

**LOCAL LAW NO. 3 OF 2023
COUNTY OF OTSEGO, NEW YORK**

**A LOCAL LAW AMENDING LOCAL LAW NO. 1 OF 2011 -
PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT
OF THE NEW YORK STATE UNIFORM FIRE PREVENTION AND
BUILDING CONSTRUCTION CODE**

BE IT ENACTED, by the Board of Representatives of The County of Otsego as follows:

SECTION 1. PURPOSE AND INTENT

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 Otsego County for those municipalities that have opted out. 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 of this local law.

SECTION 2. DEFINITIONS

In this local law the following terms shall have the meanings shown in this section:

"Addition" shall mean the extension or increase in area, height or equipment of a building.

"Alteration" shall mean any change, rearrangement or addition to a

building other than repairs, or any modification in construction or in building equipment.

"Assembly Area" shall mean an area in any building, or in any portion of a building, that is primarily used or intended to be used for gathering fifty or more persons for uses including, but not limited to, amusement, athletic, entertainment, social, or other recreational functions; patriotic, political, civic, educational, or religious functions; food or drink consumption; awaiting transportation; or similar purposes.

"Building Permit" shall mean a building permit, construction permit, demolition permit, or other permit that authorizes the performance of work. The term "Building Permit" shall also include a Building Permit which is renewed, amended, or extended pursuant to any provision of this local law.

"Building System" shall mean a principal building component integral to occupancy, including but not limited to, electric, plumbing, heating, cooking and fire protection.

"Certificate of Compliance" shall mean a document issued by the County stating that work was done in compliance with approved construction documents and the Codes.

"Certificate of Occupancy" shall mean a document issued by the County certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and

approved by the County and indicating that the building or structure, or portion thereof, is in a condition suitable for occupancy.

"Code Enforcement Officer" shall mean the Code Enforcement Officer appointed pursuant to subdivision (b) of Section 3 of this local law.

"Code Enforcement Personnel" shall include the Code Enforcement Officer and all Inspectors.

"Code Office" shall mean the Otsego County Code Enforcement Office.

"Codes" shall mean the Uniform Code and Energy Code.

"Conversion" shall mean a change of use or occupancy of any structure.

"County" shall mean Otsego County.

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

"Equipment" shall mean those devices for which proper intended use and installation can safely allow occupancy of a building or structure including, but not limited to, lights, air conditioners, heaters and fire suppression devices.

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

"Fire Safety Certificate" shall mean a certificate issued pursuant to Section 11 of this local law. The term "Fire Safety Certificate" shall also include a Fire Safety Certificate which is renewed, amended or extended pursuant to any provision of this local law.

"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 there in 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 local law.

"Mobile Food Preparation Vehicles" shall mean vehicles that contain cooking equipment that produce 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.

"Multiple Dwelling" shall mean a structure that contains three or more permanent dwelling units.

"Operating Permit" shall mean a permit issued pursuant to Section 10 of this

local law. The term "Operating Permit" shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this local law.

"Order to Remedy" shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of Section 17 of this local law.

"Permit Holder" shall mean the Person to whom a Building Permit or Operating 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 Property Maintenance Code of New York State as currently incorporated by reference in 19 NYCRR Part 1226.

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

"Public Assembly" shall mean an occupancy which includes, among others, the use of a building or structure, or a portion thereof, for the gathering together of persons for purposes such as civic, social or religious functions, recreation, food or drink consumption or awaiting transportation. A room or space used for assembly purposes by less than 50 persons and accessory to another occupancy shall be included as part of that occupancy.

"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.

"Residential Rental" shall mean a dwelling in which rooms, with or without board, are offered for rent. Rooming houses, dwellings rented out on a transient basis, dwellings rented for single-room occupancy and bed-and-breakfast dwellings are included in this definition. For purposes of this definition, "transient basis" shall mean the leasing of rooms or a portion of a dwelling to individuals for a term of less than three months, or where the tenant does not move his or her furniture, possessions and belongings into the dwelling with the intention of making it the tenant's official residence.

