

Local Law 1 of the year 2007 (Adopted January 22, 2007)

A local law amending Chapter 78 of the Code of the Village of Baxter Estates with regard to Building Code Administration

Section 1. Legislative findings.

This local law 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 this Village. This local law is adopted pursuant to section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this local law.

Section 2. Chapter 78, “Building Code Administration,” of the Code of the Village of Baxter Estates is hereby amended to read in its entirety as follows:

“§78-1. DEFINITIONS

In this Chapter 78:

“Building Permit” shall mean a permit issued pursuant to § 78-4 of this Chapter. The term “Building Permit” shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this Chapter.

“Certificate of Occupancy” and “Certificate of Compliance” shall mean certificates issued pursuant to subdivision (B) of §78-7 of this Chapter.

“Code Enforcement Officer” shall mean the Village Building Inspector appointed pursuant to subdivision (B) of §78-2 of this Chapter.

“Code Enforcement Personnel” shall include the Village Building Inspector and all Inspectors.

“Compliance Order” shall mean an order issued by the Village Building Inspector pursuant to subdivision (A) of §78-15 of this Chapter.

“Energy Code” shall mean the State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

“Inspector” shall mean an inspector appointed pursuant to subdivision (C) of §78-2 of this Chapter.

“Operating Permit” shall mean a permit issued pursuant to §78-11 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.

“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.

“Stop Work Order” shall mean an order issued pursuant to §78-10 of this Chapter.

“Temporary Certificate” shall mean a certificate issued pursuant to subdivision (B)(4) of §78-7 of this Chapter.

“Uniform Code” shall mean the New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

“Village Board” shall mean the Board of Trustees of the Village of Baxter Estates.

“Village Building Inspector” shall mean the officer appointed pursuant to §78-2 of this Chapter.

“Village Zoning Code” shall mean Chapter 175 of the Code of the Village of Baxter Estates, as duly amended from time to time by the Village Board, and any successor Code provision or local law.

“Village” shall mean the Village of Baxter Estates.

§78-2. Village Building Inspector.

A. The Village Building Inspector shall possess background and experience related to building construction or fire prevention and shall, within the time constraints established 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 Village Building Inspector shall obtain certification from the State Fire

Administrator pursuant to the New York State Executive Law and the regulations promulgated thereunder.

B. In the absence of the Village Building Inspector, or in the case of his or her inability to act for any reason, the Mayor shall have the power, with the consent of the Village Board, to designate a person to act on behalf of the Village Building Inspector and to exercise any or all of the powers conferred upon him or her by this Chapter. Without in any way limiting the foregoing, the Village Board may by resolution designate the Village Clerk or any other Village Official to execute, issue and deliver any and all orders, instruments, certificates or other official documents of any type or nature contemplated hereunder to be executed, issued or delivered by the Village Building Inspector, including, without limitation, Certificates of Occupancy, Certificates of Completion, building permits, orders to remedy, stop work orders and appearance tickets. The Village Board may authorize joint execution by the Village Building Inspector and any other person or entity, including the Village Clerk or other village official, in which case execution by one or the other shall be deemed sufficient for all purposes.

C. The Mayor, with the approval of the Village Board, may appoint one or more Inspectors to act under the supervision and direction of the Village Building Inspector and to exercise any portion of the powers and duties of the Village Building Inspector as directed by him or her. 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 State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

D. The compensation for the Village Building Inspector, acting Village Building Inspector and inspectors shall be fixed and adjusted as needed by the Village Board.

The Village Building Inspector 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 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 and Operating Permits, and to include in Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates and Operating Permits such terms and conditions as the Village Building Inspector may determine to be appropriate;

(3) to conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy, Certificates of Compliance, Temporary Certificates 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 §78-15 (Violations) of this Chapter;

(7) to maintain records;

(8) to collect fees as set by the Village Board;

(9) to pursue administrative enforcement actions and proceedings;

(10) in consultation with the Village 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 Village Building Inspector by this Chapter.

§ 78-3. Building Permits Required.

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 Building Inspector.

B. Exceptions. No Building Permit shall be required for work in any of the following categories:

- (1) installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (2) installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
- (3) construction of temporary motion picture, television and theater stage sets and scenery;
- (4) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (5) installation of partitions or movable cases less than 5'-9" in height;
- (6) painting, wallpapering, tiling, carpeting, or other similar finish work;
- (7) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
- (8) replacement of any equipment or appliance provided the replacement does not alter the equipment's or appliance's listing or render it inconsistent with the equipment's or appliance's original specifications; or
- (9) repairs, provided that such repairs do not involve (i) the removal or cutting away of a loadbearing wall, partition, or portion thereof, or of any structural beam or load bearing component; (ii) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress; (iii) the enlargement, alteration, replacement or relocation of any building system; or (iv) the removal from service of all or part of a 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.

