SUBPART 197-5
STANDARDS OF PRACTICE FOR HOME INSPECTORS

§197-5. 1 Definitions.

(a) Alarm Systems: means installed or freestanding warning devices including, but not limited to, smoke detectors, carbon monoxide detectors, flue gas and other spillage detectors and security equipment.

(b) Central Air Conditioning: means a system that uses either ducts to distribute cooled and/or dehumidified air to more than one room of a residential building or pipes to distribute chilled water to heat exchangers in more than one room in a residential building, and which is not plugged into an electrical convenience outlet.

(c) Component: means a readily accessible and observable aspect of a system such as a floor or a wall, but not individual pieces such as boards or nails where many similar pieces make up the component.

(d) Dangerous or Adverse Situations: means situations that pose a threat of injury to the home inspector including, but not limited to, those situations in which the home inspector is required to use special protective clothing or other safety equipment.

(e) Decorative: means a component or part thereof that is ornamental and not required for the proper operation of the essential systems and components of a home.

(f) Dismantle: means to take apart or remove any component, device, or piece of equipment that is bolted, screwed, or fastened and that a homeowner in the course of normal household maintenance would not dismantle.

(g) Engineering, Practice of: means as that term is defined in Education Law, title VIII, Article 145, Section 7201.

(h) Engineering Study: means a study requiring engineering services.

(i) Functional Drainage: means the operation of a drain whereby a drain empties in a reasonable amount of time and does not overflow when another fixture is drained simultaneously.

(j) Functional Flow: means a reasonable flow at the highest fixture in a dwelling when another fixture is operated simultaneously.

(k) Further Evaluation: means the examination and analysis by a qualified professional, tradesman, or service technician beyond that provided by the home inspection.

(l) Household Appliances: means kitchen and laundry appliances, room air conditioners, and similar appliances.

(m) Inspect: means to visually examine any system or component of a building in accordance with these Standards of Practice, using normal operating controls and opening readily operable access panels.

(n) Installed: means attached or connected such that the installed item requires tools for removal.

(o) Normal Operating Controls: means homeowner operated devices such as a thermostat, wall switch, or safety switch.

(p) Observable: means able to be observed at the time of the inspection without the removal of covering, fixed, finished and or stored materials.

(q) Observe: means the act of making a visual examination.

(r) On-site Water Supply Quantity: means the volume of water that is available for domestic use.

(s) Operate: means to cause systems or equipment to function.

(t) Primary Windows and Doors: means windows and exterior doors that are designed to remain in their respective openings year-round.

(u) Readily Accessible: means available for visual inspection without requiring the home inspector to remove or dismantle any personal property, use destructive measures, or take any action which will likely involve risk to persons or property.

(v) Readily Operable Access Panel: means a panel provided for homeowner inspection and maintenance, which has removable or operable fasteners or latch devices in order to be lifted, swung open, or otherwise removed by one person, and its edges and fasteners are not painted in place. The panel must be within normal reach and not blocked by stored items, furniture or building components.

(w) Recreational Facilities: means spas, saunas, steam baths, swimming pools, tennis courts, playground equipment, and other entertainment or athletic facilities.

(x) Report: means a written document setting forth findings of home inspection unless otherwise specified in these regulations.

(y) Representative Number: means for multiple identical components such as windows and electrical outlets, one such component per room. For multiple identical exterior components this term shall mean one such component on each side of the building.

(z) Roof Drainage Systems: means gutters, down spouts, leaders, splash blocks, and similar components used to carry water off a roof and away from a building.

(aa) Safe Access: means access free of any encumbrances, hazardous materials, health and safety hazards such as climbing and/or standing on other than the ground and/or floor which may jeopardize the inspector.

(bb) Safety Glazing: means tempered glass, laminated glass or rigid plastic.

(cc) Shut Down: means a piece of equipment or a system is shut down when the device or control cannot be operated in a manner that a homeowner would normally use to operate it. If the safety switch or circuit breaker is in the "off" position, or the fuse is missing or blown, the inspector is not required to reestablish the circuit for the purpose of operating the equipment or system.

(dd) Solid Fuel Heating Device: means any wood, coal, or other similar organic fuel burning device including, but not limited to, fireplaces whether masonry or factory built, fireplace inserts and stoves, wood stoves (room heaters), central furnaces, and any combination of these devices.

(ee) Structural Component: means a component that supports nonvariable forces or weights (dead loads) and variable forces or weights (live loads).

(ff) System: means a combination of interacting or interdependent components, assembled to carry out one or more functions.

