



# Residential Property Guide

---

A GUIDE TO THE CITY OF ALBANY BUILDINGS DEPARTMENT, THE CITY OF ALBANY CODE, AND THE NYS BUILDING CODE FOR CITY OF ALBANY RESIDENTS.

Prepared by the City of Albany Department of Buildings & Regulatory Compliance

200 HENRY JOHNSON BLVD || ALBANY, NY 12210  
TEL. (518) 434-5995 || FAX (518) 434-6015 || [CODES@ALBANYNY.GOV](mailto:CODES@ALBANYNY.GOV)

# Table of Contents

<b>Introduction</b> .....	1
1. <b>GENERAL INFORMATION</b> .....	1
a. <b>The Laws Apply to Residential Property in the City of Albany</b> .....	1
b. <b>The Purpose of Building Codes</b> .....	2
2. <b>WHAT THE BUILDINGS DEPARTMENT DOES</b> .....	2
a. <b>General</b> .....	2
b. <b>Code Enforcement</b> .....	2
i. Receiving Complaints/Finding Code Violations.....	2
1. <i>Complainant Anonymity and Fears of Retaliation</i> .....	2
2. <i>Complainant Follow Up</i> .....	3
ii. Investigating Complaints.....	3
1. <i>Investigating Exterior Property Violations</i> .....	4
2. <i>Investigating Interior Violations</i> .....	4
iii. Addressing Violations .....	4
1. <i>Informal Resolution</i> .....	5
2. <i>Extensions</i> .....	5
iv. Prosecution .....	5
v. NYS Uniform Code Variances .....	6
c. <b>Overseeing Construction, Repair, &amp; Rehabilitation</b> .....	6
i. Permit Application Process .....	6
1. <i>Application Submission</i> .....	6
2. <i>Application Review</i> .....	7
3. <i>Application Review Time</i> .....	7
4. <i>Denial or Permit Issuance</i> .....	7
5. <i>Project Inspections</i> .....	8
6. <i>Who Should Apply for a Permit</i> .....	8
ii. Permit Types & When They Are Required .....	9
1. <i>Building Permits</i> .....	9
2. <i>Electric and Plumbing Permits</i> .....	10
3. <i>Certificate of Appropriateness/Building Permit</i> .....	10
4. <i>Sidewalk &amp; Barricade Permit</i> .....	10
iii. When a Permit is Not Required.....	11
iv. What Information Needs to Be Submitted with a Permit Application .....	11
1. <i>Stamped Plans</i> .....	11

2. <i>Required Documents</i> .....	12
3. <i>Proof of Insurance</i> .....	12
4. <i>Worker's Compensation</i> .....	12
v. Permit Application Fees .....	13
1. <i>Project Cost Verification</i> .....	14
2. <i>Project Cost and Multiple Permits</i> .....	14
vi. Consequences of Failing to Obtain a Permit .....	14
vii. Posting of Permits.....	15
viii. Permit Renewals .....	15
ix. Permit Application Fee Refunds.....	15
1. <i>Refunds for Denied Permits</i> .....	16
x. Emergency Permits.....	17
xi. Time of Work .....	17
<b>d. Residential Occupancy Permits (ROPs) &amp; Rental Dwelling Registry (RDR)</b> .....	17
i. ROP Inspection Scheduling and RDR Cost .....	17
ii. How to Pass an ROP Inspection.....	18
iii. Consequences of Not Obtaining an ROP .....	19
iv. How to Check if You Have an ROP .....	19
v. Subsequent Code Violations.....	20
<b>e. Unsafe and Unfit Orders</b> .....	20
i. Accessing a Building That Has Been Declared Unsafe and Unfit .....	20
ii. An Unsafe and Unfit Order is Not an Eviction .....	20
iii. An Unsafe and Unfit Order Lasts Until the Problem is Fixed.....	20
iv. Emergency Housing After an Unsafe and Unfit Order is Issued .....	21
v. Lifting an Unsafe and Unfit Order .....	21
1. <i>Water Damage</i> .....	21
2. <i>Lack of Heat</i> .....	21
3. <i>Lack of Sanitation</i> .....	22
4. <i>Structural Deterioration</i> .....	22
<b>f. Emergency Demolitions</b> .....	22
i. Assessing Potentially Dangerous Structures .....	22
ii. The Emergency Demolition Process .....	22
1. <i>First Assessment</i> .....	23
2. <i>Third Party Engineer Review</i> .....	23
3. <i>Emergency Contractor Bidding and Demolition</i> .....	23
4. <i>Public Safety Precautions</i> .....	24

5. <i>Debris Removal</i> .....	24
iii. <i>Emergency Demolition Cost</i> .....	24
g. <b>Vacant Buildings</b> .....	24
i. Vacant Building Owner Obligations .....	25
1. <i>Keeping the Building Up to Code</i> .....	25
2. <i>Vacant Building Registry</i> .....	25
ii. Board Ups.....	25
iii. Enforcement Difficulties .....	26
iv. Statewide Vacant Building Registry.....	26
v. Neighborhood Stabilization Coordinator.....	26
vi. Placarding .....	26
h. <b>Waste Collection Fee</b> .....	27
i. Exemptions.....	27
ii. Applying for an Exemption.....	28
iii. Processing Waste Collection Fee Exemption Applications .....	29
iv. Appealing a Waste Collection Fee Denial.....	29
v. Late Fees.....	29
i. <b>Grievance Procedure</b> .....	29
2. <b>WHAT THE BUILDINGS DEPARTMENT CANNOT DO</b> .....	30
a. <b>Repair a Building</b> .....	30
b. <b>Settle Boundary Disputes</b> .....	30
c. <b>Settle Landlord Tenant Disputes</b> .....	31
d. <b>Provide Engineering Services</b> .....	31
e. <b>Guarantee That a Building is Safe</b> .....	32
f. <b>Grant an Exception to the NYS Uniform Code</b> .....	32
g. <b>Take Over a Building</b> .....	32
h. <b>Exercise Authority Over State Owned Buildings</b> .....	32
i. <b>Manage City Property</b> .....	32
3. <b>ZONING (INCLUDING HISTORIC &amp; OVERLAY DISTRICTS)</b> .....	32
a. <b>Historic &amp; Overlay Districts</b> .....	32
b. <b>Common Zoning Issues</b> .....	33
i. Lot coverage.....	33
ii. Home Occupations .....	33
iii. Temporary Rentals (ie. AirBnB) .....	34
c. <b>Variances</b> .....	35
d. <b>Legally Nonconforming (“Grandfathering”)</b> .....	35

e. <b>Zoning Letters</b> .....	35
<b>4. STAFF TRAINING</b> .....	35
<b>5. RESPONSIBILITIES OF LANDLORDS &amp; TENANTS</b> .....	36
a. <b>Who Receives a Citation</b> .....	36
b. <b>Resolving Disputes Between a Tenant and a Landlord</b> .....	36
c. <b>List of Tenant and Landlord Responsibilities</b> .....	37
i. Landlord Responsibilities.....	37
ii. Tenant Responsibilities .....	37
<b>6. RELEVANT CODES</b> .....	38
a. <b>General</b> .....	38
i. Enabling Laws.....	38
ii. Emergency Measures .....	39
iii. Residential Occupancy Permit.....	43
iv. Vacant Building Registry .....	48
v. Trash Storage & Accumulation .....	52
b. <b>Exterior</b> .....	53
i. General .....	53
ii. Exterior Structure .....	55
iii. Paint.....	55
iv. Outdoor Property Maintenance & Sanitation .....	56
v. Flooding.....	57
vi. Parking & Vehicle Storage .....	58
1. <i>Towing of Illegally Stored or Parked Vehicles</i> .....	58
vii. Barbecues & Fire Pits .....	59
c. <b>Interior</b> .....	60
i. Building Structure .....	60
ii. Heat .....	60
iii. Cleanliness & Sanitation .....	61
iv. Infestation (including bed bugs) .....	62
v. Lighting .....	63
vi. Ventilation .....	64
vii. Security .....	65
viii. Water (including hot water).....	67
ix. Plumbing.....	67
x. Bathrooms.....	68
xi. Electrical .....	69

xii.	Residential Animal Regulations .....	69
d.	<b>Fire Safety</b> .....	70
i.	General .....	70
ii.	Smoke Detectors .....	70
iii.	Carbon Monoxide Alarms .....	72
iv.	Fire Extinguishers.....	74
v.	Sprinklers.....	74
vi.	Means of Egress.....	75
e.	<b>Over-Occupancy</b> .....	75
f.	<b>Swimming Pools</b> .....	76
g.	<b>Fences</b> .....	80
h.	<b>Home Occupations</b> .....	81
7.	<b>GLOSSARY</b> .....	82

## **Introduction**

Navigating the rules that apply to residential property can be difficult and frustrating. The City of Albany Department of Buildings & Regulatory Compliance has compiled this guide to help homeowners, landlords, and tenants understand the laws that apply to their homes and property. It contains and explains all the most relevant New York State and City of Albany Codes that apply to residential properties in the City of Albany and provides an explanation of what the Buildings Department does and how it does it.

While it is our hope that this guide will help answer your questions about residential property ownership, we understand that you might find yourself in a unique situation not covered here. *We are always happy to answer your questions by phone at (518) 434-5995, by email at [codes@albanyny.gov](mailto:codes@albanyny.gov), or in person at our offices at 200 Henry Johnson Blvd on weekdays between 8:00AM and 4:30PM.*

Because laws change and because we always strive to improve our operations, this guide will be updated regularly.

### **1. GENERAL INFORMATION**

Our offices are located at 200 Henry Johnson Boulevard. We are open to the public from 8:00AM to 4:30PM Monday through Friday (not including major holidays). We can be reached by phone at (518) 434-5995 or by email at [codes@albanyny.gov](mailto:codes@albanyny.gov).

*We accept payment by check, money order, or credit card (Visa, Mastercard, and Discover). We cannot accept cash. Checks should be made out to the City of Albany.*

#### **a. The Laws Apply to Residential Property in the City of Albany**

*The two sets of code which concern residential property in the City of Albany are the NYS Uniform Building & Fire Prevention Code (the NYS Uniform Code) and the City of Albany Code.*

The NYS Uniform Building & Fire Prevention Code applies to property throughout New York State. The NYS Uniform Code is composed of several volumes, the most important of which, for residential property owners, are the NYS Property Maintenance Code and the NYS Fire Code. The NYS Uniform Building & Fire Code is not online, unfortunately, but you will see that later in this booklet the most relevant passages have been reproduced in this guide.

The City of Albany Code applies only to property within the City and is created by the Albany Common Council. It touches on all aspects of residential property ownership, including how a building looks and what can be done with it. The City of Albany Code is available at: <http://ecode360.com/AL0934>.

**b. The Purpose of Building Codes**

The NYS Uniform Code, as complicated as it may seem, is a common-sense standard we apply to protect people from fire, collapse, and other forms of harm related to poor building construction or maintenance. Following the NYS Uniform Code also extends the life of a building and reduces the number of costly repairs that an owner may have to make as a building ages.

The Albany City Code is designed to ensure that the City of Albany is laid out in a way that is cohesive and safeguards the character of our neighborhoods. These are also known as the City of Albany Zoning Regulations. While they may be frustrating to work with in a specific case, they make Albany a safe and pleasant place to live.

**2. WHAT THE BUILDINGS DEPARTMENT DOES**

As someone living in or owning residential property in the City of Albany, you probably have questions about how the Department works and how to access our services. This section explains what we do as it relates to residential property.

**a. General**

The Department of Buildings & Regulatory Compliance is responsible for enforcing the NYS Uniform Code and parts of the Albany City Code. We do that by periodically inspecting buildings and by overseeing new construction, rehabilitation, and major repair to ensure that the Albany City Code and the NYS Uniform Code are followed. Our primary job is to educate property owners and developers as to what the law requires and to work with them to bring their property up to code. We do have the authority to seek fines in a court proceeding if needed.

**b. Code Enforcement**

The Albany City Code and NYS Uniform Code contain rules for the maintenance and use of buildings so that they are safe and don't negatively affect property around them. The Department of Buildings & Regulatory Compliance is responsible for ensuring these rules are followed. We do this by investigating complaints we receive from the community and identifying violations in our normal course of business, notifying the owner of code violations we find, and following up to ensure that the property is brought into compliance.

**i. Receiving Complaints/Finding Code Violations**

The Buildings Department receives information about possible code violations from community members and other members of the City of Albany government, particularly the Fire Department, Police Department, and Department of General Services. ***Anyone can notify the Buildings Department of a complaint in person at 200 Henry Johnson Blvd, by phone at (518) 434-5995, email at [codes@albanyny.gov](mailto:codes@albanyny.gov), or through the See Click Fix app.***

**1. *Complainant Anonymity and Fears of Retaliation***

People making complaints to the Buildings Department are entitled to anonymity. ***We will not reveal the identity of someone making a complaint without their consent.*** However, sometimes it will be clear to the property owner cited for a code violation who the source of a complaint was.

If you fear that someone may retaliate against you for a complaint you've made to the Buildings Department you should contact an attorney to evaluate what your rights may be. ***If you fear physical retaliation as a result of a complaint made to the Buildings Department, you should contact the City of Albany Police Department by calling 911.***

Where the complainant is a tenant, the source of the complaint cannot practically be kept a secret. Though Buildings Department staff will not explicitly identify the source of the complaint, it will be clear to the property owner where the complaint came from. **New York State Real Property Law §233-b protects tenants from some forms of retaliation for good faith code complaints.** However, a tenant should always discuss their rights with an attorney if they fear retaliation for making the Buildings Department aware of a code violation.

The Buildings Department may also receive complaints that arise out of ongoing disputes between neighbors. The anonymity of people who submit complaints to our office applies equally to these situations, but this is another instance where the source of the complaint will likely be known to the owner of the property that is investigated.

Though the identity of those who make a complaint to the Buildings Department will not be disclosed without the consent of the person making the complaint we do ask for the name and contact information for the person making the complaint. We ask for this information so that the person making the complaint can better describe to the investigating Code Enforcement Officer what the violation is and where it is located. Refusing to provide this information may make investigation of the complaint impossible.

## 2. *Complainant Follow Up*

We do our best to let people who make complaints to the office aware of the outcome of their complaint but this can be very difficult to do given the hundreds of inspections we do in the typical week. ***If you want to know the outcome of an inspection, feel free to contact us in person at 200 Henry Johnson Blvd, by phone at (518) 434-5995, or email at [codes@albanyny.gov](mailto:codes@albanyny.gov).***

### ii. Investigating Complaints

***Routine complaints will be investigated as soon as possible, but never later than the business day after they are received. Emergency complaints are investigated immediately*** even after hours or on weekends, though after hours' complaints must come through the Albany Fire Department and Albany Police Department emergency dispatch center. In extreme situations after hours or weekend inspection may be arranged by calling the non-emergency number (518) 438-4000.

Our eight Code Enforcement Officers are assigned to one of eight zones throughout the City. Investigations are assigned to Code Enforcement Officers based on the location of the alleged code violation. If the Code Enforcement Officer assigned to the zone of the alleged violation is out of the office on a given day, another officer will investigate it.

### *1. Investigating Exterior Property Violations*

If the complaint concerns the exterior of the building, the Code Enforcement Officer will verify the violation without entering the building. However, if the violation cannot be seen from a public right of way, the assigned Code Enforcement Officer will follow up with the person who made the complaint if the person who made the complaint can provide access to an area from which the violation can be seen. For instance, if a neighbor is complaining about the condition of their neighbor's backyard, the assigned code enforcement officer will contact the complaining neighbor so that the Code Enforcement Officer can see the violation from the complaining neighbor's backyard.

### *2. Investigating Interior Violations*

*If the complaint involves the interior area of a residential building, the assigned Code Enforcement Officer will need to be let into the building and be allowed into the area where the alleged violation exists.* The United States and New York State Constitution prevent us from entering a residential dwelling without either a warrant or the consent of the dwellings apparent resident, owner, or their respective agents.

#### *iii. Addressing Violations*

If a code violation is discovered at a property, the next step is to notify the owner of the alleged violation. This is typically done through the issuance of a *notice of violation* which is *sent to the owner by mail*. Notice must be sent by mail before a fine can be sought in Court. However, a notice of violations may be provided informally where the property owner is willing and able to quickly remedy a small, non-life threatening violation, as discussed below.

*The Buildings Department does not notify building owners of a complaint-based inspection before the inspection.* The Buildings Department conducts roughly one hundred (and often many more) inspections each day. Notifying owners ahead of each inspection would create an impossible administrative burden. This is why we only notify building owners when we discover violations on their property and, except in extreme cases, grant property owners at least 30 days to address the violations before we seek a fine.

The notice of violation will contain a reinspection date set about thirty days out from the discovery of the violation and a description of the violations at the property which need to be remedied. The notice will also advise the building owner that the Buildings Department will seek a penalty in Albany City Court if the violations have not been addressed by the reinspection date. *Extensions to comply are generally granted if requested in writing and the violation does not pose a safety threat.*

## 1. *Informal Resolution*

Our chief goal as a Department is to educate City of Albany residents about the code, why it is important, and how it can be followed. We avoid or minimize formal enforcement when an opportunity presents itself to achieve code compliance through education.

If the violation is easy to remedy and the owner is present at the time of inspection, the Code Enforcement Officer may verbally advise the owner of the violation and set up a time to come back later that day or early the next day to ensure compliance if the violation can't be remedied right then and there. For instance, if a smoke detector simply needs new batteries, the Code Enforcement Officer may provide an opportunity for the owner or their agent to refill them before issuing a formal notice of violation.

## 2. *Extensions*

***If you receive a notice of violation but need more time to comply, you can request an extension*** by contacting the Buildings Department in person at 200 Henry Johnson Blvd, by phone at (518) 434-5995, or email at [codes@albanyny.gov](mailto:codes@albanyny.gov). For record keeping purposes and to avoid confusion, ***we can only grant extension requests submitted by writing or by email.***

Extension requests are more likely to be granted where the violation is difficult to address, does not pose a health or safety risk, or the property owner is making sincere efforts to address the violation. The length of the extension also depends on these factors.

It is important to note that the Buildings Department does not have the authority to grant property owners a “grace period” in which they are permitted to violate code, but we understand that compliance can take time. This is why, except in extreme cases, we give property owners at least thirty days to fix violations before we seek a penalty and grant extensions when appropriate.

It is also important to note that ***an extension request is not a guarantee by the Buildings Department that the violation is not a safety risk.*** While the Buildings Department does enforce the City Code and NYS Uniform Code, we cannot guarantee that any property we inspect is safe. Code violations may be hidden from plain view by their very nature or intentionally by the violator. The NYS Uniform Code is also only the bare minimum standard of safety set out by law. For these reasons members of the public should always use their own common sense and judgment when assessing risks in their surroundings.

## iv. Prosecution

***When all else fails, the Buildings Department will seek a fine for unaddressed violations in Albany City Court.*** The first step in this process is that our Code Enforcement Officers will draft paperwork for the Court which describes the ongoing violations and asks the Court to impose a fine.

***This same paperwork is sent to the building owner and contains a date on which the building owner is required to appear in court.*** Even after this step has been taken, the Buildings Department is willing to work with property owners on remedying code violations. Most cases which reach this point are resolved informally.

Extensions, however, can no longer be granted by the Building Department once a violation has been referred to court as the matter is now on the Court's calendar. ***To receive an extension for a matter that has gone to Court, the building owner should contact the City of Albany Corporation Counsel's office at (518) 434-5050.***

A fine of up to \$1,000 per day per code violation may be imposed by the court if a property owner willfully fails to appear or comply with the law.

v. NYS Uniform Code Variances

***The Buildings Department cannot exempt a building from the NYS Uniform Code.*** Such an exemption can only be obtained by getting a variance from the New York State Division of Building Standards & Code, which has the sole authority to grant variances from the NYS Uniform Code which may be reached at (518) 474-4073.

c. Overseeing Construction, Repair, & Rehabilitation

The second major job of the Department of Buildings & Regulatory Compliance is to ensure that new construction, repairs, and rehab work on buildings complies with the Albany City Code and the NYS Uniform Code.

i. Permit Application Process

Applying for a permit from the Buildings Department may seem like a daunting process if you don't do it often. What follows is an explanation of the permit application process. If you have any questions about submitting your permit application, you can reach us by phone at (518) 434-5995, by email at [codes@albanyny.gov](mailto:codes@albanyny.gov), or in person at our offices at 200 Henry Johnson Blvd.

Note that the permits discussed here are different than "residential occupancy permits" which are discussed in greater detail below in their own section.

1. *Application Submission*

A permit application is reviewed by our clerks, who will check to see that it contains enough information on your project for our building inspectors to confirm whether the proposed work will comply with the law.

***Building permit application forms are available in our office and online.*** We have several permit applications that are specific to types of projects, but the General Building Permit

Application can cover almost all non-plumbing or electrical projects. The applications also contain instructions advising applicants on how to complete the application.

Permit applications can be accepted in person at 200 Henry Johnson Blvd, by mail, or by email at [codes@albanyny.gov](mailto:codes@albanyny.gov). ***The fee for the permit application must be submitted before review of the application can begin.*** The permit application fees that apply to residential properties appear on page 13 and are explained on the permit application forms.

## 2. Application Review

Once ***the application is*** completed and properly submitted, it is ***assigned to a building inspector.*** The Building Inspector will then review the permit application to make sure that the proposed work will be up to code. In most cases, the application will contain everything the Building Inspector needs to complete the review. In cases where additional information is needed, the Building Inspector will contact the applicant to fill in the gaps.

In most cases, however, approvals will be required from other City departments. This is the case if the work involves a change in appearance to a building in an historic or overlay zoning district or the installation of a sign. In those cases, the need for these approvals is identified and the applications sent to the relevant departments as quickly as possible. If the application requires approval from another City department, review will continue as soon as those approvals are forwarded to the Building Inspector.

