nineteen hundred thirty-seven, and April first, nineteen hundred forty-three.

3. In any such action or special proceeding in which there shall be interposed a defense that the dwelling fails to comply with the applicable provisions of article six or seven or that the rent demanded

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exceeds the lowest rent charged for any month between September thirtieth, nineteen hundred thirty-seven, and April first, nineteen hundred forty-three, the burden of proof shall be upon the party seeking to recover rent or possession.

4. A certification by the department of the results of a search made by the department shall be admissible as presumptive evidence of the existence or non-existence of any violation of article six or seven as in such certificate specified.

* NB Expired July 1, 1949

* § 261. **Recovery of possession of certain non-complying premises restricted during emergency period. 1. Legislative finding.** The public emergency which existed at the time of the enactment of and which was declared in chapter six hundred seventy-five of the laws of nineteen hundred thirty-eight, and in acts amendatory thereof, having continued and still existing, there having been and there being an acute shortage of such dwellings, and the intents and purposes of such provisions having, in a great many instances, been circumvented by landlords giving their tenants thirty days' notice terminating their tenancy and instituting proceedings for their removal, the necessity for legislative intervention, by the enactment of the provisions of this section, and their application, until July first, nineteen hundred forty-nine, is hereby declared as a matter of legislative determination, and the provisions of this section shall remain in force and effect only until such date.

2. For the period during which any old-law tenement or any converted dwelling shall fail to comply with the applicable provisions of article six or seven, no action or proceeding by an owner to recover possession of such dwelling or any part thereof from a tenant and to remove such tenant therefrom for the reason that the tenant holds over and continues in possession of the demised dwelling or any part thereof after the expiration of his term without the permission of the owner, shall be maintainable except:

a. A proceeding to recover such possession upon the ground that the person is holding over and is objectionable, in which case the owner shall establish to the satisfaction of the court that the person holding over is objectionable; or

b. A proceeding when the owner of record of the dwelling, being a natural person, seeks in good faith to recover possession of a room or rooms therein for the immediate and personal occupancy by himself and his family as a dwelling; or

c. A proceeding where the petitioner shows to the satisfaction of the court that he desires in good faith to recover the dwelling for the purpose of altering or demolishing the same with the intention of providing or constructing more dwelling units, plans for which shall have been duly approved by the department in accordance with the provisions of any applicable local law.

d. In pending proceedings for the recovery of such dwelling on the grounds that the occupant holds over after the expiration of his term, a warrant shall not be issued unless the petitioner establishes to the satisfaction of the court that the proceeding is one mentioned in the exceptions enumerated in this subdivision.

3. The provisions of this section shall not be construed to apply to an action or proceeding by an owner to recover possession of such dwelling or any part thereof from a tenant and to remove such tenant therefrom for the reason that the tenant holds over and continues in

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possession of the demised dwelling or any part thereof without the permission of the owner after a default in the payment of the rent.

* NB Expired July 1, 1949

§ 262. **Alteration of uncompleted buildings.** The provisions of this chapter relating to multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine, shall not apply to any fireproof building structurally enclosed but uncompleted on April first, nineteen hundred forty-five, conforming to the provisions of the local zoning law or resolution applicable to an apartment hotel, in effect at the time of the approval of the original plans filed for the construction of such building, and which building shall thereafter be altered and completed as a class A multiple dwelling, in accordance with plans and amendments thereto approved by the department. Such building, if so altered and completed on or before July first, nineteen hundred forty-eight, may be lawfully occupied thereafter as a class A multiple dwelling if it conforms with the provisions of section twenty-five applicable to fireproof class A multiple dwellings occupied as such before April eighteenth, nineteen hundred twenty-nine.

* § 264. **Conversion of certain dwellings.** 1. Notwithstanding any inconsistent provision of this chapter or of any other law, it shall be lawful until July first, nineteen hundred forty-nine, for any owner to convert a non-fireproof dwelling which is not of frame construction, not more than a basement and two additional stories in height, and not occupied by more than two families, for occupancy by not more than three families, in accordance with the provisions of this section, providing such dwelling was existing on April eighth, nineteen hundred forty-six, or was erected thereafter under plans on file with the department on or before such date.

2. The provisions of article six of this chapter shall not apply to conversion of dwellings under this section, except in so far as compliance therewith is expressly required as provided in or pursuant to this section.

3. Conversion of such dwellings under this section must be made:

a. In full compliance with the provisions of sections one hundred seventy-six, one hundred seventy-seven, and one hundred eighty-eight, of subdivision two of section one hundred eighty-nine, and of section two hundred;

b. In full compliance with the provisions of section one hundred eighty-five, except that if a cellar ceiling is plastered and in good repair only the area of the ceiling over any boiler located in the cellar and for three feet beyond need be covered with fire-retarding material;

c. In full compliance with the provisions of section one hundred eighty-seven unless such conversion was completed under authority of this section before July first, nineteen hundred forty-seven, and

d. In compliance with such additional provisions of article six of this chapter, and no other, as may be specifically required by, and in accordance with, rules and regulations of the department where the conversion is proposed to be made.

4. A plan of alteration to effect conversion of any such dwelling under this section shall be filed with such department and, when approved by it, shall constitute a lawful plan for three family occupancy of such dwelling.

* NB Expired July 1, 1949

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**ARTICLE 7-B
JOINT LIVING-WORK QUARTERS FOR ARTISTS, OR
GENERAL RESIDENTIAL OCCUPANCY OF LOFT, COMMERCIAL OR
MANUFACTURING BUILDINGS**

- Section 275. Legislative findings.
276. Definition of an artist.
277. Occupancy permitted.
278. Application of other provisions.

§ 275. **Legislative findings.** It is hereby declared and found that in cities with a population in excess of one million, large numbers of loft, manufacturing, commercial, institutional, public and community facility buildings have lost, and continue to lose, their tenants to more modern premises; and that the untenanted portions of such buildings constitute a potential housing stock within such cities which is capable, when appropriately altered, of accommodating general residential use, thereby contributing to an alleviation of the housing shortage most severely affecting moderate and middle income families, and of accommodating joint living-work quarters for artists by making readily available space which is physically and economically suitable for use by persons regularly engaged in the arts.

There is a public purpose to be served by making accommodations readily available for joint living-work quarters for artists for the following reasons: persons regularly engaged in the arts require larger amounts of space for the pursuit of their artistic endeavors and for the storage of the materials therefor and of the products thereof than are regularly to be found in dwellings subject to this article; that the financial remunerations to be obtained from pursuit of a career in the arts are generally small; that as a result of such limited financial remuneration persons regularly engaged in the arts generally find it financially impossible to maintain quarters for the pursuit of their artistic endeavors separate and apart from their places of residence; that the cultural life of cities of more than one million persons within this state and of the state as a whole is enhanced by the residence in such cities of large numbers of persons regularly engaged in the arts; that the high cost of land within such cities makes it particularly difficult for persons regularly engaged in the arts to obtain the use of the amounts of space required for their work as aforesaid; and that the residential use of the space is secondary or accessory to the primary use as a place of work.

It is further declared that the legislation governing the alteration of such buildings to accommodate general residential use must of necessity be more restrictive than statutes heretofore in effect, which affected only joint living-work quarters for artists.

It is the intention of this legislation to promulgate statewide minimum standards for all alterations of non-residential buildings to residential use, but the legislature is cognizant that the use of such buildings for residential purposes must be consistent with local zoning ordinances. The legislature further recognizes that it is the role of localities to adopt regulations which will define in further detail the manner in which alterations should be carried out where building types and conditions are peculiar to their local environment.

§ 276. **Definition of an artist.** As used in this article, the word

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"artist" means a person who is regularly engaged in the fine arts, such as painting and sculpture or in the performing or creative arts, including choreography and filmmaking, or in the composition of music on a professional basis, and is so certified by the city department of cultural affairs and/or state council on the arts.

§ 277. **Occupancy permitted.** Any building in any city of more than one million persons which at any time prior to January first, nineteen hundred seventy-seven was occupied for loft, commercial, institutional, public, community facility or manufacturing purposes, may, notwithstanding any other article of this chapter, or any provision of law covering the same subject matter (except as otherwise required by the local zoning law or resolution), be occupied in whole or in part for joint living-work quarters for artists or general residential purposes if such occupancy is in compliance with this article. Such occupancy shall be permitted only if the following conditions are met and complied with.

1. (a) The exterior walls of the building shall be non-combustible and have a fire-resistive rating of at least three hours unless the exterior wall or walls, measured on a horizontal plane perpendicular to said exterior wall or walls, is a minimum of thirty feet distant in a direct unobstructed line from another structure, except that a wet pipe sprinkler system, with maximum sprinkler spacing of four feet, must be provided along such wall or walls to protect exposed, unrated columns or beams at the interior of the wall in non-fireproof buildings.

(b) Window openings in exterior walls shall conform with the limitations of table 3-4 chapter twenty-six of the administrative code of the city of New York, unless such windows are fire protected and provided with either a minimum of one sprinkler head per window or window automatic closing devices, acceptable to the department of buildings.

2. The building (a) is of fireproof construction, as provided in section one hundred one of this chapter, or is of class two construction, as provided by the requirements of the building code and regulations of the city of New York in effect prior to December sixth, nineteen hundred sixty-eight; or

(b) if non-fireproof, does not exceed a height of six stories, and eighty-five feet measured to the ceiling of the highest floor in a depth of one hundred feet; or does not exceed a height of seven stories, and eighty-five feet and a depth of one hundred feet and is wet sprinklered throughout; and has a maximum floor area between the two hour rated partitions constructed in accordance with section C26-504.2 of the administrative code of the city of New York of:

(i) three thousand square feet; or

(ii) five thousand square feet if the building is six stories or less in height and is fully wet sprinklered; or

(iii) five thousand square feet if the building is seven stories in height and is fully wet sprinklered and has a stand pipe system; or

(iv) ten thousand square feet if the building is fully wet sprinklered and has one hour rated ceilings.

(c) complies with the requirements of table 3-4 chapter twenty-six of the administrative code of the city of New York for J-2 occupancy.

3. Any part of the building may be occupied for manufacturing and commercial purposes (as permitted by local zoning law or resolution), provided, however, that only the second story and below may be occupied for uses listed as medium fire hazard in rules of the board of standards

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and appeals implementing the labor law unless the entire building is wet sprinklered; in addition, high fire hazard occupancies shall not be permitted in any portion of the building.

4. All areas occupied for manufacturing or commercial purposes shall be protected by an approved wet-pipe automatic sprinkler system. Such wet-pipe automatic sprinkler system shall extend to and include public hallways and stairways coincidentally serving residential occupancies.

5. All occupancies or tenancies shall be separated by a vertical fire separation, extending to the underside of the floor above and having a minimum fire-resistance rating of at least one hour and conform in all respects with applicable zoning regulations. No separation shall be required between the working and living portions of a joint living-work quarters for artists.

6. The building (a) complies with all requirements imposed on old-law tenements by sections two hundred twelve and two hundred sixteen of this chapter and on converted dwellings by sections one hundred eighty-five, one hundred eighty-six, one hundred eighty-eight, one hundred eighty-nine, one hundred ninety, one hundred ninety-one and one hundred ninety-four of this chapter, in addition to those provided in section two hundred seventy-eight of this article and (b) complies with the standards of lighting, ventilation, size of rooms, alcoves and balconies contained in section C26-1205.0 through and including sections C26-1205.5 and C26-1205.7 of the administrative code of the city of New York, except as otherwise provided in paragraph (d) of subdivision seven of this section.

7. Minimum light and air standards for joint living-work quarters for artists or general residential portions of lofts or manufacturing and commercial buildings altered to residential use shall comply with the following:

(a) Portions of such buildings which are occupied exclusively as joint living-work quarters for artists as permitted by local law shall comply with the following:

(i) The minimum size of a joint living-work quarters for artists shall be twelve hundred square feet of interior space, except as otherwise authorized by the zoning resolution of the city of New York, for units occupied for residential purposes on or before January first, nineteen hundred eighty-five.

(ii) Joint living-work quarters for artists shall conform to the standards for light and ventilation of sections C26-1205.0 through and including section C26-1205.7 of the administrative code of the city of New York.

(b) Portions of such buildings which are occupied exclusively as residential units as permitted by local law shall comply with the following:

(i) Every dwelling unit shall have one or more windows:

A. which open onto a street, a court with a dimension of fifteen feet perpendicular to the windows and one hundred square feet minimum area above a setback or a thirty foot rear yard; or

B. for corner lots or lots within one hundred feet of a corner, where the minimum horizontal distance between such windows opening onto a rear yard and the rear lot line is at least twenty feet; or

C. for interior lots, where the minimum horizontal distance between such windows opening onto a rear yard and any wall opposite such windows on the same or another zoning lot is at least twenty feet and not less than a distance equal to one-third of the total height of such wall above the sill height of such windows; but need not exceed forty feet; or

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D. for interior lots where the minimum horizontal distance between such windows opening onto a rear yard and any wall opposite such windows on the same or another zoning lot is at least fifteen feet and the minimum size of such dwelling unit is twelve hundred square feet; or

E. in no event shall the distance between such windows and the rear lot line be less than five feet; and

F. yards and courts may be existing or may be new in buildings seven stories or less in height.

(ii) The minimum required ratio of window area opening onto a street, rear yard, or court to the floor area of every living room shall:

A. be ten percent where the floor area of such living room is less than five hundred square feet; or

B. decrease, by one percent for every one hundred square feet greater than five hundred square feet of floor area of such living room, to a minimum of five percent; and

C. in no event shall the distance between such window area and the rear lot line be less than five feet; and

D. at least fifty percent of the required window area shall be openable.

(c) Ventilation of spaces other than living rooms, including enclosed work spaces for joint living-work quarters for artists shall be either in accordance with this section or in accordance with the administrative code of the city of New York.

(d) No building converted pursuant to this article shall be enlarged, except where the underlying zoning district permits residential use. Such an enlargement shall be in conformance with the bulk regulations for conforming residential use for new construction and shall be in conformance with the provisions of section twenty-six of this chapter. No interior floor area enlargement shall be permitted except that a mezzanine with a minimum headroom of seven feet shall be allowed within individual dwelling units, provided that the gross floor area of such mezzanine does not exceed one-third of the floor area contained within such dwelling unit. No mezzanine shall be included as floor area for the purpose of calculating the minimum required size of a living room or a dwelling unit or for calculating floor area devoted to dwellings. For the purpose of this article a mezzanine may be constructed above the level of the roof of a building as long as the aggregate area of roof structures does not exceed one-third of the total roof area and the roof structures conform with applicable building code requirements.

