

VILLAGE OF PORT DICKINSON  
Village Board Meeting Agenda  
December 13, 2022  
6:00 pm  
Port Dickinson Village Hall

**Please take a moment to ensure that your cellphones are OFF or SILENCED.**

CALL TO ORDER

PUBLIC HEARING: None

APPROVAL OF MINUTES: November 15, 2022 meeting

PUBLIC PARTICIPATION:

- County Executive representative Pat Dewing

TREASURER'S REPORT:

AUDIT & PAYMENT OF CLAIMS # 12 (2022-2023)

1. Abstract of Unaudited vouchers for the General Fund for \$
2. Abstract of Unaudited vouchers for the Water Fund for \$
3. Abstract of Unaudited vouchers for the Sewer Fund for \$

COMMUNICATIONS:

TRUSTEE-COMMISSIONER REPORTS:

Administration/Community Association - vacant

Public Works – Michael Cashman, Trustee

Planning –

Public Safety – James DeGennaro, Trustee  
*Reports attached*

Parks, Water & Sewer – Robert Moss, Trustee  
*Parks:*

*Water/Sewer:*

*591 total meters: 561 remote meters installed (98%), 9 remaining to complete (2%)  
(8 meters are City of Binghamton, 3 properties are turned off at the street, 6 larger meters, 3  
refusals, Village Hall)*

*Water arrears as of 10/31/2022 - \$1,222.06*

Zoning Board of Appeals –

OLD BUSINESS:

RESOLUTIONS FOR APPROVAL:

- a. Resolution approving Mayor's reappointment of Coughlin & Gerhart as Attorney for the Village for a term to expire December 31, 2023.
- b. Resolution approving the Mayor's appointment of John Broughton as Building Inspector/Code Enforcement Officer for a one-year term to expire December 31, 2023
- c. Resolution approving Mayor's reappointment of Corina Beames as Deputy Village Clerk for a term to expire December 31, 2023
- d. Resolution approving Mayor's reappointment of Robert Blakeslee and Roger Shaller as Village Historians for a term to expire December 31, 2023
- e. Resolution approving Mayor's reappointment of Edward Corcoran as member of the Planning Board for a term to expire December 31, 2027
- f. Resolution approving Mayor's reappointment of Roger Shaller as member of the Zoning Board of Appeals for a term to expire December 31, 2027
- g. Resolution reaffirming mayoral appointment of ad hoc members for the Zoning Board of Appeals for a term to expire 12/31/2023 - David Robertson
- h. Resolution approving Edward Corcoran, Robert Aagre as members to the Tree Board for a term to expire 12/31/2023
  
- i. Resolution reaffirming and re-adopting resolutions establishing Procurement Policy adopted February 14, 1995 and Cash Management and Investment Policies adopted December 14, 1993
- j. Resolution designating the following Tuesdays of each month as Village Board meeting nights at Port Dickinson Village Hall  
    Second Tuesday – Regular Village Board Meeting 6:00pm  
    Fourth Tuesday – Work Session 5:00pm
- k. Resolution appointing the Press & Sun-Bulletin as the official newspaper for 2023, and requiring the applicant on a zoning matter or an environmental matter to pay the cost of such publication in the official newspaper of the Village.
- l. Resolution naming all commercial banks in Broome County as depositories for Village funds.
- m. Resolution reaffirming the Village Hall Use Policy adopted 10/8/2002.
- n. Resolution reaffirming the Village Employee Personnel Policy adopted 11/12/2002 as amended.
- o. Resolution requiring all vouchers to be submitted to the Village Clerk's office before noon on the Monday prior to the first Tuesday of each month to qualify for audit and payment at next regular Village Board meeting.
- p. Resolution establishing reimbursement of travel and mileage expenditures incurred in 2023 for travel and use of private vehicles on Village business at the Internal Revenue Service (IRS) rates prescribed for 2023.
- q. Resolution authorizing payment in advance of audit on claims for public utility services and postage.
- r. Resolution setting the date for the next organization meeting as December 12, 2023
- s. Resolution authorizing the Mayor and Trustees to attend any and all meetings of the Broome County Association of Towns & Villages.
- t. Resolution designating the bulletin board on the south wall inside the main front door as the official place for posting legal notices by the Village Clerk.
  
- u. Resolution scheduling a Public Hearing on 1/10/23 at 6:00 PM on Proposed Local Law 1-2023, 19 NYCRR Part 1203 Uniform Code and the Energy Code: Minimum Standards for Administration and Enforcement
- v. Resolution adopting Short EAF for Local Law 12-2022 entitled "A LOCAL LAW AMENDING CHAPTER 65 OF THE VILLAGE CODE REGARDING CANNABIS RELATED BUSINESSES
- w. Resolution adopting Local Law 12-2022 entitled "A LOCAL LAW AMENDING CHAPTER 65 OF THE VILLAGE CODE REGARDING CANNABIS RELATED BUSINESSES

NEW BUSINESS/DISCUSSION:

1. Deputy Mayor appointments for 2023  
Trustee James DeGennaro

2. Committee Assignments for 2023

**Administration Commissioner –**

- Community Association Liaison.
- Broome County Shared Services Health Care Committee.
- Medical Insurance Cost Containment Initiative.

**Public Safety Commissioner – James DeGennaro**

- Broome County Emergency Services Liaison. (Fire, Police and EMS)

**Public Works Commissioner – Michael Cashman**

- Broome County Shared Services Public Works Committee.
- FEMA Coordinator of applications and activity.
- Village Tree Committee Leader.
- County & Municipalities Sharing of Parks Services Committee.
- Broome County Parks Liaison.
- Local Waterfront Redevelopment Project.

