

Local Law # \_\_\_\_\_ of 20 \_\_\_\_\_.

Be it enacted by the Village Board of the Village of Ardsley, in the County of Westchester, as follows:

Repeal Chapter 64, Building Construction, in its entirety and replace as follows:

## **Chapter 64, Building Construction**

### **§64-1 TITLE, PURPOSE AND INTENT**

This chapter is to be known and cited as the Building Code of the Village of Ardsley, hereinafter referred to as the code.

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

### **§64-2. DEFINITIONS**

In this Chapter, the following terms shall have the meanings shown in this section:

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

Assistant Building Inspector – The Assistant Building Inspector appointed pursuant to section 64-5D of this local law.

Building Inspector - the Building Inspector appointed pursuant to section 64-5D of this local law.

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

Certificate of Compliance - a document issued by the Village stating that work was done in compliance with approved construction documents and the Codes.

Certificate of Occupancy - a document issued by the Village of Ardsley certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and approved by the Village, and indicating that the building or structure, or portion thereof, is in a condition suitable for occupancy.

Code Enforcement Personnel - Superintendent of Buildings, Building Inspector, Assistant Building Inspector and all Inspectors appointed pursuant to this chapter.

Codes - the Uniform Code and Energy Code.

Conditional Certificate of Occupancy - a temporary or conditional certificate issued pursuant to section 64-11G of this local law.

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

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

Fire Safety Inspector - The Fire Safety Inspector appointed pursuant to section 64-5D of this local law.

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

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

Inspector - an inspector appointed pursuant to this local law.

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

Operating Permit - a permit issued pursuant to section 10 of this local law. The term Operating Permit shall also include an Operating Permit which is renewed, amended, or extended pursuant to any provision of this local law.

Order to Remedy - an order issued by the Superintendent of Buildings pursuant to section 64-21 of this local law.

Permit Holder - the Person to whom a Building Permit has been issued. Person shall include an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

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

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

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

Stop Work Order - an order issued pursuant to section 64-10 of this local law.

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

Superintendent of Buildings - the Superintendent of Buildings appointed pursuant to section 64-5B of this Chapter.

Temporary Certificate of Occupancy - a temporary or conditional certificate issued pursuant to subdivision (d) of section 7 of this local law.

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

Village - the Village of Ardsley

Violation Notice – A notice issued by the Superintendent of Buildings pursuant to section 64-21 of this local law.

### **§ 64-3. Appointments.**

Any and all appointments to be made pursuant to this code shall be made by the Village Manager or the Acting Manager or, in the event that there is no provision in the Village government for a Village Manager, then by the chief administrative official of the Village, said appointments to be made subject to the approval of the Board of Trustees.

### **§ 64-4. Building Department established.**

A. There is hereby established in the Village of Ardsley a department to be designated as the Building Department for the administration and enforcement of the provisions of all laws, ordinances, rules, regulations and orders applicable to the location, design, materials, construction, alteration, repair, equipment, maintenance, use, occupancy, removal and demolition of buildings and structures and their appurtenances located in the Village of Ardsley.

- B. The Building Department shall be headed by a Village official designated as the Superintendent of Buildings.

**§ 64-5. Superintendent of Buildings.**

- A. The Superintendent of Buildings shall be a person who shall have had at least five years' experience as a licensed professional engineer or architect, building inspector, building contractor, supervisor of building construction, or in 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 Superintendent of Buildings shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder. The Superintendent of Buildings shall administer and enforce all the provisions of the Uniform Code, the Energy Code, and this local law. The Superintendent of Buildings shall have the following powers and duties:

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

- (2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits, and to include in terms and conditions as the Superintendent of Buildings may determine to be appropriate Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits;

- (3) to conduct construction inspections; inspections to be made prior to the issuance of Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits; fire safety and property maintenance inspections; inspections incidental to the investigation of complaints; and all other inspections required or permitted under any provision of this local law;

- (4) to issue Stop Work Orders;

- (5) to review and investigate complaints;

- (6) to issue orders pursuant to this local law;

- (7) to maintain records;

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

- (9) to pursue administrative enforcement actions and proceedings;

- (10) in consultation with the Village 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 Superintendent of Buildings by this local law.

- B. The Superintendent of Buildings shall be appointed by the Village Manager for a term of one year at a compensation to be fixed by the Village Board. He shall not be removed from office except for cause after a public hearing on specific charges before the Village Board in compliance with civil service regulations. The Superintendent of Buildings 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 Superintendent of Buildings shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.
- C. In the event that the Superintendent of Buildings is unable to serve as such for any reason, another individual shall be appointed by the Village Manager to serve as Acting Superintendent of Buildings. The Acting Superintendent of Buildings shall, during the term of their appointment, exercise all powers and fulfill all duties conferred upon the Superintendent of Buildings by this local law.
- D. One or more Inspectors including a Building Inspector, Assistant Building Inspector, Plumbing Inspector, Sanitary Sewer Inspector, Fire Inspector and Oil and Gas Burner Installation Inspector, may be appointed by the Village Manager to act under the supervision and direction of the Superintendent of Buildings and to assist the Superintendent of Buildings in the exercise of the powers and fulfillment of the duties conferred upon the Superintendent of Buildings by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.
- E. The compensation for the Superintendent of Buildings and Code Enforcement Personnel shall be fixed from time to time by the Village Board of this Village.
- F. No officer or employee of the Building Department shall engage in any activity inconsistent with his duties or with the interests of the Building Department; this shall not be so interpreted as to prevent such inspectors from furnishing labor, materials or appliances for the construction, alteration or maintenance of a building or the preparation of plans or specifications thereof within the Village of Ardsley. However, no officer or employee shall inspect or approve or issue any permits or certificates on any of the above conditions if he is in any way connected or involved with the project.
- G. No official or employee of the Building Department shall, while acting pursuant to the

provisions of this code, be personally liable for any damage that may accrue to persons or property as the result of any act required or permitted in the discharge of his official duties, provided that such acts are performed in good faith and without gross negligence.