## 3. Application Review Time

How long it takes to review a permit application depends on the complexity of the project, whether the project requires approvals from other City departments, and how many open applications are pending. ***Please allow at least two weeks for review of a permit application.*** If there are no outside approvals required, our average turn-around time on a permit is seven days, including weekends, and for ***most residential work approvals happen much faster.*** Permits for roofing and siding projects may even be issued over the counter and we look forward to being able to issue more types of permits over the counter soon.

We are always working to issue permits as quickly as possible but the sooner you have submitted your application to us and the more information your application contains, the sooner we will be able to issue your permit.

## 4. Denial or Permit Issuance

After reviewing the permit application, the Building Inspector will issue a permit or provide a letter denying the permit and stating why the permit was denied. ***Denials are not final and the applicant may reopen the application within a reasonable time*** by providing amended or additional plans that address the reason for the denial. If the permit applicant believes the permit was denied in error, the applicant can explain the error and the Building Inspector will revisit the decision.

If the permit was denied because the proposed work would not comply with the relevant zoning ordinance, the denial letter may be referred within thirty days to the Planning Department, which manages the City of Albany Board of Zoning Appeals, so that an exception can be made to the zoning law to allow the use proposed. The Board of Zoning Appeals weighs several factors, including input on the proposal from neighbors who are notified of the proceeding, in making the decision to grant a variance.

Once the decision is made to issue the permit, the applicant will be notified that their permit is ready for pick-up. It may also be mailed to the applicant if so requested by the applicant.

Unclaimed permits will be mailed to the applicant after six months and work done without a properly posted permit may receive a stop work order.

## 5. *Project Inspections*

***After the permit is issued, a Building Inspector may conduct periodic inspections of the work being done to ensure that the work conforms with the plans and is up to code.*** In all cases, a final inspection is required at the end of the project. If it is a simple project only a single, final inspection may be required. More complicated projects may require additional inspections. For example, if a deck is being constructed, the Building Inspector may require that the footings be inspected before the rest of the project proceeds and then a final inspection will be done at the completion of the project. The installation of a fence will only require the final inspection. The Buildings Inspector will notify the permit applicant if more than a final inspection will be needed when issuing the permit.

***It is up to the person doing the work to call for the needed inspections*** while the work is being done and when it is completed. Because of staffing constraints it is impossible for our building inspectors to follow up on open permits. Early inspections are essential to identifying code violations when they are easy to fix as opposed to later when they may be much harder to remedy.

When the work is done, there will be a final inspection and the inspector will issue a certificate of completion or, if it is an entirely new structure or a new use of the property, a certificate of occupancy.

## 6. *Who Should Apply for a Permit*

When hiring a contractor, the question often comes up as to who should apply for the permit, the contractor or the property owner? This is entirely up to the property owner and the contractor, though ***property owners should know that as the permit applicant they take on certain legal responsibilities.*** The permit applicant may take on worker's compensation liability in the event a worker is injured on the job. For projects that cost more than \$10,000, the applicant must also insure the City of Albany for potential damage caused by the work. The permit applicant is also directly responsible for stop work orders. These are all important things

to bear in mind when deciding whether the property owner or contractor should apply for the permit

ii. Permit Types & When They Are Required

*It is unfortunately impossible set out a single, simple rule of thumb to say when a permit is required.* New York State Law requires a permit whenever work “must conform to the Uniform Code.” Even if a permit is not required under the NYS Uniform Code, the Albany City Code may require a city-specific permit. Below is a detailed description of what types of permits are required and what type of work they are required for. *Further below is an explanation of when a permit is not required.*

There are several types of permit applications and permits for different kinds of work. There are, in general, three types that concern residential property owners and residents: 1) building, 2) electrical, and 3) plumbing. Additional approvals will be needed if you are doing work in a historic or overlay district which is visible from the street.

1. *Building Permits*

*A building permit must be obtained for any work on a property which in any way involves the property's health and safety structure.* This includes:

- The erection of any new structure, temporary or permanent, including sheds, fences, pools (even temporary pools), porches, stairways, radio towers, & tree houses. It does not include the erection of retaining walls, though a permit for those is often required by the City Engineer.
- Any alteration or repair of load bearing structural supports.
- Any alteration to the size, location, or accessibility of any ingress or egress points, corridors, or discharge areas.
- Any alteration to fire barriers or firewalls, including drilling through such barriers and walls.
- Any increase or decrease in structure height or area.
- Any increase or decrease in building frontage.
- The installation of textile, vinyl, or foam plastic wall and/or ceiling coverings in all areas of public assembly.
- The installation of elevators.
- The demolition of existing structures.

- Storing, dispensing, processing, or manufacturing hazardous materials.
- Installation of a wood stove or gas insert.
- Installation of awnings or marquis.
- Any change to the nature or intensity of the use of any portion of a property.
- Gutting of a building or an area within a building
- Replacement or installation of a substantial segment or segments of sheet rock.
- Roof repair and replacement.
- Siding installation or replacement.

## 2. *Electric and Plumbing Permits*

***A permit is required for all work to mechanical systems***, including installation or changes to electrical, plumbing, heating, fire suppression systems, fire alarms, elevators, or other mechanical systems. This does not include the replacement or repair of fewer than three fixtures within a two-month time-period if this repair or replacement does not require new plumbing or wiring.

Note that ***electrical and plumbing work may only be performed by a plumber or electrician licensed to work in the City of Albany*** and that we may only accept permits for such work from a licensed plumber or electrician. Under Albany City Code §231-3 “No person shall, within the limits of the City of Albany, engage in, carry on or work at the business of plumbing as herein defined without first having passed an examination and obtained and paid for and having in full force and effect a license as herein provided.” Additionally, under Albany City Code §171-32 “[n]o person shall contract to or conduct a business to perform any electrical work in the City of Albany for which a permit is required unless that person shall hold a valid master electrician's license or a temporary electrician's license issued by the City of Albany.”

## 3. *Certificate of Appropriateness/Building Permit*

The City of Albany Code requires that a special “permit”, a Certificate of Appropriateness, be obtained for any potential change in appearance to any structure in an historic or traditional overlay district which is visible from the street. The Buildings Department maintains on its website a list of all parcels in the City of Albany indicating whether they are located in an historic district, overlay district, or floodplain. You can get to the list by clicking on this [link](#) or visiting our Department’s website at [www.albanyny.gov](http://www.albanyny.gov).

## 4. *Sidewalk & Barricade Permit*

***A sidewalk & barricade permit is required by the Albany City Code for any work which will be next to or obstruct a sidewalk or street.*** This is the permit you need to have a dumpster placed on the street outside a property. If you also plan to take up parking spaces, you will need to contact the Albany Police Department for temporary “no parking” signs.

### iii. When a Permit is Not Required

A permit is not required in the following instances:

- ***Repairs:*** Unless the work involves anything described above as requiring a permit, a person does not need to apply for a permit to restore a structure to its original condition. You do not have to apply for a permit, for example, if you are replacing some floor boards, stairs, or drywall.
- ***Construction of Retaining Walls:*** The law doesn’t require building permit for the construction of retaining walls, though a permit will likely be required from the City Engineer.
- ***Installation of Cubicle Walls:*** The law does not require a permit for the installation of partitions of less than 5’-9”.
- ***Finish Work:*** Except for exterior work in historic districts, the law does not require a permit for painting, tiling, carpeting, installing cabinets, etc.
- ***Portable Appliances:*** The law does not require a permit to install temporary portable heating, cooling, plumbing, ventilation, or cooling equipment.
- ***Equipment Replacement:*** The law does not require a permit for the replacement of existing equipment so long as the replacement equipment is consistent with the original equipment’s specifications.

### iv. What Information Needs to Be Submitted with a Permit Application

A permit application must contain enough information about the proposed project for our Building Inspectors to determine whether the proposed work is up to code. Because different codes apply to different projects, this can change from project to project. Below we have tried to address what is required for the most common types of residential projects.

#### 1. Stamped Plans

***Stamped plans are project plans that have been approved and stamped by a licensed engineer or architect.*** This endorsement certifies that the architect or engineer has reviewed the plans and determined that the proposed structure’s design is safe and up to code. Stamped plans are not generally required for minor projects, though the decision to require plans is ultimately up to the Building Inspector. Stamped plans are generally required for new structures larger than a shed, second floor decks, rehabilitation, and structural repairs or alterations.

Because stamped plans can be expensive, we are happy to answer questions about whether they will be needed for your permit. *In certain cases, we may accept a letter from an engineer or architect about a single element of a project which is cause for concern.* You may contact our office by phone at (518) 434-5995, by email at [codes@albanyny.gov](mailto:codes@albanyny.gov), or in person at our offices at 200 Henry Johnson Blvd.

## 2. *Required Documents*

Below is a table of common projects that we receive permit applications for from non-contractors and the documents that we require from the applicant as part of the application review. This list is only a guide as every project and the circumstances of those projects will be unique.

<u>PROJECT TYPE</u>	<u>REQUIRED DOCUMENTS</u>
<b>Deck and Porch Construction</b>	Stamped plans are required for second story porches due to the dangers posed by collapse. Otherwise, diagrams showing the dimension and type of the materials to be used, a plot plan indicating existing lot coverage.
<b>Roof</b>	A detailed description of the project including shingle type and color.
<b>Fence</b>	A detailed description of the project describing the fence material, color, height and location using a plot plan showing the building location and any adjacent roadways.
<b>Painting</b>	A detailed description of the project including paint color. A permit is only required to paint exterior surfaces in an historic district.
<b>Siding</b>	A detailed description of the project including materials type and color.

## 3. *Proof of Insurance*

Applications for permits for projects which cost more than \$10,000 must also include proof of “a liability policy in the amount of one hundred thousand/three hundred thousand dollars (\$100,000/\$300,000.) for personal injury and \$50,000 for property damage which will name the City as an insured or co-insured” as required by Albany City Code §133-10. Most contractors who do work in the City of Albany will already have these insurances on file with the Department. Even if a property owner is submitting a permit application in their own name, they may be able to reference the contractor’s insurance in their application.

## 4. *Worker’s Compensation*

As required by NY General Municipal Law §125, the Buildings Department cannot issue a permit without proof of worker’s compensation and disability insurance benefits coverage.

From contractors, we will need one of the following (as applicable): 1) WCB form C-105.2 or U-26.3, 2) WCB form SI-12 or GSI -105.2, 3) WCB form CE-200, and/or 4) WCB form DB 120.1 or 120.2.

***From homeowners, we need one of the above or WCB form BP-1 “Affidavit of Exemption” (this form is on the Workers Compensation Board website or at our front desk).*** This BP1 affidavit is a statement that no one will be ‘employed’ to do the work (ie. that the work will be done by the homeowner her or himself) and so no coverage is required.

Please review the Worker’s Compensation Board website for your questions about Worker’s Compensation Insurance. We strongly recommend that homeowners fully apprise themselves of their worker’s compensation and other liabilities before filing for a permit on behalf of a contractor.

#### **v. Permit Application Fees**

***Permit application fees may be paid at our offices at 200 Henry Johnson Blvd by credit card, check, or money order, over the phone by credit card (we accept Visa, Mastercard, and Discover), or by mail by check or money order. We cannot accept cash.***

***A full list of our fees is available on our website*** and because our fees may change, we encourage you to consult our website for an updated fee schedule, particularly if you are reading an older version of this guide.

***The permit application fees most relevant to residential property owners are below:***

- Residential Rates (1 & 2 Family) – New and Additions
  - New Construction/Additions
    - Under 2,000 square feet \$450.00
    - 2,001 to 3,000 square feet \$650.00
    - Over 3,000 square feet \$800.00
  - Alterations – including porches, decks, gutting, insulation, solar panels
    - Up to \$5,000.00 in cost \$100.00
    - Over \$5,000.00 in cost \$100 + \$8.00 per \$1,000.00
  - Improvements – including
    - fireplaces, roofs, siding, pools, retaining walls, accessory structures including garages, window replacement \$100.00
    - Fences, sheds, wood stoves, chimneys, satellite dish/antenna, gas inserts \$50.00
  - Chimney Liner \$125.00
- Commercial (including residential structures with 3 or more units)
  - New Construction/Additions
    - Up to 1,000 square feet \$700.00
    - 1,000 to 5,000 square feet \$700.00 + \$9.00 per 100 sq. ft.

▪ Over 5,000 square feet	\$1,000.00 + \$9.00 per 100 sq. ft.
○ Alterations	
▪ Up to \$5,000.00 in cost	\$400.00
▪ Over \$5,000.00 in cost	\$400.00 + \$10.00 per \$1,000.00
○ Gutting	\$125.00
▪ Residential Occupancy Permit	
○ Registration fee	\$50 per unit every 30 months
○ No Show Fee	\$50
○ Inspection Fee	\$50 for each inspection after the third inspection

### 1. *Project Cost Verification*

Many of our permit application fees are based on the overall cost of the project. This cost of work estimate is information we rely on the applicant to provide. It should be noted that lying about the cost of the project on a permit application is a crime under Article 175 of the New York State Penal Law. Our Building Inspectors also have the discretion to withhold a permit pending proof of cost where the total cost of work associated with project appears to be suspiciously low.

### 2. *Project Cost and Multiple Permits*

In order to prevent double-billing, where multiple permits are required for a single project, ***the total project cost numbers on each permit should not include the total cost of work used on other permits for that project.***

For example, assume you are constructing a house for \$100,000 and receive an estimate from your plumber for \$15,000 and from your electrician for \$20,000. The total cost of work on your building application would be \$65,000, the total cost of work on your electric permit application would be \$20,000, and the total cost of work on your plumbing permit application would be \$15,000.

### vi. Consequences of Failing to Obtain a Permit

***Work which requires a permit which is done without a permit is subject to a stop work order and a \$300 fine for each distinct aspect of the project that requires a permit.*** A stop work order can be issued even after work is completed. A permit will then have to be obtained to ensure that the building that the work done without a permit complies with the NYS Uniform Code and the Albany City Code. In some cases, this may require undoing a part of or all the work to ensure that parts of a project which may now be inaccessible for inspection comply with code. Other business the violator has before the Department may also be suspended pending resolution of the stop work order.

Noncompliant work can result in serious health and safety problems. It may create fire hazards or even undermine the structure of a building and put it at risk of collapse. Many chronically vacant buildings in the City of Albany are the victims of unpermitted and sloppy

rehabilitation efforts that made the buildings harder to fix. The decision to avoid applying for a permit may have tragic consequences which may not manifest themselves for several years and after it is too late to save the building such as when critical supports are removed, faulty electrical wiring is installed, or critical safety systems are broken.

Unpermitted work can have serious financial consequences as well. Property buyers are wary of noncompliant work. Unpermitted renovations or improvements can significantly reduce your property value. Noncompliant work may also be grounds for the denial of a claim against your homeowner's insurance.

For all these reasons, we encourage you to contact our office by phone at (518) 434-5995, by email at [codes@albanyny.gov](mailto:codes@albanyny.gov), or in person at our offices at 200 Henry Johnson Blvd if you have a question about whether you need to obtain a permit or not. If you submit a permit for work which does not require a permit, we will gladly refund your permit application fee. The application fees for residential projects like decks, fences, etc. are small and well worth the peace of mind.

#### vii. **Posting of Permits**

It is important to post your permit in a place visible from a public right of way outside the building while your work is ongoing as is required by Albany City Code §133-12. This announces to your neighbors and our Code Enforcement Officers that you have the necessary approvals to undertake your project. Failure to post a permit may result in the posting of a stop work order on the project even if the permit itself is valid.

#### viii. **Permit Renewals**

With some exceptions, **permits are only valid for one year**. The reason for the time limit is that in that time the law or the conditions of the property may have changed. However, if work is not completed during that time **you have the option of renewing your permit**. The cost of renewing a permit is 50% of the original fee for a full year's renewal. If you only need an additional six months to complete your project, the cost of renewal is 25% of the original fee.

If you only need a few weeks to complete your project, the Building Inspector at her or his discretion may provide a permit holder an additional three months to complete the project at no charge. If the project is not completed in those three months, however, the permit will have to be renewed for either six months or a year. If that happens, the renewal is backdated to the original permit expiration date but the building inspector may grant the free month extension again should work slightly overrun schedule on the new permit expiration date.

We cannot renew a permit more than two times because the laws and the circumstances of a given property will likely have changed since our initial review of the project.

#### ix. **Permit Application Fee Refunds**

The permit application fee covers the cost of reviewing and processing a permit application. Therefore, *if a permit applicant decides not to pursue a project, the refund will consider the resources the Buildings Department has put into the project* according to the chart below. On the other hand, if a permit is applied for to do work that does not require a permit, a full refund will be issued regardless of the level of review.

To apply for a refund, the applicant must submit a written request to the Buildings Department by mail at 200 Henry Johnson Blvd, Albany, NY 12210, by fax at (518) 434-6015, or by email at [codes@albanyny.gov](mailto:codes@albanyny.gov). The date the request is received will be the date we receive the from which the refund is calculated. If the permit has been issued the permit placard needs to be returned with refund request.

The permit application refund request will be granted regardless of the reasons for the request. The refund does not have to be justified. The refund provided will be as follows:

<b>Time Elapsed Between Application and Request</b>	<b>Refund Amount</b> (of the application fee)
Prior to any Review Whatsoever	75%
While Review is Ongoing	60%
One Month (after the permit is issued)	50%
Two Months (after the permit is issued)	37.5%
Three Months (after the permit is issued)	25%
Four Months (after the permit is issued)	12.5%

As an example, if a permit application fee is \$100, the refund would be \$75 if the permit is applied for but the permit application has not yet been looked at by a Building Inspector. It will be \$60 if the permit application is undergoing review by a Building Inspector. If after the permit is issued the applicant decides not to do the work and requests a refund within one month after the permit is issued, the refund will be \$50. If the request it is within two months after the permit is issued, the refund will be \$37.50, if it is within three months it will be \$25, and if it is within four months it will be \$12.50.

All refunds, City government-wide, are subject to approval by the City Auditor.

#### 1. *Refunds for Denied Permits*

*We cannot issue refunds for denied permit applications, but denied permit applications may be re-opened by the applicant by submitting an updated, amended, or clarified application or by providing required approvals from other City Departments.*

Denied permit applications cannot, however, be re-opened after two years or where there has been a substantial change in the City of Albany Code or the NYS Uniform Code. If permit application fees have changed between the time of application and the date of reopening, the applicant may also be required to pay the difference between the old and the new fee.

x. Emergency Permits

Sometimes work will need to be done immediately as a matter of safety or to prevent substantial property damage. The most typical example of this would be the emergency installation of a boiler to provide heat to a building where the original boiler failed and cannot be repaired. Another example would be plumbing work done after a burst pipe to reduce the amount of water damage to the building.

In those cases, you or your contractor should contact the Buildings Department as soon as possible to describe the work and the nature of the emergency. We can be reached by phone at (518) 434-5995, by email at [codes@albanyny.gov](mailto:codes@albanyny.gov), or in person at our offices at 200 Henry Johnson Blvd on weekdays between 8:00AM and 4:30PM. Once the work is done, you or your contractor must apply to the Department for the necessary permit as soon as practicable after the emergency has been dealt with.

Note that work done on an emergency basis still must be up to code and must be redone if it is not.

xi. Time of Work

There are no specific laws saying when work may be done in the City of Albany, though those working in the City are highly encouraged to work during business hours and to reduce the amount of noise they create while working. The City of Albany noise ordinance at Albany City Code §255-24 forbids “unreasonable, unnecessary or unusual noise, between the hours of 6:00 a.m. and 8:00 p.m”. This is enforced by the Albany Police Department.

**d. Residential Occupancy Permits (ROPs) & Rental Dwelling Registry (RDR)**

According to Albany City Code [Chapter 231](#) landlords must obtain a Residential Occupancy Permit (ROP) and register each of their rental dwelling units on the City of Albany Rental Dwelling Registry every thirty months for each of the units they rent. To obtain an ROP, the unit must pass an inspection by one of our Code Enforcement Officers.

i. ROP Inspection Scheduling and RDR Cost

*To register a unit on the Rental Dwelling Registry and to obtain a Residential Occupancy Permit, the building owner must submit a Rental Dwelling Registry Form, which is available on our website, along with the inspection fee of \$50 per unit.*

The cost of the inspection and registration is \$50 per unit for the first two inspections (if a second inspection is needed) and \$50 per inspection thereafter. There is also a \$50 fee applied if no one is at the property to let the inspector into the building at the time of the scheduled inspection or if the inspection was cancelled within 24 hours of inspection.

Dwellings with only one rental unit which are owned and occupied by individuals more than 65 years of age are exempt from the fee.

A follow up inspection is included with the initial fee where violations are discovered during an ROP inspection. We also have a policy of granting extensions to comply where appropriate. For more on that policy see the section on extensions in this guide.

The Rental Dwelling Registration Form asks when you would like your inspection to occur. We are almost always able to schedule an inspection for the time indicated. However, if you are not submitting the form and fee in person please provide at least seven days in which we can arrange for payment of the necessary fee and the inspection.

We schedule inspections in hour windows because the nature of building inspections and the fact that we often must respond to emergencies makes it impossible for our Code Enforcement Officers to guarantee they can be at an inspection at a specific time of day. Regardless, the day of the inspection our Code Enforcement Officers will do their best to coordinate with whoever scheduled the ROP inspection to have the inspection occur at a time that fits the registrant's schedule.

Our inspectors will arrive during that hour window. If the person who called for the inspection or their agent does not answer our knock on the door, the Code Enforcement Officer will call the number of the contact, if it is available, or continue to knock on the door. The Code Enforcement Officer will remain at the property for at least five minutes while trying to make contact with the person who scheduled the inspection of their agent. If the Code Enforcement Officer is not provided access in those five minutes, a notice will be left at the front door of the property stating that we attempted to conduct the inspection but were not provided access.

## ii. How to Pass an ROP Inspection

To pass an inspection, ***the rental dwelling unit must comply with the NYS Uniform Code and the Code of the City of Albany***. You will see below in the “Relevant Codes” section of this guide that we have provided the text of the most relevant City Codes and NYS Uniform Codes that come into play during an ROP inspection.

While the assigned Code Enforcement Officer will seek to correct all code violations that come to her or his attention, below is a short list of the things a Code Enforcement Officer is actively looking to confirm are up to code.

