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**Uniform Fire Prevention and Building Code**

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***TECHNICAL BULLETIN***

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**Determination of Stories Above Grade in Elevated  
One- and Two-Family Dwellings in Flood Hazard Areas**

The purpose of this Technical Bulletin is to assist the Code Enforcement Official (“CEO”) in determining the number of *stories above grade* in (1) a new one- or two-family dwelling in which the lowest floor has been elevated in order to comply with the flood-resistant construction requirements of the *Residential Code of New York State* (the “2010 RCNYS”) and (2) an existing one- or two-family dwelling that has been elevated in order to comply with the flood-resistant construction requirements of the 2010 RCNYS.<sup>1</sup>

One- and two-family dwellings having not more than three *stories above grade* are subject to the 2010 edition of the *Residential Code of New York State* (the “2010 RCNYS”). A new one- or two-family dwelling constructed in a flood hazard area<sup>2</sup> must be designed and constructed in accordance with the flood-resistant construction provisions contained in Section R324 of the 2010 RCNYS. Similarly, when an existing one- or two-family dwelling located in a flood hazard area is repaired, altered or relocated,<sup>3</sup> and such repair, alteration or relocation constitutes a substantial

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<sup>1</sup> NOTE: The term “stories above grade” is defined and used in the 2010 RCNYS and in other the publications that make up the State Uniform Fire Prevention and Building Code (the “Uniform Code”). The number of “stories above grade” in a particular dwelling, as determined pursuant to the guidance provided in this Technical Bulletin, should be used solely for the purposes of the Uniform Code, i.e., solely for the purpose of determining (1) whether the dwelling is subject to the RCNYS or the *Building Code of New York State* (the “BCNYS”) and (2) whether any particular provision of the RCNYS or BCNYS applies to that dwelling. To the extent that any law other than the Uniform Code (e.g., any local zoning ordinance) requires determination of the number of stories (or stories above grade) of a building, such determination should be made in accordance with the provisions of such other law, and not in accordance with the provisions of the Uniform Code and/or in accordance with the guidance provided in this Technical Bulletin. In particular, but not by way of limitation, to the extent that the number of stories (or stories above grade) of a dwelling is used by a local assessor in determining the assessed value of the dwelling, the assessor should determine the number of stories (or stories above grade) of that dwelling in accordance with the applicable provisions of the Real Property Tax Law and the rules and regulations promulgated pursuant to the Real Property Tax Law, and not in accordance with the provisions of the Uniform Code and/or in accordance with the guidance provided in this Technical Bulletin.

<sup>2</sup> The “flood hazard areas” within a local government (city, town or village) are defined on the flood hazard map adopted by the local government. If a local government has adopted the currently effective Flood Insurance Rate Map (“FIRM”) as its flood hazard map, the flood hazard areas will be the areas within a flood plain subject to a 1-percent or greater chance of flooding in any year, as shown on the FIRM. If the local government has adopted a more stringent map as its flood hazard map, the flood hazard areas will be as shown on that alternative flood hazard map.

<sup>3</sup> The term “repair” is defined as “the restoration to good or sound condition of any part of an existing building for the purpose of its maintenance.” The term “addition” is defined as “an extension or increase in floor area, number of stories, or height of a building or structure.” The term “alteration” is defined as “any

improvement,<sup>4</sup> the building must comply with the flood-resistant construction requirements specified in Section R324 of the 2010 RCNYS.

