

Caroline Town Board Meeting Minutes of January 18, 2023

The Town Board Business Meeting was held hybrid at the Caroline Town Hall on January 18, 2023, and was called to order at 7:06 p.m. by Supr. Witmer

Attendance:

Supervisor Mark Witmer
Councilmember Cal Snow
Councilmember Tim Murray
Councilmember Katherine Goldberg
Councilmember Kate Kelley-Mackenzie

Also Present:

Bld. Insp. Cliff Babson

Recording Secretary:

Jessica L. Townsend, Town Clerk

Public Present: 5 _____ **Zoom:** 6

Supr. Witmer opened the meeting with Pledge to the Flag.

Privilege-of-the-Floor

Rob Swansbrough – Spoke regarding the proposed Code Enforcement Local Law (CELL). He disputed that the proposed law is what was recommended by NYS, and by his review, the Caroline draft has more restrictive language. He also noted that this draft lacked protection for our historical buildings.

Kathy Mix – Not in favor of the Board voting on the CELL tonight, adding that the language has not changed since its introduction in December. She shared her concern with the many restrictions the Board is currently discussing. Hopes for more transparency from the Board as they discuss and make decisions on current and ongoing topics. She again recommended that they vote on the base model law provided from NYS and continue to research and develop the law. Lastly, she reported that there was a fire in the town 3 weeks ago and the homeowner states the Code Officer has not yet been to the premises to inspect.

Pete Hoyt – Received an email from the Assessor’s Office and thanked the Board for keeping the tax levy low – 2nd lowest in Tompkins County. Also, opposes a vote on the CELL tonight and added that there has not been, to the public’s knowledge, any changes, or deliberations since it was last postponed in December. Questioned open meetings law regarding discussions that the Board share privately and asked that they share a summary of any private discussions that have happened since Dec meeting.

With no further public comment, Supr. Witmer confirmed that the CELL will be voted on tonight by the Board. The Town Attorney wrote the law and has confirmed that most everything in that draft local law is directly related to the base model local law created and recommended by NYS, its Codes Division, and the Department of State, among others. He also confirmed that corresponding and communicating privately amongst the Board is in no way illegal and that a final vote does not happen privately.

Further discussion and clarification from Board members regarding the law. Clm. Murray explained that Section 9 appears to have more language in this draft, but that it is due to Sections 9 & 13 of the 2013 law were combined into just Section 9 in this 2023 law. Clm. Goldberg addressed her frustration regarding the implication made that she is not being transparent with the community. This law was postponed so that they each could read, research, and understand the law, which she has done, and is now at a point where she sees no reason to delay this law any further.

A copy of the 2023 Code Enforcement Local Law is attached

Discussion with George Frantz

George shared his long-standing history of Ag Planning and has been subcontracted in municipalities throughout Tompkins County for many years. His focus in Caroline, in addition to collecting a variety of data, he will work collaboratively with County Planner, Monika Roth and Zoning Planner, Nan Stolzenburg. Together, they will combine their knowledge and work directly with the Ag Committee as they develop an Ag & Farmland Protection Plan for the Caroline Community.

Discussion with Kristen Hychka

Much like the discussion with George, the Board listened as Kristen listed her very impressive accomplishments, which includes her work on the Watershed Committee and Caroline Representative on the Tompkins County Water Resource Committee. Gave a brief background on her credentials along with past and current committees.

Committee Reports

Supr. Witmer – Supervisor Notes:

Highway Facilities Project: Addendum 1 (answers to proposer questions) was posted 12/22/22. No further questions have been received. Proposal are due 1/25/23. Interviews will be scheduled 2/6/23-2/17/23.

- TCCOG Emergency Services Planning: Review of applications for Tompkins County Emergency Medical Services (EMS) Program Manager is underway.
- Energy Independent Caroline Committee: working on draft CCA (Community Choice Aggregation) Local Law for consideration by the Town Board. A CCA Local Law is a necessary step that allows a municipality to establish a CCA program, but does not require that a municipality do so. Community Choice Aggregation is a community energy bulk-purchasing program that empowers a municipality to leverage marketplace competition. Residents can opt-out at any time.
- Submitted program application to NYSERDA (Flexible Technical Assistance - Flextech, PON 4192) for Speedsville community geothermal feasibility study by Egg Geothermal.
- Watershed Committee: Planning for spring Amphibian/Salamander Awareness and Spring Clean-up. Cayuga Lake Watershed Intermunicipal Organization (CWIO) has hired a Watershed Manager who is now doing outreach to stakeholders. Discussion of need for watershed-wide solutions as CWIO is doing. The Caroline Watershed Committee will be discussing the impacts of use of salt on roadways at the February 8 meeting.
- Annual Audit of Supervisor's, Clerk's, and Court offices scheduled for Tuesday, January 24th.
- Locksmith scheduled for February 6 during regular court office hours for lock/key work in Town Hall. The Caroline Town Court has been notified.
- Met with Susan Holland, Exec. Director of Historic Ithaca, to discuss development of Historic Preservation Grant proposal for Historic Town Hall.
- Pleasant Valley conducted alarm testing conducted today.
- Maintenance program training for LED streetlights completed.

Code Officer – Issued 6 new building permits, 12 inspections, 4 more this week, 1 Notice of Violation to Remedy, 1 new address assignment, has reviewed and exempt 2 Subdivision Review maps; issued 3 Certificate of Compliance and/or Occupancy. There were two fires in town this month, neither were chimney fires. One was a small electrical fire that he cannot inspect without invitation from homeowner.

Town Clerk – Tax Collection is underway. The Office has currently collected approximately \$700,000 since January 2nd.

Cm. Murray – ZC – Report of Activities to the Board. Meeting on Jan 31st and could possibly schedule the Public Hearing on the draft. Likely two Public Hearings will be held.

Cm. Kelley-Mackenzie – Broadband – Workshop in March for possible grant money from Appalachian funding for rural internet access.

Cm. Snow - Stairway to History Room has been painted. Put forward a Resolution to officially name the Caroline History Room.

Resolution 52 of 2023 Approve contract with George Frantz & Associates

Motion by: Witmer Second: Kelley-Mackenzie

Resolved, the Caroline Town Board approves to contract with George Frantz & Associates for consultation services for Ag & Farmland Protection Planning.

Motion carried.

Ayes: Witmer, Snow, Murray, Goldberg, Kelley-Mackenzie

Nays: None

Resolution 53 of 2023 Vote on Code Enforcement Local Law

Motion by: Witmer Second: Murray

Resolved, the Caroline Town Board hereby adopts the Code Enforcement Law and Regulations.

