



Building Standards and Codes

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TECHNICAL BULLETIN

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Topic: Legal citations to code provisions

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The State Uniform Fire Prevention and Building Code (Uniform Code) and Energy Conservation Construction Code (Energy Code) were recently amended and updated. The amended and updated versions of the Uniform Code and Energy Code became effective on October 3, 2016, and are sometimes referred to as the “2016 Uniform Code” and the “2016 Energy Code.”

The purpose of this Technical Bulletin is to identify the publications that are parts of the 2016 Uniform Code the 2016 Energy Code and to provide guidance regarding the proper way to give legal citations to provisions in those publications.

Prior Versions of the Uniform Code and Energy Code

Prior versions of the Uniform Code and Energy Code included publications that were specific to New York State. For example, the version of the Uniform Code that was adopted in 2010 included the 2010 editions of publications entitled the “Residential Code of New York State” (the “2010 RCNYS”), the “Building Code of New York State” (the “2010 BCNYS”), the “Plumbing Code of New York State” (the “2010 PCNYS”), the “Mechanical Code of New York State” (the “2010 MCNYS”), the “Fuel Gas Code of New York State” (the “2010 FGCNYS”), the “Fire Code of New York State” (the “2010 FCNYS”), the “Property Maintenance Code of New York State” (the “2010 PMCNYS”), and the “Existing Building Code of New York State” (the “2010 EBCNYS”). Similarly, the version of the Energy Code that was adopted in 2010 included the 2010 edition of a publication entitled the “Energy Conservation Construction Code of New York State” (the “2010 ECCCNYS”).

2016 Uniform Code and 2016 Energy Code

The 2016 Uniform Code and the 2016 Energy Code no longer include publications that are specific to New York State. The 2016 Uniform Code includes the 2015 editions of the following model code books (the “2015 I-Codes”), published by the International Code Council, Inc. (“ICC”):

- the “International Residential Code” (Second Printing: January 2016) (referred to as “2015 IRC”),
- the “International Building Code” (Third Printing: October 2015) (referred to as “2015 IBC”),
- the “International Plumbing Code” (Third Printing: August 2015) (referred to as “2015 IPC”),
- the “International Mechanical Code” (Third Printing: November 2015) (referred to as “2015 IMC”),
- the “International Fuel Gas Code” (Third Printing: June 2015) (referred to as “2015 IFGC”),
- the “International Fire Code” (Third Printing: June 2015) (referred to as “2015 IFC”),
- the “International Property Maintenance Code” (Fourth Printing: December 2015) (referred to as “2015 IPMC”), and
- the “International Existing Building Code” (Fifth Printing: November 2015) (referred to as “2015 IEBC”).

The 2016 Energy Code includes the following publications:

- the 2015 edition of the “International Energy Conservation Code” (Second Printing: May 2015), published by ICC (referred to as “2015 IECC”), and
- the publication entitled “ANSI / ASHRAE / IES Standard 90.1-2013, Energy Standard for Buildings Except Low-Rise Residential Buildings” (July 2014 Printing), published by American Society of Heating, Refrigeration and Air-Conditioning Engineers, Inc. (referred to as “ASHRAE 90.1-2013”).

The NYCRR

The 2016 Uniform Code and the 2016 Energy Code are regulations and, as such, must be included in the “New York Codes Rules and Regulations” (the “NYCRR”). The 2016 Uniform Code is included in Title 19 of the NYCRR (“19 NYCRR”) as Parts 1219 to 1227. The 2016 Energy Code is included in 19 NYCRR as Part 1240.

The 2015 I-Codes and ASHRAE 90.1-2013 became part of the NYCRR by a process known as “incorporation by reference.” For example, 19 NYCRR Part 1220 includes a section that states that the 2015 IRC is incorporated by reference in Part 1220. This has the legal effect of making the 2015 IRC part of 19 NYCRR Part 1220 and, therefore, part of the 2016 Uniform Code. Similarly, 19 NYCRR Part 1240 includes sections that state that the 2015 IECC and ASHRAE 90.1-2013 are incorporated by reference in Part 1240; this makes those publications parts of 19 NYCRR Part 1240 and, therefore, parts of the 2016 Energy Code.

It is important to note that ICC has published several “printings” of the 2015 I-Codes, and ASHRAE has published several “printings” of ASHRAE 90.1-2013. However, only the specific “printings” identified in the lists set forth above have been incorporated by reference in the NYCRR, and only those specific “printings” are included in the 2016 Uniform Code and the 2016 Energy Code.

