Repealed 1/1/97

PART 21

HOUSING HYGIENE AND OCCUPANCY

(Statutory authority: Public Health Law, § 225)

Sec.

GENERAL PROVISIONS

21.1 Introduction
21.2 Purposes
21.3 Title
21.4 Application and scope
21.5 Dwelling unfit for human habitation
21.6 Inspection and enforcement
21.7 Definitions

RESPONSIBILITIES OF OWNERS AND OCCUPANTS

21.8 Occupancy and letting
21.9 Owner to maintain in clean and sanitary condition
21.10 Occupant to maintain in clean and sanitary condition
21.11 Occupant to dispose of rubbish
21.12 Occupant to dispose of garbage
21.13 Containers to be provided for rubbish and garbage
21.14 Screens, double doors, storm doors and windows
21.15 Responsibility for extermination
21.16 Rodent control
21.17 Occupant's responsibility as to supplied fixtures and facilities

MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES

21.18 Basic equipment and facilities required for dwelling or dwelling unit occupied or let for living, sleeping, cooking or eating

Sec.

MINIMUM STANDARDS FOR LIGHT AND VENTILATION

21.19 Light and ventilation required for dwelling or dwelling unit occupied or let for living purposes

MINIMUM THERMAL STANDARDS (HEATING AND COOLING)

21.20 Thermal requirements for occupying or letting, for living purposes

GENERAL REQUIREMENTS RELATING TO THE SAFE AND SANITARY MAINTENANCE OF PARTS OF DWELLINGS AND DWELLING UNITS

21.21 Maintenance and installation requirements for dwelling or dwelling unit occupied or let for living purposes
21.22 Discontinuance of services, facilities, equipment or utilities

MAXIMUM DENSITY, MINIMUM SPACE, USE AND LOCATION REQUIREMENTS

21.23 Specifications of requirements

ROOMING HOUSE

21.24 General
21.25 Permit
21.26 Requirements for water closet, lavatory and bathtub or shower
21.27 Cooking and dining
21.28 Locks for doors
21.29 Bed linen and towels
21.30 Floor space for sleeping rooms
21.31 Egress
21.32 Applicability to hotels and motels

Historical Note

Part added, filed May 29, 1967 to be eff. May 29, 1967.

GENERAL PROVISIONS

Section 21.1 Introduction. There exist and may in the future exist, within the State of New York premises, dwellings, dwelling units, rooming units, or parts thereof, which by reason of their structure, equipment, sanitation, maintenance, use, or occupancy affect or are likely to affect adversely the public health (including the physical, mental and social well-being of persons and families), safety, and general welfare. To correct and prevent the existence of such adverse conditions, and to achieve and maintain such levels of residential environmental quality as will protect and promote public health, safety, and general welfare, the establishment and enforcement of minimum housing standards are required.

Historical Note

Sec. added, filed May 29, 1967 to be eff. May 29, 1967.

21.2 Purposes. It is hereby declared that the purpose of this Part is to protect, preserve, and promote the physical and mental health and social well-

being of the people, to minimize the incidence of communicable diseases, to regulate privately and publicly owned dwellings for the purpose of maintaining adequate sanitation and public health, and to protect the safety of the people and to promote the general welfare by regulations which shall be applicable to all dwellings now in existence or hereafter constructed. It is hereby further declared that the purpose of this Part is to insure that the quality of housing is adequate for protection of public health, safety and general welfare. The achievement of this purpose includes the establishment of minimum standards for basic equipment and facilities for healthful living, such as adequate water, waste disposal, bathroom facilities, light, ventilation, heating and cooling, for safety from fire and accidents, for the use and location and amount of space for human occupancy, and for an adequate level of maintenance; setting forth the responsibilities of owners, operators and occupants of dwellings; and establishing the necessary provisions for administration and enforcement.

Historical Note

Sec. added, filed May 29, 1967; amd. filed Jan. 23, 1973 eff. Jan. 23, 1973.

21.3 Title. This Part shall be known and may be cited as the State Housing, Hygiene and Occupancy Code.

Historical Note

Sec. added, filed May 29, 1967; amd. filed Jan. 23, 1973 eff. Jan. 23, 1973. Added words "Hygiene and Occupancy".

21.4 Application and scope. (a) *Application.* The requirements of this Part shall:

(1) When adopted by the appropriate local authority, apply within a county health district, a part-county health district, and a city having a city health department.

(2) Apply to all dwellings, dwelling units, habitable rooms and rooming houses within the jurisdiction of such district or such city, except those regulated under Parts 7 and 15 of the State Sanitary Code.

(3) Include all amendments thereto unless the local authority duly excludes an amendment from application to its jurisdiction within 6 months after inclusion of such amendment in the Official Compilation of the Codes, Rules and Regulations of the State of New York.

(b) *State Commissioner of Health may direct enforcement.* Notwithstanding the limits of application and administration set forth in the preceding subdivision, the State Commissioner of Health may enforce the requirements of this Part in any area where a danger or hazard to the public health shall or is likely to exist because of housing conditions.

(c) *Construction.* It is intended that the application of the provisions of this Part be consistent with the provisions of applicable State and local laws, codes, rules and regulations; provided, however, that where the provisions of this Part are more restrictive, they shall govern, and where the provisions of such applicable State or local laws, codes, rules and regulations are more restrictive, they shall govern.

