



# Building Standards and Codes

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## CODE INTERPRETATION – 2018-01

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**Date of Interpretation:** February 7, 2018

**Code Effective Date:** October 31, 2017<sup>1</sup>

**Source Documents:** 2015 International Building Code and the 2015 International Property Maintenance Code, as amended by the 2017 Uniform Code Supplement<sup>2</sup>

**Question:** A code enforcement official has asked the question: Do the minimum floor area per occupant requirements set forth in 10 NYCRR section 7-2.16(c) supersede any inconsistent minimum floor area per occupant requirements set forth in the Uniform Code for all sleeping quarters housing more than four persons in a children’s overnight camp, including sleeping quarters not meeting the definition of a summer camp cabin?

**Interpretation:** Yes.

In general, the New York State Uniform Fire Prevention and Building Code (the “Uniform Code”) prescribes “standards for the construction of all buildings or classes of buildings, or the installation of equipment therein, including standards for materials to be used in connection therewith, and standards for safety and sanitary conditions.” Executive Law § 378(1), emphasis added.

Chapter 443 of the Laws of 2009 added the following sentence to Executive Law § 378(1), effective September 16, 2009: “Notwithstanding the above, sleeping quarters in a children’s overnight camp as defined in subdivision one of section thirteen hundred ninety-two of the public health law<sup>3</sup> shall be governed by subdivision one of section thirteen hundred ninety-four of such law.”

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<sup>1</sup> The “Code Effective Date” for this Code Interpretation is October 31, 2017, which is the effective date of the current version of the New York State Uniform Fire Prevention and Building Code (the Uniform Code). However, the Uniform Code provisions referenced in this Code Interpretation were not changed from the previous version of the Uniform Code, which became effective on October 3, 2016. Therefore, this Code Interpretation applies both to the version of the Uniform Code that became effective on October 3, 2016 and to the version of the Uniform Code that became effective on October 31, 2017.

<sup>2</sup> The 2015 International Building Code (2015 IBC) is a publication incorporated by reference in 19 NYCRR Part 1221. The 2015 International Property Maintenance Code (2015 IPMC) is a publication incorporated by reference in 19 NYCRR Part 1226. The 2017 Uniform Code Supplement is a publication incorporated by reference in 19 NYCRR Parts 1221 and 1226. The 2015 IBC, as amended by the 2017 Uniform Code Supplement, and the 2015 IPMC, as amended by the 2017 Uniform Code Supplement, are portions of the version of the Uniform Code that became effective on October 31, 2017.

<sup>3</sup> Public Health Law § 1392(1) defines “children’s overnight camp” as follows: “a property consisting of a tract of land and any tents, vehicles, buildings or other structures that may be pertinent to its use, any part of which may be occupied by persons under eighteen years of age under general supervision for the purpose of outdoor or indoor organized activities and on which provisions are made for overnight occupancy of children. The commissioner shall have the power to except by rule from this article and the sanitary code a place or facility that is not within the intent of this definition.”

Public Health Law § 1394(1) provides that the Public Health Council shall prescribe standards and establish regulations for children's overnight camps, summer day camps, and traveling summer day camps. The Public Health Council's regulations for children's overnight camps, summer day camps, and traveling summer day camps are found in 10 NYCRR Subpart 7-2 ("Children's Camps").<sup>4</sup>

Accordingly, on and after September 16, 2009, the standards for construction for sleeping quarters in a children's overnight camp are prescribed by 10 NYCRR Subpart 7-2.

While Executive Law § 378(1) now points to 10 NYCRR Subpart 7-2 for the standards for construction for sleeping quarters at children's overnight camps, that Subpart actually refers back to the Uniform Code. See 10 NYCRR section 7-2.12(b)(1), which provides that "all new construction, including alterations, enlargements and improvements, shall be in accordance with the Uniform Code, and the provisions of the State Environmental Quality Review Act." 10 NYCRR section 7-2.12(b)(1) appears to apply to all buildings, including sleeping quarters, in all children's camps, including children's overnight camps.

