

BUILDING CONSTRUCTION

Chapter 40

Building Construction

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[HISTORY: Adopted by the Board of Trustees of the Village of Cold Spring 10-28-58; amended in entirety 07-20-21 by L.L. 09-2021]

GENERAL REFERENCES

Reimbursement of Professional Consultants' Expenses - See Ch. 57.

Historic District- See Ch. 64.

Swimming Pools, Spas and Hot Tubs - See Ch. 114.

Unsafe Buildings - See Ch. 124.

Zoning - See Ch. 134.

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§ 40-1. Purpose.

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 New York State Energy Conservation Construction Code (the Energy Code) in the Village of Cold Spring. This local law is adopted pursuant to section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, the Energy Code, other state law, or any other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions of this local law.

§ 40-2. Definitions.

In this local law:

ACCESSORY BUILDING, ACCESSORY STRUCTURE shall mean supplemental building or structure, the use of which is incidental to that of a main or principal building or structure and located on the same lot therewith, the use of which requires location on the ground or attachment to something having location on the ground.

BUILDING PERMIT shall mean a permit issued pursuant to § 40-4 of this local law. The term "Building Permit" shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this local law.

BUILDING, PRINCIPAL OR MAIN shall mean a building in which is conducted the main or principal use of the lot on which said building is situated.

CERTIFICATE OF OCCUPANCY/CERTIFICATE OF COMPLIANCE shall mean a certificate issued pursuant to § 40-7 of this local law.

CODE ENFORCEMENT OFFICER shall mean the Code Enforcement Officer appointed pursuant to § 40-3 B of this local law.

CODE ENFORCEMENT PERSONNEL shall include the Code Enforcement Officer and all Inspectors.

ENERGY CODE shall mean the Energy Conservation Construction Code of New York State, as currently in effect and as hereafter amended from time to time.

INSPECTOR shall mean an inspector appointed pursuant to § 40-3 D of this local law.

OPERATING PERMIT shall mean a permit issued pursuant to § 40-11 of this local law. The term "Operating Permit" shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this local law.

PERMIT HOLDER shall mean the Person to whom a Building Permit has been issued.

PERSON shall include an individual, builder, architect, tenant, occupant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed, as well as any corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

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STOP WORK ORDER shall mean an order issue pursuant to § 40-6 of this local law.

TEMPORARY CERTIFICATE shall mean a certificate issued pursuant § 40-7 D of this local law.

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

VILLAGE shall mean the Village of Cold Spring.

§ 40-3. Code Enforcement Officer and Inspectors.

A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this local law. The Code Enforcement Officer shall have the following powers and duties:

- (1) To receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates and Operating Permits, and the plans, specifications and construction documents submitted with such applications;
- (2) Upon approval of such applications, to issue Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates and Operating Permits, and to include in Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;
- (3) To conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy, Certificates of Compliance, Temporary Certificates and Operating Permits, and to include in Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates and Operating Permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this local law;
- (4) To issue Stop Work Orders;
- (5) To review and investigate complaints;
- (6) To issue orders and appearance tickets pursuant to § 40-17 (Violations) of this local law;
- (7) To maintain records;
- (8) To collect fees as set by the Village Board of the Village of Cold Spring;
- (9) To pursue administrative enforcement actions and proceedings;
- (10) To additionally refer applications for Building Permits to the Historic District Review Board for their review when the Building Permit is for property located in the Village's Historic District;

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- (11) To additionally refer applications for Building Permits to the Zoning Board of Appeals for their review when the Building Permit identifies any aspect governed by the Zoning Board of Appeals;
 - (12) To additionally refer application for Building Permits to the Planning Board for their review when the Building Permit identifies an aspect governed by the Planning Board;
 - (13) In consultation with the Village's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this local law; and
 - (14) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.
- B. The Code Enforcement Officer shall be appointed by the Board of Trustees of the Village. The Code Enforcement Officer shall possess background experience related to building construction and knowledge of the New York State Fire Code 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. In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Board of Trustees of the Village to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.
- D. One or more Inspectors may be appointed by the Board of Trustees of the Village 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. The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Board of Trustees of the Village.

§ 40-4. Building Permits.

- A. Building Permits Required. Except as otherwise provided in § 40-4 B, a Building Permit shall be required for any work which must conform to the Uniform Code, the Energy Code, or any Chapter of the Village Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any

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portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer.

