

TEXT

(Temporary Alternative Use)

Part 1228 of 19 NYCRR is amended by adding new a section 1228.3 to read as follows:

Section 1228.3. Temporary Alternative Use of Certain Buildings.

(a) Purpose. This section 1228.3 is part of the State Uniform Fire Prevention and Building Code (the Uniform Code). This section 1228.3 is intended to allow certain buildings to be used for certain alternative uses for limited periods time without requiring such buildings to comply provisions of the Uniform Code applicable to such alternative uses, and without requiring such buildings to comply with the provisions of the 2010 edition of the Existing Building Code of New York State (the 2010 EBCNYS) pertaining to a change of occupancy; provided that such buildings and such alternative uses comply with the provisions and requirements of this section 1228.3.

(b) Applicability. All provisions of this section 1228.3 (including, but not limited to, all construction and design provisions of this section 1228.3) shall apply to all buildings, without regard to the date of construction.

(c) Definitions. For the purposes of this section 1228.3, the following words and phrases shall have the following meanings:

(1) 2010 BCNYS. The “2010 BCNYS” is the publication entitled Building Code of New York State (Publication Date: August 2010), published by International Code Council, Inc., and is the

publication referred to and incorporated by reference in 19 NYCRR Part 1221, section 1221.1(a).

(2) 2010 EBCNYS. The “2010 EBCNYS” is the publication entitled Existing Building Code of New York State (Publication Date: August 2010), published by International Code Council, Inc., and is the publication referred to and incorporated by reference in 19 NYCRR Part 1227, section 1227.1(a).

(3) 2010 FCNYS. The “2010 FCNYS” is the publication entitled Fire Code of New York State (Publication Date: August 2010), published by International Code Council, Inc., and is the publication referred to and incorporated by reference in 19 NYCRR Part 1225, section 1225.1(a).

(4) 2010 FGCNYS. The “2010 FGCNYS” is the publication entitled Fuel Gas Code of New York State (Publication Date: August 2010), published by International Code Council, Inc., and is the publication referred to and incorporated by reference in 19 NYCRR Part 1224, section 1224.1(a).

(5) 2010 MCNYS. The “2010 MCNYS” is the publication entitled Mechanical Code of New York State (Publication Date: August 2010), published by International Code Council, Inc., and is the publication referred to and incorporated by reference in 19 NYCRR Part 1223, section 1223.1(a).

(6) 2010 PCNYS. The “2010 PCNYS” is the publication entitled Plumbing Code of New York State (Publication Date: August 2010), published by International Code Council, Inc., and is the publication referred to and incorporated by reference in 19 NYCRR Part 1222, section 1222.1(a).

(7) Agricultural building. An “agricultural building” is a structure designed and constructed to house farm implements, hay, grain, poultry, livestock or other horticultural products, excluding any structure designed, constructed or used, in whole or in part, for human habitation, as a place of employment where agricultural products are processed, treated or packaged, or as a place used by the public.

(8) Alternative use. An “alternative use” is the use of a subject building or subject space for a purpose not consistent with the existing occupancy classification of such subject building or subject space.

(9) Building. A “building” is any structure used or intended for supporting or sheltering any use or occupancy.

(10) Code enforcement official. The “code enforcement official” is the officer or other designated authority charged with the administration and enforcement of the Uniform Code, or a duly authorized representative.

(11) Duration of a permit. The “duration” of a permit shall be the number of calendar days during which an alternative use is allowed under the terms of the permit. Any calendar day on which an alternative use is allowed shall count as one full day, even if the permit limits the hours of the day during which the temporary use is allowed.

Example 1: A permit that allows an alternative use to be conducted every day during March, 2013 has a duration of 31 days (the number of calendar days in that month).

Example 2: A permit that allows an alternative use to be conducted on Saturdays and Sundays during March, 2013 has a duration of 10 days (the number of Saturdays and Sundays during that month).

Example 3: A permit that allows an alternative use to be conducted only between 9:00 am and 12:00 noon on Saturdays and Sundays during March, 2013 has a duration of 10 days (the number of calendar days during which the alternative use may be conducted, even though the alternative use may be conducted for only 3 hours during each of those calendar days).