In many cases, compliance with the applicable flood-resistant construction provisions of the 2010 RCNYS will require elevation of the “lowest floor” of the one- or two-family dwelling.<sup>5</sup> Elevation of the one- or two-family dwelling to comply with the flood-resistant construction requirements may have additional consequences. For example, the 2010 RCNYS requires a sprinkler system in a one- or two-family dwelling having three *stories above grade*, but not in a one- or two-family dwelling having one or two *stories above grade*. See 2010 RCNYS Section R313.5. Depending on the circumstances of a particular case, elevating an existing one- or two-family dwelling to comply with the flood-resistant construction provisions of the 2010 RCNYS could cause a one- or two-family dwelling that formerly had two *stories above grade* to have three *stories above grade*, triggering the need to install a sprinkler system in the dwelling.<sup>6</sup>

The distinction made in the 2010 RCNYS between one- and two-family dwellings having three *stories above grade* (which are required to have sprinklers) and one- and two-family dwellings having one or two *stories above grade* (which are not required to have sprinklers) appears to reflect a determination by the State Fire Prevention and Building Code Council (the “Code Council”) that the extra protection afforded by a sprinkler system is required when (1) occupants may need to descend two full flights of stairs to escape a fire, first responders may need to ascend two full flights of stairs to reach occupants needing assistance during a fire, and (2) the dwelling has three levels of enclosed space, each of which may contain combustible construction materials and/or combustible contents (furniture, etc.) that may increase the intensity of a fire.

However, to more fully understand the distinction made between one- and two-family dwellings having three stories above grade (which are required to have sprinklers) and one- and two-family dwellings having one or two stories above grade (which are not required to have sprinklers) and, one must also consider the circumstances under which a *basement* can be considered to be a *story above*

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construction or renovation to an existing structure other than repair or addition.” (Alterations are classified as Level 1 and Level 2.) The term “relocation” is defined as relocating a building or structure from its existing foundation to a new foundation.

<sup>4</sup> The term “substantial improvement” is defined as “any repair, alteration, addition or improvement of a building or structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the actual repair work performed. The term does not, however, include either: 1. Any project for improvement of a building required to correct existing health, sanitary or safety code violations identified by the code official and that is the minimum necessary to assure safe living conditions, or 2. Any alteration of a historic structure, provided that the alteration will not preclude the structure’s continued designation as a historic structure.”

<sup>5</sup> The “lowest floor” of a building is “the floor of the lowest enclosed area, including basement, but excluding any unfinished flood-resistant enclosure that is useable solely for vehicle parking, building access or limited storage provided that such enclosure is not built so as to render the building or structure in violation of this section.” See Section R324.1.4 of the 2010 RCNYS.

<sup>6</sup> In other situations, elevating a one- or two-family dwelling to comply with the flood-resistant construction requirements could cause a one- or two-family dwelling that formerly had three stories above grade to have four stories above grade, triggering the need to comply with the 2010 edition of the *Building Code of New York State* (the “2010 BCNYS”) rather than the 2010 RCNYS.

*grade.*

The term *story above grade* is defined as “any story having its finished floor surface entirely above grade . . . .” and the term *basement* is defined as “that portion of a building that is partly or completely below grade.”<sup>7</sup> See Section 202 of the 2010 RCNYS. Therefore, as a general rule, a *basement* cannot be a *story above grade*. However, the definition of *story above grade* includes an exception (hereinafter referred to as the “basement exception”) which provides that a *basement* will be deemed to be a *story above grade* if any one or more of the following conditions is satisfied:

- the finished surface of the floor above the *basement* is more than 6 feet above *grade plane*,<sup>8</sup>
- the finished surface of the floor above the *basement* is more than 6 feet above the finished ground level for more than 50 percent of the total building perimeter, and/or
- the finished surface of the floor above the *basement* is more than 12 feet above the finished ground level at any point.