(d) *Variance.* The full-time health officer may, on written application and after review, grant a variance from a specific provision of this Part in a specific case subject to appropriate conditions where such variance is in harmony with the general purpose and intent of this Part, and where there are practical difficulties or unnecessary hardship in carrying out the strict letter of its provision.

(e) *Separability.* If any provisions of this Part are held invalid, such invalidity shall not affect other provisions which shall be given effect without the invalid provisions.

Historical Note

Sec. filed May 29, 1967; amd. filed Jan. 23, 1973
eff. Jan. 23, 1973. Amended (b), (d) and (e).

21.5 Dwelling unfit for human habitation. Whenever a county or part-county board of health or full-time health officer finds that any dwelling constitutes a serious hazard to the health or safety of the occupant or to the public because it is dilapidated, unsanitary, vermin-infested or lacking in the facilities required by this Part, he shall designate such dwelling unfit for human habitation, order the dwelling vacated, and shall cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "Use of this building for human habitation is prohibited and unlawful". If the owner fails to comply with an order issued by such county or part-county board of health or full-time health officer to bring the dwelling into compliance with the requirements of this Part within a reasonable time, such county or part-county board of health or full-time health officer may order such dwelling to be removed or demolished as provided for by applicable State law and laws and regulations of the town, village, city or county having jurisdiction. The provisions of this section are applicable also to unoccupied dwelling units and the owners thereof shall be chargeable with compliance.

Historical Note

Sec. filed May 29, 1967; amd. filed Jan. 23, 1973
eff. Jan. 23, 1973.

21.6 Inspection and enforcement. (a) *Inspection.* (1) The State Commissoner of Health and any person authorized by him to do so, and the full-time health officer and any person authorized by him to do so, may without fee or hindrance, make inspections to determine the condition of dwellings, dwelling units, rooming houses, rooming units and the premises on which they are located, in order to fulfill the purposes of this Part.

(2) For the purpose of making such inspections, the inspector is hereby authorized to enter, examine and survey all dwellings, dwelling units, rooming houses and rooming units and the premises on which they are located. Except for emergencies, or where authorized by other law, or for the convenience of the occupant or owner, such inspections shall be made between the hours of 8 a.m. and 5 p.m.

(3) The owner, the operator and the occupant shall give the inspector free access to the dwelling, dwelling unit, rooming house or rooming unit, and the premises on which they are located, for the purpose of such an inspection.

(4) Evidence of a violation of this Part discovered during such inspection shall not be used against the violator in either a criminal or civil proceeding except under the following conditions:

(i) written notice of said violation shall be left with or mailed to the person responsible for correction of such violation or in the alternative such notice shall be posted in a conspicuous place upon the dwelling, dwelling unit, rooming house or rooming unit or the premises where the violation is discovered;

(ii) said written notice states a specific and reasonable time within which such violation shall be eliminated; and

(iii) at the end of such time the violation has not been eliminated.

(b) *Criminal penalties.* Criminal penalties for violations of this Part shall be those provided for in section 229 of the Public Health Law.

(c) *Civil penalties.* Civil penalties for violations of this Part shall be those provided for in sections 12 and 309 of the Public Health Law. Determinations with respect to violations and/or assessing of penalties shall be subject to review as provided in article 78 of the Civil Practice Law and Rules.

Historical Note

Sec. filed May 29, 1967 to be eff. May 29, 1967.

Decisions

1. Warrant required for nonemergency inspection

The Fourth Amendment bars warrantless, nonemergency, administrative inspection of private residential premises without the occupant's consent. Issuance of a warrant for such inspection, however, need not be based upon reasonable cause to believe that a violation exists in the premises sought to be entered, but can be based merely upon the reasonableness of the need to conduct periodic, area-wide inspections. *Camara v. Municipal Court*, 387 U.S. 523; cf. *See v. City of Seattle*, 387 U.S. 541 barring warranties, nonconsensual, administrative entry and inspection of private commercial pemises.

21.7 Definitions. (a) *Accessory structure* shall mean a detached structure or an attached structure located on or partially on any premises, which is not used or not intended to be used for living or sleeping by human occupants.

(b) *Approved* shall mean approved by the full-time health officer.

(c) *Central heating system* shall mean a single system supplying heat to one or more dwelling unit(s) or more than one rooming unit(s).

(d) *Conditions conducive to lead poisoning* shall mean the presence of a paint or other similar surface-coating material in a condition accessible for ingestion or where peeling or chipping of the paint or other similar surface-coating material occurs or is likely to occur and which paint or other similar surface-coating material contains more than one-half of one percent of metallic lead based on the total weight of the contained solids or dried paint film on interior walls, ceilings, doors, baseboards or window sills and frames or porches of any dwelling.

(e) *Dwelling* shall mean any building or structure which is wholly or partly used or intended to be used for living or sleeping by human occupants.

(f) *Dwelling unit* shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking, and eating.

(g) *Egress* shall mean a place or means of going safely to the outside of a dwelling or building.

(h) *Extermination* shall mean the control and elimination of insects, rodents, or other pests by eliminating their harborage places; by removing or making inaccessible materials that may serve as their food; by poisoning, spraying, fumigating, trapping, or by any other recognized and legal pest elimination methods approved by the local or State authority having such administrative authority.

