

## CHAPTER 26

### UNIFORM CODE ENFORCEMENT

#### ARTICLE I GENERAL PROVISIONS

##### ~ 26.1 **Title**

This chapter shall be known and may be cited as the "Uniform Code Enforcement Law of the Village of Avon."

##### ~ 26.2 **Purpose** [Amended 6-15-1998 by L.L. No. 2-1998]

The purpose of this chapter is to provide for enforcement procedures in the Village of the New York State Uniform Fire Prevention and Building Code, hereinafter called the "Uniform Code," the Village of Avon Municipal Code, hereinafter called the "Municipal Code," and the Development Regulations of the Village of Avon as amended, hereinafter called the "Development Regulations."

##### ~ 26.3 **Area of responsibility**

A. The Village is responsible for the administration and enforcement of the Uniform Code, the Municipal Code and the Development Regulations for all private buildings, premises and equipment located within the Village of Avon. [Amended 6-15-1998 by L.L. No. 2-1998]

B. The Village is also responsible for the administration and enforcement of the Uniform Code, the Municipal Code and the Development Regulations with respect to buildings, premises and equipment in the custody of or activities related thereto undertaken by the Village of Avon or any special purpose unit created by or for its benefit, although no building permit or certificate of occupancy shall be required. [Amended 6-15-1998 by L.L. No. 2-1998]

C. The state is responsible for the administration and enforcement of the Uniform Code with respect to buildings, premises and equipment in the custody of or activities related thereto undertaken by a state department, bureau, commission, board or authority.

D. The State Education Department shall likewise administer and enforce the Uniform Code for school districts and boards of cooperative educational services.

E. To the maximum extent practicable, the Village acting under this section shall consult with those other governmental entities providing services, under authority of other laws, to those areas where the authority conferred by this section is exercised.

#### ARTICLE II ENFORCEMENT OFFICER

##### ~ 26.21 **Designation of Enforcement Officer as public official**

A. Zoning Enforcement Officer.

There is hereby designated in the Village of Avon a public official to be known as the Zoning Enforcement Officer who shall be appointed by the Mayor subject to approval by the Board of Trustees including the Mayor at a salary to be fixed by the Board of Trustees.

B. Fire Marshall.

There is hereby designated in the Village of Avon a public official to be known as the Fire Marshall who shall be appointed by the Mayor subject to the approval by the Board of Trustees including the Mayor at a salary to be fixed by the Board of Trustees.

~ 26.22 **Appointment of Deputy Zoning Enforcement Officer**

The Mayor, subject to the approval of the Board of Trustees, including the Mayor may appoint one (1) or more Deputy Zoning Enforcement Officers, as the need may appear, to act under the supervision of the Zoning Enforcement Officer and to exercise any portion of his or her powers or duties.

The compensation of such Deputy Zoning Enforcement Officer shall be fixed by the Board of Trustees.

~ 26.23 **Acting Zoning Enforcement Officer**

In the absence of the Zoning Enforcement Officer, 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 Board of Trustees, to designate a person to act in his or her behalf and to exercise all of the powers conferred upon him or her by this chapter.

~ 26.24 **Restriction on officers and employees**

No officer or employee of the Building Department shall engage in any activity inconsistent with his or her duties or with the interests of the Building Department; nor shall he or she, during the term of his or her office or employment, be engaged directly or indirectly in any building business, in the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building or the preparation of plans or specifications thereof with the Village of Avon excepting only that this provision shall not prohibit any officer or employee from such activities in connection with the construction of a building or structure owned by him or her and not constructed for sale.

~ 26.25 **Duties and powers of Zoning Enforcement Officer**

A. Enforce Code and laws. [Amended 6-15-1998 by L.L. No. 2-1998]

Except as otherwise specifically provided by law, the Municipal Code, rule or regulation, or except as herein otherwise provided, the Zoning Enforcement Officer shall administer and enforce all of the provisions of the Uniform Code, except Chapter C, entitled "Fire Prevention Code," the Municipal Code, the Development Regulations and other laws and regulations applicable to the construction, alteration, repair, removal and demolition of buildings and structures, and the installation and use of materials and equipment therein, and the location, use, occupancy and maintenance thereof.

B. Applications and permits. [Amended 6-15-1998 by L.L. No. 2-1998]

He or she shall receive applications and issue permits for the erection, alteration, removal and demolition of buildings or structures or parts thereof and shall examine the premises for which such applications have been

received or such permits have been issued for the purpose of insuring compliance with the Uniform Code, the Municipal Code, the Development Regulations and other laws, rules and regulations governing building construction.

C. Notices and orders. [Amended 6-15-1998 by L.L. No. 2-1998]

He or she shall issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to insure compliance during the entire course of construction with the requirements of the Uniform Code, the Municipal Code, the Development Regulations and applicable rules and regulations. He or she shall make all inspections which are necessary or proper for the carrying out of his or her duties, except that he or she may accept written reports of inspection from the Deputy Zoning Enforcement Officer or other employees of the Building Department or from generally recognized and authoritative service and inspection bureaus, provided the same are certified by a responsible official thereof.

D. Compliance with the Uniform Code. [Amended 6-15-1998 by L.L. No. 2-1998]

Whenever the same may be necessary or appropriate to assure compliance with the provisions of the Uniform Code, the Municipal Code, the Development Regulations and applicable laws, rules or regulations covering building construction, he or she may require the performance of tests in the field by experienced professional persons or by accredited and authoritative testing laboratories or service bureaus or agencies.

E. Appearance tickets.

The Zoning Enforcement Officer is hereby authorized to issue and serve appearance tickets in accordance with Article 150 of the Criminal Procedure Law in the enforcement of this chapter and any other chapters of this Municipal Code in which he or she is designated the Enforcement Officer.

~ 26.26 **Duties and powers of Fire Marshall**

A. Enforcement of Chapter C entitled "Fire Prevention Code" and Subchapter F (Housing Maintenance) other related provisions of the New York State Uniform Fire Prevention and Building Code.

The Fire Marshall shall administer and enforce all of the provisions of Chapter C entitled "Fire Prevention Code" and Subchapter F (Housing Maintenance) and other related provisions of the New York State Uniform Fire Prevention and Building Code.

B. Cooperation with Building Inspector.

The Fire Marshall shall cooperate with the Zoning Enforcement Officer and examine premises, as necessary or appropriate, for the purpose of insuring compliance with Chapter C and Subchapter F of the New York State Uniform Fire Prevention and Building Code.

