



**Building Standards
and Codes**

Code Enforcement: What Every Local Official Should Know

A Division of New York Department of State

The mission of code enforcement

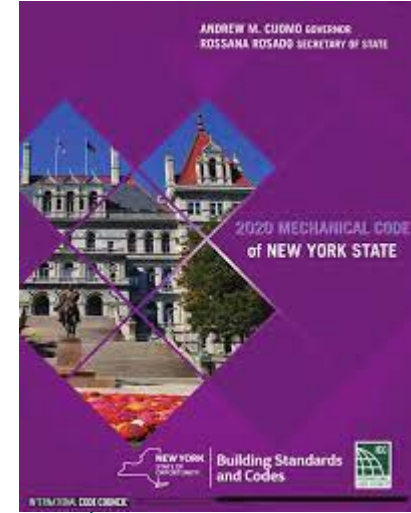
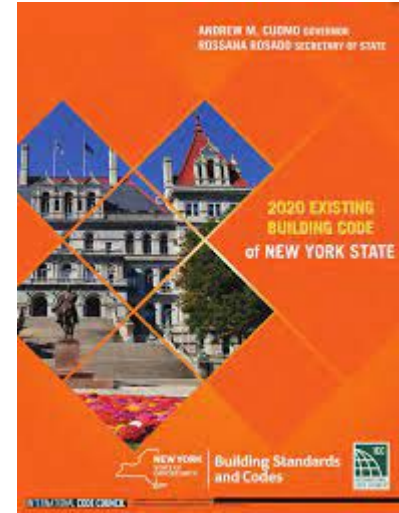
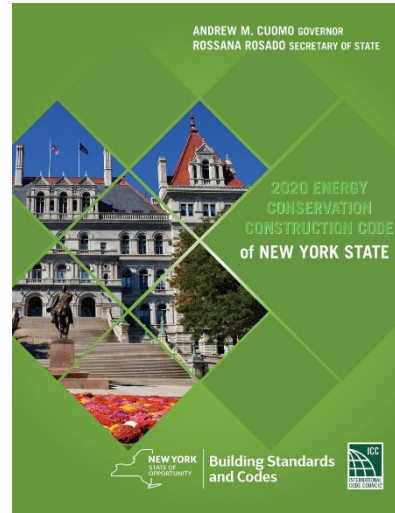
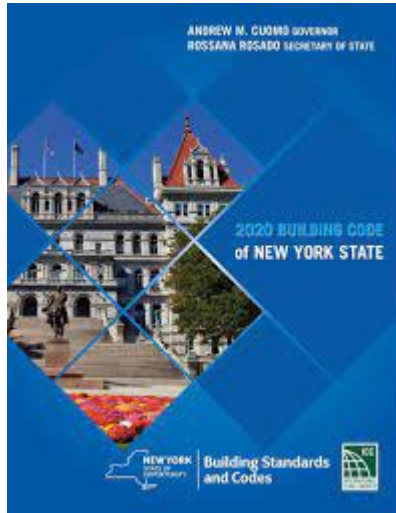
“To establish the minimum requirements for providing a reasonable level of life safety and property protection in **new** and **existing** buildings, **structures and premises.**”

“Building Code Act”

To protect **Health, Safety and General Welfare**

What are codes?

“A systematic, comprehensive collection of laws and rules.”