(e) The kitchen located within dwelling units and having a floor area of eighty square feet or more shall have natural ventilation as prescribed in sections 27-749 and 27-750 of chapter twenty-seven of the administrative code of the city of New York. Open kitchens shall be considered as part of the adjacent space where forty percent of the area of the separation between the spaces is open and without doors. If the floor area of the combined space exceeds seven hundred fifty square feet, a separate bedroom shall not be required. When the floor area is less than eighty square feet the kitchenette shall be ventilated by either of the following:

(i) Natural means complying with sections 27-749 and 27-750 of chapter twenty-seven of the administrative code of the city of New York and further that the windows shall have a minimum width of twelve inches, a minimum area of three square feet, or ten percent of the floor area of the space, whichever is greater and be so constructed that at least one-half of their required area may be opened. When the space is located at the top story, the window or windows may be replaced with a skylight whose minimum width shall be twelve inches, whose minimum area

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shall be four square feet or one-eighth of the floor area of the space, whichever is greater and which shall have ventilation openings of at least one-half of the required area of the skylight.

(ii) Mechanical means exhausting at least two cubic feet per minute of air per square foot of floor area. Where doors are to be used to separate the space, the lower portion of each door shall have a metal grill containing at least forty-eight square inches of clean openings or in lieu of such grill, two clear opening spaces may be provided, each of at least twenty-four square inches, one between the bottom of each door and the floor and the other between the top of each door and the head jamb.

(f) When bathrooms and toilet rooms are ventilated by natural means, the natural ventilation sources shall comply with sub-article 1205.0 of chapter twenty-six of the administrative code of the city of New York and shall have an unobstructed free area of at least five percent of the floor area. In no case shall the net free area of the ventilation sources be less than one and one-half square feet. When bathrooms and toilet rooms are vented by mechanical means, individual vent shafts or ducts constructed of non-combustible materials with a minimum cross section area of one square foot shall be utilized, the exhaust system shall be capable of exhausting at least fifty cubic feet per minute of air. Means shall be provided for egress of air by louvers in doors, by undercutting the door, or by transfer ducts, grills or other openings. Toilet exhaust systems shall be arranged to expel air directly to the outdoors.

(g) A single station smoke detector shall be installed immediately outside each sleeping or bedroom area of each dwelling unit. Such device shall be designed and installed so as to detect smoke and activate an alarm, be reasonably free from false alarms and provide visible indication that the alarm is energized. Such device shall be directly connected to the lighting circuit of the dwelling or rooming unit with no intervening wall switch and shall provide a warning signal clearly audible in all sleeping quarters with intervening doors closed. Cord connected installations or smoke detectors which rely exclusively on batteries are not permissible. Such devices shall either be approved or listed by an acceptable testing service or laboratory.

8. All openings from apartments leading into a public hall or corridor shall be provided with fireproof doors and assemblies with the doors self-closing. Partitions between apartments on each floor shall be one hour fire rated partitions. All windows opening on fire escapes shall be provided with wire glass, unless such windows are protected by a wet pipe sprinkler head with a minimum of one head per window.

9. Such buildings, in regard to egress, shall comply with the following:

(a) In a non-fireproof building there shall be:

(i) one independently enclosed stairway and a fire escape from each dwelling unit; or

(ii) where the building is fully wet sprinklered and not in excess of seventy-five feet in height and not exceeding five thousand square feet in building area one independently enclosed stairway from each dwelling, and an independently enclosed hallway, of one hour fire rating where there are two or more tenants on a floor; or

(iii) a sprinklered enclosed hallway with access to two independently enclosed stairs.

(b) In a fireproof building, there shall be:

(i) an enclosed hallway and two independently enclosed stairs; or

(ii) an enclosed hallway and one independently enclosed stair and a

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screened exterior stair in conformance with section two hundred sixty-eight of the labor law with all glazed openings thereon equipped with wire glass; or

(iii) for buildings not exceeding seven stories or seventy-five feet in height, egress conforming with the provisions of paragraph (a) of this subdivision; or

(iv) egress conforming with the provisions of section one hundred two of this chapter.

(c) No more than two dwelling units shall open directly to a stair without an intervening enclosed hallway.

(d) Enclosed hallways shall have a one hour fire rating.

(e) Enclosed stairways shall be:

(i) one hour fire rated in non-fireproof buildings four stories or less in height; or

(ii) one hour fire rated and sprinklered in non-fireproof buildings six stories or less in height; or

(iii) one hour fire rated in non-fireproof, fully sprinklered buildings seven stories in height; or

(iv) two hour fire rated in all other cases.

(f) The travel distance to the means of egress shall comply with the administrative code of the city of New York.

(g) Wooden stairs permitted by section one hundred eighty-nine of this chapter may be retained only if, in addition to meeting all of the requirements set forth therein, they are within a fully wet-sprinklered enclosure, and the stair and landing soffit are fire retarded, notwithstanding any other provisions.

(h) Every required stair shall extend through the roof by a bulkhead, except that a scuttle may be used if the dwelling does not exceed four stories and except that no bulkhead or scuttle is required where the roof is a peak roof with a pitch of more than fifteen degrees.

(i) Mezzanines shall be provided with a stair at least two feet six inches wide terminating not more than twenty feet from an exit door or fire escape, and all portions of such mezzanines shall be not more than fifty feet from such exit door or fire escape.

10. In buildings in excess of two stories in height, stairways shall be provided with skylights at least twenty square feet in area, glazed with plain glass with a wire screen over and under and provided with fixed or movable ventilators having a minimum open area of one hundred forty-four square inches. In lieu of the skylight and ventilators, a window of equal area may be provided with fixed louvers having a minimum open area of one hundred forty-four square inches installed in or immediately adjacent to the window.

11. Except as otherwise provided in this article, all shafts shall be enclosed with incombustible material of two hour fire rating and comply with the administrative code of the city of New York, provided, however, existing shaft enclosures constructed in part of combustible material may be retained if upgraded to obtain a two hour fire rating.

12. Every kitchen or kitchenette or cooking space in such building shall comply with the requirements imposed on multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine by section thirty-three of this chapter.

13. Such building shall comply with all requirements imposed on multiple dwellings erected after April eighteenth, nineteen hundred twenty-nine by title three of article three of this chapter.

14. All interior iron columns in unsprinklered buildings shall be protected by materials or assemblies having a fire-resistive rating of at least three hours. Where sprinklers are provided for an exterior wall

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as provided in subdivision one of this section or in a fully wet sprinklered building such columns shall be protected by two sprinkler heads located eighteen inches or more away and each on opposite sides of such column but no further than four feet. Such sprinklers shall be provided at any interior column where fire protection is omitted in non-fireproof buildings.

15. The elevator shafts in such buildings shall be enclosed with incombustible material of two hour fire rating, except that existing elevator shaft enclosures constructed in part of combustible material may be retained if upgraded to obtain a two hour fire rating; and have fireproof doors and assemblies with (a) the doors self-closing; or (b) a vestibule the walls of which shall be of non-combustible material and have a minimum two hour fire resistive rating, with self-closing fireproof doors and be fire-stopped; or (c) where the elevator is manually operated in fully sprinklered buildings have fireproof doors, with approved interlock devices.

16. The requirements and standards prescribed in this section shall be subject to variation in specific cases by the commissioner of buildings, or the board of standards and appeals, of such city under and pursuant to the provisions of paragraph two of subdivision b of section six hundred forty-five and section six hundred sixty-six of the New York city charter.

§ 278. **Application of other provisions.** 1. The provisions of this article apply to buildings with residential, mixed or joint living-work quarters or artists' occupancy as herein provided and to such buildings only. In addition to the provisions of this article, the following enumerated articles and sections of this chapter shall, to the extent required therein, apply to such buildings:

- | | | |
|---------|-----|---|
| Article | 1. | Introductory provisions: definitions |
| | 2. | Miscellaneous application provisions except subdivision two of section nine |
| | 8. | Requirements and remedies |
| | 9. | Registry of names and service of papers |
| | 10. | Prostitution |
| | 11. | Laws repealed; saving clause; effect |
| Section | 28. | Two or more buildings on same lot |
| | 29. | Painting of courts and shafts |
| | 31. | Size of rooms, subdivision six only |
| | 37. | Artificial hall lighting |
| | 53. | Fire-escapes |
| | 55. | Wainscoting, subdivision two only |
| | 56. | Frame buildings and extensions |
| | 57. | Bells; mail receptacles |
| | 58. | Incombustible materials |
| | 59. | Bakeries and fat boiling |
| | 60. | Motor vehicle storage |
| | 61. | Business uses (except paragraph c of subdivision one and subdivision three) |
| | 62. | Parapets, guard railings and wires |

2. Failure to comply with any provision of this chapter other than this article and the above enumerated articles and sections shall not be grounds for refusal of a certificate of occupancy or compliance.

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- Section 280. Legislative findings.
- 281. Definition of "interim multiple dwelling".
- 282. Establishment of special loft unit.
- 283. Occupancy permitted.
- 284. Owner obligations.
- 285. Owner protection.
- 286. Tenant protection.
- 287. Alternative compliance.

* NB Terminates at the close of the calendar day May 31, 2010

- * § 280. **Legislative findings.** The legislature hereby finds and declares that a serious public emergency exists in the housing of a considerable number of persons in cities having a population of over one million, which emergency has been created by the increasing number of conversions of commercial and manufacturing loft buildings to residential use without compliance with applicable building codes and laws and without compliance with local laws regarding minimum housing maintenance standards; that many such buildings do not conform to minimum standards for health, safety and fire protection; that housing maintenance services essential to maintain health, safety and fire protection are not being provided in many such buildings; that as a consequence of the acute shortage of housing as found and declared in the emergency tenant protection act of nineteen seventy-four the tenants in such buildings would suffer great hardship if forced to relocate; that as a result of the uncertain status of the tenancy in question the courts have been increasingly burdened with disputes between landlords and tenants regarding their respective rights and obligations under the existing circumstances; that some courts have declared such buildings "de facto" multiple dwellings; that illegal and unregulated residential conversions undermine the integrity of the local zoning resolution and threaten loss of jobs and industry; that the intervention of the state and local governments is necessary to effectuate legalization, consistent with the local zoning resolution, of the present illegal living arrangements in such "de facto" multiple dwellings, and to establish a system whereby residential rentals can be reasonably adjusted so that residential tenants can assist in paying the cost of such legalization without being forced to relocate; that in order to prevent uncertainty, hardship, and dislocation, the provisions of this article are necessary and designed to protect the public health, safety and general welfare.

* NB Terminates at the close of the calendar day May 31, 2010

- * § 281. **Definition of "interim multiple dwelling".** 1. Except as provided in subdivision two of this section, the term "interim multiple dwelling" means any building or structure or portion thereof located in a city of more than one million persons which (i) at any time was occupied for manufacturing, commercial, or warehouse purposes; and (ii) lacks a certificate of compliance or occupancy pursuant to section three hundred one of this chapter; and (iii) on December first, nineteen hundred eighty-one was occupied for residential purposes since April first, nineteen hundred eighty as the residence or home of any three or more families living independently of one another.
2. Notwithstanding the definition set forth in subdivision one of this section, the term "interim multiple dwelling" includes only (i) buildings, structures or portions thereof located in a geographical area in which the local zoning resolution permits residential use as of

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right, or by minor modification or administrative certification of a local planning agency, (ii) buildings or structures which are not owned by a municipality, (iii) buildings, structures or portions thereof within an area designated by the local zoning resolution as a study area for possible rezoning to permit residential use, or (iv) buildings, structures or portions thereof which may be converted to residential use pursuant to a special permit granted by a local planning agency. In the case of classes of buildings specified by paragraphs (iii) and (iv) of this subdivision and those buildings specified by paragraph (i) of this subdivision which require a minor modification or administrative certification, however, the provisions of subdivision one of section two hundred eighty-four of this article regarding compliance with this chapter shall not be applicable, but the other provisions of this article shall be applicable. Upon rezoning of any such study area or the granting of any such special permit, minor modification or administrative certification to permit residential use of any such building or portion thereof, subdivision one of section two hundred eighty-four of this article shall be applicable, with the timing of compliance requirements set forth in such section commencing to run upon the effective date of such rezoning or permit approval. If such rezoning does not permit residential use of the building or a portion thereof, or if a special permit, minor modification or administrative certification is denied, such building shall be exempt from this article.

3. In addition to the residents of an interim multiple dwelling, residential occupants in units first occupied after April first, nineteen hundred eighty and prior to April first, nineteen hundred eighty-one shall be qualified for protection pursuant to this article, provided that the building or any portion thereof otherwise qualifies as an interim multiple dwelling, and the tenants are eligible under the local zoning resolution for such occupancy. A reduction in the number of occupied residential units in a building after December first, nineteen hundred eighty-one shall not eliminate the protections of this article for any remaining residential occupants qualified for such protections. Non-residential space in a building as of the effective date of the act which added this article shall be offered for residential use only after the obtaining of a residential certificate of occupancy for such space, and such space shall be exempt from this article, even if a portion of such building may be an interim multiple dwelling.

4. Interim multiple dwellings shall also include buildings, structures or portions thereof that had residential occupants on May first, nineteen hundred eighty-seven in units occupied residentially since December first, nineteen hundred eighty-one that were occupied for residential purposes since April first, nineteen hundred eighty and those units shall be qualified for protection pursuant to this article, provided that the building or any portion thereof meets the requirements set out in subdivision one of this section, regardless of whether the buildings, structures or portions thereof meets the requirements set out in paragraphs (i), (iii) and (iv) of subdivision two of this section.