#### **64-6. BUILDING PERMITS.**

- A. Building Permits Required. Except as otherwise provided in section 64-6B of this chapter, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation, or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney, or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Village.
- B. Exemptions. No Building Permit shall be required for work in any of the following categories:
- (1) construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses), which are used for tool and storage sheds, playhouses, or similar uses, provided the gross floor area does not exceed 35 square feet;
  - (2) installation of swings and other playground equipment associated with a one- or two-family dwellings or multiple single-family dwellings (townhouses)
  - (3) construction of temporary sets and scenery associated with motion picture, television, and theater uses;
  - (4) installation of partitions or movable cases less than 5'-9 in height;
  - (5) painting, wallpapering, tiling, carpeting, or other similar finish work;
  - (6) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances; or
  - (7) repairs, provided that the work does not have an impact on fire and life safety, such as
    - (i) any part of the structural system;
    - (ii) the required means of egress; or
    - (iii) the fire protection system or the removal from service of any part of the fire protection system for any period of time.
- C. Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in section 64-6B of this chapter 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 Superintendent of Buildings. 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 Superintendent of Buildings deems sufficient to permit a determination by the Superintendent of Buildings that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:
- (1) a description of the location, nature, extent, and scope of the proposed work;
  - (2) a description of the land on which the proposed work is to be done, including the tax map number and street address;
  - (3) use or occupancy of all parts of this land and the occupancy classification of any affected building or structure;
  - (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;
  - (3) The valuation of the proposed work;
  - (4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
  - (5) at least three (3) sets of construction documents (drawings and/or specifications) which
    - (i) describe the location, nature, extent, and scope of the proposed work;
    - (ii) show that the proposed work will conform to the applicable provisions of the Codes;
    - (iii) show the location, construction, size, and character of all portions of the means of egress;
    - (iv) show a representation of the building thermal envelope;
    - (v) show structural information including but not limited to braced wall designs, the size, section, and relative locations of structural members, design loads, and other pertinent structural information;
    - (vi) show the proposed structural, electrical, plumbing, mechanical, fire-protection, and other service systems of the building;
    - (vii) include a written statement indicating compliance with the Energy Code;
    - (viii) include a site plan, drawn to scale and drawn in accordance with an accurate boundary survey, showing the size and location of new construction and existing structures and appurtenances on the site, distances from lot lines, the established street grades and the proposed finished grades, and, as applicable, flood hazard areas, floodways, and design flood elevations; and

(ix) evidence that the documents were prepared by a licensed and registered architect in accordance with Article 147 of the New York State Education Law or a licensed and registered professional engineer in accordance with Article 145 of the New York State Education Law and practice guidelines, including but not limited to the design professional's seal which clearly and legibly shows both the design professional's name and license number and is signed by the design professional whose name appears on the seal in such a manner that neither the name nor the number is obscured in any way, the design professional's registration expiration date, the design professional's firm name (if not a sole practitioner), and, if the documents are submitted by a professional engineering firm and not a sole practitioner professional engineer, the firm's Certificate of Authorization number and such other information as may reasonably be required by the Superintendent of Buildings to establish compliance of the proposed work with the requirements of the applicable building laws, ordinances and regulations.

#### **§64-7 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 this chapter. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Superintendent of Buildings in writing or by stamp, or in the case of electronic media, an electronic marking. One set of the accepted construction documents shall be retained by the Superintendent of Buildings, and one set of the accepted construction documents shall be returned to the applicant with the building permit to be kept at the work site so as to be available for use by the Superintendent of Buildings 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.

#### **§64-8 Issuance of Building Permits.**

- A. 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 Superintendent of Buildings shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.
- B. 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.
- C. 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 Superintendent of Buildings of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Superintendent of Buildings 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.



- D. Time limits. Building Permits shall become invalid unless the authorized work is commenced within 12 months following the date of issuance. Building Permits shall expire twenty-four (24) 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 Superintendent of Buildings.
- E. Revocation or suspension of Building Permits. If the Superintendent of Buildings determines that a Building Permit was issued in error because of incorrect, inaccurate, or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, or where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Superintendent of Buildings, the Superintendent of Buildings shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and that all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.
- F. Fees. The fees specified in or determined in accordance with the provisions set forth in this Chapter and §A210-3 of this code 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.