**Parks and Water & Sewer Commissioner – Robert Moss**

- MS4 (Municipal Separate Storm Sewer System) coordinate compliance with Engineer.
- Sewer Treatment (BJCJSTP) Representative.
- CMOM operations.

**Mayor:**

Greater Binghamton Council of Governments.  
Broome County Association of Towns & Villages.  
NYSDOT Greenway Committee.  
NYSDOT Liaison to Regional Director and local Engineers.  
Outside Sewers Users Group of the BJCJSTB.  
Broome County Legislature Finance Committee.  
Millennium Pipeline Relations.  
Broome County Civil Service.  
Broome County Executive Point of Contact.  
Flood Mitigation Coordination – FEMA, DEC, Corp. of Engineers & Local Engineers.

ADJOURNMENT

**VILLAGE OF PORT DICKINSON  
LOCAL LAW NO. 12 FOR THE YEAR 2022**

**A LOCAL LAW AMENDING CHAPTER 65 OF THE  
VILLAGE CODE REGARDING CANNABIS RELATED BUSINESSES**

Be it enacted by the Village Board of the Village of Port Dickinson as follows:

Section 1. Legislative Intent

It is the intent of this local law to specify those areas within the Village of Port Dickinson that are appropriate for the establishment cannabis related businesses, and make such uses subject to special permit and site plan review.

Section 2. Authority

This local law is adopted pursuant to the New York State Municipal Home Rule Law, Section 131 of the New York State Cannabis Law, and all other relevant provisions of the New York State Constitution and New York State Village Law.

Section 3. Definitions

The following definitions are hereby added to Section 65-3 of the Village Code:

**CANNABIS BUSINESS, INDUSTRIAL** – A cannabis related business licensed by the New York State Office of Cannabis Management or other duly authorized state or federal agency, to operate one of the following business types: Adult-use Cultivator, Adult-use Nursery, Adult-use Processor, Adult-use Distributor, Adult-use Cooperative, or Adult-use Microbusiness.

**CANNABIS BUSINESS, ON-SITE CONSUMPTION** – A cannabis related business licensed by the New York State Office of Cannabis Management or other duly authorized state or federal agency, to operate an Adult-use On-Site Consumption business. An on-site consumption license authorizes the acquisition, possession and sale of cannabis from the licensed premises of the on-site consumption licensee to cannabis consumers for use at the on-site consumption location.

**CANNABIS BUSINESS, RETAIL** – A cannabis related business licensed by the New York State Office of Cannabis Management or other duly authorized state or federal agency, to operate one of the following business types: Adult-use Retail Dispensary or Adult-use Delivery.

Section 4. A new Section 65-28.1 entitled “Cannabis Businesses” shall be added to the Village Code as follows:

§ 65-28.1. Cannabis Businesses.

- A. Cannabis Business, On-Site Consumption and Cannabis Business, Retail, may be permitted in Commercial (C) and Industrial (I) districts, provided the location shall be such as to offer reasonable protection to nearby properties against possible detrimental effects, taking into consideration the physical relationship to surrounding properties, and access to the site over any nearby residential streets.
- B. Cannabis Business, Industrial may be permitted in the Industrial (I) districts, provided the location shall be such as to offer reasonable protection to nearby properties against possible detrimental effects, taking into consideration the physical relationship to surrounding properties, and access to the site over any nearby residential streets.

Section 5. The Schedule of Zoning Regulations, Attachment II, C Commercial and I Industrial Districts is hereby amended as set forth below.

Column 2: “Permitted Uses, Principal, Commercial Districts,” shall be amended by adding the following:

5. **Cannabis Business, On-site Consumption and Cannabis Business, Retail, by special permit.**

Column 2: “Permitted Uses, Principal, Industrial Districts,” shall be amended by adding the following:

4. **Cannabis Business, On-site Consumption, Cannabis Business, Retail and Cannabis Business, Industrial, by special permit.**

Section 6.      Remainder

**Except as hereinabove amended, the remainder of the Code of the Village of Port Dickinson shall remain in full force and effect.**

Section 7.      Separability

The provisions of this local law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this local law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this local law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and as if such person or circumstance, to which the local law or part thereof is held inapplicable, had been specifically exempt therefrom

Section 8.      Effective Date

**This Local Law shall take effect immediately upon filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.**

**VILLAGE OF PORT DICKINSON**  
**RESOLUTION APPROVING LOCAL LAW NO. 12-2022**

At a meeting of the Village Board of the Village of Port Dickinson, held at Village Hall, 786 Chenango Street in said Village on the 13th day of December, 2022, the following resolution was offered and seconded:

**WHEREAS**, notice was given that the Village Board will hold a public hearing on November 15, 2022 at 6:02 p.m. for Local Law No. 12 of the year 2022 entitled "A LOCAL LAW AMENDING CHAPTER 65 OF THE VILLAGE CODE REGARDING CANNABIS RELATED BUSINESSES"; and

**WHEREAS**, notice of said public hearing was duly advertised in the official newspaper of the Village, and posted on the Village Clerk's signboard; and

**WHEREAS**, said public hearing was duly held November 15, 2022 at 6:02 p.m. and all parties in attendance were permitted an opportunity to speak on behalf of or in opposition to said proposed Local Law or any part thereof; and

**WHEREAS**, pursuant to Part 617 of the implementing regulations of the State Environmental Quality Review Act, it is determined by the Village Board that adoption of the proposed Local Law constitutes Unlisted Action, as defined under said regulations. The Village Board has considered the possible environmental impacts of the Local Law. The adoption of said Local Law will not have a significant adverse impact on the environment and the Village Board adopts a negative declaration with respect to the Local Law; and

**WHEREAS**, the Village Board, after due deliberation, finds it in the best interest of the Village to adopt said local law.