C. Additional powers and duties.

The Fire Marshall shall have the authority to issue appropriate notices or orders, to make inspections or to require the performance of tests, to issue appearance tickets and to issue stop orders in the same manner as provided in this chapter for the Zoning Enforcement Officer in the exercise of his or her duties under Subdivision A of this section.

D. Records and reports.

The Fire Marshall shall be responsible for keeping permanent official records on all transactions and activities conducted by him or her. All such records shall be public records open to the public during business

hours. The Fire Marshall shall annually submit to the Board of Trustees a written report and summary of all business conducted by him or her.

~ 26.27 **Department records and reports**

A. Records, keep permanent.

The Zoning Enforcement Officer shall keep permanent official records on all transactions and activities conducted by him or her, including all applications received, permits and certificates issued, fees charged and collected, inspection reports, and notices and orders issued. All such records shall be public records open to public inspection during business hours.

B. Summary submitted annually to Board of Trustees.

The Zoning Enforcement Officer shall annually submit to the Board of Trustees a written report and summary of all business conducted by the Zoning Enforcement Officer, including permits and certificates issued, fees collected, orders and notices promulgated, inspections and tests made, and appeals or litigation pending or concluded.

~ 26.28 **Cooperation of other departments**

Each Enforcement Officer may request and shall receive, so far as may be necessary in the discharge of his or her duties, the assistance and cooperation of the Police, Fire and Health Departments or Officers and of all other municipal officials exercising any jurisdiction over the construction, use or occupancy of buildings or other installation of equipment therein.

LOCAL LAW  
# 1 - 2010

**A LOCAL LAW PROVIDING FOR THE  
ADMINISTRATION AND ENFORCEMENT OF THE  
NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE**

Local Law # 1 of 20 10.

Board of Trustees

Be it enacted by the ~~[specify governing body]~~ of the ~~[City/Town/Village]~~ of Avon, in the County of Livingston, 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 this ~~[City/Town/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 of this local law.

**SECTION 2. DEFINITIONS**

In this local law:

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

“Certificate of Occupancy” / “Certificate of Compliance” shall mean a certificate issued pursuant to subdivision (b) of section 7 of this local law.

“Code Enforcement Officer” shall mean the Code Enforcement Officer appointed pursuant to subdivision (b) of section 7 of this local law.

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

"Compliance Order" shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 15 of this local law.

"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 (d) of section 3 of this local law.

"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.

"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 section 6 of this local law.

"Temporary Certificate" 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, as currently in effect and as hereafter amended from time to time.

[ "*Village*" shall mean the Village of Avon. ]

### **SECTION 3. CODE ENFORCEMENT OFFICER AND INSPECTORS**

(a) The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this local law. 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 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 Code Enforcement Officer 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 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 subdivision (a) of section 15 (Violations) of this local law;
- (7) to maintain records;
- (8) to collect fees as set by the Board of Trustees of this [~~City/Town~~ Village];
- (9) to pursue administrative enforcement actions and proceedings;

(10) in consultation with this [~~City/Town~~ Village's] 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 ~~specify method of appointment~~ <sup>the Mayor and confirmed by the Board of Trustees,</sup> 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 State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

(c) In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Mayor 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.

(d) One or more Inspectors may be appointed ~~specify method of appointment~~ <sup>by the Mayor and confirmed by the Board of Trustees</sup> 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 State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

(e) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Board of Trustees of this [~~City/Town~~ Village].

#### 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, 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 Code Enforcement Officer.

(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) installation of swings and other playground equipment associated with a one- or two-family dwelling;

or multiple single-family dwellings (townhouses);

(3) 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;

(4) installation of fences which are not part of an enclosure surrounding a swimming pool;

(5) construction of retaining walls unless such walls support a surcharge or impound Class I, II or III liquids;

(6) construction of temporary motion picture, television and theater stage sets and scenery;

(7) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(8) installation of partitions or movable cases less than 5'-9" in height;

(9) painting, wallpapering, tiling, carpeting, or other similar finish work;

(10) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

(11) 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

(12) 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.

(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 proposed work;

(2) the tax map number and the street address of the premises where the work is to be performed;

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

(4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and

(5) 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; (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.

(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. 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) 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.

(h) 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.

(i) Time limits. Building Permits shall become invalid unless the authorized work is commenced within [6] months following the date of issuance. Building Permits shall expire [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.

(j) 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.

(k) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (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 made, 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 work or a portion thereof shall be noted as satisfactory as completed or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (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 a 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 section 15 (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 subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a [*Certificate of Occupancy / 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 subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a [*Certificate of Occupancy / 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 a [*Certificate of Occupancy / Certificate of Compliance*], shall be provided to the Code Enforcement Officer prior to 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.

(c) Contents of [Certificates of Occupancy / Certificates 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 assembly occupant load of the structure, if any;

required;

(8) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is

(9) any special conditions imposed in connection with the issuance of the Building Permit; and

(10) the signature of the Code Enforcement Officer issuing the [*Certificate of Occupancy / Certificate of Compliance*] and the date of issuance.

(d) Temporary Certificate. The Code Enforcement Officer 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 Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, 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 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 [6] months, which shall be determined by the Code Enforcement Officer 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 Code Enforcement Officer determines that a [*Certificate of Occupancy / 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 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 16 (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 fire fighting services for a property within this [~~City/Town~~ Village] shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

## SECTION 9. UNSAFE BUILDING AND STRUCTURES

*ALTERNATIVE 1*: Unsafe structures and equipment in this [~~City/Town~~ Village] shall be identified and addressed in accordance with the procedures established by Village Code Sec. 33.1, as now in effect or as hereafter amended from time to time.

## SECTION 10. OPERATING PERMITS.

(a) Operation 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 Ta 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 ~~XXXXXX XXXX XXXX XXXX~~ of this ~~XXXXXXX Village~~.  
Board of Trustees

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

(b) Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer at the expense of the applicant.

(c) 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.

(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 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.

~~ALTERNATIVE 1:~~ Duration of Operating Permits. Operating permits shall be issued for such period of time not to exceed ~~one year~~ <sup>six months</sup> 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 Code Enforcement Officer 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 Code Enforcement Officer, payment of the applicable fee and approval of such application by the Code Enforcement Officer.

ALTERNATIVE 2: (e) Duration of Operating Permits. Operating Permits shall remain in effect until reissued, renewed, revoked, or suspended.

(f) 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.

(g) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (Fees) of

this local law must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

## **SECTION 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) Fire safety and property maintenance inspections of buildings or structures which contain an area public assembly shall be performed at least once every twelve (12) months.

(2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.

(3) Fire safety and property maintenance inspections of all multiple dwellings not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision, shall be performed at least once every three years.