#### **§64-9. CONSTRUCTION INSPECTIONS.**

- A. Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Superintendent of Buildings or by an Inspector authorized by the Superintendent of Buildings. The Permit Holder shall notify the Superintendent of Buildings when any element of work described in subdivision B of this section is ready for inspection.
- B. Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:
  - (1) work site prior to the issuance of a Building Permit;
  - (2) footing and foundation;
  - (3) preparation for concrete slab;
  - (4) framing;
  - (5) structural, electrical, plumbing, mechanical, fire-protection, and other similar service systems of the building 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) inspections required to demonstrate Energy Code compliance, including but not limited to insulation, fenestration, air leakage, system controls, mechanical equipment size, and, where required, minimum fan efficiencies, programmable thermostats, energy recovery, whole-house ventilation, plumbing heat traps, and high-performance lighting and controls;
  - (10) installation, connection, and assembly of factory manufactured buildings and manufactured homes; and
  - (11) a final inspection after all work authorized by the Building Permit has been completed;
  - (12) other inspections as determined necessary by the Superintendent of Buildings.
- C. Remote inspections. At the discretion of the Superintendent of Buildings or Inspector authorized to perform construction inspections, a remote inspection may be performed in lieu of an in-person inspection when, in the opinion of the Superintendent of Buildings or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Superintendent of Buildings or by such authorized Inspector that the elements of the construction process conform with the applicable requirements of the Uniform Code and Energy Code. Should a remote inspection not afford the Superintendent of Buildings or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.
  - D. Any officer or employee of the Building Department, upon the showing of proper credentials and in the discharge of his duties, may enter upon any building, structure or premises at any reasonable hour and no person shall interfere with or prevent such entry.
  - F. Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to the manner in which the work fails to comply with the Uniform Code or Energy Code, including a citation to the specific code provision or provisions that have not been met. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, re-inspected, and found satisfactory as completed.
  - G. Compliance tests. whenever there are reasonable grounds to believe that any material, construction, equipment or assembly does not conform to the requirements of the applicable building laws, ordinances or regulations, the Superintendent of Buildings may require the same to be subjected to tests at the expense of the owner, in order to furnish proof of such compliance

- H. Fee. The fee specified in or determined in accordance with the provisions set forth in this Chapter and §210-3 of this code must be paid prior to or at the time of each inspection performed pursuant to this section.

**§64-10. STOP WORK ORDERS.**

- A. Authority to issue. The Superintendent of Buildings is authorized to issue Stop Work Orders pursuant to this section. The Superintendent of Buildings shall issue a Stop Work Order to halt:
  - (1) any work that is determined by the Superintendent of Buildings 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 Superintendent of Buildings, 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 be in writing, be dated and signed by the Superintendent of Buildings, state the reason or reasons for issuance, and if applicable, state the conditions which must be satisfied before work will be permitted to resume.
- C. Service of Stop Work Orders. The Superintendent of Buildings shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by certified mail. The Superintendent of Buildings shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.
- D. Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder, and any other Person performing, taking part in, or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order, other than work expressly authorized by the Superintendent of Buildings to correct the reason for issuing the Stop Work Order.
- E. Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in section 64-10A of this chapter, 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 sections 64-21, 64-22 and 64-23 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.

#### **§64-11. CERTIFICATES OF OCCUPANCY AND CERTIFICATES OF COMPLIANCE**

- A. No building or structure hereafter erected shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the Superintendent of Buildings.
- B. No building or structure hereafter enlarged, extended or altered or upon which work has been performed which required the issuance of a building permit shall continue to be occupied or used for more than 30 days after the completion of the alteration or work unless a certificate of occupancy for the same shall have been issued by the Superintendent of Buildings.
- C. No change shall be made in the use or type of occupancy classification or subclassification of an existing building or structure unless a certificate of occupancy shall have been issued by the Superintendent of Buildings.
- D. Certificates of Occupancy and Certificates of Compliance required. A Certificate of Occupancy or Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy or Certificate of Compliance.
- E. Issuance of Certificates of Occupancy and Certificates of Compliance. The Superintendent of Buildings shall issue a Certificate of Occupancy or Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Superintendent of Buildings or an Inspector authorized by the Superintendent of Buildings shall inspect the building, structure, or work prior to the issuance of a Certificate of Occupancy or Certificate of Compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Superintendent of Buildings, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance, shall be

provided to the Superintendent of Buildings prior to the issuance of the Certificate of Occupancy or Certificate of Compliance:

- (1) a written statement of structural observations and/or a final report of special inspections,
- (2) flood hazard certifications,
- (3) a written statement of the results of tests performed to show compliance with the Energy Code, and
- (4) where applicable, the affixation of the appropriate seals, insignias, and manufacturer's data plates as required for factory manufactured buildings and/or manufactured homes.

F. Contents of Certificates of Occupancy and Certificates of Compliance. A Certificate of Occupancy or Certificate of Compliance shall contain the following information:

- (1) the Building Permit number, if any;
- (2) the date of issuance of the Building Permit, if any;
- (3) the name (if any), address and tax map number of the property;
- (4) if the Certificate of Occupancy or Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy or Certificate of Compliance is issued;
- (5) the use and occupancy classification of the structure;
- (6) the type of construction of the structure;
- (7) the occupant load of the assembly areas in the structure, if any;
- (8) any special conditions imposed in connection with the issuance of the Building Permit;
- (9) If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required; and
- (10) the signature of the Superintendent of Buildings issuing the Certificate of Occupancy or Certificate of Compliance and the date of issuance.