"Stop Work Order" shall mean an order issued pursuant to Section 6 of this local law.

"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 local law.

"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.

SECTION 3. CODE ENFORCEMENT OFFICER AND INSPECTORS

The Code Enforcement Officer shall administer and enforce all the

provisions of the Uniform Code, the Energy Code and this local law. The Code Enforcement Officer shall also serve as the Fire Marshal of Otsego County. The Code Enforcement Officer shall be considered an official of the County of Otsego and shall supervise the County Code Enforcement Office.

(a) 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 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 local law;

(4) to issue Stop Work Orders;

(5) to review and investigate complaints;

(6) to issue orders pursuant to subdivisions (a) of Section 17 (VIOLATIONS) of this local law;

(7) to maintain records;

(8) to collect fees as set by the Board of Representatives of this County;

(9) to pursue administrative enforcement actions and proceedings;

(10) in consultation with the Otsego County Attorney or Code Enforcement Attorney or Otsego County District Attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this local law; and

(11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.

(b) The Code Enforcement Officer shall be appointed by Board of Representatives of Otsego County. 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) One Deputy Code Enforcement Officer and one or more Inspectors may be appointed by the Code Enforcement Officer 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 local law. 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 there under.

(d) In the event that the Code Enforcement Officer or their Deputy is unable to serve as such for any reason, an individual shall be appointed by Board of Representatives of Otsego County to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the

term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.

(e) The compensation for the Code Enforcement Officer, Deputy Code Enforcement Officer and Inspectors shall be fixed from time to time by the Board of Representatives of Otsego County.

SECTION 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; the installation or replacement of any part of a septic system; the extension of an existing electrical system or the installation of any new electrical circuits; the installation, alteration or maintenance of fire protection equipment; and the installation of a solid fuel, combustible liquid, or gas 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 Code Enforcement Officer. Obtaining required permits shall be the sole responsibility of the General or Primary Contractor, or the Property Owner, only if the property owner is or acting as the General or Primary Contractor. Compliance with local Zoning and Land Use laws and

regulations shall be required prior to the issuance of any Building Permit.

(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 (13.88 square meters);

(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.

(d) Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

(1) a description of the location, nature, extent, and scope of proposed work;

(2) the tax map number and the street address of the

premises where the work is to be performed or any affected building or structure;

(3) the occupancy classification of any affected building or structure;

(4) where applicable, a statement of special inspections/certifications prepared in accordance with the provisions of the Uniform Code, including but not limited to the following:

a. proof of certification of installers of manufactured homes;

b. all heating equipment to be listed and labeled by UL or other certified testing laboratory and installed according to manufacturer's instructions;

c. electrical inspections from third party inspectors certified in the County.

(5) at least two (2) sets of construction documents (drawings and/or specifications) which shall be included if applicable, (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

(6) where applicable, evidence by contractors of Worker's Compensation Insurance and NYS Disability and Paid Family Leave Benefits Insurance or that an exemption of such insurance is on file in the Code Office.

(e) 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 (5) of subdivision (d) of this section. Construction documents, which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp or in the case of electronic media, an electronic marking. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, 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.

(f) 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 and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

(g) Grace period for emergency work. All heating and septic permits have a five working day grace period for emergency work. A permit application must be filed with the Code Enforcement Officer within five working days of the date of installation and a final inspection must be conducted. Verbal notification shall be made to the Code Office by phone, in person, or by phone message prior to installation.

(h) Permits not issued where code violations exist. No Building Permit shall be issued where the subject property has an existing Uniform Code or Energy Code violation unless such Building Permit is a means to correct the existing violation.

(i) Building Permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

(j) Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were 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 Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer 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.

(k) Time limits. Building Permits shall become invalid unless the authorized work is commenced within six (6) months following the date of issuance. Building Permits shall expire twelve (12) 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 Code Enforcement Officer.

