

STATE OF NEW YORK
DEPARTMENT OF STATE

ONE COMMERCE PLAZA
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KATHY HOCHUL
GOVERNOR

WALTER T. MOSLEY
SECRETARY OF STATE

March 11, 2025

Peter J. Sorgi
Hopkins Sorgi & McCarthy PLLC
574 Main St, Suite 204
East Aura, NY 14052

RE: Town of Allegany

To Whom it May Concern:

Local Law 1 of the year 2025 was filed with this office on 3/7/2025. The Department of State Local Law Index Number 1 of the year of 2025. The Local Law number assigned by the Department of State for indexing purposes may be different from the Local Law number ascribed by the Legislative Body of the Local Government.

Department of State
Division of State Records
(518) 473-2492
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The Local Law filing form has been updated as of 03/05/2025 in compliance with Section 27 of the Municipal Home Rule Law



**Department
of State**

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one:)

of Allegany

MAR 07 2025

DEPARTMENT OF STATE

Local Law No. 1 of the year 2025

A local law Adoption of Property Maintenance Code of the State of New York
(Insert Title)

Be it enacted by the Town Board of the
(Name of Legislative Body)

County City Town Village
(Select one:)

of Allegany as follows:

See Attached

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Local Law No. 1 of the Year 2025

Adoption of Property Maintenance Code of the State of New York

Allegany Town Board

Be it enacted by the Town Board of the Town of Allegany, County of Cattaraugus and State of New York, to protect the health, safety and welfare of the residents of the Town of Allegany, as follows:

SECTION 1. TITLE

This Local Law shall be known as Local Law No. 1 of the Year 2025 and shall be titled Adoption of Property Maintenance Code of the State of New York.

SECTION 2. AUTHORITY

Municipal Home Rule Law § 10 and 2020 Property Maintenance Code of the State of New York

SECTION 3. PURPOSE, LEGISLATIVE INTENT, LEGISLATIVE FINDINGS AND TEXT OF LOCAL LAW

It is the intent of this local law to enforce regulations within this chapter and adopt the International Property Maintenance Code of the State of New York (N.Y.S. 19 N.Y.C.R.R. Part 1226), hereinafter referred to as "IPMC" and as may be amended and comply with the rules promulgated pursuant to Article 18 of the Executive Law of the State of New York. This chapter of the Town of Allegany Code, hereinafter referred to as the "Property Maintenance Code," shall prescribe further enforcement measures recognizing: the more serious life safety requirements and standards for premises, structures, equipment, facilities for light, ventilation, space, heating, sanitation, protection from the elements; a reasonable level of safety from fire and other hazards; and for a reasonable level of sanitary maintenance.

I. Affirmative Incorporation and Violations of The New York State "Uniform Code".

- A. Affirmative Incorporation. This section shall incorporate the standards found in the Property Maintenance Code of New York State (also referred to as the "Uniform Code"), which shall be referred to in this Local Law as the "Property Maintenance Code". The text of the Property Maintenance Code is found in Title 19 of the New York Codes, Rules and Regulations ("19 NYCRR"), Part 1226 thereof and in publications incorporated by reference therein, including the 2020 edition of the International Property Maintenance

Code ("2020 IPMC"), and any subsequent publication adopted and incorporated by the New York State Code Council.'

- B. Violations of the Uniform Code. Any act, resulting in a violation of the provisions of the Uniform Code, as promulgated pursuant to Article 18 of the Executive Law of the State of New York, shall be deemed a violation of this section and subject to any orders, requirements and penalties pursuant to this chapter.

II. Applicability & Scope.

This local law shall apply to all existing residential and nonresidential structures and all existing premises and shall constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, a reasonable level of safety from fire and other hazards, and a reasonable level of sanitary maintenance; the responsibility of owners, an owner's authorized agent, operators and occupants; the occupancy of existing structures and premises, and for administration, enforcement and penalties.

III. Definitions.

Scope. Unless otherwise expressly stated, the following terms shall, for the purposes of this code, have the meanings shown in this chapter.