Discussion: Supr. Witmer supports the draft put forward by the Town Attorney and emphasized that this is a ministerial process that allows the town to enforce a state regulation on a local level, and added this law is about providing safety for people and buildings. Cm. Snow opposes some of the rules that are in the draft, adding that it sets forth more rules and regulations, already have so many in place. He doesn't feel it's appropriate for a rural town. Cm. Murray shared support of the law. Cm. Goldberg acknowledged the concerns brought forward by the public but takes issue with accusations of this being anything other than a building safety measure. She has read this law extremely carefully and is comfortable with the attorney's markup of the document.

Motion carried.

Ayes: Witmer, Murray, Goldberg, Kelley-Mackenzie

Nays: Snow

Resolution 54 of 2023 Budget Transfer Resolution

Motion by: Witmer Second: Kelley-Mackenzie

Resolved, the Caroline Town Board hereby approves the following budget transfer for 2022 accounts: \$392.15 from SL1-599 to SL1-5182.4

Motion carried.

Ayes: Witmer, Snow, Murray, Goldberg, Kelley-Mackenzie

Nays: None

Resolution 55 of 2023 Approval of Payments

Motion by: Witmer Second: Snow

Resolved, the Caroline Town Board approves payment of vouchers for town expenses totaling the following amounts:

A: \$ 75,835.04

DA: \$ 124,203.44

SL: \$ 391.68

SF: \$ 6,325

Motion carried.

Ayes: Witmer, Snow, Murray, Goldberg, Kelley-Mackenzie

Nays: None

Resolution 56 of 2023 Purchase of Laptop for Town Meetings.

Motion by: Witmer Second: Murray

Resolved, the Caroline Town Board hereby approves the purchase of a laptop for use of town meetings.

Motion carried.

Ayes: Witmer, Snow, Murray, Goldberg, Kelley-Mackenzie

Nays: None

Discussion of Property Tax Exemptions

The Board is discussing several tax exemptions for their consideration and the necessity to do so soon if they are to have these in place for the 2024 tax roll. The exemptions for consideration include a 10% tax reduction for Volunteer Fire and Ambulance workers, a Capital Improvement Exemption, a Veteran of War Exemption, Green Buildings, and one is to modify the Senior Disabled/Low-Income Exemption. This modification is being proposed to raise the current annual income limit from \$28,000 to \$35,000. Town Board members shared positive approval of these exemptions and Supr. Witmer plans to speak with Tompkins County Assessment Director, Jay Franklin and will then introduce this at the February Agenda Meeting.

A Motion to enter Executive Session was made by Supr. Witmer to discuss a personnel matter and was seconded by Clm. Murray and carried unanimously at 9:12 p.m.

A Motion to exit Executive Session and adjourn the meeting was made by Supr. Witmer and seconded by Clm. Kelley-Mackenzie at 9:33 p.m.

---Meeting Adjourned---

Respectfully Submitted,

Jessie Townsend, Town Clerk

Town of Caroline

Local Law # 1 of 2023

Code Enforcement Law and Regulations

BE IT ENACTED by the Town Board of the Town of Caroline, County of Tompkins, State of New York, 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 Town. This local law is adopted pursuant to § 10 of the Municipal Home Rule Law, § 130 of Town Law, Article 18 of the Executive Law, and the regulations promulgated thereunder and by Title 19 of the New York Codes, Rules and Regulations, as well as pursuant to other laws and regulations of the State of New York. Except as otherwise provided in the Uniform Code, the Energy Code, in another state law, or pursuant to some other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this local law.

SECTION 2. DEFINITIONS AND CONSTRUCTION –

(a) **Definitions.** In this local law, and whenever the context of use thereof requires or so admits, the following terms shall have the meanings shown in this section:

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

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

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

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

“Code Enforcement Officer” shall mean the Code Enforcement Officer appointed pursuant to subdivision (b) of § 3 of this local law. Unless otherwise stated herein, such term includes a qualified building inspector as referenced in § 138 of Town Law. The Town may have more than one Code

Enforcement Officer, and a qualified individual appointed as an acting Code enforcement Officer, such as (but not limited to) pursuant to an intermunicipal or shared services agreement, shall be deemed a Code Enforcement Officer of the Town for all purposes under this local law.

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

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

“Codes Division” shall mean the New York State Department of State, Division of Building Standards and Codes

“CPLR” means the New York State Civil Practice Laws and Rules.

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

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

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

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

“Inspector” shall mean an inspector appointed pursuant to subdivision (d) of § 3 of this local law, including any qualified building inspector as referenced in § 138 of Town Law. The Town may have more than one Inspector.

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

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

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

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

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

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

“Stop Work Order” shall mean an order issued pursuant to § 6 of this local law.

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

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

“Town” shall mean the Town of Caroline, located in Tompkins County, New York.

“Town Board” shall mean the Town Board of the Town of Caroline.

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

(b) Construction Rules.

(1) Words in the singular or with gendered references shall be interpreted in the plural or other gendered or non-gendered form when required by usage or context.

(2) Any reference herein to a statute, regulation, code, section, or similar rule or law shall be construed to mean that statute, regulation, code, section, or similar rule or law as written when this local law was adopted, as well as such statute, regulation, code, section, or similar rule or law as the same may have been thereafter amended, replaced, or recodified, each as the context and situation thereof may so admit, require, or demand.

(3) Any provision herein that requires a signature of a Town officer or employee shall be deemed met or complied with regardless of whether such signature is electronically made or holographic (original, such as in ink or a “wet” signature), and a photocopy or accurate reproduction thereof, or

of any verification or certification thereof, shall have the same force and effect as an original signature, including relative to legal process and admissibility of evidence requirements.

(4) Subject matter headings shall be interpreted and construed only as matters of convenience, and such shall not be interpreted or used to limit or define the text and references appearing thereunder.

SECTION 3. CODE ENFORCEMENT OFFICER AND INSPECTORS –

(a) **Offices and Authority.** The Office of Code Enforcement Officer is hereby confirmed, and the duties and authorities of such office are updated, expanded, and authorized in accordance with this law. 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 of Occupancy, and Operating Permits, and the plans, specifications, and construction documents submitted with such applications;

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

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

(4) to issue Stop Work Orders;

(5) to review and investigate complaints;

(6) to issue orders pursuant to subdivision (a) of § 17 (Violations) of this local law;

(7) to maintain records;

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

(9) to pursue administrative enforcement actions and proceedings;

(10) in consultation with this Town’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) **Appointment.** The Code Enforcement Officer shall be appointed by the Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for Code Enforcement Personnel, and the Code Enforcement Officer shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

(c) **Acting Code Enforcement Officers.** In the event that the Code Enforcement Officer is unable to serve as such for any reason, another individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of their appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.