(l) Use Period for Tents, Membrane Structures and Canopies. Temporary tents, air-supported, air-inflated or tensioned membrane structures and canopies shall be used for a period of not more than 180 days within a 12 month period on a single premise.

(m) Revocation or suspension of Building Permits. If the Code Enforcement Officer 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, the Code Enforcement Officer 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 and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

(n) Fee. The fee specified in or determined in accordance with the provisions set forth in Section 18 (FEES) of this local law 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.

SECTION 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.

(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 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, re-inspected, 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 local law must be paid prior to or at the time of each inspection performed pursuant to this section.

SECTION 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 registered mail / 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 registered mail / 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 local law 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 7. CERTIFICATES OF OCCUPANCY / CERTIFICATES OF COMPLIANCE

(a) Certificates of Occupancy / Certificates of Compliance required. A Certificate of Occupancy / 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 sub classification 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 / Certificate of Compliance.

(b) Issuance of Certificates of Occupancy / Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy / 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 sub classification 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 / 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 / Certificate of Compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy / Certificate of Compliance:

(1) a written statement of structural observations and/or a final report of special inspections, and

(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 Certificate of Occupancy / Certificate of Compliance. A Certificate of Occupancy / 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, address and tax map number of the property;

(4) if the Certificate of Occupancy / Certificate of

Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy / 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 / Certificate of Compliance and/or an embossed seal of the Code Enforcement Office 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 fire- and smoke-detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from

the building or 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 six (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 / Certificate 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 local law must be paid at the

time of submission of an application for a Certificate of Occupancy / Certificate of Compliance or for Temporary Certificate.

SECTION 8. NOTIFICATION REGARDING FIRE OR EXPLOSION.

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

SECTION 9. UNSAFE BUILDINGS, STRUCTURES, AND EQUIPMENT AND CONDITIONS OR IMMINENT DANGER

(a) Identification and Subsequent Action. Unsafe buildings, structures and equipment in this County shall be identified and addressed in accordance with the following procedures:

(1) The Code Enforcement Officer shall have the authority to declare buildings and structures and equipment unsafe, and/or unfit for human occupancy, or a threat to public health and safety in accordance with the New York State Fire Code, Property Maintenance Code and other sections of the Uniform Code. The Code Enforcement Officer shall also have the authority to condemn said buildings, structures and equipment.

(2) The Code Enforcement Officer shall have the authority to order immediate remedy or repairs, or the immediate evacuation when in their judgment the building, structure or equipment is an immediate threat to human life, safety or health.

(3) The Code Enforcement Officer shall have the authority to order the immediate demolition or remedy of buildings, structures or equipment that have suffered severe structural damage due to fire, flood, collision, decay, collapse or partial collapse, or physical damage that has rendered that building or structure an immediate threat of collapse or threat to life or public safety.

(4) The Code Enforcement Officer shall have the authority to seek demolition of condemned buildings and structures that are a public nuisance and a threat to public health or safety but are not an immediate danger of collapse or life safety.

(5) The Code Enforcement Officer shall commence appropriate legal action such as cooperative measures with the building, structure or equipment owner or through appropriate legal action.

(6) The Code Enforcement Officer shall have the authority to order an evaluation and/or inspection of a building, structure or equipment or portion thereof suspected of being unsafe or not in compliance of the Uniform Code. This evaluation or inspection shall be made by a qualified person such as an engineer, architect, electrical inspector, equipment technician or other qualified person to assist the Code Enforcement Officer in their determination. The Code Enforcement Officer shall have the authority to hire the same as listed above.