(i) *Family* shall mean one adult person plus one or more persons who are legally related to said person and residing in the same dwelling unit with said person.

(j) *Full-time health officer* shall mean the health commissioner or health officer of a city or 50,000 population or over, or of a county or part-county health district, or the State district health officer in those areas of the State not located within a county, part-county, or city health district.

(k) *Garbage* shall mean the animal and vegetable waste resulting from the handling, preparation, cooking, serving, and nonconsumption of food.

(l) *Guest* shall mean any person who shares a dwelling unit in a nonpermanent status for not more than 30 days.

(m) *Habitable room* shall mean a room or enclosed floor space used or intended to be used for living, sleeping, cooking, or eating purposes, excluding bathrooms, water closet compartments, laundries, furnace rooms, pantries, kitchenettes and utility rooms of less than 50 square feet foyers or communicating cooridors, stairways, closets and storage spaces; and workshops, hobby and recreation areas in unsealed or uninsulated parts of structure below ground level or in attics.

(n) *Heated water* shall mean water heated to a temperature of not less than 120 degrees Fahrenheit.

(o) *Household* shall mean a family and/or one or more unrelated persons, who share the same dwelling and use some or all of its cooking and eating facilities. It shall include servants and not more than two boarders.

(p) *Infestation* shall mean the presence within or around a dwelling of any insects, rodents or other pests.

(q) *Kitchen* shall mean any room used primarily for cooking or preparation of food and containing any or all of the following equipment: sink and/or other device for dishwashing, stove or other device for cooking, refrigerator or other device for cool storage of food. Where a room is used for cooking and preparation of food, but not primarily so used, kitchen shall mean that portion of such room which contains the above equipment and an area within three feet of such equipment.

(r) *Meaning of certain words.* Whenever the words "Dwelling", "dwelling unit", "rooming house", "rooming unit", "premises", "structure" are used in this Part, they shall be construed as though they were followed by the words "or any part thereof". Words used in the singular include the plural, and the plural the singluar, the masculine gender includes the feminine and the feminine the masculine.

(s) *Multiple dwelling* shall mean any dwelling containing more than two dwelling units or more than four roomers.

(t) *Occupant* shall mean any person, over one year of age, living, sleeping, cooking, or eating in, or actually having possession of, a dwelling unit or a rooming unit; except that in dwelling units a guest will not be considered an occupant.

(u) *Operator* shall mean any person who has charge, care or control of a building, or part thereof, in which there are dwelling units or rooming units.

(v) *Owner* shall mean any person who, alone or jointly or severally with other:

(1) shall have legal title to any dwelling or dwelling unit, with or without accompanying actual possession thereof, or

(2) shall have charge, care, or control of any dwelling or dwelling unit, as owner, lessee, mortgagee or vendee in possession, assignee of rents, or as a receiver; or an executor, administrator, trustee, or guardian of the estate of the owner. Any agent for any of the above shall be bound to comply with the provisions of this Part to the same extent as if he were the owner.

(w) *Permissible occupancy* shall mean the maximum number of persons permitted as family or household to reside in a dwelling unit or rooming unit based on the square feet per person in habitable rooms.

(x) *Person* shall mean and include any individual, firm, public or private corporation, municipality, policitcal subdivision, association, trust, estate, agency, board, department or bureau of a municipality, partnerhsip, or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.

(y) *Plumbing* shall mean and include all of the following supplied facilities and equipment: gas pipes, gas burning equipment, water pipes, garbage disposal units, waste pipes, water closets, sinks, installed dishwashers, lavatories, bathtubs, shower baths, installed clothes washing machines, catch basins, drains, vents, and any other similar supplied fixtures, together with all connections to water, sewer, or gas lines.

(z) *Privacy* shall mean the ability of a person or persons to carry out an activity without interruption or interference, either by sight or sound, by persons outside of the household.

(aa) *Premises* shall mean a platted lot or part thereof or unplatted lot or parcel or land or plot of land, whether or not it has erected thereon a dwelling or nondwelling structure and it includes any building, accessory structure or other structure thereon.

(bb) *Rat harborage* shall mean any place where rats can live, nest or seek shelter.

(cc) *Rat proofing* shall mean a form of construction which will prevent the ingress or egress of rats to or from a given space or building, or gaining access to food, water, or harborage. It consists of the closing and keeping closed of every opening in foundations, basements, cellars, exterior and interior walls, ground or first floors, roofs, sidewalk gratings, sidewalk openings and other places that may be reached and entered by rat climbing, burrowing or other methods, by the use of materials impervious to rat gnawing or by other methods approved by the full-time health officer.

(dd) *Refuse* shall mean all putrescible and nonputrescible solids (except body wastes) including garbage, rubbish, ashes and dead animals.

(ee) *Refuse container* shall mean a watertight container that is constructed of metal, or other durable material impervious to rodents, that is capable of being serviced without creating insanitary conditions, or such other containers approved by the full-time health officer. Openings into the container such as covers and doors shall be tight fitting.

(ff) *Rooming unit* shall mean any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

(gg) *Rooming house* shall mean any dwelling or that part of any dwelling containing one or more rooming units, in which space is occupied by three or more roomers who are not members of a single family.