10 NYCRR Subpart 7-2 does provide for two exceptions in the case of a specific type of sleeping quarter known as a "summer camp cabin."<sup>5</sup> Specifically, 10 NYCRR section 7-2.12(b)(2) provides that a summer camp cabin shall be exempt from the "automatic sprinkler system requirements" and the "minimum floor area per occupant requirements" of the Uniform Code.

Based on the foregoing:

- Prior to September 16, 2009, the standards for the construction for any building (including a sleeping quarter) in a children's overnight camp were prescribed by the Uniform Code.<sup>6</sup>
- Since September 16, 2009:
  - The standards for construction for any building in a children's overnight camp that is not a sleeping quarter are prescribed by the Uniform Code.
  - The standards for construction for any building in a children's overnight camp that is a sleeping quarter are prescribed by 10 NYCRR Subpart 7-2. However, Subpart 7-2 refers back to the Uniform Code as the source of the standards for construction for new construction of all buildings, including all sleeping quarters, subject to the following exceptions:
    - summer camp cabins are exempt from the Uniform Code's automatic sprinkler system requirements, and
    - summer camp cabins are exempt from the Uniform Code's minimum floor area per occupant requirements.

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<sup>4</sup> The State Sanitary Code is set forth in Chapter I of Title 10 of the NYCRR. 10 NYCRR Subpart 7.2 is part of the State Sanitary Code.

<sup>5</sup> The term "summer camp cabin" is defined in the State Sanitary Code as "a sleeping quarter which: (i) is located in a children's overnight camp; (ii) has a sleeping capacity of fewer than 25 occupants with a total combined sleeping room floor area of 1,200 square feet or less for all sleeping rooms; (iii) is one story; (iv) is used and occupied only between June 1st and September 14th; (v) has no cooking facilities, no heating systems, and no solid fuel heating or burning systems; (vi) has only sleeping rooms (including the necessary area for storing occupant belongings) and bathrooms; (vii) has no interior corridors or separate common area rooms; (viii) has at least two exits per sleeping room which are remote from each other and which discharge directly to the building's exterior; (ix) has exit doors that open in the direction of, and are non-locking against egress; and (x) has smoke alarms in each sleeping room that are interconnected such that the activation of one alarm will activate all of the alarms in the cabin." 10 NYCRR section 7-2.12(b)(3).

<sup>6</sup> More precisely, the standards for construction were prescribed by the version of the Uniform Code that was in effect at the time of construction of the building or, if applicable, at the time of the most recent "code-triggering" event (alteration, addition, change of use, etc.) for the building.

While a summer camp cabin is exempt from the minimum floor area per occupant requirements of the Uniform Code, a summer camp cabin is subject to the minimum floor area per occupant requirements of the State Sanitary Code. See 10 NYCRR section 7.2-16(c), which provides as follows:

(c) In sleeping quarters housing more than four persons, 40 square feet of floor area per occupant shall be provided, when single beds are provided. When double-deck bunk beds are provided, 30 square feet of floor area shall be provided for each occupant. Floor area includes space within the occupied structure to accommodate: the bed, storage for personal belongings, aisles and exitways, and associated assembly space. Space for toilets, lavatories and showers shall not be used to calculate a sleeping quarter's floor area. For structures built prior to 1975, the required minimum floor area for single beds is 36 square feet. Effective July 1, 2011, construction of sleeping quarters not meeting the definition of a summer camp cabin, as defined in section 7-2.12(b)(3) of this Subpart, 50 square feet of floor area per occupant shall be provided in each sleeping room.