(gg) Technically Exhaustive: means an inspection is technically exhaustive when it involves the extensive use of measurements, instruments, testing, calculations, and other means to develop scientific or engineering findings, conclusions, and recommendations.

(hh) Under Floor Crawl Space: means the area within the confines of the foundation and between the ground and the underside of the lowest floor structural component.

(ii) Unsafe: means a condition in a readily accessible, installed system or component, which is judged by the Home Inspector to be of significant risk of personal injury during normal, day to day use. The risk may be due to damage, deterioration, improper installation or a change in the accepted residential construction standard.

(jj) Water Supply Quality: means the quality of a residential building's water supply based on the bacterial, chemical, mineral, and solids content of the water.

§197-5.2 Purpose and Scope.

(a) These Standards of Practice establish a minimum and uniform standard for home inspectors. Home inspections shall be performed in compliance with these Standards of Practice and shall provide the client with objective information regarding the condition of the systems and components of the residential building as observed at the time of the home inspection.

(b) These Standards of Practice are not intended to limit home inspectors from including other inspection services or from observing and reporting upon systems and components not required by these Standards of Practice.

(c) The home inspection report shall clearly identify the systems and components of the residential building that were observed. If a home inspector is providing a home inspection that does not meet the minimum requirements as set forth in this Standards of Practice, the home inspection report must describe the scope of work, the services provided and the systems and components that are included and excluded in the inspection.

§197-5.3 Minimum Requirements.

(a) Home inspectors shall observe and report on readily accessible, visually observable installed systems and components as set forth in these Standards of Practice.

(b) Home inspectors shall report on those systems and components observed that, in the professional opinion of the home inspector, are deficient, not functioning properly and/or unsafe.

(c) If a home inspector has not observed a particular system or major component, he or she shall list said item in the inspection report as an item that was not observed and shall set forth the reasons why said item was not observed.

§197-5.4 Site Conditions.

(a) Home inspectors shall observe and report the following site conditions:

1. The building perimeter for land grade and water drainage directly adjacent to the foundation;

2. Trees and vegetation that adversely affect the residential building;

3. Walkways, steps, driveways, patios and retaining walls.

(b) Home inspectors are not required to observe and report on the following site conditions:

1. Fences and privacy walls;

2. The health and condition of trees, shrubs and other vegetation.

§197-5.5 Structural Systems.

(a) Home inspectors shall observe and report on the following:

1. Any deteriorated and/or damaged structural component including the building foundation and framing;

2. The floor structure;

3. The wall structure;

4. The ceiling structure;

5. The roof structure.

§197-5.6 Exterior.

(a) Home inspectors shall observe and report on:

1. All exterior walls and coverings, flashing and trim;

2. All exterior doors including garage doors and operators;

3. All attached or adjacent decks, balconies, stoops, steps, porches and railings;

4. All eaves, soffits and fascias where accessible from the ground level;

5. All adjacent walkways, patios and driveways on the subject property;

6. The condition of a representative number of windows.

(b) Home inspectors are not required to observe and report on the following:

1. Screening, shutters, awnings and other seasonal accessories;

2. Fences;

3. Geological and/or soil conditions;

4. Recreational facilities;

5. Out-buildings other than garages and carports;

6. Tennis courts, jetted tubs, hot tubs, swimming pools, saunas and similar structures that would require specialized knowledge or test equipment;

7. Erosion control and earth stabilization measures;

8. The operation of security locks, devices or systems;

9. The presence of safety-type glass or the integrity of thermal window seals or damaged glass.

§197-5.7 Roof Systems.

(a) Home inspectors shall observe and report on readily accessible:

1. Roofing materials and condition;

2. Roof drainage systems;

3. Flashing;

4. Skylights, chimneys and roof penetrations.

(b) The home inspector shall report on the methods used to observe the roof and other components set forth in this section.

(c) All home inspection reports shall describe the observed condition and type of roofing materials and shall describe the methods used to observe the roofing.

(d) Home inspectors are not required to observe and report on:

1. Antennas, lightening arresters or similar attachments;

2. Any flue or chimney interior that is not readily accessible;

3. Other installed accessories.

(e) Home inspectors are not required to operate powered roof ventilators.

(f) Home inspectors are not required to determine the remaining life expectancy of roof coverings, manufacturers' defects, installation methods or recalls or to determine the number of roof layers present.

(g) Home inspectors are not required to walk on or access a roof where to do so could result in damage to the roof or roofing material or endanger the health and safety of the home inspector.

§197-5.8 Plumbing System.