- ***Smoke and Carbon Monoxide Detectors*** – The Code Enforcement Officer will confirm that there are working smoke and carbon monoxide detectors in the unit.
  - Smoke detectors must be in each sleeping room, in the corridor outside a sleeping room, outside a bathroom containing a shower, and near cooking appliances. There must also be at least one smoke detector on each floor.
  - Carbon monoxide detectors must be in every sleeping room, in the corridor outside sleeping rooms and on the floor of all potential sources of carbon monoxide (any fuel burning appliance).

- ***Open Means of Egress*** – In all but a few rare cases, there must be at least two ways of getting out of a residential unit in the event of an emergency. These ways out must be properly lit, clear of debris and cannot be blocked by doors that require special knowledge or a key to open from the inside of the building.
- ***General Cleanliness*** – The residential unit must be free of rubbish, garbage, and hazardous materials, there must be a trash disposal receptacle, and the unit must be free of animal infestation.
- ***Security*** – Doors to the residential unit must be lockable and in good working order. Albany City Code also requires that residential unit doors be equipped with optical viewers.
- ***Building Structure*** – The building itself must be in good condition. The Code Enforcement Officer will examine the building's foundation and other structural members for signs of failure.
- ***Electricity*** – The unit's electrical systems must be functional and safe. The Code Enforcement Officer will check to make sure that outlets and switches are properly covered, wires are not illegally exposed, and that extension cords are not being used as permanent electrical hook-ups.
- ***Running, Clean Water*** – The Code Enforcement Officer will check to ensure that the dwelling unit has clean, running water.

This list is a starting-off point for ROP inspections of units which appear to be compliant. Additional information will lead to a deeper review of the unit. For instance, if the unit is unusually cold or if a tenant reports a lack of heat, the ROP inspection will encompass the unit's heat supply system. The discovery of mold or water damage while checking for cleanliness may result in an inspection of the plumbing fixtures. A full list of the laws that apply to residential properties is included the "relevant codes" section below.

### iii. Consequences of Not Obtaining an ROP

***A landlord in the City of Albany is not entitled to rent for a unit that does not have a residential occupancy permit*** and therefore cannot evict a tenant for failure to pay rent where no residential occupancy permit has been obtained. The law is also applied, however, to entitle a landlord to past rent once the ROP has been obtained. Many tenant housing subsidies are conditioned on the unit's having an active ROP. Finally, renting without an ROP is an Albany City Code violation and is subject to a fine if the matter proceeds to court. For a further discussion of the code enforcement process, see above.

### iv. How to Check if You Have an ROP

The Buildings Department publishes an updated list of active ROPs on a weekly basis on our [departmental website](#). You may also contact the Buildings Department in person at 200 Henry Johnson Blvd, by phone at (518) 434-5995, or email at [codes@albanyny.gov](mailto:codes@albanyny.gov) to see whether a residential unit has an ROP.

v. Subsequent Code Violations

***The Buildings Department does not have the authority to revoke an ROP based on a code violation which occurs after an inspection.*** The rules regarding ROPs, which can be found below, do not provide for a revocation procedure. An ROP is not, however, an allowance to violate the Albany City Code or the NYS Uniform Code. Those violations are still subject to our code enforcement process even if the unit where the violations are found has an active ROP.

e. Unsafe and Unfit Orders

Under the NYS Uniform Code §101.2.7.4 and Albany City Code §133-54, the Department of Buildings & Regulatory Compliance has the authority to declare a building unsafe and unfit for human occupancy. ***An unsafe and unfit order means that the building or the portion of the building described cannot be occupied until the code violation that created the unsafe condition has been fixed.***

Unsafe and unfit orders may be issued for any condition that renders a building unsafe and unfit, including infestation, structural deterioration, fire damage, or faulty electrical systems.

i. Accessing a Building That Has Been Declared Unsafe and Unfit

***When an unsafe and unfit declaration is made, the property receives a notice and is posted with a warning*** stating that it is unsafe and unfit for human occupancy and ***that it cannot be occupied*** until the problem has been addressed. It is a crime to tamper with or remove these signs and police may be called to assist in removing someone from a dangerous building.

However, most unsafe and unfit declarations do not forbid entry into a building to recover personal property unless the condition of the building is imminently dangerous to those inside of it. A tenant whose building has been declared unsafe and unfit only because it lacks heat or water may return to the building to collect personal property. They're only barred from living in the building as they normally would.

ii. An Unsafe and Unfit Order is Not an Eviction

***There is a misconception between tenants and landlords that an unsafe and unfit order is an “eviction.” It is not.*** The unsafe and unfit declaration does not end the tenant's tenancy in the building and does not affect in any way a tenant's right to possession of their apartment. It is only a declaration that neither party may occupy the building as normal until the unsafe and unfit order is lifted.

iii. An Unsafe and Unfit Order Lasts Until the Problem is Fixed

***An unsafe and unfit order lasts until the property has been confirmed to be safe by the Buildings Department.*** In some cases, this can mean that the owner must obtain a permit to do necessary repair work.

In other cases, a minor repair will be sufficient to lift the order. In those situations, a call or report from a licensed electrician, plumber, or other contractor and a follow up inspection may be sufficient to lift the unsafe and unfit order.

Unfortunately, the code violations that cause an unsafe and unfit order must go through the normal enforcement process, which can take several weeks where the property owner is unwilling or unable to address the violation. Except for ordering a property owner to keep a building unoccupied, ***the Buildings Department does not have the authority or ability to force a property owner to make repairs on an expedited basis.***

iv. Emergency Housing After an Unsafe and Unfit Order is Issued

***The Buildings Department works with both the Red Cross and the Homeless and Travelers' Aid Society to provide temporary housing*** to individuals who have lost their housing due to an emergency. This housing assistance typically comes in the form of a shelter or a hotel voucher.

***The Buildings Department cannot require a landlord to provide housing for tenants*** of a building that has been declared unsafe and unfit. There is no law that requires this. Even if the landlord is required to provide temporary housing according to the tenant's lease, the Buildings Department has no power to enforce a lease.

v. Lifting an Unsafe and Unfit Order

The unsafe and unfit order will remain until violations underlying the unsafe and unfit order are addressed to the satisfaction of the Building Inspector or Code Enforcement Officer assigned to the violation. When the order is lifted, the notice will be removed from the building and occupation of the building may resume as normal.

1. *Water Damage*

One of the most common causes of unsafe and unfit orders results from water damage. In those cases, the biggest concern is that the water damage has compromised the building's electrical systems. As part of the unsafe and unfit order, we will have the utility company cut power to the building to avoid a fire. In almost all flooding incidents that result in an unsafe and unfit order we require that a licensed electrician examine the electrical systems at the property before the order may be lifted.

2. *Lack of Heat*

Another common cause of unsafe and unfit orders is a lack of heat, particularly in the winter months. The typical repair in those cases will not require a permit and may often be completed quickly. Once the Buildings Department has confirmation that the heat has returned an inspection will be scheduled as quickly as possible so that we can confirm the building is now safe and that the unsafe and unfit order can be lifted.

### *3. Lack of Sanitation*

In cases of extreme violations of a sanitation-related code provisions, such as extremely dangerous infestations or accumulation of unsafe materials, an unsafe and unfit order may be issued. In the case of an infestation, a licensed exterminator must treat the building as per Albany City Code §231-93. Proof of this must be provided to the Buildings Department. Once that proof is received, the Buildings Department may require that a follow up inspection be performed before the unsafe and unfit order is lifted.

If the unsafe and unfit order is based on an accumulation of combustible materials in the apartment, the problem materials must be removed and a follow up inspection performed before the unsafe and unfit order may be lifted.

### *4. Structural Deterioration*

An inspection may reveal serious structural defects in a building that make it unsafe to occupy. We may find, for instance, that a building's foundation is crumbling or that structural supports or other key building components are failing. In those cases, a building permit must be obtained and the work under that permit completed before the unsafe and unfit order may be lifted.

## **f. Emergency Demolitions**

The Department of Buildings & Regulatory Compliance is often asked to demolish buildings that people find unsightly or which have been abandoned for an extended period. ***We can only initiate an emergency demolition if the building presents an imminent threat to public safety.***

### **i. Assessing Potentially Dangerous Structures**

***Deteriorating buildings may become an imminent danger to the public by threatening to collapse with occupants inside or into a public right of way or nearby structures.*** Under Albany City Code §133-55 and NYS Property Maintenance Code §101.2.7.9, the Department of Buildings & Regulatory Compliance is obligated to address such imminent public safety threats by ordering and facilitating the immediate demolition or stabilization of the dangerous structure. If the owner refuses to, is unable, or unavailable to proceed with the demolition her or himself, the Buildings Department is left to oversee the process.

### **ii. The Emergency Demolition Process**

The Department follows a set procedure when faced with a building that we believe presents an imminent threat to public safety. This process is executed very quickly. Very rarely do more than a handful of hours elapse between the identification of an imminently dangerous building and the demolition of that building.

### *1. First Assessment*

After we receive a complaint about a dangerous building or encounter one during our daily activities, ***a code enforcement official will assess the building and identify what risks it may pose to the public.*** The assessment considers the integrity of the building's structural supports, the building's proximity to a public right of way or other buildings, whether the building can be secured, and other factors, such as impending storms or evidence of illegal occupation. Once the code enforcement official or building inspector concludes that the building may be an imminent public safety risk, a neutral third-party engineer is called in to assess the building.

### *2. Third Party Engineer Review*

The neutral third party engineer then visits the structure, usually within 30 minutes of having been called to it, to assess the building. ***The third-party engineer reviews the structure and*** based on their expertise as an engineer, ***issues a report confirming whether the building is an imminent health and safety risk.*** Though the initial report is given verbally, a written report is generated as soon as is practicable.

Both the code enforcement official at the scene and the engineer walk through the building as best they can do safely and ensure that there is no one inside the building. If the engineer's conclusion is that the building is an imminent risk to public safety, a code enforcement official is assigned to watch the building to ensure no one enters the vicinity of the structure.

### *3. Emergency Contractor Bidding and Demolition*

If the engineer determines that the building is an imminent safety threat, ***we call in contractors who are registered and licensed to perform emergency demolitions in the City of Albany.*** To be qualified to perform emergency demolitions, the contractor must have several licenses and insurances, including an insurance policy that holds the City of Albany harmless for anything that could go wrong with an emergency demolition. Contractors must also be able to perform the demolition immediately upon winning the bid to perform the demolition. The list of contractors is generated from a request for qualifications issued periodically by the City Clerk's Office.

The contractors are given thirty minutes to review the building and submit bids for the demolition work. The bids are written on an emergency demolition bid form, sealed, and given to the code enforcement official assigned to oversee the demolition. ***The contractor with the lowest bid is awarded the job.***

The demolition work must begin promptly but it typically takes some time to commence the work. This time is needed to bring in the necessary equipment and personnel and to prepare

the site for demolition. The code enforcement official assigned to the demolition will remain onsite until the building is completely taken down and the site secured.

#### *4. Public Safety Precautions*

When conducting an emergency demolition, the City of Albany requires that the contractor performing the demolition must take several precautions as necessary to ensure that the demolition itself does not present a threat to the public. The demolition is performed in accordance with NYS Labor Laws which typically requires the debris be watered down as the demolition proceeds so that it is heavy such that dangerous contaminants, such as asbestos, don't get into the air. The windows of occupied buildings adjacent to the building will be covered with plastic sheathing when necessary to prevent asbestos and other debris from entering. Air quality is typically monitored throughout the demolition to ensure that no dangerous material enters the surrounding area, and after the demolition the debris will be covered in plastic and/or surrounded by a temporary fence.

Roads may also be closed while a demolition is ongoing if there is a chance that building debris will fall into the street. Occupied buildings adjacent to a building to be demolished or which are otherwise threatened by a building to be demolished will be evacuated while the demolition is performed.

#### *5. Debris Removal*

The contractor who performs the demolition is also responsible to remove the debris in a timely manner. However, debris must remain on site for at least two weeks as mandated by NYS Department of Labor regulations. It can often take longer to remove debris because of limited space at the landfills used by the demolition contractor. In all cases the debris is removed as soon as possible.

After the debris is removed, the lot is back filled so that it can be redeveloped in the future and so that the footprint of where the building once stood does not continue to be a nuisance.

##### *iii. Emergency Demolition Cost*

***The owner of the demolished building is responsible for the cost of the demolition, including the cost of hiring the third-party engineer, and any personnel costs associated with overseeing the demolition.*** In cases where the owner does not pay, the City of Albany will add the cost of the demolition to the property's tax levy. Albany does not foreclose on or take over the ownership of the vacant lot where the demolished building once stood. The vacant lot remains the owner's property.

#### **g. Vacant Buildings**

Vacant buildings are a problem in every city and the City of Albany is no exception. They are a drain on our neighborhoods and municipal resources. The Department of Buildings & Regulatory Compliance is always searching for ways to better address the problems posed by building vacancy while using what tools it does have to combat the problem.

One of the reasons vacant buildings are so difficult to deal with is that their owners often do not believe they have an obligation to maintain their vacant buildings or, if they know they have this obligation, they actively avoid attempts to make them uphold their obligations.

i. Vacant Building Owner Obligations

1. *Keeping the Building Up to Code*

***Vacant building owners are still required to keep their buildings up to code.*** If you see a problem building in your neighborhood, the Buildings Department can bring an enforcement proceeding against a negligent vacant building owner. One of the problems posed by vacant buildings, however, is that because no one is coming or going from them, code violations will go unreported. For example, if water is getting into a building from a leaking roof, there may be no indication from outside the building that this is happening and by the time it comes to our attention it is too late to save the building. There have been countless instances in which our Code Enforcement Officers find a building which looks safe and habitable from the street has completely fallen in on itself inside and is on the verge of collapse.

2. *Vacant Building Registry*

***The City of Albany has a vacant building registry which requires the owner of vacant buildings which are not “secured by normal means” or have open code violations pending against them to pay a fee and register with the City.*** As part of this registration, the owner must provide detailed contact information and a plan to secure, rehabilitate, or demolish the building. The program is designed to provide the City with information about vacant building owners so that the Buildings Department can better ensure that the vacant buildings are maintained and secured. It is also meant to offset the costs imposed by vacant buildings on our neighborhoods.

On a quarterly basis, the Buildings Department presents the Mayor and the Common Council with a report on the vacant building registry. This report is available on our [departmental website](#).

ii. Board Ups

The Buildings Department is responsible for coordinating the boarding up of vacant structures, which it is empowered to do by NYS Property Maintenance Code §101.2.6.7.5. When we learn of an unsecured structure the Code Enforcement Officer assigned to the matter will coordinate with the Department of General Services and the Police Department to ensure that the building is empty and then to board up the building. The cost of the board up is invoiced to the owner and, if the invoice is not paid the cost of the board up is added to the building's property tax levy.

In some cases, however, a board up will not be possible because the building is not structurally sound enough for board up work to be performed on it.

### iii. Enforcement Difficulties

Albany, like any city, faces difficulties in imposing liability on ***negligent vacant building owners in general because many have abandoned the vacant building and are actively avoiding prosecution.*** Many vacant buildings are in a legal limbo where it's not clear who owns them either because the owner of record has passed away or the building is in foreclosure. In other cases, the owner simply does not have the resources to maintain the building properly. It can also be difficult to identify vacant buildings from the street. The Buildings Department is continuously and actively seeking to overcome these difficulties but the problems they present run deep and must be addressed on a building-by-building basis.

### iv. Statewide Vacant Building Registry

In 2016 the New York State Government passed the Neighborhood Stabilization Act which is meant to ease some of the difficulties mentioned above. As part of that law, the Attorney General's Office established a state-wide abandoned property registry which will be a resource that municipalities can use to identify and address abandoned buildings. Though the registry is in its infancy as of this writing, the Department of Buildings & Compliance looks forward to using this registry to help address the problem of abandoned properties in Albany.

As part of the registry, ***the NYS Attorney General's office established a state-wide abandoned property hotline at (800) 342-3736*** where anyone can notify the NYS Department of Finance about an abandoned building. This may lead to the property being added to the state-wide vacant building registry. Though this is helpful, complaints about abandoned buildings in the City of Albany should always also be referred to the Department of Buildings & Regulatory Compliance by phone at (518) 434-5995, by email at [codes@albanyny.gov](mailto:codes@albanyny.gov), or in person at our offices at 200 Henry Johnson Blvd on weekdays between 8:00AM and 4:30PM.

### v. Neighborhood Stabilization Coordinator

In late 2016, the City of Albany was awarded a grant to hire a Neighborhood Stabilization Coordinator. This person's job is to improve the City of Albany Vacant Building Registry, closely monitor the vacant building problem in Albany, and coordinate the efforts of the various departments that deal with vacant buildings, including the Department of Buildings & Regulatory Compliance. This position has not been filled as of this writing, but once it is the Stabilization Coordinator they may be contacted through the Department of Buildings & Regulatory Compliance by phone at (518) 434-5995, by email at [codes@albanyny.gov](mailto:codes@albanyny.gov), or in person at our offices at 200 Henry Johnson Blvd on weekdays between 8:00AM and 4:30PM.

### vi. Placarding

Beginning in the spring of 2016, the City of Albany Fire Department began posting "red X" placards on vacant and abandoned buildings in the City. These placards are required to be posted according to the NYS Uniform Code. The purpose of the placards is to announce to first responders who may be called to the building that the interior of the building may be structurally unsafe. Though emergency personnel always assess each situation individually and will enter a

building if there is information that someone is in danger inside, the placard provides an important warning of potentially unseen structural dangers that can cost lives.

The “red X”’s do not mean that a building is going to be demolished or that it is an imminent threat to public safety or that is going to be rehabilitated.

#### **h. Waste Collection Fee**

The Department of Buildings & Regulatory Compliance manages the waste collection fee program and determines who should and should not be charged the fee.

The waste collection fee program is a per unit fee on two to four unit properties for all units except one at a two to four-unit property. It is meant to cover the cost of curbside garbage collection generated by people residing in those units. Properties with more than four units and commercial properties are already required to provide for their own trash pick-up, which is why they have been left out of the program.

Eligibility for the fee is determined using tax records and waste collection fee records collected during the previous year. Invoices for the fee are sent out in the first two months of the year for which the fee is due.

##### **i. Exemptions**

There are four exemptions to the fee. If you have received notice that you will be charged the fee, it will be up to you to apply for one or more of these exemptions using the Waste Collection Fee Exemption Application which is available on our [departmental website](#).

1. **Private Hauling**. If you hire a private trash collector for all units at your 2 to 4 unit property, you will not have to pay the fee. Note that the private hauling must be for the whole property. Specifically, property owners do not receive a “free unit” for their property if they opt for a private hauling service exemption.
2. **The Unit is not Being Used as a Residence**. If a unit for which a fee is assessed will not be used as a residential unit in the year for which the fee is assessed it will not be assessed the waste collection fee.
3. **The Property is Vacant**. If the property is vacant and in compliance with the Vacant Building Registry, and will remain vacant for the entire year for which the fee is to be assessed it will not be assessed the fee.
4. **Age, Disability, or Low Income Tax Based Credit**. Individuals who receive a tax credit or exemption through the city due to age, disability, or lack of income will not be charged the fee for a property at which they reside.

5. **Multiple Units are Owner Occupied**. Where a building is owned by multiple people who each occupy their own unit, exemptions will be granted for each owner-occupied unit.

ii. Applying for an Exemption

If you believe that you are entitled to an exemption from the waste collection program fee, you must submit a completed Waste Collection Fee Exemption Application to the Department of Buildings and Regulatory Compliance by April 1 of the year for which the fee is assessed. The Department of Buildings and Regulatory Compliance will work with you to help you prove your entitlement. Below is a list of documents which we suggest you submit along with your Waste Collection Fee Exemption Application.

1. ***Private Hauling***. If you are entitled to the **private hauling exemption** you should submit a copy of the contract covering the property to be exempted from the fee.

2. ***The Unit is not Being Used as a Residence***. If you are entitled to a **non-residence use exemption** because the **unit is not being rented or otherwise occupied** the individual will have to submit the affirmation included on the back of the Waste Collection Fee Exemption Application form stating that the unit is not being used for residential purposes.

It should be noted that, a unit with an active ROP will be liable for the fee. An ROP may be surrendered by the owner and this, in addition to submission of an affidavit stating that the unit is not being used for residential purposes, will be needed to obtain an exemption.

3. ***The Property is Vacant***. If you are entitled to a **non-residence use exemption** because the **property is vacant**, you will have to register the building as vacant on the vacant building registry or, if the building is vacant and not required to be on the vacant building registry, you will have to authorize the Department to verify this compliance. Specifically, a building which is vacant but is secured by normal means and in compliance with code for one year does not have to be registered on the vacant building registry. If the building is already registered, you will have to notify the Department and we will confirm.

4. ***Age, Disability, Low Income***. If you are entitled to an **age, disability, income tax exemption** then you will have to notify the Department of your claim to that exemption and submit proof of residence in the form of a copy of a government-issued ID, voter registration card, or utility or other bill. The Department of Buildings and Regulatory Compliance will confirm with the Assessor's Office whether you in fact receive one of these credits. If you do not receive the credit, the Department cannot grant the exemption and you will have to apply to the proper tax authorities to obtain the exemption if you are entitled to it. Once that exemption has been granted, the waste exemption may be granted.

5. **Multiple Units are Owner Occupied**. If you are applying for an exemption for second, third, or fourth units being owner occupied, you will need to submit proof of

ownership and residence for each owner-occupant. Acceptable proof of residence will be a driver's license or official piece of mail bearing the owner's name and the relevant address. Proof of ownership would be a copy of the deed or contract of sale or a recent tax bill.

iii. Processing Waste Collection Fee Exemption Applications

Waste collection fee exemption applications are reviewed by Buildings Department staff. ***If the application is granted, we will forward the information to the Treasurer's Office*** so they know not to charge the exempted property for the fee.

