

**DRAFT**

**Part 1240 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is repealed.**

**Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York is amended by adding new Part 1240 to read as follows:**

**PART 1240. STATE ENERGY CONSERVATION CONSTRUCTION CODE.**

**Section 1240.1 State Energy Conservation Construction Code.**

This Part and the publications incorporated by reference in this Part constitute the State Energy Conservation Construction Code promulgated pursuant to Article 11 of the Energy Law.

**Section 1240.2. Definitions.**

For the purposes of this Part, the following words and phrases shall have the following meanings unless a different meaning is plainly required by the context:

(a) Building. The term “building” means any structure used or intended for supporting or sheltering any use or occupancy or for affording shelter to persons, animals or property, including any equipment therein.

(b) Building system. The term “building system” means a combination of central or terminal equipment or components or controls, accessories, interconnecting means, and terminal devices by which energy is transformed so as to perform a specific function, such as heating, ventilation and air conditioning, service water heating or illumination.

(c) Commercial building. The term “commercial building” includes any building that is not a residential building (as defined in subdivision (g) of this section).

(d) Energy code. The term “energy code” means the State Energy Conservation Construction Code.

(e) Historic building. The term “historic building” means an existing building or structure that:

(1) is listed in the New York State Register of Historic Places, either individually or as a contributing building to a historic district, or

(2) is listed in the National Register of Historic Places, either individually or as a contributing building to a historic district, or

(3) has been determined to be eligible for listing in either the New York State or National Register of Historic Places, either individually or as a contributing building to a historic district, by the New York State Commissioner of Parks, Recreation and Historic Preservation, or

(4) has been determined to be eligible for listing in the National Register of Historic Places, either individually or as a contributing building to a historic district, by the U.S. Secretary of the Interior.

(f) Multi-family dwelling. The term “multi-family dwelling” means a building that contains two or more dwelling units including, but not limited to, two-family dwellings and buildings that contain or consist of attached townhouses.

(g) Residential building. The term “residential building” includes:

(1) detached one-family dwellings,

(2) multi-family dwellings having three stories or fewer above grade,

(3) factory manufactured homes (as defined in section 372(8) of the Executive Law), and

(4) mobile homes (as defined in section 372(13) of the Executive Law).

(h) Townhouse. The term “townhouse” means a single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from the foundation to roof and with open space on at least two sides.

### **Section 1240.3. Energy Code for Residential Buildings.**

(a) 2010 ECCCCNYS. Except as otherwise provided in section 1240.4 of this Part, the construction of all new residential buildings; all additions to, alterations of, and/or renovations of existing residential buildings; and all additions to, alterations of, and/or renovations of building systems in existing residential buildings shall comply with the requirements of the publication entitled Energy Conservation Construction Code of New York State, publication date August 2010, published by the International Code Council, Inc. Said publication (hereinafter referred to as the “2010 ECCCCNYS”) is incorporated herein by reference. Copies of the 2010 ECCCCNYS may be obtained from the publisher at the following address:

International Code Council, Inc.  
500 New Jersey Avenue, NW, 6th Floor  
Washington, DC 20001

The 2010 ECCCCNYS is available for public inspection and copying at:

New York State Department of State  
One Commerce Plaza, 99 Washington Avenue  
Albany, NY 12231-0001

(b) Changes to the text of the 2010 ECCCNY. For the purposes of applying the 2010 ECCCNY in this State, the 2010 ECCCNY shall be deemed to be amended in the manner specified in this subdivision.

(1) 2010 ECCCNY Section 101.4.6. The Example in section 101.4.6 of the 2010 ECCCNY, shall be deemed to be amended and restated in its entirety to read as follows:

“Example: This code was first adopted as part of the State Energy Conservation Construction Code (the ‘Energy Code’) in September of 2010. At that time, Energy Law section 11-103(b) provided that in the case of the renovation of an existing building, the Energy Code would apply only if the renovation was a ‘substantial renovation’ (i.e., only if more than fifty percent of any ‘building subsystem’ is replaced) and would apply only to that portion of the ‘building subsystem’ which is being replaced. This rule (the ‘50 percent rule’) was eliminated by an amendment of Energy Law section 11-103(b) that became effective on January 1, 2011. Therefore, on and after January 1, 2011, the 50 percent rule no longer applies, and the applicability of the Energy Code to renovations of existing buildings is no longer limited by the 50 percent rule.”

*[repeat for any and all additional changes to be made to the 2010 ECCCNY]*

(c) Referenced standards. Except as otherwise provided in section 1240.4 of this Part, the construction of all new residential buildings; all additions to, alterations of, and/or renovations of existing residential buildings; and all additions to, alterations of, and/or renovations of building systems in existing residential buildings shall comply with the requirements of those standards that are denoted in Chapter 6 of the 2010 ECCCNY as incorporated by reference in this Part 1240, to the extent of the respective references to such standards in the 2010 ECCCNY and subject to the provisions of section 107.2 of the 2010 ECCCNY. Such standards are

incorporated herein by reference. The titles, standard reference numbers, and publication dates of such standards, and the names and addresses of the publishers from whom copies of such standards may be obtained, are set forth in Chapter 6 of the 2010 ECCCNY, and that information is incorporated herein by reference. Such standards are available for public inspection and copying at the office of the New York State Department of State specified in subdivision (a) of this section. (In Chapter 6 of the 2010 ECCCNY, the publication date of each standard is part of the standard reference number of such standard. In those cases where the standard reference number ends in a dash followed by two digits, the publication date is represented by those two digits. For example, the standard reference number of the standard entitled “Performance Rating of Room Fan-Coils” published by the Air Conditioning, Heating and Refrigeration Institute is 440-05, indicating a publication date of 2005, and the standard reference number of the standard entitled “Method for Measuring Floor Area in Office Buildings” published by the American National Standards Institute is Z65—96, indicating a publication date of 1996.)