Thus, a *basement* can satisfy at least one of those conditions, and be deemed to be a *story above grade*, if the finished surface of the floor above the *basement* is as little as 6 feet above the finished ground level.<sup>9</sup> A one- or two-family dwelling having two stories above such a *basement* will be deemed to have three *stories above grade* and, accordingly, will be required to have sprinklers. Therefore, it is more correct to say that the distinction made in the 2010 RCNYS between one- and two-family dwellings having three *stories above grade* (which are required to have sprinklers) and one- and two-family dwellings having one or two *stories above grade* (which are not required to have sprinklers) appears to reflect a determination by the Code Council that the extra protection afforded by a sprinkler system is required when:

- occupants may need to descend two full flights of stairs (or almost two full flights of stairs) to escape a fire,
- first responders may need to ascend two full flights of stairs (or almost two full flights of stairs) to reach occupants needing assistance during a fire, and
- the dwelling has three levels of enclosed space, each of which may contain combustible construction materials and/or combustible contents (furniture, etc.) that may increase the intensity of a fire.

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<sup>7</sup> The term *grade* is defined as “the finished ground level adjoining the building at all exterior walls.”

<sup>8</sup> The term *grade plane* is defined as “a reference plane representing the average of the finished ground level adjoining the building at all exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet (1829 mm) from the building between the structure and a point 6 feet (1829 mm) from the building.” See Section 202 of the 2010 RCNYS.

<sup>9</sup> Indeed, in a case where the finished ground level slopes away from the exterior walls, the ground plane will be determined by the lowest points lying as much as 6 feet away from the building; in such a case, a basement may be deemed to be a story above grade even if the finished surface of the floor above the basement is less than 6 feet above the finished ground level at the exterior walls of the building.

One- and Two-Family Dwellings with Basements

In some cases, a one- or two-family dwelling that has been elevated to comply with the flood-resistant construction requirements of the Uniform Code may still have a *basement*.<sup>10</sup> <sup>11</sup> This portion of this Technical Bulletin will discuss the factors that will determine if the *basement* in such a one- or two-family dwelling must count as a *story above grade*.

Example 1: One- or two-family dwelling with a *basement* and two stories above the *basement*, where none of the conditions stated in the “basement exception” is satisfied.

In the case of a one- or two-family dwelling with a *basement* and two *stories* above the *basement*, where none of the conditions stated in the “basement exception” in the definition of *story above grade* is satisfied, the dwelling be deemed to have only two *stories above grade*. Such a dwelling will have three levels of enclosed space, each of which may contain construction materials and/or contents that could increase the intensity of a fire. However, occupants of such a dwelling will not need to descend two full flights of stairs (or *almost* two full flights of stairs) to escape a fire, and first responders will not need to ascend two full flights of stairs (or *almost* two full flights of stairs) to reach occupants needing assistance during a fire. Accordingly, such a dwelling will not be required to have a sprinkler system.

Example 2: One- or two-family dwelling with a *basement* and two stories above the *basement*, where at least one of the conditions stated in the “basement exception” is satisfied.

In the case of a one- or two-family dwelling with a *basement* and two *stories* above the *basement*, where at least one of the conditions stated in the “basement exception” of the definition of *story above grade* is satisfied, the *basement* will be deemed to be a *story above grade*, and the dwelling will be deemed to have three *stories above grade*. As is true in the case of the one- or two-family dwelling described in Example 1 above, the dwelling described in this Example 2 will have three levels of enclosed space, each of which may contain combustible construction materials and/or combustible contents that could increase the intensity of a fire. In addition, occupants of the dwelling described in this Example 2 may need to descend *almost* two full flights of stairs (one full flight of stairs from the

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<sup>10</sup> In many cases, the flood-resistant construction provisions of the 2010 RCNYS require the “lowest level” of a one- or two-family dwelling to be elevated to two feet above the “design flood elevation.” In general, the “design flood elevation” is determined using the flood hazard map adopted by the local government in which the site is located. It appears that the “design flood elevation” at a given point may be below the *grade* (i.e., the finished ground level adjoining the building) level at that point. Therefore, it appears that a space that is elevated 2 feet above the “design flood elevation” may be below grade or partly below grade (i.e., may be a *basement*, as defined in the 2010 RCNYS). In addition, for the purposes of the flood-resistant construction provisions of the 2010 RCNYS, an “unfinished flood-resistant enclosure that is useable solely for vehicle parking, building access or limited storage” is not considered to be the “lowest level” of a building, and such an unfinished flood-resistant enclosure may be located below the “design flood elevation.” In many cases, such an unfinished flood-resistant enclosure will be a *basement* for the purposes of the 2010 RCNYS.