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

- (1) Installation of swings and other playground equipment associated with one- or two- family dwellings;
- (2) Installation of swimming pools associated with a one- or two-family dwellings where such pools are designed for a water depth of less than twenty-four (24) inches and are installed entirely above ground;
- (3) Installation of partitions or moveable cases less than five (5) feet nine (9) inches in height;
- (4) Painting, wallpapering, tiling, carpeting, or other similar finish work;
- (5) Installation of UL 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;
- (7) Repairs, provided that such repairs do not involve:
 - (a) The removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component;
 - (b) The removal or change of any required means of egress; or the rearrangement of parts of a structure in a manner which affects egress;
 - (c) The enlargement, alteration, replacement or relocation of any building system; or
 - (d) The removal from service of all or part of a fire protection system for any period of time.

C. The exemption from the requirement to obtain a Building Permit for work in any category set forth in § 40-4 B above shall not be deemed an authorization for work to be performed in violation of the Uniform Code, the Energy Code, or any Chapter of the Village Code.

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

- (1) A description of the proposed work;
- (2) The name, address, phone number and email address of the owner;

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- (3) The name, address, phone number and email address of the applicant;
 - (4) The tax map number and the street address of the premises where the work is to be performed;
 - (5) The New York State Occupancy Classification of any affected building or structure;
 - (6) The list of contractors, Putnam County License number for each, Workers' Compensation Disability Insurance or NYS Workers' Compensation Exemption form CE-200 for each
 - (7) Where applicable, a statement of the special inspections prepared in accordance with the provisions of the Uniform Code, the Energy Code, and any Chapter of the Village Code; and
 - (8) At least two (2) sets of construction documents (drawings and/or specifications) which:
 - (a) Define the scope of the proposed work;
 - (b) Are prepared by a New York State registered architect or licensed professional engineer where so required by New York State Education Law;
 - (c) Indicate with sufficient clarity and detail the nature and extent of the work proposed;
 - (d) Substantiate that the proposed work will comply with the Uniform Code, the Energy Code, and any Chapter of the Village Code; and
 - (e) Where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, water and sewer lines, the location of the intended work, and the distances between buildings and structures and the lot lines.
- E. Construction document. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in § 40-4 D (8) (e) above. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One (1) 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, the Energy Code, and any Chapter of the Village 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, the Energy Code, and any Chapter of the Village Code. If the proposed work is referred to another board, the Code Enforcement Officer will require the completion of a Building Permit Addendum in which the applicant certifies that the final construction documents submitted are an exact match to those which received board approvals

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that resulted from referrals.

- G. Building Permits to be displayed. Building Permits shall be visibly displayed at the work site and must remain visible until the authorized work has been completed and the Certificate of Occupancy and/or the Certificate of Compliance has been issued.
- 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. If the Code Enforcement Officer determines that such change warrants an amended Building Permit, the application for the change of work should be submitted on the same form as the original permit along with two (2) sets of stamped plans. An amendment fee, which can be found in the Master Fee Schedule, will be charged. Work subject to the amendment must be approved by the Code Enforcement Officer before construction of the changed work.
- I. Time limits. Building Permits shall become invalid unless the authorized work is commenced within six (6) months following the date of issuance. Building Permits shall expire twenty-four (24) months after the date of issuance. Building Permits can be renewed within thirty (30) days prior to the expiration date. 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. Once a Building Permit has expired, all work must stop until a renewal Building Permit is granted.
- 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, the Energy Code, and/or any Chapter of the Village 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 Uniform Code, the Energy Code, and any Chapter of the Village Code, and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code, the Energy Code, and any Chapter of the Village Code.
- K. Fee. The fee specified in or determined in accordance set forth in the Master Fee Schedule 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.

§ 40-5. 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 an element of work described in § 40-5 B is ready for inspection.

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- B. Elements of work to be inspected. The following elements of the construction process shall be inspected where applicable:
- (1) Work site prior to the issuance of a Building Permit;
 - (2) Footing and Foundation;
 - (3) Preparation for concrete slab;
 - (4) Framing;
 - (5) Building systems, including underground and rough-in;
 - (6) Fire resistant construction;
 - (7) Fire resistant penetrations;
 - (8) Solid fuel burning heating appliance, chimneys, flues or gas vents;
 - (9) Energy Code compliance; and
 - (10) A final inspection after all work authorized by the Building permit has been completed.
- C. Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code, the Energy Code, and/or any Chapter of the Village code. Work not in compliance with any applicable provision of Uniform Code, the Energy Code, and/or any Chapter of the Village Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code, the Energy Code, and/or any Chapter of the Village Code, reinspected, and found satisfactory as completed.
- D. Fee. The fee specified in the Master Fee Schedule must be paid prior to or at the time of each inspection performed pursuant to this section.

