

**LOCAL LAW NO. 1 OF 2011
COUNTY OF OTSEGO, NEW YORK**

**A LOCAL LAW AMENDING LOCAL LAW NO. 2 OF 2007 -
PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT
OF THE NEW YORK STATE UNIFORM FIRE PREVENTION AND
BUILDING CONSTRUCTION CODE**

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

SECTION 1. PURPOSE AND INTENT

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

SECTION 2. DEFINITIONS

In this local law:

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

“Alteration” shall mean any change, rearrangement or addition to a building other than repairs, or any modification in construction or in building equipment.

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

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

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

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

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

“Code Office” shall mean the Otsego County Code Enforcement Office.

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

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

“County” shall mean Otsego County.

“Energy Code” shall mean the State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

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

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

“Inspector” shall mean an inspector appointed pursuant to subdivision (d) of Section 3 of this local law.

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

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

“Permit Holder” shall mean the Person to whom a Building Permit or Operating Permit has been issued.

“Person” shall include an individual, corporation, Limited Liability Company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

“Public Assembly” shall mean an occupancy which includes, among others, the use of a building or structure, or a portion thereof, for the gathering together of persons for purposes such as civic, social or religious functions, recreation, food

or drink consumption or awaiting transportation. A room or space used for assembly purposes by less than 50 persons and accessory to another occupancy shall be included as part of that occupancy.

“Repairs” shall mean the replacement or renewal, excluding additions, of any part of a building, structure, device, or equipment with like or similar materials or parts, for the purpose of maintenance, preservation or restoration of such building, structure, device or equipment.

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

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

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

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

SECTION 3. CODE ENFORCEMENT OFFICER AND INSPECTORS

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

(a) Duties of Code Enforcement Officer. 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 such Permits and Certificates such terms and conditions as the Code Enforcement Officer may determine to be appropriate;

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

(4) to issue Stop Work Orders;

(5) to review and investigate complaints;

(6) to issue orders pursuant to subdivisions (a) and (b) of Section 15 (VIOLATIONS) of this local law;

(7) to maintain records;

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

(9) to pursue administrative enforcement actions and proceedings;

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

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

(b) Appointment by County Board of Representatives. The Code Enforcement Officer shall be appointed by Board of Representatives of Otsego County. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated there under.

(c) Deputy Code Enforcement Officer to serve as Acting Code Enforcement Officer. In the event that the Code Enforcement Officer is unable to serve as such for any reason, the Deputy Code Enforcement Officer shall 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) Deputy Code Enforcement Officer and Inspectors. One Deputy Code Enforcement Officer and one or more Inspectors may be appointed by the Code Enforcement Officer to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated there under.

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

SECTION 4. BUILDING PERMITS

(a) Building Permits Required. Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof; the installation or replacement of any part of a septic system; the extension of an existing electrical system or the installation of any new electrical circuits; the installation, alteration or maintenance of fire protection equipment; and the installation of a solid fuel, combustible liquid, or gasburning heating appliance, chimney or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer. Obtaining required permits shall be the sole responsibility of the General or Primary Contractor, or the Property Owner, only if the property owner is or acting as the General or Primary Contractor. Compliance with local Zoning and Land Use laws and regulations shall be required prior to the issuance of any Building Permit.

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

(1) construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);

(2) installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);

(3) installation of swimming pools and hot tubs associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools and hot tubs are designed for a water depth of less than 24 inches and are installed entirely above ground;

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

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

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

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

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

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

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

(11) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications;

(12) repairs, provided that such repairs do not involve (i) the removal or cutting away of a load bearing wall, partition, or portion thereof, or of any structural beam or load bearing component; (ii) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress; (iii) the enlargement, alteration, replacement or

relocation of any building system; or (iv) the removal from service of all or part of a fire protection system for any period of time;

(13) erection, operation or maintenance of all temporary tents and membrane structures having an area less than 200 square feet and canopies less than 400 square feet, or regardless of size those which are classified as a use for mercantile and not public assembly.

(14) tents used exclusively for recreational camping purposes;

(15) fabric canopies open on all sides which comply with all of the following:

- a. individual canopies having a maximum size of 700 square feet;
- b. the aggregate area of multiple canopies placed side by side without a fire break clearance of 12 feet, not exceeding 700 square feet total;
- c. a minimum clearance of 12 feet to all structures and other tents.