Terms defined in other codes. Where terms are not defined in this code and are defined in the Building Code of New York State, Existing Building Code of New York State, Fire Code of New York State, Fuel Gas Code of New York State, Mechanical Code of New York State, Plumbing Code of New York State, Residential Code of New York State or NFPA 70, such terms shall have the meanings ascribed to them as stated in those codes.

Terms not defined. Where terms are not defined through the methods authorized by this section, such terms shall have ordinarily accepted meanings such as the context implies.

Parts. Whenever the words "dwelling unit," "dwelling," "premises," "building," "structure," or "story" are stated in this code, they shall be construed as though they were followed by the words "or any part thereof."

The following terms, used throughout this Chapter, shall be defined as follows:

BUILDING - Any structure used or intended for supporting or sheltering any use or occupancy.

BEDROOM - Any room or space used or intended to be used for sleeping purposes in either a dwelling or sleeping unit.

BUILDING SAFETY INSPECTOR (BSI) - The official who is charged with the administration and enforcement of this article, and such person(s) successfully completed the training courses 9A16, 9B16 and 9C16 with the New York State Department of State, Division of Code Enforcement and is currently certified a Building Safety Inspector.

CODE ENFORCEMENT OFFICIAL (CEO) - The official who is charged with the administration and enforcement of this article, or any duly authorized representative of such person, including but not limited to the Building Inspector, Chief Building Inspector, Principal Building Inspector, Senior Building Inspector, Building Permits Coordinator, Zoning Inspector, Electrical Inspector, Plumbing Inspector, Fire Marshal, Fire Marshal I, Fire Marshal 11, Chief Fire Marshal, Town Investigator, Senior Town Investigator, Ordinance Enforcement Officer, Ordinance Inspector, Code Enforcement Officer or Spanish-Speaking Code Enforcement Officer of the Town of Allegany and such person(s) successfully completed the training courses 9A16, 9B16, 9C16, 9D16, 9E16 and 9F16 with the New York State Department of State, Division of Code Enforcement and is currently certified as a New York State Code Enforcement Official.

DWELLING UNIT - A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

CONDEM - To adjudge unfit for occupancy.

OCCUPANCY - The purpose for which a building or portion thereof is utilized or occupied.

OPERATOR - Any person who has charge, care or control of a structure or premises which is let or offered for occupancy.

OWNER - Any person, agent, operator, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the state, county or municipality as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court.

PERSON - An individual, corporation, partnership or any other group acting as a unit.

STRUCTURE - That which is built or constructed or a portion thereof.

TENANT - A person, corporation, partnership or group whether or not the legal owner of record, occupying a building or portion thereof as a unit.

UNSAFE STRUCTURES - An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally

unsafe, or of such faulty construction or unstable foundation, that partial or complete collapse is possible.

UNSAFE EQUIPMENT - Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure that is in such disrepair or condition that such equipment is a hazard to life, health, property or safety of the public and/or occupants of the premises or structure.

STRUCTURE UNFIT FOR HUMAN OCCUPANCY - A structure is unfit for human occupancy whenever such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested; contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by the International Property Maintenance (IPMC) of New York State, or because the location of the structure constitutes a hazard to the occupants of the structure and/or to the public.

UNLAWFUL STRUCTURE - An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under the International Property Maintenance (IPMC) of New York State, or was erected, altered or occupied contrary to law.

IMMINENT DANGER - The Code Enforcement Official (CEO) or Building Safety Inspector (BSI) is authorized to order and require the occupants to vacate premises when there exists:

1. Imminent danger of failure or collapse of a building or structure which endangers life;
2. A structure in which any part of the structure has fallen and life is endangered by the occupation of the structure; or
3. An actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials; or
4. Operation of defective or dangerous equipment.

The Code Enforcement Official (CEO) or Building Safety Inspector (BSI) shall require the posting, at each entrance to such structure, a notice reading as follows: "This Structure is Unsafe and its Occupancy Has Been Prohibited by the Code Enforcement Official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition, or of demolishing the same.

WORKMANLIKE - Executed in a skilled manner using proper materials; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work.