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* § 282. **Establishment of special loft unit.** In order to resolve complaints of owners of interim multiple dwellings and of residential occupants of such buildings qualified for the protection of this article, and to act upon hardship applications made pursuant to this article, a special loft unit referred to herein as the "loft board" shall be established which shall consist of from four to nine members representative of the public, the real estate industry, loft residential

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tenants, and loft manufacturing interests, and a chairperson, all to be appointed by the mayor of the municipality and to serve such terms as he may designate. The compensation of the members of the loft board shall be fixed by the mayor. The members of the loft board shall not be considered employees of the state or the municipality, provided, however, that state or municipal employees or officers may be named to the loft board. The mayor shall establish the loft board within ninety days of the effective date of the act which added this article. The loft board shall have such office and staff as shall be necessary to carry out functions conferred upon it and may request and receive assistance from any state or municipal agency or department. The loft board shall have the following duties: (a) the determination of interim multiple dwelling status and other issues of coverage pursuant to this article; (b) the resolution of all hardship appeals brought under this article; (c) the determination of any claim for rent adjustment under this article by an owner or tenant; (d) the issuance, after a public hearing, and the enforcement of rules and regulations governing minimum housing maintenance standards in interim multiple dwellings (subject to the provisions of this chapter and any local building code), rent adjustments prior to legalization, compliance with this article and the hearing of complaints and applications made to it pursuant to this article; and (e) determination of controversies arising over the fair market value of a residential tenant's fixtures or reasonable moving expenses. The violation of any rule or regulation promulgated by the loft board shall be punishable by a civil penalty determined by the loft board not to exceed one thousand dollars which may be recovered by the municipality by a proceeding in any court of competent jurisdiction. The loft board may charge and collect reasonable fees in the execution of its responsibilities. The loft board may administer oaths, take affidavits, hear testimony, and take proof under oath at public or private hearings.

* NB Terminates at the close of the calendar day May 31, 2010

* § 283. **Occupancy permitted.** Notwithstanding any other provision of this chapter or any other law, code, rule or regulation, occupancy for residential purposes of residential units covered by this article is permitted, if such occupancy is in compliance with this article. Nothing contained herein shall be construed to limit local authorities from issuing vacate orders for hazardous conditions, if appropriate.

* NB Terminates at the close of the calendar day May 31, 2010

* § 284. **Owner obligations.** 1. (i) The owner of an interim multiple dwelling (A) shall file an alteration application within nine months from the effective date of the act which added this article, and (B) shall take all reasonable and necessary action to obtain an approved alteration permit within twelve months from such effective date, and (C) shall achieve compliance with the standards of safety and fire protection set forth in article seven-B of this chapter for the residential portions of the building within eighteen months from obtaining such alteration permit or eighteen months from such effective date, whichever is later, and (D) shall take all reasonable and necessary action to obtain a certificate of occupancy as a class A multiple dwelling for the residential portions of the building or structure within thirty-six months from such effective date. The loft board may, upon good cause shown, and upon proof of compliance with the standards of safety and fire protection set forth in article seven-B of

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this chapter, twice extend the time of compliance with the requirement to obtain a residential certificate of occupancy for periods not to exceed twelve months each.

(ii) An owner of an interim multiple dwelling who has not complied with the requirements of paragraph (i) of this subdivision by the effective date of the chapter of the laws of nineteen hundred ninety-two which added this paragraph shall hereafter be deemed in compliance with this subdivision provided that such owner files an alteration application by October first, nineteen hundred ninety-two, takes all reasonable and necessary action to obtain an approved alteration permit by October first, nineteen hundred ninety-three, achieves compliance with the standards of safety and fire protection set forth in article seven-B of this chapter for the residential portions of the building by April first, nineteen hundred ninety-five, or within eighteen months from obtaining an approved alteration permit, whichever is later, and takes all reasonable and necessary action to obtain a certificate of occupancy as a class A multiple dwelling for the residential portions of the building or structure by October first, nineteen hundred ninety-five or within six months from achieving compliance with the aforementioned standards for the residential portions of the building, whichever is later.

(iii) An owner of an interim multiple dwelling who has not complied with the requirements of paragraph (i) or (ii) of this subdivision by the effective date of the chapter of the laws of nineteen hundred ninety-six which added this paragraph shall hereafter be deemed in compliance with this subdivision provided that such owner files an alteration application by October first, nineteen hundred ninety-six, takes all reasonable and necessary action to obtain an approved alteration permit by October first, nineteen hundred ninety-seven, achieves compliance with the standards of safety and fire protection set forth in article seven-B of this chapter for the residential portions of the building by April first, nineteen hundred ninety-nine or within eighteen months from obtaining an approved alteration permit whichever is later, and takes all reasonable and necessary action to obtain a certificate of occupancy as a class A multiple dwelling for the residential portions of the building or structure by June thirtieth, nineteen hundred ninety-nine or within three months from achieving compliance with the aforementioned standards for the residential portions of the building, whichever is later.

(iv) An owner of an interim multiple dwelling who has not complied with the requirements of paragraph (i), (ii) or (iii) of this subdivision by the effective date of this paragraph as provided in chapter four hundred fourteen of the laws of nineteen hundred ninety-nine which added this paragraph shall hereafter be deemed in compliance with this subdivision provided that such owner files an alteration application by September first, nineteen hundred ninety-nine, takes all reasonable and necessary action to obtain an approved alteration permit by March first, two thousand, achieves compliance with the standards of safety and fire protection set forth in article seven-B of this chapter for the residential portions of the building by May first, two thousand two or within twelve months from obtaining an approved alteration permit whichever is later, and takes all reasonable and necessary action to obtain a certificate of occupancy as a class A multiple dwelling for the residential portions of the building or structure by May thirty-first, two thousand two or within one month from achieving compliance with the aforementioned standards for the residential portions of the building, whichever is later.

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(v) An owner of an interim multiple dwelling who has not complied with the requirements of paragraph (i), (ii), (iii) or (iv) of this subdivision by the effective date of this paragraph as provided in chapter eighty-five of the laws of two thousand two shall hereafter be deemed in compliance with this subdivision provided that such owner filed an alteration application by September first, nineteen hundred ninety-nine, took all reasonable and necessary action to obtain an approved alteration permit by March first, two thousand, achieves compliance with the standards of safety and fire protection set forth in article seven-B of this chapter for the residential portions of the building by May first, two thousand ten or within twelve months from obtaining an approved alteration permit whichever is later, and takes all reasonable and necessary action to obtain a certificate of occupancy as a class A multiple dwelling for the residential portions of the building or structure by May thirty-first, two thousand ten or within one month from achieving compliance with the aforementioned standards for the residential portions of the building, whichever is later.

(vi) An owner who is unable to satisfy any requirement specified in paragraph (ii), (iii), (iv) or (v) of this subdivision for reasons beyond his/her control, including, but not limited to, a requirement to obtain a certificate of appropriateness for modification of a landmarked building, a need to obtain a variance from a board of standards and appeals, or the denial of reasonable access to a residential unit as required by paragraph (x) of this subdivision, may apply to the loft board for an extension of time to meet the requirement specified in paragraph (ii), (iii), (iv) or (v) of this subdivision. The loft board may grant an extension of time to meet a requirement specified in paragraph (ii), (iii), (iv) or (v) of this subdivision provided that the owner demonstrates that he/she has made good faith efforts to satisfy the requirements.

(vii) If there is a finding by the loft board that an owner has failed to satisfy any requirement specified in paragraphs (i), (ii), (iii), (iv) and (v) of this subdivision, such owner shall be subject to all penalties set forth in article eight of this chapter.

(viii) In addition to the penalties provided in article eight of this chapter, if there is a finding by the loft board that an owner has failed to satisfy any requirement specified in paragraphs (i), (ii), (iii), (iv) and (v) of this subdivision, a court may order specific performance to enforce the provisions of this article upon the application of three occupants of separate residential units, qualified for the protection of this article, or upon the application of the municipality.

(ix) If, as a consequence of an owner's unlawful failure to comply with the provisions of paragraphs (i), (ii), (iii), (iv) and (v) of this subdivision, any residential occupant qualified for protection pursuant to this article is required to vacate his or her unit as a result of a municipal vacate order, such occupant may recover from the owner the fair market value of any improvements made by such tenant and reasonable moving costs. Any vacate order issued as to such unit by a local government shall be deemed an order to the owner to correct the non-compliant conditions, subject to the provisions of this article. Furthermore, when such correction has been made, such occupant shall have the right to re-occupy his or her unit and shall be entitled to all applicable tenant protections of this article.

(x) The occupants of a building shall, upon appropriate notice regarding the timing and scope of the work required, afford the owner reasonable access to their units so that the work necessary for

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compliance with this article can be carried out. Access shall also be afforded, upon reasonable prior notice, for the purpose of inspecting and surveying units as may be required to comply with the provisions of this article and article seven-B of this chapter. Failure to comply with an order of the loft board regarding access shall be grounds for eviction of a tenant.

2. Every owner of an interim multiple dwelling, every lessee of a whole building part of which is an interim multiple dwelling, and every agent or other person having control of such a dwelling, shall, within sixty days of the effective date of the act which added this article, file with the loft board or any other authority designated by the mayor a notice in conformity with all provisions of section three hundred twenty-five of this chapter and with rules and regulations to be promulgated by the loft board.

* NB Terminates at the close of the calendar day May 31, 2010

* § 285. **Owner protection.** 1. Notwithstanding the provisions of section three hundred two or three hundred twenty-five of this chapter, the owner of an interim multiple dwelling may recover rent payable from residential occupants qualified for the protection of this article on or after April first, nineteen hundred eighty, and maintain an action or proceeding for possession of such premises for non-payment of rent, provided that he is in compliance with this article.

2. Notwithstanding any other provision of this article, an owner may apply to the loft board for exemption of a building or portion thereof from this article on the basis that compliance with this article in obtaining a legal residential certificate of occupancy would cause an unjustifiable hardship either because: (i) it would cause an unreasonably adverse impact on a non-residential conforming use tenant within the building or, (ii) the cost of compliance renders legal residential conversion infeasible. Residential and other tenants shall be given not less than sixty days notice in advance of the hearing date for such application. If the loft board approves such application, the building or portion thereof shall be exempt from this article, and may be converted to non-residential conforming uses, provided, however, that the owner shall, as a condition of approval of such application, agree to file an irrevocable recorded covenant in form satisfactory to the loft board enforceable for fifteen years by the municipality, that the building will not be re-converted to residential uses during such time. The standard for granting such hardship application for a building or portion thereof shall be as follows: (a) the loft board shall only grant the minimum relief necessary to relieve any alleged hardship with the understanding if compliance is reasonably possible it should be achieved even if it requires alteration of units, relocation of tenants to vacant space within the building, re-design of space or application for a non-use-related variance, special permit, minor modification or administrative certification; (b) self-created hardship shall not be allowed; (c) the test for cost infeasibility shall be that of a reasonable return on the owner's investment not maximum return on investment; (d) the test for unreasonably adverse impact on a non-residential conforming use tenant shall be whether residential conversion would necessitate displacement. Such hardship applications shall be submitted to the loft board within nine months of the establishment of the loft board (or, in the case of interim multiple dwellings referred to in subdivision four of section two hundred eighty-one of this chapter, within nine months of the effective date of

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that subdivision), but shall not be considered, absent a waiver by the loft board, unless the owner has also filed an alteration application. In determination of any such hardship application, the loft board may demand such information as it deems necessary. In approving any such hardship application, the loft board may fix reasonable terms and conditions for the vacating of residential occupancy.

3. An owner of an interim multiple dwelling shall be exempt from paying a conversion contribution required by the zoning resolution of the city of New York for that portion of any building or structure determined by the loft board to be an interim multiple dwelling.

* NB Terminates at the close of the calendar day May 31, 2010

* § 286. **Tenant protection.** 1. It shall not be a ground for an action or proceeding to recover possession of a unit occupied by a residential occupant qualified for the protection of this article that the occupancy of the unit is illegal or in violation of provisions of the tenant's lease or rental agreement because a residential certificate of occupancy has not been issued for the building, or because residential occupancy is not permitted by the lease or rental agreement.

2. (i) Prior to compliance with safety and fire protection standards of article seven-B of this chapter, residential occupants qualified for protection pursuant to this article shall be entitled to continued occupancy, provided that the unit is their primary residence, and shall pay the same rent, including escalations, specified in their lease or rental agreement to the extent to which such lease or rental agreement remains in effect or, in the absence of a lease or rental agreement, the same rent most recently paid and accepted by the owner; if there is no lease or other rental agreement in effect, rent adjustments prior to article seven-B compliance shall be in conformity with guidelines to be set by the loft board for such residential occupants within six months from the effective date of this article.

(ii) In addition to any rent adjustment pursuant to paragraph (i) of this subdivision, on or after June twenty-first, nineteen hundred ninety-two, the rent for residential units in interim multiple dwellings that are not yet in compliance with the requirements of subdivision one of section two hundred eighty-four of this article shall be adjusted as follows:

(A) Upon the owners' filing of an alteration application, as required by paragraph (ii), (iii), (iv) or (v) of subdivision one of section two hundred eighty-four of this article, an adjustment equal to six percent of the rent in effect at the time the owner files the alteration application.

(B) Upon obtaining an alteration permit, as required by paragraph (ii), (iii), (iv) or (v) of subdivision one of section two hundred eighty-four of this article, an adjustment equal to eight percent of the rent in effect at the time the owner obtains the alteration permit.

(C) Upon achieving compliance with the standards of safety and fire protection set forth in article seven-B of this chapter for the residential portions of the building, an adjustment equal to six percent of the rent in effect at the time the owner achieves such compliance.

(D) Owners who filed an alteration application prior to the effective date of this subparagraph shall be entitled to a prospective adjustment equal to six percent of the rent on the effective date of this subparagraph.

(E) Owners who obtained an alteration permit prior to June twenty-first, nineteen hundred ninety-two shall be entitled to a

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prospective adjustment equal to fourteen percent of the rent on June twenty-first, nineteen hundred ninety-two.

(F) Owners who achieved compliance with the standards of safety and fire protection set forth in article seven-B of this chapter for the residential portions of the building prior to June twenty-first, nineteen hundred ninety-two shall be entitled to a prospective adjustment equal to twenty percent of the rent on June twenty-first, nineteen hundred ninety-two.

(iii) Any rent adjustments pursuant to paragraph (ii) of this subdivision shall not apply to units which were rented at market value after June twenty-first, nineteen hundred eighty-two and prior to June twenty-first, nineteen hundred ninety-two.

(iv) Payment of any rent adjustments pursuant to paragraph (ii) of this subdivision shall commence the month immediately following the month in which the act entitling the owner to the adjustment occurred.

