



Department of State Codes Division  
Code Development Unit

**Guide for the Incorporation of More Restrictive Local Standards**

This guide is intended to serve as a tool for municipalities to petition the New York State Fire Prevention and Building code requesting the incorporation of more restrictive local standards for construction.

**Process:**

The chief executive officer or the chairman of the legislative body within 30 days of enactment or adoption of a local law or ordinance shall petition for Council for a determination as to whether or not such law or ordinance is more restrictive than the provisions contained in the Uniform Code.

**The petition must contain the following:**

1. A certified copy of the local law or ordinance indicating the date of enactment.
2. Legislative findings setting forth the **special conditions** prevailing within the community.
3. Documentation to establish that the requested standards conform to accepted engineering and fire prevention practices.
4. An analysis of each section of the law or ordinance indicating the content and comparable sections of the Uniform Code.
5. Documentation to establish a **burden of proof** that the standards are warranted by special conditions prevailing within the municipality.
6. A copy of the minutes of the meeting at which the local standards were discussed and adopted.

Petitions must conform to the criteria set forth in the Executive Law:

§379. Incorporation of higher standards by Council upon recommendation of local government; local building regulations.

1. Except in the case of factory manufactured homes, intended for use as one or two family dwelling units or multiple dwellings of not more than two stories in height, the legislative body of any local government may duly enact or adopt local laws or ordinances imposing higher or more restrictive standards for construction within the jurisdiction of such local government than are applicable generally to such local government or the uniform code. Within thirty days of such enactment or adoption, the chief executive officer, or if there be none, the chairman of the legislative body of such local government, shall so notify the Council, and shall petition the Council for a determination of whether such local laws or ordinances are more stringent than the standards for construction applicable generally to such local government in the uniform code. During the period in which the council is considering such petition, such local laws or ordinances shall remain in full force and effect.
2. If the council finds that such higher or more restrictive standards are reasonably necessary because of special conditions prevailing within the local government and that such standards conform with accepted engineering and fire prevention practices and the purposes of this article, the council shall adopt such standards conform with accepted engineering and fire prevention practices and the purposes of this article, the council shall adopt such standards, in whole or part. The council shall have the power to limit the term or duration of such standards, impose conditions in connection with the adoption thereof, and to terminate such standards at such times, and in such manner as the council may deem necessary, desirable or proper.
3. Nothing in this article shall be construed to prohibit any municipality from adopting or enacting any building regulations relating to any matter as to which the uniform fire prevention and building code does not provide, but no municipality shall have the power to supersede, void, repeal or make more or less restrictive any provisions of this article or of rules or regulations made pursuant hereto
4. Within one hundred twenty days after the effective date of the uniform code, a local government may by resolution duly enacted petition the council for a determination as to whether an existing building and/or fire code in force in said local government is more stringent than the uniform code. During the period in which the council is considering such petition, such local code shall remain in full force and effect. If, after review, the council determines that such local code is less stringent than the uniform code, the council shall notify the chief executive officer or, if there be none, the chairman of the legislative body of such local government and the uniform code shall, thirty days after the date of notification, apply in such local government. If the council finds that such local code is not less stringent than the uniform code, such local code shall continue in full force and effect until the council, upon its own initiative, reviews such local code and determines that it is no longer more stringent, whereupon the council shall notify the chief executive officer or chairman of the legislative body of such local government and thirty days after the date of notification the uniform code shall apply in such local government.

## Guide for the Incorporation of More Restrictive Local Standards

### Preparation:

The following checklist is suggested to help identify how the proposed local standards relate to the special conditions found in your municipality. Please review these items carefully and provide explanation to establish the necessity for the local standards sought. Additional documentation may be attached to substantiate claims.

### Does the proposed local standard...

- G significantly affect the level of protection from the hazards of fire?
  
- G provide a basic minimum level of protection to all people of the State from the hazards of inadequate building construction and maintenance?
  
- G provide protection to both residential and non-residential buildings?
  
- G increase the cost of doing business in the State by perpetuating multiple requirements, jurisdictional overlap and business uncertainties or artificially induce high construction costs?
  
- G **Are the special conditions self-imposed?**
  
- G **Are the requested standards the least that are warranted by the special conditions?**
  
- G **Would the municipality recommend that their standard be adopted on a statewide basis?**

Describe any specific impact that local standard will have on the following:

- \$ Code Administration.....
- \$ Design.....
- \$ Construction.....
- \$ Maintenance.....
- \$ Affordability.....
- \$ Usability.....
- \$ Life Safety.....
- \$ Liability.....
- \$ Insurance.....
- \$ Property Safety.....
- \$ Flexibility.....
- \$ Jobs.....
- \$ Other.....