Based on information provided to the Department of State, the question giving rise to this Code Interpretation involves an existing building in a children's overnight camp that is a sleeping quarter but is not a summer camp cabin. The question for this building, and for other similar buildings, is this:

Do the minimum floor area per occupant requirements set forth in 10 NYCRR section 7-2.16(c) supersede any inconsistent minimum floor area per occupant requirements set forth in the Uniform Code for all sleeping quarters housing more than four persons in a children's overnight camp, including sleeping quarters not meeting the definition of a summer camp cabin?

For the reasons set forth below, the answer is: Yes.

As stated above, any building (including any sleeping quarter) in a children's overnight camp constructed prior to September 16, 2009 should have been constructed in accordance with the provisions of the Uniform Code (or other applicable building code, if any) in effect at the time of construction. Any building (including any sleeping quarter) in a children's overnight camp constructed since September 16, 2009 should have been constructed in accordance with the State Sanitary Code which, in turn, requires such construction to be in accordance with the Uniform Code. The exceptions in 10 NYCRR section 7-2.12(b)(2) apply only to summer camp cabins and, therefore, do not apply to a building of the type that gave rise to this Code Interpretation.

However, 10 NYCRR section 7-2.16(c) is part of the State Sanitary Code, and was adopted by the Public Health Council pursuant to Public Health Law § 1394(1). 10 NYCRR section 7.2-16(c) was amended on July 6, 2011. The Public Health Council clearly intended 10 NYCRR section 7-2.16(c), as so amended, to apply to all sleeping quarters housing more than four persons, including sleeping quarters that are not summer camp cabins. (See, for example, the final sentence in 10 NYCRR section 7-2.16(c), as quoted above.) Therefore, in light of the 2009 amendment of Executive Law § 378(1), the Department of State concludes that with respect to a sleeping quarter housing more than four persons in a children's overnight camp, (1) the minimum floor area per occupant requirements set forth in 10 NYCRR section 7-2.16(c) supersede any inconsistent minimum floor area per occupant requirements set forth in the Uniform Code, and (2) the foregoing applies to all sleeping quarters housing more than four persons in a children's overnight camp, including sleeping quarters that are summer camp cabins and sleeping quarters that are not summer camp cabins.<sup>7</sup>

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<sup>7</sup> The Department of Health has clarified that for the purpose of 10 NYCRR section 7-2.16(c), the term "sleeping quarter housing more than four persons" means a *building* that houses more than four persons. Therefore, a building used as a sleeping quarter in a children's overnight camp is a "sleeping quarter housing more than for persons" if the entire building houses more than four persons, even if one or more individual sleeping rooms in the building house four or fewer persons. Please contact the Department of Health for further guidance. The Department of Health's telephone number is (518) 402-7600.

While 10 NYCRR section 7.2-16(c) applies to all sleeping quarters housing more than four persons in a children's overnight camp, the rules differ slightly depending upon when the building was constructed and whether or not the building meets the definition of a summer camp cabin. More specifically:

- For a sleeping quarter constructed prior to 1975, the required minimum floor area is 36 square feet per occupant when single beds are provided and 30 square feet per occupant when double deck bunk beds are provided.
- For a sleeping quarter constructed between January 1, 1975 and June 30, 2011, the required minimum floor area is 40 square feet per occupant when single beds are provided and 30 square feet per occupant when double-deck bunk beds are provided.
- For a sleeping quarter constructed on or after July 1, 2011:
  - If the building meets the definition of a summer camp cabin, the required minimum floor area is 40 square feet per occupant when single beds are provided and 30 square feet per occupant when double-deck bunk beds are provided.
  - If the building does not meet the definition of a summer camp cabin, the required minimum floor area is 50 square feet per occupant in each sleeping room.