§ 78-4. Application for building permit.

A. The application for a building permit, and its accompanying documents, shall contain sufficient information to permit a determination that the intended work accords with the requirements of the Uniform Code and the Energy Code and the Village Zoning Code.

B. The form of the permit and application therefor shall be prescribed by the Village Building Inspector. The application shall be signed by the owner (or his or her authorized agent) of the premises and shall contain at least the following:

- (1) Full name and address of the owner and if by a corporation or other legal entity, the name and addresses of its authorized officers;
- (2) Identification and/or description of the premises on which the work is to be done, including the tax map number and the street address;
- (3) The occupancy classification of any affected building or structure;
- (4) Description of the proposed work;
- (5) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code;
- (6) At least 2 sets of construction documents (drawings and/or specifications) which (i) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines; and
- (7) The required fee.

C. Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (6) of subdivision (B) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Village Building Inspector in writing or by stamp. One set of the accepted construction documents shall be retained by the Village Building Inspector, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

D. Changes. The applicant shall notify the Village Building Inspector of any changes in the information contained in the application during the period for which the permit is in effect. A permit will be issued when the application has been determined to be complete and when the proposed work has been determined to conform to the requirements of the Uniform Code. The authority conferred by such permit may be limited by conditions, if any, contained therein. Amendments, if any, to the application or to the plans and specifications accompanying the same shall be filed with the Village Building Inspector, and approval shall be received from the Village Building Inspector prior to the commencement of such change of work.

E. Issuance of Building Permits. An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code, the Energy Code and this Chapter. The Village Building Inspector shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code, the Energy Code and this Chapter.

F. Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Village Building Inspector of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Village Building Inspector determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.

G. Time limits. Building Permits shall become invalid unless the authorized work is commenced within six months following the date of issuance. Building Permits shall expire twelve months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Village Building Inspector.

H. Revocation or suspension of Building Permits. If the Village Building Inspector determines that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code or the Village Code, or that the work to which it pertains is not proceeding in conformance with the Uniform Code or the Energy Code or the Village Code or with any condition attached to such permit, then the Village Building Inspector shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code, the Energy Code and the Village Code, and (2) all work then proposed to be performed shall be in compliance with all applicable

provisions of the Uniform Code, the Energy Code and the Village Code.

I. Fee. The fee specified in or determined in accordance with the provisions set forth in §78-6 (Fees) of this Chapter must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

§ 78-5. General permit requirements.

A. A building permit issued pursuant to this Chapter shall be prominently displayed on the property or premises to which it pertains and shall remain visible until the authorized work has been completed.

B. Each building permit issued pursuant to this Chapter shall become invalid unless the authorized work is commenced within six months following the date of issuance. A building permit issued pursuant to this Chapter shall expire one year from the date of issuance or upon the issuance of a certificate of occupancy (other than a temporary certificate of occupancy), whichever occurs first. The permit may, upon written application for renewal, be renewed for successive one-year periods, provided:

- (1) The permit has not been revoked or suspended at the time the application for renewal is made;
- (2) The approval of the application for renewal is granted by the Village Building Inspector;
- (3) The relevant information in the application is up-to-date; and
- (4) The renewal fee is paid.

§ 78-6. Fees.

A. A schedule of fees applicable to all applications, inspections and other actions made under this Chapter shall be established, and changed as needed, by resolution adopted by the Village Board. Such fees may be charged for the submission of applications, issuance of Building Permits, Certificates of Occupancy, Certificates of Compliance, amended Building Permits, renewed Building Permits, Temporary Certificates and for fire safety and property maintenance, inspections and other actions of the Village Building Inspector described in or contemplated by this Chapter.

§ 78-7. Certificates of Occupancy and Certificates of Compliance.

A. Certificates of Occupancy and Certificates of Compliance required. A Certificate of Occupancy 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 and Certificate of Occupancy was previously issued shall be granted only by issuance of a Certificate of Compliance. Any other work for which a Certificate of Occupancy is not required must obtain a Certificate of Compliance.