***If the application is denied, a denial letter is sent describing the basis for the denial.*** It will also inform you of your right to correct, amend, or clarify your application to address the reason for the denial within two weeks of your receiving the letter. Should you wish to provide that additional information we will review that information and reconsider the denial.

iv. Appealing a Waste Collection Fee Denial

If our denial stands, ***a denied waste collection fee may be appealed to the City of Albany Board of Zoning Appeals free of charge.***

v. Late Fees

Failure to pay the waste collection fee within three months of the issuance of the invoices will result in the imposition of a late fee of \$50. Failure to pay within six months will result in the imposition of a \$100 late fee.

Late fees may be waived in instances where the invoice did not reach you or if there is some other plausible and good faith reason that the fee was not paid on time.

If the waste collection fee is not paid at all, it will be introduced as a levy on the assessed building's property taxes.

i. Grievance Procedure

The Department of Buildings & Regulatory Compliance ***grievance procedure is a process whereby individuals may challenge any action or inaction on the part of the Buildings Department.*** A grievance may be filed to challenge, for example, a permit denial, an interpretation of code, a failure to issue a citation, a stop work order, and any number of other things. It cannot be filed with respect to a citation which has been referred to court for prosecution.

The grievance form is available on our website and at our offices. On the form you may describe the action or inaction you are seeking to change and set out exactly what you want to happen. The grievant is encouraged to provide any and all additional information and documentation they have regarding the grievance. There is no fee for filing a grievance.

The form will be reviewed and investigated by a member of the Buildings Department's managerial staff. If it involves the activities of a Buildings Department staff member, that person will be interviewed. If it involves an interpretation of code, the law will be reviewed.

After this investigation is complete, a determination letter will be issued to the person who submitted the grievance. The letter will set out in writing the outcome of the investigation and will document the manager's decision to reverse or uphold the decision that is the subject of the grievance.

After the person who submitted the grievance receives the determination letter, they are entitled to submit whatever documentation or other information they have to dispute the decision made in the determination letter.

The grievant is also entitled to a meeting with the manager assigned to the grievance to discuss the facts of the grievance. At the meeting the grievant can discuss in detail their position and directly address the decision made in the determination letter.

After the meeting, the manager assigned to the grievance will issue a final determination letter. This letter will outline what was discussed at the meeting and set out whether the decision that is the subject of the grievance will be amended. The basis for the final determination will also be provided.

The final determination letter closes out the grievance process and formally resolves the matter as far as the Buildings Department is concerned. Further action may be taken to appeal the final determination elsewhere.

## **2. WHAT THE BUILDINGS DEPARTMENT CANNOT DO**

The Department of Buildings & Regulatory Compliance's mission and authority are the subject of some confusion in the community. This section deals with the things we are most often called upon to resolve that we don't have the authority to solve.

### **a. Repair a Building**

We cannot directly address code violations on behalf of building owners or residents except in emergency situations to stabilize a building which is an imminent threat to public safety or, in conjunction with the Water Department or a property's utility provider, to cut water or electric service to a building.

We also cannot directly order a building owner to address a violation. We can work with Corporation Counsel through the Court system to impose a fine on a building owner who is in violation of a code, but if the code violator does not care about a fine then there is nothing further the Buildings Department is empowered to do to address the situation.

### **b. Settle Boundary Disputes**

***The Buildings Department cannot settle boundary disputes or issue violations based on an allegation that work extends beyond a property's boundary.*** Determining the location property lines is a complicated task that requires land surveying training and equipment that we do not have. A court is the only body with the authority to determine and finally rule on the location of a property boundary. For this reason, the Buildings Department cannot issue a final determination as to where a property boundary line is and cannot issue a citation based solely on an allegation that someone is building over their property line.

The Buildings Department takes permit applicants at their word that the work they apply to do will be done within the boundaries of their own property. We also assume that someone who does not want work done on their property will intervene to stop it from happening.

If you believe that a neighbor is intruding on your property with a project that we have issued a permit for, the dispute over where the property line is is ultimately up to you and your neighbor (or a judge, if it comes to that). We advise people who find themselves in this situation to contact an attorney to determine what their options are.

c. **Settle Landlord Tenant Disputes**

***The Buildings Department cannot order a tenant to vacate an apartment or to pay rent. The Buildings Department cannot order that a landlord allow a tenant to remain in an apartment or to waive a tenant's rent because of the condition of the building.***

We will inspect whenever we receive a complaint that someone is in violation of code, but any code violation that we find to exist does not directly affect the legal relationship between a landlord and a tenant as far as the Buildings Department is concerned. While the landlord and tenant may have a lease that requires something from either a landlord or tenant in the event of a code violation, we cannot enforce the terms of a lease between the parties. We cannot advise a tenant on a potential eviction or on whether they should withhold rent.

Disputes between a landlord, if they cannot be worked out between the individuals, are a matter for the Courts. Our Code Enforcement Officers and Building Inspectors are available to testify in a landlord tenant matter provided we have received a proper subpoena.

d. **Provide Engineering Services**

Our Code Enforcement Officers and Building Inspectors are trained to identify whether a building complies with code. They are not trained or certified as engineers to identify how to construct a building so that it complies with code. Even if we were qualified to do so, providing engineering advice would put our Building Inspectors and Code Enforcement Officers in the impossible position of evaluating their own engineering recommendations. For all these reasons, we cannot comment on or provide advice on questions of architecture or building engineering.

We are, on the other hand, able to discuss what the Albany City Code and NYS Uniform Code require. We are also open to any correction in our interpretation of those codes.

e. **Guarantee That a Building is Safe**

The Buildings Department cannot guarantee that a building is safe or free from all hazards, even after we have conducted an inspection, issued a residential occupancy permit, or issued a certificate of occupancy. There are three reasons for this. First, the NYS Uniform Code provides only minimal levels of safety. Second, it is always possible that our Code Enforcement Officers or Building Inspectors will have missed something during an inspection either because they were not looking for it or it was deliberately hidden from them. Third, the condition of a building can change immediately after an inspection. You should never rely on an inspection by our office to guarantee that a building is safe and always exercise your own judgment and common sense when entering a building.

f. **Grant an Exception to the NYS Uniform Code**

The Buildings Department does not have the authority to grant an exception or variance to the NYS Uniform Code. Such an exemption can only be granted the New York State Division of Building Standards and Code which may be reached at (518) 474-4073.

g. **Take Over a Building**

The Buildings Department does not have the authority to foreclose on or otherwise take ownership of property. Though this may appear to be the case when we oversee an emergency demolition, the property itself, including the lot and remaining debris, remain the property of the owner.

h. **Exercise Authority Over State Owned Buildings**

The Department of Buildings & Regulatory Compliance does not have authority over buildings which are owned by governmental entities other than the City of Albany. This includes all state buildings, federal, and county government owned buildings.

i. **Manage City Property**

The Department of Buildings & Regulatory Compliance does not manage buildings owned by the City of Albany, which are managed by their respective departments, the City Engineer, or the Department of General Services.

**3. ZONING (INCLUDING HISTORIC & OVERLAY DISTRICTS)**

Zoning regulations come from the Albany City Code and they set out what can and can't be done with property in a zoning district. To see what zone your property is located in, the City of Albany maintains a [searchable map](#). Once you have your zoning designation, you can check it against the City of Albany's Zoning Code, which can be found [online](#).

a. **Historic & Overlay Districts**

Throughout the City there are historic and overlay districts which are subject to their own set of development and use rules meant to reinforce their existing character. The bulk of the additional regulations deal exclusively with the outward appearance of buildings in those districts. The City of Albany's [searchable map](#) also includes information as to whether a given property is in an historic, overlay, flood plain or other special district. You can get to this map by clicking on this link.

Work that changes the outward appearance of a building in an historic or overlay district may be subject to approval by City of Albany Historic Resources Commission or the Planning Board.

b. **Common Zoning Issues**

Zoning compliance is part of the review undertaken by building inspectors when reviewing a permit application. Violation of the City of Albany zoning law may be the basis of a notice of violation or stop work order issued by a Code Enforcement Officer.

People living in residential districts don't typically run afoul of the zoning law unless they operate a business out of the property. Below we'll go into detail about the types of residential zoning violations we receive the most questions about.

i. **Lot coverage**

Many of the City of Albany's zoning districts include limits on the percentage of the property lot which can be covered by structures. This preserves the character of a district and mitigates potential flooding and drainage issues.

Lot coverage includes the footprint of all impervious surfaces. This includes buildings and accessory structures such as sheds, decks, porches as well as concrete surfaces such as walkways and driveways.

ii. **Home Occupations**

A residence may be used to run a business without a variance under very specific circumstances outlined at Albany City Code 375-3(C)(6)(j). This section of the code is reproduced in full below, but we'll list some of the major restrictions here.

Residence: The building must be occupied and resided in by the business owner.

Floor area: The home occupation cannot take up more than 25% of the floor area or 500 square feet of the residential area of the building, whichever is less.

Advertising: No change may be made to the structure itself to accommodate the home occupation other than "one unanimated, non-illuminated flat or window sign having an area of not more than one foot" affixed to the building itself or placed in a window.

Employees: The home occupation can only employ the building resident or one employee at a given time.

Noise, Materials, & Parking: No noise, materials, or vehicles related to the home occupation may be apparent from outside the building housing the home occupation.

Prohibited Home Occupations: The following home occupations are not allowed without obtaining a variance: i) vehicle or equipment repair or storage, ii) dog grooming, care, or boarding, iii) custom sign shops, iv) majority retail businesses, and v) any business requiring deliveries of any goods in a truck with a gross weight over 10,000 pounds or more than 10 deliveries by a truck of any kind more than 10 days per week.

Additional restrictions do apply, so we strongly encourage you to look closely at the City Code before developing a home occupation to ensure that it's compliant with applicable laws.

Also, a home occupation will require a permit, even if it is allowed because it constitutes a change of use.

### iii. Temporary Rentals (ie. AirBnB)

Many people ask what is required from the Buildings Department for them to rent their property through a temporary rental service like AirBnb.

An ROP is required no matter the duration of a rental term (whether it is a few days or a few years) unless all that is being rented is a bedroom in an already-existing self-contained dwelling unit.

However, *if a property owner is renting property to different tenants at a rate of more than three renters in any month or more than twelve renters in a year, then the property owner must file a change of use application to go from residential to transient housing.* It's likely that this application would have to go before the Board of Zoning Appeals for approval.

While the use of temporary rental services is an attractive way to earn income, the abuse of these services can negatively impact surrounding properties by increasing traffic and introducing instability within a neighborhood.

The City Code does not directly regulate "temporary rentals" but does regulate the use of property as "transient housing". At the time the City Code was enacted, transient housing was limited to hotels, motels, bed and breakfasts, etc. but temporary rental services have enabled property owners to use otherwise stable residential housing as "transient housing". This is the justification for our current policy.

It is important to note that this policy applies to all situations where a property is being used by many different occupants over a given period.

c. **Variances**

If a person wants to use residential property for something other than what is allowed in the zoning district where it's located, the person proposing the change must apply to the Buildings Department for a change of use by submitting a building permit application. The minimum fee of \$125 will be charged for this initial application. The application will then be reviewed by one of our Building Inspectors who will confirm that the proposed use does not comply with the City of Albany Zoning Law and denial letter will be issued.

This denial letter may then be referred to the Planning Department, which manages the City of Albany Board of Zoning Appeals, so that an exception can be made to the zoning law to allow the use proposed. The Board of Zoning Appeals weighs several factors, including input on the proposal from neighbors who are notified of the proceeding, in making the decision to grant a variance.

The variance, once granted, stays with the property indefinitely. It should be noted, however, that a permit will still be needed after a variance is granted to ensure the project complies with the NYS Uniform Code and the rest of the City of Albany Code.

d. **Legally Nonconforming (“Grandfathering”)**

Generally speaking, a use that does not conform with the existing zoning rules is allowed 1) if the use was legal as of June 1, 2017, the day the new zoning ordinance was enacted, and 2) if the property has been used in that manner without the use having been discontinued for more than a year. Different uses, however, have different rules that may apply to their non-conforming status, so we encourage you to consult the City Code for questions about whether a particular use is legally nonconforming or not.

If you believe your property enjoys legally nonconforming status, you may apply to the Planning Department for a “certificate of nonconformity” to confirm that the use is legal. It is up to the applicant to provide information of continued, non-conforming use. The Planning Department may be reached at (518) 465-6066.

e. **Zoning Letters**

Lenders, potential home buyers, and others may request that you obtain a “zoning confirmation letter” or a “letter of compliance” from the City of Albany in conjunction with a sale or loan. This document will provide confirmation from us that the building is in compliance with the City of Albany’s zoning regulations. A zoning letter may be obtained from the Planning Department, which may be reached at (518) 465-6066.

## **4. STAFF TRAINING**

Our Code Enforcement Officers and Building Inspectors receive certification from the NYS Department of State as code enforcement officials after successfully completing a 120-hour course and passing a series of certification exams. To maintain this accreditation, they receive 24

hours of continuing training each year. Many of our Code Enforcement Officers and Building Inspectors receive additional trainings beyond this in their areas of expertise. Finally, many of our staff come to the Department with extensive experience in the building trades.

Our staff members are not architects or engineers and while we can provide some advice on code compliance, we cannot provide architectural or engineering advice or suggestions.

## **5. RESPONSIBILITIES OF LANDLORDS & TENANTS**

Both the landlord and tenant bear responsibility for the upkeep of a building. Maintaining property in a manner consistent with the law typically requires cooperation and coordination between the two. However, the reality is that landlord and tenant relationships break down occasionally which can lead to a call to the Buildings Department by one or both parties.

### **a. Who Receives a Citation**

Though both landlords and tenants have obligations under the City of Albany Code and the NYS Uniform Code, the landlord's responsibilities are greater than those of the tenant. The nature of the landlord-tenant relationship is that the tenant is often more able to walk away from a property without remedying a code violation. It is also the case that the violations of one tenant will impact other tenants and that the landlord is the only one able to work with the non-compliant tenant to protect innocent tenants. The landlord is also the only one who can coordinate the actions of multiple tenants, which may be needed if the violation exists throughout the building.

Because our job is to ensure compliance, we are obligated for all these reasons to include the building owner in any citation that we issue with respect to their property. However, we know that coming into compliance when the landlord tenant relationship has broken down is difficult. *If you are a landlord who finds yourself unable to come into compliance due to the action or inaction of a hostile tenant, we will grant reasonable extensions before seeking a fine so long as the relationship is being repaired or terminated.*

We will cite the tenant where the tenant is responsible for the underlying violation in an area under their control. This may include failure to maintain an apartment in a clean and sanitary manner, removing smoke or carbon monoxide detectors, or infestation. Where there is no evidence that the tenant caused the violation, however, we will not cite the tenant for that violation.

### **b. Resolving Disputes Between a Tenant and a Landlord**

The Department is often asked to intervene in landlord tenant disputes. We can't settle a dispute between a tenant and landlord because we have no authority over the landlord-tenant relationship. We cannot evict a tenant, rule that a tenant does not have to pay rent, order a landlord not to evict a tenant, or order a landlord to reimburse a tenant for damaged property. That kind of relief can only be obtained in a court of law.

c. **List of Tenant and Landlord Responsibilities**

What follows is a list of responsibilities setting out what the Buildings Department generally expects of tenants and landlords. Every situation and every property is unique, however, so this list may or may not apply to a given situation. You will also see that there are several responsibilities that fall on both the tenant and the landlord and so the parties should work together whenever possible to ensure a building is maintained in compliance with the law.

i. **Landlord Responsibilities**

1. limiting occupancy to the maximum number of persons permitted and prohibiting unlawful uses;
2. maintenance of the premises in a clean, safe and sanitary condition;
3. maintenance of the operation of service facilities in good order and condition;
4. maintenance of plumbing, heating and electrical equipment and systems, appliances, fixtures, as well as other building equipment and facilities, in an appropriate, good operative, clean and sanitary condition;
5. maintenance of walls, floor and ceiling in public places in a clean and sanitary condition;
6. keeping exits free and clear; and
7. disposing of garbage, refuse and junk in a safe and sanitary manner and keeping the premises free and clear therefrom, and broom-clean, and extermination of insects, vermin, rodents, pests and elimination of harborage.

ii. **Tenant Responsibilities**

1. occupancy limitations and its lawfully permitted use;
2. maintenance in a clean, safe and sanitary condition;
3. maintenance of plumbing, cooking and refrigeration equipment, appliances, fixtures and facilities in a clean and sanitary condition, and providing reasonable care in the operation and use thereof;
4. keeping exits free and clear;

5. disposing of garbage and refuse into provided facilities in a sanitary manner, and keeping the premises free and clear therefrom; and
6. keeping domestic animals and pets in an appropriate manner and under control.

## 6. RELEVANT CODES

Both the City of Albany Code and the NYS Uniform Building Code are too extensive to reprint here. However, it is possible to present the most relevant and commonly cited portions of the most relevant and commonly cited codes so we've done that here. We've organized the citations by topic.

With respect to citations for the NYS Uniform Code, the citations below are drawn from the NYS Property Maintenance Code and the NYS Fire Code. These are the two volumes which apply most directly to the maintenance of residential property.

In many cases both the Albany City Code and the NYS Uniform Code will have similar regulations but there are a lot times where the NYS Uniform Code will regulate something that the Albany City Code does not or vice versa. Where both the Albany City Code and the NYS Uniform apply to a certain area, both codes are provided. If only one or the other applies, the code that applies will be printed.

### a. General

The following codes relate to the underlying authority of the Department of Buildings & Regulatory Compliance to enforce the Albany City Code and the NYS Uniform Building & Fire Code.

#### i. Enabling Laws

What follows is the provision of the Albany City Code creating and empowering the Department of Buildings & Regulatory Compliance to enforce the City and NYS Uniform Code.

##### 1. *Enabling Laws - Albany City Code*

###### **§231-103 – *Administrative agency.***

A. The Department of Buildings and Regulatory Compliance of the City of Albany, New York, is hereby designated as the agency to administer and secure compliance with this code. ...

B. The Department shall be under the direction and charge of the Commissioner of the Department of Buildings and Regulatory Compliance as chief officer of said Department, who shall have as his representatives such assistants and inspectors as may be necessary to carry out effectively the powers and duties of the Department.

C. All personnel of the Department shall be qualified and appointed as prescribed by the laws of the City of Albany and the rules and regulations of the Department of Buildings and Regulatory Compliance.

**§231-103.1 – *Applicability of State Uniform Fire Prevention and Building Code.***

A violation of the State Uniform Fire Prevention and Building Code (9 NYCRR, Subtitle S, Chapter I; hereinafter "Uniform Code") shall be a violation of this chapter, punishable as hereinafter set forth.

**§231-10 – *Powers and duties.***

A. The Bureau shall be charged with the duty of administering this code and securing compliance therewith . . . and shall be empowered to adopt rules and regulations necessary for securing such compliance and for its own organization and internal management, provided that such rules and regulations shall not be in conflict with this code.

B. It shall be the duty of the chief officer:

(1) To cause periodic inspections to be made of all premises within the scope of this code, to cause an inspection to be made upon the sale of any housing accommodations covered by this code and, at the request of the buyer or seller, to make such inspection prior to the closing of title for such premises.

ii. Emergency Measures

The following codes apply to the Buildings Department's emergency actions, including board ups, unsafe and unfit orders, and emergency demolitions.

1. *Emergency Measures – Albany City Code*

(2) To cause an investigation of all complaints of alleged housing violations or other unsafe or insanitary conditions. . . . The name of the complainant shall not be revealed except as may be required in the course of legal action.

(3) To request the Corporation Counsel of the City to take appropriate legal action in the name of the Bureau upon failure of the responsible party to comply with any violation order within the time specified therein.

(4) To cooperate with other municipal governmental agencies engaged in the survey, study and improvement of housing conditions.

(5) To issue a certificate of compliance for premises which satisfy the requirements of this code.

(6) To charge such fees as may be established by the Common Council of the City of Albany.

...

**§375-5(E)(1)(a) *Building Permit.*** No person shall construct, alter, add to, or convert any structure or part of a structure without a valid Building Permit issued by the Chief Building Official.

**§133-54 – *Unsafe & Unfit Buildings.*** ...[A] building is unsafe by reason of the condition of the building or premises, including but not limited to structural instability in whole or in part, failure, inoperability or absence of adequate sanitary waste disposal, water supply, electrical, plumbing, heating and ventilating systems or facilities, vermin and insect infestation or unsanitary, dilapidated, decaying or overcrowded conditions.

**§133-55 – *Power to Act in Emergencies.***

A. Whenever the Commissioner finds that a violation of this Part 2 exists which, in his opinion, requires immediate action to abate a direct hazard or an immediate danger to the health, safety or welfare of the occupants of a building or of the public, the Commissioner may, without prior notice or hearing, take any action authorized herein which is reasonably necessary to abate or remove the condition.

B. Such action may include but is not limited to demolition of the building or structure, vacating the occupants of the premises and of surrounding premises, closing of public or private streets or rights-of-way, termination of utility service, erection of barricades and other protections and the performance of physical work on the premises.

C. Recovery of any cost incurred with respect to the abatement of an emergency by the Commissioner shall take place pursuant to the provisions of this Part 2, and the Commissioner of Buildings is hereby authorized and empowered to employ such labor and furnish such materials and take such steps as in his judgment may be necessary to make the building safe.

D. The value of the work done and the materials furnished in doing said work, or any part thereof, under and by direction of the Department of Buildings, as provided for in the last section, shall, when properly certified by the Commissioner of Buildings, be audited and paid by the City in the same manner as other claims against the City are audited and paid, and the amount so paid shall be and remain a lien against the property upon which the work is done and shall be collected by the City from the owner of such property in the same manner as taxes are collected, and the City may institute an action at law against such owner, owners or occupants to recover the cost thereof. The remedy by action at law shall be in addition to the right to assess the cost as a lien against the property.

**2. *Emergency Measures – NYS Property Maintenance Code***

**§101.2.6.7 – *Unsafe structures and equipment.***

If during the inspection of a premises, building or structure, or any building system or equipment, in whole or in part, there

exists a clear and imminent threat to human life, safety or health, the authority having jurisdiction charged with the administration and enforcement of the Uniform Code shall exercise its powers in due and proper manner so as to extend to the public

protection from the hazards or threat to human life, safety, or health.

