

PROPERTY MAINTENANCE CODE OF NEW YORK STATE

OCCUPANCY REFERENCES

Attached:

- ☐ Sections from the Property Maintenance Code of New York State
- ☐ NYS Division of Code Enforcement and Administration Technical Bulletin titled; Overcrowding (Occupancy Standards)

Village of Elmsford

BUILDING DEPARTMENT
15 SOUTH STONE AVENUE, ELMSFORD, NY 10523
TELEPHONE (914) 345-1553

Property Maintenance Code of New York State
Chapter PM1 General Requirements
§PM101 Requirements

CHAPTER PM1
GENERAL REQUIREMENTS

§PM101
REQUIREMENTS

§PM101.1 Title. These provisions shall be known as the Property Maintenance Code of New York State and shall be cited as such, and will be referred to herein as "this code."

§PM101.2 Scope. The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment, and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises; and for administration, enforcement and penalties.

§PM101.3 Purpose. This code shall be construed to secure its expressed intent, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises.

§PM101.4 Severability. If a section, subsection, sentence, clause or phrase of this code is, for any reason, held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this code.

Property Maintenance Code of New York State
Chapter PM4 Light, Ventilation and Occupancy Limitations
§PM401 General

CHAPTER PM4
LIGHT, VENTILATION AND OCCUPANCY LIMITATIONS

§PM401
GENERAL

§PM401.1 Scope. The provisions of this chapter shall govern the minimum conditions and standards for light, ventilation and space for occupying a structure.

§PM401.2 Responsibility. The owner of the structure shall provide and maintain light, ventilation and space conditions in compliance with these requirements. A person shall not occupy as owner-occupant, or permit another person to occupy, any premises that do not comply with the requirements of this chapter.

§PM401.3 Alternative devices. In lieu of the means for natural light and ventilation herein prescribed, artificial light or mechanical ventilation complying with the *Building Code of New York State* shall be permitted.

§PM402
LIGHT

§PM402.1 Habitable spaces. Every habitable space shall have at least 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.

EXCEPTION: Where natural light for rooms or spaces without exterior glazing areas is provided through an adjoining room, the unobstructed opening to the adjoining room shall be at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m²). The exterior glazing area shall be based on the total floor area being served.

§PM402.2 Common halls and stairways. Every common hall and stairway in residential occupancies, other than in one-and two-family dwellings, shall be lighted at all times with at least a 60-watt standard incandescent light bulb for each 200 square feet (19 m²) 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 a minimum of 1 footcandle (11 lux) at floors, landings and treads.

§PM402.3 Other spaces. 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.

§PM403 VENTILATION

§PM403.1 Habitable spaces. Every habitable space shall have at least one openable window. The total openable area of the window in every room shall be equal to at least 45 percent of the minimum glazed area required in §PM402.1.

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 at least 8 percent of the floor area of the interior room or space, but not less than 25 square feet (2.33 m²). The ventilation openings to the outdoors shall be based on a total floor area being ventilated.

§PM403.2 Bathrooms and toilet rooms. Every bathroom and toilet room shall comply with the ventilation requirements for habitable spaces as required by §PM403.1, 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.

§PM403.3 Cooking facilities. 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 a rooming unit or dormitory unit.

§PM403.4 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. Contaminated air shall be exhausted to the exterior and not be recirculated to any space.

§PM403.5 Clothes dryer exhaust. Clothes dryer exhaust systems shall be independent of all other systems and shall be exhausted in accordance with the manufacturer's instructions.

§PM404 OCCUPANCY LIMITATIONS

§PM404.1 Privacy. Dwelling units, hotel units, housekeeping units, rooming units and dormitory units shall be arranged to provide privacy and be separate from other adjoining spaces.

§PM404.2 Minimum room widths. A habitable room, other than a kitchen, shall not be less than 7 feet (2134 mm) in any plan dimension. Kitchens shall have a clear passageway of not less than 3 feet (914 mm) between counterfronts and appliances or counterfronts and walls.

§PM404.3 Minimum ceiling heights. Habitable spaces, hallways, corridors, laundry areas, bathrooms, toilet rooms and habitable basement areas shall have a clear ceiling height of not less than 7 feet (2134 mm).

EXCEPTIONS:

1. In one-and two-family dwellings, beams or girders spaced not less than 4 feet (1219 mm) on center and projecting not more than 6 inches (152 mm) below the required ceiling height.
2. Basement rooms in one-and two-family dwellings occupied exclusively for laundry, study or recreation purposes, having a ceiling height of not less than 6 feet 8 inches (2033 mm) with not less than 6 feet 4 inches (1932 mm) of clear height under beams, girders, ducts and similar obstructions.
3. Rooms occupied exclusively for sleeping, study or similar purposes and having a sloped ceiling over all or part of the room, with a clear ceiling height of at least 7 feet (2134 mm) over not less than one-third of the required minimum floor area. In calculating the floor area of such rooms, only those portions of the floor area with a clear ceiling height of 5 feet (1524 mm) or more shall be included.

§PM404.4 Bedroom requirements. Every bedroom shall comply with the requirements of §PM404.4.1 through §PM404.4.5.

§PM404.4.1 Area for sleeping purposes. Every bedroom occupied by one person shall contain at least 70 square feet (6.5 m²) of floor area, and every bedroom occupied by more than one person shall contain at least 50 square feet (4.6 m²) of floor area for each occupant thereof.

§PM404.4.2 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.

§PM404.4.3 Water closet accessibility. Every bedroom shall have access to at least one water closet and one lavatory without passing through another bedroom. Every bedroom in a dwelling unit shall have access to at least one water closet and lavatory located in the same story as the bedroom or an adjacent story.