(b) Notice and Opportunity to be Heard. Upon identifying an unsafe

building, structure and/or unsafe equipment pursuant to subdivision (a) of this section, the Code Enforcement Officer shall:

(1) Notify personally or in writing the owner or some one of the owner's executors, legal representatives, agents, lessees or another person having a vested or contingent interest in the property, by certified and first class mail or in person, addressed to the last known address, if any, of the owner or some one of the owner's executors, legal representatives, agents, lessees or other person having a vested or contingent interest in the same, as shown by the records of the Assessor or in the office of the County Clerk, of such determination. The notice shall contain the following statements as applicable:

a. The owner must vacate or repair or demolish said building or structure in accordance with the terms of the notice and this Section.

b. The occupant or lessee must vacate said building or structure or may have it repaired in accordance with the notice and remain in possession.

c. Any mortgagee, agent or other persons having an interest in said building may at his own risk repair, vacate or demolish said building or structure or have such work or act done, provided that any person notified under this subsection to repair, vacate or demolish any building shall be given such reasonable time, not exceeding 30 days, as

may be necessary to do, or have done, the work or act required by the notice provided for herein.

d. The Code Enforcement Officer shall set forth in the above notice a description of the building or structure and/or equipment deemed unsafe, a statement of the particulars which make the building or structure and/or equipment unsafe, and a directive requiring the same to be put in such condition as to comply with the terms of this Local Law within such length of time, not exceeding 30 days, as is reasonable.

e. The right of the owner or some one of the owner's executors, legal representatives, agents, lessees or another person having a vested or contingent interest in the property to present, before the Public Safety and Legal Affairs Committee, reasons why they believe that the code enforcement official's proposed action should not be taken; notice of the time within which they must request a hearing; and, the manner in which they must make that request.

(2) Place a notice at each entrance of all unsafe buildings or structures reading as follows: "THIS STRUCTURE IS UNSAFE AND ITS OCCUPANCY HAS BEEN PROHIBITED BY THE COUNTY OF OTSEGO CODE ENFORCEMENT OFFICER. This notice is to remain on this building until it is repaired, vacated or demolished in accordance with the notice which has been given the owner, or some one of the owner's executors, legal representatives, agents, lessees or another person having a vested or

contingent interest in the property, by registered mail, addressed to the last known address, if any, of the owner or some one of the owner's executors, legal representatives, agents, lessees or other person having vested or contingent interest in the same, as shown by the records of the Assessor or in the office of the County Clerk, of any building found by me to be an unsafe building within the standards set forth in this local law and/or any other applicable statute or regulation. It is unlawful to remove this notice until such notice is complied with."

(c) Duties of the Otsego County Public Safety and Legal Affairs Committee: When a hearing has been requested to review the actions of the Code Enforcement Officer, the Public Safety and Legal Affairs Committee shall:

(1) Hold a hearing and hear such testimony as the Code Enforcement Officer or the owner, or some one of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the property as shown by the records of the Assessor or in the office of the County Clerk shall offer relative to the unsafe building.

(2) Make written findings of fact from the testimony offered pursuant to this section as to whether or not the building in question is an unsafe building within the terms hereof.

(3) Issue an order based upon findings of fact made

pursuant to this Section commanding the owner, or some one of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the property as shown by the records of the Assessor or in the office of the County Clerk, to repair, vacate or demolish any building found to be an unsafe building within the terms of this chapter, and provided that any person so notified, except the owners, shall have the privilege of either vacating or repairing said unsafe building; or any person not the owner of said unsafe building but having an interest in said building may demolish said unsafe building at his own risk to prevent the acquiring of a lien against the land upon which said unsafe building stands by in the County as provided herein.

SECTION 10. OPERATING PERMITS

(a) Operating Permits required. Operating Permits shall be required for conducting any 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 by products 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

(xiii)Section 319, "Mobile Food Preparation Vehicles." Operating a mobile food preparation vehicle in accordance with FCNYS.

- (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 in 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 local law;
- (8) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Otsego County Board of Representatives, and
- (9) other processes or activities or for operating any type of building, structure, or facility as determined by resolution adopted by Otsego County Board of Representatives.

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. Such Operating Permit shall be posted in plain sight, within 10 feet of the main entrance of the building for which it was issued.