#### §101.2.6.7.1 – ***Unsafe structures.***

An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or to the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire; or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, or structurally unsafe; or is of such faulty construction or unstable foundation that partial or complete collapse is possible. A vacant structure that is not secured against unauthorized entry as required by Section 311 of the 2015 IFC shall be deemed unsafe.

#### §101.2.6.7.2 – ***Unsafe equipment.***

Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or any other equipment on the premises or within the structure that is in such disrepair or condition that the equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

#### §101.2.6.7.3 – ***Structure unfit for human occupancy.***

A structure is unfit for human occupancy whenever the structure is unsafe, unlawful, or because of the degree to which the structure is in disrepair or lacks maintenance or the location of the structure constitutes a hazard to the occupants of the structure or to the public.

#### §101.2.6.7.4 – ***Unlawful structure.***

An unlawful structure is one found in whole or in part to be occupied by more persons than are permitted under the 2015 IFC, or was erected, altered or occupied contrary to law.

#### §101.2.6.7.5 – ***Closing of vacant structures.***

If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, a placard of condemnation shall be posted on the premises, and the structure shall be closed up so as not to be an unattractive nuisance.

#### §101.2.6.7.6 – ***Prohibited occupancy.***

No person shall occupy a placarded structure.

§101.2.6.7.6.1 – ***Placard removal.*** The placard shall be removed whenever the defect or defects on which the condemnation and placarding action were based have been eliminated.

#### §101.2.6.7.7 – ***Notice.***

Whenever a structure or equipment has been condemned under the provisions of this section, a notice shall be posted in a conspicuous place in or about the structure affected by such notice. If the notice pertains to equipment, it shall also be placed on the condemned equipment.

#### §101.2.6.7.8 – ***Imminent danger.***

The occupants shall vacate premises when there exists:

1. Imminent danger of failure or collapse of a building or structure which endangers life;

2. A structure where the entire or part of the structure has fallen and life is endangered by the occupation of the structure;
3. Actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials; or
4. Operation of defective or dangerous equipment.

There shall be posted at each entrance to such structure a notice reading as follows: "This Structure is Unsafe and its Occupancy Has Been Prohibited by the code enforcement official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or demolishing the structure.

**§101.2.7.4 – *Unsafe structures and equipment.***

If during the inspection of a premises, building or structure, or any building system or equipment, in whole or in part, constitutes a clear and imminent threat to human life, safety or health, the authority having jurisdiction charged with the administration and enforcement of the Uniform Code shall exercise its powers in due and proper manner so as to extend to the public protection from the hazards of threat to human life, safety, or health.

**§101.2.7.4.1 – *Unsafe structures.***

An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the

structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

**§101.2.7.4.2 – *Unsafe equipment.*** Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure that is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

**§101.2.7.4.3 – *Structure unfit for human occupancy.***

A structure is unfit for human occupancy whenever such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by the 2015 IPMC, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

**§101.2.7.4.4 – *Unlawful structure.***

An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under the 2015 IPMC, or was erected, altered or occupied contrary to law.

**§101.2.7.5 – *Vacant structures.***

Vacant structures shall comply with the 2015 IPMC and the 2015 IFC.

**§101.2.7.6 – *Notice.***

Whenever a structure or equipment has been condemned under the provisions of the 2015 IPMC, a notice shall be posted in a conspicuous place in or about the structure affected by such notice. If the notice pertains to equipment, it shall also be placed on the condemned equipment.

**§101.2.7.7 – *Prohibited occupancy.***

No person shall occupy placarded premises or shall operate placarded equipment.

**§101.2.7.8 – *Placard removal.***

The placard shall be removed whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated.

**§101.2.7.9 – *Imminent danger.***

The authority having jurisdiction is authorized to order and require the occupants to vacate premises when there exists:

iii. Residential Occupancy Permit

Below is the text of the Albany City Code governing and establishing the residential occupancy permit and rental dwelling registry:

**§231-128 – *Title.***

This Part 4 shall be known as the "Residential Occupancy Permit Provisions" and is supplementary to applicable provisions of the Housing Code of Albany, New York.

**§231-129 – *Purpose and scope.***

1. Imminent danger of failure or collapse of a building or structure which endangers life;
2. A structure in which any part of the structure has fallen and life is endangered by the occupation of the structure; or
3. An actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials; or
4. Operation of defective or dangerous equipment.

The Authority Having Jurisdiction shall require the posting at each entrance to such structure a notice reading as follows: "This Structure is Unsafe and its Occupancy Has Been Prohibited by the Code Enforcement Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or of demolishing the same.

The purpose and scope is to provide uniform administration and compliance with the requirements of this Part 4 applicable to residential occupancy permits and to establish the responsibilities of parties concerned therewith.

**§231-130 – *Inspection and certification of premises.***

**A. General.**

(1) All residential rental dwelling units shall be inspected and certified by the Department of Buildings and Regulatory Compliance (hereinafter "the Department"), which shall determine compliance with, administer and enforce all applicable provisions of this code and the Code. On and after November 1, 1996, residential occupancy permits shall be valid for 30 months from the date of issuance.

(2) Nothing contained herein shall be construed or operate to invalidate an otherwise legally effective permit or certificate issued prior to November 1, 1996, except that such permit or certificate shall be valid only until May 31, 1999, or a change in the tenancy of the residential rental dwelling unit to which the permit or certificate relates, whichever first occurs.

(3) Except as otherwise provided herein, it shall be unlawful and a violation of this chapter to rent, lease or otherwise allow the occupancy of any residential rental dwelling unit without the inspection and certification as required herein.

(4) If, upon inspection, said premises do not comply with all applicable provisions of this code or the Uniform Code, the specific reasons for noncompliance shall be specified in writing in a notice and order, as provided in § 231-108. The notice

and order shall be served as set forth in Chapter 133A of this Code. Occupants or proposed occupants of dwellings shall have the right to inspect the certificate of occupancy of the residential rental dwelling unit, apartment or multiple residence in which they have an interest at no cost.

**B.** On or after November 1, 1996, the Department shall have the right to inspect all or any part of the rental dwelling, including any unit or apartment, or entire multiple residence as required herein and/or upon complaint, except that the owner, agent or person in charge thereof shall have the right to insist upon the procurement of a search warrant from a court of competent jurisdiction by the Chief of the Department, or his or her designee, in order to enable such inspection. The officials charged with conducting the inspection pursuant to this Part 4 shall be required to obtain a search warrant whenever an owner, agent or person in charge refuses to permit a warrantless inspection of the premises after having been advised that he or she has a constitutional right to refuse entry of the officials without a search warrant.

**C.** The officials charged with conducting the inspection shall make such inspection, access and circumstances permitting, within three business days of receipt of a request from the owner, agent or occupant.

**D.** An owner, agent or occupant may file with the Department a request for such inspection and the issuance of a residential occupancy permit by regular mail or in

person at the office of the Chief of the Department.

E. Nothing in this Part 4 shall be construed to limit the right of the Department to inspect any property at any time. If, after issuing a residential occupancy permit, the Department receives a complaint alleging a violation of this chapter, other than a violation that creates an imminent hazard to the public health or to the physical or mental health of the occupants of the rental property, the Department shall make a good faith effort to notify the owner or agent of the complaint by either telephone or regular mail, before conducting an inspection under this chapter, and shall provide to the owner or agent one working day to explain what steps the owner or agent is taking to correct the violation. The Department may take steps necessary, by inspection or other means, to assure that the violation is corrected.

F. No residential occupancy permit shall be issued under this Part 4 unless and until the fee(s) required under Part 5 of this chapter is paid in full to the Department.

G. No residential occupancy permit shall be issued under this Part 4 unless the rental dwelling unit is an authorized use pursuant to Chapter 375, Zoning, and until all other applicable provisions and requirements of the Code of the City of Albany are complied with and met.

#### ***§231-131 – Collection of rents.***

No owner, agent or person in charge shall collect rents during any period of noncompliance with the provisions of this

part which would otherwise be due and owing for the rental of premises unless and until he or she shall have complied with the provisions herein. Nothing herein shall be construed to prevent a landlord, upon receipt of the residential occupancy permit, from receiving the equitable value of the occupancy of the premises from the earliest date of occupancy, but in no event shall a landlord recover in excess of the agreed rent.

#### ***§231-132 – Applicability.***

The provisions of this Part 4 shall not apply to dwellings designed and used exclusively for occupancy as hotels, motels, transient homes or establishments of like nature.

#### ***§231-133 – Temporary residential occupancy permit.***

The Department may cause to be issued at its discretion a temporary occupancy permit following an initial inspection, which temporary occupancy permit shall be subject to review and revocable at the discretion of the Department. No temporary occupancy permit may be issued in cases where fire safety is involved, such as defective electrical wiring, the absence of either an operating smoke detector or, after October 1, 1996, a carbon monoxide detector where required, or improper or inadequate means of egress and other conditions of like nature.

#### ***§231-134 – Penalties for offenses.***

Any person who shall knowingly and willfully violate or assist in the violation of this Part 4 or who fails to comply with a notice and order issued by the Department under this Part 4 shall, upon conviction, be

punished as set forth in Chapter 133A of this Code.

**§231-135 – *Fees*.**

A. The following schedule of fees shall apply with respect to the inspection and certification of residential dwelling units:

(1) There shall no charge for an initial inspection to determine compliance with the applicable provisions of this code or for a first reinspection.

(2) Any and all subsequent reinspection(s) necessary to determine compliance with required corrective action or repairs shall be subject to a charge of \$50 per unit inspected.

(3) Failure to appear within 15 minutes of a scheduled inspection ("no show") shall result in a fee of \$50 per unit.

(4) Cancellation of a scheduled inspection less than 24 hours before that scheduled inspection ("late cancellation") shall result in a fee of \$50 per unit.

(5) Cancellation of a scheduled inspection for the unit more than once or after a "no show" ("second cancellation") shall result in a fee of \$50 per unit.

B. Fees prescribed under this section for failure to appear at, and cancellation of, a scheduled inspection may be waived at the

discretion of the Commissioner or his or her designee for good cause shown.

C. Unpaid fees shall be subject to the placement and recording of a lien by the City of Albany against the inspected property.

**§231-139 – *Registry of rental dwellings required*.**

All rental dwellings shall be registered with the City by the owner as required herein.

**§231-140 – *Reregistration*.**

All owners shall reregister a certified rental dwelling prior to expiration of the residential occupancy permit as required by Part 4 of this chapter.

**§231-141 – *Registration of existing and new rental dwellings*.**

A. All rental dwellings existing as of the effective date of this chapter shall be registered on or before November 1, 1996. The Administrator may require and order registration prior to that date for any dwelling cited in a notice under the City Code. Failure to comply with such an order is a violation of this chapter.

B. The owner of a new rental dwelling or any dwelling newly converted to a rental dwelling shall register the rental dwelling prior to allowing occupancy of any new rental unit.

**§231-142 – *Change in registration information*.**

A. The owner of any rental dwelling already registered with the City shall reregister

immediately after any change occurs in registration information.

B. Upon sale or transfer of title to a piece or parcel of land located in the City of Albany on which a rental dwelling unit is located, the purchaser shall provide a new rental dwelling property application to the Department of Buildings and Regulatory Compliance at the time of closing.

C. The new owner of a rental dwelling unit must schedule an inspection of the rental unit or units with the Department of Buildings and Regulatory Compliance.

**§231-143 – *Registration of rental dwellings.***

The City shall maintain a registry of all rental dwellings and rental units containing the following information which shall be provided by the owner on forms available from the Department of Fire and Emergency Services:

A. The name, legal residence address and telephone number of the owner and any agent in control of the rental dwelling, and, in the event the owner or agent is not a natural person, then the owner information shall be that of the president, general manager or other chief executive officer of the organization. Where more than one natural person has an ownership interest, the required information shall be included for each owner. The information required herein shall also include the address and phone number where the owner(s), agent(s)

and/or responsible person(s) may be reached day and night.

B. The number and type of rental units in the dwelling.

C. The address of the rental dwelling.

D. The date of birth of the owner or owners of the rental dwelling for those seeking an exemption of the filing fee requirement as provided under this part.

E. The employer identification number in the event that the rental dwelling is owned by a corporation.

F. If neither the address of the owner or the address of the agent in control of the premises, as provided in Subsection A, are within Albany County, the name, legal residence or business address within Albany County and telephone number of a natural person who shall be an agent for service of notices and orders issued under this chapter and for service of process in connection with the prosecution of violations of this chapter in Albany City Court or other court of competent jurisdiction.

**§231-144 – *Fees; exemptions.***

A. To offset the administrative costs of preparing and maintaining the registry and conducting the inspections required under Part 4 of this chapter, there shall be a per-unit fee of \$50 for the initial and each subsequent registration.

B. Owner-occupied rental dwellings containing not more than one rental unit owned by one or more natural persons, all of whom are aged 65 years or older, are exempt from the filing fees set forth herein.

**§231-145 – *Failure to register; inaccurate or incomplete information.***

It shall be a violation of this chapter for an owner or a responsible person to provide

inaccurate information for the registry of rental dwellings or to fail to provide the information required herein for the registry.

**§231-146 – *Penalties for offenses.***

An owner who fails to register, reregister or otherwise comply with the provisions of this Part 5 shall, upon conviction, be subject to the penalties set forth in Chapter 133A of this Code.

iv. Vacant Building Registry

Below is the text of the Albany City Code governing the City of Albany Vacant Building Registry. As discussed above, vacant buildings are not exempt from the rest of the Albany City Code or NYS Uniform Code. Instead, because they are vacant they pose unique dangers and are subject to additional laws.

**§133-78.2 – *Definitions.***

Unless otherwise expressly stated, the following terms shall, for the purpose of this article, have the meanings indicated in this section:

**ENFORCEMENT OFFICER** – A duly authorized representative of the Department of Fire, Emergency and Building Services.

**OWNER** – Those shown to be the owner or owners on the records of the City of Albany Department of Assessment and Taxation, those identified as the owner or owners on a vacant building registration form, a mortgagee in possession, a mortgagor in possession, assignee of rents, receiver, executor, trustee, lessee, other person, firm or corporation in control of the premises. Any such person shall have a joint and several obligation for compliance with the provisions of this article.

**SECURED BY OTHER THAN NORMAL MEANS** – A building secured by means other than those used in the design of the building.

**UNOCCUPIED** – A building which is not being used for an occupancy authorized by the owner.

**UNSECURED** – A building or portion of a building which is open to entry by unauthorized persons without the use of tools or ladders.

**VACANT BUILDING** – A building or portion of a building which is:

- A. Unoccupied and unsecured;
- B. Unoccupied and secured by other than normal means;
- C. Unoccupied and an unsafe building as determined by the

Department of Fire, Emergency and Building Services;

D. Unoccupied and has multiple housing or building code violations;

E. Illegally occupied;

F. Unoccupied for a period of time over 365 days, and during which time the enforcement officer has issued an order to correct code violations.

**§133-78.3 – *Vacant building registration.***

A. The owner shall register with the Division of Buildings and Regulatory Compliance not later than 30 days after any building in the City becomes a vacant building or not later than 30 days after being notified by the Divisions of Buildings and Regulatory Compliance of the requirement to register. The Division may identify vacant buildings through its routine inspection process as well as through notification by residents, neighborhood associations and other community groups that a building may be eligible for inclusion on the registry.

B. The registration shall be submitted on forms provided by the Division of Buildings and Regulatory Compliance and shall include the following information supplied by the owner:

(1) A description of the premises.

(2) The names, addresses, copy of driver's license, social security number, and telephone numbers of the owner or owners.

(3) If the owner does not reside in Albany County or any adjoining county, the name, address, copy of driver's license, social security number, and telephone number of any third party with whom the owner has entered into a contract or agreement for property management.

(4) The names and addresses of all known lienholders and all other parties with an ownership interest in the building.

(5) A telephone number where a responsible party can be reached at all times during business and nonbusiness hours.

(6) A vacant building plan as described in Subsection C.

(7) Provide a cash bond acceptable to the Enforcement Officer, in the sum of not less than \$10,000, to secure the continued maintenance of the property throughout its vacancy and reimburse the City for any expenses incurred in inspecting or securing such building when such building is not in compliance with this article.

(8) Incomplete registration forms will not be accepted, and if the lack of compliance results in nonregistration of the building, the owner can be prosecuted under § 133-80.

C. The owner shall submit a vacant building plan which must meet the approval of the Enforcement Officer. The plan, at a minimum, must contain information from

one of the following three choices for the property:

(1) If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition and the proposed time frame for any necessary permitting through the City.

(2) If the building is to remain vacant, a plan for the securing of the building in accordance with standards provided in § 133-68, if applicable, along with the procedure that will be used to monitor and maintain the property in accordance with Article XI, and a statement of the reasons why the building will be left vacant.

(3) If the building is to be returned to appropriate occupancy or use, a rehabilitation plan for the property. The rehabilitation plan shall not exceed 365 days, unless the Enforcement Officer grants an extension upon receipt of a written statement from the owner detailing the reasons for the extension. If no building permit has been applied for within the 365 days, the Enforcement Officer will send written notification to the owner of the lack of compliance with § 133-78.3C. The owner will be required to file an extension with a revised rehabilitation plan and reasons for noncompliance. Failure to respond may result in prosecution as prescribed in § 133-80. Any repairs, improvements or alterations to the

property must comply with any applicable zoning, housing, historic preservation or building codes and must be secured in accordance with § 133-68, if applicable, during the rehabilitation.

D. The Enforcement Officer shall provide the owner with a written referral to the Department of Development and Planning for information outlining programs available which may be useful in developing the owner's rehabilitation plan.

E. All applicable laws and codes shall be complied with by the owner. The owner shall notify the Enforcement Officer of any changes in information supplied as part of the vacant building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must be in writing and must meet the approval of the Enforcement Officer.

F. The owner and subsequent owners shall keep the building secured and safe and the building and ground properly maintained and monitored as provided in Article XI of this chapter.

G. Failure of the owner or any subsequent owners to maintain the building and premises that results in remedial action taken by the City shall be grounds for revocation of the approved plan and shall be subject to

any applicable penalties provided by the law.

H. The new owners shall register or re-register the vacant building with the Enforcement Officer within 30 days of any transfer of an ownership interest in a vacant building. The new owners shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the Enforcement Officer.

I. Vacant building fees.

(1) The owner of a vacant building shall pay an annual fee as set forth in Subsection I(2) for the period the building remains a vacant building. The fee shall be reasonably related to the administrative costs for registering and processing the vacant building owner registration form and for the costs of the City in monitoring and inspecting the vacant building site. Vacant building registration fees will not be accepted until an application is complete.

(2) The first-year annual fee shall be \$250 and shall be paid no later than 30 days after the building becomes vacant. If the fee is not paid within 30 days of being due, the owner shall be subject to

prosecution as prescribed in § 133-80. If a plan is extended beyond 365 days, subsequent annual fees shall be paid as follows:

(a) For the second year that the building remains vacant: \$500;

(b) For the third year that the building remains vacant: \$1,000;

(c) For the fourth year that the building remains vacant: \$1,500; and

(d) For the fifth, and each succeeding year that the building remains vacant: \$2,000.

(3) The fee shall be paid in full prior to the issuance of any building permits, with the exception of a demolition permit. The fee shall be prorated, and a refund may be issued if the building is no longer deemed vacant under the provisions of this article within 180 days of its registry.

(4) All delinquent fees shall be paid by the owner prior to any transfer of an ownership interest in any vacant building. If the fees are not paid prior to any transfer, the new owner shall pay the

annual fee no later than 30 days after the transfer of ownership, and subsequent annual fees shall be due on the new anniversary date.

J. The Enforcement Officer shall include in the file any property-specific engineering reports, written statements from community organizations, other interested parties or citizens regarding the condition, history, problems, status or blighting influence of a vacant building.

K. The purchaser/buyer of any vacant building within the City of Albany shall, at the time of closing, file a new and complete vacant building registration form. The purchaser shall also pay to the City of Albany, at the time of closing, the fees associated with registering such vacant building.

L. The seller of any vacant building within the City of Albany shall, at the time of closing, pay any and all past due vacant building registration fees associated with said building that is being sold.

#### **§133-78.4 – *Exemptions***

A building which has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement for a period of 90 days after the date of the fire or extreme weather event if the property owner submits a request for exemption in writing to the Department of Fire, Emergency and Building Services. This request shall include the following information supplied by the owner:

A. A description of the premises.

B. The names and addresses of the owner or owners.

C. A statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building.

...

#### **§133-78.7 – *Penalties for offenses***

Any person violating any provision of the Vacant Building Registry or providing false information to the Enforcement Officer shall be punished as provided by Chapter 133A of this Code.

### **v. Trash Storage & Accumulation**

Trash accumulation and storage violations occurring in the exterior of a property are typically handled by the City of Albany Department of General Services which has the authority and ability to physically remove trash and debris on five days' notice and to bill the owner. Still, trash-related violations may also form the basis of a citation by the Buildings Department.

#### **1. *Albany City Code (Trash Storage & Accumulation)***

##### **§313-5 – *Collection points and schedules*.**

...

B. Refuse for collection must be placed at curbside prior to 12:01 a.m. on the scheduled collection day, but not before 4:30 p.m. of the prior day.

**§231-94 – *Garbage and refuse.***

A. Exterior property area shall be kept free from organic and inorganic material that might become a health, accident or fire hazard.

B. Adequate sanitary facilities and methods shall be used for the collection, storage and handling and disposal of garbage and rubbish. It shall be prohibited to store or

accumulate garbage or rubbish in halls or stairways. Every dwelling and every dwelling unit shall be provided with such receptacles as may be necessary to contain all garbage and rubbish, and all such receptacles shall be maintained in good repair. Receptacles for garbage shall be made of durable material, shall be watertight and shall be provided with tight-fitting covers.

C. No person shall kindle any fire or furnish any material for any fire nor authorize such fire in any street, lane, alley or any vacant lot. . . .