G. Temporary Certificate of Occupancy. Except for one- and two-family dwellings, multifamily dwellings, and townhouses, the Superintendent of Buildings shall be permitted to issue a Temporary Certificate of Occupancy allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Superintendent of Buildings issue a Temporary Certificate of Occupancy unless the Superintendent of Buildings determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate of Occupancy, may be occupied safely, (2) that any required

fire and life safety components, such as fire protection equipment and fire, smoke, carbon monoxide, and heat detectors and alarms are installed and operational, and (3) that all required means of egress from the structure have been provided. The Superintendent of Buildings may include in a Temporary Certificate of Occupancy such terms and conditions as he or she deems necessary or appropriate to ensure the health and safety of the persons occupying and using the building or structure and/or performing further construction work in the building or structure. A Temporary Certificate of Occupancy shall be effective for a period of time, not to exceed 6 months, which shall be determined by the Superintendent of Buildings and specified in the Temporary Certificate of Occupancy. During the specified period of effectiveness of the Temporary Certificate of Occupancy, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

- H. For one- and two-family dwellings, multifamily dwellings, and townhouses, the Superintendent of Buildings shall be permitted to issue a conditional certificate allowing the temporary and conditional occupancy of a building or structure, or a portion thereof, prior to the completion of all site work such as final grading and landscaping only when climatic conditions prevent the proper completion of such site work. In no event shall the Superintendent of Buildings issue a conditional certificate unless the Superintendent of Buildings determines that all of the work on the building has been completed in full compliance with the Uniform Code, the Energy Code, and the approved plans.
- I. Revocation or suspension of certificates. If the Superintendent of Buildings determines that a Certificate of Occupancy, Certification of Compliance, or a Temporary Certificate of Occupancy was issued in error or on the basis of incorrect information, and if the relevant deficiencies are not corrected to the satisfaction of the Superintendent of Buildings within such period of time as shall be specified by the Superintendent of Buildings, the Superintendent of Buildings shall revoke or suspend such certificate.
- J. Fee. The fee specified in or determined in accordance with the provisions set forth in this chapter and §A210-3 of this code must be paid at the time of submission of an application for a Certificate of Occupancy, Certificate of Compliance, or for Temporary Certificate of Occupancy.

#### **§64-12. NOTIFICATION REGARDING FIRE OR EXPLOSION.**

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

#### **§64-13. UNSAFE BUILDINGS, STRUCTURES, AND EQUIPMENT AND CONDITIONS OF IMMINENT DANGER**

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

- A. The Superintendent of Buildings shall cause an inspection to be made by himself, an inspector under his jurisdiction or a person specially designated by him in writing for the purpose, of any building or structure, standing or collapsed, of any kind whatsoever, which he has reason to believe is or may be dangerous or unsafe to the public from any cause whatsoever, and shall require the person making such inspection to submit a written report of his findings and evaluation of the hazards. If such inspection is made by a person other than the Superintendent of Buildings, such report shall be reviewed by said Superintendent and by him endorsed in writing with his comments, approval or disapproval, if any, but shall in any event be so endorsed as to indicate that the same has been reviewed by said Superintendent.
- B. Such report by, or endorsed by, the Superintendent of Buildings shall be submitted to the Board of Trustees at its next regular or special meeting. If no meeting of the Board of Trustees is scheduled to take place within the 15 days next following the signing or endorsement of such report by said Superintendent, the Village Clerk shall, upon notice from the Superintendent that such report is ready for submission, transmit copies of such report to the Mayor and to each Trustee within four days following such notice.
- C. The Board of Trustees shall, not later than at its regular or special meeting next following the meeting at which it receives such report:
- (1) Disapprove said report and direct that no further action be taken thereon;
  - (2) Direct that a further investigation be conducted with respect to specified items and set the date by which a report of such further investigation shall be submitted to the Board of Trustees (and Subsection B above and this Subsection C shall apply to such further report in the same manner as to the initial report); or
  - (3) Direct that the procedure hereinafter set forth be instituted forthwith, provided that the failure of the Board of Trustees to take any such action within the time hereinabove limited shall not deprive the Board of Trustees of authority to take such action thereafter.
- D. Whenever the Board of Trustees shall have directed that the procedure herein set forth be instituted, the Superintendent of Buildings or, if there is none or if he is unavailable, the Village Manager or, if there is none or if he is unavailable, the Village Clerk or, if he is unavailable, the Village Counsel, shall cause a notice to be prepared and served:
- (1) Personally upon the owner or any one of the owner's executors, legal representatives, agents, lessees or upon any other person having any vested or contingent interest in the premises, or by registered mail addressed to the last known address, if any, of such owner or any such person as shown by the records of any Receiver of Taxes or County Clerk or County Register, and, if so served by registered mail, a copy shall be posted upon the building or structure or one of them.

- (2) Containing a description of the premises sufficient to enable the recipient of said notice to identify the premises referred to; a statement of the particulars in which the building or structure is unsafe or dangerous; an order in the name of the Village requiring the building or structure to be made safe and secure in all such particulars or removed; a statement of the time within which compliance with such order must be commenced, which time may be set by the officer causing such notice to be prepared at not less than four nor more than 12 days unless the Board of Trustees directs otherwise; a statement of the time within which compliance with such order must be completed, which time may be set by such officer at not more than seven days in excess of his estimate of the time required for such compliance plus the time allowed for commencement of compliance unless the Board of Trustees directs otherwise; a statement of the provisions hereinafter set forth with respect to the making of a survey and the posting thereof and the application to be made to the Supreme Court; and a statement of the provisions hereinafter set forth with respect to the assessment of costs and expenses against the land.
- E. Whenever a notice has been served in accordance with Subsection D above and the person so served neglects or refuses to comply with the same, a survey shall be made by:
- (1) An official of the Village and, unless the Board of Trustees directs otherwise, such official shall be the Village Manager;
  - (2) A practical builder, engineer or architect and, unless the Board of Trustees directs otherwise, such person shall be the Superintendent of Buildings or, if he is unavailable, the Chairman of the Village Planning Board; and
  - (3) A practical builder, engineer or architect appointed by the person notified in accordance with Subsection D above; provided, however, that if the person so notified refuses or neglects to appoint such third surveyor by the time such survey commences, the first two surveyors shall make such survey.
- F. Such survey shall be commenced not less than two nor more than six days after, and excluding, the day upon which the first neglect or refusal to comply with the notice occurs, provided that the failure of the Village to commence such survey within such time shall not deprive the Village of the authority to commence such survey thereafter. Not later than two days after, and excluding, the day on which such survey is completed, the surveyors or a majority of them shall file in the office of the Village Clerk, in duplicate, an original signed report of their findings and conclusions as to the existence of any unsafe or dangerous conditions; a dissenting minority of the surveyors may, but is not required to, file a separate report in the same manner; a copy of each such report shall be furnished to the Village Counsel on the same day the same is received by the office of the Village Clerk, if possible, or as soon thereafter as is possible; a signed duplicate of the report of the surveyors or a majority of them shall be posted on the same day or the following day upon the building or structure.