§ 40-6. 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, the Energy Code, and/or any Chapter of the Village 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,

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or has been suspended or revoked.

- B. Content of Stop Work Orders. Stop Work Orders shall be (1) 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 or contractor of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by registered/certified mail return receipt requested. A Stop Work Order given verbally shall have the same force and effect as a written Stop Work Order provided the written document is furnished within five (5) business days. 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 Person taking part or assisting in work affected by the Stop Work Order, personally or by registered/certified mail, return receipt requested; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order. The Stop Work Order is required to remain posted unless and until the Code Enforcement Officer removes it or directs it to be removed.
- D. Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.
- E. Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in § 40-6 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 § 40-17 (Violations) of this local law or under any other applicable local 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.

§ 40-7. Certificate of Occupancy/Certificate of Compliance.

- A. Certificates of Occupancy required. A Certificate of Occupancy shall be required for any work which is the subject of a Building Permit and for all structure, buildings, or portions thereof, which are converted from one use or occupancy class 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.
- B. Issuance of Certificates of Occupancy. The Code Enforcement Officer shall issue a Certificate of Occupancy if the work which was the subject of a Building Permit was completed in accordance with all applicable provisions of the Uniform Code, the Energy Code, and/or any Chapter of the Village Code, and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code, the Energy Code, and/or any

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Chapter of the Village 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. In addition, where applicable, the following documents, prepared in accordance with the provisions of Uniform Code, and/or any Chapter of the Village 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, shall be provided to the Code Enforcement Officer prior to the issuance of a Certificate of Occupancy:

- (1) A written statement of structural observations and/or a final report of special inspections, and
- (2) Flood hazard certifications.

C. Contents of Certificates of Occupancy/Certificates of Compliance. A Certificate of Occupancy/Certificate of Compliance shall contain the following information:

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

D. Temporary Certificate. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to the completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely, (2) that any fire-and smoke-detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. The Code

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Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code, the Energy Code, and/or any Chapter of the Village Code. A Temporary Certificate shall be effective for a period of time, not to exceed six (6) months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code, the Energy Code, and/or any Chapter of the Village Code. A fee will be charged for a Temporary Certificate. Such fee can be found in the Master Fee Schedule.

- E. Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy/Certificate of Compliance or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer, the Officer shall revoke or suspend such certificates.
- F. Fee. The fee specified in the Master Fee Schedule must be paid at the time of submission of an application for a Certificate of Occupancy, for a Certificate of Compliance, or for a Temporary Certificate.

§ 40-8. Notification Regarding Fire or Explosion.

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

§ 40-9. Unsafe Buildings and Structures.

Unsafe Buildings and Structures in this Village shall be identified and addressed in accordance with the procedures set forth in Chapter 124 of the Village Code, as now in effect or as hereafter amended from time to time.

§ 40-10. Demolition of a Structure that is a Principal Building or an Accessory Building.

- A. Intent. The intent of this article is to provide for the orderly process of Demolition of any Principal Building or Accessory Building and to assure proper review of safety considerations.
- B. Permit required. No Person shall demolish any Principal Building or Accessory Building, or any portion thereof, without a valid Building Permit issued by the Code Enforcement Officer.
- C. Application for Demolition of a Principal Building or Accessory Building. The applicant shall complete the Building Permit form and submit it to the Code Enforcement Officer along with the following information and materials:
 - (1) A statement regarding why the Structure is planned for Demolition. Plans regarding how the Demolition process will take place, including safety measures, in the form prescribed by the Code Enforcement Officer;