**NOW, THEREFORE, BE IT RESOLVED** that the Village Board of the Village of Port Dickinson hereby adopts said local law as Local Law No. 12 of 2022 entitled "A LOCAL LAW AMENDING CHAPTER 65 OF THE VILLAGE CODE REGARDING CANNABIS RELATED BUSINESSES" a copy of which is attached hereto and made a part hereof; and it is further

**RESOLVED** that the Village Clerk be and hereby is directed to enter said Local Law in the minutes of this meeting and to enter said Local Law in the Local Law Book of the Village of Port Dickinson, and to give due notice of the adoption of said Local Law to the Secretary of State; and it is further

**RESOLVED** that this resolution will take effect immediately upon filing with the Department of State.

Village Water Consumption for : Nov-22

Read dates:	Binghamton meter	Fenton Large	Fenton Small
12/1/2022	5761	33430242	6315735
10/31/2022	5720	32744258	6217041
Usage	41	685984	98694

Total cubic ft: 784719

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Read dates:	Town of Fenton Sewer Readings		Rate:	4.5
12/1/2022	52857600			
10/31/2022	52771200		3.27	cu. Ft/min
			Time:	8:00am
Total	86400	cu. ft.		

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Read dates:	Wayne Ave. sewer station readings (hours):		
	Pump1	Pump 2	Pump 3
12/1/2022	6649	19401	17828
10/31/2022	6622	19374	17803
Totals	27	27	25

Total hrs. 79



The Village of Port Dickinson  
Department of Police  
Scot McDonald, Chief of Police

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**Police Department Monthly Report**

Report Month:	<b>November</b>	Police Commissioner:	<b>Trustee J. DeGennaro</b>
Report Year:	<b>2022</b>	Chief:	<b>Scot McDonald</b>
Report Date:	<b>12/09/2022</b>	Deputy Village Clerk:	<b>Corina M. Beames</b>

**Total Complaints Received:63 (80)**

Med calls-6

Civil matter-1

Check welfare-1

Persons annoying-2

Disturbance-1

Suspicious-2

Assistance rendered-4

MVA(PD)-4

DV-2

Larceny-3

**Miscellaneous-37** \*Includes Assist other agencies, Lockouts, Alarms, Alternate street Parking warnings., Animals, Traffic lights, Information, code enforcement, special details, vacant properties , and Etc.



**Report of the  
CHIEF  
November 2022**



ALARMS		RESPONSE		TIMES	
Fire	10	Avg Members Response (F)	2.78	Med Avg	3
EMS	5	Avg Alarm to Response	4.71	0700-1500	7
Standby	1	Avg Alarm to Arrival	8.50	1500-2300	8
<b>Total</b>	<b>16</b>	Total Time in Service (hh:mm)	4:45	2300-0700	1
MUTUAL AID		LOCATION		DOLLAR LOSS/VALUE	
Given	9	Village of Port Dickinson	6	Fire Loss	
Received	2	Town of Dickinson	1		
Engine 94		Town of Fenton	8	Property Saved	
No Tone		Town of Chenango			
		Town of Kirkwood			
		City of Binghamton	1		
CASUALTIES			YTD		
		Fire Service Injured	0	1	
		Fire Service Death	0		
		Civilian Injured	0	5	
		Civilian Death	0		

**Alarms**

CODE	DESCRIPTION	YTD	CODE	DESCRIPTION	YTD
111	Building Fire	7	444	Power Line Down	3
114	Chimney Fire	1	4441	Power/Cable Line Down	9
131	Passenger Vehicle fire	3	445	Arcing electrical equipment	1
142	Brush Fire	3	520	Water Problem, other	2
150	Outside Rubbish Fire	1	550	Public Service Assistance	1
212	Overpressure Steam Boiler	1	571	Standby/Moveup	10
311	Medical Assist, Assist EMS	2	611	Dispatched, Canceled enroute	28
320	Emergency Medial Service	4	651	Smoke Scare, Odor of Smoke	5
321	EMS Incident, Except MVA	1	700	False Call, False Alarm, Other	4
322	MVA w/ Injury	1	714	False Alarm - Malicious	1
323	Vehicle vs Ped Accident	1	735	Alarm Activation - Malfunction	1
324	MVA w/out Injuries	1	745	Alarm Activation - Unintentional	9
350	Rescue/Extrication, other	1	746	CO Alarm Activation, No CO	6
355	Confined Space Rescue	1	800	Severe Weather, other	2
412	Gas Leak (NG or LPG)	2	813	Windstorm Assessment	3
4121	Gas Leak, no leak found	3			

424	Carbon Monoxide Incident	1	3			
440	Electrical/Wiring Problem		1	<b>TOTAL</b>	16	201

**Report of the Chief  
November 2022**



SUMMARY	Training Hours Offered	Average Members Present	Total Man Hours
November	5	7.33	37
YTD Totals	131	6.525	779
Non Department 35 Training			

**TRAINING**

Wk	Date	Lesson	Training Hours Offered	Members Present	Total Man Hours
	11/7/2022	Chimney Fire Operations	1	7	7
	11/14/2022	Monthly Business Meeting		14	
	11/21/2022	Station/Equip Preventative Maintenance	2	7	14
	11/28/2022	MVA Operations	2	8	16

**VILLAGE OF PORT DICKINSON  
LOCAL LAW NO. 1 OF 2023**

A LOCAL LAW REPEALING AND REPLACING CHAPTER 26 OF THE  
VILLAGE CODE ENTITLED “BUILDING CONSTRUCTION, ADMINISTRATION  
AND ENFORCEMENT OF THE UNIFORM FIRE PREVENTION AND BUILDING CODE”

Be it enacted by the Village Board of the Village of Port Dickinson as follows:

Section 1. Chapter 26 of the Village Code is hereby repealed and replaced as follows:

**SECTION 26-1. PURPOSE AND INTENT.**

This chapter provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in the Village of Port Dickinson (“Village”). This chapter is adopted pursuant to Section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, the Energy Code, or other state law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this chapter.