(hh) *Rubbish* shall mean nonputrescible solid wastes (excluding ashes) consisting of either or both:

(1) conbustible wastes such as paper, cardboard, rags, furniture, plastic containers, yard clippings, tree branches, leaves and wood, and

(2) noncombustible wastes such as tin cans, glass, crockery and discarded appliances.

(ii) *Safety* shall mean the condition of being reasonably free from danger and hazards which may cause accidents or disease.

(jj) *Supplied* shall mean paid for, furnished, provided by, or under the control of the owner or operator.

Historical Note

Sec. filed May 29, 1967; amds. filed: Jan. 23, 1973; Oct. 26, 1977 eff. Oct. 26, 1977. Amended (d).

RESPONSIBILITIES OF OWNERS AND OCCUPANTS

21.8 Occupancy and letting. No owner or other person shall occupy or let to another person any vacant dwelling or dwelling unit unless it and the premises are clean, sanitary, fit for human occupancy, and comply with the requirements of this Part and all applicable laws.

Historical Note

Sec. filed May 29, 1967 eff. May 29, 1967.

21.9 Owner to maintain in a clean and sanitary condition. Every owner of a dwelling containing two or more dwelling units shall maintain in a clean and sanitary condition the shared or public areas of the dwelling and premises thereof.

Historical Note

Sec. added, filed May 29, 1967 to be eff. May 29, 1967.

21.10 Occupant to maintain in a clean and sanitary condition. Every occupant of a dwelling or dwelling unit shall maintain in a clean and sanitary condition that part or those parts of the dwelling, dwelling unit and premises thereof that he occupies and controls.

Historical Note

Sec. added, filed May 29, 1967 to be eff. May 29, 1967.

21.11 Occupant to dispose of rubbish. Every occupant of a dwelling or dwelling unit shall store or dispose of all his rubbish in a clean, sanitary and safe manner.

Historical Note

Sec. added, filed May 29, 1967; amd. filed Jan. 23, 1973 eff. Jan. 23, 1973.

21.12 Occupant to dispose of garbage. Every occupant of a dwelling or dwelling unit shall dispose of or store all his garbage or any other organic waste which might provide food for insects or rodents, in a clean, sanitary and safe manner. Rodent-proof, insect-proof, watertight refuse containers shall be used for storage pending collection.

Historical Note

Sec. added, filed May 29, 1967; amd. filed Jan. 23, 1973 eff. Jan. 23, 1973. Added last sentence and amended 1st sentence.

21.13 Containers to be provided for rubbish and garbage. Every owner of a dwelling containing three or more dwelling units shall supply facilities or refuse containers for the sanitary and safe storage and/or disposal of rubbish and garbage. In single or two family dwellings it shall be the responsibility of the occupant to furnish such facilities or refuse containers.

Historical Note

Sec. added, filed May 29, 1967; amd. filed Jan. 23, 1973 eff. Jan. 23, 1973.

21.14 Screens, double doors, storm doors and windows. The owner of a dwelling unit shall be responsible for providing and hanging all screens and double or storm doors and windows whenever the same are required under the provisions of this Part, except where a written agreement between the owner and occupant provides otherwise. In the absence of a written agreement between the owner and occupant providing otherwise, maintenance or replacement of screens, storm doors and windows, once installed in any one season become the responsibility of the occupant.

Historical Note

Sec. added, filed May 29, 1967; amd. filed Jan. 23, 1973 eff. Jan. 23, 1973. Amended last sentence.

21.15 Responsibility for extermination. Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises; and every occupant

dwelling unit in a dwelling containing more than one dwelling unit shall be nsible for such extermination whenever his dwelling unit is the only one .ed. Notwithstanding the foregoing provisions of this section, whenever tation is caused by failure of the owner to maintain a dwelling in a rat-proof asonable insect-proof condition, extermination shall be the responsibility of owner. Whenever infestation exists in two or more of the dwelling units in dwelling, or in the shared or public parts of any dwelling containing two or dwelling units, extermination thereof shall be the responsibility of the owner.

Historical Note

Sec. added, filed May 29, 1967 to be eff. May 29, 1967.

!.16 **Rodent control.** (a) Every occupant of a dwelling or dwelling unit store and dispose of accumulated rubbish, boxes, lumber, scrap metal, or any materials in such a manner as to prevent rodent harborage in or about any ling or dwelling unit. Materials shall be stacked neatly in piles elevated at a high enough to permit effective cleaning.

) Every owner of a dwelling containing two or more dwelling units shall ly facilities or make provisions for the storage and disposal of accumulated ish, boxes, lumber, scrap metal or any other materials in such a manner as to ent rodent harborage in or about the shared or public areas of a dwelling or remises. Materials shall be stacked neatly in piles elevated at a level high gh to permit effective cleaning.

:) Every owner or occupant of a dwelling or dwelling unit shall not store, e, or allow to accumulate any materials that may serve as food or harborage for nts in a site accessible to rodents.

d) No person shall feed in the open any domestic or wild fowl, birds or animals r than in a suitable container and in such a manner so as to prevent scattering od upon the ground or ground level which can or will provide food for rodents, ts, vermin or other pests.