#### Interpretation

Section 404 of the 2015 IPMC contains provisions for occupancy limitations. Section 404.5 of the 2015 IPMC, as amended by the 2017 Uniform Code Supplement, includes an express exception from the Uniform Code's minimum floor area per occupant requirement for summer camp cabins housing more than four persons. Particularly, Section 404.5 of the 2015 IPMC, as amended by the 2017 Uniform Code Supplement, provides as follows:

*Exception: Sleeping quarters located in summer camp cabins housing more than four persons shall be permitted a floor area of 40 square feet of floor area per occupant when single beds are provided and 30 square feet of floor area per occupant when double-deck bunk beds are provided. Floor area includes space within the occupied structure to accommodate: the bed, storage for personal belongings, aisles and exitways, and associated assembly space. Space for toilets, lavatories and showers shall not be used to calculate a sleeping quarter's floor area. For structures built prior to 1975, the required minimum floor area for single beds is 36 square feet.*

Section 404.5 of the 2015 IPMC, as amended by the 2017 Uniform Code Supplement, does not include a similar exception for sleeping quarters that are not summer camp cabins. Nevertheless, the Department of State concludes that the 2009 amendment to Executive Law § 378(1) requires the minimum floor area per occupant requirements of 10 NYCRR section 7-2.16(c) to supersede any inconsistent minimum floor area per occupant requirements in the Uniform Code. Therefore, the Department of State holds that Section 404.5 of the 2015 IPMC, as amended by the 2017 Uniform Code Supplement, must be interpreted as including the following, additional exception:

Exception 2: *For a sleeping quarter which houses more than four persons in a children's overnight camp, and which is not a summer camp cabin:*

1. *If the building was constructed prior to 1975, the required minimum floor area is 36 square feet per occupant when single beds are provided and 30 square feet per occupant when double-deck bunk beds are provided.*
2. *If the building was constructed between January 1, 1975 and June 30, 2011, the required minimum floor area is 40 square feet per occupant shall when single beds are provided and 30 square feet per occupant when double-deck bunk beds are provided.*
3. *If the building was constructed on or after July 1, 2011, the required minimum floor area is 50 square feet per occupant in each sleeping room.*

*These Exceptions apply if the entire building used as a sleeping quarter in a children's overnight camp houses more than four persons, even if one or more individual sleeping rooms in the building house four or fewer persons. For the purposes of items 1 and 2 of Exception 2, "floor area" includes space within the occupied structure to accommodate: the bed, storage for personal belongings, aisles and exitways, and associated assembly space. Space for toilets, lavatories and showers shall not be used to calculate a sleeping quarter's "floor area."*

With respect to new construction, Section 1004.1.2 and Table 1004.1.2 of the 2015 IBC includes provisions for determining design occupant loads. As stated above, the Department of State concludes that the 2009 amendment to Executive Law § 378(1) requires the minimum floor area per occupant requirements of 10 NYCRR section 7-2.16(c) to supersede any inconsistent minimum floor area per occupant requirements in the Uniform Code. Therefore, the Department of State holds that Section 1004.1.2 and Table 1004.1.2 of the 2015 IBC must be interpreted as including the following exception:

*Exception: For a sleeping quarter which houses more than four persons in a children's overnight camp:*

- 1. If the building meets the definition of a summer camp cabin, the required minimum floor area is 40 square feet per occupant when single beds are provided and 30 square feet per occupant when double-deck bunk beds are provided.*
- 2. If the building does not meet the definition of a summer camp cabin, the required minimum floor area is 50 square feet per occupant in each sleeping room.*

*This Exception applies if the entire building used as a sleeping quarter in a children's overnight camp houses more than four persons, even if one or more individual sleeping rooms in the building house for or fewer persons. For the purposes of items 1 and 2 of this Exception, "floor area" includes space within the occupied structure to accommodate: the bed, storage for personal belongings, aisles and exitways, and associated assembly space. Space for toilets, lavatories and showers shall not be used to calculate a sleeping quarter's "floor area."*