3. Upon or after compliance with the safety and fire protection standards of article seven-B of this chapter, an owner may apply to the loft board for an adjustment of rent based upon the cost of such compliance. Upon approval by the loft board of such compliance, the loft board shall set the initial legal regulated rent, and each residential occupant qualified for protection pursuant to this article shall be offered a residential lease subject to the provisions regarding evictions and regulation of rent set forth in the emergency tenant protection act of nineteen seventy-four, except to the extent the provisions of this article are inconsistent with such act. At such time, the owners of such buildings shall join a real estate industry stabilization association in accordance with such act.

4. The initial legal regulated rent established by the loft board shall be equal to (i) the rent in effect, including escalations, as of the date of application for adjustment ("base rent"), plus, (ii) the maximum annual amount of any increase allocable to compliance as provided herein; and (iii) the percentage increase then applicable to one, two or three year leases, as elected by the tenant, as established by the local rent guidelines board, and applied to the base rent, provided, however, such percentage increases may be adjusted downward by the loft board if prior increases based on loft board guidelines cover part of the same time period to be covered by the rent guidelines board adjustments.

5. An owner may apply to the loft board for rent adjustments once based upon the cost of compliance with article seven-B of this chapter and once based upon the obtaining of a residential certificate of occupancy. If the initial legal regulated rent has been set based only upon article seven-B compliance, a further adjustment may be obtained upon the obtaining of a residential certificate of occupancy. Upon receipt of such records as the loft board shall require, the loft board shall determine the costs necessarily and reasonably incurred, including financing, in obtaining compliance with this article pursuant to a schedule of reasonable costs to be promulgated by it. The adjustment in maximum rents for compliance with this article shall be determined either (i) by dividing the amount of the cash cost of such improvements exclusive of interest and service charges over a ten year period of amortization, or (ii) by dividing the amount of the cash cost of such improvements exclusive of interest and service charges over a fifteen year period of amortization, plus the actual annual mortgage debt service attributable to interest and service charges in each year of indebtedness to an institutional lender, or other lender approved by the loft board, incurred by the owner to pay the cash cost of the

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improvements, provided that the maximum amount of interest charged includable in rent shall reflect an annual amortization factor of one-fifteenth of the outstanding principal balance. Rental adjustments to each residential unit shall be determined on a basis approved by the loft board. An owner may elect that the loft board shall deem the total cost of compliance with this article to be the amounts certified by the local department of housing preservation and development of such municipality in any certificate of eligibility issued in connection with an application for tax exemption or tax abatement to the extent such certificate reflects categories of costs approved by the loft board as reasonable and necessary for such compliance. Rental adjustments attributable to the cost of compliance with this article shall not become part of the base rent for purposes of calculating rents adjusted pursuant to rent guidelines board increases.

6. Notwithstanding any provision of law to the contrary, a residential tenant qualified for protection pursuant to this chapter may sell any improvements to the unit made or purchased by him to an incoming tenant provided, however, that the tenant shall first offer the improvements to the owner for an amount equal to their fair market value. Upon purchase of such improvements by the owner, any unit subject to rent regulation solely by reason of this article and not receiving any benefits of real estate tax exemption or tax abatement, shall be exempted from the provisions of this article requiring rent regulation if such building had fewer than six residential units as of the effective date of the act which added this article, or rented at market value subject to subsequent rent regulation if such building had six or more residential units at such time. The loft board shall establish rules and regulations regarding such sale of improvements which shall include provisions that such right to sell improvements may be exercised only once for each unit subject to this article, and that the opportunity for decontrol or market rentals shall not be available to an owner found guilty by the loft board of harassment of tenants.

7. The local rent guidelines board shall annually establish guidelines for rent adjustments for the category of buildings covered by this article in accordance with the standards established pursuant to the emergency tenant protection act of nineteen seventy-four. The local rent guidelines board shall consider the necessity of a separate category for such buildings, and a separately determined guideline for rent adjustments for those units in which heat is not required to be provided by the owner, and may establish such separate category and guideline. The loft board shall annually commission a study by an independent consultant to assist the rent guidelines board in determining the economics of loft housing.

8. Cooperative and condominium units occupied by owners or tenant-shareholders shall not be subject to rent regulation pursuant to this article.

9. No eviction plan for conversion to cooperative or condominium ownership for a building which is, or a portion of which is an interim multiple dwelling shall be submitted for filing to the department of law pursuant to the general business law until a residential certificate of occupancy is obtained as required by this article, and the residential occupants qualified for protection pursuant to this article are offered one, two or three year leases, as elected by such persons, in accordance with the provisions for establishment of initial legal regulated rent contained herein. Non-eviction plans for such buildings may be submitted for filing only if the sponsor remains responsible for compliance with article seven-B and for all work in common areas required to obtain a

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residential certificate of occupancy. Cooperative conversion shall be fully in accordance with section three hundred fifty-two-eeee of the general business law, the requirements of the code of the local real estate industry stabilization association, and with the rules and regulations promulgated by the attorney general.

10. The functions of the local conciliation and appeals board of such municipality regarding owners and tenants subject to rent regulation pursuant to this article shall be carried out by the loft board until such time as provided otherwise by local law.

11. Residential occupants qualified for protection pursuant to this article shall be afforded the protections available to residential tenants pursuant to the real property law and the real property actions and proceedings law.

12. No waiver of rights pursuant to this article by a residential occupant qualified for protection pursuant to this article made prior to the effective date of the act which added this article shall be accorded any force or effect; however, subsequent to the effective date an owner and a residential occupant may agree to the purchase by the owner of such person's rights in a unit.

13. The applicability of the emergency tenant protection act of nineteen seventy-four to buildings occupied by residential tenants qualified for protection pursuant to this article shall be subject to a declaration of emergency by the local legislative body. In the event such act expires prior to the expiration of this article, tenants in interim multiple dwellings shall be included in coverage of the rent stabilization law of nineteen hundred sixty-nine of the city of New York.

* NB Terminates at the close of the calendar day May 31, 2010

* § 287. **Alternative compliance.** In any case in which a local building code or this chapter provides an alternative means of meeting the fire and safety standards of article seven-B of this chapter, an owner of an interim multiple dwelling may, to the extent permitted by such local code or this chapter, elect to comply with the standards of such code or this chapter rather than with article seven-B. Such an election shall not affect an owner's obligations to meet the deadlines for compliance set forth in this article, and in such cases references herein to article seven-B shall be deemed to include any such local building code or the applicable provisions of this chapter.

* NB Terminates at the close of the calendar day May 31, 2010

**ARTICLE 8
REQUIREMENTS AND REMEDIES**

- Section 300. Permits.
- 301. Certificate of compliance or occupancy.
- 302. Unlawful occupation.
- 302-a. Abatement of rent in the case of serious violations.
- 302-b. Removal of violations by mortgagees.
- 302-c. Right of tenant to offset payments for heat failure; certain cases.
- 303. Enforcement.
- 304. Penalties for violations.
- 305. Violation of local laws and regulations.
- 306. Judicial procedure and orders.
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- 308. Notice of pendency of action.
- 309. Repairs, vacation and demolition of buildings.
- 309-a. Multiple dwelling; apartment prohibitions for certain employees.
- 310. Board of appeals.

§ 300. **Permits.** 1. It shall be unlawful to commence the construction or alteration of a multiple dwelling or any part or section thereof, or of any building or structure on the same lot with such a dwelling, or the alteration or conversion of a building for use as a multiple dwelling, or the moving of a dwelling from one lot to another, until the issuance of a permit by the department upon compliance with all of the following requirements:

a. The owner, or a registered architect or licensed professional engineer designated by the owner as his agent, shall file with the department, upon a form furnished by it, a detailed statement of the specifications for the construction, alteration, conversion or moving of such dwelling or structure and for its use and occupancy, together with as many complete copies of the plans of such work as may be required by the department.

b. Such statement shall give the name and residence, by street and number, of the owner of such dwelling or structure. If such construction, alteration, conversion or moving is proposed to be done by any other person than the owner of the land in fee, such statement shall also contain the name and residence, by street and number, of every person interested in such land and dwelling, either as owner, as lessee or in any representative capacity.

c. Such statement shall be verified by an affidavit of the person making it. Said affidavit shall allege that said specifications and plans are true and contain a correct description of such dwelling or structure, of the class and kind thereof, of its occupancy of the lot and of the proposed work. No architect or engineer 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. Any false allegation in respect to a material point shall be deemed perjury.

d. Such specifications, plans and statements shall be filed in the department, which shall cause them to be examined. If such plans and specifications conform to the provisions of this chapter, to the building code and regulations, and to all other applicable law, they shall be approved by the department, and a written certificate to that effect shall be issued to the person entitled thereto.

2. The construction, alteration, conversion or moving of such dwelling or structure or any section or part thereof shall be in accordance with such approved specifications, plans and statements. The department may approve changes in any plans, specifications and statements previously approved by it, provided that when so changed they are in conformity with law and with the provision of subdivision four.

3. Nothing contained in this section shall prevent the department from issuing a permit for the erection of the foundation or cellar walls of a dwelling, provided plans have been filed and approved in the department for the erection of such walls, but no construction above the first tier of beams shall be authorized under such permit.

4. Any permit or approval which may be issued by the department, but under which no work has been done above the foundation or cellar walls within two years from the time of the issuance of such permit or approval, shall expire. The department may reissue any permit or renew

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any approval that has so expired, but shall require, except as otherwise provided in subdivision one of section twenty-six, that the plans be made to conform with any amendments to any laws applicable thereto that may have been enacted after the approval of the original application.

5. Any permit or approval issued for plans filed prior to December fifteenth, nineteen hundred sixty-one, where such plans do not comply with the provisions of paragraph d of subdivision one of section twenty-six, shall expire on December fifteenth, nineteen hundred sixty-seven.

6. No room in a cellar or basement shall be occupied for living purposes unless the department shall issue a written permit for such occupancy after all the applicable provisions of law have been complied with. If such permit is refused or revoked, the reason for such action shall be stated by the department in writing and a copy of such statement shall be recorded by the department and be accessible to the public. In a tenement such permit shall be kept readily accessible in the main living room of the apartment containing such cellar or basement room.

7. The department shall have power to 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 specifications, plans or statements submitted or filed for such permit or approval.

8. All specifications, plans, permits and statements filed in the department shall be public records and shall not be removed from the department.

§ 301. **Certificate of compliance or 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, to the building code and rules and to all other applicable law, except that no such certificate shall be required in the case of:

a. Any class B multiple dwelling existing on April eighteenth, nineteen hundred twenty-nine, for which a certificate of occupancy was not required before such date and in which no changes or alterations have been made except in compliance with this chapter, and

b. Any old-law tenement, or any class A multiple dwelling erected after April twelfth, nineteen hundred one, which was occupied for two years immediately before January first, nineteen hundred nine, and in which no changes or alterations have been made except in compliance with the tenement house law or this chapter, or wherein:

(1) two or more apartments are combined creating larger residential units, and

(2) the total legal number of families within the building is being decreased, and

(3) the bulk of the buildings is not being increased

These exceptions shall not be deemed to relieve any owner from the obligation to make every alteration required in any old-law tenement or other multiple dwelling in compliance with the applicable provisions of this chapter.

2. Except as above provided, no dwelling constructed as or altered or converted into a multiple dwelling after April eighteenth, nineteen hundred twenty-nine, shall be occupied in whole or in part until the issuance of a certificate of compliance or occupancy.

3. Such certificate shall be issued within ten days after written application therefor if the dwelling shall be entitled thereto. The

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

4. The head of the department may, on the request of the owner or his certified agent, issue a temporary certificate of compliance or 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 a total period of two years 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 against the interest of such person in a multiple dwelling to which such a certificate applies or concerning which such a statement has been issued.

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. **Unlawful occupation.** 1. a. If any dwelling or structure be occupied in whole or in part for human habitation in violation of section three hundred one, during such unlawful occupation any bond or note secured by a mortgage upon said dwelling or structure, or the lot upon which it stands, may be declared due at the option of the mortgagee.

b. No rent shall be recovered by the owner of such premises for said period, and no action or special proceeding shall be maintained therefor, or for possession of said premises for nonpayment of such rent.

c. During such period the department in charge of water supply shall not permit water to be furnished in any such dwelling or structure and said premises shall be deemed unfit for human habitation, and the department of health or the department charged with the enforcement of this chapter shall cause them to be vacated.

2. The department may cause to be vacated any dwelling or any part thereof which contains a nuisance as defined in section three hundred nine, 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.

§ 302-a. **Abatement of rent in the case of serious violations.**

1. The provisions of this section shall apply to all cities with a

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population of four hundred thousand or more.

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 department, 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 department 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 four 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. The department may from time to time change the number or description of violations on such list, as may seem appropriate to the department. Such list shall be available at all times to the public.

c. At the time of the promulgation of the list of violations, the department 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, the department 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. At least twenty days' notice of such hearing shall be given by publication in the city record or other publication in which official notices of the city are regularly published. Within a reasonable time after the hearing, the department 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 department 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

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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.

§ 302-b. **Removal of violations by mortgagees.** 1. Notwithstanding any other provision of law, where a receiver has been appointed in foreclosure proceedings instituted by a mortgagee with respect to any multiple dwelling, such mortgagee may advance to such receiver funds necessary for the operation of such multiple dwelling and for the making of repairs therein necessary to remove conditions constituting violations of this chapter. Such receiver shall, to the extent possible, repay any and all such advances from income received by him with respect to the property and, if such income is insufficient to permit complete repayment of such advances, any amounts which cannot be so repaid, with interest, shall be added to the amount of the lien of such mortgagee

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upon entry of a foreclosure judgment, provided, however, that such amounts shall not be the basis for any additional personal liability on the part of the mortgagor.

2. Notwithstanding any other provisions of law, a mortgagee advancing funds to a receiver pursuant to subdivision one of this section shall be liable only for gross and willful negligence with respect to any repair made at his direction and with funds so advanced.

§ 302-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

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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 of 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 asserted by a tenant 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)

§ 303. **Enforcement.** 1. Except as herein otherwise provided, the provisions of this chapter shall be enforced by the department charged with the enforcement of laws, ordinances and regulations in relation to multiple dwellings.

1-a. For the purpose of enforcing the provisions of this chapter, the department shall have the power to subpoena witnesses, administer oaths and take testimony, compel the production of books, papers, records and documents and to hold public or private hearings, subject to the right of any person who shall appear hereunder to be represented by counsel of his own choosing, at any such hearing. The department may designate one

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or more of its members, officers or employees to exercise any one or more of such powers.