Historical Note

ec. added, filed May 29, 1967; amd. filed substituted. 23, 1973 eff. Jan. 23, 1973. New sec

!.17 **Occupants responsibility as to supplied fixtures and facilities.** (a) Every pant of a dwelling unit shall keep all supplied fixtures and facilities therein in a n, sanitary and operable condition and shall be responsible for the exercise of onable care in the proper use and operation thereof.

b) *Occupant's responsibility as to domestic animals and pets.* Every occupant l keep his domestic animals and pets in a clean and sanitary manner and under rol.

Historical Note

ec. added, filed May 29, 1967; amd. filed substituted. 23, 1973 eff. Jan. 23, 1973. New sec.

MINIMUM STANDARDS FOR BASIC EQUIPMENT AND FACILITIES

!1.18 **Basic equipment and facilities required for dwelling or dwelling unit pied or let for living, sleeping, cooking or eating.** No person shall occupy as er, occupant or let to another for occupancy any dwelling or dwelling unit, the purposes of living, sleeping, cooking or eating therein, which does not ply with the following requirements:

a) *Kitchen requirements.* Every dwelling unit shall have a room or portion room in which food may be prepared and/or cooked and which room shall have quate floor area available for occupant use [illegible] equipped with the following.

(1) A kitchen sink in good working condition and properly connected to a water supply system which is approved by the full-time health officer and which provides at all times an adequate amount of heated and unheated running water under pressure, and which is connected to a sewer system approved by the full-time health officer.

(2) Cabinets and or shelves for the storage of eating, drinking, and cooking equipment and utensils and of food that does not under ordinary maximum summer conditions require refrigeration for safe keeping; a counter or table for food preparation; provided, further, that said cabinets and/or shelves and counter or table shall be sufficient for the permissible occupancy of the dwelling unit and shall be of sound construction furnished with surfaces that are easily cleanable and that will not impart any toxic or deleterious effect to food.

(3) A stove, or similar device, for cooking food and a refrigerator for the safe storage of food at temperatures less than 45 degrees Fahrenheit, but more than 32 degrees Fahrenheit, which are properly installed with all necessary connections for safe, sanitary and efficient operation; provided that such stove and refrigerator need not be installed when a dwelling unit is not occupied, when the occupant is expected to provide same on occupancy, and sufficient space for the safe and efficient installation and operation of said stove and refrigerator is provided.

(b) *Water closet requirements.* Within every dwelling unit there shall be a non-habitable room which affords privacy to a person within said room and which is equipped with a flush water closet in good working condition. Said flush water closet shall be connected to a water system that at all times provides an adequate amount of running water under pressure to cause the water closet to be operated properly and shall be connected to a sewer system which is approved by the full-time health officer.

(c) *Lavatory sink requirements.* Within every dwelling unit there shall be a room which affords privacy to a person within said room which is equipped with a lavatory sink. Said lavatory sink may be in the same room as the flush water closet or in another room; provided that, if located in a room other than the one containing the flush water closet, the water closet shall be located in close proximity to the door leading directly into the room in which said lavatory sink is located. The lavatory sink shall be in good working condition and properly connected to a water supply system which is approved by the full-time health officer and which provides at all times an adequate amount of heated and unheated, running water under pressure, and which is connected to a sewer system approved by the full-time health officer.

(d) *Bathtub or shower requirements.* Within every dwelling unit there shall be a room which affords privacy to a person within said room and which is equipped with a bathtub or shower in good working condition. Said bathtub or shower may be in the same room as the flush water closet or in another room and shall be properly connected to a water supply system which is approved by the full-time health officer and which provides at all times an adequate amount of heated and unheated running water under pressure, and which is connected to a sewer system approved by the full-time health officer.

(e) *Means of egress.* Every dwelling unit in a one- or two-family dwelling shall have at least one approved means of egress and a second approved means of egress for each floor above the second where there is living above the second floor. Every multiple dwelling shall have remotely located from each other two or more approved means of egress from each floor leading to safe and open space at ground level, as required by law. A sprinkler system satisfactory to the full-time

health officer, may be substituted in lieu of one means of egress provided that no existing State or local statute is contravened.

Historical Note

Sec. added, filed May 29, 1967; amd. filed Jan. 23, 1973 eff. Jan. 23, 1973. New sec. substituted.

MINIMUM STANDARDS FOR LIGHT AND VENTILATION

21.19 Light and ventilation required for dwelling or dwelling unit occupied or let for living purposes. No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

(a) *Windows or skylights.* Every habitable room shall have at least one window or skylight facing directly outdoors. The minimum total window or skylight area, measured between stops, for every habitable room shall be at least 10 percent of the floor area of such room. Whenever outside walls or other portions of structures face a window of any such room and such light-obstruction structures are located less than three feet 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 and shall not be included as contributing to the required minimum total window area.

(b) *Ventilation.* Every habitable room shall have at least one window or skylight which can easily be opened, or such other device as will adequately ventilate the room. The total of openable window area in every habitable room shall be equal to at least 45 per cent of the minimum window area size or minimum skylight type window size, as required in subdivision (a) above, except where there is supplied some other device affording adequate ventilation and approved by the full-time health officer.