(b) 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.

(c) 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.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in section 16 (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 [ *ordinance* ] or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

(a) performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;

(b) if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 15 (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. RECORD KEEPING.

(a) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

(1) all applications received, reviewed and approved or denied;

(2) all plans, specifications and construction documents approved;

(3) all Building Permits, [ *Certificates of Occupancy / Certificates of Compliance* ], Temporary Certificates, Stop Work Orders, and Operating Permits issued;

(4) all inspections and tests performed;

(5) all statements and reports issued;

(6) all complaints received;

(7) all investigations conducted;

(8) all other features and activities specified in or contemplated by sections 4 through 12, inclusive, of this local law, including; 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.

**SECTION 14. PROGRAM REVIEW AND REPORTING**

Board of Trustees

(a) The Code Enforcement Officer shall annually submit to ~~[XXXXXXXXXXXXXXXXXXXX]~~ of this ~~[City/Town/Village]~~ a written report and summary of all business conducted by the Code Enforcement Officer and the Inspector including a report and summary of all transactions and activities described in section 13 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.

(b) The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this ~~[City/Town/Village]~~, on a form prescribed by the Secretary of State, a report of the activities of this ~~[City/Town/Village]~~ relative to administration and enforcement of the Uniform Code.

(c) The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this ~~[City/Town/Village]~~ is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this ~~[City/Town/Village]~~ in connection with administration and enforcement of the Uniform Code.

**SECTION 15: VIOLATIONS**

(a) Compliance Orders. 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. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a Compliance Order. The Compliance Order shall (1) be in writing; (2) be dated and signed by the Code Enforcement Officer; (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; (4) 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; (5) specify the period of time which the Code Enforcement Officer 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 Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by *[registered mail / certified mail]*. The Code Enforcement Officer 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 *[registered mail / 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 Code Enforcement Officer 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 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 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 this ~~[City/Town/Village]~~.

(d) Injunctive Relief. An action or proceeding may be instituted in the name of this ~~City/Town/Village~~ Village], in 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, Compliance Order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of the 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, Compliance Order 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 ~~City/Town/Village~~ 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 Board of Trustees of this ~~City/Town/Village~~ Village].

(e) Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 6 (Stop Work Orders) of this 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 a remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 382 of the Executive Law.

**SECTION 16: FEES**

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

**SECTION 17. INTERMUNICIPAL AGREEMENTS**

The Board of Trustees of this ~~City/Town/Village~~ Village] may, by resolution, authorize the Mayor of this ~~City/Town/Village~~ Village] to enter into an agreement, in the name of this ~~City/Town/Village~~ Village], 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 18. 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 19. 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.

A. Penalties for offenses.

1. Any person convicted of a violation of any of the provisions of Article IV or V of this chapter shall, for a conviction thereof, be punished by a fine of Twenty-Five Dollars (\$25.00); for a second such conviction within eighteen (18) months thereafter, such person shall be punished by a fine of Thirty Dollars (\$30.00); upon a third or subsequent conviction within eighteen (18) months after the first conviction, such person shall be punished by a fine of Forty-Five Dollars (\$45.00).

2. Any person convicted of a violation of any of the provisions of Section 60.63 and 60.64 of this chapter shall, for a conviction thereof, be punished by a fine of Thirty-Five Dollars (\$35.00); for a second such conviction within eighteen (18) months thereafter, such person shall be punished by a fine of Forty-Five Dollars (\$45.00); upon a third or subsequent conviction, such person shall be punished by a fine of Sixty-Five Dollars (\$65.00).

3. Any person convicted of a violation of Sections 60.62, 60.65 or 60.66 of this chapter shall, for a conviction thereof, be punished by a fine of One Hundred Twenty Dollars (\$120.00); for a second such conviction within eighteen (18) months thereafter, such person shall be punished by a fine of One Hundred Seventy Dollars (\$170.00); upon a third or subsequent conviction, such person shall be punished by a fine of Two Hundred Seventy Dollars (\$270.00).

(Continued on attached sheet)

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(If additional space is needed, attach pages the same size as this sheet, and number each.)

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4. Any person convicted of a violation of Section 60.67 of this chapter shall, for a conviction thereof, be punished by a minimum fine of One Hundred Twenty-Five Dollars (\$125.00) and a maximum fine of One Hundred Fifty Dollars (\$150.00); for a second or subsequent conviction within eighteen (18) months thereafter, such person shall be punished by a minimum fine of One Hundred Fifty Dollars (\$150.00) and a maximum fine of Two Hundred Twenty-Five Dollars (\$225.00).

B. Payment of a fine shall constitute a plea of guilty to the specified violation. Unless a person charged appears before the Village Justice Court to answer the charge, the fine shall be doubled if not paid within ten (10) days of the date of issue of the ticket making the charge.

TEXT

WHEREAS, the Chief of Police and the Village Board have received complaints about the speed of vehicles entering Routes 5 and 20 from the municipal parking lot and from Genesee Street, and the existing layouts of those streets present hazards to pedestrians and motorists in that area; and

WHEREAS, the Chief of Police and Village Board have recommended that stop signs be installed to replace the present yield signs at the northeast corner of the exit from the municipal parking lot between 19 Park Place and the Fire Department building, and at the northeast corner of the intersection of Genesee Street and Park Place for vehicles traveling north on Genesee Street, in order to diminish the speed of vehicles traveling in that area and to promote the health, safety and welfare of residents of that neighborhood and motorists and pedestrians using those streets;

NOW, THEREFORE, it is

RESOLVED, that the removal of existing yield signs and installation of two stop signs at the following points are hereby authorized, one to be placed at the northeast corner of the exit from the municipal parking lot (also the southwest corner of the Fire Department building), and one to be placed at the northeast corner of the intersection of Genesee Street and Park Place to govern vehicles traveling northerly on Genesee Street; and it is further

RESOLVED, that the Police Department of the Village of Avon and any other law enforcement agency or officer shall be and hereby is authorized to enforce the effect of those stop signs and to issue uniform traffic tickets for the violation of either of those stop signs under the Vehicle and Traffic Law of the State of New York.

Local Law # 3-2010

ARTICLE III  
BUILDING PERMITS

~ 26.31 **Application for building permit**

A. Issuance from Zoning Enforcement Officer.

No person, firm or corporation shall commence the erection, construction, enlargement, alteration, removal, improvement, demolition, conversion or change in the nature of the occupancy of any building or structure, no construction, paving, gravel or other fill, grading, topographical or drainage changes, or commercial or industrial use of open areas are permitted without the issuance of a building permit except in the R-1 single-family residence zone, or cause the same to be done, without first obtaining a separate building permit from the Zoning Enforcement Officer, except that no building permit shall be required for the performance of ordinary repairs which are not structural in nature.