(12) Existing occupancy classification. The “existing occupancy classification” of a building is the occupancy classification, as determined in accordance with Chapter 3 of the 2010 BCNYS, of the

legal use of such building at the time an application for a permit is filed. The “existing occupancy classification” of a room or space in a building is the occupancy classification, as determined in accordance with Chapter 3 of the 2010 BCNYS, of the legal use of such room or space at the time an application for a permit is filed.

(13) NFPA 58. “NFPA 58” is the 2008 edition of the Liquefied Petroleum Gas Code, published by the National Fire Protection Association, and is one of the referenced standards incorporated in reference in 19 NYCRR Part 1225, section 1225.1(b).

(14) Nightclub. The term “nightclub” means any use of a building, or any part thereof, that would be classified in Group A-2 or as a dance hall in Group A-3, where (i) at least 20 percent of the subject assembly space is for concentrated occupancy, with or without fixed seating, where the net assembly floor area per person is 7 square feet (0.65 m²) or less; and (ii) live or recorded entertainment, including but not limited to vocalists, bands, musical reviews, comedy acts, dance music and similar entertainment is normally provided. For the purposes of this definition, the term “entertainment” shall not be deemed to include jukeboxes, background music or similar uses of live or recorded music.

(15) Permit. A “permit” is a temporary alternative use permit issued in accordance with this section 1228.3. The term “permit” shall also include a renewal of an original temporary alternative use permit.

(16) Subject building. The “subject building” is the building for which a permit is issued in accordance with this section 1228.3. The term “subject building” shall include the entire building, even if the alternative use is conducted in only certain room(s) or space(s) within the building.

(17) Subject space. The term “subject space” means the room(s) and/or space(s) in the subject building in which an alternative use is conducted pursuant to a permit issued in accordance with this

section 1228.3. If the alternative use is conducted in the entire building, the “subject space” shall include the entire building.

(18) Uniform Code. The “Uniform Code” is the State Uniform Fire Prevention and Building Code adopted pursuant to Article 18 of the Executive Law. This section 1228.3 is part of the Uniform Code.

Words and phrases that are (i) used in this section 1228.3, (ii) not defined in this subdivision, and (iii) defined in the 2010 FCNYS shall have the meanings ascribed to those terms in the 2010 FCNYS, unless a different meaning is clearly implied by the context.

Words used in the present tense include the future; words stated in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural, the singular.

(d) Permit required. No building or part thereof shall be used for any alternative use unless a permit allowing such alternative use shall have been issued in accordance with this section 1228.3.

(e) Conditions to be satisfied before a permit is issued. No permit shall be issued unless each of the following conditions is satisfied at the time when the permit is issued:

(1) the subject building and each subject space in the subject building has a valid certificate of occupancy or is otherwise legally occupied;

(2) the subject building and each subject space in the subject building has an existing occupancy classification in one or more of the following groups:

- (i) Assembly Group A,
- (ii) Business Group B,
- (iii) Factory Industrial Group F-2 Low-hazard,

- (iv) Low-hazard storage, Group S-2, or
- (v) Utility and Miscellaneous Group U;

(3) the subject building complies with all operational and maintenance requirements of the Uniform Code applicable to the existing occupancy classification of such subject building;

(4) each subject space in the subject building complies with all operational and maintenance requirements of the Uniform Code applicable to the existing occupancy classification of such subject space;

(5) no part of the subject building is subject to any outstanding notice of violation, order to remedy, or action or proceeding based on any alleged Uniform Code violation;

(6) each proposed alternative use has an occupancy classification (as determined in accordance with Chapter 3 of the 2010 BCNYS) in one or more of the following groups:

- (i) Assembly Group A, other than nightclubs,
- (ii) Business Group B, or
- (iii) Mercantile Group M;

(7) the occupant load of the subject building during the time when the proposed alternative use would be conducted, calculated as provided in section 1004.1 of the 2010 FCNYS, would not exceed 150 persons;

(8) an inspection shall have been conducted pursuant to subdivision (h) of this section 1228.3 and such inspection shall not have revealed any design, construction or structural defect or other condition which, in the opinion of the code enforcement official, would jeopardize the health or safety of the users of the subject building or the general public if the proposed alternative use were to be allowed;

(9) the fire service features referred to in subdivision (o) of this section 1228.3 have been provided; and

(10) the subject building, each subject space in the subject building, each proposed alternative use, comply with all applicable provisions and requirements of this section 1228.3.