(d) **Inspectors.** One or more Inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for Code Enforcement Personnel, and each Inspector shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

(e) **Remuneration for Code Enforcement Officers and Inspectors.** The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board.

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 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 Town.

(b) **Exemptions.** No Building Permit shall be required for work in any of the following categories:

- (1) construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses), which are used for tool and storage sheds, playhouses, or similar uses, provided the gross floor area does not exceed 144 square feet;
- (2) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (3) installation of partitions or movable cases less than 5'-9" in height;
- (4) painting, wallpapering, tiling, carpeting, or other similar finish work;
- (5) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
- (6) 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
- (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 an Authorization for 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. Nor does any exemption, or claimed exemption, prevent or estop a Code Enforcement Officer or Inspector from having the right to view or inspect any work or changes to any site or structure.

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

- (1) a description of the location, nature, extent, and scope of the proposed work;
- (2) the tax map number and the street address of any affected building or structure;
- (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) 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.

(e) **Construction Documents.** Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp, or in the case of electronic media, an electronic marking. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

(f) **Issuance of Building Permits.** An application for a Building Permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

(g) **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) **Fees.** The fee specified in or determined in accordance with the provisions set forth in § 18 (Fees) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

SECTION 5. CONSTRUCTION INSPECTIONS –

(a) **Work to Remain Accessible and Exposed.** Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer when any element of work described in subdivision (b) of this section is ready for inspection.

(b) **Elements of Work to be Inspected.** The following elements of the construction process shall be inspected, where applicable:

- (1) work site prior to the issuance of a Building Permit;
- (2) footing and foundation;
- (3) preparation for concrete slab;
- (4) framing;
- (5) structural, electrical, plumbing, mechanical, fire-protection, and other similar service systems of the building;
- (6) fire resistant construction;
- (7) fire resistant penetrations;
- (8) solid fuel burning heating appliances, chimneys, flues, or gas vents;
- (9) inspections required to demonstrate Energy Code compliance, including but not limited to insulation, fenestration, air leakage, system controls, mechanical equipment size, and, where required, minimum fan efficiencies, programmable thermostats, energy recovery, whole-house ventilation, plumbing heat traps, and high-performance lighting and controls;
- (10) installation, connection, and assembly of factor manufactured buildings and manufactured homes; and
- (11) a final inspection after all work authorized by the Building Permit has been completed.

(c) **Remote Inspections.** At the discretion of the Code Enforcement Officer or Inspector authorized to perform construction inspections, a remote inspection may be performed in lieu of an in-person inspection when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or by such authorized Inspector that the elements of the construction process conform with the applicable requirements of the Uniform Code and Energy Code. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.

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

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

SECTION 6. STOP WORK ORDERS –

(a) **Authority to Issue.** The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:

(1) any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued for such work, or

(3) any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired, or has been suspended or revoked.

(b) **Content of Stop Work Orders.** Stop Work Orders shall (1) be in writing, (2) be dated and signed by the Code Enforcement Officer, (3) state the reason or reasons for issuance, and (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

(c) **Service of Stop Work Orders.** The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by registered mail / certified mail at the address set forth in the Building Permit or as listed by the Assessment Department for such landowner(s). The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by registered mail / certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order. Whenever there is cause to believe that service by registered mail / certified mail has not provided actual notice of the order or notice, the Town and the Code Enforcement Officer shall undertake effecting personal service in a manner as is sufficient for service of a summons under the CPLR.

(d) **Effect of Stop Work Order.** Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder, and any other Person performing, taking part in, or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order, other than work expressly authorized by the Code Enforcement Officer to correct the reason for issuing the Stop Work Order.

(e) **Remedy not Exclusive.** The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under § 17 (Violations) of this local law or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

SECTION 7. CERTIFICATES OF OCCUPANCY AND CERTIFICATES OF COMPLIANCE –

(a) **Certificates of Occupancy and Certificates of Compliance Required.** A Certificate of Occupancy or Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy or Certificate of Compliance.

(b) **Issuance of Certificates of Occupancy and Certificates of Compliance.** The Code Enforcement Officer shall issue a Certificate of Occupancy or Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure, or work prior to the issuance of a Certificate of Occupancy or Certificate of Compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy or Certificate of Compliance:

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

(c) **Contents of Certificates of Occupancy and Certificates of Compliance.** A Certificate of Occupancy or Certificate of Compliance shall contain the following information:

- (1) the Building Permit number, if any;

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

(d) Temporary Certificate of Occupancy. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate of Occupancy allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate of Occupancy unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate of Occupancy, may be occupied safely, (2) that any required fire and life safety components, such as fire protection equipment and fire, smoke, carbon monoxide, and heat detectors and alarms are installed and operational, and (3) that all required means of egress from the structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate of Occupancy such terms and conditions as he or she deems necessary or appropriate to ensure the health and safety of the persons occupying and using the building or structure and/or performing further construction work in the building or structure. A Temporary Certificate of Occupancy shall be effective for a period of time up to but not to exceed 90 days, as determined by the Code Enforcement Officer and specified in the Temporary Certificate of Occupancy. During the specified period of effectiveness of the Temporary Certificate of Occupancy, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code. A Temporary Certificate of Occupancy may be renewed upon payment of the fee referenced below, but the decision to grant or deny a renewal of a Temporary Certificate of Occupancy shall be made in the sole discretion of the Code Enforcement Officer, without recourse, and regardless of whether any grounds for revocation or suspension exist.

(e) Revocation or Suspension of Certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy, Certification of Compliance, or a Temporary Certificate of Occupancy was issued in error or on the basis of incorrect information, and if the relevant deficiencies are not corrected

to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

(f) **Fees.** The fee specified in or determined in accordance with the provisions set forth in § 18 (Fees) of this local law must be paid at the time of submission of an application for a Certificate of Occupancy, Certificate of Compliance, or for Temporary Certificate of Occupancy.

SECTION 8. NOTIFICATION REGARDING FIRE OR EXPLOSION –

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

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

Unsafe buildings, structures, and equipment, and conditions of imminent danger related thereto, located within this Town shall be identified and addressed in accordance with the procedures set forth below, or under General Municipal Law § 78-b, or otherwise in accord with applicable law.

(a) **Additional Definitions.** For purposes of this section, the following definitions shall apply:

(1) “DCN” or “Defective Conditions Notice” means a form of notice that provides prescribed information and orders a repair, remediation, remedy, demolition, or temporary rules (including pertaining to use and occupancy) related to any Unsafe Building. The rules for and contents of a DCN are set for the below, and for all purposes under this local law a DCN may also be treated as a compliance notice or order to remedy, including under this local law and Executive Law § 382.