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- (2) A restoration plan for the property following Demolition including a description of the materials, grading, landscaping, and maintenance procedures to be utilized to ensure that the restoration conforms to the approved plan, and that landscaping survives in a healthy condition, and/or a treatment plan for any walls of adjoining Buildings exposed as a result of the Demolition;
 - (3) A rodent or other pest control plan;
 - (4) A plan for the discontinuance and sealing of all utilities including, but not limited to, water and sewer service;
 - (5) Liability insurance in an amount not less than the \$2,000,000 (two million dollars) naming the Village as additionally insured;
 - (6) The application fee, as set forth in the Village's Master Fee Schedule.
- D. The Code Enforcement Officer shall review the application for completeness. In the event that the application is deemed incomplete, the Code Enforcement Officer shall notify the applicant of such in writing and provide the applicant with an opportunity to correct the deficiencies. The Code Enforcement Officer shall forward the complete application to the Village Board of Trustees with a report on the proposed safety measures to protect surrounding Persons and property from damage and a complete restoration plan. The Code Enforcement Officer must be satisfied that the work will conform to all applicable state and local laws, rules and regulations, and that the work will be executed in a safe and expeditious manner before referring the application to the Village Board of Trustees. An applicant for a Demolition permit may be required to submit to the Code Enforcement Officer additional plans and certifications prepared by a licensed structural engineer, at the applicant's sole expense.
- E. Should the Code Enforcement Officer determine that there is need for immediate Demolition due to concerns about the health, safety or welfare to Village residents, the Code Enforcement Officer can waive all requirements in this article and approve immediate Demolition. Within ten (10) days of Demolition, the applicants shall provide all required documentation, plans, insurance and fees.
- F. If the Structure proposed for Demolition is located in the Village's Locally or Nationally Listed Historic District, the procedures in Chapter 64 shall also apply.
- G. The Village Board of Trustees may hold a public hearing on the application at its discretion.

§ 40-11. Operating Permits.

- A. Operating Permits required. Operating permits shall be required for conducting any activity listed in paragraph (1), (2), or (3) below or operating any type of building or structure listed in paragraph (4), (5), or (6) below:
- (1) Manufacturing, storing or handling hazardous materials in quantity exceeding those listed in Tables 5003.1.1(1), 5003.1.1(2), 5003.1.1(3), 5003.1.1(4) of the 2015 edition of the

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International Fire Code (a publication currently incorporated by reference in 10 NYCRR Part 1225);

- (2) Hazardous processes and activities, including, but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;
 - (3) Use of pyrotechnic device in assembly occupancies;
 - (4) Buildings containing one or more areas of public assembly with an occupant load of 100 Persons or more;
 - (5) Parking garages as defined in subdivision (a) of § 40-14 of this local law; and
 - (6) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Board of Trustees of this Village.
- 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, the Energy Code, and/or any Chapter of the Village Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such Person or Persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.
- C. Inspections. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect premises prior to the issuance of an Operating Permit.
- D. Multiple Activities. In any circumstance in which more than one activity listed in § 40-11 A is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.
- E. Duration of Operating Permits. Operating Permits shall be issued for such period of time, not to exceed one (1) year in the case of any Operating Permit issued for an area of public assembly and not to exceed three (3) years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.
- F. Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, the Energy Code, and/or any Chapter of the Village Code, such Operating Permit shall be revoked or suspended.

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G. Fee. The fee specified in the Master Fee Schedule must be paid at the time of submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

§ 40-12. Fire Safety and Property Maintenance Inspections.

A. Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:

- (1) Fire safety and property maintenance inspections of buildings and structures which contain an area of public assembly shall be performed at least once every twelve (12) months;
- (2) Fire safety and property maintenance inspections of all dormitories shall be performed at least once every twelve (12) months;
- (3) Fire safety and property maintenance inspections of all multiple family dwellings not included in (1) and (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in (1) and (2) of this subdivision, shall be performed at least once every thirty-six (36) months.

B. Inspections permitted. In addition to the inspections required by § 40-11 A above, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at any time upon:

- (1) The request of the owner of the property to be inspected or an authorized agent of such owner;
- (2) Receipt by the Code Enforcement Officer of any information, including but not limited to a written statement, 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, Energy Code, and/or any Chapter of the Village Code exists;
- (3) Determination of the Code Enforcement Officer that there exists an emergency, the property may be inspected at any time without a warrant or permission; 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 inspections is required, unless such court order or warrant shall have been obtained.

C. Fee. The fee specified in the Master Fee Schedule must be paid prior to or at the time each inspection is performed pursuant to this section. This subdivision shall not apply to inspections performed by the New York State Office of Fire Prevention and Control.

§ 40-13. 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,

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and/or any Chapter of the Village Code, this local law, or any other local law or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

- A. Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- B. If a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct, or cure the violation, or otherwise proceeding in the manner described in § 40-16 (Violations) of this local law;
- C. If appropriate, issuing a Stop Work Order;
- D. If a violation which was found to exist and 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.

Provided, however, that nothing in this subsection 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.