The NYCRR is published by West Publishing Company, and “official” copies of the NYCRR may be obtained from West. However, West provides an “unofficial” version of the NYCRR on its website. The “unofficial” version of 19 NYCRR Parts 1219 – 1227 (the 2016 Uniform Code) is available at:

[https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=I2f2d57f0ac4311dd81fce471ddb5371d&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=I2f2d57f0ac4311dd81fce471ddb5371d&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

The “unofficial” version of 19 NYCRR Part 1240 (the 2016 Energy Code) is available at:

[https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=I2faf3220ac4311dd81fce471ddb5371d&originationContext=documenttoc&transitionType=Default&contextData=\(sc.Default\)](https://govt.westlaw.com/nycrr/Browse/Home/NewYork/NewYorkCodesRulesandRegulations?guid=I2faf3220ac4311dd81fce471ddb5371d&originationContext=documenttoc&transitionType=Default&contextData=(sc.Default))

2016 Uniform Code Supplement and 2016 Energy Code Supplement

When the 2015 I-Codes were adopted as part of the 2016 Uniform Code, certain provisions in those codes were modified. These modifications were made in the publication entitled “2016 Uniform Code Supplement.”

Therefore, when reading a particular provision in one of the 2015 I-Codes, it is important to refer to the 2016 Uniform Code Supplement to see if that provision has been modified.¹

Similarly, when the 2015 IECC and ASHRAE 90.1-2013 were adopted as parts of the 2016 Energy Code, certain provisions in these publications were modified. These modifications were made in the publication entitled “2016 Supplement to the Energy Conservation Construction Code of New York State (Revised August 2016)” (referred to as the “2016 Energy Code Supplement”). When reading a particular provision in the 2015 IECC or ASHRAE 90.1-2013, it is important to refer to the 2016 Energy Code Supplement to see if that provision has been modified.²

One important example of the modifications made by the 2016 Uniform Code Supplement and 2016 Energy Code Supplement involves the “Scope and Administration” chapters in the 2015 I-Codes. Each of the “Scope and Administration” chapters in the 2015 I-Codes is deemed to be amended and restated in its entirety by the 2016 Uniform Code Supplement or the 2016 Energy Code Supplement. Specifically:

- Chapter 1 in the 2015 IRC, Chapter 1 in the 2015 IBC, Chapter 1 in the 2015 IPC, Chapter 1 in the 2015 IMC, Chapter 1 in the 2015 IFGC, Chapter 1 in the 2015 IFC, Chapter 1 in the 2015 IPMC, and Chapter 1 in the 2015 IEBC are deemed to be amended and restated in its entirety by Chapter 1 of the 2016 Uniform Code Supplement;
- Chapter “1 [CE]” in the “Commercial Provisions” portion of the 2015 IECC is deemed to be amended and restated in its entirety by Item 1.5 in Part 1 of the 2016 Energy Code Supplement; and
- Chapter “1 [RE]” in the “Residential Provisions” of the 2015 IECC is deemed to be amended and restated in its entirety by Item 3.3 in Part 3 of the 2016 Energy Code Supplement.

Therefore, when reading one of the 2015 I-Codes, Chapter 1 of that publication should be ignored, and reference should be made to Chapter 1 in the 2016 Uniform Code Supplement. When reading the 2015 IECC, Chapters “1 [CE]” and “1 [RE]” should be ignored, and reference should be made to Item 1.5 or Item 3.3, as applicable, in the 2016 Energy Code Supplement.

¹ The 2016 Uniform Code Supplement has been “incorporated by reference” in 19 NYCRR Parts 1220 to 1227, and is part of the 2016 Uniform Code. The 2016 Uniform Code Supplement has been posted on the Department of State website at http://www.dos.ny.gov/dcea/pdf/2016%20DOS_UniformCodeSupplement_03212016.pdf.

² The 2016 Energy Code Supplement has been “incorporated by reference” in 19 NYCRR Part 1240, and is part of the 2016 Energy Code. The 2016 Energy Code Supplement has been posted on the Department of State website at <http://www.dos.ny.gov/dcea/pdf/2016%20EC%20Supp-Revised-2016-08-12-approved%20bycouncil%20V-A.pdf>.

Another example of the modifications made by the 2016 Uniform Code Supplement involves the “Appendices” in the 2015 I-Codes. Each of the 2015 I-Codes includes one or more Appendices. The 2016 Uniform Code Supplement indicates which Appendix or Appendices, if any, in each of the 2015 I-Codes is included in the Uniform Code. See the “Introduction” to the 2016 Uniform Code Supplement (at pp. i to ii) for more information.

