

## RULE TEXT

### (Part 1205)

**Subdivision (a) of section 1205.5 of Title 19 of the Official Compilation of Codes, Rules, and Regulations of the State of New York (NYCRR) is amended to read as follows:**

(a) Routine cases. A routine case is one determined by the department to involve either: a de minimis variance or modification of the Uniform Code that does not substantially affect the code's provisions for health, safety, and security; or a request for a variance from a construction-permitting agency, as defined in section 1204.3(e) of Part 1204 of this Title, that is based on a substantially similar petition previously granted by the department or the board of review. In determining whether a petition is substantially similar, the department may consider any relevant factors including but not limited to the applicable code provisions, design criteria, and geographic location. At the department's discretion, in making this determination the department may coordinate with the petitioner, the authority having jurisdiction, and any known interested parties.

(1) Any person aggrieved may petition the department for relief under this subdivision. The petition shall be submitted to the department on a form prescribed by the department and shall include, at a minimum, all of the following:

(i) the fee(s) specified in or determined in accordance with section 1205.6 of this Part;

(ii) a statement of the nature of the grievance and the relief sought in sufficient detail as would permit the department to make a determination on the basis of the information contained within the petition;

(iii) where necessary, construction documents (drawings and/or specifications), site plans, and descriptions of buildings and their histories; [and]

(iv) an explanation of the facts supporting the criteria upon which the petitioner relies as a basis for relief; and

(v) if applicable, a copy of the substantially similar variance decisions previously granted by the department or the board of review and an explanation of how the proposed variance is comparable, including but not limited to the petitioner arranging for the review of the request by experts and consultants with qualifications comparable to independent design professionals, at the department's discretion.

(2) Upon receipt of a petition for a routine case, the department shall review the petition for completeness to determine whether it has sufficient detail to permit the department to make a determination on the basis of the information contained within the petition.

(i) If the department deems the petition complete, the department shall consider the evidence offered, make findings of fact and conclusions of law, and render its decision in writing.

(ii) If the department deems the petition incomplete, the department shall notify the petitioner of the information required for completeness. If, after notice that the petition is incomplete, no additional information is forthcoming and the file has remained inactive for a period exceeding 90 days, the department may dismiss the matter for neglect to proceed, but without prejudice to any subsequent petition.

(3) The department shall serve a copy of the decision on the petitioner, the administrative official authorized to enforce the Uniform Code, and any other interested parties by either first-class mail or electronic mail. Unless the department receives a written objection from the petitioner or any aggrieved person within 15 days of receipt of the department's decision, the decision shall become final. A decision shall be filed, indexed, and distributed in the same manner as a decision of the boards of review. The department's timely receipt of a written objection shall cause the decision to be without force and effect, and the matter to which it pertains shall be transmitted to a board of review for proceedings de novo in accordance with section 1205.4 of this Part.