(2) “Hazardous Building” shall mean any Unsafe Building that presents or poses an imminent or immediate danger of failure or collapse, or an imminent or immediate danger to the life, health, safety or welfare of any Person. A single building or Structure can be both a Hazardous Building and an Unsafe Building, and all Hazardous Buildings are and shall be deemed Unsafe Buildings.

(2) “Unsafe Building” shall mean any building or structure, or portion or appurtenance thereof, or equipment therein, that:

(i) is abandoned, dilapidated, derelict, structurally unsafe, or unsanitary;

(ii) constitutes a fire hazard;

(iii) is not provided with sufficient means of egress or exits in the case of a fire;

(iv) constitutes a hazard to safety or health by reason of inadequate maintenance, infestation, dilapidation, obsolescence or abandonment;

(v) is or was constructed or improved without a Building Permit when such was required;

(vi) is or was occupied or used without any Certificate of Compliance, Certificate of Occupancy, or Operating Permit; when such was required;

(vii) is in violation of the Uniform Code or Energy Code in any manner or respect as materially impairs the safety or structural integrity thereof; or

(viii) is otherwise dangerous to human life.

(b) Unsafe Buildings and Structures Generally. All Unsafe Buildings are hereby declared to be illegal and shall be abated by repair or demolition in accordance with the provisions of this section. Any building or structure, or any part thereof, that is unsafe or poses an imminent danger to life and safety of the public, in the opinion of the Code Enforcement Officer, is hereby also declared to be a public nuisance. The Code Enforcement Officer may order the repair, remediation, or demolition of any Unsafe Building, or structure, equipment, or part thereof. The occupants, if any, of any such building or structure may be ordered to vacate the building or structure forthwith, and no Person shall use any premises that have been ordered vacated unless authorized by the Code Enforcement Officer to perform inspections, repairs, or to demolish and remove such building or structure, or part or appurtenance thereof.

(c) Hazardous Buildings Generally. If the building or structure is determined or declared to be a Hazardous Building, the occupants, if any, of any such building or structure shall be ordered to vacate the building or structure forthwith, and no Person shall use any premises that have been ordered vacated unless authorized by the Code Enforcement Officer to perform inspections, repairs, or to demolish and remove such building or structure, or part or appurtenance thereof. In addition to the requirements of this local law and this section, a Hazardous Building shall be subject to the following additional procedures:

(1) The Enforcement Officer shall post a copy of the DCN upon such Hazardous Building along with a placard that complies with the Uniform Code and conspicuously displays in large, bold-faced type as follows: "CONDEMNED: THIS BUILDING IS HAZARDOUS AND UNSAFE. ENTRY, USE, AND OCCUPANCY OF THIS BUILDING HAVE BEEN PROHIBITED BY THE TOWN OF CAROLINE". Such placard shall be affixed to the main entrances of such Hazardous Building, and such other locations on each major entrance or side or façade thereof as will promote the observation thereof by the average passerby. Placards may also be staked into the ground or affixed upon trees and other structures upon and about the premises upon which the Hazardous Building is situate, including along any driveways, accessways, or road front(s) to apprise the public of the Hazardous Building and related conditions.

(2) No Hazardous Building may be occupied, nor may a hazardous building be re-occupied until each and all unsafe and hazardous conditions are remediated.

(3) Such notice and placard shall remain posted until all required repairs are made or demolition of the Hazardous Building is completed. It shall be unlawful for any person to remove such notice without written permission of the Enforcement Officer, or for any person to enter a Hazardous

Building except for the purpose of evaluating the building condition, making the required repairs, or to demolish such Hazardous Building.

(4) If the Enforcement Officer determines that an emergency exists in relation to such Hazardous Building, the Enforcement Officer is also hereby empowered, but not required, to:

- (i) enter any such premises for the purposes of inspection and investigation;
- (ii) promptly cause any hazardous building or portion thereof to be made safe or removed; and
- (iii) order the vacation of adjacent structures; and
- (iv) protect the public by appropriate barricades or such other means as may be necessary, including the closure of public or private ways.

(d) **Right of Town to Collect Costs or Remediation or Removal.** In the event that the Town shall seek to recover or collect the costs of any repairs, remedial work, or demolition or other costs (not including any civil fine or criminal penalty imposed or collected) incurred in relation to any Unsafe Building, including through the enforcement or emplacement of any lien or assessment against the subject real property, then and in such event the Town and the Code Enforcement Officer (and all Inspectors) shall comply with the requirements and provisions of this section.

(e) **Complaints and Inspections.** Upon receiving a complaint, or upon any inspection of any property, the Code Enforcement Officer shall determine whether or not there appears to be a violation of this local law or any condition in or about the premises as constituted an Unsafe Building. Upon finding or making a determination that an Unsafe Building violation exists, the Code Enforcement Officer shall serve upon the Owner, or other occupant or Person having control of the real property in the Town of Caroline charged with the maintenance of such property, written notice of such violation or non-compliance, and such notice shall be called and labeled as a “Defective Conditions Notice” (or “DCN”). A DCN shall be served in a manner as is required of a summons under the CPLR. The Code Enforcement may also post or placard the affected building, structure, or premises with a copy of such DCN or any placard as is or may be required under the Uniform Code.

(f) **DCN Contents and Requirements.** A DCN shall contain:

- (1) a brief description of the buildings, structures or premises affected, and for this purpose a street address is sufficient;
- (2) the nature and existence of the violation(s);
- (3) the provisions of this Local Law (or the Building Code or Energy Code) violated;
- (4) an order that the violation be abated, terminated or corrected;
- (5) a date by which compliance is mandated; and

(6) a date by which the Owner (or other Person) may object to or appeal the DCN, which objection(s) shall be deemed to be a request for a hearing before the Town Board.

(g) **DCN Objections and Appeals.** An objection or request for a hearing may be filed to appeal the determination of, or the presence of, an Unsafe Building, or of a violation of or non-compliance with this local law, the date mandated for compliance, or the terms and conditions set forth in any compliance order. All objections and appeals shall require the Person filing the same to provide an address to which notices may be delivered in relation to all future proceedings relating to such filing and Unsafe Buildings and related proceedings.

(h) **Stop Work Orders.** For purposes of this section, a Stop Work Order may be issued and reviewed independently of a DCN, and the Stop Work Order and any remediation plan thereunder may be the subject of a DCN. If a Stop Work Order is the subject of a DCN, then the procedures set forth in this section shall supersede the procedural provisions in this local law for Stop Work Orders.