(16) installation of outdoor wood boilers; however, proper distances must be maintained from buildings;

(17) installation of petroleum bulk storage tanks, either above or below ground, with a capacity less than 500 gallons;

(18) demolition of agricultural buildings

(c) Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

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

and the Energy Code. The application shall include or be accompanied by the following information and documentation:

- (1) a description of the proposed work;
- (2) the tax map number and the street address of the premises where the work is to be performed;
- (3) the occupancy classification of any affected building or structure;
- (4) where applicable, a statement of special inspections/certifications prepared in accordance with the provisions of the Uniform Code, including but not limited to the following:
 - a. proof of certification of installers of manufactured homes ;
 - b. all heating equipment to be listed and labeled by UL or other certified testing laboratory and installed according to manufacturer's instructions
 - c. electrical inspections from third party inspectors certified in the County
- (5) at least two (2) sets of construction documents (drawings and/or specifications) which (i) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines; and
- (6) where applicable, evidence by contractors of Worker's Compensation Insurance or that an exemption of such insurance is on file in the Code Office.

(e) Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents, which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be

retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

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

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

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

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

(j) Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the Building Permit. The Building Permit shall contain such a directive. The Permit Holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended Building Permit, such change shall not be made until and unless a new or amended Building Permit reflecting such change is issued.

(k) Time limits. Building Permits shall become invalid unless the authorized work is commenced within six (6) months following the date of issuance. Building Permits shall expire twelve (12) months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit

Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

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

(m) Revocation or suspension of Building Permits. If the Code Enforcement Officer determines that a Building Permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a Building Permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that (1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

(n) Fee. The fee specified in or determined in accordance with the provisions set forth in Section 16 (FEES) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

SECTION 5. CONSTRUCTION INSPECTIONS

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

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

- (1) work site prior to the issuance of a Building Permit;
- (2) footing and foundation;
- (3) preparation for concrete slab;
- (4) framing;
- (5) building systems, including underground and rough-in;
- (6) fire resistant construction;

- (7) fire resistant penetrations;
- (8) solid fuel burning heating appliances, chimneys, flues or gas vents;
- (9) Energy Code compliance; and
- (10) a final inspection after all work authorized by the Building Permit has been completed.

(c) Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, re-inspected, and found satisfactory as completed.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in Section 16 (FEES) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

SECTION 6. STOP WORK ORDERS

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

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

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

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

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

(c) Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by registered mail / certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by registered mail / certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

(d) Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.

(e) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under Section 15 (VIOLATIONS) of this local law or under any other applicable local law or State law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a Stop Work Order.

SECTION 7. CERTIFICATES OF OCCUPANCY / CERTIFICATES OF COMPLIANCE

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

(b) Issuance of Certificates of Occupancy / Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy / Certificate of Compliance if the work which was the subject of the Building Permit was

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

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

(c) Contents of Certificate of Occupancy / Certificate of Compliance. A Certificate of Occupancy / Certificate of Compliance shall contain the following information:

- (1) the Building Permit number, if any;
- (2) the date of issuance of the Building Permit, if any;
- (3) the name, address and tax map number of the property;
- (4) if the Certificate of Occupancy / Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy / Certificate of Compliance is issued;
- (5) the use and occupancy classification of the structure;
- (6) the type of construction of the structure;
- (7) the 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

Certificate (10) the signature of the Code Enforcement Officer issuing the
of Occupancy / Certificate of Compliance and/or an embossed
seal of
the Code Enforcement Office and the date of issuance.

(d) Temporary Certificate. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely, (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed three (3) months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code. At the discretion of the Code Enforcement Officer, the Code Enforcement Officer may reissue the Temporary Certificate for another period of time not to exceed three (3) months.

(e) Revocation or suspension of Certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy / Certificate of Compliance or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

(f) Fee. The fee specified in or determined in accordance with the provisions set forth in Section 16 (FEES) of this local law must be paid at the time of submission of an application for a Certificate of Occupancy / Certificate of Compliance or for Temporary Certificate.

SECTION 8. NOTIFICATION REGARDING FIRE OR EXPLOSION.

The chief of any fire department providing fire fighting services for a property within this County shall promptly notify the Code Enforcement Officer of

any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

SECTION 9. UNSAFE BUILDING AND STRUCTURES

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

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

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

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

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

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

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

Code Enforcement Officer shall have the authority to hire the same as listed above.

(b) Costs. The costs incurred to Otsego County in actions described in this section may be charged back to the property owner or assessed with the property taxes.