B. Issuance of Certificates of Occupancy and Certificates of Compliance. The Village Building Inspector 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, the Energy Code and the Village 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, the Energy Code and the Village Code. The Village Building Inspector or an Inspector authorized by the Village Building Inspector 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 Village Building Inspector, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance, shall be provided to the Village Building Inspector 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, and
- (2) flood hazard certifications.

C. Contents of Certificates of Occupancy and Certificates of Compliance. Each Certificate of Occupancy and Certificate of Compliance shall contain the following information:

- (1) the Building Permit number, if any and of any extensions or renewals thereof;
- (2) the date of issuance of the Building Permit, if any, and of any extensions or renewals thereof;
- (3) the name, 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 assembly occupant load of the structure, if any;
- (8) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
- (9) any special conditions imposed in connection with the issuance of the Building Permit; and
- (10) the signature of the Village Building Inspector issuing the Certificate of Occupancy or Certificate of Compliance and the date of issuance.

D. Temporary Certificate. The Village Building Inspector shall be permitted to issue a Temporary Certificate 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 Village Building Inspector issue a Temporary Certificate unless the Village Building Inspector determines that (1) the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely, (2) any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and (3) all required means of egress from the building or structure have been provided. The Village Building Inspector may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed six months, which shall be determined by the Village Building Inspector and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, 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 Village Building Inspector determines that a Certificate of Occupancy or Certificate of Compliance or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Village Building Inspector within such period of time as shall be specified by the Village

Building Inspector, the Village Building Inspector shall revoke or suspend such certificate.

F. Fee. The fee specified in or determined in accordance with the provisions set forth in §78-6 (Fees) of this Chapter must be paid at the time of submission of an application for a Certificate of Occupancy or Certificate of Compliance or Temporary Certificate.

§78-8. Notification Regarding Fire or Explosion.

The chief of any fire department providing fire fighting services for a property within the Village shall promptly notify the Village Building Inspector of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

§ 78-9. Inspections.

A. Inspections during construction.

(1) Work for which a building permit has been issued hereunder shall be inspected by the Village Building Inspector for approval prior to enclosing or covering any portion thereof and upon completion of each stage of construction, including, but not limited to, building location, site preparation, excavation, foundation, framing, superstructure, electrical, plumbing, and heating and air conditioning. It shall be the responsibility of the owner, applicant, or his or her agent to inform the Village Building Inspector that the work is ready for inspection and to schedule such inspection.

(2) It shall be the responsibility of the owner, applicant, or his or her agent to provide a list, at his or her expense, of all work which requires special inspections during construction. A statement of the special inspections, including a complete list of materials and work requiring such inspections, and a list of the individuals and approved agencies to conduct such special inspections shall be provided to the Village Building Inspector or his or her designee for the permit application file. The reports of such special inspections shall be provided to the Village Building Inspector or his or her designee for the Village's records.

(3) If the Village Building Inspector is denied access or entrance to make an inspection for any reason, the Village Board, after being notified by the Village Building Inspector of the situation, may apply to any court of competent jurisdiction for an order authorizing the Village Building Inspector to make such 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) building systems, including underground and rough-in;
- (6) fire resistant construction;
- (7) fire resistant penetrations;
- (8) solid fuel burning heating appliances, chimneys, flues or gas vents;
- (9) Energy Code compliance; and
- (10) a final inspection after all work authorized by the Building Permit has been completed.

C. Inspection results. After inspection, the Village Building Inspector shall confirm in writing that the work or a portion thereof is satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code or the Energy Code. Work not in compliance with any applicable provision of the Uniform Code or the 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.

D. Fire prevention and property maintenance inspections.

(1) Multiple dwellings shall be inspected for the purpose of determining compliance with fire prevention and property maintenance requirements of the Uniform Code at least once every 36 months. Inspections of such buildings shall include the common areas such as halls, foyers, staircases, etc. and vacant dwelling units. Where the tenants of occupied dwelling units allow, the inspection may include such units.

(2) Fire safety and property maintenance inspections of buildings or structures having areas of public assembly, defined as "all buildings or portions of buildings used for gathering together 50 or more persons for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social, or similar purposes, the entire fire area of which they are a part, and the means of egress

therefrom" and of dormitories shall be performed at least once every 12 months.

(3) All other buildings, uses and occupancies (except one- or two-family dwellings) shall be inspected at least once every 24 months.

(4) An inspection of a building or dwelling unit may also be performed at any other time upon:

(a) The request of the owner, authorized agent, or tenant;

(b) Receipt of a written statement alleging that conditions or activities failing to comply with the Uniform Code and Energy Code exists; or

(c) Other information received by the Village Building Inspector, reasonably believed by the Village Building Inspector to be reliable, providing reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or the 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.