- G. Not less than five nor more than 10 days after, but excluding, the day on which the report of the surveyors or of a majority of them is filed in the office of the Village Clerk, if such report shows any unsafe or dangerous condition, the Village Counsel shall make an application at a special term of the Supreme Court of the State of New York, Westchester County, for an order determining the building or other structure to be a public nuisance and directing that it be repaired and secured or taken down and removed, and the Village Counsel shall take all steps necessary to obtain and enforce such order, provided that the Board of Trustees may designate special counsel to act in the place and stead of the Village Counsel, and provided, further, that if the unsafe or dangerous condition is repaired and secured or the building or structure taken down and removed and payment made to the Village of all costs and expenses as hereinafter set forth, all prior to the presentation of such application to the Supreme Court, the Board of Trustees may direct the Village Counsel or special counsel to cease proceedings pursuant to this section.
- H. In the event that an order is obtained pursuant to Subsection G above requiring any person to repair or secure or to take down or remove any building or structure and such order is not complied with within the time provided in such order or, in the absence of such time limit in such order, within 10 days after service of a copy of such order in the manner provided in such order or, in the absence of a provision in such order for the manner of service thereof, in the manner provided by Subsection D above for the service of a notice if such person has not appeared upon such application to said court, and otherwise by service in the same manner as provided by law for the service of a notice of motion in an action in the Supreme Court of the State of New York, the Village may so repair or secure or take down or remove such building or structure as if it were the person to whom such order were directed, or may take any steps or proceedings authorized by law for the enforcement of such order, or both.
- I. No costs or expenses shall be assessed against any person or land upon strict compliance with a notice issued pursuant to Subsection D above. In any other event, the Village Treasurer shall, within six months after the completion of all legal and physical proceedings pursuant to this chapter against any structures or buildings upon any land, certify to the Board of Trustees the total of all costs and expenses, including all allocated portion of overhead and salaries, incurred or expended pursuant to all sections of this chapter other than Subsections A, B, C and D, and the Board of Trustees shall thereupon, by resolution and without public hearing or other proceedings, declare such total to be a special assessment upon and against the land on which such buildings or structures are or were located, such assessment to be a lien and to be collectible and enforceable in the same manner and by the same procedures as apply to general or other special assessments.
- J. Each surveyor shall receive compensation for each day or fraction thereof devoted to surveying the premises, which compensation shall include all services rendered thereafter in the preparation of reports, provided that the compensation so paid to any surveyor who is a full-time employee of the Village shall be paid over by him to the Village Treasurer

to be added to the general funds of the Village as income or receipts of the Building Department.

**§64-14. OPERATING PERMITS.**

A. Operating permits shall be required for conducting the activities or using the categories of buildings listed below and as listed in § 112-33D. Any person who proposes to undertake any activity or to operate any type of building listed in this subsection shall be required to obtain an operating permit prior to commencing such activity or operation.

(1) manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in the applicable Maximum Allowable Quantity tables found in Chapter 50 of the FCNYS;

(2) buildings, structures, facilities, processes, and/or activities that are within the scope and/or permit requirements of the chapter or section title of the FCNYS as follows:

(a) Chapter 22, Combustible Dust-Producing Operations. Facilities where the operation produces combustible dust;

(b) Chapter 24, Flammable Finishes. Operations utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24 of the FCNYS;

(c) Chapter 25, Fruit and Crop Ripening. Operating a fruit- or crop-ripening facility or conducting a fruit-ripening process using ethylene gas;

(d) Chapter 26, Fumigation and Insecticidal Fogging. Conducting fumigation or insecticidal fogging operations in buildings, structures, and spaces, except for fumigation or insecticidal fogging performed by the occupant of a detached one-family dwelling;

(e) Chapter 31, Tents, Temporary Special Event Structures, and Other Membrane Structures. Operating an air-supported temporary membrane structure, a temporary special event structure, or a tent where approval is required pursuant to Chapter 31 of the FCNYS;

(f) Chapter 32, High-Piled Combustible Storage. High-piled combustible storage facilities with more than 500 square feet (including aisles) of high-piled storage;

(g) Chapter 34, Tire Rebuilding and Tire Storage. Operating a facility that stores in excess of 2,500 cubic feet of scrap tires or tire byproducts or operating a tire rebuilding plant;

(h) Chapter 35, Welding and Other Hot Work. Performing public exhibitions and demonstrations where hot work is conducted, use of hot work, welding, or cutting equipment, inside or on a structure, except an

operating permit is not required where work is conducted under the authorization of a building permit or where performed by the occupant of a detached one- or two-family dwelling;