B. Information required.

Application for a building permit shall be made to the Zoning Enforcement Officer on forms provided by him or her and shall contain the following information:

1. A description of the land on which the proposed work is to be done.
2. A statement of the use or occupancy of all parts of the land and of the building or structure.
3. The valuation of the proposed work.

4. The full name and address of the owner and of the applicant and the names and addresses of their responsible officers, if any of them are corporations.

5. A brief description of the nature of the proposed work.

6. A triplicate set of plans and specifications as set forth in Subdivision C of this section.

7. Such other information as may reasonably be required by the Zoning Enforcement Officer to establish compliance of the proposed work with the requirements of the Uniform Code, this Code, applicable building laws, rules and regulations.

Applications shall be made by the owner or lessee, or agent of either, or by the architect, engineer or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner or applicant that the proposed work is authorized by the owner and that the applicant is authorized to make such application.

#### C. Plans and specifications required.

1. Each application for a building permit shall be accompanied by triplicate copies of plans and specifications including a plot plan, drawn to scale, and showing the location and size of all proposed new construction and all existing structures on the site, the nature and character of the work to be performed and the materials to be incorporated, distance from lot lines, the relationship of structures on adjoining property, widths and grades of adjoining streets, walks, and alleys, and where required by the Zoning Enforcement Officer, details of structural, mechanical and electrical work, including computations, stress diagrams and other essential technical data.

2. Plans and specifications shall bear the signature of the person responsible for the design and drawings. The Zoning Enforcement Officer, on behalf of the Board of Trustees, may waive the requirement for filing plans for minor improvements.

In case of demolitions, the Zoning Enforcement Officer shall not issue a permit until the applicant furnishes a public liability insurance policy issued by a carrier licensed to do business in the State of New York in the sum of One Hundred Thousand Dollars (\$100,000.00) to Three Hundred Thousand Dollars (\$300,000.00) or such additional coverage as it may determine as necessary to adequately protect the public. Such policy shall be cancelled only on ten (10) days written notice to the Village and shall be subject to approval as to form by the Village Attorney.

The applicant shall also indicate in his or her application, his or her method and place of disposal of the debris from the demolition and a plan for the restoration of the property including filling of all excavations or below ground level openings, the capping or removal of sewer and water lines if there is no intention to immediately rebuild on the site.

Failure to restore the property in accordance with the approved plan shall constitute a violation of this chapter.

The Zoning Enforcement Officer may waive any provisions of this subdivision for minor demolitions.

#### D. Amendments to application.

Amendments to the application or the plans and specifications accompanying the same may be filed at any time prior to the completion of the work, subject to the approval of the Zoning Enforcement Officer.

~ 26.32 **Issuance of building permit**

A. The Zoning Enforcement Officer shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith.

B. Upon approval of the application by the Zoning Enforcement Officer and upon receipt of the legal fees therefor, he or she shall issue a building permit to the applicant upon the form prescribed by the Zoning Enforcement Officer and shall affix his or her signature or cause his or her signature to be affixed thereto.

C. Upon the approval of the application, both sets of plans and specifications shall be endorsed with the word "approved." One set of such approved plans and specifications shall be retained in the files of the Zoning Enforcement Officer and the other set shall be returned to the applicant together with the building permit and shall be kept at the building site open to inspection by the Zoning Enforcement Officer or his or her authorized representative at all reasonable times.

D. If the application together with plans, specifications and other documents filed therewith describe proposed work which does not conform to all the requirements of the applicable building regulations, the Zoning Enforcement Officer shall disapprove the same and shall return the plans and specifications to the applicant. Upon the request of the applicant, the Zoning Enforcement Officer shall cause such refusal, together with the reasons therefor, to be transmitted to the applicant in writing.

~ 26.33 **Performance of work under building permit**

A. Term of permit; extension.

A building permit shall be effective to authorize the commencing of work in accordance with the application, plans and specifications on which it is based for a period of six (6) months after the date of its issuance. For good cause, the Zoning Enforcement Officer may allow a maximum of two (2) extensions for periods not exceeding three (3) months each.

B. Authority to proceed.

The issuance of a building permit shall constitute authority to the applicant to proceed with the work in accordance with the approved plans and specifications and in accordance with the Uniform Code, the Municipal Code, the Development Regulations, and applicable building laws, rules and regulations. All work shall conform to the approved application, plans and specifications.

~ 26.34 **Building permit fees**

Upon the filing of an application for a building permit, the applicant shall pay the required fee in accordance with the schedule established by the Board of Trustees and on file in the Village Clerk's Office.

In the event that an application for a building permit is not approved, the applicant shall be entitled to a refund of fifty (50) percent of the fee paid, provided no construction has been commenced. If construction work has been started and the application is not approved, the fees paid shall not be refunded.

~ 26.35 **Revocation of building permit**

The Zoning Enforcement Officer may revoke a building permit theretofore issued and approved in the following instances:

1. Where he or she finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based.

2. Where he or she finds that the building permit was issued in error and should not have been issued in accordance with the applicable law.

3. Where he or she finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications.

4. Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Zoning Enforcement Officer.

~ 26.36 **Stop orders** [Amended 6-15-1998 by L.L. No. 2-1998]

Whenever the Zoning Enforcement Officer has reasonable grounds to believe that work on any building or structure is being prosecuted in violation of the provisions of the Uniform Code, the Municipal Code, the Development Regulations, and applicable building laws, rules or regulations, or not in conformity with the provisions of an application, plans, or specifications on the basis of which a building permit was issued, or in an unsafe and dangerous manner, he or she shall notify the owner of the property, or the owner's agent, or the person performing the work, to suspend all work and any such person shall forthwith stop such work, and suspend all building activities until the stop order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him or her or by posting the same upon a conspicuous portion of the building under construction and sending a copy of the same by certified mail.

~ 26.37 **Right of entry**

A. The Zoning Enforcement Officer and/or Fire Marshall shall be authorized, in the performance of his or her duties, to conduct inspections of premises, or parts of premises at such times and in such manner as the Zoning Enforcement Officer and Fire Marshall may find convenient or necessary, with the consent of the person in possession or occupancy.

B. If admission is refused or cannot be obtained from the person in possession or occupancy, the Zoning Enforcement Officer and/or Fire Marshall shall be authorized to obtain a warrant to make an inspection, provided reasonable or probable cause is shown.