**SECTION 26-2. DEFINITIONS.**

In this chapter:

“Code Enforcement Officer” shall mean the Code Enforcement Officer appointed pursuant to subdivision (b) of section 3 of this chapter.

“Code Enforcement Personnel” shall include the Code Enforcement Officer and all Inspectors.

“Codes” shall mean the Uniform Code and Energy Code.

“Energy Code” shall mean the New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law.

“FCNYS” shall mean the 2020 Fire Code of New York State as currently incorporated by reference in 19 NYCRR Part 1225.

“Fire Safety and Property Maintenance Inspection” shall mean an inspection performed to determine compliance with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference.

“Hazardous Production Materials” shall mean a solid, liquid, or gas associated with semiconductor manufacturing that has a degree-of-hazard rating in health, flammability, or instability of Class 3 or 4, as ranked by NFPA 704 (Standard Systems for Identification of the Hazards of Materials for Emergency Response), and which is used directly in research, laboratory, or production processes which have, as their end product, materials that are not hazardous.

“Inspector” shall mean an inspector appointed pursuant to subdivision (d) of section 3 of this chapter.

“Mobile Food Preparation Vehicles” shall mean vehicles that contain cooking equipment that produces smoke or grease-laden vapors for the purpose of preparing and serving food to the public. Vehicles intended for private recreation shall not be considered mobile food preparation vehicles.

“Operating Permit” shall mean a permit issued pursuant to section 10 of this chapter. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended, or extended pursuant to any provision of this chapter.

“Order to Remedy” shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 17 of this chapter.

“Permit Holder” shall mean the Person to whom a Building Permit has been issued.

“Person” shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

“PMCNYS” shall mean the 2020 Property Maintenance Code of New York State as currently incorporated by reference in 19 NYCRR Part 1226.

“RCNYS” shall mean the 2020 Residential Code of New York State as currently incorporated by reference in 19 NYCRR Part 1220.

“Repair” shall mean the reconstruction, replacement, or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

“Stop Work Order” shall mean an order issued pursuant to section 6 of this chapter.

“Sugarhouse” shall mean a building used, in whole or in part, for the collection, storage, or processing of maple sap into maple syrup and/or maple sugar.

“Temporary Certificate of Occupancy” shall mean a certificate issued pursuant to subdivision (d) of section 7 of this chapter.

“Uniform Code” shall mean the New York State Uniform Fire Prevention and Building Code, Subchapter A of Chapter XXXIII of Title 19 of the NYCRR, adopted pursuant to Article 18 of the Executive Law.

“Village” shall mean the Village of Port Dickinson.

**SECTION 26-3. CODE ENFORCEMENT OFFICER AND INSPECTORS.**

(a) The Office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code, and this chapter. The Code Enforcement Officer shall have the following powers and duties:

- (1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits, and the plans, specifications, and construction documents submitted with such applications;

- (2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits, and to include in terms and conditions as the Code Enforcement Officer may determine to be appropriate Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits;
  - (3) to conduct construction inspections; inspections to be made prior to the issuance of Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits; fire safety and property maintenance inspections; inspections incidental to the investigation of complaints; and all other inspections required or permitted under any provision of this chapter;
  - (4) to issue Stop Work Orders;
  - (5) to review and investigate complaints;
  - (6) to issue orders pursuant to subdivision (a) of section 17 (Violations) of this chapter;
  - (7) to maintain records;
  - (8) to collect fees as set by the Village Board of this Village;
  - (9) to pursue administrative enforcement actions and proceedings;
  - (10) in consultation with this Village's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code, and this chapter, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code, or this chapter; and
  - (11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this chapter.
- (b) The Code Enforcement Officer shall be appointed by the Village Board of the Village of Port Dickinson. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.
- (c) In the event that the Code Enforcement Officer is unable to serve as such for any reason, another individual shall be appointed by the Village Board of the Village of Port Dickinson to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of their appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this chapter.
- (d) One or more Inspectors may be appointed the Village Board of the Village of Port Dickinson to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this chapter. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training,

advanced in-service training, and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

- (e) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Village Board of this Village.

**SECTION 26-4. BUILDING PERMITS.**

- (a) Building Permits Required. Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation, or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney, or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Village.
- (b) Exemptions. No Building Permit shall be required for work in any of the following categories:
  - (1) construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses), which are used for tool and storage sheds, playhouses, or similar uses, provided the gross floor area does not exceed 144 square feet;
  - (2) construction of temporary sets and scenery associated with motion picture, television, and theater uses;
  - (3) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
  - (4) installation of partitions or movable cases less than 5'-9" in height;
  - (5) painting, wallpapering, tiling, carpeting, or other similar finish work;
  - (6) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
  - (7) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
  - (8) repairs, provided that the work does not have an impact on fire and life safety, such as (i) any part of the structural system; (ii) the required means of egress; or (iii) the fire protection system or the removal from service of any part of the fire protection system for any period of time.
- (c) Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