2. Nothing in this chapter shall be construed to abrogate or impair the powers of any department or of the courts to enforce the provisions of any local law, ordinance, rule, regulation or charter not inconsistent with this chapter, or to prevent violations or punish violators thereof.

§ 304. **Penalties for violations.** 1. Except as otherwise in this section specifically provided, every person who shall violate or assist in the violation of any provision of this chapter shall be guilty of a misdemeanor punishable, for a first offense, by a fine of not exceeding five hundred dollars or by imprisonment for a period of not exceeding thirty days, or by both such fine and imprisonment; for the second and any subsequent offense arising from the failure to remove the violation upon which the first offense was based, by a fine of not exceeding one thousand dollars or by imprisonment for a period of not exceeding six months, or by both such fine and imprisonment.

1-a. Every person who shall violate or assist in the violation of any provision of sections twenty-nine, thirty-seven, sixty-two, eighty-eight, eighty-one, eighty-three or three hundred twenty-five of this chapter shall be guilty of an offense. The maximum fine for a first violation of any provision of such sections hereinbefore in this subdivision set forth, with respect to a particular dwelling, shall be fifty dollars; the maximum fine for the second offense arising from the failure to remove the violation upon which the first offense was based shall be two hundred fifty dollars; the maximum fine for the third or any subsequent offense arising from the failure to remove the violation upon which the first and second offenses were based shall be five hundred dollars. Such a violation under this subdivision shall not be a crime and the penalty or punishment imposed therefor shall not be deemed for any purpose a penal or criminal penalty or punishment, and shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person convicted thereof.

2. Any person who, having been served with a notice or order to remove any nuisance or violation, shall fail to comply therewith within five days after such service, or shall continue to violate any provision or requirement of this chapter in the respect named in such notice or order, shall also be subject to a civil penalty of two hundred fifty dollars. Such persons shall also be liable for all costs, expenses and disbursements incurred by any such department or its agent or contractor in the removal of any such nuisance or violation.

3. In case the notice required by section three hundred twenty-five is not filed, or the owner of a dwelling does not reside within the state or cannot after diligent effort be served with process therein, the existence of a nuisance or of any other violation of this chapter or of an order or a notice made by the department, shall subject the dwelling and lot to a penalty of two hundred fifty dollars.

4. An action may be brought in any court of competent civil jurisdiction for the recovery of any such penalties, costs and disbursements.

5. All penalties collected shall be paid into the treasury of the city, but no provision of this chapter shall prohibit the city from creating and maintaining out of such penalties a separate fund not in excess of twenty-five thousand dollars, out of which payment may be made for repairs made by any department charged with the enforcement of this chapter or its agents or contractors, as provided in section three

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hundred nine.

6. No civil or criminal liability or penalty shall attach to any person who has acquired or shall acquire any tenement or converted dwelling by foreclosure of a mortgage or deed in lieu of foreclosure of a mortgage, because of his failure for a period of six months after the delivery of the referee's deed in foreclosure or the delivery of such deed in lieu of foreclosure, to comply with the provisions of this chapter in reference to such tenement or converted dwelling, provided he remains the owner thereof. Upon the transfer of title by such person prior to the termination of the said six months, and in any event upon the termination of such period, such penalties shall apply as provided in this section.

6-a. No civil or criminal liability or penalty shall attach to any person who has, by an order of a court, been appointed as a receiver in a foreclosure action to collect rents, because of his failure for a period of six (6) months after he qualifies as such receiver, to comply with any of the provisions of this chapter.

Upon the receiver's discharge by the court prior to the termination of such period, and in any event upon the termination of such period, the penalties provided in this section shall thereafter apply.

6-b. No civil or criminal liability or penalty shall attach to any person who shall by operation of law become an owner of a multiple dwelling then or thereafter certified and declared a public nuisance to any extent pursuant to paragraph b of subdivision one of section three hundred nine of this chapter, or the holder or beneficial owner of stock in such owner, if a corporation, because of his failure to comply with any of the provisions of this chapter for a period of six months after he acquires ownership of said multiple dwelling or the stock or beneficial interest in the stock of a corporation which is the owner.

7. None of the civil or criminal penalties provided in this section shall apply to any person because of his failure to comply with the provisions of section two hundred thirty-three, subdivision four of section two hundred thirty-eight, subdivision three of section two hundred forty or subdivisions two and three of section two hundred fifty in reference to any old-law tenement, if he agrees in writing with the department to comply with such provisions or to vacate or demolish such tenement, within a period not exceeding six months fixed by the department. Such agreement shall be in form satisfactory to the department, and shall contain provisions to secure the performance thereof and such other terms as may be mutually agreed upon. The transfer of title or control by such person, or the termination of such period by limitation, shall subject the person then directly or indirectly in control of such tenement to the penalties prescribed by this section, if violations of such provisions then exist.

8. Whenever a multiple dwelling shall have been declared a public nuisance to any extent pursuant to paragraph b of subdivision one of section three hundred nine of this chapter and such declaration shall have been filed as therein provided, all officers, directors and persons having an interest, as holder or beneficial owner thereof, in more than ten per cent of the issued and outstanding stock of any corporation, other than a banking organization as defined in section two of the banking law, a national banking association, a federal savings and loan association, The Mortgage Facilities Corporation, Savings Banks Life Insurance Fund, The Savings Banks Retirement System, an authorized insurer as defined in section one hundred seven of the insurance law, or a trust company or other corporation organized under the laws of this state all the capital stock of which is owned by at least twenty savings

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banks or a subsidiary corporation all of the capital stock of which is owned by such trust company or other corporation, then in operation and control of such multiple dwelling, shall, in addition to all other liabilities and penalties provided in this chapter and elsewhere, be jointly and severally liable for all injury to person or property thereafter sustained by any tenant of such multiple dwelling or any other person by reason of the condition constituting such public nuisance and for all costs and disbursements including attorneys' fees of any suit brought by such tenant or other person.

9. No civil or criminal liability or penalty shall attach to any person by reason of his ownership or beneficial ownership of stock in a corporation owning a multiple dwelling declared to be a public nuisance pursuant to paragraph b of subdivision one of section three hundred nine of this chapter because of his failure to comply with any of the provisions of this chapter, whose interest in such corporation is less than twenty-five per cent of the issued and outstanding stock thereof, as owner or beneficial owner thereof, and who has sustained the burden of proving that he has not participated directly or indirectly in the management, operation or control of such multiple dwelling.

10. No criminal liability or penalty shall attach to any person by reason of his ownership or beneficial ownership of stock in a corporation owning a multiple dwelling declared to be a public nuisance pursuant to paragraph b of subdivision one of section three hundred nine of this chapter because of his failure to comply with any of the provisions of this chapter unless and until he has had a reasonable period of time to comply following his having become an owner as defined in this chapter.

11. 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. Whenever a multiple dwelling shall have been declared a public nuisance to any extent pursuant to paragraph b of subdivision one of section three hundred nine of this chapter and such declaration shall have been filed as therein provided, the term "person" shall be deemed to include, in addition to those mentioned hereinabove, all the officers, directors and persons having an interest in more than ten percent of the issued and outstanding stock of the owner as herein defined, as holder or beneficial owner thereof, if such person be a corporation other than a banking organization as defined in section two of the banking law, a national banking association, a federal savings and loan association, The Mortgage Facilities Corporation, Savings Banks Life Insurance Fund, The Savings Banks Retirement System, an authorized insurer as defined in section one hundred seven of the insurance law, or a trust company or other corporation organized under the laws of this state all the capital stock of which is owned by at least twenty savings banks or a subsidiary corporation all of the capital stock of which is owned by such trust company or other corporation.

§ 305. **Violation of local laws and regulations.** Any owner, architect, builder, contractor, sub-contractor, construction superintendent or their agents who shall, in the construction or alteration of any building or structure intended to be occupied as a multiple dwelling, knowingly violate any of the provisions of local laws, ordinances, rules or regulations shall be guilty of a misdemeanor.

§ 306. **Judicial procedure and orders.** 1. In case any multiple dwelling

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or structure or any part thereof or the lot on which it is situated is constructed, altered, converted or maintained in violation of any provision of this chapter or of any order or notice of the department, or in case a nuisance exists in any such dwelling or structure or part thereof or upon the lot on which it is situated, the department may institute any appropriate action or proceeding to prevent such unlawful construction, alteration, conversion or maintenance, to restrain, correct or abate such violation or nuisance, to prevent the occupation of said dwelling or structure or any part thereof, or to prevent any illegal act, conduct or business in or about such dwelling, structure or lot.

2. In any such action or proceeding the department may, by affidavit setting forth the facts, apply to the supreme court, or to any justice thereof, or, if the premises in respect to which the action is brought are situated in the city of New York, to the New York city civil court, or, if the premises in respect to which the action is brought are situated in whole or in part within a district of the court, to the district court, or, if the premises in respect to which the action is brought are situated in whole or in part within a city outside of the city of New York, to the city court of such city, for:

a. An order granting the relief for which said action or proceeding is brought, or enjoining all persons from doing or permitting to be done any work in or about such dwelling, structure or lot or any part thereof, or from occupying or using the same for any purpose, until the entry of final judgment or order.

b. An order authorizing the department to execute and carry out the provisions of any notice or order which is issued by the department and not complied with, to remove any violation specified in such notice or order, or to abate any nuisance in or about such dwelling, structure or lot.

3. In an action to establish a lien under this chapter, the service and procedure, except as otherwise provided in section three hundred nine, shall be as set forth in sections three hundred twenty-six and three hundred fifty-six to three hundred sixty, both inclusive.

4. The judgment in any such action may provide for the sale at public auction of the property affected, and for such other remedies to secure the enforcement thereof as the court may deem proper.

5. The court or any justice thereof is authorized to make any order specified in this section.

6. In no case shall the city, or the department or any officer or employee thereof, be liable for costs in any action or proceeding that may be commenced pursuant to this chapter.

§ 307. **Liens.** Every fine imposed by judgment under section three hundred four upon an owner shall be a lien upon the premises in relation to which the fine is imposed from the time of the filing of a certified copy of said judgment in the office of the clerk of the county in which such premises are situated, subject only to taxes, assessments and water rates and to such mortgage and mechanics' liens as may exist thereon prior to such filing; and it shall be the duty of the department upon the entry of said judgment to file such certified copy forthwith, and such copy shall be forthwith indexed by such clerk in the index of mechanics' liens.

§ 308. **Notice of pendency of action.** 1. In any action or proceeding instituted by the department the plaintiff or petitioner may file in the county clerk's office of the county where the premises affected by such

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action or proceeding are situated, a notice of the pendency of such action or proceeding. Such notice may be filed at any time after the service of any notice or order issued by the department, at the time of the commencement of the action or proceeding, or at any time afterwards, before final judgment or order.

2. Each county clerk with whom such a notice is filed shall record and index it to the name of each person specified in a direction subscribed by the corporation counsel or other legal officer of the city.

3. Any such notice may be vacated upon the order of a judge or justice of the court in which such action or proceeding was instituted or is pending, or upon the consent in writing of the corporation counsel or other legal officer of the city. The clerk of the county where such notice is filed shall mark such notice and any record or docket thereof as cancelled of record upon the presentation and filing of such consent or of a certified copy of such order.

§ 309. **Repairs, vacation and demolition of buildings.** 1. a. The term "nuisance" shall be held to embrace public nuisance as known at common law or in equity jurisprudence. Whatever is dangerous to human life or detrimental to health, and whatever dwelling is overcrowded with occupants or is not provided with adequate ingress and egress or is not sufficiently supported, ventilated, sewerred, drained, cleaned, or lighted in reference to its intended or actual use, and whatever renders the air or human food or drink unwholesome, are also severally, in contemplation of this law, nuisances. All such nuisances are unlawful.

b. Whenever the department shall certify that any multiple dwelling, or any part of its premises, or the plumbing, sewerage, drainage, lighting or ventilation thereof, is in a condition or in effect dangerous to life or health, the department may, after giving notice to the owner and an opportunity to be heard at a hearing held for such purpose declare the same, to the extent it may specify, a public nuisance. Such declaration shall be filed as provided by section three hundred twenty-eight of this chapter, if applicable, or as a public record in the department. The officers of a corporation upon which notice of such hearing has been served other than a banking organization as defined in section two of the banking law, a national banking association, a federal savings and loan association, The Mortgage Facilities Corporation, Savings Banks Life Insurance Fund, The Savings Banks Retirement System, an authorized insurer as defined in section one hundred seven of the insurance law, or a trust company or other corporation organized under the laws of this state all the capital stock of which is owned by at least twenty savings banks or a subsidiary corporation all of the capital stock of which is owned by such trust company or other corporation, shall serve similar notice on all stockholders of record of the corporation and other persons known to be stockholders or beneficial owners of the stock of the corporation. A stockholder upon whom such notice has been served shall serve similar notice upon any persons holding a beneficial interest in his stock.

c. The department may order or cause such nuisance to be removed, abated, suspended, purified, altered, repaired or otherwise improved as the order shall specify.

d. The department may order or cause any multiple dwelling or any part of its premises, or any excavation, structure, sewer, plumbing, pipe, passage, matter or thing in or about such premises to be purified, cleansed, disinfected, removed, altered, repaired or improved.

e. Whenever the department shall certify that a nuisance exists in a multiple dwelling, or any part of its premises, which constitutes a

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serious fire hazard or is a serious threat to life, health or safety, the department may issue a written order to the owner directing the removal or remedying of such nuisance in the manner and within the time specified in such order which shall be not less than twenty-one days after the service thereof on the owner in the manner specified in subdivision one of section three hundred twenty-six of this chapter except that if the department shall determine that the condition is such that a delay of twenty-one days in remedying or removing the same may cause irreparable harm to the building or constitutes an imminent danger to its occupants, or the occupants of adjoining property or the general public, then the time specified for such remedy or removal may be less than twenty-one days.

f. If any order of the department is not complied with or not so far complied with as the department may regard as reasonable, within the time therein designated, then such order may be executed by the department, its agents or contractors, or, as an alternative, if the multiple dwelling involved shall have been declared to be a public nuisance pursuant to paragraph b of subdivision one of section three hundred nine of this chapter and such declaration shall have been filed as therein provided, the department or a receiver appointed pursuant to subdivision five of this section or any tenant of such multiple dwelling may institute and maintain an action in the supreme court in the county where the multiple dwelling is located, or in the housing part of the New York city civil court, if the multiple dwelling is located in the city of New York, against any owner or owners to whom the order was issued pursuant to paragraph e of subdivision one of this section for an order compelling such owner or owners to comply with the department's order and, if such action be brought by such receiver or tenant, for payment of the costs and disbursements of the action including legal fees. Except as owners may have otherwise agreed, any owner who removes or remedies the nuisance in compliance with an order of the department or court shall be entitled to recover a proportionate share of the total expense of such compliance from all other owners to whom the department's order was issued or to whom such owner sent a copy of the department's order within thirty days of receipt of same by registered mail.

g. The department may in its discretion let out contracts for the repairs to be done pursuant to this section in accordance with the provisions of local laws, ordinances, rules and regulations of the city applicable to the letting of contracts for public works.