(i) **Failure to Comply with a DCN; No Objection or Appeal Filed.** If the owner, or other occupant or Person having control of real property in the Town of Caroline, fails to remedy the violation or comply with the DCN by the date upon which compliance is mandated and fails to request a hearing, then the following procedures apply (if a hearing is requested, see further below):

(1) The Code Enforcement Officer shall cause a compliance and remediation plan to be presented to and approved by the Town Board, and such plan shall cause correction and compliance through the use of reasonably efficient and cost-effective measures (to keep the expenses low and reasonable in respect of the nature of the violation and the measures needed to effect compliance with the Uniform Code and the law), including any necessary remediation or demolition activities.

(2) The Town Board shall approve, approve such plan with modifications, or disapprove such plan. Upon any approval, the Town Board shall issue a resolution that authorizes the Code Enforcement Officer to proceed with such compliance and remediation plan. In overseeing such work, the Code Enforcement Office may abate or remedy such violation or proceed to hire or direct others to do so, including third party contractors approved and hired by the Town Board for such purposes. All rules for public works, prevailing wages, and public contracting shall apply to such work (including exemptions therefor and exceptions for emergencies and public disasters, etc.).

(3) After the condition has been corrected and any work so completed, the Code Enforcement Officer shall file with the Town Supervisor a statement of all the direct costs of the same, together with a 30% surcharge thereupon, as compensation to the Town for administering, supervising, and handling said work in accord with the provisions of this Local Law.

(4) Within 15 days of filing, the Town Supervisor will review and verify the cost, prepare a verified statement of costs (herein, the "Verified Statement"), and file the same in the Office of the Town Clerk. The Verified Statement shall itemize and clearly state the specific amount claimed due, and the Verified Statement shall be personally served upon the owner, and any other known occupant

or Person having control of such real property in the Town of Caroline who is required to maintain the property, in a manner as is required of a summons under the CPLR.

(5) Any Person aggrieved by the filing of a Verified Statement may file a written objection thereto and request a hearing by and before the Town Board to challenge the validity of the Verified Statement, or to determine the actual or reasonable costs of compliance or remediation incurred by the Town of Caroline as listed in the Verified Statement. Such objection must be filed within 15 days of service of the Verified Statement and must provide an address to which notices may be delivered in relation to all future proceedings relating to such filing or any Unsafe Buildings and related proceedings. Within 15 days of filing of such objection, the Town shall schedule a hearing upon the objection and serve a notice of hearing specifying the time, date, location, and body or hearing officer (which may be the whole of the Town Board) before whom, and to which, evidence and testimony may be presented.

(6) Absent any the timely and proper filing of an objection or request for a hearing, the cost of abatement and administrative and other costs to the Town, as detailed in the Verified Statement, shall be delivered to the landowner with a demand for payment. If the sum due is not paid in full within 30 days, the Town may elect to pursue any unpaid balance through lien enforcement or collection activities in a court of competent jurisdiction, and at any time any remaining balance may be assessed against the property as a tax lien and levied on the ensuing year's real property tax bill.

(7) If, after a hearing, the Town Board rules or determines that the amount of the Verified Statement shall be adjusted downward, then only the adjusted costs of abatement and administrative costs shall be collected or assessed against the property as a tax lien and levied on the next ensuing year's real property tax. If the Town Board invalidates the Verified Statement, or makes such other determination as to preclude the validity or enforceability of the Verified Statement, then the Town of Caroline shall not seek to enforce that Verified Statement by collection or assessment (but such shall not limit any other rights or remedies of the town, including as related to abatement or enforcement of this local law, or the abatement of nuisances and Unsafe Buildings, or commencing proceedings based upon a different or corrected Verified Statement).

(8) The Town Board shall not have the authority to increase the amount claimed due or owing upon any Verified Statement until and unless a new or amended Verified Statement is generated in accord with the substantive and procedural requirements of this Local Law.

(9) The sale, transfer, conveyance, or other disposition or partial disposition of affected property shall not invalidate or forestall these proceedings, nor invalidate any DCN, Verified Statement, lien, enforcement proceeding, or tax levied for sums due in relation to the remediation, repair, or removal of any Unsafe Building(s).

(j) Objection or Appeal of DCN Duly and Timely Filed. If an objection or request for a hearing upon the DCN is filed within the date by which the Owner, or other occupant or Person having control of real property in the Town of Caroline, may object to the notice or request a hearing, then the following procedures shall apply:

(1) The Town shall schedule and service notice of a hearing to be held not less than 15 days, nor more than 30 days, after the objection or request for a hearing is filed.

(2) The Town Board may make any determination upon such hearing on appeal as may have been initially made by the Code Enforcement Officer, except that the Town Board shall not have any authority to issue waivers of, or variances from, the Uniform Code, the Energy Code, or any related New York State Codes. However, relief may be accorded an applicant conditioned upon receipt of a waiver or variance from the NYS Codes Division, if such condition is required to be fulfilled within a time period to be set by the Town Board, but in all cases never to exceed 180 days. The Town Board shall cause its determination to be made in writing and served upon the owner and all parties to such proceeding.

(3) Resumption of use or occupancy during the period of any appeal or state variance review, whether before the Town or to the Codes Division, shall not be undertaken without the written consent of the Code Enforcement Officer.

(4) If, upon the completion of the appeal and hearing, the Town Board denies the appeal or sets conditions of a variance or waiver, and the Owner, or other occupant or Person having control of real property in the Town of Caroline charged with the maintenance of the property, fails, neglects, or refuses to terminate or correct the violation, or fails to abide by the conditions so stated, then the Code Enforcement Officer shall cause the condition to be corrected through the use of reasonably efficient and cost effective measures (to keep the expenses low and reasonable in respect of the nature of the violation and the measures needed to effect compliance with the law, including any necessary remediation or demolition activities).

(5) After the condition has been corrected, the Code Enforcement Officer shall then file with the Town Supervisor a statement of all the direct costs of the same, together with a 30% surcharge as compensation to the Town of Caroline for administering, supervising and handling said work in accord with the provisions of the Building Code and this Local Law.

(6) Within 15 days of filing, the Town Supervisor will review and verify the cost, prepare a verified statement of costs (herein, the "Verified Statement"), and file the same in the Office of the Town Clerk. The Verified Statement shall itemize and clearly state the specific amount claimed due, and the Verified Statement shall be personally served upon the owner, and any other known occupant or Person having control of such real property in the Town of Caroline who is required to maintain the property, in a manner as is required of a summons under the CPLR.