E. 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 under New York State Executive Law section 156-e and New York State Education Law section 807-b.

F. Fee. The fee specified in or determined in accordance with the provisions set forth in §78-6 (Fees) of this Chapter must be paid prior to or at the time of each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

§ 78-10. Stop-work orders.

A. Authority to issue. The Village Building Inspector is authorized to issue Stop Work Orders pursuant to this section. The Village Building Inspector shall issue a Stop Work Order to halt:

(1) any work that is determined by the Village Building Inspector 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 Village Building Inspector, 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 Village Building Inspector, (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 Village Building Inspector 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 Village Building Inspector 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.

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 §78-15 (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.

§78-11. Operating Permits.

A. Operating Permits required. Operating Permits shall be required for conducting the activities or using the categories of buildings listed below:

(1) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled “Fire Code of New York State” and incorporated by reference in 19 NYCRR section 1225.1;

(2) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;

(3) use of pyrotechnic devices in assembly occupancies;

(4) buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and

(5) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Village Board.

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 Village Building Inspector. Such application shall include such information as the Village Building Inspector deems sufficient to permit a determination by the Village Building Inspector that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Village Building Inspector 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 Village Building Inspector, at the expense of the applicant.

C. Inspections. The Village Building Inspector or an Inspector authorized by the Village Building Inspector shall inspect the subject premises prior to the issuance of an Operating Permit.

D. 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 Village Building Inspector may require a separate Operating Permit for each such activity, or the Village

Building Inspector may, in his or her discretion, issue a single Operating Permit to apply to all such activities.

E. Duration of Operating Permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any Operating Permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Village Building Inspector to be consistent with local conditions. 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 Village Building Inspector, payment of the applicable fee, and approval of such application by the Village Building Inspector.

F. Revocation or Suspension of Operating Permits. If the Village Building Inspector 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.

G. Fee. The fee specified in or determined in accordance with the provisions set forth in §78-6 (Fees) of this Chapter must be paid at the time of submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

§ 78-12. Complaints.

A. The Village Building Inspector 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 other local law 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 Village Building Inspector may deem to be appropriate:

- (1) performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- (2) 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 §78-15 (Violations) of this Chapter;
- (3) if appropriate, issuing a Stop Work Order;
- (4) 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.

§78-13. Record Keeping.

A. The Village Building Inspector 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 other features and activities specified in or contemplated by the Village Code or local law; and
- (9) all fees charged and collected.

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.

§78-14 Program Review and Reporting

A. The Village Building Inspector shall annually submit to the Village Board a written report and summary of all business conducted by the Village Building Inspector and the Inspectors, including a report and summary of all transactions and activities described in §78-13 (Record Keeping) of this Chapter and a report and summary of all appeals or litigation pending or concluded.

B. The Village Building Inspector 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 Village Building Inspector shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Village is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of the Village in connection with administration and enforcement of the Uniform Code.

§78-15 Violations.

A. Compliance Orders. The Village Building Inspector is authorized to order in writing the remedying of any condition or activity found to exist in, on, under or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this Chapter. Upon finding that any such condition or activity exists, the Village Building Inspector shall issue a Compliance Order. The Compliance Order shall (1) be in writing; (2) be dated and signed by the Village Building Inspector; (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this Chapter; (4) 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; (5) specify the period of time which the Village Building Inspector deems to be reasonably necessary for achieving compliance; (6) direct that compliance be achieved within the specified period of time; and (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Village Building Inspector shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by certified mail. The Village Building Inspector shall be permitted, but not required, to cause the Compliance 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 being performed at the affected property personally or by certified mail; 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 Village Building Inspector and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

C. Civil Penalties. In addition to those penalties proscribed by State law, 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 Village Building Inspector pursuant to any provision of this Chapter, shall be liable to 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 subdivision shall be recoverable in an action instituted in the name of the Village.

D. Injunctive Relief. An action or proceeding may be instituted in the name of the 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, Compliance Order, or other notice or order issued by the Village Building Inspector 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, Compliance Order 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 the 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.

E. Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty 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 §78-10 (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 §78-10 (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 381 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 381 of the Executive Law.

§78-16. Intermunicipal Agreements.

The Village Board may, by resolution, authorize the Mayor of the Village to enter into an agreement, in the name of the 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.

§78-17 Partial Invalidity.

If any section of this Chapter shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder of this Chapter.”

Section 3. Effective Date. This local law shall take effect immediately.

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