For the avoidance of doubt regarding the condition specified in paragraph (2) of this subdivision, the alternative use of a building, or any part thereof, having an existing occupancy classification in Educational Group E, Factory Industrial Group F-1 Moderate-hazard, High-hazard Group H, Institutional Group I, Residential Group R, or Moderate-hazard storage Group S-1 is prohibited. No permit allowing any alternative use of any such building, or any such part thereof, shall be issued.

For the avoidance of doubt regarding the condition specified in subparagraph (i) of paragraph (6) of this subdivision, the alternative use of a building (or any part thereof) as a nightclub is prohibited. No permit allowing the temporary use of any building (or any part thereof) as a nightclub shall be issued.

(f) Maximum duration of permit. In no event shall the duration of any permit exceed 60 days. In no event shall the final date on which an alternative use is allowed to be conducted under a permit be more than one (1) year after the date of issuance of the permit. In no event shall the cumulative duration of all permits, including renewal permits, issued for any building or part thereof in any 12 month period exceed 60 days.

Exception: The duration of a permit allowing the temporary use of a subject space of less than 401 square feet for mercantile purposes may exceed 60 days within a 12 month period, provided that:

(1) the conditions relevant to the original issuance of the permit remain the substantially same throughout the duration of such permit;

(2) the subject building, the subject space where such temporary mercantile use is being conducted, and such temporary mercantile use remain in compliance with the applicable provisions and requirements of this section 1228.3; and

(3) the code enforcement official reinspects the subject building and the subject space periodically throughout the duration of such permit and determines that conditions (i) and (ii) remain satisfied.

(g) Application for permit. An application for a permit shall be submitted to the code enforcement official. The application shall be in writing and shall specify:

(1) the name and address of, and the relevant contact information for, the owner of the subject building (and, if the applicant is not the owner of the subject building, the name and address of, and the relevant contact information for, the applicant and the relationship of the applicant to the owner);

(2) the address of the subject building (or, if the subject building has no address, the location of the subject building);

(3) the existing occupancy classification of the subject building and the existing occupancy classification of each subject space;

(4) each proposed alternative use;

(5) each subject space;

(6) the date or dates on which each proposed alternative use will be conducted; and

(7) such other information as the code enforcement official may reasonably request for the purpose of determining if the subject building, each subject space, and each proposed alternative use comply with the provisions and requirements of this section 1228.3.

Where required by subdivision (i) of this section 1228.3, a fire safety plan shall be submitted with the application.

(h) Inspection. Prior to the issuance of a permit, the code enforcement official shall perform an inspection of the subject building (including, but not limited to, each subject space) for the purpose of determining if the subject building, each subject space, and each proposed alternative use comply with the provisions and requirements of this section 1228.3. If a fire safety plan is required under subdivision (i) of this section 1228.3, the inspection shall also be for the purpose of determining the adequacy of the fire safety plan. The inspection shall include, but shall not be limited to, a review and inspection of:

- (1) the means of egress;
- (2) the separation of combustibles from ignition sources;
- (3) housekeeping;
- (4) storage;
- (5) any dangerous or hazardous processes; and
- (6) exposed portions of mechanical systems, electrical systems, and structural components.

(i) Fire safety plan. Where the occupant load of the subject building during the period of the alternative use, calculated as provided in section 1004.1 of the 2010 FCNYS, would be 50 or more persons, the permit applicant shall prepare a written fire safety plan and shall submit such fire safety plan to the code enforcement official as part of the permit application. The fire safety plan shall include the following:

- (1) the procedure for reporting a fire or other emergency;
- (2) the life safety strategy and procedures for notifying, relocating, or evacuating occupants;
- (3) the subject building's approved address number or approved building identification; and

(4) a site and floor plan indicating the means of egress and evacuation routes, seating capacity and arrangement, and the location of any and all portable fire extinguishers, heating systems, and manual fire alarm boxes, where provided.