(7) Any Person aggrieved by the filing of a Verified Statement may file a written objection thereto and request a hearing by and before the Town Board to challenge the validity of the Verified Statement, or to determine the actual or reasonable costs of compliance or remediation incurred by the Town of Caroline as listed in the Verified Statement. Such objection must be filed within 15 days of service of the Verified Statement and must provide an address to which notices may be delivered in relation to all future proceedings relating to such filing or any Unsafe Buildings and related proceedings. Within 15 days of filing of such objection, the Town shall schedule a hearing upon the objection and serve a notice of hearing specifying the time, date, location, and body or hearing

officer (which may be the whole of the Town Board) before whom, and to which, evidence and testimony may be presented.

(8) Absent the timely and proper filing of an objection or request for a hearing, the cost of abatement and administrative and other costs to the Town, as detailed in the Verified Statement, shall be delivered to the landowner with a demand for payment. If the sum due is not paid in full within 30 days, the Town may elect to pursue any unpaid balance through lien enforcement or collection activities in a court of competent jurisdiction, and at any time any remaining balance may be assessed against the property as a tax lien and levied on the ensuing year's real property tax bill.

(9) If, after a hearing, the Town Board rules or determines that the amount of the Verified Statement shall be adjusted downward, then only the adjusted costs of abatement and administrative costs shall be collected or assessed against the property as a tax lien and levied on the next ensuing year's real property tax. If the Town Board invalidates the Verified Statement, or makes such other determination as to preclude the validity or enforceability of the Verified Statement, then the Town of Caroline shall not seek to enforce that Verified Statement by collection or assessment (but such shall not limit any other rights or remedies of the town, including as related to abatement or enforcement of this local law, or the abatement of nuisances and Unsafe Buildings, or commencing proceedings based upon a different or corrected Verified Statement).

(10) The Town Board shall not have the authority to increase the amount claimed due or owing upon any Verified Statement until and unless a new or amended Verified Statement is generated in accord with the substantive and procedural requirements of this Local Law.

(11) The sale, transfer, conveyance, or other disposition or partial disposition of affected property shall not invalidate or forestall these proceedings, nor invalidate any DCN, Verified Statement, lien, enforcement proceeding, or tax levied for sums due in relation to the remediation, repair, or removal of any Unsafe Building(s).

(k) **Demolition and Removal.** Before the demolition or removal of any unsafe building is commenced by any Person, a demolition permit application (herein DPA) shall be prepared by the owner, or the owner's architect, builder or contractor, on forms available from the Code Enforcement Officer. A processing fee as set by resolution of the Town Board from time to time must accompany each DPA. All information requested in such form must be provided before the DPA is deemed complete. The DPA shall be filed with the Code Enforcement Officer at least 20 working days before the proposed demolition or removal, except in the case of hazardous buildings, which shall require that a DPA be filed as soon as possible. The following rules apply to all DPAs and permits issued thereunder:

(1) No DPA or DRP shall be required for single-story non-occupied structures consisting of less than 144 square feet of total floor space, such as sheds.

(2) If a DPA is approved by the Code Enforcement Officer, the Code Enforcement Officer shall issue a demolition and removal permit (herein DRP). All work must be completed within the time stated upon the DRP.

(3) All DRPs are valid only until the date stated on the face of the DRP. Upon expiration of a DRP prior to the completion of the demolition work, a new DPA shall be filed, and a new DRP must be issued before the continuation of any work.

(4) Before any DRP is issued a performance bond, money, or another undertaking in a form approved by the Code Enforcement Officer, in an amount sufficient to complete all proposed or necessary operations, shall be required. The determination as to whether to require any undertaking, and in what amount or form, shall be at the sole discretion of the Code Enforcement Officer, without recourse. The Code Enforcement Officer may require additional sums to be posted, paid, or bonded as may be necessary from time to time to ensure adequate financial security for the completion of the work.

(5) Before any DRP is issued the owner and all person(s) engaged in the work of demolition or removal shall file proof of insurance for all operations with the Code Enforcement Officer, including proof of public liability, personal injury, and property damage insurance or coverages, with the following minimum terms and coverages:

(i) Insurance shall be written on standard Commercial General Liability forms in an amount not less than \$1,000,000 per person per incident, and such policy shall provide contractual liability coverages.

(ii) The Town shall be named as an additional insured thereunder, and listing as a certificate holder does not suffice.

(iii) The Town shall be required to be notified at least 30 days prior to any change of coverage, change in endorsements, or cancellation of coverage.

(iv) The Code Enforcement Officer may require additional coverages and terms and the circumstances may warrant, and all policies and endorsements are subject to the reasonable review and approval of the Code Enforcement Officer prior to the issuance of any DRP. The failure to review or object, however, is not acceptance of the coverages or an approval of the policy or endorsements, and effects no waivers of the insurance requirements of this section.

(6) The owner and each person working upon any demolition or removal work, including all persons acting in furtherance of the performance of any work pursuant to or under any DRP, shall indemnify and keep and save harmless the Town from and against any and all losses, costs, damages, expenses, judgments, claims, or liabilities of any kind whatsoever which may accrue against or be charged to or recovered from the Town from or by reason of or on account of accidents to persons or damage to property during any operations and from or by reason of or on account of anything done under or by virtue of any DRP granted for any such operations. This indemnity provision shall be construed and applied only to the maximum extent permitted by law.

(7) In demolishing any building or structure, or any part thereof, story after story shall be completely removed in a sequential manner commencing with the roof, and then the top floor, and moving to the next lower floor, etc., unless such building is demolished in a single phase through the lawful

and properly permitted use of explosive or implosive devices. No material shall be placed upon a floor of any building in the course of demolition, and the bricks, timbers and other parts of each story shall be lowered to the ground immediately upon displacement. All material to be removed shall be properly wet to lay the dust incident to its removal. All demolition and removal work shall be undertaken with a diligent regard to, and a diligent application of, all applicable safety standards, rules, laws and regulations, in accord with the safest practice and customs in such industry.

SECTION 10. OPERATING PERMITS –

(a) **Operating Permits Required.** Operating Permits shall be required for conducting any process or activity or for operating any type of building, structure, or facility listed below:

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

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

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

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

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

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

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

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

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

(viii) Chapter 35, “Welding and Other Hot Work.” Performing public exhibitions and demonstrations where hot work is conducted, use of hot work, welding, or cutting equipment, inside or on a structure, except an operating permit is not required where work is conducted

under the authorization of a building permit or where performed by the occupant of a detached one- or two-family dwelling;

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

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

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

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

(xiii) Section 319, “Mobile Food Preparation Vehicles.” Operating a mobile food preparation vehicle in accordance with the permitting requirements established by any applicable code, local law, ordinance, or health department regulations, each as now in effect or as hereafter amended from time to time.