(i) Chapter 40, Sugarhouse Alternative Activity Provisions. Conducting an alternative activity at a sugarhouse;

(j) Chapter 56, Explosives and Fireworks. Possessing, manufacturing, storing, handling, selling, or using, explosives, fireworks, or other pyrotechnic special effects materials except the outdoor use of sparkling devices as defined by Penal Law section 270;

(k) Section 307, Open Burning, Recreational Fires and Portable Outdoor Fireplaces. Conducting open burning, not including recreational fires and portable outdoor fireplaces;

(l) Section 308, Open Flames. Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies; and

(m) Section 319, Mobile Food Preparation Vehicles. Operating a mobile food preparation vehicle in accordance with the permitting requirements established by any Local Law in effect or as hereafter created and amended from time to time.

(n) energy storage systems, where the system exceeds the values shown in Table 1206.1 of the FCNYS or exceeds the permitted aggregate ratings in section R327.5 of the RCNYS.

(3) buildings containing one or more assembly areas;

(4) outdoor events where the planned attendance exceeds 1,000 persons;

(5) facilities that store, handle or use hazardous production materials;

(6) parking garages as defined in section 64-17A of this local law;

(7) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Village Board of the Village of Ardsley; and

(8) other processes or activities or for operating any type of building, structure, or facility as determined by resolution adopted by the Village Board of the Village of Ardsley.

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 Superintendent of Buildings, Fire Chief or Fire Inspector. Such application shall include such information as the Superintendent of Buildings, Fire Chief or Fire Inspector deem sufficient to permit

a determination by the Superintendent of Buildings that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Superintendent of Buildings, Fire Chief or Fire Inspector. determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Superintendent of Buildings, Fire Chief or Fire Inspector., at the expense of the applicant.

- C. Exemptions. Operating permits shall not be required for processes or activities, or the buildings, structures, or facilities listed in section 64-14A (1) through (6) of this chapter, provided that the use is expressly authorized by a certificate of occupancy or certificate of compliance, fire safety and property maintenance inspections are performed in accordance with section 11 (Fire Safety and Property Maintenance Inspections) of this local law, and condition assessments are performed in compliance with section 64-17 (Condition Assessments of Parking Garages) of this Chapter, as applicable.
- D. Inspections. The Superintendent of Buildings or an Inspector authorized by the Superintendent of Buildings shall inspect the subject premises prior to the issuance of an Operating Permit. Such inspections shall be performed either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the Superintendent of Buildings or an Inspector authorized by the Superintendent of Buildings, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Superintendent of Buildings or Inspector authorized by the Superintendent of Buildings that the premises conform with the applicable requirements of the Uniform Code and the code enforcement program. Should a remote inspection not afford the Village sufficient information to make a determination, an in-person inspection shall be performed. After inspection, the premises shall be noted as satisfactory and the operating permit shall be issued, or the operating permit holder shall be notified as to the manner in which the premises fail to comply with either or both of the Uniform Code and the code enforcement program, including a citation to the specific provision or provisions that have not been met.
- E. Multiple Activities. In any circumstance in which more than one activity listed in section 64-14 of this chapter is to be conducted at a location, the Superintendent of Buildings may require a separate Operating Permit for each such activity, or the Superintendent of Buildings may, in their discretion, issue a single Operating Permit to apply to all such activities.
- F. Duration of Operating Permits. Operating permits shall be issued for a specified period of time consistent with local conditions, but in no event to exceed as follows:
  - (1) 180 days for tents, special event structures, and other membrane structures;
  - (2) 60 days for alternative activities at a sugarhouse;

(3) Three (3) years for the activities, structures, and operations determined per section 64-14A (8) of this chapter, and

(4) one (1) year for all other activities, structures, and operations identified in section 64-14A of this chapter.

- G. 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 Superintendent of Buildings, Fire Chief or Fire Inspector, payment of the applicable fee, and approval of such application by the Superintendent of Buildings.
- H. Revocation or suspension of Operating Permits. If the Superintendent of Buildings 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.
- I. Fee. The fee specified in or determined in accordance with the provisions set forth in this Chapter and §A210-3 of this code 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.

#### **§64-15. FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS**

- A. Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Superintendent of Buildings or an Inspector designated by the Superintendent of Buildings at the following intervals:
  - (1) at least once every 12 months for buildings which contain an assembly area;
  - (2) at least once every 12 months for public and private schools and colleges, including any buildings of such schools or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining, or recreational facilities; and
  - (3) at least once every 36 months for multiple dwellings and all nonresidential occupancies.
- B. Remote inspections. At the discretion of the Superintendent of Buildings or Inspector authorized to perform fire safety and property maintenance inspections, a remote inspection may be performed in lieu of in-person inspections when, in the opinion of the Superintendent of Buildings or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Superintendent of Buildings or such authorized Inspector that the premises conform with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference. Should a remote inspection not afford the Superintendent of Buildings or such authorized Inspector

sufficient information to make a determination, an in-person inspection shall be performed.

- C. Inspections permitted. In addition to the inspections required by subdivision section 64-15A of this chapter, 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 Superintendent of Buildings or an Inspector authorized to perform fire safety and property maintenance inspections at any time upon:

- (1) the request of the owner of the property to be inspected or an authorized agent of such owner;
- (2) receipt by the Superintendent of Buildings 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 Superintendent of Buildings of any other information, reasonably believed by the Superintendent of Buildings to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist;

provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

- D. OFPC Inspections.