~ 26.38 **Permits from the Fire Marshall**

A. The Fire Marshall shall have the authority to issue permits upon the payment of fees to the Village Clerk as prescribed in the schedule of fees as established by resolution, from time to time, by the Village Board of Trustees. Permits shall be issued by and bear the name and signature of the Fire Marshall and shall specify:

1. Activity or operation for which the permit is used;
2. Address or location where activity or operation is to be conducted and located;
3. Name and address of the person to whom issued;
4. Permit number and date of issuance;
5. Period of duration of said permit;

B. Permits shall not be transferable, and any change in activity, operation, location, ownership or use shall require a new permit.

C. Permits shall continue until revoked or for a period of time designated at the time of issuance. An extension of the permit time period may be granted by the Fire Marshall, provided a satisfactory reason can be shown for the failure to start or complete the work activity authorized within the required time period. Successive extensions may be granted for a period not extending beyond three (3) months.

D. Permits required: Permits shall be obtained for the following:

1. Acetylene Generators: To operate an acetylene generator having a calcium carbide capacity exceeding five (5) pounds.
2. Automobile Tire Rebuilding Plants: To operate an automobile tire rebuilding plant.
3. Bowling Establishment: For bowling pin refinishing and bowling lane resurfacing operations involving the use and application of flammable or combustible liquids or materials.
4. Cellulose Nitrate Motion Picture Film: To store, keep or have on hand more than thirty-five (35) pounds of cellulose nitrate motion picture film.
5. Cellulose Nitrate Plastics (Pyroxylin):
  - a) To store, keep or have on hand more than twenty-five (25) pounds of cellulose nitrate plastics (pyroxylin).
  - b) To manufacture articles of cellulose nitrate plastics (pyroxylin) which shall include the use of cellulose nitrate plastics (pyroxylin) in the manufacture or assembling of other articles.
6. Combustible Fibers: To store, handle or use combustible fibers in quantities in excess of one hundred (100) cubic feet, except agricultural products on a farm.
7. Compressed Gases:
  - a) To store, handle or use at normal temperatures and pressures more than:
    1. Two thousand (2,000) cubic feet of flammable compressed gas, or
    2. Six thousand (6,000) cubic feet of nonflammable compressed gas;
  - b) To store, handle or use any quantity of liquified natural or hydrogen gas.
8. Cryogenics: To store, handle or use cryogenic fluids, except cryogenics used as a motor fuel and stored in motor vehicle tanks, as follows:
  - a) Production, sale or storage of cryogenic fluids;
  - b) Storage or use of flammable cryogenic fluids, cryogenic oxidizers or liquified oxygen in excess of ten (10) gallons.
9. Dry Cleaning Plants: To use in excess of four (4) gallons of solvents or cleaning agents classified as flammable.
10. Dust Producing Plants: To operate any grain elevator, flour, starch or feed mill, woodworking plant, or plant

pulverizing aluminum, coal, cocoa, plastics, magnesium, spices, sugar, sulfur or other materials producing explosive-potential dust.

1 1. Explosive Ammunition and Blasting Agents:

- a) To manufacture, possess, store, sell or otherwise dispose of explosives and blasting agents;
- b) To use explosives or blasting agents;
- c) To operate a terminal for handling explosives or blasting agents.

1 2. Flammable and Combustible Liquids:

- a) To store, handle or use flammable liquids in excess of ten (10) gallons inside any other building or other occupancy; or in excess of sixty (60) gallons outside of any building. This provision shall not apply to: (1) liquids in the fuel tank of a motor vehicle, aircraft, portable or stationary engine, boat or portable heating plant; (2) paints, oils, varnishes or similarly flammable mixtures, when such liquids are stored for maintenance, painting or similar purposes.
- b) To store, handle or use combustible liquids in excess of twenty-five (25) gallons inside a building, or in excess of sixty (60) gallons outside of a building. This provision shall not apply to fuel oil used in connection with oil burning equipment.
- c) A permit shall be obtained for the initial installation of an oil burner and a fuel oil tank used in connection therewith. A permit shall be required for the replacement of a fuel oil tank connected to an oil burner.
- d) For processing, blending or refining of flammable or combustible liquids.

13. Flammable Finishing: For spraying, coating or dipping operations utilizing flammable or combustible liquids.

14. Fruit Ripening Process: To conduct a fruit ripening process using ethylene gas.

15. Fumigation and Thermal Insecticidal Fogging: To conduct fumigation or thermal insecticidal fogging operations.

16. Hazardous Chemicals:

- a) To store, handle or use more than fifty-five (55) gallons of corrosive liquids; or more than fifty (50) pounds of oxidizing materials, or more than ten (10) pounds of organic peroxides; or more than fifty (50) pounds of nitromethane; or one thousand (1,000) pounds or more of ammonium nitrate, ammonium nitrate fertilizers and fertilizer mixtures containing sixty (60) percent or more ammonium or any amount of toxic material or poisonous gas; exception, on-site agricultural operations.
- b) To store, handle or use any quantity of air-reactive, water-reactive or unstable materials.

17. Liquefied Petroleum Gas: For each installation of liquefied petroleum gas employing a container or an aggregate of interconnected containers of over five hundred (500) gallons water capacity, and for each permanent installation irrespective of size of containers, made at buildings in which twenty (20) or more persons congregate for civic, political, educational, religious, social or recreational purposes. Installers shall maintain a record of all installations and replacement of portable cylinders and have it available for inspection.

18. Lumber Yards and Wood Storage: To operate a lumber yard or to store wood or wood products in excess of fifty (50) cubic yards.

19. Magnesium: For melting, casting, heat treating, machining, or grinding of more than ten (10) pounds of magnesium per working day.

20. Matches:

a) To manufacture matches.

b) To store matches in excess of twenty-five (25) cases. (Note: One (1) case equals one matchman's gross of fourteen thousand four hundred (14,400) matches.)

2 1. Organic Coatings: To perform organic coating operations utilizing more than one (1) gallon of organic coating on any working day.

2 2. Ovens, Furnaces and Wood Burning Stoves: To operate industrial processing ovens and furnaces operating at approximately atmospheric pressures and temperatures not exceeding fourteen hundred (1,400) degrees F. which are heated with oil or gas fuel or which during operation contain flammable vapors from the materials in the oven or catalytic combustion system. To install wood burning stoves, fireplaces and the like, except that no such permit shall be required where a building permit has been granted for the installation thereof.

2 3. Places of Assembly: To maintain, operate or use a place of assembly.

2 4. Welding and Cuttings: To operate a welding and cutting business. A record of all locations where welding or cutting operations are performed shall be maintained and kept available for inspection by permit holder.

