



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

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Source Documents:

19NYCRR 1221 - *Building Code of New York State (BCNYS)*

19NYCRR 1203 - *Uniform Code: Minimum Standards for Administration and Enforcement*

Topic: Shell Buildings

Introduction

This document provides information regarding the application of the *Building Code of New York State* (BCNYS) as it pertains to partially constructed and unoccupied buildings often referred to as shell or speculative (spec) buildings. Common examples of spec buildings include strip malls and office buildings or industrial buildings. It specifically discusses administration and enforcement of the code for buildings that are developed for unknown future occupant(s) without all interior elements necessary for a complete building.

Discussion

Developers often seek to construct spec buildings without knowing the exact needs of future potential tenants. A typical example may be a strip mall where the developer may know the building will be marketed as a combination of M (mercantile), B (business), or A (assembly) occupancies but may not know the size, location, configuration, or other specific demands of the yet to be determined tenant(s). Therefore a large enclosed building may be constructed without interior tenant partitions, toilet rooms, plumbing fixtures, HVAC, and other elements necessary in a completed building. The building or portions thereof are completed after specific tenants and their needs are identified.

Enforcement of the Uniform Code for shell buildings may pose some challenges to the code enforcement official because permit applications do not provide the information necessary before the building can be completed or occupied. As an example, without the knowledge of the occupancy classification or use, many important decisions cannot be made with regard to allowable building area, construction type, live loads, importance factors, fire protection equipment, plumbing fixtures, etc. In addition, a code review on the final interior configuration and related construction elements is delayed.

Despite these challenges, neither the Uniform Code nor the minimum enforcement regulations (NYCRR Part 1203) prohibit issuing a building permit for a partially completed building provided that construction documents demonstrate that the intended work complies with the Uniform Code insofar as the work is

proposed. Therefore, certain information is essential before issuing a building permit for the first phase of construction. Future permits and information will be required to ensure that any remaining work necessary to complete the building can be accomplished without significant removal or disassembly of the completed construction.

The proposed occupancy classification(s) and/or uses of a spec building should be identified before the first permit is issued so that the construction type, structural importance factors, and design live loads can be established. In addition, the design occupant load should also be available so that the water service to the building is of sufficient size to accommodate future plumbing fixtures or sprinkler system if required. Although this information may be modified by the applicant on future permit applications, it is necessary to ensure that the current work conforms to code. After all work identified in the building permit is completed, a certificate of compliance may be issued to close out this part of the project. Since the building is not complete, a certificate of occupancy should not be issued until the building or the portion intended to be occupied conforms to all the requirements of the Uniform Code.

Additional building permits should be required for any future work that leads to the completion or occupancy of the building. Final construction documents should identify the configuration of space, fire protection systems, means of egress, mechanical/plumbing/HVAC systems, and all other elements necessary to conform to the code. A building permit may be issued to complete a portion of the building for use by one or more tenants without completing the entire building. However, in some cases the Uniform Code may require additional work in other parts of the building that will remain unoccupied. As an example, Section 903.2.6 of the BCNYS requires an automatic sprinkler system **throughout** buildings containing a Group M occupancy under certain conditions. If any of these conditions are present for a proposed M-occupancy, then the automatic sprinkler system should be required **throughout** the entire building. Although a required automatic sprinkler system may have to undergo alterations to accommodate future tenant partitioning, the system must be installed to provide required coverage in unoccupied spaces. In addition, these spaces may require heat or other alternatives to maintain the system.

It is also important to note that buildings that have not been provided with a certificate of occupancy must be completed in accordance with the BCNYS. They are not permitted to be completed in accordance with Existing Building Code of New York State (EBCNYS), Section 101.2 (Scope), states that EBCNYS cannot be used for buildings or portions thereof that have never been occupied.

In summary, the Uniform Code and the minimum standards for administration and enforcement of the Uniform Code do not prohibit issuing building permits or certificates of occupancy to allow partial construction or occupancy of buildings. However, administration and enforcement of the code continues to be within the jurisdiction of the local authority and their regulations.

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