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

(4) buildings containing one or more assembly areas;

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

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

(7) parking garages as defined in subdivision (a) of § 13 of this local law;

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

(9) other processes or activities or for operating any type of building, structure, or facility as determined by resolution adopted by the Town Board. Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

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

verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

(c) **Exemptions.** Operating permits shall not be required for processes or activities, or the buildings, structures, or facilities listed in paragraphs (1) through (7) of subdivision (a) of this section, provided that the use is expressly authorized by a certificate of occupancy or certificate of compliance, fire safety and property maintenance inspections are performed in accordance with § 11 (Fire Safety and Property Maintenance Inspections) of this local law, and condition assessments are performed in compliance with § 13 (Condition Assessments of Parking Garages) of this local law, as applicable.

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

(e) **Multiple Activities.** In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in its discretion, issue 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 in the discretion of the Code Enforcement officer, including as may be consistent with local conditions, but in no event to exceed as follows:

- (1) 120 days for tents, special event structures, and other membrane structures;
- (2) 60 days for alternative activities at a sugarhouse;
- (3) 3 years for the activities, structures, and operations determined per paragraph (9) of subdivision (a) of this section, and
- (4) 1 year for all other activities, structures, and operations identified in subdivision (a) of this section.

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

(g) **Revocation or Suspension of Operating Permits.** If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.

(h) **Fees.** The fee specified in or determined in accordance with the provisions set forth in § 18 (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) 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 Code Enforcement Officer or Inspector authorized to perform fire safety and property maintenance inspections, a remote inspection may be performed in lieu of in-person inspections when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or such authorized Inspector that the premises conform with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.

(c) **Inspections Permitted.** In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector authorized to perform fire safety and property maintenance inspections at any time upon:

(1) the request of the owner of the property to be inspected or an authorized agent of such owner;

(2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or

(3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

(d) **OFPC Inspections.** Nothing in this section or in any other provision of this 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 § 156-e and Education Law § 807-b. Notwithstanding any other provision of this section to the contrary, the Code Enforcement Officer may accept an inspection performed by the Office of Fire Prevention and Control or other authorized entity pursuant to §§ 807-a and 807-b of the Education Law or § 156-e of the Executive Law, in lieu of a fire safety and property maintenance inspection performed by the Code Enforcement Officer or by an Inspector, provided that:

(1) the Code Enforcement Officer is satisfied that the individual performing such inspection satisfies the requirements set forth in 19 NYCRR § 1203.2(e);

(2) the Code Enforcement Officer is satisfied that such inspection covers all elements required to be covered by a fire safety and property maintenance inspection;

(3) such inspections are performed no less frequently than once a year;

(4) a true and complete copy of the report of each such inspection is provided to the Code Enforcement Officer; and

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

(e) **Fees.** The fee specified in or determined in accordance with the provisions set forth in § 18 (Fees) of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed that meet the requirements of subdivision (d) of this section.

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, code, rule 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 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, in most cases, an opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § 17 (Violations) of this local law;
- (c) if appropriate, issuing a Stop Work Order;
- (d) if a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.
- (e) nothing in this section mandates an opportunity to abate, correct or cure the violation when the Code Enforcement Officer determines that there exists an emergency, an imminent hazard to life or property, or that the violation is intentional or a repeated or recurring violation or act of non-compliance.

SECTION 13. CONDITION ASSESSMENTS OF PARKING GARAGES –

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

- (1) the term “condition assessment” means an on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure;
- (2) the term “deterioration” means the weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component;
- (3) the term “parking garage” means any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:
 - (i) buildings in which the only level used for parking or storage of motor vehicles is on grade;
 - (ii) an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and
 - (iii) a townhouse unit with attached parking exclusively for such unit;

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

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

(6) the term “unsafe condition” includes the conditions identified as “unsafe” in § 304.1.1, § 305.1.1, and § 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 Town, in accordance with the requirements of subdivision (f) of this section. Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.

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

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

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

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

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

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

(3) Any parking garage constructed prior to the effective date of the local law enacting this provision that has not undergone an initial condition assessment prior to that effective date shall undergo an initial condition assessment prior to January 1, 2023.

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

(e) **Additional Condition Assessments.**

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

(2) If the Town becomes aware of any new or increased deterioration which, in the judgment of the Town, 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 **Town** 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 Town at least 90 days before the date such is due under subparagraphs (c) and (d) of this section, and within 45 days of the date of any special assessment required under subparagraph (e) of this section. 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 Town 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 Town shall, by Order to Remedy or such other means of enforcement as the Town 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 Town 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) Records Retention. The Town 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 Town with a written statement attesting to the fact that he or she has been so engaged, the Town shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The Town 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) **No Limitations.** This section shall not limit or impair the right or the obligation of the Town:

(1) to perform such construction inspections as are required by § 5 (Construction Inspections) of this local law;

(2) to perform such periodic fire safety and property maintenance inspections as are required by § 11 (Fire Safety and Property Maintenance Inspections) of this local law; 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 Town by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.

SECTION 14. CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA –

(a) **Special Rules for Inspections, Permits and Certificates.** The Code Enforcement Officer shall determine the climatic and geographic design criteria for buildings and structures constructed within this Town as required by the Uniform Code. Such determinations shall be made in the manner specified in the Uniform Code using, where applicable, the maps, charts, and other information provided in the Uniform Code. The criteria to be so determined shall include but shall not necessarily be limited to, the following:

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

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

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

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

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

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

(b) **Records of Design Criteria.** The Code Enforcement Officer shall prepare a written record of the climatic and geographic design criteria determined pursuant to subdivision (a) of this section, shall

maintain such record within the office of the Code Enforcement Officer, and shall make such record readily available to the public.

SECTION 15. RECORD KEEPING –

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

- (1) all applications received, reviewed and approved or denied;
- (2) all plans, specifications and construction documents approved;
- (3) all Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
- (4) all inspections and tests performed;
- (5) all statements and reports issued;
- (6) all complaints received;
- (7) all investigations conducted;
- (8) all condition assessment reports received;
- (9) all condition assessment reports received;
- (10) all fees charged and collected; and
- (11) all other features and activities specified in or contemplated by § 4 through 14, inclusive, of this local law.

(b) **Inspections and FOIL.** 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 regulations. Document search, review, reproduction, and delivery requests shall follow the rules of the Freedom of Information Law (Article 6 of the New York Public Officers Law).