**SECTION 26-5. CONSTRUCTION INSPECTIONS.**

- (a) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection.
- (b) Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:
  - (1) work site prior to the issuance of a Building Permit;
  - (2) footing and foundation;
  - (3) preparation for concrete slab;
  - (4) framing;
  - (5) structural, electrical, plumbing, mechanical, fire-protection, and other similar service systems of the building;
  - (6) fire resistant construction;
  - (7) fire resistant penetrations;
  - (8) solid fuel burning heating appliances, chimneys, flues, or gas vents;
  - (9) inspections required to demonstrate Energy Code compliance, including but not limited to insulation, fenestration, air leakage, system controls, mechanical equipment size, and, where required, minimum fan efficiencies, programmable thermostats, energy recovery, whole-house ventilation, plumbing heat traps, and high-performance lighting and controls;
  - (10) installation, connection, and assembly of factory manufactured buildings and manufactured homes; and
  - (11) a final inspection after all work authorized by the Building Permit has been completed, a final inspection after all work authorized by the Building Permit has been completed.
- (c) Remote inspections. At the discretion of the Code Enforcement Officer or Inspector authorized to perform construction inspections, a remote inspection may be performed in lieu of an in-person inspection when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or by such authorized Inspector that the elements of the construction process conform with the applicable requirements of the Uniform Code and Energy Code. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.
- (d) Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed,

or the Permit Holder shall be notified as to the manner in which the work fails to comply with the Uniform Code or Energy Code, including a citation to the specific code provision or provisions that have not been met. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

- (e) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this chapter must be paid prior to or at the time of each inspection performed pursuant to this section.

**SECTION 26-6. STOP WORK ORDERS.**

- (a) Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:
  - (1) any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or
  - (2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or
  - (3) any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.
- (b) Content of Stop Work Orders. Stop Work Orders shall (1) be in writing, (2) be dated and signed by the Code Enforcement Officer, (3) state the reason or reasons for issuance, and (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.
- (c) Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.
- (d) Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder, and any other Person performing, taking part in, or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order, other than work expressly authorized by the Code Enforcement Officer to correct the reason for issuing the Stop Work Order.
- (e) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order



shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under section 17 (Violations) of this chapter or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

**SECTION 26-7. CERTIFICATES OF OCCUPANCY AND CERTIFICATES OF COMPLIANCE.**

- (a) Certificates of Occupancy and Certificates of Compliance required. A Certificate of Occupancy or Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy or Certificate of Compliance.
- (b) Issuance of Certificates of Occupancy and Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy or Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure, or work prior to the issuance of a Certificate of Occupancy or Certificate of Compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy or Certificate of Compliance:
  - (1) a written statement of structural observations and/or a final report of special inspections,
  - (2) flood hazard certifications,
  - (3) a written statement of the results of tests performed to show compliance with the Energy Code, and
  - (4) where applicable, the affixation of the appropriate seals, insignias, and manufacturer's data plates as required for factory manufactured buildings and/or manufactured homes.
- (c) Contents of Certificates of Occupancy and Certificates of Compliance. A Certificate of Occupancy or Certificate of Compliance shall contain the following information:
  - (1) the Building Permit number, if any;
  - (2) the date of issuance of the Building Permit, if any;
  - (3) the name (if any), address and tax map number of the property;
  - (4) if the Certificate of Occupancy or Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy or Certificate of

Compliance is issued;

- (5) the use and occupancy classification of the structure;
  - (6) the type of construction of the structure;
  - (7) the occupant load of the assembly areas in the structure, if any;
  - (8) any special conditions imposed in connection with the issuance of the Building Permit; and
  - (9) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy or Certificate of Compliance and the date of issuance.
- (d) Temporary Certificate of Occupancy. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate of Occupancy allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate of Occupancy unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate of Occupancy, may be occupied safely, (2) that any required fire and life safety components, such as fire protection equipment and fire, smoke, carbon monoxide, and heat detectors and alarms are installed and operational, and (3) that all required means of egress from the structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate of Occupancy such terms and conditions as he or she deems necessary or appropriate to ensure the health and safety of the persons occupying and using the building or structure and/or performing further construction work in the building or structure. A Temporary Certificate of Occupancy shall be effective for a period of time, not to exceed 6 months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate of Occupancy. During the specified period of effectiveness of the Temporary Certificate of Occupancy, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.
- (e) Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy, Certification of Compliance, or a Temporary Certificate of Occupancy was issued in error or on the basis of incorrect information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.
- (f) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this chapter must be paid at the time of submission of an application for a Certificate of Occupancy, Certificate of Compliance, or for Temporary Certificate of Occupancy.

**SECTION 26-8. NOTIFICATION REGARDING FIRE OR EXPLOSION.**

**The chief of any fire department providing firefighting services for a property within this Village shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney, or gas vent.**

**SECTION 26-9. UNSAFE BUILDINGS, STRUCTURES, AND EQUIPMENT AND CONDITIONS OF IMMINENT DANGER.**

Unsafe buildings, structures, and equipment and conditions of imminent danger in this Village shall be identified and addressed in accordance with the following procedures.