### **Section 1240.3. Energy Code for Commercial Buildings.**

(a) 2012 IECC. Except as otherwise provided in section 1240.4 of this Part, the construction of all new commercial buildings; all additions to, alterations of, and/or renovations of existing commercial buildings; and all additions to, alterations of, and/or renovations of building systems in existing commercial buildings shall comply with the requirements of the “Commercial Provisions” portion of the publication entitled the 2012 International Energy Conservation Code, publication date: \_\_\_\_\_ 2011, published by the International Code Council,

Inc. Said publication (hereinafter referred to as the “2012 IECC”) is incorporated herein by reference. Copies of the 2012 IECC may be obtained from the publisher at the following address:

International Code Council, Inc.  
500 New Jersey Avenue, NW, 6th Floor  
Washington, DC 20001

The 2012 IECC is available for public inspection and copying at:

New York State Department of State  
One Commerce Plaza, 99 Washington Avenue  
Albany, NY 12231-0001.

(b) Changes to the text of the 2012 IECC. For the purposes of applying the 2012 IECC in this State, the 2012 IECC shall be deemed to be amended in the manner specified in this subdivision.

(1) 2012 IECC Section \_\_\_\_\_. Section \_\_\_\_\_ of the 2012 IECC shall be deemed to be amended to read as follows: [*describe change, repeat as necessary for all other changes to be made to the 2012 IECC*]

(c) ASHRAE 90.1-2010. To the extent provided in the Commercial Provisions portion of the 2012 IECC, compliance with the requirements of the publication entitled Energy Standard for Buildings Except Low-Rise Residential Buildings, standard reference number 90.1-2010, publication date 2010, published by American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. (said publication being hereinafter referred to as “ASHRAE 90.1.-2010”) shall be permitted in lieu of compliance with specified sections of the 2012 IECC. For example:

(1) Section C401.2 of the 2012 IECC provides that commercial buildings shall comply with:

- (i) the requirements of ASHRAE 90.1-2010, or
- (ii) the requirements of sections C402, C403, C404, and C405 of the 2012 IECC and the requirements of either section C406.2, 406.3 or C406.4 of the 2012 IECC, or
- (iii) the requirements of sections C407, C402.4, C403.2, C404, C405.2, C405.4, C405.6, and C405.7 of the 2012 IECC, with building energy costs to be equal to or less than 85 percent of the standard reference design building.

(2) Section C401.2.1 of the 2012 IECC provides that additions, alterations, and repairs to existing commercial buildings shall comply with:

- (i) sections C402, C403, C404, and C405 of the 2012 IECC or
- (ii) ASHRAE 90.1-2010.
- (c) Referenced standards. Except as otherwise provided in section 1240.4 of this Part, the construction of all new commercial buildings; all additions to, alterations of, and/or renovations of existing commercial buildings; and all additions to, alterations of, and/or renovations of building systems in existing commercial buildings, shall comply with the requirements of the standards described below in this subdivision, to the extent of the respective references to such standards in the Commercial Provisions portion of the 2012 IECC and subject to the provisions of sections C106.1.1, C106.1.2, and C106.2 of the 2012 IECC. Such standards are incorporated herein by reference. Such standards are available for public inspection and copying at the office of the New York State Department of State specified in subdivision (a) of this section. The titles, standard reference numbers, and publication dates of such standards, and the names and addresses of the publishers from whom copies of such standards may be obtained, are as follows:

(1) Energy Standard for Buildings Except Low-Rise Residential Buildings, standard reference number 90.1-2010, publication date 2010, published by American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc., 1791 Tullie Circle, NE, Atlanta, GA 30329-2305.

(2) *repeat for each standard to be incorporated by reference*

#### **Section 1240.4. Exceptions.**

(1) Historic buildings. The energy code shall not apply to the alteration or renovation of an historic building.

(2) Certain alterations. The energy code shall not apply to the following alterations of existing buildings, provided that the alteration will not increase the energy usage of the building:

(i) storm windows installed over existing fenestration;

(ii) glass only replacements in an existing sash and frame;

(iii) existing ceiling, wall or floor cavities exposed during construction provided that these cavities are filled with insulation;

(iv) construction where the existing roof, wall or floor cavity is not exposed;

(v) reroofing for roofs where neither the sheathing nor the insulation is exposed; roofs without insulation in the cavity and where the sheathing or insulation is exposed during reroofing shall be insulated either above or below the sheathing;

(vi) replacement of existing doors that separate conditioned space from the exterior shall not require the installation of a vestibule or revolving door, provided, however, that an existing vestibule that separates such conditioned space from the exterior shall not be removed;

(vii) alterations that replace less than fifty percent of the luminaires in a space, provided that such alterations do not increase the installed interior lighting power; and

(viii) alterations that replace only the bulb and ballast within the existing luminaires in a space provided that the alteration does not increase the installed interior lighting power.