<sup>11</sup> The homeowner and the CEO should be sure that including a basement (as defined in the 2010 RCNYS) in a one- or two-family dwelling located in a flood hazard area does not violate any requirements applicable to the National Flood Insurance Program (NFIP). It should be noted that FEMA’s publication entitled Foundation Requirements and Recommendations for Elevated Homes (Hurricane Sandy Recovery Fact Sheet), dated May 2013, states that basements are not permitted, and all existing below-grade areas must be backfilled to or above the adjacent ground surface, for dwellings located in Zone A and Zone V.

second above-basement story to the first above-basement story, and a significant additional vertical distance [typically, 6 feet or more] from the first above-basement story to grade level) to escape a fire, and first responders may need to ascend *almost* two full flights of stairs to reach occupants needing assistance during a fire. Accordingly, such a dwelling will be required to have a sprinkler system.

One- and Two-Family Dwellings which have no *Basements* and which have been elevated on perimeter foundations walls or on “open” foundation systems

In many cases, a one- or two-family dwelling that has been elevated to comply with the flood-resistant construction requirements of the Uniform Code will not have a *basement*. Instead, the first level of the dwelling will be entirely above *grade*, elevated on perimeter foundations walls or on an “open” foundation system comprised of piers, pilings, or columns. This portion of this Technical Bulletin will discuss the factors that will determine when the space between the bottom of the floor joists and the earth under such a dwelling must count as a *story above grade*. For a dwelling that is elevated entirely above grade, the question is, essentially, this: for the purposes of determining the number of *stories above grade*, under what circumstances will the space within the perimeter foundation walls or the “open” foundation system be deemed to be a *story* and, accordingly, be deemed to be one of the *stories above grade*?

Section 202 of the 2010 RCNYS defines the term “story” as “(t)hat *portion of a building* included between the upper surface of a floor and the upper surface of the floor or roof next above” (emphasis added). Therefore, a space must be a *portion of a building* in order to be a *story*.

The term *portion of a building* is not defined in the 2010 RCNYS. In cases where a term is used, but not defined, in the Uniform Code, the term should be construed as having its “ordinarily accepted meaning such as the context implies” (2010 RCNYS Section R201.4, emphasis added). The phrase “such as the context implies” indicates that a term that is used but not expressly defined in the Uniform Code should be construed in light of the purposes sought to be achieved by the Uniform Code provision(s) in which that term is used.

The “basement exception” in the definition of *story above grade* does not apply to a level that is not a *basement* (i.e., to a level that is entirely above *grade*). However, in the opinion of the Department of State, the “basement exception” in the definition of *story above grade* provides guidance on how the phrase *portion of a building* should be construed for the purpose of determining if the area between the piers, pilings, or columns of an open foundation system should be considered to be a *story* (and a *story above grade*). This will be illustrated in the examples set forth below.

Example 3: One- or two-family dwelling which (1) has no *basement*; (2) has been elevated on perimeter foundation walls or on an “open” foundation system consisting of piles, piers or columns; and (3) has two stories above the perimeter foundation walls or “open” foundation system, where the finished surface of the floor above the perimeter foundation walls or “open” foundation system is not more than 6 feet above *grade plane*, not more than 6 feet above the finished ground level for more than 50 percent of the total building perimeter, and not more than 12 feet above the finished ground level at any point.<sup>12</sup>