IV. Enforcement.

This chapter shall be enforced by any Code Enforcement Official(s) (CEO) or Building Safety Inspector (BSI) certified by New York State and employed by the Town of Allegany.

V. Authority to inspect.

Inspections permitted. A fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may be performed by the Code Enforcement Official (CEO) or Building Safety Inspector (BSI) or an Inspector designated by the Code Enforcement Official at any time upon:

- A. The request of the owner or operator of the property to be inspected or an authorized agent of such owner;
- B. Receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
- C. Receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

VI. Immediate Orders to eliminate dangerous or hazardous conditions of specific violations of the International Property Maintenance Code of (IPMC) of New York State.

Whenever any Code Enforcement Official (CEO) or Building Safety Inspector (BSI) shall find in any building, structure or upon any premises an "Unsafe Structure", "Unsafe Equipment", "Structure Unfit for Human Occupancy", "Unlawful Structure" or "Imminent Danger" as specifically defined in this chapter, the CEO or BSI shall order such dangerous conditions or materials to be removed or remedied immediately in such manner as prescribed herein. The CEO or BSI shall provide Notice and placard the structure, premises, equipment or facilities in the manner set forth in the International Property Maintenance Code of New York State.

VII. Additional Means of Enforcing the Uniform Code; Notice of Violations and Appearance Tickets.

A. Notice of Violation(s) for violations of this chapter may be served in accordance with Part 1203 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York, more specifically Part 1203.5 (g) 1; and

B. Appearance Tickets. In addition to and pursuant to Part 1203 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York, more specifically 1203.5 (g)(2), any violation of the provisions set forth specifically in 217-49 of this chapter shall be deemed a violation of this section and subject to the penalties set forth in 217-55 of this Parts.

VIII. Notice of Violation.

Whenever the enforcing officer determines there is or has been a violation of this Local Law, or has reasonable grounds to believe there is or has been a violation of this Local Law, he shall give notice of violation to the owner of the subject premises. Such notice may be in the form of an appearance ticket. Any efforts to remedy violations shall be in a workmanlike manner as defined in this chapter.

IX. Contents of Notices & Appearance Tickets

The notice of violation shall be in writing and shall specify the violation alleged to have been committed and the name of each person to whom addressed. It may specify the steps to be taken to effect compliance and may set a reasonable time, not less than 10 nor more than 30 days after issuance, for the person given such notice to effect compliance. The appearance ticket shall specify a date, time and place for the person given notice to appear before the Town Justice Court of the Town of Allegany or any other court of competent jurisdiction to be formally charged with the violation set forth in the notice and to be arraigned thereon. In the event that the notice contains a statement of a reasonable time for compliance, any date set for appearance in court shall be subsequent to the final date for compliance.

X. Demolition as compliance.

The demolition of a building in accordance with law shall be deemed compliance.

XI. Extension of time for compliance.

In any case where a time for compliance has been fixed, the person or body fixing such time may extend the time for compliance upon a determination that there is evidence of complying within the time as extended.

XII. Penalties for Offences, Civil Proceedings.

The Town of Allegany hereby sets penalties for offences of violations of this chapter, in accordance with Part 1203 of Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York, more specifically Part 1203.5 (g)(7).

A. Penalties. Any person, owner, or operator whom, or association, firm or corporation which is found to have violated any of the provisions of this Local Law or assists in such violations shall be guilty of a violation, punishable as follows:

(1) For a first offense, a fine not less than \$750.00, nor more than \$1,500.00 or by imprisonment for a term not to exceed 15 days, or by both such fine and imprisonment;

(2) For a second offense, a fine not less than \$1,500.00, nor more than \$3,000.00 or by imprisonment for a term not to exceed 15 days, or by both such fine and imprisonment;

(3) For a third and any subsequent offense, a fine not less than \$5,000.00, nor more than \$10,000.00 or by imprisonment for a term not to exceed 15 days, or by both such fine and imprisonment.