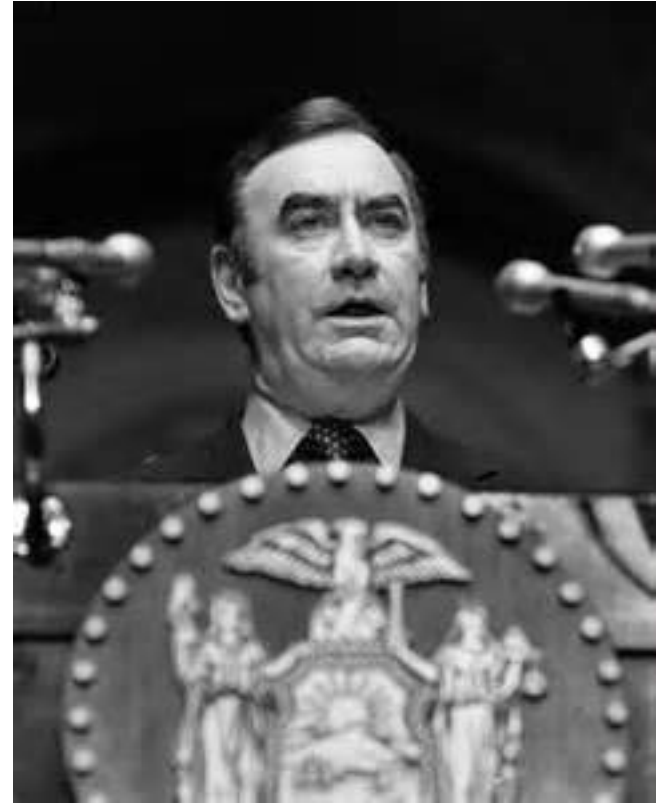
Where do codes come from?

Codes restrictions do not develop in a vacuum
They generally erupt after a disaster



Historical development

- MGM Grand Hotel: Las Vegas, NV
- November 21, 1980
- **85** people died
- Stouffer's Inn: Harrison, NY
- December 4, 1980
- **26** people died



Blue Ribbon Task Force

- Few communities with codes
- Inconsistent enforcement
- Myriad of codes across state
- State Building Construction Code
 - Fire Prevention Code
 - Local codes/national codes
 - Mix of codes
- Lack of consistency and training



Blue Ribbon Task Force – recommendations

- Single document applied uniformly
- Address construction, fire prevention and building maintenance
- Provide a minimum level of safety statewide
- Article 18 NYS Executive Law, Section 371

Blue Ribbon Task Force – results

- Task Force report accepted by the NYS Legislature
- Chapter 707 of the Laws of 1981, signed by Governor Carey on **July 22, 1981**
- Recognized that **fire prevention** and **building codes** are closely related
- **Mandated** statewide
- **Applies** to all buildings, **private and public**
- Statewide approach to **training**
- Created the **NYS Uniform Fire Prevention and Building Code**

Uniform Code – hot topics when enacted

Initially:

- Fire safety
- Building construction
- Structural stability
- Reference standards
- Housing/Property Maintenance
- Accessibility