2. a. An "untenanted hazard" is a multiple dwelling or any part thereof, or any structure on the same premises with a multiple dwelling, which has been untenanted for a period of sixty days or more and either is not guarded continuously by a resident caretaker or has any exterior openings which are not sealed in a manner approved by the department and is a fire hazard or in a condition dangerous or detrimental to human life, health or morals.

b. Whenever an officer of the department shall certify that any multiple dwelling or part thereof is an untenanted hazard, the department shall so notify the owner by attaching a notice in a conspicuous place on the premises to such effect, and sending by registered mail a copy of such notice to such owner, at the address or addresses registered with the department, or, if no address is registered with the department and such owner cannot with due diligence be served personally, by sending a copy of such notice by registered mail to the last known address of such owner. The department shall also send a copy of such notice by registered mail to every owner of record

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of a mortgage upon such premises, at the address of such owner appearing in the record of such mortgage in the office in which mortgages are registered in the county in which such premises are located or, if no address appear therein, by sending such notice by registered mail to the person at whose request such instrument was recorded.

c. Such notice shall contain a description of the dwelling, and a statement of the particulars in which the dwelling is deemed to be an untenanted hazard, and the order that the dwelling or part thereof be demolished. Such notice and order shall require the person thus served to certify within ten days thereafter to the department his assent or refusal to demolish the same.

d. If such demolition is not commenced within twenty-one days after the mailing and posting of such notice and order, such department shall then serve all such aforementioned persons further notice to the effect that on a certain day it will apply to the special term of the supreme court for the hearing of motions for the county in which such premises are located, or to the housing part of the New York city civil court, if the premises are located in the city of New York, for an order declaring such untenanted hazard to exist and directing the demolition of such premises or part thereof.

e. Such court shall, if it finds the statements in the notice to be true, direct that, if within five days after the order is entered it is not complied with, the department may proceed with the execution of such order through contractors in accordance with the provisions of local laws, ordinances, rules and regulations of the city applicable to the letting of contracts for public works, or through its own officers, agents or employees.

f. The expenses and disbursements incurred by the department in carrying out such orders shall be met from any appropriation for such purpose or, to the extent that no such appropriation has been made or that any such appropriation is insufficient, from the proceeds of the sale of obligations pursuant to the local finance law.

3. Whenever the department has incurred any expense for which payment is due under the provisions of this section, the department may institute and maintain a suit against the owner of the dwelling in respect to which such expense shall have been incurred and may recover the amount of such expense as in this section provided. In any case where expenditures made or obligations incurred by a receiver appointed pursuant to subdivision five of this section in remedying a nuisance are not paid or reimbursed from the rents and income of the dwelling or where the receivership expenses, fees and commissions are not paid or reimbursed from the rents and income of the dwelling, the receiver may institute and maintain a suit against the owner of the dwelling to recover such deficiency.

4. a. The department or a receiver appointed pursuant to subdivision five of this section shall have a lien, for the expenses necessarily incurred in the execution of an order, upon the premises upon or in respect of which the work required by said order has been done or expenses incurred, which lien shall have priority over all other mortgages, liens and encumbrances of record, except taxes and assessments levied pursuant to law. In the event that a receiver having a lien, in favor of the department of real estate, is discharged and such lien is in effect at the time of such discharge, such lien shall continue to vest in the department of real estate.

b. No such lien shall be valid for any purpose until the department or receiver, as the case may be, shall file where notices of mechanics' liens are required to be filed, a notice containing the same particulars

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as required to be stated with reference to mechanics' liens, with the further statement that the expense has been incurred in pursuance of the order of the department, and giving the date of the order, or in performance by the receiver of the work required to remedy a condition pursuant to an order of the court establishing the receivership and giving the date of the order, or that a deficiency has accrued with respect to the receivership established pursuant to an order of the court and giving the date of the order, as the case may be. Such notice shall be filed at any time during the progress of the work required by such order or undertaken by the receiver, or within four months after the completion of the contract, or the final performance of the work or the final furnishing of the materials, dating from the last item of work performed or materials furnished or, in the case of a deficiency, at any time before the discharge of the receiver.

c. The officer with whom such notice is filed shall make the same entry on the book or index in which mechanics' liens are entered as he is required to enter in cases of mechanics' liens, together with a reference to such order by date; and thereafter such lien shall, except as herein otherwise provided, have the same effect in all respects as to all persons as a mechanics' lien; and all proceedings with reference to such lien, its enforcement and discharge, shall be carried on in the same manner as similar proceedings with reference to other mechanics' liens.

d. Unless, within six months after actual notice of such filing, proceedings are taken by the party against whom or whose premises a lien is claimed, to discharge such lien, the filing shall, as to all persons having such actual notice, become conclusive evidence that the amount claimed in the notice of lien, with interest, is due, and is a just lien upon the premises.

e. Such lien shall continue to be a lien for a period of one year from the time of its filing unless proceedings are in the meantime taken to enforce or discharge it, which may be done at any time during its continuance. In case proceedings are so taken, the lien shall remain in effect until the final termination of such proceedings; and if such proceedings shall result in a judgment for the amount claimed or any portion thereof, such judgment shall, to such extent, be a lien in the same manner and from the same time as the original lien.

5. a. If the department shall desire that a receiver be appointed as herein after provided to remove or remedy a nuisance described in paragraph e of subdivision one of this section and that such receiver shall obtain a lien for costs incurred in connection therewith in favor of the department of real estate, which shall have the priority with respect to existing mortgages or liens provided in paragraph e of this subdivision, it shall within five days after the service of the order upon the owner serve a copy of such order upon every mortgagee and lienor of record personally or by registered mail, return receipt requested, at the address set forth in the recorded mortgage or lien. Appended to the copy of such order shall be a notice addressed to such mortgagee and lienor stating that in the event the nuisance is not removed or remedied in the manner and within the time specified in the order, the department may apply to the supreme court, or to the housing part of the New York city civil court, if the premises are located in the city of New York, or, to the district court, if the premises are located in whole or in part within a district of the court, or, to the city court of a city outside the city of New York, if the premises are located in whole or in part within such city, for an order to show cause why a receiver of the rents, issues and profits of the property shall

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not be appointed with rights therein superior to those of such owner, mortgagee or lienor.

b. The department shall file a copy of such notice and order in the office of the county clerk in which mechanics liens affecting the property would be filed.

c. 1. The department may thereafter apply to the supreme court in the county where the property is situated, or to the housing part of the civil court of the city of New York, if the property is situated in the city of New York, by verified petition for an order directing the owner and any mortgagees or lienors of record to show cause why the commissioner or chief executive of the bureau or department of real estate of the municipality should not be appointed receiver of the rents, issues and profits of the property and why said receiver should not remove or remedy such condition and obtain a lien in favor of the department of real estate against the property having the priority provided in paragraph e of this subdivision to secure repayment of the costs incurred by the receiver in removing or remedying such condition. Such application shall contain (a) proof by affidavit that an order of the department has been issued and served on the owner, mortgagees and lienors in accordance with and within the periods specified in paragraph e of subdivision one of this section and paragraph a of this subdivision and filed in accordance with the provisions of paragraph b of this subdivision; (b) a statement that a nuisance which constitutes a serious fire hazard or is a serious threat to life, health, or safety continued to exist in said property after the time fixed for the removal thereof in the department order and a description of the property and conditions constituting such nuisance; (c) a brief description of the nature of the work required to remove or remedy the condition and an estimate as to the cost thereof. Such order to show cause shall be returnable not less than five days after service is completed and shall provide for personal service of a copy thereof and the papers on which it is based on the owners and mortgagees of record and lienors. If any such owner, mortgagee or lienor cannot with due diligence be served personally within the city where the property is located and within the time fixed in such order, then service may be made on such persons by posting a copy thereof in a conspicuous place on the premises where the nuisance exists, and by sending a copy thereof by registered mail, return receipt requested, to the owner at the last address registered by him with the department, or in the absence of such registration, to the address set forth in the last recorded deed with respect to said premises, or, in the case of a mortgagee or lienor, to the address set forth in the recorded mortgage or lien and by publication in a newspaper of general circulation in the county where such premises are located, which newspaper, if there is an official law paper for such county, shall be such official law paper. Service shall be deemed complete on filing proof of service thereof in the office of the clerk of the court in which such application is made.

2. If the condition constituting the nuisance is such that unless immediately cured irreparable damage may be caused to the building or it constitutes an imminent danger to its occupants, or the occupants of adjoining properties then the order to show cause may be returnable in the discretion of the court in less than five days, and in such case, service may be made on the owner, mortgagee and lienor by posting a copy thereof in a conspicuous place on the premises where the nuisance exists and by mailing a copy in the case of the owner to the address filed with the department and in the case of the mortgagee and lienor to the address recorded. If a receiver be appointed as hereinafter provided,

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and service shall not have been made in accordance with subparagraph one, then his appointment shall be temporary only and expire not more than thirty days thereafter unless, prior to the expiration of such thirty days, the department shall serve notice on the owner, mortgagees and lienors in the manner provided for in subparagraph one hereof of intention to apply to the court at a date fixed in such notice and not less than five days after the service of such notice, for an extension of said receivership. In such event the period of the appointment of the temporary receiver shall be deemed to be extended for a further period of fifteen days. In addition to the requirements set forth in subparagraph one, such notice shall also contain a statement of any expenditures made or obligations incurred by the receiver during the period of his temporary appointment. On the date fixed in such notice, the court shall determine whether or not to extend the period of receivership and such determination shall be made as if the application were an original one for the appointment of a receiver, pursuant to subparagraph one.

3. On the return of said order to show cause, determination shall have precedence over every other business of the court unless the court shall find that some other pending proceeding, having a similar statutory precedence, shall have priority. If the court shall find that the facts stated in such application warrant the granting thereof, then the commissioner or chief executive of the bureau or department of real estate of the municipality shall be appointed receiver of the rents, issues and profits of the property. However after determination of the issue if the owner or any mortgagee or lienor or other person having an interest in the property shall apply to the court to be permitted to remove or remedy the conditions constituting the nuisance and shall (1) demonstrate the ability promptly to undertake the work required; and (2) post security for the performance thereof within the time, and in the amount and manner, deemed necessary by the court, then the court may in lieu of appointing such receiver issue an order permitting such person to perform the work within a time fixed by the court. If at the time fixed in the order the conditions constituting the nuisance have not been satisfactorily remedied or removed, then the court shall appoint such receiver. If after the granting of an order permitting a person to perform the work but before the time fixed by the court for the completion thereof it shall appear to the department that the person permitted to do the same is not proceeding with due diligence, then the department may apply to the court on notice to those persons who have appeared in the proceeding for a hearing to determine whether such receiver shall be appointed immediately. On the failure of any such owner, mortgagee, lienor or other person having an interest in the property to complete the work in accordance with the provisions of said order, the department, or any such receiver thereafter appointed shall be reimbursed for costs incurred by him in removing or remedying the condition and other charges herein provided for out of such security.

d. 1. Any receiver appointed pursuant to this subdivision shall have all of the powers and duties of a receiver appointed in an action to foreclose a mortgage on real property, together with such additional powers and duties as herein granted and imposed. The receiver shall with all reasonable speed remedy the nuisance and remove all the delinquent matters and deficiencies in the dwelling including those constituting a fire hazard or a threat to life, health or safety and may, in addition to ordinary repairs, maintenance and replacement, make other improvements to effect a rehabilitation of the property, in such fashion as is consistent with maintaining safe and habitable conditions over the

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remaining useful life of the dwelling. He shall have the power to let contracts therefor or incur expenses in accordance with the provisions of local laws, ordinances, rules and regulations applicable to contracts for public works except that advertisement shall not be required for each such contract. Notwithstanding any such laws, ordinances, rules or regulations, the receiver may let contracts or incur expenses for individual items of repairs, improvements or supplies without the procurement of competitive bids where the total amount of any such individual item does not exceed twenty-five hundred dollars. The receiver shall not be required to file any bond. He shall collect the accrued and accruing rents, issues and profits of the dwelling and apply the same to the cost of removing or remedying such nuisance, to the making of such other improvements as aforesated, to the payment of expenses reasonably necessary to the proper operation and management of the property, including insurance and the fees of the managing agent, and the necessary expenses of his office as receiver, the repayment of all monies advanced to the receiver by the department of real estate to cover the costs incurred by the receiver and interest thereon; and then, if there be a surplus, to unpaid taxes, assessments, water rents, sewer rents and penalties and interest thereon, and then to sums due to mortgagees or lienors. If the income of the property shall be insufficient to cover the cost of remedying or removing such nuisance, or to making of such other improvements as aforesated, or of the expenses reasonably necessary to the proper operation and management of the property and other necessary expenses of the receiver, the department of real estate shall advance to the receiver any sums required to cover such cost and expenses and thereupon shall have a lien against the property having the priority provided in paragraph e for any such sums so advanced with interest thereon.

2. Nothing herein contained shall be deemed to relieve the owner of any civil or criminal liability incurred or any duty imposed by this chapter by reason of acts or omissions of the owner prior to the appointment of any receiver hereunder, nor shall anything contained herein be construed to suspend during the receivership any obligation of the owner for the payment of taxes or other operating and maintenance expenses of the dwelling nor of the owner or any other person for the payment of mortgages or liens.

3. The receiver shall be entitled to the same fees, commissions and necessary expenses as receivers in actions to foreclose mortgages. Such fees and commissions shall be paid into the fund created pursuant to subdivision nine of this section. The receiver shall be liable only in his official capacity for injury to person and property by reason of conditions of the premises in a case where an owner would have been liable; he shall not have any liability in his personal capacity. The personnel and facilities of the bureau or department of real estate and the corporation counsel shall be availed of by the receiver for the purpose of carrying out his duties as such receiver and the cost of such services shall be deemed a necessary expense of the receiver.