(a) Home inspectors shall observe and report on the following visibly and readily accessible components, systems and conditions:

1. Interior water supply and distribution systems including fixtures and faucets;

2. Drain, waste and vent systems;

3. Water heating equipment and vents and pipes;

4. Fuel storage and fuel distribution systems and components;

5. Drainage sumps, sump pumps, ejector pumps and related piping;

6. Active leaks.

(b) In inspecting plumbing systems and components, home inspectors shall operate all readily accessible:

1. Fixtures and faucets;

2. Domestic hot water systems;

3. Drain pumps and waste ejectors pumps;

4. The water supply at random locations for functional flow;

5. Waste lines from random sinks, tubs and showers for functional drainage;

(c) Home inspectors are not required to:

1. Operate any main, branch or fixture valve, except faucets, or to determine water temperature;

2. Observe and report on any system that is shut down or secured;

3. Observe and report on any plumbing component that is not readily accessible;

4. Observe and report on any exterior plumbing component or system or any underground drainage system;

5. Observe and report on fire sprinkler systems;

6. Evaluate the potability of any water supply;

7. Observe and report on water conditioning equipment including softener and filter systems;

8. Operate freestanding or built in appliances;

9. Observe and report on private water supply systems;

10. Test shower pans, tub and shower surrounds or enclosures for leakage;

11. Observe and report on gas supply system for materials, installation or leakage;

12. Evaluate the condition and operation of water wells and related pressure tanks and pumps; the quality or quantity of water from on-site water supplies or the condition and operation of on-site sewage disposal systems such as cesspools, septic tanks, drain fields, related underground piping, conduit, cisterns and equipment;

13. Observe, operate and report on fixtures and faucets if the flow end of the faucet is connected to an appliance;

14. Record the location of any visible fuel tank on the inspected property that is not within or directly adjacent to the structure;

15. Observe and report on any spas, saunas, hot-tubs or jetted tubs;

16. Observe and report on any solar water heating systems.

(d) Home inspections shall describe the water supply, drain, waste and vent piping materials; the water heating equipment including capacity, and the energy source and the location of the main water and main fuel shut-off valves. In preparing a report, home inspectors shall state whether the water supply and waste disposal systems are a public, private or unknown.

§197-5.9 Electrical System.

(a) Home inspectors shall observe and report upon readily accessible and observable portions of:

1. Service drop;

2. Service entrance conductors, cables and raceways;

3. The main and branch circuit conductors for property over current protection and condition by visual observation after removal of the readily accessible main and sub electric panel covers;

4. Service grounding;

5. Interior components of service panels and sub-panels;

6. A representative number of installed lighting fixtures, switches and receptacles;

7. A representative number of ground fault circuit interrupters.

(b) Home inspections shall describe readily accessible and observable portions of:

1. Amperage and voltage rating of the service;

2. The location of main disconnects and sub-panels;

3. The presence of aluminum branch circuit wiring;

4. The presence or absence of smoke detectors and carbon monoxide detectors;

5. The general condition and type of visible branch circuit conductors that may constitute a hazard to the occupant or the residential building by reason of improper use or installation of electrical components.

(c) Home inspectors are not required to:

1. Observe and report on remote control devices;

2. Observe and report on alarm systems and components;

3. Observe and report on low voltage wiring systems and components such as doorbells and intercoms;

4. Observe and report on ancillary wiring systems and components which are not a part of the primary electrical power distribution system;

5. Insert any tool, probe or testing device into the main or subpanels;

6. Activate electrical systems or branch circuits which are not energized;

7. Operate overload protection devices;

8. Observe and report on low voltage relays, smoke and/or heat detectors, antennas, electrical de-icing tapes, lawn sprinkler wiring, swimming pool wiring or any system controlled by timers;

9. Move any object, furniture or appliance to gain access to any electrical component;

10. Test every switch, receptacle and fixture;

11. Remove switch and outlet cover plates;

12. Observe and report on electrical equipment not readily accessible;

13. Dismantle any electrical device or control;

14. Measure amperage, voltage or impedance;

15. Observe and report on any solar powered electrical component or any standby emergency generators or components.

§197-5.10 Heating System.