(c) Violations and Fines. Violations of this section shall be subject to a fine in an amount not to exceed \$1,000.00 per day. Each day that a violation continues and each occupant shall be deemed a separate offense.

SECTION 10. OPERATING PERMITS

(a) Operating Permits required. Per Uniform Code Title 19, Part 1203, Operating Permits shall be required for conducting the activities or using the categories of buildings listed below:

(1) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR section 1225.1;

(2) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct; fruit and crop ripening; and waste handling;

(3) use of pyrotechnic devices in assembly occupancies;

(4) buildings containing one or more areas of public assembly with an occupant load of 100 persons or more;

(5) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety as determined by the Code Enforcement Officer ; and

(6) use of outdoor pyrotechnic devices.

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation. Such Operating Permit shall be posted in plain sight, within 10 feet of the main entrance of the building for which it was issued.

(b) Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the

Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

(c) Inspections. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit.

(d) Multiple Activities. In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.

(e) Duration of Operating Permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any Operating Permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

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

(g) Fee. The fee specified in or determined in accordance with the provisions set forth in Section 16 (FEES) of this local law must be paid at the time of submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

SECTION 11. FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS

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

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

(2) for buildings or structures being occupied as dormitories - to be performed at least once every twelve (12) months;

(3) for all multiple dwellings not included in paragraphs (1) or (2) of this subdivision - to be performed at least once every three years or as determined by the Code Enforcement Officer;

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

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

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

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

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

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

(3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist;

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

(c) OFPC Inspections. Nothing in this section or in any other provision of this local law shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control (“OFPC”) and the New York State Fire Administrator under Executive Law Section 156-e and Education Law Section 807-b notwithstanding any other provision of this section to the contrary as follows:

(1) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure which contains an area of public assembly if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;

(2) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure occupied as a dormitory if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;

(3) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a multiple dwelling not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section; and

(4) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a non-residential building, structure, use or occupancy not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such non-residential building, structure, use or occupancy at intervals not exceeding the interval specified in paragraph (4) of subdivision (a) of this section.

(d) Fee. The fee specified in or determined in accordance with the provisions set forth in Section 16 (FEES) of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

SECTION 12. COMPLAINTS

The Code Enforcement Officer shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

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

(b) if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in Section 15 (VIOLATIONS) of this local law;

(c) if appropriate, issuing a Stop Work Order;

(d) if a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

SECTION 13. RECORD KEEPING

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

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

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

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

(4) all inspections and tests performed;

(5) all statements and reports issued;

(6) all complaints received;

(7) all investigations conducted;

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

(9) all fees charged and collected.

(b) Records are Public. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining

to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

SECTION 14. PROGRAM REVIEW AND REPORTING

(a) Monthly Reports. The Code Enforcement Officer shall submit monthly to the Public Safety Committee of this County a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in Section 13 (RECORD KEEPING) of this local law and a report and summary of all appeals or litigation pending or concluded.

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

(c) Other Data to be Provided to the State. The Code Enforcement Officer shall, 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 County is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this County in connection with administration and enforcement of the Uniform Code.

SECTION 15. VIOLATIONS

(a) Compliance Orders. The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a Compliance Order. The Compliance Order shall (1) be in writing; (2) be dated and signed by the Code Enforcement Officer; (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; (4) specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; (5) specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance; (6) direct that compliance be achieved within the specified period of time; and (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by registered mail / certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Compliance Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being

performed at the affected property personally or by registered mail / certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

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

(c) Civil Penalties. In addition to those penalties proscribed by State law, any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy / Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of this County.

(d) Injunctive Relief. An action or proceeding may be instituted in the name of this County, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy / Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Compliance Order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this County, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Parent Committee of the Code Enforcement Office.

(e) Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in Section 6 (STOP WORK ORDERS) of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in Section 6 (STOP WORK ORDERS)

of this local law, in any other section of this local law, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of Section 381 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of Section 381 of the Executive Law.

SECTION 16. FEES

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

SECTION 17. INTERMUNICIPAL AGREEMENTS

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

SECTION 18. PARTIAL INVALIDITY

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

SECTION 19. EFFECTIVE DATE

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

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

All the general business of the Board having been transacted, the Chairman declared the meeting adjourned until Wednesday, March 2, 2011 at 10:00 a.m.

Neal McManus, Deputy
Otsego County Code Enforcement Office
607-547-4392 (phone)
607-547-7597 (fax)