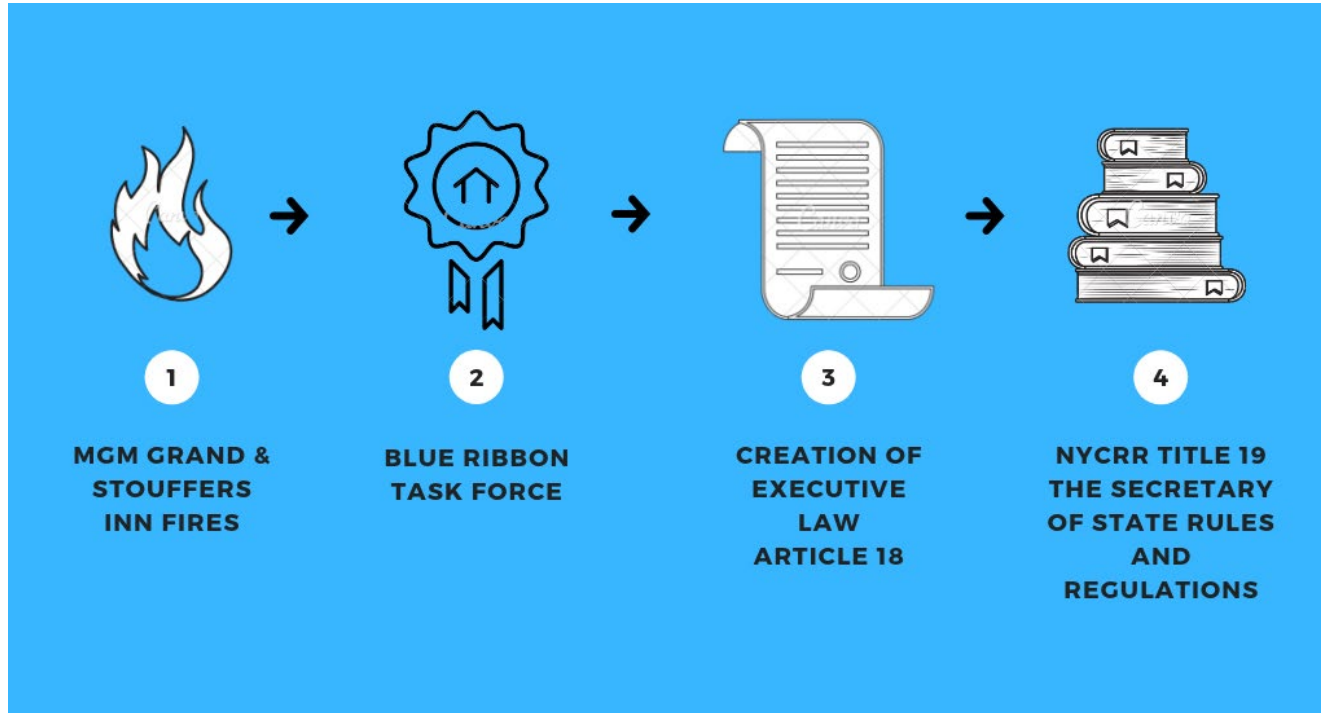
Uniform Code – evolving priorities

More recently:

- Existing buildings
- Quality control
- Building technology
- Energy conservation
- Sustainability
- Resilience

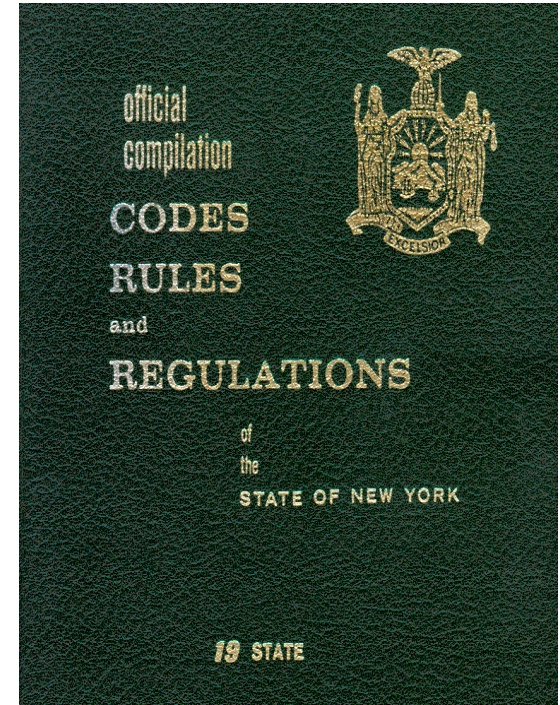
NYCRR Title 19 – The Secretary of State Rules and Regulations

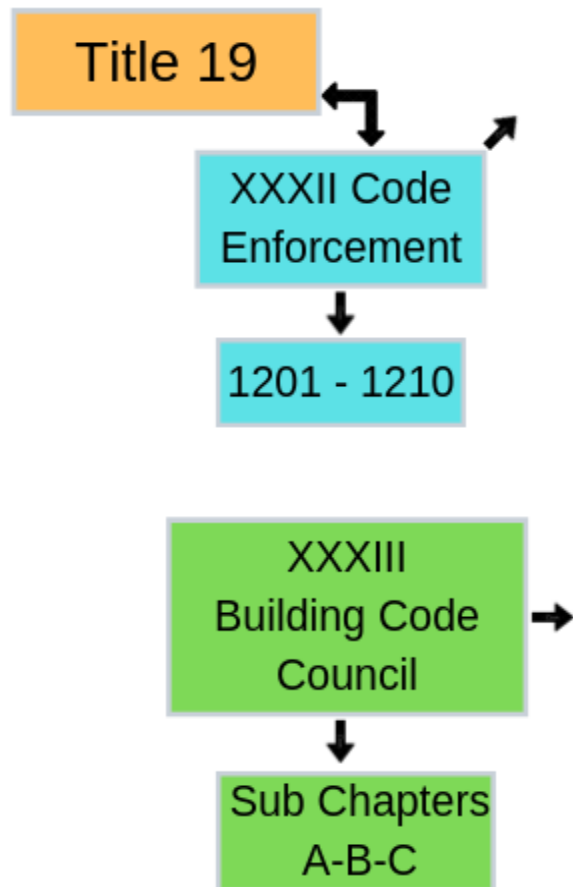
Evolution of Building Code in NYS



What is NYCRR?