After the fire safety plan shall have been approved by the code enforcement official, a copy of such plan shall be posted in a conspicuous place in each subject space, and shall be available for reference and review by employees and occupants.

(j) Content and Posting of Permit. Each permit shall specify:

- (1) the name of the owner of the subject building;
- (2) the address or other approved building identification of the subject building;
- (3) each alternative use allowed by the permit;
- (4) each subject space;
- (5) the maximum number of persons permitted to occupy each subject space during the time(s) when any alternative use is conducted in such subject space;
- (6) the specific dates on which each alternative use is allowed to be conducted; and
- (7) any limitation on the hours of the day during which the alternative use is allowed to be conducted.

The permit, or a true and complete copy thereof, shall be posted in a conspicuous place in each subject space.

(k) Other Uniform Code requirements. Where a permit shall have been issued in accordance with this section 1228.3, the subject building must comply with all operational and maintenance requirements of the Uniform Code applicable to the existing occupancy classification of the subject building; each

subject space must comply with all operational and maintenance requirements of the Uniform Code applicable to the existing occupancy classification or such subject space; the subject building and each subject space must satisfy all other conditions specified in subdivision (e) of this section 1228.3 and must comply with all other applicable provisions and conditions of this section 1228.3. However, where a permit shall have been issued in accordance with this section 1228.3, neither the subject building nor any subject space shall be required to comply with any additional Uniform Code requirements applicable to the alternative use, or with the provisions of the 2010 EBCNYS pertaining to a change of occupancy.

(l) Renewal permits. Upon request of the owner of a subject building for which a permit shall have been issued, such permit shall be renewed from time to time upon terms and conditions substantially similar to the original permit, provided that prior to issuing the renewal permit, the code enforcement official performs an inspection as described in subdivision (h) of this section 1228.3 and determines that:

- (1) all circumstances and conditions relevant to the issuance of the original permit remain substantially unchanged; and
- (2) the subject building, each subject space, and each alternative use continue to comply with all provisions and requirements of this section 1228.3.

The owner of the subject building will not be required to submit a full written application for a renewal permit; provided, however, that the owner shall provide the code enforcement official with such information and documentation as the code enforcement official may reasonably request for the purpose of determining if the owner qualifies for a renewal permit under the foregoing provisions of this paragraph.

(m) Revocation. The code enforcement official may revoke a permit (or any renewal permit) if:

(1) any condition relevant to the issuance of the permit (or renewal permit) has changed, or

(2) the subject building, or any subject space, or any alternative use, is not or ceases to be in

compliance with any applicable provision or requirement of this section 1228.3.

(n) General precautions against fire.

(1) Open-flame decorative devices. The use of open-flame decorative devices in the subject building or in any subject space is prohibited.

(2) Cooking operations.

(i) Open-flame devices. The use of solid flammables, butane or other similar devices for the warming of foods, cooking demonstrations or other similar purposes which do not pose an ignition hazard, shall be permitted.

(ii) Outdoor cooking. Outdoor cooking that produces sparks or grease vapors shall not be performed within 20 feet (6096 mm) of the subject building or any subject space.

(3) Open burning shall not be performed within 50 feet (15240 mm) of the subject building or any subject space.

(4) Smoking. The smoking or carrying of a lighted pipe, cigar, cigarette or any other type of smoking paraphernalia or material in the subject building or any subject space is prohibited.

(5) Highly combustible goods. The display of highly combustible goods (including but not limited to agricultural goods) in main exit access aisles, corridors, covered malls, or within 5 feet (1524 mm) of entrances to exits and exterior exit doors is prohibited in the subject building or any subject space when a fire involving such goods would rapidly prevent or obstruct egress.