- (1) The Code Enforcement Officer shall report recommendations for repair or demolition of the structure in a written report to the Village Board.
- (2) The Village Board shall consider the report, and if it decides to proceed, schedule a public hearing. Notice of the public hearing shall be published and provided to the property owner by personal service pursuant to the New York Civil Practice Law and Rules at least 10 days before the date of the hearing.
- (3) The Village Board may contract with an engineer or architect to inspect the structure and make recommendations to the Village Board.
- (4) If, after the public hearing, the Village Board determines that the structure can safely be repaired, it may order the property owner to repair the structure within the time frame set forth in the order. If the Village Board determines that the structure cannot safely be repaired, and should be demolished and removed, the Village Board may order such demolition and removal within the time frame set forth in the order.
- (5) Subject to the provisions of Subsection (6) below, if the property owner fails to repair or demolish and remove the structure within the time period set forth in the Village Board's order, the Village Board may issue a directive that the Village cause the structure to be repaired or demolished and removed, and bill the property owner for the reasonable direct cost of such repair or demolition and removal, plus legal costs and administrative costs of the Village for administering, supervising and handling such work in accordance with the provisions of this chapter.
- (6) Prior to issuing a directive that the Village cause the structure to be repaired or demolished and removed, the Village shall apply to the Supreme Court of Broome County for an order pursuant to this chapter, declaring: (1) that the structure is in need of repair or demolition and removal; (2) that the Village may repair or demolish and remove the structure; (3) determining the cost of such repair or demolition and removal that will be billed to the property owner pursuant to this chapter; and (4) granting a judgment against the property owner in the amount to be billed to the property owner. If the property owner refuses to grant the Village and its representatives access to the structure and the Village is unable to obtain access pursuant to other provisions of law, the Village may seek an order pursuant to this chapter directing the property owner to give the Village and its representatives access to the structure for purposes of determining whether the structure can safely be repaired or should be demolished and removed.
- (7) If the sum stated in the bill is not paid within 30 days after mailing thereof to the property owner, the Village may file a certificate with the Broome County Department of Assessment stating the cost of repair or demolition and removal and administrative costs to the Village, as detailed in the bill, together with a statement identifying the property and property owner. The Broome County Department of Assessment shall in the preparation of the next assessment roll assess such unpaid costs upon such

property. Such amount shall be included as a special ad valorem levy (administered as a move tax) against such property, shall constitute a lien, and shall be collected and enforced in the same manner, by the same proceedings, at the same time, and under the same penalties as are provided by law for collection and enforcement of real property taxes in the Village of Port Dickinson. The assessment of such costs shall be effective even if the property would otherwise be exempt from real estate taxation.

**Commented [NDV1]:** If we implement this language, then we would also repeal Chapter 58 of the code.

**SECTION 26-10. OPERATING PERMITS.**

- (a) Operation Permits required. Operating Permits shall be required for conducting any process or activity or for operating any type of building, structure, or facility listed below:
- (1) manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in the applicable Maximum Allowable Quantity tables found in Chapter 50 of the FCNYS;
  - (2) buildings, structures, facilities, processes, and/or activities that are within the scope and/or permit requirements of the chapter or section title of the FCNYS as follows:
    - (i) Chapter 22, “Combustible Dust-Producing Operations.” Facilities where the operation produces combustible dust;
    - (ii) Chapter 24, “Flammable Finishes.” Operations utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24 of the FCNYS;
    - (iii) Chapter 25, “Fruit and Crop Ripening.” Operating a fruit- or crop-ripening facility or conducting a fruit-ripening process using ethylene gas;
    - (iv) Chapter 26, “Fumigation and Insecticidal Fogging.” Conducting fumigation or insecticidal fogging operations in buildings, structures, and spaces, except for fumigation or insecticidal fogging performed by the occupant of a detached one-family dwelling;
    - (v) Chapter 31, “Tents, Temporary Special Event Structures, and Other Membrane Structures.” Operating an air-supported temporary membrane structure, a temporary special event structure, or a tent where approval is required pursuant to Chapter 31 of the FCNYS;
    - (vi) Chapter 32, “High-Piled Combustible Storage.” High-piled combustible storage facilities with more than 500 square feet (including aisles) of high-piled storage;
    - (vii) Chapter 34, “Tire Rebuilding and Tire Storage.” Operating a facility that stores in excess of 2,500 cubic feet of scrap tires or tire byproducts or operating a tire rebuilding plant;
    - (viii) Chapter 35, “Welding and Other Hot Work.” Performing public exhibitions and demonstrations where hot work is conducted, use of hot work, welding, or cutting equipment, inside or on a structure, except an operating permit is not required where work is conducted under the authorization of a building permit or where performed by the occupant of a detached one- or two-family dwelling;
    - (ix) Chapter 40, “Sugarhouse Alternative Activity Provisions.” Conducting an alternative activity at a sugarhouse;

- (x) Chapter 56, "Explosives and Fireworks." Possessing, manufacturing, storing, handling, selling, or using, explosives, fireworks, or other pyrotechnic special effects materials except the outdoor use of sparkling devices as defined by Penal Law section 270;
  - (xi) Section 307, "Open Burning, Recreational Fires and Portable Outdoor Fireplaces." Conducting open burning, not including recreational fires and portable outdoor fireplaces;
  - (xii) Section 308, "Open Flames." Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies; and
- (3) energy storage systems, where the system exceeds the values shown in Table 1206.1 of the FCNYS or exceeds the permitted aggregate ratings in section R327.5 of the RCNYS.
  - (4) buildings containing one or more assembly areas;
  - (5) outdoor events where the planned attendance exceeds 1,000 persons;
  - (6) facilities that store, handle or use hazardous production materials;
  - (7) parking garages as defined in subdivision (a) of section 13 of this chapter;
  - (8) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Village Board of this Village; and
  - (9) other processes or activities or for operating any type of building, structure, or facility as determined by resolution adopted by the Village Board of this Village. Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.
- (b) Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.
- (c) Exemptions. Operating permits shall not be required for processes or activities, or the buildings, structures, or facilities listed in paragraphs (1) through (7) of subdivision (a) of this section, provided that the use is expressly authorized by a certificate of occupancy or certificate of compliance, fire safety and property maintenance inspections are performed in accordance with section 11 (Fire Safety and Property Maintenance Inspections) of this chapter, and condition assessments are performed in compliance with section 13 (Condition Assessments of Parking Garages) of this chapter, as applicable.
- (d) Inspections. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit. Such inspections shall be performed

either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or Inspector authorized by the Code Enforcement Officer that the premises conform with the applicable requirements of the Uniform Code and the code enforcement program. Should a remote inspection not afford the Village sufficient information to make a determination, an in-person inspection shall be performed. After inspection, the premises shall be noted as satisfactory and the operating permit shall be issued, or the operating permit holder shall be notified as to the manner in which the premises fail to comply with either or both of the Uniform Code and the code enforcement program, including a citation to the specific provision or provisions that have not been met.