Referenced Standards

Certain other publications, known as “referenced standards,” have been incorporated by reference in 19 NYCRR Parts 1220 to 1227. Those referenced standards are more fully described in Chapter 10 of the 2016 Uniform Code Supplement, and are parts of the 2016 Uniform Code.

Similarly, certain “referenced standards” have been incorporated by reference in 19 NYCRR Part 1240. Those referenced standards are more fully described in 19 NYCRR sections 1240.4(c) and 1240.5(b), and are parts of the 2016 Energy Code.

Additional Uniform Code Provisions

In addition to the modifications made to the 2015 IPMC by the 2016 Uniform Code Supplement, the 2015 IPMC is deemed to be amended by the addition of new sections 704.3, 704.3.1, 704.3.2, 704.3.3, 704.3.4, 704.3.5, 704.3.6, and 704.3.7, relating to installation of smoke alarms in exiting residential buildings. Those new sections are set forth in 19 NYCRR section 1226.1(d). Those new sections are part of the 2015 IPMC and, therefore, are part of the Uniform Code.

Legal Citations

When a Code Enforcement Official (CEO) issues a Notice of Violation or other enforcement-related instrument charging a property owner with violation of a provision of the Uniform Code or Energy Code, proper citation to the specific provision that has been violated is essential for several reasons. For example, a proper citation will:

- notify the property owner of the exact nature of the violation charged, and
- show the Court that the provision in question is, in fact, part of the Uniform Code or Energy Code, and that a violation of the provision is subject to the penalties prescribed in the Executive Law or Energy Law.

The Department of State cannot give legal advice. In addition, local practice can vary from jurisdiction to jurisdiction. Therefore, when a CEO for a municipality is preparing a citation to a code provision to include in a Notice of Violation or other enforcement-related provision, the CEO should consult with the attorney for that municipality to verify that the citation is legally proper, and will satisfy the requirements of the local court.

Below are two examples of code citations that could be considered by CEOs and municipal attorneys. The first example is for consideration when a code section has not been modified by the 2016 Uniform Code Supplement or 2016 Energy Code Supplement. The second example is for consideration when a code section that has been modified by the 2016 Uniform Code Supplement or 2016 Energy Code Supplement. *In either case, the CEO should consult with the municipal attorney for additional guidance.*

EXAMPLE 1: Violation of a Uniform Code provision which is contained in one of the 2015 I-Codes and which has not been modified by the 2016 Uniform Code Supplement:

The CEO observes that a substantial portion of paint on the siding of a building is peeling and the siding is rotted in some locations. The CEO determines that the owner should be charged with violation Section PM304.6 of the 2015 IPMC. The CEO reviews the 2016 Uniform Code Supplement and confirms that Section PM304.6 of the 2015 IPMC has not been modified by the Supplement. The Notice of Violation or other enforcement-related instrument cites Section PM304.6 of the 2015 IPMC as follows:

Violation of: Section PM304.6 of the 2015 International Property Maintenance Code (the “2015 IMPC”), the 2015 IPMC being incorporated by reference in 19 NYCRR Section 1226.1 and being part of the State Uniform Fire Prevention and Building Code (the “Uniform Code”) adopted pursuant to Article 18 of the Executive Law, Section PM304.6 of the 2015 IMPC providing as follows: **“304.6 Exterior walls.** 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.”

EXAMPLE 2: Violation of a Uniform Code provision which is contained in one of the 2015 I-Codes and which has been modified by the 2016 Uniform Code Supplement:

The CEO observes that there are weeds that are at least 18 inches in height in the immediate vicinity of the building. The CEO reviews the 2016 Uniform Code Supplement and determines that Section PM302.4 of the 2015 IPMC has been modified by the Chapter 1, Section 1, of the Supplement. The CEO determines that the owner should be charged with violation Section PM302.4 of the 2015 IPMC, as so modified. The Notice of Violation or other enforcement-related instrument cites Section PM302.4 of the 2015 IPMC, as modified, as follows:

Violation of: Section PM 302.4 of the 2015 International Property Maintenance Code (the “2015 IPMC”), as modified by Chapter 8 Section 1 of the 2016 Uniform Code Supplement, both the 2015 IPMC and 2016 Uniform Code Supplement being incorporated by reference in 19 NYCRR Section 1226.1 and being parts of the State Uniform Fire Prevention and Building Code (the “Uniform Code”) adopted pursuant to Article 18 of the Executive Law, Section PM302.4 of the 2015 IMPC, as so modified, providing as follows: **“302.4 Weeds.** All premises and immediate exterior property shall be maintained free from weeds or plant growth in excess of 10 inches (254 mm). All 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.”

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