(c) *Bathroom and water closet.* Every bathroom and water closet compartment shall comply with the light and ventilation requirement for habitable rooms contained in subdivisions (a) and (b) above, except that no window or skylight shall be required in adequately ventilated bathrooms and water closet compartments equipped with a ventilation system which is approved by the full-time health officer.

(d) *Electric service.* Where there is electric service available from power lines which are not more than 300 feet away from a dwelling, every dwelling unit and all public and common areas shall be supplied with electric service, outlets and fixtures. Such outlets and fixtures shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to the source of electric power in a manner prescribed by law. The capacity of such service and the number of outlets and fixtures shall be as follows:

(1) Every habitable room shall have an electric service and outlets and/or fixtures capable of providing at least three watts per square foot of floor area.

(2) Every habitable room shall have at least one floor or wall type electric convenience outlet for 60 square feet or fraction thereof of floor area, and in no case less than two such outlets.

(3) Every water closet compartment, bathroom, laundry room, furnace room, and public hall shall contain at least one supplied ceiling or wall type electric light fixture.

(4) Convenient switches for turning on one light in each room or passageway shall be located so as to permit the area ahead to be lighted.

(e) *Lighting for public halls and stairways.* Every public hall and stairway in every multiple dwelling shall be adequately lighted by natural or electric light at all times so as to provide at least 10 foot-candles of light at the tread or floor level.

Every public hall and stairway in structures containing not more than two dwelling units shall be supplied with conveniently located light switches controlling an adequate lighting system which may be turned on when needed, instead of full-time lighting.

Historical Note

Sec. added, filed May 29, 1967; amd. filed substituted.
Jan. 23, 1973 eff. Jan. 25, 1973. New sec.

MINIMUM THERMAL STANDARDS (HEATING AND COOLING)

21.20 Thermal requirements for occupying or letting, for living purposes. No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

(a) *Heating facilities.* Every dwelling shall have heating facilities which are properly installed, and are maintained in safe and good working condition, and are capable of safely and adequately heating all habitable rooms, bathrooms and water closet compartments in every dwelling unit as noted in (b) below.

(b) *Minimum temperature.* The owner is responsible for furnishing the heat unless the rental agreement provides otherwise. Where the owner furnishes the heat, the temperature shall be maintained at not less than 68 degrees Fahrenheit at a distance of 18 inches above floor level and three feet from an outside wall.

(c) *Space and water heaters.* Unvented flame space heaters and space heaters without back-draft diverter and automatic controls are prohibited; portable electric heaters, approved under the appropriate local or State electrical and/or fire prevention code are acceptable (where they meet the provisions of subdivision [a] of this section). Where there is no such local or State code, portable electric heaters meeting the standards of the National Electrical Code, as approved by the Underwriter Laboratories, Inc. and the full-time health officer are acceptable. Gas-fueled space or water heaters and accessories or controls shall be properly installed and be of a type approved by the American Gas Association and the full-time health officer.

Historical Note

Sec. added, filed May 29, 1967; amds. 1973. Changed "70" to "68" in (b).
filed: Jan. 23, 1973; Dec. 6, 1973 eff. Dec. 6,

GENERAL REQUIREMENTS RELATING TO THE SAFE AND SANITARY MAINTENANCE OF PARTS OF DWELLINGS AND DWELLING UNITS

21.21 Maintenance and installation requirements for dwelling or dwelling unit occupied or let for living purposes. No person shall occupy as owner, occupant or let to another for occupancy any dwelling or dwelling unit, for the purpose of living therein, which does not comply with the following requirements:

(a) *General.* Every foundation, roof and exterior wall, door, skylight and window shall be reasonably weather-tight, watertight, and damp-free and shall be kept in sound condition and good repair. Floors, interior walls, doors and ceilings shall be sound and in good repair. All exterior wood surfaces other than decay resistant woods, shall be protected from the elements and decay by paint or other protective covering or treatment. Lead based and other toxic paints and materials shall not be used on any interior surface or any surface readily accessible to children. Walls shall be capable of affording privacy for the occupants. Every premises shall be well-graded, drained and maintained in a clean, sanitary and safe condition.

(b) *Windows, doors and hatchways.* Every window, exterior door and basement hatchway or similar devices, shall be kept rodent-proof and reasonably watertight and weather-tight, and shall be kept in sound working condition and good repair.

(c) *Screening.* During that portion of the year when there is a need for protection against mosquitoes, flies and other flying insects, every door opening directly from a dwelling unit to outside space shall have supplied properly fitting screens having at least 16 mesh and a self-closing device; and every window or other device with openings to outdoor space, used or intended to be used for ventilation, shall likewise be supplied with screens: provided that such screens shall not be required during such period in rooms deemed by the full-time health officer to be located high enough in the upper stories of buildings as to be free from such insects, and in rooms located in areas which are deemed by the full-time health officer to have so few insects as to render screens unnecessary.

(d) *Prevent entrance of rodents.* Every window located at or near ground level used or intended to be used for ventilation, and every other opening located at or near ground level which might provide an entry for rodents, shall be supplied with adequate gauge screen or such other devices as will effectively prevent their entrance.