#### Local code enforcement officials

Local code enforcement officials still have important duties to fulfill with respect to all buildings and structures, including sleeping quarters, at children's overnight camps. First, as discussed above, the Uniform Code applies in its entirety to all buildings and structures that are not sleeping quarters. Further, the Uniform Code applies to new construction, including alterations, enlargements and improvements, of all buildings and structures, including sleeping quarters. While sleeping quarters are subject to the minimum floor area per occupant requirements of 10 NYCRR section 7-2.16(c), rather than the usual minimum floor area per occupant requirements of the Uniform Code, and while "summer camp cabins" are exempt from the Uniform Code's sprinkler requirements, all other Uniform Code provisions apply, and the local code enforcement official remains responsible for enforcing those requirements. The local code enforcement official's duties include but are not limited to reviewing building permit applications for compliance with the applicable Uniform Code requirements, issuing building permits, conducting construction inspections, and issuing certificates of occupancy.

In addition, Executive Law § 378(2) provides that the Uniform Code shall prescribe "(s)tandards for the condition, occupancy, maintenance, conservation, rehabilitation and renewal of certain existing buildings, structures and premises and for the safeguarding of life and property therein and thereabout from the hazards of fire, explosion or release of toxic gases arising from the storage, handling or use of combustible or hazardous substances, materials or devices." Executive Law § 378(2) has no exception for sleeping quarters in children's overnight camps. Therefore, all buildings, including all sleeping quarters, in children's overnight camps are subject to all Uniform Code provisions relating to the "condition, occupancy, maintenance, conservation, rehabilitation, and renewal" of such buildings, and to all Uniform Code provisions relating to "the safeguarding of life and property

[in and about such buildings] from the hazards of fire, explosion or release of toxic gases arising from the storage, handling or use of combustible or hazardous substances, materials or devices.” Local code enforcement officials should perform periodic fire safety and property maintenance inspections of all buildings (including all sleeping quarters) at children’s overnight camps in accordance with the minimum standards of 19 NYCRR Part 1203 and their local code enforcement program.

Finally, 10 NYCRR Subpart 7-2 provides that no person shall operate a children’s camp without a permit from the “permit-issuing official” (10 NYCRR section 7-2.4(a)) and that no new construction at a children’s overnight camp should be started prior to approval by the “permit-issuing official” (10 NYCRR section 7-2.12(a)). However, local code enforcement officials should be aware of the following:

- First, the “permit-issuing official” referred to in 10 NYCRR Subpart 7-2 is not the local code enforcement official. Rather, the “permit-issuing official” referred to in Subpart 7-2 is “the State Health Commissioner or his designee and those persons defined as officers in subdivision 4 of section 1392 of the Public Health Law.” (10 NYCRR section 7-2.4(b)).
- Second, the permits and approvals issued by the “permit-issuing official” pursuant to Subpart 7-2 are in addition to, and not in substitution for, the permits and approvals issued by the local code enforcement official. The fact that the “permit-issuing official” issues a permit for the operation of a children’s overnight camp, and approves new construction at a children’s overnight camp, does not relieve the local code enforcement official of his or her duty to receive and review permit applications, to issue building permits, to perform construction inspections, to issue certificates of occupancy, to conduct periodic fire safety and property maintenance inspections, and otherwise to administer and enforce the Uniform Code with respect to all buildings in children’s overnight camps.<sup>8</sup>

This Code Interpretation is issued pursuant to Executive Law §376(4). Pursuant to Executive Law §376(4), subsequent enforcement of the Uniform Code shall be consistent with this Code Interpretation.



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<sup>8</sup> See 10 NYCRR section 7-2.12(a), which provides in part that construction shall not start prior to the required approval by the “permit-issuing official” and “other appropriate regulatory official” (emphasis added). See also 10 NYCRR section 7-2.12(b)(1), which provides that all new construction, including alterations, enlargements and improvements, shall be in accordance with the Uniform Code, and that the building permit and certificate of occupancy issued by the local code enforcement official shall be readily available for review and submission to the permit-issuing official. (emphasis added).