**2. *Property Maintenance Code (Trash Storage & Accumulation)***

Under the NYS Property Maintenance Code “garbage” is food waste while “rubbish” applies to all other types of trash. Because “garbage” and “rubbish” present their own unique health and safety challenges, they are treated differently in the NYS Uniform Code.

**§308.1 – *Accumulation of Rubbish & Garbage.*** Exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

**§308.2 – *Disposal of Rubbish.*** Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

**§308.2.1 – *Rubbish Storage Facilities.*** The owner of every occupied premises shall supply approved covered containers for rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

**§308.3 – *Disposal of Garbage.*** Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

**b. Exterior**

Below are a list of the most commonly cited City of Albany and NYS Uniform Codes which relate to exterior property areas.

**i. General**

**1. *General Exterior – Albany City Code***

**§231-91 – *Open areas.***

- A. Stormwater shall be properly drained to prevent recurrent entrance of water into any basement or cellar.
- B. Surface and subsurface water shall be appropriately drained to protect buildings and structures and to prevent development of stagnant ponds. Gutters, culverts, catchbasins, drain inlets, stormwater sewers, approved combined storm and sanitary sewers or other satisfactory drainage systems shall be utilized where deemed necessary.
- C. Fences and other minor structures shall be maintained in a safe condition.
- D. Steps, walks, driveways, parking spaces and similar areas shall be maintained so as to afford safe passage under normal use and weather conditions.
- E. Yards, courts and lots shall be kept free and clear of physical hazards and material or debris which would cause a fire hazard or act as a breeding place for vermin or insects.
- F. Heavy undergrowths and accumulations of plant growth noxious or detrimental to health shall be eliminated.
- G. Exterior property areas shall be free from conditions which might create a health, accident or fire hazard.
- H. Exterior property areas shall be reasonably free from holes and excavations, sharp protrusions and other objects or conditions which might cause personal injury. Walks, steps and driveways that contain holes or tripping hazards shall be filled, repaired or replaced as the need indicates. Open wells, cesspools or cisterns shall be securely closed. Trees or limbs of trees that constitute a hazard shall be removed.
- I. Sewage must be discharged into a public sewer system except as specially permitted by the authority having jurisdiction in accordance with the New York State Public Health Law and the Albany County Sanitary Code. Discharge of inadequately treated sewage shall not be permitted upon the surface of the ground or into natural or artificial surface drainways.

...

## 2. General Exterior – NYS Property Maintenance Code

**§302.6 – *Exhaust Vents.*** Pipes, ducts, conductors, fans or blowers shall not discharge gases, steam, vapor, hot air, grease, smoke, odors or other gaseous or particulate wastes directly upon abutting or adjacent public or private property or that of another tenant.

**§302.7 – *Accessory Structures.*** All accessory structures, including detached garages, fences and walls, shall be maintained structurally sound and in good repair.

**§304.3 – *Premises Identification.*** Buildings shall have approved address numbers placed in a position to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals or alphabet letters. Numbers shall be not less than 4 inches (102 mm) in height with a minimum stroke width of 0.5 inch (12.7 mm).

## ii. Exterior Structure

The following codes are those that apply to the visible exterior structure of a building.

### 1. *Exterior Structure – NYS Property Maintenance Code*

**§304.1 – General (Building Structure).** The exterior of a structure shall be maintained in good repair, structurally sound and sanitary so as not to pose a threat to the public health, safety or welfare.

**§304.5 – Foundation Walls.** All foundation walls shall be maintained plumb and free from open cracks and breaks and shall be kept in such condition so as to prevent the entry of rodents and other pests.

**§304.6 – Exterior Walls.** All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained weatherproof and properly surface coated where required to prevent deterioration.

**§304.8 – Decorative Features.** Cornices, belt courses, corbels, terra cotta trim, wall facings and similar decorative features shall be maintained in good repair with proper anchorage and in a safe condition.

**§304.9 – Overhang Extensions.** All overhang extensions including, but not limited to, canopies, marquees, signs, metal awnings, fire escapes, standpipes and exhaust ducts shall be maintained in good repair and be properly anchored so as to be kept in a sound condition. Where required, all exposed surfaces of metal or wood shall be protected from the elements and against

decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

**§304.10 – Stairways, Decks, Porches, & Balconies.** Every exterior stairway, deck, porch and balcony, and all appurtenances attached thereto, shall be maintained structurally sound, in good repair, with proper anchorage and capable of supporting the imposed loads.

**§304.11 – Chimneys & Towers.** All chimneys, cooling towers, smoke stacks, and similar appurtenances shall be maintained structurally safe and sound, and in good repair. All exposed surfaces of metal or wood shall be protected from the elements and against decay or rust by periodic application of weather-coating materials, such as paint or similar surface treatment.

**§304.12 – Handrails & Guards.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

**§304.13 – Window, Skylight, & Doors Frames.** Every window, skylight, door and frame shall be kept in sound condition, good repair and weather tight.

## iii. Paint

Featured below are only those codes related to painting that can be found in the NYS Property Maintenance Code. The painting regulations in the Albany City Code are dispersed and related to particular zoning districts. It should be noted that restrictions on paint colors which

will apply in historic or overlay districts are administered by the Historic Resource Commission or Planning Board and aren't explicitly set out in the Albany City Code.

#### 1. *Paint – NYS Property Maintenance Code*

**§302.9 – *Defacement of Property*.** No person shall willfully or wantonly damage, mutilate or deface any exterior surface of any structure or building on any private or public property by placing thereon any marking, carving or graffiti. It shall be the responsibility of the owner to restore said surface to an approved state of maintenance and repair.

**§304.2 – *Protective Treatment*.** Exterior surfaces, including but not limited to, doors, door and window frames, cornices, porches, trim, balconies, decks and fences, shall be maintained in good condition. Exterior wood surfaces, other than decay resistant woods, shall be protected from the elements and

decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be eliminated and surfaces repainted. Siding and masonry joints, as well as those between the building envelope and the perimeter of windows, doors and skylights, shall be maintained weather resistant and water tight. Metal surfaces subject to rust or corrosion shall be coated to inhibit such rust and corrosion, and surfaces with rust or corrosion shall be stabilized and coated to inhibit future rust and corrosion. Oxidation stains shall be removed from exterior surfaces. Surfaces designed for stabilization by oxidation are exempt from this requirement.

#### iv. Outdoor Property Maintenance & Sanitation

While the Buildings Department may cite a property for overgrowth, these citations are generally referred to the Department of General Services. This is because the Department of General Services has the authority and ability to cut back overgrowth and bill the owner on five days' notice, whereas our citations are issued on 30 days' notice and we lack the ability or authority to trim back overgrown vegetation.

#### 1. *Outdoor Overgrowth & Sanitation – Albany City Code*

##### **§231-91 – *Open areas.***

...

E. Yards, courts and lots shall be kept free and clear of physical hazards and material or debris which would cause a fire hazard or act as a breeding place for vermin or insects.

F. Heavy undergrowths and accumulations of plant growth noxious or detrimental to health shall be eliminated.

G. Exterior property areas shall be free from conditions which might create a health, accident or fire hazard.

...

#### 2. *Outdoor Overgrowth & Sanitation – NYS Property Maintenance Code*

**§302.1 – *Sanitation*.** Exterior property and premises shall be maintained in a clean, safe

and sanitary condition. The occupant shall keep that part of the exterior property that

such occupant occupies or controls in a clean and sanitary condition.

**§302.3 – *Sidewalks & Driveways.*** Sidewalks, walkways, stairs, driveways, parking spaces and similar areas shall be kept in a proper state of repair, and maintained free from hazardous conditions.

**§302.4 – *Weeds.*** Premises and exterior property shall be maintained free from weeds or plant growth in excess of 10 inches. Noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

#### v. Flooding

Portions of the City will naturally see more water accumulation than others during times of heavy rain. It is also typically impossible to determine the origin of water that has accumulated in any given area. ***The Buildings Department cannot force property owners to store water on their property or otherwise alter the natural flow of water*** for the benefit of properties further down the natural flow of water from them. Our powers are limited to correcting situations where one property owner is intentionally draining water from their own property to cause a nuisance to neighboring properties or City infrastructure.

Though the Buildings Department is the enforcing authority for stormwater drainage violations, stormwater drainage issues are handled primarily by the Water Department and City Engineer.

If you plan on changing the grade of your property or installing a driveway or other impermeable surface, you should contact the City Engineer at (518) 427-7481 to determine what, if any, approvals may be needed.

#### 1. *Flooding – Albany City Code*

##### **§231-46. – *Storm Drainage***

A. Roofs and paved areas, including yards and courts, shall be properly drained. Storm drainage shall be conveyed to an adequate and approved system of water disposal where available. Storm drains shall be discharged in such manner that water will not flow onto sidewalks. Gutters and leaders shall adequately protect adjoining property from the water flowing from such roofs.

...

C. Leaders and gutters, if used, shall be constructed of noncombustible material, except that wood leaders and gutters may be

used for buildings not more than three stories high.

##### **§231-91 – *Open areas.***

A. Stormwater shall be properly drained to prevent recurrent entrance of water into any basement or cellar.

B. Surface and subsurface water shall be appropriately drained to protect buildings and structures and to prevent development of stagnant ponds. Gutters, culverts, catchbasins, drain inlets, stormwater sewers, approved combined storm and sanitary sewers or other satisfactory drainage

systems shall be utilized where deemed necessary.

## 2. *Flooding – NYS Property Maintenance Code*

**§302.2 – *Grading & Drainage*.** Premises shall be graded and maintained to prevent the erosion of soil and to prevent the accumulation of stagnant water thereon, or within any structure located thereon. Exception: Approved retention areas and reservoirs.

**§304.7 – *Roofs & Drainage*.** The roof and flashing shall be sound, tight and not have

defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance.

## vi. Parking & Vehicle Storage

Complaints about parking on a public right of way should be referred to the Police Department. However, there are Codes which the Buildings Department may enforce as they relate to parking on private property.

### 1. *Towing of Illegally Stored or Parked Vehicles*

***Where possible, the Buildings Department works with the Albany Police Department to remove vehicles that are illegally stored on private property for extended periods of time.*** The Buildings Department will first notify the owner that the vehicle is being stored illegally and provide the owner with time to comply. We will also take down the vehicles identifying information and forward it to the Albany Police Department. If the vehicle is not removed by the required compliance date, we will work with the Albany Police Department to remove the vehicle. Whether this is done depends on available Albany Police Department resources. We also cannot remove vehicles that are in garages or behind fences or otherwise secured within the property.

### 2. *Parking & Vehicle Storage – Albany City Code*

**§359-66 – *Abandoned Vehicle*.** It shall be unlawful to park, store or leave in the open or to abandon a junk vehicle upon private property for a period of more than one week except as permitted by license pursuant to § 136 of the General Municipal Law as enacted by Chapter 1040 of the Laws of 1965, unless the same is necessary for the operation of a business enterprise lawfully upon said premises.

### **§375-15 – *Parking Restrictions***

The following provisions apply in all zoning districts:

- (a) No parking area shall be used for the sale, storage, repair, dismantling, or servicing of any vehicles, equipment, materials, or supplies, unless permitted under Section 375-3(C).

- (b) No surface parking area shall be used for sales of goods at retail or wholesale unless permitted under Section 375-3(C).
- (c) Parking spaces for any single- or two-family residential structure shall not be provided in the front setback area or any area forward of the front wall plane of the structure unless they are located on a paved area that does not exceed 35 percent of the lot width or the width of any paved parking area that exists on June 1, 2017, whichever is wider. The maximum percentage of lot width used for parking may be increased to 50 percent if at least the additional 15 percent of lot width used for parking is surfaced with pervious pavers acceptable to the City, rather than with an impervious surface.
- (d) Boats, boat trailers, trailers, campers, and recreational vehicles shall only be stored in a rear yard.
- (e) In the R-M, R-V, MU-NE, MU-NC, MU-I, MU-CU, MU-DT, and I-1 districts, off-street parking and vehicle maneuvering areas shall be provided behind the front wall plane of new and redeveloped buildings, or shall be located within the principal building or within a garage structure, to the maximum degree practicable.

### *3. Parking & Vehicle Storage - NYS Property Maintenance Code*

**§302.8 – Motor Vehicles.** Except as provided for in other regulations, no inoperative or unlicensed motor vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be

in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

#### *vii. Barbecues & Fire Pits*

It is critical when you have an open fire or barbecue near a building that you consider your surroundings. Wind, for example, can kick up embers from even small fires or barbecues, and drop them in places where a fire may spread. When operating a barbecue or other open fire, you should always have someone attending the fire, you should always have some means at hand to put out a fire, and you should always look for and remove nearby combustible materials.

To report an illegal fire you should contact the Albany Fire Department by dialing 911.

#### *1. Barbecues & Fire Pits – Albany City Code*

**§197-5 – Fires in Yards & Buildings.** No person shall kindle, make or keep a fire in

any yard or building in the City unless in a wire, steel, concrete, brick or other fireproof

enclosure or receptacle. . . . Any fire kindled or built outside of any building shall be at least 25 feet from any wood structure, and in no event shall such fire be built within 10 feet of any type of structure. . . .

c. **Interior**

i. **Building Structure**

1. *Building Structure – NYS Property Maintenance Code*

**§305.1 – *Interior Structure (General)*.** The interior of a structure and equipment therein shall be maintained in good repair, structurally sound and in a sanitary condition. Occupants shall keep that part of the structure that they occupy or control in a clean and sanitary condition. Every owner of a structure containing a rooming house, housekeeping units, a hotel, a dormitory, two or more dwelling units or two or more nonresidential occupancies, shall maintain, in a clean and sanitary condition, the shared or public areas of the structure and exterior property.

**§305.2 – *Structural Members*.** All structural members shall be maintained structurally sound, and be capable of supporting the imposed loads.

**§305.3 – *Interior Surfaces*.** Interior surfaces, including windows and doors, shall be maintained in good, clean and sanitary

In no event shall this article be construed to permit the burning of garbage or any material which would produce noxious odors.

condition. Peeling, chipping, flaking or abraded paint shall be repaired, removed or covered. Cracked or loose plaster, decayed wood and other defective surface conditions shall be corrected.

**§305.4 – *Stairs & Walking Surfaces*.** Every stair, ramp, landing, balcony, porch, deck or other walking surface shall be maintained in sound condition and good repair.

**§305.5 – *Handrails & Guards*.** Every handrail and guard shall be firmly fastened and capable of supporting normally imposed loads and shall be maintained in good condition.

**§305.6 – *Interior Doors*.** Every interior door shall fit reasonably well within its frame and shall be capable of being opened and closed by being properly and securely attached to jambs, headers or tracks as intended by the manufacturer of the attachment hardware.

ii. **Heat**

Complaints of lack of heat are treated as emergencies and can be common in winter months. Where a building lacks heat, it may be declared an unsafe and unfit but a building without heat does not necessarily mean a citation will be issued. In a landlord-tenant situation, the law requires that the building owner provide useable heating equipment to a building. Unless it is required or implied in tenant and landlord's lease that heat will be provided, the building owner's only obligation is to provide heating equipment and facilities that the tenant can use to heat the building.

Assistance with heating bills may be available through the Albany County Department of Social Services. We strongly encourage tenants to visit their offices at 162 Washington Ave, Albany, NY 12210 if your heat has been turned off by the utility company for lack of payment.

### 1. *Heat – NYS Property Maintenance Code*

**§602.2 – Residential Occupancies (Heating).** Dwellings shall be provided with heating facilities capable of maintaining a room temperature of 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms based on the winter outdoor design temperature for the locality indicated in Appendix D of the International Plumbing Code. Cooking appliances shall not be used, nor shall portable unvented fuel-burning space heaters be used, as a means to provide required heating. Exception: In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained. Exceptions: Owner-occupied one-family dwellings subject to the approval of the code enforcement official.

**§602.3 – Heat Supply.** Every owner and operator of any building who rents, leases or

lets one or more dwelling unit, rooming unit, dormitory or guestroom on terms, either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from September 15th to May 31st to maintain a temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms. Exceptions: 1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the International Plumbing Code. 2. In areas where the average monthly temperature is above 30°F (-1°C), a minimum temperature of 65°F (18°C) shall be maintained.

### iii. Cleanliness & Sanitation

#### 1. *Cleanliness & Sanitation – NYS Property Maintenance Code*

**§308.1 – Accumulation of Rubbish & Garbage.** Exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

**§308.2 – Disposal of Rubbish.** Every occupant of a structure shall dispose of all rubbish in a clean and sanitary manner by placing such rubbish in approved containers.

**§308.2.1 – Rubbish Storage Facilities.** The owner of every occupied premises shall supply approved covered containers for

rubbish, and the owner of the premises shall be responsible for the removal of rubbish.

**§308.3 – Disposal of Garbage.** Every occupant of a structure shall dispose of garbage in a clean and sanitary manner by placing such garbage in an approved garbage disposal facility or approved garbage containers.

**§404.7 – Food Preparation.** All spaces to be occupied for food preparation purposes shall contain suitable space and equipment to store, prepare and serve foods in a sanitary

manner. There shall be adequate facilities and services for the sanitary disposal of food

wastes and refuse, including facilities for temporary storage.

iv. Infestation (including bed bugs)

Infestation can be a very difficult code violation to remedy and is often a source of tension between landlords and tenants. The Buildings Department's policy with respect to infestation is to cite the owner of the building in the event we find an infestation and cite the tenant where the tenant is at fault for the infestation.

Whether a tenant is responsible for infestation depends on several factors including the cleanliness of the areas under the tenant's control, how long the tenant has occupied their apartment, and whether it is a single or multi-family residence.

We will always cite the owner because it is ultimately the owner who has the authority to remedy an infestation properly by, among other things, gaining access to other units. It is also often the case that the infestation was caused by a tenant in the building who is not the complaining tenant and in such cases the landlord is the only one who can finally remedy the situation.

The most common type of infestations reported to the Buildings Department are bed bug infestations. ***There are no special rules regarding bed bugs that require a uniquely strenuous extermination procedure or which require extermination on an expedited basis.*** We understand, however, the nature of bed bug infestations and apply appropriate scrutiny to claims that the infestation has been eliminated.

1. *Infestation – Albany City Code*

**§231-91 – Open areas.**

...

E. Yards, courts and lots shall be kept free and clear of physical hazards and material or debris which would cause a fire hazard or act as a breeding place for vermin or insects.  
...

accordance with the manufacturer's specifications.

B. Where the potential for rodent infestation exists, windows and other openings in basements and cellars shall be appropriately rat proofed with wire or other suitable materials.

**§231-93 – Infestation and screening.**

A. Grounds, buildings and structures shall be maintained free of insects, vermin and rodent harborage and infestation. Methods used for exterminating insects, vermin and rodents shall meet the generally accepted practices of the industry and shall be in

C. From May 1 to November 1, entrance to residential buildings shall be provided with self-closing-type devices, or screens and windows or other openings used for ventilation shall be appropriately screened. Screens shall not be required in rooms located sufficiently high in the upper stories of multiple dwellings as to be free of mosquitoes, flies and other flying insects.

D. The exterior of every structure used for human habitation shall be so maintained as to be vermin- and rodent-free. Where rodent or vermin problems exist, all exterior windows, doors and other openings two feet above ground level and below shall be screened or protected with acceptable wire mesh or other approved materials. Defects, cracks or holes shall be tightly sealed to prevent the entrance of vermin and rodents.

E. When a pest, bedbug or other insect or rodent infestation, as defined in Section 308 of the New York State Property Maintenance Code, has been identified by the Department of Buildings and Regulatory Compliance after a routine inspection by the Department, or inspection after the Department receives a complaint of an infestation, the Department shall contact the premises owner and require the owner to provide proof of extermination/pest control services. When determined by a professional exterminator, the dwelling unit(s) in direct

proximity to the affected unit and common areas shall also be treated if evidence of infestation in these areas is found. The occupant of a one-family rental dwelling shall be responsible for the costs associated with any extermination on the premises. No tenant shall willfully refuse to comply with reasonable written instructions from a landlord, pest control operator or the Department of Buildings and Regulatory Compliance to prepare the dwelling unit for remediation of an infestation of pests, insects or rodents, including bed bugs, provided that such instructions are given to an adult member of the tenant household such that the tenant household has a reasonable opportunity to comply, and in all cases at least 48 hours prior to remediation. Property owners of rental properties, or their agents, or the professional pest control service company hired by the property owner shall provide a copy of a report for the services rendered electronically to the Department of Buildings and Regulatory Compliance.

## *2. Infestation – NYS Property Maintenance Code*

**§302.5 – Rodent Harborage.** Structures and exterior property shall be kept free from rodent harborage and infestation. Where rodents are found, they shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to eliminate rodent harborage and prevent reinfestation.

**§309.1 – Infestation.** Structures shall be kept free from insect and rodent infestation. Structures in which insects or rodents are found shall be promptly exterminated by approved processes that will not be injurious to human health. After pest elimination, proper precautions shall be taken to prevent reinfestation.

## *v. Lighting*

Few appreciate how important sufficient lighting is to the safety of a structure and how critical it can be to occupants in escaping a fire. While a malfunctioning light may seem like a minor annoyance, it can be the difference between escaping or not escaping a building in the event of an emergency.

## *1. Light – NYS Property Maintenance Code*

**§402.1 – *Habitable Space (Light)*.** Every habitable space shall have not less than one window of approved size facing directly to the outdoors or to a court. The minimum total glazed area for every habitable space shall be 8 percent of the floor area of such room. Wherever walls or other portions of a structure face a window of any room and such obstructions are located less than 3 feet (914 mm) from the window and extend to a level above that of the ceiling of the room, such window shall not be deemed to face directly to the outdoors nor to a court and shall not be included as contributing to the required minimum total window area for the room.

**§402.2 – *Lighting in Common Halls & Stairways*.** Every common hall and stairway in residential occupancies, other than in one and two-family dwellings, shall be lighted at all times with not less than a 60-watt standard incandescent light bulb for each 200 square feet (19 m<sup>2</sup>) of floor area or equivalent illumination, provided that the

spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with not less than 1 footcandle (11 lux) at floors, landings and treads.