Consider a one- or two-family dwelling which (1) has no *basement*; (2) is elevated on perimeter foundation walls or on an “open” foundation system consisting of piles, piers or columns; and (3) has two stories above the perimeter foundation walls or “open” foundation system, where the finished surface of the floor above the perimeter foundation walls or “open” foundation system is not more than 6 feet above *grade plane*, not more than 6 feet above the finished ground level for more than 50 percent of the total building perimeter, and not more than 12 feet above the finished ground level at any point. Occupants of such a dwelling will not be required to descend two full flights of stairs (or *almost* two flights of stairs) to escape a fire. First responders will not be required to ascend two full flights of stairs (or *almost* two full flights of stairs) to reach an occupant who needs assistance during a fire. Where the dwelling is elevated on an “open” foundation system consisting of piles, piers or columns, there will be only two levels of enclosed space with combustible materials and/or combustible contents that may contribute to the intensity of a fire. Even where the dwelling is elevated on perimeter walls, with some combustible construction materials (and, perhaps, some combustible contents) located in the area enclosed by the perimeter walls, there will be less than three *full* levels of enclosed space with combustible materials and/or contents that may contribute to the intensity of a fire. Therefore, in terms of the fire safety-related concerns described at page 3 of this Technical Bulletin, a dwelling described in this Example 3 is at least as safe, and probably more safe, than a dwelling that has a *basement* and two stories above the basement, where none of the conditions stated in the “basement exception” in the definition of *story above grade* is satisfied (Example 1 above). This, in turn, indicates that for the purposes of determining the number of *stories above grade* in a one- or two-family dwelling which has no *basement* but which has been elevated on perimeter foundation walls or on an “open” foundation system consisting of piles, piers or columns, the space within the perimeter foundation walls or “open” foundation system should not be considered to be a *portion of the building* (and, accordingly, should not be considered to be a *story* or a *story above grade*) if the height of the piers, pilings, or columns of the open foundation system, the topography of the lot, and the elevation of the finished surface of the first floor above the foundation system are such that the finished surface of the floor above the piers, pilings, or columns of the open foundation system is

- not more than 6 feet above *grade plane*,
- not more than 6 feet above the finished ground level for more than 50 percent of the total building perimeter, and
- not more than 12 feet above the finished ground level at any point.

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<sup>12</sup> Note that (1) enclosed areas below elevated buildings can be used only for parking, building access, and storage; (2) perimeter foundation walls cannot be used in Zone V; and (3) where perimeter foundation walls are permitted (e.g., in Zone A), the walls must have flood openings that allow floodwaters automatically to equalize during a flood event.

Example 4: One- or two-family dwelling which (1) has no *basement*; (2) has been elevated on perimeter foundation walls; and (3) has two stories above the perimeter foundation walls, where the finished surface of the floor above the perimeter foundation walls is more than 6 feet above *grade plane*, and/or is more than 6 feet above the finished ground level for more than 50 percent of the total building perimeter, and/or is more than 12 feet above the finished ground level at any point.<sup>13</sup>

Next, consider a one- or two-family dwelling which (1) has no *basement*; (2) is elevated on perimeter foundation walls; and (3) has two stories above the perimeter foundation walls, where the finished surface of the floor above the perimeter foundation walls is more than 6 feet above *grade plane*, and/or is more than 6 feet above the finished ground level for more than 50 percent of the total building perimeter, and/or is more than 12 feet above the finished ground level at any point. Occupants of such a dwelling may be required to descend almost two flights of stairs to escape a fire. First responders may be required to ascend almost two full flights of stairs to reach an occupant who needs assistance during a fire. In addition, because the dwelling is elevated on perimeter foundation walls, creating an enclosed space, and because some combustible construction materials (and, perhaps, some combustible contents) may be located in the space enclosed by the perimeter foundation walls, the dwelling will include *almost* three full levels of enclosed space with combustible materials and/or contents that may contribute to the intensity of a fire. Therefore, in terms of the fire safety-related concerns described at page 3 of this Technical Bulletin, the dwelling described in this Example 4 is substantially similar to the dwelling described in Example 2 above (i.e., a dwelling that has a *basement* and two stories above the basement, where at least one of the conditions stated in the “basement exception” in the definition of *story above grade* is satisfied). This, in turn, indicates that for the purposes of determining the number of *stories above grade* in a dwelling which has no *basement* and which has been elevated on perimeter foundation walls, the space enclosed by the perimeter foundation walls should be considered to be a *portion of the building* (and, accordingly, should be considered to be a *story above grade*) if the height of the perimeter foundation walls, the topography of the lot, and the elevation of the finished surface of the first floor above the perimeter foundation walls are such that the finished surface of the floor above the perimeter foundation walls is