(e) *Safety.* Every foundation, roof, floor, exterior and interior wall, ceiling, inside and outside stair, porch, and every appurtenance to any of these shall be safe to use and capable of supporting the loads that normal use may cause to be placed thereon; and shall be kept in sound condition and good repair. Every inside and outside stair or step shall have uniform risers and treads and be provided with non-skid materials. Stairways shall have handrails structurally sound, of reasonable height, and where needed, balusters adequately spaced.

(f) *Plumbing fixtures and water and waste pipes.* Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good sanitary working condition.

(g) *Floors for water closet compartments bathrooms and kitchens.* Every water closet compartment, bathroom and kitchen floor surface and baseboard shall be constructed and maintained so as to be reasonably impervious to water so as to permit such floor to be easily kept in a clean and sanitary condition.

(h) *Construction, installation and maintenance.* Every plumbing fixture pipe, chimney, flue and smoke pipe, and every other facility, piece of equipment, or utility which is present in a dwelling or dwelling unit, or which is required under this Part, shall be constructed and installed in conformance with the applicable local, State or national codes and shall be maintained in satisfactory working condition.

(i) *Fire protection.* All construction and materials and ways and means of egress, and installation and use of equipment shall conform to applicable laws dealing with fire protection.

(j) *Lead poisoning.* Existing paint conditions conducive to lead poisoning shall be eliminated in accordance with procedures contained in article 13, title X of the Public Health Law.

Historical Note

Sec. added, filed May 29, 1967; amd. filed substituted. Jan. 28, 1978 eff. Jan. 28, 1978. New sec.

21.22 Discontinuance of services, facilities, equipment or utilities. No owner, operator, or occupant shall cause or be responsible for causing any service, facility, equipment or utility which is required under this Part to be removed from or shut off from or discontinued for any occupied dwelling or dwelling unit let or occupied by him; except for such temporary interruption as may be necessary while actual repairs or alterations are in process, or during temporary emergencies when discontinuance of service is either not reasonably avoidable or is approved by the full-time health officer.

Historical Note

Sec. added, filed May 29, 1967; amd. filed substituted. Jan. 28, 1978 eff. Jan. 28, 1978. New sec.

MAXIMUM DENSITY, MINIMUM SPACE, USE AND LOCATION REQUIREMENTS

21.23 Specification of requirements. No person shall occupy or let to be occupied any dwelling or dwelling unit, for the purpose of living therein, unless there is compliance with the following requirements:

(a) *Maximum density.* Every dwelling unit shall contain at least 150 square feet of floor space for the first occupant thereof and at least 100 additional square feet of floor space for every additional occupant thereof, the floor space to be calculated on the basis of total habitable room area.

(b) *Occupancy limited to one family plus two occupants.* A dwelling unit shall not be occupied by more than one family, plus two occupants unrelated to the family, except for guests or domestic employees, unless a permit for a rooming house has been granted by the full-time health officer.

(c) *Ceiling height.* The ceiling height of any habitable room shall be at least 7½ feet; except that in any habitable room under a sloping ceiling at least one half of the floor area shall have a ceiling height of at least 7½ feet, and the floor area of that part of such a room where the ceiling height is less than five feet shall not be considered as part of the floor area in computing the total floor area of the room for the purpose of determining the maximum permissible occupancy.

(d) *Habitable room below grade.* No space located partially or totally below grade shall be used as a habitable room of a dwelling unit unless:

(1) The floor and those portions of the walls below grade are of water-proof and damp-proof construction.

(2) The minimum window area is equal to at least that required in section 21.19(a) and is located entirely above the grade of the ground adjoining such window area, or, if windows are located wholly or partly below grade, there be constructed a properly drained window well the ground area of which is equal to or greater than the area of the masonry opening for the window, the bottom of which is below the top of the impervious masonry construction under this window, with the minimum horizontal distance at a right angle from any point of the window wall being equal to or greater than the vertical depth of the window well, as measured from the bottom of the masonry opening for the window.

(3) The total openable window area in each room is equal to at least the minimum as required under section 21.19 (b) of this Part, except where there are supplied some other devices affording adequate ventilation and humidity control which are approved by the full-time health officer.

(4) There are no pipes, ducts or other obstructions less than 6 feet, 8 inches from the floor level which interfere with the normal use of the room or area.

(e) *Floor space for sleeping rooms.* In every dwelling unit of two or more rooms, every room occupied for sleeping purposes shall contain at least 70 square feet of floor space for the first occupant, and at least 50 square feet of floor space for each additional occupant thereof.

(f) *Access to bathrooms, water closet compartments and sleeping rooms.* No dwelling or dwelling unit containing two or more sleeping rooms shall have such room arrangements that access to a bathroom or water closet compartment intended for use by occupants of more than one sleeping room can be had only by going through another sleeping room; nor shall room arrangements be such that access to a sleeping room can be had only by going through another sleeping room or a bathroom or water closet compartment.

(g) *Closet space.* Every dwelling unit shall have at least four square feet of closet space for the personal effects of each permissible occupant; if it is lacking, in

whole or in part, an amount of space equal in square footage to the deficiency shall be subtracted from the area of habitable room space used in determining permissible occupancy.

(h) *Storage of drugs and poisons.* Each dwelling shall have a suitable facility for the safe storage of drugs, household poisons and other hazardous materials.

Historical Note

Sec. added, filed May 29, 1967; amd. filed substituted. Jan. 23, 1973 eff. Jan. 23, 1973. New sec.