#### E. Consolidated Permits

When more than one (1) permit is required for the same property or premises, a single permit may be issued listing all materials or operations covered. Revocation of a portion or portions of such consolidated permit, for specific hazardous materials or operations shall not invalidate the remainder.

#### F. Locations of Permits

Permits shall be kept on the property or the premises covered by the permit or carried by the permit holder.

#### G. Revocation of Permits

Any permit issued hereunder may be suspended or revoked by the Village of Avon Board of Trustees, after conducting an investigation and inquiry therein, at a hearing, upon not less than five (5) days written notice to the permit holder.

1. When it is determined there is a violation of a condition under which any permit has been issued;

2. There has been any misrepresentation or falsification of a material fact in connection with the application for a permit; or

3. Where it is found that the permit as issued was in conflict with the requirements of any applicable code, law, ordinance, policy, procedure, rule or regulation and accordingly, should not have been issued.

Notwithstanding the foregoing, should the Fire Marshall determine that a violation of law constitutes a distinct hazard to life or public safety, he may order the premises closed immediately or order certain offending operations to cease or desist and immediately suspend any permit issued hereunder.

## H. Supplementary Administrative Procedures

Whereas the New York State Uniform Fire Prevention and Building Code makes reference to various subjects dealing with fire protection and for fire prevention practices and provides only general procedures for administering said Code, it is hereby deemed necessary and appropriate to set forth additional administrative and enforcement procedures for the Village of Avon to enable the Fire Marshall to effectively enforce the provisions of this Local Law. The specific areas of fire protection and/or fire prevention which are the subject of these additional administrative provisions are set forth herein and each subject is referenced to the applicable section of the Uniform Code where such subject is addressed.

### 1. Means of Egress (Reference Uniform Code, Part 1162)

Whenever any special security methods or security devices deemed necessary by the owner or person generally in charge of the premises affect the means of egress, such security methods or security devices shall not be used or installed without first obtaining the written consent of the Fire Marshall.

### 2. Fire Protection Equipment - Water Supply (Reference Uniform Code, Part 1163.13a)

a) Fire department connections for standpipe and sprinkler systems shall be maintained accessible to emergency use at all times. No large shrubbery, fences or other obstructions of any type shall be placed within ten (10) feet of these connections.

b) Sprinkler systems, standpipe systems, fire alarm systems and other fire protective or extinguishing systems or appliances which have been installed in compliance with any permit or order, or because of any law or ordinance, shall be maintained in operative condition at all times, and it shall be unlawful for any owner or occupant to reduce the effectiveness of the protection so required; except this shall not prohibit the owner or occupant from temporarily reducing or discontinuing the protection where necessary to make tests, repairs, alterations or additions are started unless the work is to be continuous until completion.

c) No person shall cause any obstruction to be placed within ten (10) feet of any public or private fire hydrant, except in the event of an emergency situation with the approval of the Fire Marshall. No person, except those officially authorized to do so, shall intentionally cause snow to be placed around any public or private hydrant so as to unreasonably interfere with its use.

d) Privately owned water mains and fire hydrants on property devoted to public use, including but not limited to multiple dwelling complexes, churches, commercial buildings, schools, places of assembly and shopping centers, shall be regularly maintained and annually serviced by the owner or person generally in charge of the subject premises. Such maintenance and annual servicing shall be conducted in accordance with generally accepted standards and records of such annual maintenance shall be kept on the premises so that same is available for examination.

e) Sprinkler Systems (Reference Uniform Code, Part 1163.13b) - All sprinkler systems shall be annually inspected, tested and repaired as necessary in compliance with the applicable nationally recognized standards referenced in this local law or the Uniform Code. A copy of the inspections and testing report shall be kept on the premises so that same is available for examination.

f) Standpipe Systems (Reference Uniform Code, Part 1163.13c) - All standpipe system hose shall be inspected by the owner or person generally in charge of the premises at least annually and a written record of such inspection shall be kept on the premises for examination.

g) Fire Alarm Systems (Reference Uniform Code, Part 1163.13F) - All fire alarm systems required by any applicable code shall be approved by the Fire Marshall prior to the time of their installation.

### 3. Places of Assembly (Reference Uniform Code, Part 1164.2) Setting occupancy per Code

- a) It shall be unlawful for the owner, manager or other persons generally in charge of the premises to knowingly permit occupancy of the premises to exceed the occupancy limits established by the Village of Avon Fire Marshall. Failure to so prevent overcrowding shall constitute a violation of this local law.
- b) No person shall refuse to vacate any premises in which the occupancy limits have been exceeded when directed to do so by the management of the premises or any official authorized by the Town of Avon or the Fire Marshall to enforce the provisions of this local law. Failure to so vacate the premises shall constitute a violation of this local law.

4. Storage of Flammable, Combustible and Hazardous Liquid (Reference Uniform Code, Part 1171 and 1174)

- a) Aboveground tanks for the storage of flammable and combustible liquids shall not be permitted without the written permission of the Fire Marshall and shall be subject to such conditions as may be required by him to insure public safety and the prevention of property damage. This section applies to construction site and on-site agricultural operations.
- b) Aboveground or underground storage of flammable, combustible or hazardous liquids shall be subject to the appropriate provisions and standards contained in New York State Uniform Fire Prevention and Building Code, local laws, ordinances and rules and regulations relating to gasoline stations which effect the testing, inspection, installation, replacement or use of said tanks and their associated piping.
- c) The Fire Marshall or his duly authorized representative may order the owner or occupants of premises having liquid storage tanks to have such tanks or associated piping tested by methods prescribed by the Fire Marshall when the Fire Marshall has reasonable cause to believe that such tanks or piping may contain a leak.

I. Liability for Damages

This local law shall not be construed to hold the Village of Avon, any Board or any Code Enforcement Officer of the Village of Avon responsible for any damages to persons or property by reason of the inspection or re-inspection authorized herein or failure to inspect or re-inspect for any permits required under this local law nor shall they be liable for the damage to persons' property by reason of the Fire Marshall's exercising his discretion as provided in this local law.

J. Duty to Inspect

The Fire Marshall shall conduct periodic inspections as he deems necessary for compliance with the provisions of the New York State Uniform Fire Prevention and Building Code and other applicable laws, rules and regulations related to fire safety except for the interiors of single-family dwellings.

K. Access

If entrance to make an inspection is refused or cannot be obtained, the Fire Marshall may apply for a warrant to make an inspection to any court or competent jurisdiction, which warranty shall be issued ex parte for good cause shown.