(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 purposes or activities, or the buildings, structures, or facilities listed in the 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 local law, and condition assessments are preformed in compliance with section 13 (Condition Assessments of Parking Garages) of this local law, 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 County 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 his or her 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 for tents, special event structures, and other membrane structures;

(2) 60 days for alternative activities at a sugar house;

(3) Three (3) years for the activities, structure, and operations determined per paragraph (9) of subdivision of the section, and

(4) One (1) 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.

(e) 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.

(f) Fee. The fee specified in or determined in accordance with the provisions set forth in Section 18 (FEES) of this local law 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.

SECTION 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) for buildings or structures which contain an area of public assembly - to be performed at least once every twelve (12) months;

(2) for public and private schools and colleges, including any buildings of such school or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining, or recreational facilities- to be performed at least once every twelve (12) months;

(3) for all multiple dwellings and all nonresidential occupancies - to be performed at least once every three years or as

determined by the Code Enforcement Officer;

(4) for all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision - to be performed at least once every three years or as determined by the Code Enforcement Officer; and

(5) for residential rentals - to be performed at least once every twelve (12) months. Fire safety certificates for such required inspections will be issued only for properties that are in conformance with the current Otsego County Occupancy Tax Local Law.

Certificates issued for such inspections shall be posted in plain sight within ten (10) feet of the main entrance of the building or structure for which it was issued.

(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 provision of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provision 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 designated by the Code Enforcement Officer 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 local law 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 Executive Law Section 156-e and Education Law Section 807-b.

Notwithstanding any other provision of this section to the contrary, the Code Enforcement Officer may accept an inspection performed by the Office of Fire Prevention and Control or other authorized entity pursuant to sections 807-a and 807-b of the Education Law and/or section 156-e of the Executive Law in lieu of a fire safety and property maintenance inspection performed by the Code Enforcement officer or by an Inspector, provided that:

1. The Code Enforcement Officer is satisfied that the individual performing such inspection satisfies the requirements set forth in 19 NYCRR section 1203.2(e);
2. The Code Enforcement Officer is satisfied that such inspection covers all elements required to be covered by a fire safety and property maintenance inspection;
3. Such inspections are performed no less frequently than once a year;
4. A true and complete copy of the report of each such

inspection is provided to the Code Enforcement Officer;
and

5. Upon receipt of each such report, the Code Enforcement Officer takes the appropriate action prescribed by section 17 (Violations) of this local law.

(e) Fee. The fee specified in or determined in accordance with the provisions set forth in Section 18 (FEES) of this local law 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 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 local law, 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 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 local law;

(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 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:

a. buildings in which the only level used for parking or storage of motor vehicles is on grade;

b. an attached or accessory structure providing parking exclusively for a detached one or two-family dwelling;
and

c. 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 County, 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:

- a. if originally constructed prior to January 1, 1984, then prior to October 1, 2019;
- b. if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and
- c. 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 August 1, 2023.

(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 three (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 County shall require the owner or operator of such parking garage to 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 County becomes aware of any new or increased deterioration which, in the judgment of the County, 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 County shall require the owner or operator of such parking garage to 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 County 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 County within thirty (30) 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 his or her professional judgment.

(g) Review Condition Assessment Reports. The County 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 County shall, by Order to Remedy or such other means of enforcement as the County 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 County 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 County 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 County with a written statement attesting to the fact that he or she has been so engaged, the County shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The County 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 County:

(1) to perform such construction inspections as are required by Section 5 (CONSTRUCTION INSPECTIONS) of this local law;

(2) to perform such periodic fire safety and property maintenance inspections as are required by Section 11 (FIRE SAFETY) of this local law; 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 County 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 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 County 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 Flood way 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 15. RECORD KEEPING

(a) Permanent Records. 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 other features and activities specified in or contemplated by Sections 4 through 14, inclusive, of this local law; and

(10) all fees charged and collected.