ROOMING HOUSE

21.24 General. No person shall operate a rooming house, or shall occupy or let to another for occupancy any rooming unit in any rooming house, except in compliance with the provisions of this Part. No owner or other person shall occupy or let to another person any vacant rooming unit unless it is clean, sanitary, and fit for human occupancy, and complies with all applicable legal requirements.

Historical Note

Sec. added, filed May 29, 1967; amd. filed substituted. Jan. 23, 1973 eff. Jan. 23, 1973. New sec.

21.25 Permit. (a) *Permit required.* No person shall operate a rooming house unless he holds a valid rooming house permit issued by the full-time health officer in the name of the operator and for the specific dwelling or dwelling unit. The applicant must be a fit and proper person to operate a rooming house and the rooming house which he intends to operate must be in compliance with the provisions of this Part. This permit shall be displayed in a conspicuous place within the rooming house at all times. No such permit shall be transferable. Every person holding such a permit shall give notice in writing to the full-time health officer within 24 hours after having sold, transferred, given away, or otherwise disposed of ownership of, interest in, or control of any rooming house. Such notice shall include the name and address of the person succeeding to the ownership or control of such rooming house. Every rooming house permit shall expire at the end of one year following its date of issuance, unless sooner suspended or revoked as hereinafter provided.

(b) *Modification, suspension or revocation of a permit.* A permit to operate a rooming house may be modified, suspended or revoked by the full-time health officer or his designee. Such action may be taken because of:

(1) failure to comply with one or more of the provisions of this Part;
(2) refusal to permit inspection;
(3) mistake in issuance of the permit;
(4) false statements on the application for the permit;
(5) the permittee's conviction of a crime;
(6) any act or conduct of the permittee which indicates his unfitness to operate a rooming house; or
(7) for other good reason.

(c) *Hearing.* Before a permit may be modified, suspended or revoked, the permittee shall have the opportunity to be heard, except that a permit may be temporarily suspended pending a hearing.

Historical Note

Sec. added, filed May 29, 1967; amd. filed substituted. Jan. 23, 1973 eff. Jan. 23, 1973. New sec.

21.26 Requirements for water closet, lavatory and bathub or shower. At least one flush water closet, lavatory basin and bathtub or shower, properly connected to a water and sewer system approved by the full-time health officer and in good

working condition, shall be supplied for each six persons or fraction thereof residing within a rooming house, including members of the operator's family wherever they share the use of the said facilities, except that in a rooming house where rooms are let only to males, flush urinals may be substituted for not more than one half of the required number of water closets greater than one.

(a) *Accessibility.* All such facilities shall be so located within the dwelling as to be reasonably accessible from a common hall or passageway to all persons sharing such facilities.

(b) *Hot and cold water.* Every lavatory basin and bathtub or shower shall be supplied with heated and unheated water at all times.

(c) *Facilities in basements.* No such facilities shall be located in a basement, except by written approval of the full-time health officer.

Historical Note

Sec. added, filed May 29, 1967; amd. filed substituted. Jan. 23, 1973 eff. Jan. 23, 1973. New sec.

21.27 Cooking and dining. (a) *No cooking.* Cooking in a rooming unit shall be prohibited.

(b) *No communal cooking and dining.* Communal cooking and dining facilities in a rooming house shall be prohibited, except as approved by the full-time health officer in writing.

Historical Note

Sec. added, filed May 29, 1967; amd. filed substituted. Jan. 23, 1973 eff. Jan. 23, 1973. New sec.

21.28 Locks for doors. Rooming unit doors shall have operating locks to insure privacy.

Historical Note

Sec. added, filed May 29, 1967; amd. filed substituted. Jan. 23, 1973 eff. Jan. 23, 1973. New sec.

21.29 Bed linen and towels. The operator of every rooming house shall change supplied bed linen and towels therein at least once each week, and prior to the letting of any room to any occupant. The operator shall be responsible for the maintenance of all supplied bedding in a clean and sanitary manner.

Historical Note

Sec. added, filed May 29, 1967; amd. filed substituted. Jan. 23, 1973 eff. Jan. 23, 1973. New sec.

21.30 Floor space for sleeping rooms. Every room occupied for sleeping purposes by one person shall contain at least 80 square feet of floor space, and every room occupied for sleeping purposes by more than one person shall contain at least 60 square feet of floor space for each occupant thereof.

Historical Note

Sec. added, filed May 29, 1967; amd. filed substituted. Jan. 23, 1973 eff. Jan. 23, 1973. New sec.

21.31 Egress. Every rooming unit shall have two or more safe, unobstructed means of egress leading to safe and open space at ground level, as required by law. A sprinkler system satisfactory to the full-time health officer may be substituted in lieu of one means of egress.

Historical Note

Sec. added, filed May 29, 1967; amd. filed substituted. Jan. 23, 1973 eff. Jan. 23, 1973. New sec.

21.32 Applicability to hotels and motels. Every provision of this Part which applies to rooming houses shall also apply to hotels and motels, except to the extent that any such provision may be found in conflict with other laws of this State.

Historical Note

Sec. added, filed Jan. 23, 1973 eff. Jan. 23, 1973. New sec. substituted.