ARTICLE IV  
CERTIFICATE OF OCCUPANCY

~ 26.41 Certificate of occupancy

A. Required.

No building hereafter erected shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the Zoning Enforcement Officer.

B. Temporary use.

No building hereafter enlarged, extended or altered, or upon which work has been performed which requires the issuance of a building permit shall continue to be occupied or used for more than thirty (30) days after the completion of the alteration or work unless a certificate of occupancy shall have been issued by the Zoning Enforcement Officer.

C. Change in use.

No change shall be made in the use or type of occupancy of an existing building unless a certificate of occupancy authorizing such change shall have been issued by the Zoning Enforcement Officer.

D. Application; affidavit.

The owner or his or her agent shall make application for a certificate of occupancy. If applicable, accompanying this application and before the issuance of a certificate of occupancy, there shall be filed with the Zoning Enforcement Officer an affidavit of the registered architect or licensed professional engineer who filed the original plans, or of the registered architect or licensed professional engineer who supervised the construction of the work, or of the superintendent of construction who supervised the work and who, by reason of his or her experience, is qualified to superintend the work for which the certificate of occupancy is sought. This affidavit shall state that the deponent has examined the approved plans of the structure for which a certificate of occupancy is sought, that the structure has been erected in accordance with

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approved plans, and as erected complies with the law governing building construction except insofar as variations therefrom have been legally authorized. Such variations shall be specified in the affidavit.

~ 26.42 **Inspection prior to issuance of certificate**

Before issuing a certificate of occupancy, the Zoning Enforcement Officer shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit to construct, enlarge, alter, repair, remove, demolish or change the use or occupancy; and he or she may conduct such inspection as he or she deems appropriate from time to time during and upon completion of the work for which a building permit has been issued.

There shall be maintained in the Building Department a record of all such examinations and inspections together with a record of findings of violations of the law.

~ 26.43 **Issuance of certificate of occupancy** [Amended 6-15-1998 by L.L. No. 2-1998]

A. When, after final inspection, it is found that the proposed work has been completed in accordance with the Uniform Code, the Municipal Code, the Development Regulations, and applicable building laws, rules or regulations, and also in accordance with the application, plans and specifications filed in connection with the issuance of the building permit, the Zoning Enforcement Officer shall issue a certificate of occupancy upon the form provided by him or her. If it is found that the work has not been properly completed, the Zoning Enforcement Officer shall refuse to issue a certificate of occupancy and shall order the work completed in conformity with the building permit and in conformity with the applicable building regulations.

B. A certificate of occupancy shall be issued, where appropriate, within thirty (30) days after application therefor is made. Failure to act upon such application within thirty (30) days shall constitute approval of such application and the building or portion thereof may thereafter be occupied as though a certificate of occupancy had been issued.

C. The certificate of occupancy shall certify that the work has been completed and that the proposed use and occupancy are in conformity with the provisions of the Uniform Code, applicable provisions of the Municipal Code, the Development Regulations and rules and regulations, and shall specify the use or uses and the extent thereof to which the building or structure or its several parts may be put.

~ 26.44 **Temporary certificate of occupancy**

Upon request, the Zoning Enforcement Officer may issue a temporary certificate of occupancy for a building or structure or part thereof, before the entire work covered by the building permit shall have been completed provided such portion or portions as have been completed may be occupied safely without endangering life or the public welfare. Such certificate may be issued for a period of up to sixty (60) days and may be renewed but in no event shall the total period exceed one (1) year.

~ 26.45 **Tests** [Amended 6-15-1998 by L.L. No. 2-1998]

Whenever there are reasonable grounds to believe that any material, construction, equipment or assembly does not conform with the requirements of the Uniform Code, the Municipal Code, the Development Regulations, applicable building laws, rules or regulations, the Zoning Enforcement Officer may require the same to be subjected to tests in order to furnish proof of such compliance.

ARTICLE V  
ASSISTANCE OF AUTHORIZED ELECTRICAL INSPECTORS

~ 26.51 **Authorization to make inspections**

The Chief Inspector and each of the duly appointed Inspectors of the New York Board of Fire Underwriters, Atlantic Midland Inc., or any other electrical inspection agency authorized as agents of the Village are hereby authorized to make inspections and re-inspections of all electrical installations hereinafter described, and approve or disapprove the same. In no event, however, will the cost or expense of such inspection and re-inspection be a charge against the Village.

~ 26.52 **Duties of Inspector**

A. It shall be the duty of the Inspector to report to the Zoning Enforcement Officer all violations of or deviations from or omissions of the electrical provisions of the Uniform Code and the Municipal Code. The Inspector shall make inspections and re-inspections of electrical installations in and on properties in the Village upon the written request of the Zoning Enforcement Officer or as herein provided.

B. The Inspector is authorized to make inspections and re-inspections of electrical wiring installations, devices, appliances and equipment in and on properties within the Village where he deems it necessary for the protection of life and property with the exception of single-family dwellings. He or she shall inspect single family dwellings only upon the request of the Zoning Enforcement Officer.

C. In the event of an emergency, it is the duty of the Inspector to make electrical inspections upon the oral

request of the official or officer of the Village.

D. It shall be the duty of the Inspector to furnish written reports to the proper officials of the Village and owners and/or lessees of property where defective electrical installations and equipment are found upon inspection.

E. He or she shall authorize the issuing of a certificate of compliance when electrical installations and equipment are in conformity with the Uniform Code or with the Municipal Code and he or she shall direct that a copy of the certificate of compliance be sent to the Zoning Enforcement Officer.

~ 26.53 Schedule of rates

The schedule of rates charged for inspection shall be filed with the Village Clerk and the Zoning Enforcement Officer.

~ 26.54 Exemption permits

A. The Zoning Enforcement Officer is empowered and directed to issue a permit granting exemption from the provisions of this article to each person, firm or corporation engaged in the conduct of manufacturing in or on properties in the Village upon written application of such person, firm or corporation, hereinafter called the "applicant," setting forth that:

1. The applicant is engaged in the conduct of manufacturing in the Village.

2. The applicant regularly employs one (1) or more journeyman electricians whose principal duties are the installation, maintenance and repair of electrical machinery, appliances, equipment and wiring for electric light, heat or power, hereinafter called "electrical work" in or upon the premises used by the applicant in the conduct of manufacturing.

3. By reason of the amount and frequency of electrical work so performed upon the applicant's premises, compliance with the provisions of this article would impose an undue burden on the applicant's conduct of manufacturing operations.

B. The term "journeyman electrician" shall mean a person who has completed an apprentice course, or received equivalent training, or has equivalent experience of at least three (3) years in electrical work.