(b) Records are Public. 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 16. PROGRAM REVIEW AND REPORTING

(a) Monthly Reports. The Code Enforcement Officer shall submit monthly to the Public Safety Committee of this County 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 15 (RECORD KEEPING) of this local law and a report and summary of all appeals or litigation pending or concluded.

(b) Annual Reports. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this County on a form prescribed by the Secretary of State, a report of the activities of this County relative to administration and enforcement of the Uniform Code.

(c) Other Data to be Provided to the State. The Code Enforcement

Officer shall, provide to the New York State Department of State, true and complete copies of the records and related materials this County 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 the administration and enforcement of the Uniform Code and/or Energy Code as may be requested by the Department of State.

SECTION 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 local law. 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 local law; shall specify the provision or provisions of the Uniform Code, the Energy Code, or this local law 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 local law or by any other applicable statute, regulation, rule, local law or ordinance, and which 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 / certified mail within five (5) days of the date of the order. 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 / 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.

Additionally, an Order to Remedy issued in conjunction with Section 9 (UNSAFE BUILDING AND STRUCTURES) shall notify the owner and any other occupants of the Code Enforcement Officer's intention to post a "do not occupy" notice on the building or structure; and notify the owner/occupant of their right to a hearing before the Parent Committee of the Code Enforcement Office, at a time and place agreeable to both parties, in order to present reasons why the owner/occupant believes that the "do not occupy" action should not be taken.

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

(c) Penalties. In addition to those penalties proscribed by State law,

1. any Person who violates any provision of this local law, 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 local law, shall be liable to a civil

penalty of not more than \$200 per day of violation; and

2. any Person who violates any provision of the Uniform Code, the Energy Code, or this local law, 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 of order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to pay a civil penalty of not more than \$200 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 County.

(d) Injunctive Relief. An action or proceeding may be instituted in the name of this County, 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 local law, 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 local law. 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 local law, or any Stop Work Order, Order to Remedy or other order obtained under the Uniform Code, the Energy Code or this local law, an

action or proceeding may be commenced in the name of this County, 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 Parent Committee of the Code Enforcement Office.

(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 local law, in any other section of this local law, 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 local law, in any other section of this local law, 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.

(f) Due process. Nothing in this local law, or in the Uniform Code, or in any regulation promulgated pursuant to subdivision (1) of Section 382 of the Executive Law, shall be construed as authorizing those responsible for administration and enforcement of the Uniform Code to do so in a manner that deprives any person or entity of due process of law. In particular, but not by way of limitation, nothing in Section 9 (UNSAFE BUILDING AND STRUCTURES) relating to posting, placarding and/or condemnation of buildings or structures that are unsafe, unfit for human occupancy or unlawful shall be construed as authorizing the Code Enforcement Office to post, placard or condemn any such building or structure and/or to remove any owner or occupant or cause any owner or occupant to be removed from any such building or structure without providing such notice and opportunity to be heard (and, if applicable, right of appeal) as may be required under the applicable circumstances by applicable Constitutional provisions. In cases of imminent danger, posting, placarding, and condemning a building or structure and removing owners and occupants or causing owners and occupants to be removed without first providing an opportunity to be heard shall be permitted to the extent consistent with applicable Constitutional provisions, provided that the affected persons and entities are afforded the opportunity for a post-action hearing to the

extent required by applicable Constitutional provisions.

SECTION 18. FEES

A fee schedule shall be established by resolution of the Board of Representatives of this County. 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 local law.

SECTION 19. INTERMUNICIPAL AGREEMENTS

The Board of Representatives of this County may, by resolution, authorize the Code Enforcement Officer of this County to enter into an agreement, in the name of this County with other governments to carry out the terms of this local law, 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 20. PARTIAL INVALIDITY

If any section of this local law 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 local law.

SECTION 21. EFFECTIVE DATE

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

The Local Law is sponsored by the Public Safety and Legal Affairs Committee. Local Law laid over under the Rules.