- more than 6 feet above *grade plane*,
- more than 6 feet above the finished ground level for more than 50 percent of the total building perimeter, and/or
- more than 12 feet above the finished ground level at any point.

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<sup>13</sup> Note that (1) enclosed areas below elevated buildings can be used only for parking, building access, and storage; (2) perimeter foundation walls cannot be used in Zone V; and (3) where perimeter foundation walls are permitted (e.g., in Zone A), the walls must have flood openings that allow floodwaters automatically to equalize during a flood event.

Example 5: One- or two-family dwelling which (1) has no *basement*; (2) has been elevated on an “open” foundation system consisting of piles, piers or columns; (3) has the “open” foundation system enclosed by non-supporting breakaway walls, open-wood lattice work, insect screening, or other material intended to collapse under wind or flood loads; and (4) has two stories above the “open” foundation system, where the finished surface of the floor above the “open” foundation system is more than 6 feet above *grade plane*, and/or is more than 6 feet above the finished ground level for more than 50 percent of the total building perimeter, and/or is more than 12 feet above the finished ground level at any point.<sup>14</sup>

Next, consider a one- or two-family dwelling which (1) has no *basement*; (2) is elevated on an “open” foundation system consisting of piles, peers or columns; (3) has the “open” foundation system enclosed by non-supporting breakaway walls, open-wood lattice work, insect screening, or other material intended to collapse under wind or flood loads; and (4) has two stories above the “open” foundation system, where the finished surface of the floor above the perimeter foundation walls is more than 6 feet above *grade plane*, and/or is more than 6 feet above the finished ground level for more than 50 percent of the total building perimeter, and/or is more than 12 feet above the finished ground level at any point. Occupants of such a dwelling may be required to descend almost two flights of stairs to escape a fire. First responders may be required to ascend almost two full flights of stairs to reach an occupant who needs assistance during a fire. In addition, because the dwelling is elevated on a foundation system that is enclosed in some fashion (albeit by walls or other materials that are less substantial than the perimeter foundation walls used to elevate the dwelling described in Example 4 above), and because some combustible construction materials (and, perhaps, some combustible contents) may be located in this enclosed space, the dwelling will include *almost* three full levels of enclosed space with combustible materials and/or contents that may contribute to the intensity of a fire. Therefore, in terms of the fire safety-related concerns described at page 3 of this Technical Bulletin, a dwelling described in this Example 5 is substantially similar to the dwellings described in Example 2 and Example 4 above. This, in turn, indicates that for the purposes of determining the number of *stories above grade* in a dwelling which has no *basement*, which has been elevated on an “open” foundation system, and which has had the “open” foundation system enclosed by breakaway walls, open-wood lattice work, insect screening, or other material intended to collapse under wind or flood loads, the space enclosed by the breakaway walls, open-wood lattice work, insect screening, or other material should be considered to be a *portion of the building* (and, accordingly, should be considered to be a *story above grade*) if the height of the “open” foundation system, the topography of the lot, and the elevation of the finished surface of the first floor above the “open” foundation system are such that the finished surface of the floor above the “open” foundation system is

- more than 6 feet above *grade plane*,
- more than 6 feet above the finished ground level for more than 50 percent of the total building perimeter, and/or
- more than 12 feet above the finished ground level at any point.

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<sup>14</sup> Note that enclosed areas below elevated buildings can be used only for parking, building access, and storage.