(a) Home inspectors shall:

1. Describe the type of fuel, heating equipment and heating distribution system;

2. Operate the systems using thermostats;

3. Open readily accessible and operable access panels provided by the manufacturer or installer for routine homeowner maintenance;

4. Observe and report on the condition of normally operated controls and components of the systems;

5. Observe and report on visible flue pipes, dampers and related components for functional operation;

6. Observe and report on the presence of and the condition of a representative number of heat sources in each habitable space of the residential building;

7. Observe and report on the operation of fixed supplementary heat units;

8. Observe and report on visible components of vent systems, flues and chimneys;

(b) Home inspectors are not required to:

1. Activate or operate the heating systems that do not respond to the thermostats or have been shut down;

2. Observe, evaluate and report on heat exchangers;

3. Observe and report on equipment or remove covers or panels that are not readily accessible;

4. Dismantle any equipment, controls or gauges;

5. Observe and report on the interior of chimney flues;

6. Observe and report on heating system accessories, such as humidifiers, air purifiers, motorized dampers and heat reclaimers;

7. Activate heating, heat pump systems or any other system when ambient temperatures or other circumstances are not conducive to safe operation or may damage the equipment;

8. Evaluate the type of material contained in insulation and/or wrapping of pipes, ducts, jackets and boilers;

9. Evaluate the capacity, adequacy or efficiency of a heating or cooling system;

10. Test or operate gas logs, built-in gas burning appliances, grills, stoves, space heaters or solar heating devices or systems;

11. Determine clearance to combustibles or adequacy of combustion air;

12. Test for gas leaks or carbon monoxide;

13. Observe and report on in-floor and in-ceiling radiant heating systems.

§197-5.11 Air Conditioning Systems.

(a) Home inspectors shall:

1. Observe, describe and report on the type of air conditioning equipment and air conditioning distribution system;

2. Operate the system using the thermostat;

3. Open a representative number of readily accessible and operable access panels provided by the manufacturer for routine homeowner maintenance;

4. Observe and report on the condition of normally operated controls and components of the system.

(b) Home inspectors are not required to:

1. Activate or operate air conditioning systems that have been shut down;

2. Observe and report on gas-fired refrigeration systems, evaporative coolers, or wall or window-mounted air conditioning units;

3. Check the pressure of the system coolant or determine the presence of leakage;

4. Evaluate the capacity, efficiency or adequacy of the system;

5. Operate equipment or systems if exterior temperature is below 65 degrees Fahrenheit or when other circumstances are not conducive to safe operation or may damage equipment;

6. Remove covers or panels that are not readily accessible or that are not part of routine homeowner maintenance;

7. Dismantle any equipment, controls or gauges;

8. Check the electrical current drawn by the unit;

9. Observe and report on electronic air filters.

§197-5.12 Interior.

(a) Home inspectors shall:

1. Observe and report on the material and general condition of walls, ceilings and floors;

2. Observe and report on steps, stairways and railings;

3. Observe, operate and report on garage doors, garage door safety devices and garage door operators;

4. Where visible and readily accessible, observe and report on the bath and/or kitchen vent fan ducting to determine if it exhausts to the exterior of the residential building;

5. Observe, operate and report on a representative number of primary windows and interior doors;

6. Observe and report on visible signs of water penetration.

(b) Home inspectors are not required to:

1. Ignite fires in a fireplace or stove to determine the adequacy of draft, perform a chimney smoke test or observe any solid fuel device in use;

2. Evaluate the installation or adequacy of inserts, wood burning stoves or other modifications to a fireplace, stove or chimney;

3. Determine clearance to combustibles in concealed areas;

4. Observe and report on paint, wallpaper or other finish treatments;

5. Observe and report on window treatments;

6. Observe and report on central vacuum systems;

7. Observe and report on household appliances;

8. Observe and report on recreational facilities;

9. Observe and report on lifts, elevators, dumbwaiters or similar devices.

§197-5.13 Insulation and Ventilation.

(a) Home inspectors shall:

1. Observe, describe and report on insulation in accessible, visible unfinished spaces;

2. Observe, describe and report on ventilation of accessible attics and foundation areas;

3. Observe and report on mechanical ventilation systems in visible accessible areas.

(b) Home inspectors are not required to:

1. Disturb insulation;

2. Operate mechanical ventilation systems when weather or other conditions are not conducive to safe operation or may damage the equipment.

§197-5.14 Fireplaces.

(a) Home inspectors shall:

1. Observe and report on visible and accessible system components;

2. Observe and report on visible and accessible chimneys and vents;

3. Observe and report on chimney caps;

4. Observe and report on fireplaces and solid fuel burning appliances;

5. Observe and report on chimneys;

6. Observe, operate and report on accessible fireplace dampers.

(b) Home inspectors are not required to:

1. Observe and report on the interiors of flues or chimneys;

2. Observe and report on fire screens and doors;

3. Observe and report on automatic fuel feed devices;

4. Observe and report on mantles and fireplace surrounds;

5. Observe and report on combustion make-up air devices;

6. Observe and report on heat distribution assists;

7. Ignite or extinguish fires;

8. Determine draft characteristics;

9. Move fireplace inserts and stoves or firebox contents.

§197-5.15 Attics.