(6) Agricultural products. Hay, straw, seed cotton or similar agricultural products shall not be stored adjacent to the subject building unless a clear horizontal distance equal to the height of a pile is maintained between such storage and the subject building or any subject space. Storage shall be limited to stacks of 100 tons (91 metric tons) each. Stacks shall be separated by a minimum of 20 feet (6096 mm) of clear space. The provisions and limitations of this paragraph shall apply without regard to the occupancy classification and location of the subject building or subject space. In particular, but not by way of limitation, and notwithstanding the final sentence in section 2903.4 of the 2010 FCNYS, when the subject building is a “farm structure located outside closely built areas,” hay, straw, seed cotton and other agricultural products stored in or near such farm structure shall be subject to the provisions and limitations of this paragraph at all times when a permit allowing any alternative use(s) of such farm structure, or any part thereof, is in effect.

(7) Fireworks and pyrotechnic displays. Fireworks and pyrotechnic displays in or adjacent to the subject building or any subject space shall comply with New York State Penal Law Article 405, Chapter 33 of the 2010 FCNYS, section 3308 of the 2010 FCNYS, and the referenced standards mentioned in section 3308 of the 2010 FCNYS.

(8) Fire watch personnel.

(i) When required. The owner, lessee or operator of the subject building shall provide fire watch personnel when, in the opinion of the code enforcement official, providing such fire watch personnel is reasonably necessary or appropriate for the purpose of protecting the safety of the persons who will be using or occupying the subject building during the times when the alternative use is to be conducted. In determining whether fire watch personnel are to be required, the code enforcement official shall consider factors including, but not limited to, the number of persons who may use or occupy the subject building during the period when the alternative use is to be conducted; the nature of the performance,

exhibition, display, contest or activity to take place in or around the subject building during the period of the alternative use; and the presence or absence of permanently installed fire protection equipment.

(ii) Number and qualifications. The number and qualifications of the fire watch personnel to be provided shall be as required and approved by the code enforcement official.

(iii) Duties. Fire watch personnel shall remain on duty at all times when the alternative use is being conducted and/or the subject building, or any part thereof, is open to the public, and shall, at all such times, keep diligent watch for fires, obstructions to means of egress, and other hazards. Fire watch personnel shall take prompt measures for remediation of hazards and extinguishment of fires that occur, and shall assist in the evacuation of the public from the subject building in the event of a fire or other emergency.

(9) Portable fire extinguishers. Portable fire extinguishers shall be provided in the subject building and in each subject space as required by section 906 of the 2010 FCNYS for the duration of the temporary alternate use. For the purposes of applying section 906 of the 2010 FCNYS, each subject space shall be deemed to have the occupancy classification(s) (determined in accordance with Chapter 3 of the 2010 BCNYS) of the alternative use(s) to be conducted in such subject space. The requirements of this paragraph are in addition to, and not in limitation of, the requirements of subparagraph (ii) of paragraph (2) of subdivision (p) of this section 1228.3.

(o) Fire service features.

(1) Access. Fire apparatus access roads shall be provided to the subject building in accordance with section 503 of the 2010 FCNYS.

(2) Premises identification. The subject building shall be identified in accordance with section 505 of the 2010 FCNYS.

(3) Fire protection water supply. An approved water supply capable of supplying the required fire flow for fire protection shall be provided to the subject building in accordance with section 508 of the 2010 FCNYS.

(p) Equipment.

(1) General. Equipment regulated and/or required by this section 1228.3 or by any other provision of the Uniform Code referenced in this section 1228.3 shall be listed and labeled for the application in which it is installed and used in the subject building or any subject space.

(2) Cooking equipment.

(i) Installation and use. Each cooking appliance in the subject building shall be installed in accordance with the manufacturer's installation instructions and with any and all applicable provisions of the Uniform Code and shall be used in conformance with the terms of the appliance's listing and label and with any and all applicable provisions of the Uniform Code..

(ii) Portable fire extinguishers for commercial cooking equipment. In the subject building or any subject space, portable fire extinguishers shall be provided within a 30-foot (9144 mm) travel distance of commercial-type cooking equipment. Cooking equipment involving vegetable or animal oils and fats shall be protected by a Class K rated portable extinguisher. The requirements of this subparagraph are in addition to, and not in limitation of, the requirements of paragraph (9) of subdivision (b) of this section 1228.3.

(iii) Type I hoods required. In the subject building or any subject space, a type I hood shall be installed at or above all permanently installed commercial cooking appliances and domestic cooking appliances that produce grease vapors.

