



Building Standards and Codes

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TECHNICAL BULLETIN

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19 NYCRR 1208 – last amended August 22, 2018

Source Document: 19 NYCRR 1203 – Minimum Standards for Administration and Enforcement¹

Topic: Local government use of contracted-for services for part of an Administration and Enforcement program

The purpose of this Technical Bulletin is to provide guidance regarding the provisions of 19 NYCRR §1203.2(e) with respect to contracted-for services for the principal part of an Administration and Enforcement program of the Uniform Code by a local government.

Please be aware that the Department of State cannot give legal advice and that the practice of administration and enforcement of the Uniform Code can vary from jurisdiction to jurisdiction. Local governments should consult with the attorney for that local government for legal advice.

As found in 19 NYCRR §1203.2(e)(1), “where a government or agency charged with or accountable for administration and enforcement of the Uniform Code relies upon the contracted-for services of an individual, partnership, business corporation or similar firm for the principal part of an administration and enforcement program, [such government or agency] shall satisfy itself that any such provider has qualifications comparable to those of an individual who has met the requirements of [19 NYCRR Part 1208²].”

As found in 19 NYCRR §1203.2(e)(2), “no agreement shall be made by which building permits, certificates, orders or appearance tickets related to administration and enforcement of the Uniform Code are issued by other than public officers.” However, a local government may duly appoint an individual who provides contracted-for services for the principal part of the local government’s administration and enforcement program as a public officer of such local government.

The Department of State does not investigate the process by which a local government duly appoints public officers. While Public Officers Law §3 has eligibility requirements for public officers, such as residency requirements, there are certain circumstances which can modify such requirements. For example, modifications could include a special law or general law that has been enacted by the State Legislature (i.e. Public Officers Law §3(45)), a local law that has been adopted by the local government to allow the Building Safety Inspector/Code Enforcement Official to benefit from the extended area of residency granted in existing special laws of the State Legislature, or an inter-municipal agreement under Article 5-G of the General Municipal Law allowing the functions and duties of a Building Safety Inspector/Code

¹ 19 NYCRR Part 1203 sets forth the “Minimum Standards for Administration and Enforcement” of the Uniform Code in cities, villages, towns, and counties.

² 19 NYCRR Part 1208 provides the current “Minimum Standards for Code Enforcement Training in the State of New York,” formerly in Part 434.

Enforcement Official to be performed in all local governments that are parties to such inter-municipal agreement, so long as the Building Safety Inspector/Code Enforcement Official resides in any one of the local governments. Local governments should consult with the attorney for that local government for determining whether an individual may be duly appointed as a public officer of such local government.

Please note that 19 NYCRR §1208-1.2(h) specifically excludes “*purely ministerial acts (such as signing permits, certificates of occupancy, orders, appearance tickets, or similar documents in reliance on reviews, approvals and/or inspections performed by other persons) and secretarial and other clerical activities*” from the definition of “*enforcement activity.*” Accordingly, a public officer that is not a Certified Building Safety Inspector or Certified Code Enforcement Official may sign permits, certificates of occupancy, orders, appearance tickets, or similar documents in reliance on reviews, approvals, and/or inspections performed by other persons. For example, a town could rely upon contracted-for services of an individual, partnership, or business corporation for the principal part of the town’s administration and enforcement program and have the town’s supervisor sign the permits, certificates of occupancy, orders, appearance tickets, etc.

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