- (e) Multiple Activities. In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in their discretion, issue a single Operating Permit to apply to all such activities.
- (f) Duration of Operating Permits. Operating permits shall be issued for a specified period of time consistent with local conditions, but in no event to exceed as follows:
  - (1) 180 days days for tents, special event structures, and other membrane structures;
  - (2) 60 days days for alternative activities at a sugarhouse;
  - (3) Three (3) years years for the activities, structures, and operations determined per paragraph (9) of subdivision (a) of this section, and
  - (4) One (1) year year for all other activities, structures, and operations identified in subdivision (a) of this section.

**The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.**

- (g) Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.
- (h) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this chapter must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

**SECTION 26-11. FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS.**

- (a) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:
  - (1) at least once every twelve (12) months for buildings which contain an assembly area;

- (2) at least once every twelve (12) months for public and private schools and colleges, including any buildings of such schools or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining, or recreational facilities; and
  - (3) at least once thirty-six (36) months for multiple dwellings and all nonresidential occupancies.
- (b) Remote inspections. At the discretion of the Code Enforcement Officer or Inspector authorized to perform fire safety and property maintenance inspections, a remote inspection may be performed in lieu of in-person inspections when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or such authorized Inspector that the premises conform with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.
- (c) Inspections permitted. In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector authorized to perform fire safety and property maintenance inspections at any time upon:
- (1) the request of the owner of the property to be inspected or an authorized agent of such owner;
  - (2) 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
  - (3) 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.**

- (d) OFPC Inspections. Nothing in this section or in any other provision of this chapter shall supersede, limit, or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control (“OFPC”) and the New York State Fire Administrator or other authorized entity under Executive Law section 156-e and Education Law section 807-b.
- (e) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this chapter must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

**SECTION 26-12. COMPLAINTS.**

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this chapter, or any local law, ordinance or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code.

The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

- (a) Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- (b) If a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 17 (Violations) of this chapter;
- (c) If appropriate, issuing a Stop Work Order;
- (d) If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

**SECTION 26-13. CONDITION ASSESSMENTS OF PARKING GARAGES.**

(a) Definitions. For the purposes of this section:

- (1) the term “condition assessment” means an on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure;
- (2) the term “deterioration” means the weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component;
- (3) the term “parking garage” means any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:
  - (i) buildings in which the only level used for parking or storage of motor vehicles is on grade;
  - (ii) an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and
  - (iii) a townhouse unit with attached parking exclusively for such unit;
- (4) the term “professional engineer” means an individual who is licensed or otherwise authorized under Article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations;



- (5) the term “responsible professional engineer” means the professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report. The use of the term “responsible professional engineer” shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment.
  - (6) the term “unsafe condition” includes the conditions identified as “unsafe” in section 304.1.1, section 305.1.1, and section 306.1.1 of the PMCNYS; and
  - (7) the term “unsafe structure” means a structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.
- (b) Condition Assessments – general requirements. The owner operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in subdivision (c) of this section, periodic condition assessments as described in subdivision (d) of this section, and such additional condition assessments as may be required under subdivision (e) of this section. Each condition assessment shall be conducted by or under the direct supervision of a professional engineer. A written report of each condition assessment shall be prepared, and provided to the Village, in accordance with the requirements of subdivision (f) of this section. Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.
- (c) Initial Condition Assessment. Each parking garage shall undergo an initial condition assessment as follows:
- (1) Parking garages constructed on or after August 29, 2018, shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure.
  - (2) Parking garages constructed prior to August 29, 2018, shall undergo an initial condition assessment as follows:
    - (i) if originally constructed prior to January 1, 1984, then prior to October 1, 2019;
    - (ii) if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and
    - (iii) if originally constructed between January 1, 2003 and August 28, 2018, then prior to October 1, 2021.
  - (3) Any parking garage constructed prior to the effective date of the local law enacting this provision that has not undergone an initial condition assessment prior to that effective date shall undergo an initial condition assessment prior to six (6) months after the effective date of this local law.

(d) Periodic Condition Assessments. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed (3) years.

(e) Additional Condition Assessments.

- (1) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.
- (2) If the Village becomes aware of any new or increased deterioration which, in the judgment of the Village, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the Village to be appropriate.

(f) Condition Assessment Reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the Village within sixty (60) days. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:

- (1) an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;
- (2) an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;
- (3) an evaluation and description of the unsafe conditions;
- (4) an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;
- (5) an evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;
- (6) an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;
- (7) the responsible professional engineer's recommendation regarding preventative maintenance;

- (8) except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and
  - (9) the responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in their professional judgment.
- (g) Review Condition Assessment Reports. The Village shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the Village shall, by Order to Remedy or such other means of enforcement as the Village may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to paragraphs (2) and (3) of subdivision (f). All repairs and remedies shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the Village to take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.
- (h) The Village shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the Village with a written statement attesting to the fact that he or she has been so engaged, the Village shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The Village shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.
- (i) This section shall not limit or impair the right or the obligation of the Village:
- (1) to perform such construction inspections as are required by section 5 (Construction Inspections) of this chapter;
  - (2) to perform such periodic fire safety and property maintenance inspections as are required by section 11 (Fire Safety and Property Maintenance Inspections) of this chapter; and/or
  - (3) to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the Village by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.