4. The receiver shall be discharged upon rendering a full and complete accounting to the court when such condition has been removed and the cost thereof and all other costs authorized by this paragraph have been paid or reimbursed from the rents and income of the dwelling and the surplus money, if any, has been paid over to the owner or the mortgagee or lienor as the court may direct. However, at any time, the receiver may be discharged upon filing his account as receiver without affecting the right of the department of real estate to its lien. Upon the removal of such condition, the owner, the mortgagee or any lienor may apply for

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the discharge of the receiver upon payment to the receiver of all moneys expended by the receiver for removal of such condition and all other costs authorized by this paragraph which have not been paid or reimbursed from the rents and income of the dwelling.

5. Anything herein contained to the contrary notwithstanding, a temporary receiver appointed on the return of an order to show cause served only in accordance with subparagraph two of paragraph c of this subdivision shall not, without express order of the court, make any repairs or improvements to the property or incur any expenses in the operation thereof during the period of his temporary appointment except such as may be necessary to remedy or remove the immediate condition which called for his appointment and to the ordinary operation and maintenance of the property. For such specific purpose the receiver shall be entitled to let such contracts and undertake such expenses as may be necessary to accomplish the specific results without advertisements and without procuring competitive bids.

e. Any lien of a receiver, in favor of the department of real estate, arising under this section shall have priority over all other mortgages, liens and encumbrances of record except taxes and assessments levied pursuant to law.

f. Failure to serve a copy of the order and notice required in the manner specified by paragraph e of subdivision one and paragraph a of this subdivision, or failure to serve any mortgagee or lienor with a copy of the order to show cause as required by subparagraph one of paragraph c of this subdivision shall not affect the validity of the proceeding or the appointment of a receiver, but the rights of the department of real estate or of the receiver shall not in such event be superior in any way to the rights of any mortgagee or lienor who shall not have been served as provided herein.

g. Any mortgagee or lienor who at his expense remedies or removes the nuisance to the satisfaction of the court pursuant to the provisions of subparagraph three of paragraph c of this subdivision shall have and be entitled to enforce a lien equivalent to the lien granted to the receiver in favor of the department of real estate hereunder. Any mortgagee or lienor who, following the appointment of a receiver by the court, shall reimburse the receiver and the department of real estate for all costs and charges as hereinabove provided shall be entitled to an assignment of the lien granted to the receiver in favor of the department of real estate.

6. When the department shall have executed any order so far as it may require, the department shall file among its records such order and an affidavit stating with fairness and accuracy in general terms the items of expense and the date of execution of such order. When it shall appear that such execution, or the expenses thereof, related to several premises belonging to different persons, such affidavit shall state what part belongs to or arose in respect to each of the premises as the department may direct. The department may revise the correctness of such apportionment of expenses as truth and justice may require.

7. a. Whenever the department shall sue for the expenses involved in the execution of any order, it may join in the same suit any claim for any penalty for the violation of any provisions of this chapter. Joint or several judgments may be had against one or more of the defendants in the suit, as they or any of them may be liable in respect of all or any of such claims. The expenses of executing such an order, and any judgment in any abatement suit provided for in this chapter, and the several judgments that may be recovered for any such penalties and expenses, until the same are paid or discharged shall be a lien like

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other judgments, and also a lien and charge upon rent and compensation due or then maturing from any tenant or occupant of the dwelling and premises or parts thereof to which any such order or judgment relates, or in respect of which any such expenses were incurred.

b. The department may serve a copy of an order or a transcript of a judgment and any affidavit showing the expense of execution upon any person who owes or is about to owe any rent or compensation for the occupancy of any premises to which such order or judgment relates, and in respect of which such expenses were incurred. The department may, at any time after such service, demand in writing that such rent or compensation to the extent of such claim shall, when such rent or compensation becomes due and payable, be paid to the department and such person shall thereupon become obligated to pay the same. A receipt shall be given for each such payment stating on account of what order or judgment and expenses it has been received. The amount so received shall be deposited wherever other funds of the department are kept. If a special fund has been created and maintained, as provided in section three hundred four, such payments shall be deposited to the credit of such fund.

c. Any person refusing or omitting to make such a payment after such service and demand may be sued therefor by the department. Such person shall not in such suit dispute the authority of the department to incur or order such expenses or the validity or correctness of such expenses or judgment in any particular, or the right of the department to have the same paid from such rent or compensation. The receipt of the department for any sum so paid shall, in all suits and proceedings and for every purpose, be as effectual in favor of any person holding the same as actual payment of the amount thereof to the owner or other person on persons who would, but for the provisions of this section and of such demand, have been entitled to receive the sum so paid. No tenant or occupant of any premises shall be dispossessed or disturbed, nor shall any lease or contract or rights be forfeited or impaired, nor any forfeiture or liability be incurred, by reason of any omission to pay to any owner, contractor or other person any sum so paid to the department.

8. The department shall retain any money so paid until twelve days after it has received evidence by satisfactory affidavit that the party or parties, or his or their agent, who but for the provisions hereof would have been entitled to receive the same, has had written notice of such payment being made, which notice shall be served in the manner provided by this chapter for the service of an order. If at the end of such twelve days the party or parties so notified have not instituted suit to recover such money the department shall pay it to the fiscal officer of the city. If a special fund has been created and maintained as provided in section three hundred four, the fiscal officer shall deposit such money to the credit of such fund.

9. The expenses incurred by the receiver in removing or remedying a condition pursuant to the provisions of this section shall be met from a fund to be known as the multiple dwelling section three hundred nine operating fund. Such fund shall consist of such amounts as may be appropriated by the board of estimate or other analogous appropriating body of the city. Such fund shall be maintained in a separate account by the department of real estate and expenditures therefrom may be made by the receiver to meet the costs of removing or remedying such conditions, subject to audit by the comptroller or chief fiscal officer of the city. The receiver shall repay the amounts so expended to such fund from the proceeds of any amounts recovered pursuant to the provisions of this section. In the event that the amount in such fund is insufficient for

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such purposes and if no appropriation or an insufficient appropriation has been made therefor, the expenses incurred by the receiver in removing or remedying such conditions may be met from the proceeds of the sale of bonds issued in accordance with the provisions of the local finance law.

In the event that the amounts from time to time in such fund exceed two hundred thousand dollars (\$200,000), such excess may be applied to the payment of the principal and interest due upon any bonds issued pursuant to this subdivision, or, if no such bonds are outstanding, any such excess may be transferred to the general fund of the city.

10. Reference in this section to a bureau or department of real estate or to a commissioner or chief executive of a bureau or department of real estate of a municipality, when used in connection with or affecting either a receiver or a multiple dwelling in the city of New York, shall be construed to mean the department or commissioner of housing preservation and development or the department or commissioner of buildings, or both such departments or commissioners, as the case may be, of the city of New York.

11. a. Notwithstanding any other provision of law, where a repair has been made by the department pursuant to this section, or any other law, to abate a hazardous condition or correct any violation of this chapter, or any other state or local law, which arises from the existence of lead based paint, the department may, in whole or in part, waive its right to a lien on the affected premises and repayment of such expenses and disbursements as were necessary to abate such hazardous conditions or correct such violation of law. The department shall promulgate rules setting forth the standards for such waivers.

b. Notwithstanding any other provision of law, where there is a hazardous condition or violation of this chapter or other state or local law which arises from the existence of lead based paint, the department may make grants or loans to owners for the expenses, in whole or in part, of abating such hazardous condition or correcting such violation of law. The department shall promulgate rules setting forth the standards for such grants or loans.

§ 309-a. **Multiple dwelling; apartment prohibitions for certain employees.** 1. No janitor, superintendent, manager, custodian, or the like, of a multiple dwelling shall be permitted to reside in an apartment unit in the multiple dwelling in which he is employed if the rental of such apartment unit to a tenant is prohibited by any general, special, or local law.

2. An owner, agent or operator of a multiple dwelling may apply to the department for a waiver of the provisions of this section on the ground that there is a bona fide unavailability of a suitable apartment unit for occupation by any of the above mentioned employees. Upon a determination that such unavailability does exist, the department may grant an exemption from the application of the provisions of subdivision one of this section upon such terms and conditions as it shall deem appropriate.

3. For the purposes of this section, the term "multiple dwelling" shall mean a building in which there is either rented, leased, let or hired out to be occupied, or is occupied as the residence or home of three or more families living independently of each other.

§ 310. **Board of appeals.** 1. As used in this section "board" shall mean the agency of a city constituted as a board and authorized by law both to grant variances of the zoning resolution and to make rules

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supplemental to laws regulating construction, maintenance, use and area of buildings; provided, however, that where, in a city to which this chapter applies, there is no board as so described, then a board may be created by local law or ordinance to possess the powers, perform the functions and grant the variances as hereinafter in this section provided; and any board so created shall be deemed to be a "board" within the meaning of such term as hereinbefore in this subdivision described.

2. Where the compliance with the strict letter of this chapter causes any practical difficulties or any unnecessary hardships the board shall have the power, on satisfactory proof at a public hearing, provided the spirit and intent of this chapter are maintained and public health, safety and welfare preserved and substantial justice done, to vary or modify any provision or requirement of this chapter, or of any rule, regulation, supplementary regulation, ruling or order of the department with respect to the provisions of this chapter, as follows:

a. For multiple dwellings and buildings existing on July first, nineteen hundred forty-eight, in cities with a population of one million or more, and for multiple dwellings and buildings existing on November first, nineteen hundred forty-nine, in cities with a population of five hundred thousand or more but less than one million, provisions relating to:

- (1) Height and bulk;
- (2) Required open spaces;
- (3) Minimum dimensions of yards or courts;
- (4) Means of egress;
- (5) Basements and cellars in tenements and converted dwellings.

The population restrictions contained in this paragraph shall not apply to any multiple dwelling otherwise entitled to the variances herein pursuant to the provisions of subdivision seven of section fifty-six of this chapter.

b. For multiple dwellings and buildings erected or to be erected or altered after July first, nineteen hundred forty-eight pursuant to plans filed prior to December fifteenth, nineteen hundred sixty-one, provisions relating to:

- (1) Required open spaces; or
- (2) Minimum dimensions of yards or courts.

c. For multiple dwellings and buildings erected or to be erected or altered pursuant to plans filed on or after December fifteenth, nineteen hundred sixty-one, or before such date provided such plans comply with the provisions of paragraph d of subdivision one of section twenty-six, provisions relating to:

- (1) Height and bulk;
- (2) Required open spaces; or
- (3) Minimum dimensions of yards and courts.

Variations or modifications may be granted pursuant to Paragraphs b and c only on condition that open areas for light and air are provided which are at least equivalent in area to those required by the applicable provisions of this chapter and pursuant to sub-paragraph one of paragraph c only on the further conditions that there are unique physical or topographical features, peculiar to and inherent in the particular premises, including irregularity, narrowness or shallowness of the lot size or shape and such variance would be permitted under any provision applicable thereto of the local zoning ordinance.

d. In the city of Buffalo, until July first, nineteen hundred and sixty-four for frame multiple dwellings, existing on November first, nineteen hundred forty-nine, and for buildings on the same lot existing

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on such date or altered after such date, applicable provisions relating to sections nine, eleven, fifty-six, two hundred sixty-four and article six.

e. In the city of Buffalo, until July first, nineteen hundred and sixty-four for dwellings three stories or less in height converted prior to November first, nineteen hundred forty-nine, applicable provisions of section one hundred eighty-five provided that (1) where such dwelling is occupied by three families, all the provisions of article six must be complied with and the cellar stairs enclosed with fire retarded materials with a one hour fire door; (2) where such dwelling is occupied by more than three families and there are two independent means of egress accessible on each story to each apartment, the cellar stairs must be enclosed with fire retarded materials with a one hour fire door and there must be automatic sprinklers in the public halls and stairways; (3) where such dwelling is occupied by more than three families and there are not two independent means of egress accessible from each story to each apartment, the cellar stairs must be enclosed with fire retarded materials with a one hour fire door, there must be automatic sprinklers in the public halls and stairways and there must be two independent means of egress accessible to each apartment on the third story.

f. The variance authorized by paragraphs d or e of this subdivision may be granted only upon the prior approval of the fire, health and building departments of such city and certification by the heads of such departments that the variance sought is not against the public interest.

g. The board may, as a condition of granting the variance authorized by paragraphs d or e of this subdivision, impose such additional requirements of health and safety as it may deem necessary or advisable for the proper protection of the occupants of the dwelling.

* h. Notwithstanding any other provision of law, the city of Buffalo may grant variances regarding subdivision twenty-five of section four and subdivision five of section one hundred one of this chapter only where such variances comply with the minimum standards set forth in the New York state building construction code which is applicable to multiple dwellings, and have been approved by the state division of housing and community renewal.

* NB Expired January 1, 1984

3. An application for such a variance or modification may be made by any person aggrieved or by the head of any public agency, within such time and under such procedure, conditions and rules as may be prescribed by the board. The board shall fix a reasonable time for the hearing of an application and shall require that due notice be given of the time and place of such hearing to the applicant and to the department. Any person or a duly authorized representative of any public agency may appear at any such hearing and be heard on any such application.

4. In every case the board shall state the reason or reasons for its decision. All decisions of the board shall be subject to review in the same manner as is provided by law for review of decisions of such board respecting variances of the zoning resolution.

5. A record of all decisions of the board, indexed according to the section or sections of this chapter affected thereby, shall be kept in the office of the board. Such record shall be open to public inspection at all times during business hours.

6. The board shall have power to charge and collect reasonable fees and to make rules governing such charges. All moneys so collected shall be deposited in the general fund of the city.

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**ARTICLE 9
REGISTRY OF NAMES AND SERVICE OF PAPERS**

- Section 325. Registry of owner, agent and lessee.
326. Service of notices, orders and summonses.
327. Indexing names; fees for searches.
328. Central Violations Bureau.
329. Certificate of inspection visits.