**§402.3 – *Other Spaces (Lighting)*.** All other spaces shall be provided with natural or artificial light sufficient to permit the maintenance of sanitary conditions, and the safe occupancy of the space and utilization of the appliances, equipment and fixtures.

**§605.3 – *Luminaries*.** Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain not less than one electric luminaire. Pool and spa luminaires over 15 V shall have ground fault circuit interrupter protection.

## vi. Ventilation

Being able to provide fresh, circulating air is a key component in making buildings sanitary and habitable. Except for apartments in high-rise apartment buildings, windows must be openable.

### 1. *Ventilation – NYS Property Maintenance Code*

**§403.1 – *Habitable Spaces (Ventilation)*.** Every habitable space shall have not less than one openable window. The total openable area of the window in every room shall be equal to not less than 45 percent of the minimum glazed area required in Section 402.1. Exception: Where rooms and spaces without openings to the outdoors are ventilated through an adjoining room, the unobstructed opening to the adjoining room shall be not less than 8 percent of the floor

area of the interior room or space, but not less than 25 square feet (2.33 m<sup>2</sup>). The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

**§403.2 – *Bathrooms & Toilet Rooms (Ventilation)*.** Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by Section 403.1, except that a window shall not be required in such spaces

equipped with a mechanical ventilation system. Air exhausted by a mechanical ventilation system from a bathroom or toilet room shall discharge to the outdoors and shall not be recirculated.

§403.3 – ***Cooking Facilities.*** Unless approved through the certificate of occupancy, cooking shall not be permitted in any rooming unit or dormitory unit, and a cooking facility or appliance shall not be permitted to be present in the rooming unit or dormitory unit. Exceptions: 1. Where specifically approved in writing by the code official. 2. Devices such as coffee pots and microwave shall not be considered cooking appliances.

vii. Security

Building security is another objective that both the Albany City Code and NYS Uniform Code attempt to achieve. The relevant code citations are featured below.

1. *Security – Albany City Code*

§133-60(A) – ***Door Locks.*** (2) Building entrances. For the purpose of this section, where a building entrance consists of two doors or sets of doors, the requirements shall be applicable to the door or doors closest to the interior of the building. (a) In buildings of one and two units, all common entrances, including main, rear and service, shall have doors which are capable of self-locking, equipped with a latch with at least a one-half-inch throw and equipped with a dead-bolt as provided for in § 133-60A. In buildings of three or more units, common entrance doors shall be equipped with a dead-latch with at least one-half-inch throw. Such latch shall remain fully operational from the interior in accordance with the Uniform Code and shall be capable of self-locking. Buildings with three units, in which two units share common entrance doors and the third unit maintains separate entrance doors, shall be subject to the requirements of

§403.4 – ***Process Ventilation.*** Where injurious, toxic, irritating or noxious fumes, gases, dusts or mists are generated, a local exhaust ventilation system shall be provided to remove the contaminating agent at the source. Air shall be exhausted to the exterior and not be recirculated to any space.

§403.5 – ***Clothes Dryer Exhaust.*** Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted outside the structure in accordance with the manufacturer's instructions. Exception: Listed and labeled condensing (ductless) clothes dryers.

one- and two-unit buildings. (3) Double-leaf doors. Main entrance doors which consist of two separate, operable doors may have the active door secured with the type of lock required in Subsection A(2) of this section, provided that the inactive leaf is equipped with flush bolts top and bottom with a minimum throw of five-eighths (5/8) inch, entering into a metal strike plate. In no case may any leaf of a double-leaf door be rendered inactive if the full doorway capacity is required as an exit under the Uniform Code.

§133-60(B)(2) – ***Optical Viewers.*** All door(s) to individual dwelling units shall be equipped with an optical viewer with a one-hundred-eighty-degree field of vision unless there is glass immediately adjacent to or within the door that provides an adequate view of the doorway. In addition, such doors shall not be hollow core.

(a) Doors shall be hinged so that the hinges are not accessible from the exterior or equipped with a security door pin or hinge pin.

§133-60(C) – **Windows**. Every window at first-floor or basement levels or openings onto a fire escape or which is accessible from another building or the ground shall be equipped with a secure, operating locking device. In addition, all double-hung windows shall be equipped with window pins, clips or similar safety devices which, when in use, prevent the window from locking open more than four inches.

§133-60(D) – **Lighting**. Main entrance doors and any other door which constitutes an entrance into a dwelling unit shall be fitted with an exterior operating light fixture, accessible to operation by the tenant, with no less than one forty-watt bulb or the equivalent, such fixture to be located no farther than four feet from said entrance which provides safe, adequate lighting to the entrance area. Timed light-sensitive or motion-sensitive systems may be substituted, provided that they function during hours of darkness.

§133-60(F) – **Doorbells**. Each dwelling unit shall be equipped with a signaling device such as a doorbell, intercom or phone system to notify occupants of the unit of visitors.

## 2. Security – NYS Property Maintenance Code

§304.14 – **Insect Screens**. During the period from May 15 to September 15, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored shall be supplied with approved tightly fitting screens of minimum 16 mesh per inch (16 mesh per 25 mm), and every screen door used for insect control shall have a selfclosing device in good working condition. Exception: Screens shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

§304.15 – **Doors**. Exterior doors, door assemblies, operator systems if provided, and hardware shall be maintained in good condition. Locks at all entrances to dwelling units and sleeping units shall tightly secure the door. Locks on means of egress doors shall be in accordance with Section 702.3.

§304.17 – **Guards for Basement Windows**. Every basement window that is openable shall be supplied with rodent shields, storm windows or other approved protection against the entry of rodents.

§304.18 – **Building Security**. Doors, windows or hatchways for dwelling units, room units or housekeeping units shall be provided with devices designed to provide security for the occupant s and property within.

§304.18.1 – **Building Security (Doors)**. Doors providing access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a deadbolt lock designed to be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort and shall have a minimum lock throw of 1 inch (25 mm). Such deadbolt locks shall be installed according to the manufacturer's specifications and maintained in good working order. For the purpose of this

section, a sliding bolt shall not be considered an acceptable deadbolt lock.

§304.18.2 – **Windows**. Operable windows located in whole or in part within 6 feet (1828 mm) above ground level or a walking surface below that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with a window sash locking device.

§304.18.3 – **Basement Hatchways**. Basement hatchways that provide access to a dwelling unit, rooming unit or housekeeping unit that is rented, leased or let shall be equipped with devices that secure the units from unauthorized entry.

§304.19 – **Gates**. Exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

### viii. Water (including hot water)

The provisions of the NYS Property Maintenance Code which apply to water require that residential dwellings be provided with clean drinking water and hot water.

#### 1. *Water – NYS Property Maintenance Code*

§505.1 – **General (Water Systems)**. Every sink, lavatory, bathtub or shower, drinking fountain, water closet or other plumbing fixture shall be properly connected to either a public water system or to an approved private water system. Kitchen sinks, lavatories, laundry facilities, bathtubs and showers shall be supplied with hot or tempered and cold running water in accordance with the International Plumbing Code. Exceptions: Owner-occupied one-family dwellings subject to the approval of the code enforcement official.

§505.2 – **Contaminations**. The water supply shall be maintained free from contamination, and all water inlets for plumbing fixtures shall be located above the flood-level rim of the fixture. Shampoo basin faucets, janitor sink faucets and other hose bibs or faucets to which hoses are attached and left in place, shall be protected by an approved atmospheric-type vacuum breaker or an approved permanently attached hose connection vacuum breaker.

§505.3 – **Supply**. The water supply system shall be installed and maintained to provide a supply of water to plumbing fixtures, devices and appurtenances in sufficient volume and at pressures adequate to enable the fixtures to function properly, safely, and free from defects and leaks.

§505.4 – **Water heating facilities**. Water heating facilities shall be properly installed, maintained and capable of providing an adequate amount of water to be drawn at every required sink, lavatory, bathtub, shower and laundry facility at a minimum temperature of 110°F (43°C). A gas-burning water heater shall not be located in any bathroom, toilet room, bedroom or other occupied room normally kept closed, unless adequate combustion air is provided. An approved combination temperature and pressure-relief valve and relief valve discharge pipe shall be properly installed and maintained on water heaters.

### ix. Plumbing

## 1. *Plumbing – NYS Property Maintenance Code*

**§502.1 – Dwelling Units (Plumbing Fixtures).** Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink that shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory. Exceptions: Owner-occupied one-family dwellings subject to the approval of the code enforcement official.

**§504.1 – General (Plumbing Fixtures).** Plumbing fixtures shall be properly installed and maintained in working order, and shall be kept free from obstructions, leaks and defects and be capable of performing the function for which such plumbing fixtures are designed. Plumbing fixtures shall be maintained in a safe, sanitary and functional condition.

**§504.2 – Plumbing Fixture Clearances.** Plumbing fixtures shall have adequate clearances for usage and cleaning.

**§504.3 – Plumbing System Hazards.** Where it is found that a plumbing system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, inadequate venting, cross connection, backsiphonage, improper installation, deterioration or damage or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

**§506.1 – General (Sewage).** Plumbing fixtures shall be properly connected to either a public sewer system or to an approved private sewage disposal system.

**§506.2 – Maintenance (Sewage).** Every plumbing stack, vent, waste and sewer line shall function properly and be kept free from obstructions, leaks and defects.

## x. Bathrooms

### 1. *Bathrooms – NYS Property Maintenance Code*

**§502.1 – Dwelling Units (Plumbing Fixtures).** Every dwelling unit shall contain its own bathtub or shower, lavatory, water closet and kitchen sink that shall be maintained in a sanitary, safe working condition. The lavatory shall be placed in the same room as the water closet or located in close proximity to the door leading directly into the room in which such water closet is located. A kitchen sink shall not be used as a substitute for the required lavatory. Exceptions: Owner-occupied one-family dwellings subject to the approval of the code enforcement official.

**§502.2 – Rooming Houses (Plumbing Fixtures).** At least one water closet, lavatory and bathtub or shower shall be supplied for each four rooming units.

**§503.1 – Privacy (Toilet Rooms).** Toilet rooms and bathrooms shall provide privacy and shall not constitute the only passageway to a hall or other space, or to the exterior. A door and interior locking device shall be provided for all common or shared bathrooms and toilet rooms in a multiple dwelling.

## xi. Electrical

### 1. *Electrical – NYS Property Maintenance Code*

**§604.1 – *Electrical Facilities Required.*** Every occupied building shall be provided with an electrical system in compliance with the requirements of this section and Section 605.

**§604.2 – *Electric Service.*** The size and usage of appliances and equipment shall serve as a basis for determining the need for additional facilities in accordance with NFPA 70. Dwelling units shall be served by a three-wire, 120/240 volt, single-phase electrical service having a minimum rating of 60 amperes.

**§604.3 – *Electrical System Hazards.*** Where it is found that the electrical system in a structure constitutes a hazard to the occupants or the structure by reason of inadequate service, improper fusing, insufficient receptacle and lighting outlets, improper wiring or installation, deterioration or damage, or for similar reasons, the code official shall require the defects to be corrected to eliminate the hazard.

**§605.1 – *Installation.*** Electrical equipment, wiring and appliances shall be properly

installed and maintained in a safe and approved manner.

**§605.2 – *Receptacles.*** Every habitable space in a dwelling shall contain not less than two separate and remote receptacle outlets. Every laundry area shall contain not less than one grounding-type receptacle or a receptacle with a ground fault circuit interrupter. Every bathroom shall contain not less than one receptacle. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection. All receptacle outlets shall have the appropriate faceplate cover for the location.

**§605.3 – *Luminaries.*** Every public hall, interior stairway, toilet room, kitchen, bathroom, laundry room, boiler room and furnace room shall contain not less than one electric luminaire. Pool and spa luminaires over 15 V shall have ground fault circuit interrupter protection.

**§605.4 – *Wiring.*** Flexible cords shall not be used for permanent wiring, or for running through doors, windows, or cabinets, or concealed within walls, floors, or ceilings.

## xii. Residential Animal Regulations

There is no residential animal limit in the NYS Uniform Code. The following provisions are from the City of Albany Code.

**§115-31 – *Keeping of farm animals or fowl prohibited.***

No person shall keep, harbor, or shelter any farm animal or fowl within the City of Albany. For purposes of this article, farm animal or fowl shall include cows, cattle,

horses, ponies, donkeys, mules, pigs, goats, sheep, chickens, ducks, geese, or other animals or fowl usually known as "farm animals or fowl," but not solely limited to the aforementioned and not including common household pets.

§231-95 – *Animals*.

- A. Animals shall not be kept on any premises in such a manner as to constitute a nuisance.
- B. In addition, animals on any premises shall be maintained in accordance with all

applicable state and local statutes ordinances and regulations.

§ 375-103 – *Residential Animal Limits*.

- B. No more than five dogs and/or cats shall be kept in a residential zoning district without a special use permit from the Board of Zoning Appeals.

d. **Fire Safety**

One of the major purposes of the NYS Uniform Code is to implement common sense and inexpensive safeguards to prevent loss of life and a generally minimize the damage caused by fires and hazardous materials.

Below we have organized the fire safety-related codes into rules regarding smoke detectors, carbon monoxide detectors, fire extinguishers, sprinklers, and means of egress.

Throughout the rest of this guide we have referred to the NYS Property Maintenance Code, which is one volume of the NYS Uniform Code. Below we'll refer to the NYS Fire Code.

i. **General**

1. **General Fire Safety – NYS Property Maintenance Code**

§704.1 – ***General (Fire Protection)***. Systems, devices and equipment to detect a fire, actuate an alarm, or suppress or control a fire or any combination thereof shall be

maintained in an operable condition at all times in accordance with the International Fire Code.

ii. **Smoke Detectors**

The rules regarding the placement of smoke alarms are complicated. As a rule of thumb, ***smoke detectors must be installed in every sleeping room, in the corridor outside sleeping rooms, outside a bathroom, on each habitable floor, and near cooking appliances***. Keep in mind that one smoke alarm may serve multiple location requirements. For example, a smoke alarm in a kitchen would count as the required smoke alarm near cooking appliances and the smoke alarm required on the floor that the kitchen is on.

If a building's smoke alarms are required to be hooked up directly to the building's electrical system and/or to be interconnected such that triggering one alarm triggers all other alarms, that will generally have been done at the time the building was constructed. However, if a building has a directly wired or integrated fire alarm, that must be maintained even if it is not actually required by law.

A lot of the smoke detector and carbon monoxide detector regulations refer to “Groups R-2, R-3, R-4”. These refer to different types of residential occupancies. An R-2 occupancy refers to, among other things, apartment houses with three or more units, dorms, hotels, and boarding houses with less than 16 people. An R-3 occupancy refers to one and two unit buildings and small boarding houses. An R-4 occupancy refers to group homes, assisted living facilities, etc.

#### 1. *Smoke Detectors – NYS Property Maintenance Code*

**§704.2 – Single and Multiple Station Smoke Alarms.** Single- and multiple-station smoke alarms shall be installed in existing Group I-1 and R occupancies in accordance with Sections 704.2.1 through 704.2.3.

**§704.2.1 – Where Required (Smoke Alarms) . . . .**

§704.2.1.2 Groups R-2, R-3, R-4 and I-1. Single or multiple-station smoke alarms shall be installed and maintained in Groups R-2, R-3, R-4 and I-1 regardless of occupant load at all of the following locations: 1. On the ceiling or wall outside of each separate sleeping area in the immediate vicinity of bedrooms. 2. In each room used for sleeping purposes. 3. In each story within a dwelling unit, including basements but not including crawl spaces and uninhabitable attics. In dwellings or dwelling units with split levels and without an intervening door between the adjacent levels, a smoke alarm installed on the upper level shall suffice for the adjacent lower level provided that the lower level is less than one full story below the upper level.

§704.2.1.3 – **Installation Near Cooking Appliances (Smoke Alarms).** Smoke alarms shall not be installed in the following locations unless this would prevent placement of a smoke alarm in a location required by Section 704.2.1.1 or 704.2.1.2. 1. Ionization smoke alarms shall not be installed less than 20 feet (6096 m) horizontally from a permanently installed

cooking appliance. 2. Ionization smoke alarms with an alarm-silencing switch shall not be installed less than 10 feet (3048 mm) horizontally from a permanently installed cooking appliance. 3. Photoelectric smoke alarms shall not be installed less than 6 feet (1829 mm) horizontally from a permanently installed cooking appliance.

§704.2.1.4 – **Installation New Bathrooms (Smoke Alarms).** Smoke alarms shall be installed not less than 3 feet (914 mm) horizontally from the door or opening of a bathroom that contains a bathtub or shower unless this would prevent placement of a smoke alarm required by Section 704.2.1.1 or 704.2.1.2.

§704.2.2 – **Interconnection.** Where more than one smoke alarm is required to be installed within an individual dwelling or sleeping unit, the smoke alarms shall be interconnected in such a manner that the activation of one alarm will activate all of the alarms in the individual unit. Physical interconnection of smoke alarms shall not be required where listed wireless alarms are installed and all alarms sound upon activation of one alarm. The alarm shall be clearly audible in all bedrooms over background noise levels with all intervening doors closed. Exceptions: 1. Interconnection is not required in buildings that are not undergoing alterations, repairs or construction of any kind. 2. Smoke alarms in existing areas are not required to be interconnected where alterations or repairs

do not result in the removal of interior wall or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for interconnection without the removal of interior finishes.

**§704.2.3 – *Power Source (Fire Alarms)*.** Single-station smoke alarms shall receive their primary power from the building wiring provided that such wiring is served from a commercial source and shall be equipped with a battery backup. Smoke alarms with integral strobes that are not equipped with battery backup shall be connected to an emergency electrical system. Smoke alarms shall emit a signal when the batteries are low. Wiring shall be

permanent and without a disconnecting switch other than as required for overcurrent protection. Exceptions: 1. Smoke alarms are permitted to be solely battery operated in existing buildings where no construction is taking place. 2. Smoke alarms are permitted to be solely battery operated in buildings that are not served from a commercial power source. 3. Smoke alarms are permitted to be solely battery operated in existing areas of buildings undergoing alterations or repairs that do not result in the removal of interior walls or ceiling finishes exposing the structure, unless there is an attic, crawl space or basement available that could provide access for building wiring without the removal of interior finishes.

### iii. Carbon Monoxide Alarms

Carbon monoxide is a colorless, odorless, flammable, and poisonous gas that can cause serious injury or death without ever having been detected by the victim. As with smoke detectors, the rules regarding the location of carbon monoxide alarms are very specific. To put it simply, ***the general requirement is that a carbon monoxide alarm must be in every room used for sleeping purposes, in the corridor outside the area of the building where the rooms for sleeping purposes are located and on the floor of a potential source of carbon monoxide*** (any fuel burning appliance).

#### 1. *Carbon Monoxide Alarms – City of Albany Code*

**§133-78.11(A) – *Carbon Monoxide Detector Location.*** Not less than one approved carbon monoxide detector shall be

installed in a residential unit. The detector shall be installed within 40 feet of all rooms used for sleeping purposes.

#### 2. *Carbon Monoxide Alarms – NYS Fire Code*

**§915.1 *General (Carbon Monoxide Detection)*.** Carbon monoxide detection shall be installed in new buildings in accordance with Sections 915.1.1 through 915.6. Carbon monoxide detection shall be installed in existing buildings in accordance with Section 1103.9.

**§915.1.1 – *Where Required (Carbon Monoxide Detection)*.** Carbon monoxide detection shall be provided in Group I1, I2, I4 and R occupancies and in classrooms in Group E occupancies in the locations specified in Section 915.2 where any of the conditions in Sections 915.1.2 through 915.1.6 exist.

**§915.1.2 – *Fuelburning Appliances and Fuel Burning Fireplaces.*** Carbon monoxide detection shall be provided in dwelling units, sleeping units and classrooms that contain a fuelburning appliance or a fuelburning fireplace.

**§915.1.3 – *Forcedair Furnaces.*** Carbon monoxide detection shall be provided in dwelling units, sleeping units and classrooms served by a fuelburning, forcedair furnace. Exception: Carbon monoxide detection shall not be required in dwelling units, sleeping units and classrooms where carbon monoxide detection is provided in the first room or area served by each main duct leaving the furnace, and the carbon monoxide alarm signals are automatically transmitted to an approved location.

**§915.1.4 – *Fuelburning Appliance Outside of Dwelling Units [and] Sleeping Units.*** Carbon monoxide detection shall be provided in dwelling units, sleeping units and classrooms located in buildings that contain fuelburning appliances or fuelburning fireplaces. Exceptions: 1. Carbon monoxide detection shall not be required in dwelling units, sleeping units and classrooms where there are no communicating openings between the fuelburning appliance or fuelburning fireplace and the dwelling unit, sleeping unit or classroom. 2. Carbon monoxide detection shall not be required in dwelling units, sleeping units and classrooms where carbon monoxide detection is provided in one of the following locations: 2.1. In an approved location between the fuelburning appliance or fuelburning fireplace and the dwelling unit, sleeping unit or classroom. 2.2. On the ceiling of the room containing the fuelburning appliance or fuelburning fireplace.

**§915.1.5 – *Private Garages (Carbon Monoxide Detection).*** Carbon monoxide detection shall be provided in dwelling units, sleeping units and classrooms in buildings with attached private garages. Exceptions: 1. Carbon monoxide detection shall not be required where there are no communicating openings between the private garage and the dwelling unit, sleeping unit or classroom. 2. Carbon monoxide detection shall not be required in dwelling units, sleeping units and classrooms located more than one story above or below a private garage. 3. Carbon monoxide detection shall not be required where the private garage connects to the building through an openended corridor. 4. Where carbon monoxide detection is provided in an approved location between openings to a private garage and dwelling units, sleeping units or classrooms, carbon monoxide detection shall not be required in the dwelling units, sleeping units or classrooms.