- New York Codes, Rules, and Regulations
- Primarily contains **state agency rules and regulations** adopted under the State Administrative Procedure Act (SAPA)
- The 22 titles **include one for each state agency**, one for miscellaneous agencies and one for the Judiciary
- **Title 19: State (Secretary of State)**





Chapter XXXII Division of Code Enforcement and Administration

- Part 1201 Uniform Code: Procedures for Certain Classes of Buildings
- Part 1202 Uniform Code: Administration and Enforcement in Certain Local Governments
- Part 1203 Uniform Code: Minimum Standards for Administration and Enforcement
- Part 1204 Uniform Code: Administration and Enforcement by State Agencies
- Part 1205 Uniform Code: Variance Procedures
- Part 1206: Financial Assistance to Local Governments for Administration and Enforcement
- Part 1207 Uniform Code: Reimbursement of Local Government Training Costs
- Part 1208 Uniform Code: Training of Staff
- Part 1209: Regulations and Fees for Factory Manufactured Homes
- Part 1210: Manufactured Homes

Chapter XXXIII State Fire Prevention and Building Code Council

- Subchapter A: Uniform Fire Prevention and Building Code
- Subchapter B: State Energy Conservation Construction Code
- Subchapter C: Other Regulations
- Appendices

Title 19 Chapter XXXII Part 1201

- Procedures for Certain Classes of Buildings
- Executive Law Section 381 assigns responsibility for code enforcement to:
 - Villages, Towns, Cities and Counties
- This part provides exceptions to the law for certain buildings, such as:
 - Governmental Buildings
 - Manufactured Housing

NYS Uniform Fire Prevention and Building Code

- The minimum standard for the State of New York
 - NYC
- Municipalities may **not** have a **less** restrictive construction or fire prevention standard
- Municipalities may have **more** restrictive standards but the More Restrictive Local Standard (MRLS) requires **approval** by the **NYSFPBC Council**
- **A municipality cannot enforce a more restrictive local law until approved by the Codes Council**

More restrictive local standards

To be in compliance with § 379, the local law or ordinance must be:

1. More restrictive than the Uniform Code
2. Special conditions prevailing within the local government that make more restrictive standard reasonably necessary
3. Conform with accepted engineering and fire prevention practices and purposes of Article 18 of Executive Law

More restrictive local standards

To be in compliance with § 379, the local law or ordinance must be:

4. Submitted by Chief Executive Officer, or chairman of the legislative body of such local government, within 30 days of such enactment or adoption of local law
- **Code Council can approve in whole or part**

Part 1203 Minimum Standards for Administration and Enforcement

- Establishes responsibility:
 - Local governments
 - County governments
 - Other accountable agencies
- Establishes vehicle for process:
 - Local and county government must provide through **local law**
 - State agencies follow Part 1204
 - Other entities equal the minimum provisions
- **Repealed and Replaced 2022**

Part 1203.2 Program and administration features

1203.2(d)

- Every authority having jurisdiction responsible for enforcement of the code
- Shall exercise its power to assure the public receives protection from fire hazards and inadequate construction



Part 1203.2 Program and administration features

1203.2(e): Contracts and other Agreements

1. Allows local government to contract out the administration and enforcement program
 - Provider must meet the qualifications of Part 1208
2. *No agreement shall be made by which the public powers of a municipality are surrendered*
 - Building Permits, Certificates, Orders or Appearance Tickets must be issued by a public officer

Part 1203.2 Program and administration features

1203.2(f)

- The persons, offices, departments, agencies or combinations thereof shall be clearly identified
- **Local job titles and the scope of duties**
- Examples: Building Inspector, Fire Inspector, Code Enforcement Officer, Housing Inspector, etc.
- **Contracted or Shared Services**



