



# NEW YORK STATE DEPARTMENT OF STATE

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## TECHNICAL BULLETIN

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**Effective Date:**        **January 1, 2003**

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

**Topic:**                **Fire damaged portion of a building structure or interior**

This document is to clarify the reconstruction requirements of a fire damaged portion of a building structure or interior of a building. A fire damaged portion of a building structure has to be rebuilt as NEW construction. Building Code of New York State (BCNYS) Appendix K, section K101.1, scope states:

The provisions of this appendix shall apply to the alteration, repair, renovation, reconstruction, addition, change of occupancy and movement of existing buildings and structures.

However, exception 2 states that appendix K does not apply to buildings that have been demolished more than a de minimus amount. The term "de minimus" is defined in Blacks Law Dictionary, 7<sup>th</sup> Edition, as:

1. trifling, minimal;
2. so insignificant that a court may overlook it in deciding an issue or case.

Therefore, unless the damage is minimal, the fire damaged portion of the building structure has to be rebuilt as new construction in accordance with the BCNYS. Care should be taken when, for example the entire roof assembly is replaced using the new construction requirements of the BCNYS, that the load path to support the new roof is structurally sufficient.

As a guideline, if restoring the damage to the structure requires a "repair" as defined in BCNYS Appendix K Chapter K2, the classification of work in Chapter K3, and the requirements of section K402.1, minor repairs can be done in like and similar materials. For example a window can be replaced, a small hole in the roof can be patched, or a couple studs or rafters can be repaired.

Similarly, if the fire damage to a building does not affect the structure and restoring the interior of the building requires "reconstruction" or "alteration" as defined in BCNYS Appendix K Chapter K2 and the classification of work in Chapter K3, then the appropriate Chapter of Appendix K shall apply.

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