EXCEPTION: Owner-occupied, one-family dwellings.

§PM404.4.4 Prohibited occupancy. Kitchens and nonhabitable spaces shall not be used for sleeping purposes.

§PM404.4.5 Other requirements. Bedrooms shall comply with the applicable provisions of this code including, but not limited to, the light, ventilation, room area, ceiling height and room width requirements of this chapter; the plumbing facilities and water-heating facilities requirements of Chapter PM5; the heating facilities and electrical receptacle requirements of Chapter PM6; and the smoke detector and emergency escape requirements of Chapter PM7.

§PM404.5 Overcrowding. Dwelling units shall not be occupied by more occupants than permitted by the minimum area requirements of Table PM404.5.

**TABLE PM404.5
MINIMUM AREA REQUIREMENTS**

MINIMUM AREA IN SQUARE FEET

SPACE	1-2 occupants	3-5 occupants	6 or more occupants
Living room ^a	No requirements	120	150
Dining room ^a	No requirements	80	100
Kitchen	50	50	60
Bedrooms ^b	Shall comply with §PM404.4		

For SI: 1 square foot = 0.093 m².

a. See §PM404.5.2 for combined living room/dining room spaces.

b. See §PM404.5.1 for limitations on determining the minimum occupancy area for sleeping purposes.

§PM404.5.1 Sleeping area. The minimum occupancy area required by Table PM404.5 shall not be included as a sleeping area in determining the minimum occupancy area for sleeping purposes. All sleeping areas shall comply with §PM404.4.

§PM404.5.2 Combined spaces. Combined living room and dining room spaces shall comply with the requirements of Table PM404.5 if the total area is equal to that required for separate rooms and if the space is located so as to function as a combination living room/dining room.

§PM404.6 Efficiency unit. Nothing in this section shall prohibit an efficiency living unit from meeting the following requirements:

1. A unit occupied by not more than two occupants shall have a clear floor area of not less than 220 square feet (20.4 m²). A unit occupied by three occupants shall have a clear floor area of not less than 320 square feet (29.7 m²). These required areas shall be exclusive of the areas required by Items 2 and 3.

2. The unit shall be provided with a kitchen sink, cooking appliance and refrigeration facilities, each having a clear working space of not less than 30 inches (762 mm) in front. Light and ventilation conforming to this code shall be provided.

3. The unit shall be provided with a separate bathroom containing a water closet, lavatory, and bathtub or shower.

4. The maximum number of occupants shall be three.

§PM404.7 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.



NEW YORK STATE DEPARTMENT OF STATE

Division of Code Enforcement and Administration

Phone : (518) 474-4073
www.dos.state.ny.us

Fax : (518) 486-4487
E-mail: info@dos.state.ny.us

TECHNICAL BULLETIN

Effective Date: January 1, 2003

Source Document: 19NYCRR 1226 - *Property Maintenance Code of New York State (PMCNYS)*

Topic: Overcrowding (Occupancy Standards)

This document is a guideline to assist code enforcement officials in their efforts to secure compliance with Section 404, Occupancy Standards, of the PMCNYS.

List of Abbreviations

PMCNYS; Property Maintenance Code of New York State
CEO; Code Enforcement Official
UC; Uniform Fire Prevention and Building Code (Uniform Code)

Code Section 404, Occupancy Standards, is frequently a topic for CEO's seeking clarification of how many persons can occupy a house or apartment.

Background: The PMCNYS is a part of the International Codes, adopted in reference in the Uniform Code. The PMCNYS became effective January 1, 2003 for all municipalities outside New York City.

CEO's frequently inquire the number of persons that can occupy a house or apartment. Absent a local (zoning) law to the contrary, the PMCNYS regulates overcrowding and sets limitations on the number of persons allowed in dwelling units.

The PMCNYS does not define the term "temporary residents" (as in short- term home rentals), nor " student rental- housing", nor "family members" (related to / married / same-different sex). Under Occupancy Limitations, there is only reference to **occupant**, which is defined as an individual living or sleeping in a building (chapter 2, definitions).

Overcrowding is often a problem in rental properties and in small dwelling units (houses). The PMCNYS requires all types of dwelling units to comply with occupancy - area requirements; there is no exception for owner-occupied houses. Overcrowding should be avoided because disease spreads more easily, privacy is lost, mental health is affected, and buildings are subjected to more abuse and wear.

Determining compliance with occupancy limitations is a two-step process: First, determine the minimum square footage required per person for bedrooms as specified in PMCNYS section 404.4.1, which requires that every bedroom occupied by one person shall contain 70 square feet, and if occupied by more than one person, shall contain 50 square feet for each occupant. Keep in mind that the smallest bedroom allowed for one person (70 sq.ft) is barely enough space for a regular-sized bed and dresser. Second, consult Table 404.5 to determine the total number of persons that can be accommodated with the space available in living rooms, dining rooms, and kitchens. When there is a conflict between these two categories, the lower number of occupants governs.

There may also be other limiting factors in PMCNYS section 404, such as: a bedroom may not constitute the only means of access to other bedrooms or habitable space and can not serve as the only means of egress; bedroom shall have access to a water closet and lavatory without passing through another bedroom; and bedrooms shall comply with requirements for light, ventilation, room area, ceiling height and room widths, plumbing, water-heating, electrical receptacles, smoke detectors, and emergency escape requirements.

While not an easy process, it is possible to petition the Code Council for the Incorporation of More Restrictive Local Standards (MRLS) if the local municipality could set forth special conditions prevailing within the municipality which warrant imposing more restrictive local standards. More information on MRLS can be obtained on the Department of State website at <http://www.dos.state.ny.us/code/lc-codes.html>.

Ronald E. Piester, R.A., Director
Division of Code Enforcement and Administration