Each week, or part thereof, such violation continues following notification by the Town or service of a notice of violation, summons, or appearance ticket/s shall constitute a separate offense, punishable in like manner, except where the responsible party shall prove that the subject premises was vacated and unoccupied subsequent to the initial notification of violation until such time as the Code Enforcement Official or Building Safety Inspector determines that the condition/s underlying the violation is/are corrected or otherwise abated.

B. Civil proceedings and penalties. In addition to the criminal penalties set forth herein, the Town Attorney is authorized to pursue any and all actions in law or equity, including but not limited to actions to enjoin and restrain by injunction the person or persons conducting or permitting any violation of this article or any violations of the International Property Maintenance (IPMC) of The State of New York for further conducting or permitting said violation, for compensatory damages, civil penalties, to compel compliance, and any other remedies which the Town Attorney may deem necessary and proper.

(1) Any person found to have violated any of the provisions of this Local Law shall be subject to a civil penalty.

(2) Each day of a continuing violation shall be subject to a separate civil penalty. The civil penalty for a violation of this Local Law shall be as follows: \$350 for the first day of violation or any part thereof; \$500 for the second day of violation or any part thereof; and \$1,000 for the third day of violation or any part thereof; and for

all subsequent days of violation, up to and including the 15th day, said civil penalties for any given fifteen-day period may not exceed \$15,000. Civil penalties may be recovered in any action or proceeding brought by the Town Attorney in any court of competent jurisdiction or before a duly appointed hearing officer whenever permitted by law for a violation of this Local Law.

- (3) Each fifteen-day period shall be the subject of a separate cause of action and shall be subject to additional civil penalties not to exceed \$15,000 in each and every fifteen-day period.
- (4) All civil penalties shall be mandatory penalties and must be imposed upon a judgment in favor of the Town. If said penalty is not paid to the Town of Allegany within 10 days of judgment, a civil judgment shall be entered against the property, and the owner of the property, and said judgment may be collectible by a tax assessment against the property on which said violation occurred.
- (5) Any civil penalty imposed shall be in addition to any fine and/or imprisonment imposed as a result of a criminal prosecution provided for in the Allegany Town Code or any state or local law. There is no requirement of notice prior to the commencement of a civil action.
- (6) Strict liability. Personal knowledge of the existence of a violation is not required, no mens rea (intent) is required, and any violation charged herein shall be one of strict liability.
- (7) Continued violation. There shall be a presumption that a violation continues from the day the Town establishes that said violation existed until the violation's existence is rebutted, but in any case no longer than 15 days for each civil action filed.

XIII. Remedies Not Exclusive

No remedy or penalty specified in this article shall be the exclusive remedy or remedy available to address any violation described in this chapter, and each remedy or penalty specified in this article shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this chapter or in any other applicable law. Any remedy or penalty specified in this article may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty. In particular, but not by way of limitation, each remedy and penalty specified in this article shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision 2 of § 382 of New York State Executive Law, and any remedy or penalty specified in this article may be pursued at any time, whether prior

to, simultaneously with, or after the pursuit of any penalty specified in Subdivision 2 of §82 of the Executive Law

SECTION 4. SEVERABILITY

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance shall be adjudicated by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 5. EFFECTIVE DATE

This Local Law shall take effect immediately upon adoption by the Town Board of the Town of Allegany and filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2025 of the (County)(City)(Town)(Village) of Allegany was duly passed by the Town Board on February 25 2025, in accordance with the applicable provisions of law.
(Name of Legislative Body)

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on _____ 2025, in accordance with the applicable provisions of law.~~

~~**3. (Final adoption by referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(Elective Chief Executive Officer*)*~~

~~Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.~~

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.~~

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.



Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: 2/27/2025

(Seal)

Certification of Town Clerk

STATE OF NEW YORK
COUNTY OF CATTARAUGUS

I, the undersigned, hereby certify that I have compared the foregoing local law duly adopted by the Town Board of The Town of Allegany on the 25th day of February 2025 with the original thereof now on file in my office, and the same is a true and correct copy of said resolution and of the whole thereof.

Dated: February 27, 2025

A handwritten signature in black ink, appearing to read "Grace Straub", written over a horizontal line.

Grace Straub, Allegany Town Clerk

Seal