SECTION 16. PROGRAM REVIEW AND REPORTING –

(a) **Annual Report to Town.** The Code Enforcement Officer shall annually submit to the Town Board a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in § 14 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.

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

(c) **Additional Requests of Department of State.** The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, true and complete copies of the records and related materials this Town 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 such excerpts, summaries, tabulations, statistics, and other information and accounts of its activities in connection with administration and enforcement of the Uniform Code and Energy Code as may be requested by the Department of State.

SECTION 17: VIOLATIONS –

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

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

The Order to Remedy may include provisions ordering the person or entity served with such Order to Remedy (1) to begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time which may be more or less than thirty (30) days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within thirty (30) days of the date of such Order to Remedy; and/or (2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this local law or by any other applicable statute, regulation, rule, local law or ordinance, and which the Code Enforcement Officer may deem appropriate, during the period while such violations are being remedied. The Code Enforcement Officer shall cause the Order to Remedy, or a copy thereof, to be served on the owner of the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy. The Code Enforcement Officer shall be permitted, but not required, to cause the Order to Remedy, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order. A compliance notice or order issued under Executive Law § 382, and other types of notices and orders arising under other laws, statutes, regulations, ordinances, codes and rules, including but not limited to defective condition, flood plain, and stormwater non-compliance orders and notices, are neither supplanted, abridged, nor limited by this local law. An Order to Remedy may be served prior to, contemporaneously with, or subsequent to any other notice or order, and each such notice or order shall be and remain separately enforceable.

(b) Violations and Appearance Tickets. Any non-compliance with or violation of the requirements of this local law, or the requirements of the Uniform Code or the Energy Code, or any non-compliance with Orders to Remedy issued by the Town are violations of this local law and, as applicable, of the relevant state codes. Code Enforcement Officers and Inspectors are authorized to issue appearance tickets for any violation of the Uniform Code, the Energy Code, or this local law. All procedural and venue-based provisions of New York State law generally applicable to misdemeanors shall apply to any criminal proceeding brought under this local law, and any misdemeanor shall be deemed and classified as an unclassified misdemeanor. For purposes of this local law, the Town's justice court is hereby vested and imbued with jurisdiction to issue administrative and other warrants in compliance with the New York Criminal Procedure Law and administrative codes of the State of New York, as well as to hear and adjudicate allegations relating to the criminal or civil violation of this chapter and thereafter, if appropriate, impose any fine, penalty, or sanction.

(c) Penalties. In addition to such other penalties as may be prescribed by State law, (1) any Person who violates any provision of this local law or the Uniform Code or Energy Code, or any term, condition, or provision of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be guilty of a violation or misdemeanor, as the case may be, as set forth below, and subject to the following fines, penalties, and remedies:

(1) For a first violation, any person found guilty shall be deemed to have committed a violation and shall be subject to a fine of not more than \$500 nor less than \$200, or subject to a civil penalty of not more than \$1,000 nor less than \$250 to be recovered by the Town in a civil action.

(2) A second violation is one found to have occurred within two years of any prior civil or criminal determination of any other violation of this local law, and any person found guilty of a second violation shall be deemed to have committed an unclassified misdemeanor and shall be subject to a fine not less than \$500 nor more than \$2,500 and a period of incarceration not to exceed 120 days, or (2) subject to a civil penalty of not less than \$1,000 nor more than \$5,000 to be recovered by the Town in a civil action.

(3) Each week that any noncompliance or violation continues is and may be charged as a separate violation and, in addition to any other remedy, a violation of or noncompliance with this local law may result in the termination, modification, or revocation of any permits or approvals as issued.

(d) Injunctive Relief. Whenever the Town shall believe from evidence satisfactory to it that there is a violation of, or non-compliance with, this local law, the Town may bring an action to enjoin or restrain the continuation of such violation or non-compliance, to prevent, restrain, enjoin, correct, enforce, or abate any violation (including any threatened violation) of, or nonconformance with, any provision or requirement of the Uniform Code, the Energy Code, this local, or any term or condition of any building permit, certificate of occupancy or 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 this local law, or to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of any of the same. The court may also declare the rights and interests of any parties, impose or collect any civil penalties, or award any damages or other relief requested. In any action seeking equitable relief or injunctions, including under Article 63 of

the CPLR, the Town shall not be required to post any bond or undertaking, prove that there is or will likely be irreparable harm, or prove that the Town has no adequate remedy at law. Such action, and any other action or proceeding, may be instituted in the name of the Town in any court of competent jurisdiction, but no such action or proceeding shall be commenced without appropriate authorization from the Town Board.

(e) Remedies Not Exclusive. The application or pursuit of any civil or criminal fine, sanction, or penalty shall not preclude the pursuit of any other lawful remedy by the Town, including, but not limited to, the right to seek equitable relief. 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 § 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 § 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 § 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 § 382 of the Executive Law or any other proceedings or actions authorized by this local law.

SECTION 18: FEES –

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

SECTION 19. INTERMUNICIPAL AGREEMENTS –

The Town Board may, by resolution, authorize the Town, or an officer or employee thereof, to enter into an agreement in the name of the Town 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. Any qualified Code Enforcement Officer or Inspector of such other governmental entity shall be and be deemed the Code Enforcement Officer and Inspector of the Town for all purposes under this local law, including but not limited to matters of interpretation, review, inspection, compliance, and enforcement.

SECTION 20. ELECTRICAL INSPECTIONS –

All electrical inspections in the Town shall be conducted by an electrical inspector qualified under New York State Law to conduct electrical inspections pursuant to and under the requirements of the National Electrical Code, as now exists or hereafter amended or re-codified.

SECTION 21. LIMITATIONS UPON TOWN LIABILITY -

The Town shall not be liable or responsible for any injury to persons or damage to property due to the Town's actions, or failures to act, under or pursuant to this local law unless it is proven to a reasonable degree of certainty that such injury or damage was solely or principally caused by a willful or intentional act of the Town. This provision shall be construed and applied to the maximum extent permitted by law, and does not create any theory or claim of liability where none exists at law or in equity.

SECTION 22. PARTIAL INVALIDITY –

If any clause, sentence, paragraph, section or article of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal, invalid or unenforceable, such judgment or determination shall not affect, impair, or invalidate the remainder hereof, but shall be confined in its operation to the clause, sentence, paragraph, section or article thereof directly involved in the controversy in which such judgment shall have been rendered, and the remainder of this local law shall remain in force and effect, and shall not be impaired or invalidated by such judgment or determination.

SECTION 23. EFFECTIVE DATE –

This local law shall take effect immediately.