(iii) Counter-top cooking appliances. Portable countertop cooking appliances that produce grease vapors are prohibited in the subject building or any subject space.

(3) Temporary heating equipment.

(i) Portable unvented heaters. The use of portable unvented fuel-fired heating equipment shall be prohibited in the subject building or any subject space.

(ii) Portable, electric space heaters. Portable, electric space heaters used in the subject building or any subject space shall comply with section 605.10.1 through section 605.10.4 of the 2010 FCNYS.

(4) Liquefied petroleum-gases. The storage, handling and use of liquefied petroleum gas (LP-gas), and LP-gas equipment and appliances in subject building or any subject space shall comply with Chapter 38 of the 2010 FCNYS.

(i) Portable LP-gas containers in buildings. Portable LP-gas containers shall not be permitted in the subject building or any subject space.

EXCEPTIONS:

(A) Portable LP-gas containers are allowed to be used to supply approved self-contained torch assemblies or similar appliances. Such containers shall not exceed a water capacity of 2.5 pounds (1 kg).

(B) Use for food preparation. Where approved, listed LP-gas commercial food service appliances are allowed to be used for food-preparation within restaurants and in attended commercial food-catering operations in accordance with the 2010 FGCNYS, the 2010 MCNYS, and NFPA 58.

(5) Separation of portable generators. Portable generators and other internal combustion power sources shall be separated from the subject building by a minimum of 20 feet (6096 mm) and shall be isolated from contact with the public by fencing, enclosure or other approved means.

(q) Means of egress. The means of egress for the subject building or any subject space shall be maintained in accordance with section 1028 of the 2010 FCNYS. Means of egress in existing buildings shall conform with the requirements of section 1029 of the 2010 FCNYS.

(1) Exit discharge locations. Exit discharges shall be located so that no single point within the subject building or any subject space is more than 75 feet (22.860 meters) from an exit discharge.

(2) Alternative egress doors. As an alternative to side-hinged swinging doors, other doors such as overhead doors (garage type) or sliding doors shall be permitted to serve a means of egress system from a subject building or any subject space provided they are secured in the fully open position in a manner that will prevent them from closing or being closed during the hours that the public is permitted in the subject building or subject space.

(r) Plumbing facilities and fixture requirements. Plumbing facilities and fixtures shall be provided for the type of occupancy and in the minimum number in the subject building in conformance with the Uniform Code and the requirements of this subdivision. Types of occupancies not shown in Table P403.1 of the 2010 PCNYS shall be considered individually by the code official. The number of occupants shall be determined by the 2010 BCNYS. Occupancy classification shall be determined in accordance with the 2010 BCNYS. Where, in any specific case, this subdivision or a referenced section of the Uniform Code specify different requirements, this subdivision shall be applicable.

(1) Toilet facilities. Portable restrooms that include water closets with lavatories (or hand sanitizers in lieu of lavatories) shall be permitted as toilet facilities and may be provided as required by this subdivision. When portable restrooms are provided, at least one shall be accessible.

(2) Location of toilet facilities. Toilet facilities shall be located on the same story or level as the subject building or subject area, and the path of travel to such facilities shall not exceed a distance of

500 feet. Toilet facilities may be located in adjacent buildings under the same ownership or control as the subject building.

(3) Required toilet facilities for alternative uses in the Assembly Group A occupancy classification.

(i) For occupant loads of less than 50, at least one toilet facility shall be provided.

(ii) For occupant loads between 50 and 150, at least two toilet facilities shall be provided.