§ 40-14. Condition Assessments of Parking Garages.

- A. Definitions. For the purposes of this section:

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.

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.

PARKING GARAGE means any building or structure, or part thereof, in which all or part of any structural level or levels is used for parking or storage of motor vehicles, excluding:

- (1) Buildings in which the only level used for parking or storage of motor vehicles is on grade;
- (2) An attached or Accessory Structure providing parking exclusively for a detached one- or two-family dwelling; and
- (3) A townhouse unit with attached parking exclusively for such unit.

PROFESSIONAL ENGINEER means an individual who is licensed or otherwise authorized under Article 145 of the New York State Education Law to practice the profession of engineering in the State of New York and who has at least three (3) years of experience

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performing structural evaluation;

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.

UNSAFE CONDITION includes the conditions identified as “unsafe” in section 304.1.1, section 305.1.1, and section 306.1.1 of the 2015 edition of the International Property Maintenance Code (a publication currently incorporated by reference in 19 NYCRR Part 1226).

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 or operator of each Parking Garage shall cause such Parking Garage to undergo an initial Condition Assessment as described in § 40-14 C, periodic Condition Assessments as described in § 40-14 D, and such additional Condition Assessments as may be required under § 40-14 E.
- C. Initial Condition Assessment. Each Parking Garage shall undergo an initial Condition Assessment as follows:
 - (1) New Parking Garages shall undergo an initial Condition Assessment following construction and prior to a Certificate of Occupancy being issued for the structure.
 - (2) Existing Parking Garages shall undergo an initial Condition Assessment as follow:
 - (a) If originally constructed prior to January 1, 1984, then prior to October 1, 2019;
 - (b) If originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and
 - (c) If originally constructed between January 1, 2003 and the effective date of the rules adding this subdivision to 19 NYCRR section 1203.3, then prior to October 1, 2021.
- D. Periodic Condition Assessments. Following the initial Condition Assessment of a Parking Garage, such Parking Garage shall undergo periodic Condition Assessments at intervals not to exceed three (3) years.
- E. Additional Condition Assessments.
 - (1) If the latest Condition Assessment report for a Parking Garage includes a recommendation by the Responsible Professional Engineer that an additional Condition Assessment of such Parking garage, or any portion of such Parking Garage, be performed before the date by

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which the next periodic Condition Assessment would be required under § 40-14 D, the Code Enforcement Officer shall require the owner or operator of such Parking Garage to cause such Parking Garage (or, if applicable, the portion of such Parking Garage identified by the Responsible Professional Engineer) to undergo an additional Condition Assessment no later than the date recommended in such Condition Assessment report.

- (2) If the Village becomes aware of any new or increased Deterioration which, in the judgment of the Code Enforcement Officer, 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 § 40-14 D, the Village shall require the owner or operator of such Parking Garage to cause such Parking Garage (or, if applicable, the portion of the Parking Garage affected by such new or increased Deterioration) to undergo an additional Condition Assessment no later than the date determined by the Code Enforcement Officer to be appropriate.

F. Condition Assessment Reports. The Responsible Professional Engineer shall prepare, or directly supervise the preparation of, a written report of each Condition Assessment, and shall submit such Condition Assessment report to the Village Clerk or Code Enforcement Officer within one (1) month, or sooner if deemed necessary by the Code Enforcement Officer. 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

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information in the previously prepared reports while performing the current Condition Assessment and while preparing the current report; and

- (9) The Responsible Professional Engineer's recommendation regarding the time within which the next Condition Assessment of the Parking Garage or portion thereof should be performed. In making the recommendation regarding the time within which the next Condition Assessment of the Parking Garage or portion thereof should be performed, the Responsible Professional Engineer shall consider the Parking Garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the Responsible Professional Engineer in his or her professional judgment.

G. Review Condition Assessment Reports. The Code Enforcement Officer, Cold Spring Police Department, or other Village Authority 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, an Order to Remedy or such other means of enforcement as may be deemed appropriate, the owner or operator of the Parking Garage may be required to repair or otherwise remedy all Deterioration, all conditions that cause Deterioration, and all Unsafe Conditions identified in such Condition Assessment report pursuant to paragraph (2) and (3) of subdivision (F). All repairs and remedies shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the Village to take any other enforcement action, including but not limited to suspension or revocation of a Parking Garage's operation permit, as may be necessary or appropriate in response to the information in a Condition Assessment report.