Building safety inspectors

Building Safety Inspector

- Performs fire safety and/or property maintenance inspections of ***existing*** buildings and structures

Certified Building Safety Inspector

- A person who has been certified as having successfully completed the applicable basic training program and whose certification has not been revoked or become inactive

Code enforcement officials

Code Enforcement Official

- Review and/or approval of plans incidental to the issuance of a permit for the construction or alteration of buildings and structures;
- Construction inspections performed during and/or upon completion of the construction or alteration of buildings and structures; and
- Any other enforcement activity that is not also a building safety inspector enforcement activity

A Division of New York Department of State

Certified Code Enforcement Official

- A person who has been certified as having successfully completed the applicable basic training program and whose certification has not been revoked or become inactive



NEW YORK
STATE OF
OPPORTUNITY.

**Building Standards
and Codes**

Part 1203.3 Minimum features

- **1203.3(a)(1)** *Building permits shall be required for any work which must conform to the Uniform Code*
- A Building Permit System
- Application
- Construction Inspections
- Final Inspection
- Certificate of Occupancy
- **Note: Zoning is a completely different process**

Building permit exceptions

A municipality **may** allow exceptions:

- Tool/storage sheds
 - 144 square feet or less
 - In 1 or 2 Family buildings and Townhouses
- Playhouses
 - In 1 or 2 Family buildings and Townhouses
- Temporary sets and scenery
 - Associated with motion picture, television, and theater uses
- Window Awnings
 - Supported by an exterior wall
 - In 1 or 2 Family buildings and Townhouses or multiple single-family dwellings



Building permit exceptions

A municipality **may** allow exceptions:

- Partitions and Moveable Cases (in offices, etc.)
 - Less than 5'-9" high
- Installation of listed portable electrical, plumbing, or cooling equipment
 - replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications

Building permit exceptions

A municipality **may** allow exceptions:

- Painting, Wallpapering, Tiling, Carpeting
 - Or similar finishing work
- Repairs, provided it does not impact fire and life safety
 - Not part of the structural system
 - No rearrangement of the required means of egress
 - Do not cause an impairment of a fire protection system

Operating Permits

Operating permits

Operating permits shall be required:

(i) manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in the applicable Maximum Allowable Quantity tables found in Chapter 50 of the FCNYS

(ii) buildings, structures, facilities, processes, and/or activities that are within the scope and/or permit requirements of the chapter or section title of the FCNYS listed and described in section 1203.3 (g)(1)(ii) as follows:

Operating permits

- (a) Chapter 22, “Combustible Dust-Producing Operations.”
- (b) Chapter 24, “Flammable Finishes.”
- (c) Chapter 25, “Fruit and Crop Ripening.”
- (d) Chapter 26, “Fumigation and Insecticidal Fogging.”
- (e) Chapter 31, “Tents, Temporary Special Event Structures, and Other Membrane Structures.”
- (f) Chapter 32, “High-Piled Combustible Storage.”
- (g) Chapter 34, “Tire Rebuilding and Tire Storage.”
- (h) Chapter 35, “Welding and Other Hot Work.”
- (i) Chapter 40, “Sugarhouse Alternative Activity Provisions.”
- (j) Chapter 56, “Explosives and Fireworks.”
- (k) Section 307, “Open Burning, Recreational Fires and Portable Outdoor Fireplaces.”
- (l) Section 308, “Open Flames.” Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies; and
- (m) Section 319, “Mobile Food Preparation Vehicles.”

Operating permits

Operating permits shall be required:

- (iii) energy storage systems;
where the system exceeds specified values
- (iv) buildings containing one or more areas of public assembly;
- (v) Outdoor events with attendance exceeding 1,00 persons

Operating permits

Operating permits shall be required:

- (vi) facilities that store, handle or use hazardous production materials;
- (vii) parking garages as defined in section 1203.3 (j);
- (viii) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, and...

Operating permits

Operating permits shall be required:

- (ix) other processes or activities or for operating any type of building, structure, or facility at the discretion of the authority having jurisdiction.