(1) 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 or other authorized entity under Executive Law section 156-e and Education Law section 807-b.

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

(a) the Superintendent of Buildings is satisfied that the individual performing such inspection satisfies the requirements set forth in 19 NYCRR section 1203.2(e);

(b) the Superintendent of Buildings is satisfied that such inspection covers all elements required to be covered by a fire safety and property maintenance inspection;

- (c) such inspections are performed no less frequently than once a year;
- (d) a true and complete copy of the report of each such inspection is provided to the Superintendent of Buildings; and
- (e) upon receipt of each such report, the Superintendent of Buildings takes the appropriate action prescribed by section 64-21 (Violations) of this local law.

E. Fee. The fee specified in or determined in accordance with the provisions set forth in this Chapter or §A210-3 of this Code 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.

#### **§64-16. COMPLAINTS**

A. The Superintendent of Buildings 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 Superintendent of Buildings may deem to be appropriate:

- (1) performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- (2) if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 64-21 (Violations) of this local law;
- (3) if appropriate, issuing a Stop Work Order;
- (4) if a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

B. Appearance tickets. The Superintendent of Buildings and each inspector are authorized to issue appearance tickets or summonses for any violation of the Uniform Code, the Energy Code, or this chapter.

#### **§64-17. CONDITION ASSESSMENTS OF PARKING GARAGES.**

A. Definitions. For the purposes of this section:

- (1) the term condition assessment means an on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of

such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure;

(2) the term deterioration means the weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component;

(3) the term parking garage means any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:

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

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

(c) a townhouse unit with attached parking exclusively for such unit;

(4) the term professional engineer means an individual who is licensed or otherwise authorized under Article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations;

(5) the term responsible professional engineer means the professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report. The use of the term responsible professional engineer shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment.

(6) the term unsafe condition includes the conditions identified as unsafe in section 304.1.1, section 305.1.1, and section 306.1.1 of the PMCNYS; and

(7) the term unsafe structure means a structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.

- B. Condition Assessments – general requirements. The owner operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in subdivision C of this section, periodic condition assessments as described in subdivision D of this section, and such additional condition assessments as may be required under subdivision E of this section. Each condition assessment shall be conducted by or under the direct supervision of a professional engineer. A written report of each condition assessment shall be prepared, and provided to the Village, in accordance with the requirements of subdivision F of this section. Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the



responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.

C. Initial Condition Assessment. Each parking garage shall undergo an initial condition assessment as follows:

(1) Parking garages constructed on or after August 29, 2018, shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure.

(2) Parking garages constructed prior to August 29, 2018, shall undergo an initial condition assessment as follows:

(a) if originally constructed prior to January 1, 1984, then prior to October 1, 2019;

(b) if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and

(c) if originally constructed between January 1, 2003 and August 28, 2018, then prior to October 1, 2021.

(3) Any parking garage constructed prior to the effective date of the local law enacting this provision that has not undergone an initial condition assessment prior to that effective date shall undergo an initial condition assessment prior to six (6) months after the effective date of this local law.

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

E. Additional Condition Assessments.

(1) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under this chapter, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.

(2) If the Village becomes aware of any new or increased deterioration which, in the judgment of the Village, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of

this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the Village to be appropriate.

F. Condition Assessment Reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the Village within 30 days. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:

(1) an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;

(2) an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;

(3) an evaluation and description of the unsafe conditions;

(4) an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;

(5) an evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;

(6) an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;

(7) the responsible professional engineer's recommendation regarding preventative maintenance;

(8) except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and

(9) the responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and

any other factors deemed relevant by the responsible professional engineer in their professional judgment.

- G. Review Condition Assessment Reports. The Village shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the Village shall, by Order to Remedy or such other means of enforcement as the Village may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to paragraphs (2) and (3) of subdivision F. All repairs and remedies shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the Village to take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.
- H. The Village shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the Village with a written statement attesting to the fact that he or she has been so engaged, the Village shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The Village shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.
- I. This section shall not limit or impair the right or the obligation of the Village:
  - (1) to perform such construction inspections as are required by section 64-9 (Construction Inspections) of this local law;
  - (2) to perform such periodic fire safety and property maintenance inspections as are required by section 64-15 (Fire Safety and Property Maintenance Inspections) of this local law; and/or
  - (3) to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the Village by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.

**§64-18. CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA.**

- A. The Superintendent of Buildings shall determine the climatic and geographic design criteria for buildings and structures constructed within this Village as required by the Uniform Code. Such determinations shall be made in the manner specified in the Uniform Code using, where applicable, the maps, charts, and other information provided

in the Uniform Code. The criteria to be so determined shall include but shall not necessarily be limited to, the following:

(1) design criteria to include ground snow load; wind design loads; seismic category; potential damage from weathering, frost, and termite; winter design temperature; whether ice barrier underlayment is required; the air freezing index; and the mean annual temperature;

(2) heating and cooling equipment design criteria for structures within the scope of the RCNYS. The design criteria shall include the data identified in the Design Criteria Table found in Chapter 3 of the RCNYS; and

(3) flood hazard areas, flood hazard maps, and supporting data. The flood hazard map shall include, at a minimum, special flood hazard areas as identified by the Federal Emergency Management Agency in the Flood Insurance Study for the community, as amended or revised with:

(a) the accompanying Flood Insurance Rate Map (FIRM);

(b) Flood Boundary and Floodway Map (FBFM); and

(c) related supporting data along with any revisions thereto.