C. Each permit so issued shall be for a period of one (1) year and such permit shall be renewed for successive one (1) year periods upon supplemental application by the applicant, certifying that the statements contained in the original application remain true and correct.

~ 26.55 Exceptions

A. The provisions of this article shall not apply to the electrical installations in mines, ships, railway cars, automotive equipment or the installations or equipment employed by a railway, electrical or communication utility in the exercise of its function as a utility and located outdoors or in buildings used exclusively for that purpose.

B. This article shall not apply to any work involved in the manufacture, assembly, test or repair of electrical machinery, apparatus, materials and equipment by a person, firm or corporation engaged in electrical manufacturing as their principal business.

C. This article shall not apply to any building which is owned or leased in its entirety by the Government of the United States or the State of New York.

~ 26.56 No waiver or assumption of liability

This article shall not be construed to relieve from or lessen the responsibility of any person owning, operating, controlling or installing any electrical wiring, devices, appliances or equipment for loss of life or damage to person or property caused by any defect therein, nor shall the Village or the New York board of Fire Underwriters, Atlantic Midland, Inc., or any other electrical inspection agency authorized by the Village to conduct electrical inspections be deemed to have assumed any such liability by reason of any inspection made pursuant to this article.

~ 26.57          Violations of article

A. It shall be a violation of this article for any person, firm or corporation to install or cause to be installed, or to alter or repair electrical wiring for light, heat or power, in or on properties in the Village until an application for inspection has been filed with the New York Board of Fire Underwriters, Atlantic Midland, Inc., or any other electrical inspection agency authorized by the State of New York to conduct electrical inspections.

B. It shall be a violation of this article for a person, firm or corporation to connect or cause to be connected electrical wiring in or on properties for light, heat or power, to any source of electrical energy supply, prior to the issuance of a temporary certificate, or a certificate of compliance, by the New York Board of Fire Underwriters, Atlantic Midland, Inc., or any other electrical inspection agency authorized by the Village to conduct electrical inspections.

ARTICLE VI  
PENALTIES

~ 26.100          Penalties for violation

A. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, remove, demolish, equip, use, occupy or maintain any building or structure or portion thereof in violation of any provision of this chapter or to fail in any manner to comply with a notice, directive or order of the Zoning Enforcement Officer and/or Fire Marshall or Enforcement Officer, or to construct, alter or use and occupy any building or structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy.

B. Any person who shall fail to comply with a written order of the Zoning Enforcement Officer and/or Fire Marshall within the time fixed for compliance therewith, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents or any other person taking part or assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of this chapter, or any lawful order, notice, directive, permit or certificate of the Zoning Enforcement Officer and/or Fire Marshall made thereunder, shall be guilty of a violation pursuant to the Penal Law; however, in no case shall the fine imposed exceed Five Hundred Dollars (\$500.00) or thirty (30) days in jail, or both.

C. Except as provided otherwise by law, such violation shall not be a crime and the penalty or punishment imposed therefor shall not be deemed for any purpose a penal or criminal penalty or impair the credibility as a witness, or otherwise, of any person convicted thereof.

D. This section shall not apply to violations of the provisions of the Uniform Code punishable under ~385 of the Executive Law of the State of New York; nor to violations of the provisions of the Multiple Residence Law punishable under ~304 of the Multiple Residence Law of the State of New York.

~ 26.101          Abatement of violation

Appropriate actions and proceedings may be taken at law or in equity to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to prevent illegal acts, conduct of business in or about any premises; and these remedies shall be in addition to the penalties prescribed in the preceding section.

## MUNICIPAL CODE

### Historical Note

Chapter 26 was amended by Local Law 6 of 1987, filed 9/14/87, Local Law 7 of 1987, filed 1/11/88 and by Local Law 2 of 1988, filed 3/7/88.

### Cross-references:

Certificates of Occupancy, ~30.93(C), ~30.94(C)

tape location map required, ~30.94(C)

Housing Code, Chapter 27

Swimming Pools, Chapter 35

Unsafe Buildings, Chapter 33

Zoning, Chapter 30

Zoning Permits, ~30.93(A), ~30.94(A) & (B)

application details, ~30.95

### References:

Multiple Residence Law applies to Village. Mult Res L ~3(1); local regulations. Mult Res L ~ 29

Search warrant

admission by tenant of city inspector, not required. *People v. Sybil Holding Corp.*, 64 Misc 2d 693 admission

without objection, not required. *People v. Cacciola*, 64 Misc 2d 670

evidence inadmissible if obtained without permission. *People v. Laverne*, 14 NY2d 304

grounds for obtaining, not same high standards as in criminal matters. *Town of Smithtown v. Serby*, 64 Misc 2d 734, 736

refusal to admit without, constitutional right. *Camara v. Municipal Ct.*, 387 US 523; *People v. Laverne*, 14 NY2d 304

## UNIFORM CODE ENFORCEMENT

### Commentary

Executive Law ~370 et seq. provides for a State Building Construction Code which may be made applicable to Municipalities of the State of New York by the adoption of a resolution of the governing body. For procedure, see Executive Law ~374-a. The formulation and amendment of the Code is done by the State Building Code Council. The Code itself is a "performance" code so new methods and materials can be automatically acceptable. The State Building Code Council has also recognized as complying with the Code, many technical standards prepared by such organizations as the American Insurance Association, National Fire Protection Association, American Gas Association Laboratories and the United States Department of Commerce, to name a few.

Those municipalities which affirmatively adopt the State Building Construction Code are prohibited from superseding its provisions or enacting more restrictive requirements unless approval of the Council is obtained pursuant to Executive Law ~379.

The purpose of the State Building Construction Code is to provide reasonable building construction regulations and to keep pace with modern technology. Therefore, the Council is constantly approving new codes as they are promulgated by the various technical organizations. In this manner, all new innovations in construction once they have been properly tested become acceptable standards in those municipalities that have adopted the State Building Construction Code.

The State Legislature has added a new Article 18-B to the Executive Law effective December 31, 1971 whereby

the State has empowered the State Building Code Council to establish standards for factory manufactured homes. If the "factory manufactured home" complies with the regulations, an insignia of approval shall be granted and all such homes shall be deemed to comply with the requirements of all laws, ordinances or regulations enacted by any local government. Executive Law ~ 400-e(e).

The enforcement of the State Building Construction Code is the responsibility of the local municipalities. While Executive Law ~ 385 provides for penalties under certain situations, the necessary enforcement legislation must be provided by each municipality. Normally this would be done through a Department of Building and Zoning or a Building Inspector. Executive Law ~ 383.