Condition assessments of parking garages

- Each authority having jurisdiction shall include in its code enforcement program provisions requiring condition assessments of parking garages
- Sample local law available on website:
<https://dos.ny.gov/code/local-government-state-agency-enforcement-programs>

Condition assessments of parking garages

- The **owner or operator** of each parking garage shall cause such parking garage to:
 - Undergo an initial condition assessment,
 - Periodic condition assessments, and
- Such additional condition assessments deemed necessary
- **Following the initial condition assessment such parking garage shall undergo periodic condition assessments at intervals not to exceed the lesser of:**
 - (i) Three (3) years, or
 - (ii) At such shorter period as may be fixed by the authority having jurisdiction

Fire safety and property maintenance inspections


Provisions shall be made for:

- (1) ... buildings which contain an **area of public assembly** at intervals not to exceed **one year**
- (2) ... **one year** for public and private **schools, and colleges**
- (3) ...three years for all **multiple dwellings** and all **nonresidential occupancies**

Other Laws to be Aware Of

NYS Education Law: Professional Stamp **required**

- Art. 145, Chapter 7209 Engineer
- Art. 147, Chapter 7307 Architect

	PHASE 3 <small>The Clark Building 20 Swan St. Albany, NY</small>	
	DATE 1/2/2015	KEY PLAN
	JOB 3	

Education Law: Exceptions

- Farm buildings used directly and solely for agricultural purposes
- Residence buildings of gross area of fifteen hundred square feet or less
- Alterations, costing less than \$20,000 which do not involve changes affecting the structural safety or public safety

Worker's Compensation and Disability

Workers Compensation Law, Article 4, Section 57

- Shall **not** issue such permit unless proof duly subscribed by an insurance carrier is produced

Administration & Record Keeping

1203.3 (I) Record Keeping

- **Record Keeping is Important!**
- If records can't be provided, how does a municipality prove compliance with:
 - State Law
 - State Regulation
- If records can't be provided, how do you justify your actions?
 - Enforcement proceedings
 - Budget justifications
 - Avoiding liability

Establish Parameters through Local Law

- Time Frames for Inspections
- Fees for Inspections
- Operating Permits for Hazardous Occupancies
 - Facilities with Hazardous Materials
 - Lumber Yards
 - Service Stations or Repair Garages
- Administrative Procedures

Using Outside Help

- Third party inspection agencies
- Legal authority cannot be given away
- Provides specialized knowledge
- Examples:
 - Electrical Inspections
 - Furnaces/Boiler Inspections
 - Chimney Inspections
 - Plumbing Inspections
 - Energy Code Compliance



State Involvement in Building Code Administration

Regional Board Involvement

1205.3: Powers and Duties

- Power to **VARY** or **MODIFY**
- “However ... shall not substantially adversely affect provisions for health, safety, and security **AND** that equally safe and proper alternatives may be prescribed.”
- May also hear and decide **appeals**:
 - Of any **order or determination**
 - Or **failure to order or determine**

Code Variance Procedure

1205.3 (a)(1): Vary or modify a provision or requirement

- **6 criteria:**

1. Excessive and unreasonable economic burden
2. Would not achieve intended objective
3. Inhibit important public policy
4. Physically or legally impracticable
5. Unnecessary/alternatives achieve results
6. Change so slight/negligible benefit

1203.4 Program Review and Reporting

- Local governments must submit an annual report of its administrative and enforcement activities of the Uniform Code to the Codes Division at DOS
- Upon request by DOS, every municipality shall provide its records and related materials pertaining to its administration and enforcement of the Uniform Code

Revoke or Suspend Certifications

- Any CEO or BSI who is found **after a hearing** to:
- “Materially failed to uphold duties of a code enforcement officer” including but not limited to:
- “Material errors or omissions on an inspection report”

Resources

- Administration and Enforcement of the Uniform Fire Prevention and Building Code and the Energy Conservation Construction Code publication: <https://dos.ny.gov/administration-and-enforcement-uniform-code>
- Model Local Law for the Administration and Enforcement of the NYS Uniform Fire Prevention and Building Code: <https://dos.ny.gov/code/local-government-state-agency-enforcement-programs>

New York Department of State

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