B. The Superintendent of Buildings shall prepare a written record of the climatic and geographic design criteria determined pursuant to subdivision (a) of this section, shall maintain such record within the office of the Superintendent of Buildings, and shall make such record readily available to the public.

#### **§64-19. RECORD KEEPING.**

A. The Superintendent of Buildings shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

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

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

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

(4) all inspections and tests performed;

(5) all statements and reports issued;

(6) all complaints received;

(7) all investigations conducted;

(8) all condition assessment reports received;

(9) all fees charged and collected; and

(10) all other features and activities specified in or contemplated by sections 64-3 through 64-18, inclusive, of this local law.

- 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.

#### **§64-20. PROGRAM REVIEW AND REPORTING**

- A. The Superintendent of Buildings shall annually submit to the Village Board of this Village a written report and summary of all business conducted by the Superintendent of Buildings and the Inspectors, including a report and summary of all transactions and activities described in section 64-19 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.
- B. The Superintendent of Buildings shall annually submit to the Secretary of State, on behalf of this Village, on a form prescribed by the Secretary of State, a report of the activities of this Village relative to administration and enforcement of the Uniform Code.
- C. The Superintendent of Buildings shall, upon request of the New York State Department of State, provide to the New York State Department of State, true and complete copies of the records and related materials this Village is required to maintain; true and complete copies of such portion of such records and related materials as may be requested by the Department of State; and/or such excerpts, summaries, tabulations, statistics, and other information and accounts of its activities in connection with administration and enforcement of the Uniform Code and/or Energy Code as may be requested by the Department of State.

#### **§64-21. VIOLATIONS**

- A. Violation notices and orders to remedy. The Superintendent of Buildings and each inspector are authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this chapter. Upon finding that any such condition or activity exists, the Superintendent of Buildings or inspector shall issue a violation notice. The violation notice shall: be in writing, be dated and signed by the Superintendent of Buildings or inspector, specify the condition or activity that violates the Uniform Code, the Energy Code, or this chapter, specify the provision or provisions of the Uniform Code, the Energy Code, or this chapter which is/are violated by the specified condition or activity and shall include a statement similar to the following:

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

The Order to Remedy may include provisions ordering the person or entity served with such Order to Remedy to begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time which may be less than thirty (30) days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within thirty (30) days of the date of such Order to Remedy; and/or to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this local law or by any other applicable statute, regulation, rule, local law or ordinance, and which the Superintendent of Buildings may deem appropriate, during the period while such violations are being remedied. The Superintendent of Buildings shall cause the Order to Remedy, or a copy thereof, to be served on the owner of the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy. The Superintendent of Buildings shall be permitted, but not required, to cause the Order to Remedy, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

#### **§64-22. Appearance Tickets.**

The Superintendent of Buildings and each inspector are authorized to issue appearance tickets or summonses for any violation of the Uniform Code, the Energy Code, or this chapter.

#### **§64-23. Penalties.**

In addition to such other penalties as may be prescribed by State law,

- 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 the Uniform Code, the Energy Code, or this chapter or to fail in any manner to comply with a notice, directive or order of the Superintendent of Buildings 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, operating permit or certificate of occupancy or to comply with any term, condition, or provision of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Superintendent of Buildings pursuant to any provision of this local law.
- B. Any person, firm or corporation who shall fail to comply with a written order of the Building Department 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 Building Department made thereunder shall, upon conviction thereof, be subject to a fine not less than \$250 and not more than \$2,000 for the first offense in a twenty-four-month period, not less than \$500 and not more than \$2,000 for the second offense in a twenty-four-month period, not less than \$750 and not more than \$2,000 for the third offense in a twenty-four-month period, and not less than \$1,000 and not more than \$2,000 for the fourth and subsequent offenses in a twenty-four-month period, or to imprisonment for a term not exceeding 15 days, or both. The twenty-four-month period shall commence on the date of the initial violation. Every violation of this article shall be a separate and distinct offense, and in the case of continued violation, every day's continuance thereof shall be deemed to be a separate and distinct offense. A violation of this article shall constitute disorderly conduct.

- C. Any person, firm or corporation committing an offense against any of the provisions of the Uniform Code, the Energy Code or this chapter shall be guilty of a violation and, upon conviction thereof, shall be subject to a fine not less than \$250 and not more than \$2,000 for the first offense in a twenty-four-month period, not less than \$500 and not more than \$2,000 for the second offense in a twenty-four-month period, not less than \$750 and not more than \$2,000 for the third offense in a twenty-four-month period, and not less than \$1,000 and not more than \$2,000 for the fourth and subsequent offenses in a twenty-four-month period, or to imprisonment for a term not exceeding 15 days, or both. The twenty-four-month period shall commence on the date of the initial violation. Every violation of this article shall be a separate and distinct offense, and in the case of continued violation, every day's continuance thereof shall be deemed to be a separate and distinct offense. A violation of this article shall constitute disorderly conduct.
- D. Injunctive Relief. An action or proceeding may be instituted in the name of this Village, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Order to Remedy, or other notice or order issued by the Superintendent of Buildings pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Order to Remedy or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this Village, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Village Board of this Village.
- E. Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section,

and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 64-10 (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 64-10 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 382 of the Executive Law.

#### **§64-24. FEES**

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

#### **§64-25. INTERMUNICIPAL AGREEMENTS**

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

#### **§64-26. 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.

#### **§64-27. 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.