(a) Home inspectors shall observe and report on any safe and readily accessible attic space describing:

1. The method of observation used; and

2. Conditions observed.

(b) Home inspectors are not required to enter any attic where no walkable floor is present or where entry would, in the opinion of the home inspector, be unsafe.

§197-5.16 Limitations and Exclusions.

(a) Home inspectors are not required to observe any item that is concealed or not readily accessible to the home inspector. The home inspector is not required to move furniture, personal or stored items; lift floor coverings; move attached wall or ceiling coverings or panels; or perform any test or procedure which could damage or destroy the item being evaluated.

(b) Home inspectors are not required to observe appliances, recreational facilities, alarm systems, intercoms, speaker systems, radio controlled devices, security devices and lawn irrigation systems.

(c) Home inspectors shall not be required to determine the presence or absence of any suspected hazardous substance including but not limited to, latent surface and/or subsurface volatile organic compounds, PCB's, asbestos, urea formaldehyde insulation, toxins, carcinogens, diseases, wood destroying organisms, mold, hazardous plants, illicit drugs or drug making equipment, lead paint, noise or contaminants in soil, water, air quality, wet lands or any other environmental hazard.

(d) Except as otherwise necessary and required by this Standards of Practice, home inspectors are not required to use special instruments or testing devices, such as amp meters, pressure gauges, moisture meters, gas detectors and similar equipment.

(e) Home inspectors are not required to report on real property, geological, environmental or hazardous waste conditions, manufacturer recalls or conformance of proper manufacturer installation of any component or system, or information contained in Consumer Protection Bulletins. Home inspectors are not required to report upon past or present violations of codes, ordinances or regulations.

(f) Home inspectors are not required to provide an inspection of any condominium common component or system, or to evaluate condominium reserve accounts.

(g) Home inspectors are not required to enter any residential building or area of a building that, in the opinion of the home inspector, is dangerous to the safety of the home inspector or others or that will result in damage to the property, its systems or components.

(h) Home inspectors shall not be required to enter any area or perform any procedure which, in the opinion of the home inspector, may damage the property or its components.

(i) Home inspectors shall not be required to observe any system or component that is not included in this Standards of Practice.

(j) Home inspections performed in accordance with these Standards of Practice are not technically exhaustive and are not required to identify concealed conditions, latent defects or consequential damages.

(k) Home inspectors are not required to determine:

1. Conditions of systems or components that are not readily accessible;

2. The remaining life expectancy of any system or component;

3. The strength, adequacy, effectiveness or efficiency of any system or component;

4. The causes of any condition or deficiency;

5. The methods, materials or costs of corrections;

6. The future condition of a system or component including, but not limited to, the failure of the system and/or components;

7. The suitability of the property for any specialized use;

8. The advisability of purchase of the property;

9. The presence of potentially hazardous plants or animals including, but not limited to, wood destroying organisms or diseases harmful to humans including molds or mold-like substances;

10. The presence of any environmental hazard including, but not limited to, toxins, carcinogens, noise, and contaminants in soil, water and air;

11. The effectiveness of any system installed or method utilized to control or remove suspected hazardous substances;

12. Operating costs of systems of components;

13. Acoustical properties of any system or component;

14. Soil conditions related to geo-technical or hydrologic specialties.

(l) Home inspectors are not required to offer:

1. To perform work in any trade or profession other than home inspection;

2. Warranties or guarantees of any kind.

(m) Home inspectors are not required to operate:

1. Any system or component that is shut down or otherwise inoperable;

2. Any system or component that does not respond to normal operating controls and shall not be required to dismantle any system or component, except as explicitly required by these Standards of Practice;

3. Shut off valves or manual stop valves;

4. Any system or component that, in the opinion of the home inspector, is dangerous to the home inspector or other persons, or will result in damage to the residential building, its systems or its components.

(n) Home inspectors are not required to observe:

1. Concealed spaces or components or underground items including, but not limited to, underground storage tanks or other underground indications of their presence, whether abandoned or otherwise;

2. Items that have not been installed;

3. Installed decorative items;

4. Items that are not entered in accordance with subdivision 15 of this section;

5. Detached structures other than garages and carports.

(o) Home inspectors shall not be required to describe or report on any system or component that is not included in these Standards of Practice and was not inspected.

(p) Home inspectors shall not be required to move personal property, furniture, equipment, plants, soil, snow, ice or debris.

(q) These Standards of Practice are not intended to limit home inspectors from excluding systems and components from the home inspection if requested by the client.