**SECTION 26-14. CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA.**

- (a) The Code Enforcement Officer shall determine the climatic and geographic design criteria for buildings and structures constructed within this Village as required by the Uniform Code. Such determinations shall be made in the manner specified in the Uniform Code using, where applicable, the maps, charts, and other information provided in the Uniform Code. The criteria to be so determined shall include but shall not necessarily be limited to, the following:
- (1) design criteria to include ground snow load; wind design loads; seismic category; potential damage from weathering, frost, and termite; winter design temperature; whether ice barrier underlayment is required; the air freezing index; and the mean annual temperature;
  - (2) heating and cooling equipment design criteria for structures within the scope of the RCNYS. The design criteria shall include the data identified in the Design Criteria Table found in Chapter 3 of the RCNYS; and
  - (3) flood hazard areas, flood hazard maps, and supporting data. The flood hazard map shall include, at a minimum, special flood hazard areas as identified by the Federal Emergency Management Agency in the Flood Insurance Study for the community, as amended or revised with:
    - (i) the accompanying Flood Insurance Rate Map (FIRM);
    - (ii) Flood Boundary and Floodway Map (FBFM); and
    - (iii) related supporting data along with any revisions thereto.
- (b) The Code Enforcement Officer shall prepare a written record of the climatic and geographic design criteria determined pursuant to subdivision (a) of this section, shall maintain such record within the office of the Code Enforcement Officer, and shall make such record readily available to the public.

**SECTION 26-15. RECORD KEEPING.**

- (a) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:
- (1) all applications received, reviewed and approved or denied;
  - (2) all plans, specifications and construction documents approved;
  - (3) all Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
  - (4) all inspections and tests performed;
  - (5) all statements and reports issued;
  - (6) all complaints received;

- (7) all investigations conducted;
  - (8) all condition assessment reports received;
  - (9) all fees charged and collected; and
  - (10) all other features and activities specified in or contemplated by sections 4 through 14, inclusive, of this chapter.
- (b) All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

**SECTION 26-16. PROGRAM REVIEW AND REPORTING.**

- (a) The Code Enforcement Officer shall annually submit to the Village Board of this Village a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in section 14 (Record Keeping) of this chapter and a report and summary of all appeals or litigation pending or concluded.
- (b) The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Village, on a form prescribed by the Secretary of State, a report of the activities of this Village relative to administration and enforcement of the Uniform Code.
- (c) The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, true and complete copies of the records and related materials this Village is required to maintain; true and complete copies of such portion of such records and related materials as may be requested by the Department of State; and/or such excerpts, summaries, tabulations, statistics, and other information and accounts of its activities in connection with administration and enforcement of the Uniform Code and/or Energy Code as may be requested by the Department of State.

**SECTION 26-17. VIOLATIONS.**

- (a) Orders to Remedy. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this chapter. An Order to Remedy shall be in writing; shall be dated and signed by the Code Enforcement Officer; shall specify the condition or activity that violates the Uniform Code, the Energy Code, or this chapter; shall specify the provision or provisions of the Uniform Code, the Energy Code, or this chapter which is/are violated by the specified condition or activity; and shall include a statement substantially similar to the following:

“The person or entity served with this Order to Remedy must completely remedy each violation described in this Order to Remedy by \_\_\_\_\_ [specify date], which is thirty (30) days after the date of this Order to Remedy.”

The Order to Remedy may include provisions ordering the person or entity served with such Order to Remedy (1) to begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time which may be less than thirty (30) days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within thirty (30) days of the date of such Order to Remedy; and/or

(2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this chapter or by any other applicable statute, regulation, rule, local law or ordinance, and which the Code Enforcement Officer may deem appropriate, during the period while such violations are being remedied. The Code Enforcement Officer shall cause the Order to Remedy, or a copy thereof, to be served on the owner of the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy. The Code Enforcement Officer shall be permitted, but not required, to cause the Order to Remedy, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

(b) Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

(c) Penalties. In addition to such other penalties as may be prescribed by State law,

(1) any Person who violates any provision of this chapter or any term, condition, or provision of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this chapter, shall be punishable by a fine of not more than \$250 per day of violation, or imprisonment not exceeding 15 days, or both; and

(2) any Person who violates any provision of the Uniform Code, the Energy Code or this chapter, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this chapter, shall be liable to pay a civil penalty of not more than \$250 for each day or part thereof during which such violation continues. The civil penalties provided by this paragraph shall be recoverable in an action instituted in the name of this Village.

(d) Injunctive Relief. An action or proceeding may be instituted in the name of this Village, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this chapter, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Order to Remedy, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this chapter. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this chapter, or any Stop Work Order, Order to Remedy or other order obtained under the Uniform Code, the Energy Code or this chapter, an action or proceeding may be commenced in the name of this Village, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Village Board of this Village.

(e) Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 6 (Stop Work Orders) of this chapter, in any other section of this chapter,

or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 6 (Stop Work Orders) of this chapter, in any other section of this chapter, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 382 of the Executive Law.

**SECTION 26-18. FEES.**

A fee schedule shall be established by resolution of the Village Board of this Village. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this chapter.

**SECTION 26-19. INTERMUNICIPAL AGREEMENTS.**

The Village Board of this Village may, by resolution, authorize the Mayor of this Village to enter into an agreement, in the name of this Village, with other governments to carry out the terms of this chapter, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

Section 2. Separability

The provisions of this local law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words, or parts of this local law or their application to other persons or circumstances. It is hereby declared to be the legislative intent that this local law would have been adopted if such illegal, invalid, or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and as if such person or circumstance, to which the local law or part thereof is held inapplicable, had been specifically exempt therefrom.

Section 3. Repealer

All Ordinances, Local Laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 4. Effective Date

This local law shall take effect immediately upon filing with the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.