H. The Village shall retain all Condition Assessment reports for the life of the Parking Garage. Upon request by a Professional Engineer who has been engaged to perform a Condition Assessment of a Parking Garage, and who provides the Village with a written statement attesting to the fact that he or she has been so engaged, the Village shall make the previously prepared Condition Assessment reports for such Parking Garage (or copies of such reports) available to such Professional Engineer. The Village shall be permitted to require the owner or operator of the subject Parking Garage to pay all costs and expenses associated with making such previously prepared Condition Assessment reports (or copies thereof) available to the Profession Engineer.

I. This section shall not limit or impair the right or the obligation of the Village:

- (1) To perform such construction inspections as are required by § 40-5 of this local law;
- (2) To perform such periodic fire and safety and property maintenance inspections as are required by § 40-11 of this local law; and/or
- (3) To take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the Village by means of its own inspections

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or observations, by means of a complaint, or by any other means other than a Condition Assessment or a report of a Condition Assessment.

§ 40-15. Record Keeping.

- A. The Code Enforcement Officer shall keep records of all transactions and activities conducted by all Code Enforcement Personnel according to the New York State Record Retention Regulations, including records of:
- (1) All applications received, reviewed and approved;
 - (2) All plans, specification and construction document approved;
 - (3) All Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Stop Work Order, and Operating Permits issued;
 - (4) All inspections and tests performed;
 - (5) All statement and reports issued;
 - (6) All complaints received;
 - (7) All investigations conducted;
 - (8) All Condition Assessment reports received;
 - (9) All other features and activities specified in or contemplated by § 40-4 through § 40-14, inclusive, of this local law; and
 - (10) All fees charged and collected.
- B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

§ 40-16. Program Review and Reporting.

- A. The Code Enforcement Officer shall annually submit to the Village Board of this Village a written report and summary of all business conducted by the Code Enforcement Officer and the Inspector, including a report and summary of all transactions and activities described in § 40- 15 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.
- B. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Village, on a form prescribed by the Secretary of State, a report of the activities of this Village relative to administration and enforcement of the Uniform Code.
- C. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Village is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Village in connection with administration and enforcement of the Uniform Code.

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§ 40-17. 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 any 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 any local law; shall specify the provision or provisions of the Uniform Code, the Energy Code or any 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 _____ (date) which is thirty (30) days after the date of this Order to Remedy.”

The Order to Remedy may include provisions ordering the person or entity served with such Order to Remedy (1) to begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time which may be less than thirty (30) days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within thirty (30) days of the date of such Order to Remedy; and/or (2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this local law or by any other applicable statute, regulation, rule, local law or ordinance, and which 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 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.

- B. Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of any local law.
- C. Civil Penalties. In addition to the penalties prescribed by State law, any Person who violates any provision of any local law, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to a civil penalty of not more than two hundred fifty (250) dollars for each day or part thereof during which such violation continues. The civil

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penalties provided by this subdivision shall be recoverable in an action instituted in the name of this Village.

- D. **Injunctive Relief.** An action or proceeding may be instituted in the name of this Village, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct or abate any violation of, or to enforce any provision of the Uniform Code, the Energy Code, any local law, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Order to Remedy, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, any local law, or any Stop Work Order, Order to Remedy or other order obtained under the Uniform Code, the Energy Code or any local law, an action or proceeding may be commenced in the name of this Village, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization of the Village Board of this Village.
- E. **Remedies Not Exclusive.** No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in § 40-6 (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 or limitation, each remedy and penalty specified in subdivision (2) of § 382 of New York State 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 New York State Executive Law.

§ 40-18. Fees.

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

§ 40-19. Intermunicipal Agreements.

The Village Board of this Village may, by resolution, authorize the Mayor of this Village to enter into an agreement, in the name of this Village, with other governments to carry out the terms of this local law, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.

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§ 40-20. Consultants' Fees.

Applicants for Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, and/or Operating Permits before the Code Enforcement Officer shall reimburse the Village for all costs and expenses incurred for review of their applications including the cost of planning consultants, engineering consultants, legal consultants or other professional consultants, pursuant to Chapter 57 Reimbursement of Professional Consultants' Expenses.

§ 40-21. Partial Invalidity.

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

§ 40-22. No Special Duty

The Chapter is intended to help protect the general welfare of the Village. Accordingly, this Chapter, and any act or omission pursuant thereto, does not create, and shall not be constructed to create, any special duty or obligation of the Village, its officers, employees or agents.

§ 40-23. Effective Date.

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