Example 6: One- or two-family dwelling which (1) has no *basement*; (2) has been elevated on an “open” foundation system consisting of piles, piers or columns; (3) does not have the “open” foundation system enclosed by non-supporting breakaway walls, open-wood lattice work, insect screening, or other material; and (4) has two stories above the “open” foundation system, where the finished surface of the floor above the “open” foundation system is more than 6 feet above *grade plane*, and/or is more than 6 feet above the finished ground level for more than 50 percent of the total building perimeter, and/or is more than 12 feet above the finished ground level at any point.

Finally, consider a dwelling that is similar to the dwelling described in Example 5 above, but where the piers, pilings, or columns of the “open” foundation system are not enclosed. Occupants of such a dwelling may be required to descend almost two flights of stairs to escape a fire. First responders may be required to ascend almost two full flights of stairs to reach an occupant who needs assistance during a fire. However, because the piers, pilings, or columns of the “open” foundation system are not enclosed, there will be only two levels of enclosed space with combustible materials and/or contents that may contribute to the intensity of a fire. On the other hand, the unenclosed area of the “open” foundation system will typically be at least 6 feet high, and may be capable of being used by the homeowner at some point for parking vehicles, storing items, and other activities. Therefore, in terms of the fire safety-related concerns described at page 3 of this Technical Bulletin, the dwelling described in this Example 6 is somewhat more dangerous than the dwelling described in Example 3 above, but somewhat less dangerous than the dwellings described in Examples 4 and 5 above. This, in turn, indicates that the CEO must exercise judgment in determining if the unenclosed space of the “open” foundation system could be used for parking, storage, or other activities that could contribute to the intensity of a fire and, if so, if the degree and nature of the potential uses warrant designating that space as a *portion of the building* (and, accordingly, as a *story* and a *story above grade*). The Department of State recommends that in any case where the CEO determines that the space of the “open” foundation system under a dwelling of the type described in this Example 6 is not a *portion of the building* (and, accordingly, is not *story* and a *story above grade*), that the Certificate of Occupancy for a dwelling include a condition forbidding use of the space between the piers, pilings, or columns of the “open” foundation system for parking, storage, or any other use.

#### Caution Against “Bending” Elevation Requirements.

It is true that elevating a new dwelling (or an existing dwelling that is undergoing a “substantial improvement”) may, in certain cases, trigger the RCNYS’s sprinkler requirement, or even remove the dwelling from the RCNYS and make it subject to the BCNYS. However, local governments and homeowners should avoid giving in to any temptation to “bend” the elevation requirements to avoid those consequences.

Local governments should be aware that failure to enforce the elevation requirements is a violation their obligation to administer and enforce the Uniform Code. In addition, failure to enforce the elevation requirements could jeopardize the local government’s eligibility to participate in the National Flood Insurance Program.

Homeowners should be aware that flood insurance premiums are based, in substantial part, on the elevation of the “lowest level” of the building relative to the “base flood elevation” as determined

from the community's FIRM, as in effect at any given time. In most cases, failure to elevate a building sufficiently will result in higher flood insurance premiums.

Further, in many cases, the currently effective FIRM in a community may be significantly out of date; when that FIRM is updated to reflect more current flood data, a building that has not been elevated to the height indicated on the updated FIRM could see an enormous increase in flood insurance premiums. For this reason, a homeowner may wish to consider determining if FEMA has issued an advisory flood elevation map (ABFE map) or other interim product showing updated flood hazard areas and updated flood elevations for the site where the homeowner's dwelling is located, and voluntarily elevating the dwelling to the height indicated by such updated flood data.

More importantly, local governments and homeowners should be aware that failure to comply with the elevation requirements will render buildings in flood hazard areas less resistant to damage from future floods, and will jeopardize the health, safety, and welfare of those who occupy or use those buildings and of the first responders called on to respond to future disasters.