(s) Agricultural buildings. Without limiting the generality of subdivision (b) of this section 1228.3, and notwithstanding any other provision of the Uniform Code that may make certain provisions of the Uniform Code inapplicable to agricultural buildings, all provisions of this section 1228.3 and all other provisions of the Uniform Code referenced in this section 1228.3 shall apply to all buildings, including but not limited to agricultural buildings, in which any alternative use is to be conducted. In particular, but not by way of limitation, notwithstanding any other provision of the Uniform Code that may make all or part of the 2010 BCNYS, the 2010 FCNYS, the 2010 FGCNYS, the 2010 MCNYS and/or the 2010 PCNYS inapplicable to agricultural buildings, where the subject building is an agricultural building:

(1) for the purposes of any provision in this section 1228.3 that requires the determination of the occupancy classification of a building, of a space in a building, or of a proposed alternative use, such occupancy classification shall be determined in accordance with Chapter 3 of the 2010 BCNYS;

(2) for the purposes of any provision of this section 1228.3 that requires the calculation or determination of the occupant load of any building, of any space in any building, or of any building or space where any alternative use is to be conducted, such occupant load shall be calculated as provided in section 1004.1 of the 2010 FCNYS;

(3) for the purposes of any provision of this section 1228.3 that requires the calculation or determination of the number of occupants of any building, of any space in any building, or of any building or space where any alternative use is to be conducted, such number of occupants determined in accordance with the 2010 BCNYS;

(4) such agricultural building, each subject space in such agricultural building, and each alternative use conducted in such agricultural building shall comply with each applicable provision of this section 1228.3;

(5) if any fireworks or pyrotechnic display is to occur in or adjacent to such agricultural building or any subject space in such agricultural building, such display shall comply with New York State Penal Law Article 405, Chapter 33 of the 2010 FCNYS, section 3308 of the 2010 FCNYS, and the referenced standards mentioned in section 3308 of the 2010 FCNYS;

(6) portable fire extinguishers shall be provided in such agricultural building and in each subject space in such agricultural building in accordance with section 906 of the 2010 FCNYS for the duration of the alternate use (and for the purposes of applying section 906 of the 2010 FCNYS, the occupancy classification(s) of such agricultural building and of each subject space in such agricultural building shall be determined in accordance with Chapter 3 of the 2010 BCNYS, based on the alternative use(s) to be conducted);

(7) fire apparatus access roads shall be provided to the such agricultural building in accordance with section 503 of the 2010 FCNYS; such agricultural building shall be identified in accordance with section 505 of the 2010 FCNYS; and an approved water supply capable of supplying the required fire flow for fire protection shall be provided to such agricultural building in accordance with section 508 of the 2010 FCNYS;

(8) any portable electric space heaters used in such agricultural building or in any subject space in such agricultural building shall comply with section 605.10.1 through section 605.10.4 of the 2010 FCNYS;

(9) the storage, handling and use of any liquefied petroleum gas (LP-gas), and LP-gas equipment and appliances in such agricultural building or any subject space in such agricultural building shall comply with Chapter 38 of the 2010 FCNYS; and

(10) the means of egress for such agricultural building and for each subject space within such agricultural building must comply with the requirements of section 1029 of the 2010 FCNYS and must be maintained in accordance with section 1028 of the 2010 FCNYS.

(t) Publications incorporated by reference.

(1) The 2010 BCNYS, the 2010 EBCNYS, the 2010 FCNYS, the 2010 FGCNYS, 2010 MCNYS, the 2010 PCNYS, and NFPA 58 (all as defined in subdivision (c) of this section 1228.3) are hereby incorporated by reference in this section 1228.3.

(2) The 2010 BCNYS, the 2010 EBCNYS, the 2010 FCNYS, the 2010 FGCNYS, 2010 MCNYS, the 2010 PCNYS are published by the International Code Council, Inc. Copies of the 2010 BCNYS, the 2010 EBCNYS, the 2010 FCNYS, the 2010 FGCNYS, 2010 MCNYS, and the 2010 PCNYS may be obtained from the publisher at the following address: International Code Council, Inc., 500 New Jersey Avenue, NW, 6th Floor, Washington, DC 20001.

(3) NFPA 58 is published by the National Fire Protection Association. Copies of NFPA 58 may be obtained from the publisher at the following address: National Fire Protection Association, Batterymarch Park, Quincy, MA 02269.

(4) The 2010 BCNYS, the 2010 EBCNYS, the 2010 FCNYS, the 2010 FGCNYS, 2010 MCNYS, the 2010 PCNYS, and NFPA 58 are available for public inspection and copying at: New York State Department of State, 99 Washington Avenue, Albany, NY 12231-0001.

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