§ 325. **Registry of owner, agent and lessee.** 1. Every owner of a multiple dwelling, every lessee of a whole dwelling and every agent or other person having control of such a dwelling, shall file in the department a notice containing his name, address and a description of the premises, by street number or otherwise, and the class and kind of the dwelling thereon, in such manner as will enable the department to find the same; and also the number of apartments and rooms in each apartment on each story, and the number of families occupying the apartments. If such owner or lessee be a corporation, other than a banking organization as defined in section two of the banking law, a national banking association, a federal savings and loan association, The Mortgage Facilities Corporation, Savings Banks Life Insurance Fund, The Savings Banks Retirement System, an authorized insurer as defined in section one hundred seven of the insurance law, or a trust company or other corporation organized under the laws of this state all the capital stock of which is owned by at least twenty savings banks or a subsidiary corporation all of the capital stock of which is owned by such trust company or other corporation, the names and residence addresses of its officers shall also be contained in such notice. A similar notice shall be filed within thirty days following an election of any new officer or a change of address of any such officer. The provisions of this section also shall apply to successors in title, ownership or control of any premises, whether by act of the parties or by process or operation of law and, within thirty days after such succession, particulars of such ownership or control shall be filed in the department. If any successor in interest be under the age of twenty-one years his duly appointed guardian or, if there be no guardian, his administrator shall comply with this section in his behalf. Where after the filing of any notice under this section, the premises shall have been declared a public nuisance to any extent pursuant to paragraph b of subdivision one of section three hundred nine of this chapter and such declaration shall have been filed as therein provided, the owner, if a corporation, other than a banking organization as defined in section two of the banking law, a national banking association, a federal savings and loan association, The Mortgage Facilities Corporation, Savings Banks Life Insurance Fund, The Savings Banks Retirement System, an authorized insurer as defined in section one hundred seven of the insurance law, or a trust company or other corporation organized under the laws of this state all the capital stock of which is owned by at least twenty savings banks or a subsidiary corporation all of the capital stock of which is owned by such trust company or other corporation, shall file a similar notice within ten days which shall in addition contain the name and residence and business address of each director and stockholder of the corporation and of each person known to have any beneficial interest in such stock.

2. In any city of over one million which, by local law, requires the registration of owners of multiple dwellings and which prescribes penalties, remedies, and sanctions to be imposed for the violation of

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such local registration requirements, no rent shall be recovered by the owner of a multiple dwelling who fails to comply with such registration requirements until he complies with such requirements. If a resident of an unregistered dwelling voluntarily pays rent or an installment of rent when he had a right to withhold the same under this subdivision, 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 of this subdivision means payment other than one made pursuant to judgment in an action or special proceeding.

§ 326. **Service of notices, orders and summonses.** 1. Every notice, order or summons relative to a dwelling shall be served five days before the time for compliance therewith. The posting of a copy of such notice, order or summons in a conspicuous place in such dwelling, together with the mailing of a copy thereof, within five days of such posting, to each person whose name has been filed with the department of health or the department charged with the enforcement of this chapter, in accordance with the provisions of section three hundred twenty-five, at his address as therewith filed, shall be sufficient service thereof, except as provided in subdivision three.

2. Except as provided by the provisions of this chapter which are less restrictive than the provisions of this subdivision, if any notice, order or summons is directed to any person pursuant to any provision of this chapter, including the provisions of subdivision two of section three hundred nine, and if the address of such person is not registered or, in any case for which personal service is provided, if such person cannot with due diligence be served personally, then such notice, order or summons may be served by posting a copy thereof in a conspicuous place upon the premises within which a violation is alleged to have been placed or a condition complained of is alleged to exist, and by sending a copy thereof by registered mail, return receipt requested, addressed to such person at his last known address or place of residence.

3. In the case of a summons if the address of any agent or lessee whose name and address have been filed in accordance with the provisions of section three hundred twenty-five is in the city in which the dwelling is situated, then a copy of the summons shall also be delivered at such address to a person of lawful age, if upon reasonable application admittance can be obtained and such person found; and provided also that personal service of the summons upon the owner of such dwelling shall be sufficient service thereof upon him.

4. Notwithstanding any inconsistency with this section, in a city, having a population of one million or more, a local law may provide for the manner of serving civil process for the enforcement of penalties, sanctions and remedies provided in such local law.

§ 327. **Indexing names; fees for searches.** 1. The names and addresses filed in accordance with section three hundred twenty-five shall be indexed under the direction of the registrar of records of the department in such a manner that all of those filed in relation to each dwelling shall be together and readily ascertainable. The department shall provide the necessary books and clerical assistance for that purpose, and the expense thereof shall be paid by the city. Such indices shall be public records.

2. The department shall have power to charge and collect fees for searches, and to make rules governing charges for certification of pending violations.

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§ 328. **Central Violations Bureau.** 1. In cities having a population of one million or more, the department shall establish a central violations bureau which shall establish and maintain currently an index showing and a file containing, with respect to each building located in the city, the name, address and telephone number of the present owner of the building and whether or not he is a member in good standing of the rent stabilization association or registered pursuant to the emergency tenant protection act of nineteen seventy-four or the rent stabilization law of nineteen hundred sixty-nine where one or more dwelling units therein are subject to the rent stabilization law, each notice and order of the building department, the fire department, the health department, the water supply, gas and electricity department and of every other municipal department or agency having jurisdiction over such building alleging the occupation of such building in violation of law or the existence of a nuisance therein and of each notice, order, rule or certificate showing the clearance, correction or abatement of such violation or nuisance.

2. It shall be the duty of the department and of every other municipal department and agency having jurisdiction over buildings located in the city of New York to file with the central violations bureau established by this section a true copy of each notice and order of such department or agency alleging the occupation of a building in violation of law or the existence of a nuisance therein and of each notice, order, rule or certificate showing the clearance, correction or abatement of such violation or nuisance within seventy-two hours from the date of issuance of such notice, order, rule or certificate.

3. In any action or proceeding before the housing part of the New York city civil court either (a) the visually displayed or (b) the printed computerized violation files of the department responsible for maintaining such files and all other computerized data as shall be relevant to the enforcement of state and local laws for the establishment and maintenance of housing standards, including but not limited to the name, address and telephone number of the present owner of the building and whether or not he is a member in good standing of the rent stabilization association or registered pursuant to the emergency tenant protection act of nineteen seventy-four or the rent stabilization law of nineteen hundred sixty-nine where one or more dwelling units therein are subject to the rent stabilization law, shall be prima facie evidence of any matter stated therein and the courts shall take judicial notice thereof as if same were certified as true under the seal and signature of the commissioner of that department.

§ 329. **Certificate of inspection visits.** In a city of over one million population the department shall issue without fee to all owners of multiple dwellings located in such city, a certificate of inspection visits upon which shall appear the title in bold print "CERTIFICATE OF INSPECTION VISITS", the name, address and telephone number of the owner of the building, the street address of the building and the words, "The undersigned hereby certifies that he visited the above-described building on the date and for the purposes set opposite his name". The certificate shall be placed and maintained in a conspicuous place inside the multiple dwelling within view of the place at which mail is delivered to the building or at such other location as may be approved by the department and in a place readily accessible for signature by employees of the department. In the event that the certificate is destroyed or defaced or the signature lines become filled with signatures, the owner shall apply for and the department shall issue to

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him free of charge a duplicate certificate of inspection visits. Whenever an employee of such department shall visit any multiple dwelling for any purpose related to his official capacity, he shall sign his name to the certificate of inspection visits and opposite thereto set forth the date and purpose of his visit.

**ARTICLE 10
PROSTITUTION**

Section 351. Lien.

352. Recovery of premises.

353. Permission of owner or lessee.

354. Rules of evidence.

355. Title of action or proceeding and parties.

356. Jurisdiction and procedure.

357. Judgment.

358. Sale of premises.

359. Receivership.

360. Cancellation of notice of pendency of action.

§ 351. **Lien.** A multiple dwelling shall be subject to a penalty of one thousand dollars if it or any part of it shall be used as a house of prostitution or assignation with the permission of the owner, and such penalty shall be a lien upon the dwelling and lot upon which it is situated.

§ 352. **Recovery of premises.** If a multiple dwelling, or any part thereof, shall be used as a house of prostitution or assignation with the permission of the lessee or his agent, the lease shall be terminable at the election of the lessor, and the owner shall be entitled to recover possession of said premises by summary proceedings.

§ 353. **Permission of owner or lessee.** A multiple dwelling shall be deemed to have been used for the purposes specified in the last two sections with the permission of the owner, agent or lessee thereof in the following cases:

1. If summary proceedings for the removal of the tenants of such dwelling or of so much thereof as is unlawfully used, shall not have been commenced within five days after notice of such unlawful use has been served by the department in the manner prescribed by article nine of this chapter for the service of notices and orders; or having been commenced, are not in good faith diligently prosecuted to final determination.

2. If there be two or more convictions in such dwelling within a period of six months, under sections 230.00, 230.25, or 230.40 of the penal law.

§ 354. **Rules of evidence.** In any action to establish a lien or in any action or proceeding for a fine, penalty or other punishment for a violation of any of the provisions of this, article, proof of the ill-repute or the ill-fame of the premises which are the subject-matter of the action or proceeding or of the inmates thereof, or of those resorting thereto, shall constitute presumptive evidence that such use was with the permission of the owner, agent or lessee. The certificate of the department that the building was intended, arranged or designed to be occupied as a dwelling shall be presumptive evidence of the fact that it is so occupied.

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§ 355. **Title of action or proceeding and parties.** Any action or proceeding referred to in this article shall be brought against the premises as defendant. Such premises may be described in the title of the action or proceeding by their street number or by any other method sufficiently precise to secure identification and shall be described in the complaint. The plaintiff, except as hereinafter provided, shall be the department. In case the department shall not institute any action or proceeding within ten days after receiving a written request to do so from any taxpayer in the city, then such taxpayer may institute and maintain such action or proceeding against the premises in his own name, and the court may, in its discretion, require from him security for costs.

§ 356. **Jurisdiction and procedure.** Any action or proceeding referred to in this article shall be brought in the supreme court, county court or other court of competent jurisdiction in the county in which the premises are situated. At or before the commencement of the action or proceeding the complaint shall be filed in the office of the clerk of the county, together with a notice of the pendency of the action or proceeding, containing the names of the parties, the object of the action or proceeding and a brief description of the premises affected thereby. Said notice shall be recorded immediately by the clerk. The owner or lessee, or both, of said premises may appear in such action or proceeding and answer or move with respect to the complaint, and the subsequent procedure shall be the same as in other actions or proceedings brought to establish a lien or encumbrance upon real property. Such action or proceeding shall be entitled to a preference in the trial or hearing thereof.

§ 357. **Judgment.** The judgment in such action or proceeding, if in favor of the plaintiff, shall establish the penalty sued for as a lien upon such premises, subject only to taxes, assessments, water rates, mortgages and mechanics' liens as may exist thereon prior to the filing of the notice of pendency of the action or proceeding.

§ 358. **Sale of premises.** At any time after the entry of any judgment establishing a lien upon such premises the department, if there be no stay pending appeal, may apply to the court for leave to sell such premises. Upon such application the court may order such premises sold at public auction, subject to taxes, assessments, water rates, mortgages and mechanics' liens. The deed to the purchaser shall be made by the department. The justices of the appellate division of the supreme court of any judicial department may establish rules of practice which shall be followed by the department charged with the enforcement of this chapter in the conduct of such sales in such judicial department.

§ 359. **Receivership.** Whenever the lien or liens established by judgment pursuant to this article shall amount to one thousand dollars or more, and there be no stay pending appeal, the department shall appoint a receiver of the rents and profits of such premises. Such receiver shall give security for the performance of his duties in the manner and form fixed by the department. He shall have the powers and duties of a receiver of rents and profits of real estate appointed by the supreme court; provided, that the corporation counsel shall act as his counsel and the receiver shall not be allowed any expenditure for counsel fees, and his commissions shall be ten per centum of his collections, which sum shall be full compensation for his services and

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those of any agent or agents whom he may employ. Such receivership shall continue until the amount of such liens with interest thereon at the rate of six per centum, and of the commissions, have been fully paid; provided, that nothing in this section shall be construed to prevent any prior lienor from applying to the court in a proper case for a receiver of the premises.

§ 360. **Cancellation of notice of pendency of action.** If an action or proceeding to establish a lien upon such premises terminates otherwise than in a judgment establishing such a lien, or if the judgment be fully paid, such notice of pendency of action or proceeding may be cancelled. Prior to the termination of such action or proceeding the notice may be cancelled by giving an undertaking.

**ARTICLE 11
LAWS REPEALED; SAVING CLAUSES; EFFECT**

Section 365. Laws repealed.
366. Saving clauses.
367. Effect of invalidity in part.

§ 365. **Laws repealed.** All statutes of the state and local laws, ordinances and regulations of cities to which this chapter is or hereafter becomes applicable, so far as inconsistent with the provisions of this chapter, are hereby repealed; provided that nothing in this chapter contained shall be construed as abridging the right of any city to adopt local laws, ordinances, resolutions or regulations not less restrictive than the provisions of this chapter.

§ 366. **Saving clauses.** 1. The repeal of any provisions of this chapter, or the repeal of any provisions of any statute of the state or local law, ordinance, resolution or regulation 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 of such repeal, but the same may be enjoyed, asserted, enforced, prosecuted or inflicted as fully and to the same extent and in the same manner as if such provisions had not been repealed.

2. Any action or proceeding, civil or criminal, begun before April eighteenth, nineteen hundred twenty-nine, under or pursuant to or by virtue of any provision of the tenement house law which is superseded by this chapter as in this chapter provided, may be prosecuted, conducted and completed in the same manner as if such law were not so superseded but continued to be fully effective.

3. No action or proceeding, civil or criminal, pending at the time this chapter, as amended by the laws of nineteen hundred forty-six, takes effect, brought by or against a city or any agency or officer thereof, shall be affected or abated by the adoption of this chapter as so amended, or by anything therein contained, and all such actions and proceedings may be continued in full force and effect under the appropriate provisions of this chapter.

4. No existing right or remedy of any kind shall be lost or impaired by reason of the adoption of this chapter as so amended unless by specific provision of a law which does not amend all articles of this chapter.

5. Except as otherwise provided in subdivision six of section three, the provisions of this chapter shall not operate to limit or decrease

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the power of any city to adopt local laws, ordinances, resolutions or regulations in relation to any matter in respect to which such power would otherwise exist.

6. The tenement house law shall, from and after the taking effect of this chapter, not apply to cities with a population of eight hundred thousand or more.

§ 367. **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.