**§915.2.1 – *Dwelling Units (Carbon Monoxide Detection).*** Carbon monoxide detection shall be installed in dwelling units outside of each separate sleeping area in the immediate vicinity of the bedrooms. Where a fuelburning appliance is located within a bedroom or its attached bathroom, carbon monoxide detection shall be installed within the bedroom.

**§915.2.2 – *Sleeping Units (Carbon Monoxide Detection).*** Carbon monoxide detection shall be installed in sleeping units. Exception: Carbon monoxide detection shall be allowed to be installed outside of each separate sleeping area in the immediate vicinity of the sleeping unit where the sleeping unit or its attached bathroom does not contain a fuelburning appliance and is not served by a forced air furnace.

#### iv. Fire Extinguishers

##### 1. *Fire Extinguishers – Albany City Code*

###### **§231-87 – Portable extinguishers in multiple dwellings.**

A. Each oil burner for boiler, furnace or central hot-water heater shall be provided with an approved hand fire extinguisher or two rounded-bottom pails filled with sand.

B. Portable extinguishers required for fire protection shall be in their designated locations and in a condition which will permit efficient operation without delay.

##### 2. *Fire Extinguishers – NYS Fire Code*

###### **§906.1 – Where required.**

Portable fire extinguishers shall be installed in all of the following locations:

1. In new and existing [residential dwellings] . . . .
- ...
6. Special hazard areas, including but not limited to laboratories, computer rooms and generator rooms, where required by the fire code official.

###### **§906.2 – General requirements.**

Portable fire extinguishers shall be selected, installed and maintained in accordance with this section and NFPA 10.

###### **§906.3 – Size and distribution.**

The size and distribution of portable fire extinguishers shall be [as follows]:

Minimum rated single fire extinguisher	2-A*
Maximum floor area per [extinguisher]	3,000 sq feet
Maximum distance of travel to extinguisher	75 feet

\*Two 2.5-gallon water-type extinguishers shall be deemed the equivalent of one 4-A rated extinguisher.

#### v. Sprinklers

An automatic sprinkler system, if it is required by code, will have been installed in a building at the time it was constructed so residents or owners of existing buildings do not need to worry about having to install one (though automatic sprinkler systems are always recommended). However, buildings with sprinkler systems must maintain them, even if the system itself is not required by law.

##### 1. *Sprinklers – NYS Property Maintenance Code*

###### **§704.1.1 – Automatic Sprinkler Systems.** Inspection, testing and maintenance of

automatic sprinkler systems shall be in accordance with NFPA 25.

## vi. Means of Egress

In the event of a fire, it is critical that the means of escaping a building, the means of egress, be well lit and kept clear of obstacles.

### 1. *Means of Egress – NYS Property Maintenance Code*

**§402.2 – *Lighting in Common Halls & Stairways.*** Every common hall and stairway in residential occupancies, other than in one and two-family dwellings, shall be lighted at all times with not less than a 60-watt standard incandescent light bulb for each 200 square feet (19 m<sup>2</sup>) of floor area or equivalent illumination, provided that the spacing between lights shall not be greater than 30 feet (9144 mm). In other than residential occupancies, means of egress, including exterior means of egress, stairways shall be illuminated at all times the building space served by the means of egress is occupied with not less than 1 footcandle (11 lux) at floors, landings and treads.

**§702.1 – *Means of Egress (General).*** A safe, continuous and unobstructed path of travel shall be provided from any point in a building or structure to the public way. Means of egress shall comply with the International Fire Code.

**§702.3 – *Locked Doors.*** Means of egress doors shall be readily openable from the side from which egress is to be made without the need for keys, special knowledge or effort, except where the door hardware conforms to that permitted by the International Building Code.

**§702.4 – *Emergency Escape Openings.*** Required emergency escape openings shall be maintained in accordance with the code in effect at the time of construction, and the following. Required emergency escape and rescue openings shall be operational from the inside of the room without the use of keys or tools. Bars, grilles, grates or similar devices are permitted to be placed over emergency escape and rescue openings provided the minimum net clear opening size complies with the code that was in effect at the time of construction and such devices shall be releasable or removable from the inside without the use of a key, tool or force greater than that which is required for normal operation of the escape and rescue opening.

## e. Over-Occupancy

Over-occupancy arises most often when large events are held in spaces that cannot accommodate large crowds, but can also happen when too many people are living in a residential dwelling unit.

If too many people are gathered in a residential space, the crowd may put too much stress on a structure that was designed to accommodate a single family. Such a crowd would also have difficulties in escaping a building in the event of a fire. The Buildings Department encounters this kind of overcrowding violation when responding with the Police Department to large house parties and events of that nature where it is easy to assess and document the violation.

Violations where there are too many people living in a residential area are more difficult to document and prosecute. The Buildings Department lacks the resources to stake out a residential property to track who comes and goes and who stays overnight but we do all we can to ensure that residential property is not over occupied.

i. Over-Occupancy – NYS Property Maintenance Code

§404.4.1 – ***Bedroom Occupancy.*** Every bedroom and living room shall comply with the requirements of Sections 404.4.1 through 404.4.5. ICC PMC 404.4.1 Room area. Every living room shall contain not less than 120 square feet (11.2 m<sup>2</sup>) and every bedroom shall contain not less than 70 square feet (6.5 m<sup>2</sup>) and every bedroom occupied by more than one person shall contain not less than 50 square feet (4.6 m<sup>2</sup>) of floor area for each occupant thereof. 404.4.2 Access from bedrooms. Bedrooms shall not constitute the only means of access to other bedrooms or habitable spaces and shall not serve as the only means of egress from other habitable spaces. Exception: Units that contain fewer than two bedrooms.

§404.4.4 – ***Prohibited occupancy.*** Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

§404.5 – ***Overcrowding.*** Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of [the following table]:

SPACE	MIN. AREA IN SQ FEET		
	1-2 occupants	3-5 occupants	6 or more occupants
Living Room	120	120	150
Dining Room	No requirement	80	100
Bedrooms	Shall comply with Section 404.4.1 (see above)		

f. Swimming Pools

A swimming pool is the most dangerous type of fixture associated with residential dwelling, especially with respect to children. The NYS Uniform Code regulations surrounding pools are therefore comprehensive. Reprinted below are the basic requirements. ***A permit is always required when setting up a pool, including a temporary pool.***

The following NYS Property Maintenance Code sections refer to ASTM F1346 & F2208. These are reference standards developed by the American Society for Testing and Materials which have been incorporated into the NYS Property Maintenance Code.

For more information on installing a swimming pool, see our Swimming Pool Guide, which is available on our website.

i. Swimming Pools – Albany City Code

§231-49 – ***Swimming pools.***

A. Water supply used for filling or for cleaning of the pool shall be clean. Water

supply shall be protected against potential pollution from all sources, including cross-connection and backflow.

B. Drains shall be provided so that the pool can be safely and adequately drained. Drains shall be provided in floors surrounding the swimming pool and arranged so that water from such areas will drain without entering the pool.

C. Filtering, sterilizing and auxiliary equipment, where required, shall be adequate to maintain the sanitary quality of water during each period the pool is in use. Equipment containing gases or disinfectants capable of giving off irritating toxic or flammable fumes shall be located in ventilated rooms.

D. The installation shall be arranged and maintained to prevent dirt, sand or other foreign matter from entering the bathing area.

**§375-97 – *Permanent and portable aboveground swimming pools.***

Swimming pools, both permanent and portable, accessory to a dwelling shall be regulated as follows:

A. May be erected only on the same lot as the principal structure.

B. May be erected only in the rear yard of such structure and be:

(1) A minimum of six feet from any side yard.

(2) A minimum of 10 feet from the rear lot line.

(3) A minimum of six feet from the principal structure, porch or deck attached to the house. With respect to aboveground swimming pools, said distances shall be measured from the outer edge of any deck or platform attached to the wall of the pool.

C. The pool, subject to the above requirements, shall be completely surrounded by a fence or wall, the top of which on its perimeter shall be four feet above grade. The pool shall be enclosed in a manner consistent with the New York State Uniform Fire Prevention and Building Code.

ii. Swimming Pools – NYS Property Maintenance Code

**§326.2 – *Definitions.***

...

**SWIMMING POOL.** Any structure, basin, chamber or tank which is intended for swimming, diving, recreational bathing or wading and which contains, is designed to contain, or is capable of containing water more than 24 inches (610 mm) deep at any point. This includes in-ground, above-ground and on-ground pools; indoor pools; hot tubs; spas; and, fixed-in-place wading pools.

...

**§326.5.3 – *Permanent [swimming pool] barriers.*** An outdoor swimming pool, including an in-ground, aboveground or on-ground pool, hot tub or spa shall be surrounded by a barrier which shall comply with the following:

1. The top of the barrier shall be at least 48 inches (1219 mm) above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be 2

inches (51 mm) measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an above-ground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (102 mm).

2. Openings in the barrier shall not allow passage of a 4-inch-diameter (102 mm) sphere.
3. Solid barriers which do not have openings, such as a masonry or stone wall, shall not contain indentations or protrusions except for normal construction tolerances and tooled masonry joints.
4. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is less than 45 inches (1143 mm), the horizontal members shall be located on the swimming pool side of the fence. Spacing between vertical members shall not exceed 1 $\frac{3}{4}$  inches (44 mm) in width. Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1 $\frac{3}{4}$  inches (44 mm) in width.
5. Where the barrier is composed of horizontal and vertical members and the distance between the tops of the horizontal members is 45 inches (1143 mm) or more, spacing between vertical members shall not exceed 4 inches (102 mm). Where there are decorative cutouts within vertical members, spacing within the cutouts shall not exceed 1 $\frac{3}{4}$  inches (44 mm) in width.
6. Maximum mesh size for chain link fences shall be a 2 $\frac{1}{4}$ -inch (57 mm) square unless the fence has slats fastened at the top or the bottom which reduce the openings to not more than 1 $\frac{3}{4}$  inches (44 mm).
7. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than 1 $\frac{3}{4}$  inches (44 mm).
8. Gates shall comply with the requirements of Section R3265.2, Items 1 through 7, and with the following requirements:
  - 8.1. All gates shall be self-closing. In addition, if the gate is a pedestrian access gate, the gate shall open outward, away from the pool.
  - 8.2. All gates shall be self-latching, with the latch handle located within the enclosure (i.e., on the pool side of the enclosure) and at least 40 inches (1016 mm) above grade. In addition, if the latch handle is located less than 54 inches (1372 mm) from the bottom of the gate, the latch handle shall be located at least 3 inches (76 mm) below the top of the

gate, and neither the gate nor the barrier shall have any opening greater than 0.5 inch (12.7 mm) within 18 inches (457 mm) of the latch handle.

8.3. All gates shall be securely locked with a key, combination or other child proof lock sufficient to prevent access to the swimming pool through such gate when the swimming pool is not in use or supervised.

9. Where a wall of a dwelling serves as part of the barrier, one of the following conditions shall be met:

9.1. The pool shall be equipped with a powered safety cover in compliance with ASTM F 1346; or

9.2. Doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and/or its screen, if present, are opened. The alarm shall be listed in accordance with UL 2017. The audible alarm shall activate within 7 seconds and sound continuously for a minimum of 30 seconds after the door and/or its screen, if present, are opened and be capable of being heard throughout the house during normal household activities. The alarm shall automatically reset under all conditions. The alarm system shall be equipped with a manual means, such as touch pad or switch, to temporarily deactivate the alarm for a single opening. Deactivation shall

last for not more than 15 seconds. The deactivation switch(es) shall be located at least 54 inches (1372 mm) above the threshold of the door; or

9.3. Other means of protection, such as self-closing doors with self-latching devices, shall be acceptable so long as the degree of protection afforded is not less than the protection afforded by Item 9.1 or 9.2 described above.

10. Where an above-ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps:

10.1. The ladder or steps shall be capable of being secured, locked or removed to prevent access; or

10.2. The ladder or steps shall be surrounded by a barrier which meets the requirements of Section R326.5.2, Items 1 through 9. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a 4-inch-diameter (102 mm) sphere.

**§326.6.1 – General (Entrapment Protections).** Suction outlets shall be designed to produce circulation throughout the pool or spa. Single-outlet systems, such as automatic vacuum cleaner systems, or multiple suction outlets, whether isolated by valves or otherwise, shall be protected against user entrapment.

**§326.7.1 – Applicability.** A swimming pool or spa installed, constructed or substantially modified after December 14, 2006, shall be equipped with an approved pool alarm.

Exceptions:

1. A hot tub or spa equipped with a safety cover which complies with ASTM F1346.
2. A swimming pool (other than a hot tub or spa)

equipped with an automatic power safety cover which complies with ASTM F1346.

Pool alarms shall comply with ASTM F2208, and shall be installed, used and maintained in accordance with the manufacturer's instructions and this section.

g. **Fences**

i. **Fences – City of Albany Code**

**§231-91 – *Open areas.***

...

C. Fences and other minor structures shall be maintained in a safe condition.

**§375-98 – *Location of fences and walls.***

Fences and walls shall be permitted in residential districts in accordance with the following provisions:

A. In residential zoning districts. Fences not exceeding four feet in height and not more than 60% solid may be located in any front yard or in any yard with street frontage. In such a yard, a fence more than four feet in height and more than 60% solid shall be permitted only if it complies with the front yard requirement listed in the Schedule of Use, Area and Height Controls[1] for the appropriate district, unless the existing principal dwelling is closer to the street than allowed by the Schedule of Use, Area and Height Controls, in which case such fence shall be located no closer to the street than the existing dwelling.

B. In any yard without street frontage, fences shall not exceed six feet in height.

...

E. No minimum distance shall be required between a fence or wall and a lot line, unless otherwise specified in this chapter.

F. Fences constructed for the purpose of enclosing a tennis court may exceed the six-foot maximum but may not be located closer than 10 feet from the property line.

**§375-99 – *Fence and wall materials.***

A. A fence designed to be structurally supported by posts, cross members or rails on one side only shall be erected with the posts, cross members or rails on the fence owner's side, and the finished side of the fence shall face adjacent properties.

B. No fence intended as a permanent structure shall be constructed of canvas, cloth, wire mesh, chicken wire, snow fencing or any other similar material.

C. No fence or wall shall include barbed wire, broken glass, electrification or other material or device intended to cause injury.

D. All fences and walls in any zoning district shall be maintained in a structurally sound condition. Elements or finishes that become deteriorated shall be repaired or replaced promptly.

ii. Fences – NYS Property Maintenance Code

§302.7 – **Accessory Structures.** All accessory structures, including detached garages, fences and walls, shall be

maintained structurally sound and in good repair.

h. Home Occupations

i. Home Occupations - City of Albany Code

(j) HOME OCCUPATION

(i) The home occupation shall be located in the primary dwelling structure, or in an approved accessory building on the same lot, and shall not use more than 25 percent of the gross floor area of the dwelling unit or 500 square feet, whichever is less.

(ii) The home occupation shall only be operated by the person or persons maintaining the primary dwelling structure as their primary place of residence. For purposes of this provision only, “person” shall be limited to a natural person and shall not include any corporation, partnership, firm, association, joint venture, or other similar legal entity.

(iii) An approved home occupation shall automatically expire at such time as the applicant no longer maintains the primary dwelling structure in which the home occupation is located as their primary residence.

(iv) The home occupation use shall not display or create outside the building any evidence (iv) of the home occupation, except that one unanimated, non-illuminated flat or window sign having an area of not more than one foot shall be permitted inside or affixed to the building on each street front of the lot on which the building is situated.

(v) The home occupation shall not be conducted or advertised in a manner that generates a substantially greater volume of vehicular and pedestrian traffic than normally occurs in the residential district in which the home occupation is located.

(vi) No more than one employee or assistant in addition to the home occupant may be engaged on the premises in the home occupation at any given time. No other partner, principal or professional may be employed on site.

(vii) No alteration of the principal residential building shall be made

that changes the character and appearance of the dwelling.

(viii) There shall be no outdoor storage of equipment or materials used in the home occupation.

(ix) Not more than one commercial vehicle shall be permitted in connection with any home occupation and shall be stored in an enclosed garage.

(x) No mechanical, electrical or other equipment that produces noise, electrical or magnetic interference, vibration, heat, glare or other nuisance outside the residential or accessory structure shall be used.

(xi) If the home occupation produces any visible or audible impacts beyond the lot line on which it is located (including arrival and departure of delivery vehicles), the portion of the occupation generating the visible or audible impacts shall only operate between 8:00 am and 8:00 pm.

(xii) The following activities are not permitted as home occupations:

- A. Automobile, vehicle, small engine, or heavy equipment repair or storage.
- B. Dog grooming, care or boarding.
- C. Custom sign shop.
- D. Any business where the majority of revenue is from retail sales of goods to patrons who visit the premises to choose, purchase, or pick up those goods.
- E. Any business that requires delivery of goods or materials, or shipping of finished goods, in a truck with a gross vehicle weight over 10,000 pounds, or that generates more than ten visits by a delivery truck of any size per week.

## 7. GLOSSARY

<u>Term</u>	<u>Definition</u>
<b>Abandoned Property</b>	This is property that is no longer being used or where the rightful owner has, rightly or wrongly, denounced all claim to it and who has no personal desire or incentive to maintain the property.
<b>Accessory Use</b>	An “accessory use” is a use that is a part of the primary use but not the primary use. The Albany City Code defines an “accessory use” as:

A structure or use which:

- (1) Is subordinate to and serves a principal building or principal use;

	<p>(2) Is subordinate in area, extent and purpose to the principal structure or principal use served;</p> <p>(3) Contributes to the comfort, convenience and/or necessity of the occupants; and</p> <p>(4) Is located on the same lot as the principal structure or principal use served, except as otherwise expressly authorized by provisions stated herein.</p>
<b>Board of Zoning Appeals (BZA)</b>	The BZA is a board managed by the City of Albany Planning Department comprised of City of Albany residents who collectively have the authority to grant variances exempting certain parcels from complying with the zoning restrictions that apply in a given zoning district.
<b>Carbon Monoxide</b>	Carbon monoxide is a colorless, odorless, flammable, and poisonous gas that can cause serious injury or death without ever having been detected by the victim and which can be created by malfunctioning fuel burning appliances.
<b>Certificate of Completion (CC)</b>	A Certificate of Completion (CC) issued by a Building Inspector after work under a permit is completed.
<b>Certificate of Occupancy (CO)</b>	A Certificate of Occupancy (CO) is issued by a Building Inspector after the construction of a new building or where the use of a building has changed.
<b>Dimensions</b>	These are the measurements of a given object.
<b>Emergency Demolition</b>	An emergency demolition is a demolition that occurs on an expedited basis because the structure to be demolished is presenting and imminent public safety threat.
<b>International Building Code</b>	This is a model building code drafted by the International Code Council, which has been adopted in numerous states and adopted as the NYS Uniform Code by the State of New York in 2015.
<b>Means of Egress</b>	This is a term used to apply to the paths the occupants of a building would take to escape the building in the event of a fire or other emergency.
<b>Plot Plan</b>	This is a diagram of a property showing building locations and dimensions and property lines. In some cases, more detailed plot plans will indicate utility runs and other information.
<b>Primary Use</b>	A “primary use” is defined by how a building’s owner uses it. A residential structure’s primary use would be as a residential dwelling when it is first built, but its primary use may become commercial if someone who buys the building later converts it to be used as a commercial space. You see many examples of this along Lark Street, for instance. Note that a primary use may be “mixed” if it’s used equally for two things.

<b>Residential Permit (ROP)</b>	<b>Occupancy</b>	A residential occupancy permit is required to rent a dwelling unit in the City of Albany. It lasts for 30 months and may only be issued after the dwelling unit in question passes an ROP inspection.
<b>Special Permitted Use</b>		A “special permitted use” is a use that requires approval by the City of Albany Planning Board but not a full variance, which is discussed below. Zoning districts are generally focused on a particular type of use and come with a specific list of what can be done with buildings in that zone as a matter of right. Special permitted uses are allowed, but require additional approval by the City of Albany Planning Board to make sure those uses are carried on in a way that fits in with the rest of the district.
<b>Stamped Plans</b>		Stamped plans are project plans that have been stamped by a certified engineer or architect. Stamped plans are not generally required for major projects.
<b>Stop Work Order</b>		An order requiring that a person doing work on a building without a required permit. A stop work order can be issued even after work is completed. It is sometimes referred to as simply a “stop work”.
<b>Story</b>		This is the portion of a building included between the upper surface of the floor or roof next above. There is no such thing as a half of a story in the Albany City Code or the NYS Uniform Code.
<b>Story Above Grade Plane</b>		Any story having its finished floor surface entirely above ground or where the finished surface of the next floor above is i.) more than 6 feet above ground or more than 12 feet above ground at any point. There is no such thing as a half of a story in the Albany City Code or the NYS Uniform Code.
<b>Temporary Certificate of Occupancy (TCO)</b>		This is a limited certificate of occupancy which applies to a portion of a building that has been deemed to be safe and in compliance with code in a building where other work remains to be done.
<b>Unsafe &amp; Unfit Order</b>		it is a determination made by the Buildings Department that a given building is too dangerous to be occupied and an order that no one occupy the building. This also referred to sometimes as a “condemnation order” or an “unsafe and unfit declaration” or “keep vacant order”.
<b>Use</b>		A “use” is the purpose a building is used for. There are two general categories of “use”: 1) commercial and 2) residential. Within each general category there are more specific categories.

**Vacant Building**

According to the Albany City Code, a vacant building is a building which is:

- A. Unoccupied and unsecured;
- B. Unoccupied and secured by other than normal means;
- C. Unoccupied and an unsafe building as determined by the Department of Fire, Emergency and Building Services;
- D. Unoccupied and has multiple housing or building code violations;
- E. Illegally occupied;
- F. Unoccupied for a period of time over 365 days, and during which time the enforcement officer has issued an order to correct code violations.

**Zombie Property**

A zombie property is a property that has been abandoned by its owner after the owner received notice from their mortgage company that the mortgage company was going to foreclose on the property but where the mortgage company never proceeded to foreclose on the property. The owner has no incentive to maintain the property as any investment in it will be taken by the bank. The mortgage company typically has no incentive to take ownership of and sell the property because the property is so deteriorated as to be unsellable.