

# **LOCAL LAW FILING**

New York State Department of State  
Division of Corporations, State Records and Uniform Commercial Code  
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Albany, NY 12231-0001

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(Use this form to file a local law with the Secretary of State)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

City

**Town of Richmond**

Village

Local Law No. \_\_\_\_\_ of the year **2023**

**A Local Law to amend the Richmond Town Code at Part II “General Legislation” to replace Chapter 101 “Building Code Administration” with Chapter 101 “Building Construction, Fire Prevention, and Energy Conservation” to comply with New York State Regulations.”**

(Insert Title)

Be it enacted by the **Town Board** (Name of Legislative Body)

County

City

**Town of Richmond**

Village

as follows:

Section I. Authorization.

The adoption of this Local Law is in accordance with Section 10 of New York’s Municipal Home Rule Law and 19 NYCRR Part 1203, Minimum Standards for Administration and Enforcement.

Section II. Title and Purpose.

This Local Law shall be known as and may be cited as Local Law No. \_\_\_\_\_-2023, to amend the Richmond Town Code at Part II “General Legislation,” to replace Chapter 101 “Building Code Administration” with Chapter 101 “Building Construction, Fire Prevention, and Energy Conservation.”

### Section III. Legislative Finding.

Pursuant to Executive Law §381(2) and Energy Law §11-107, the Town is required to administer and enforce the Uniform Code and the Energy Code in conformance with the minimum standards prescribed by Title 19 of the New York Code, Rules and Regulations, Part 1203, Uniform Code and the Energy Code: Minimum Standards for Administration and Enforcement, and, accordingly, the Town Code provides for such administration and enforcement. The Department of State has filed a Notice of Adoption of a rule repealing and replacing Part 1203. The Town of Richmond seeks to update its Code to comply with the Department of State's revised Minimum Standards for Administration and Enforcement and has determined that Chapter 101 "Building Construction" of the Code of the Town of Richmond should be repealed and replaced with a new Chapter 101 "Building Construction, Fire Prevention and Energy Conservation."

### Section IV. Amendment.

Part II of the Richmond Town Code, "General Legislation" Chapter 101 "Building Code Administration" shall be amended to add a revised Chapter 101 entitled "Building Construction, Fire Prevention and Energy Conservation" as follows:

Chapter 101. Building Construction, Fire Prevention, and Energy Conservation.

#### § 101-1. Purpose.

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

#### § 101-2. Definitions.

As used in this Chapter, the following terms shall have the meanings indicated:

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

**BUILDING PERMIT** – A building permit, construction permit, demolition permit, or other permit that authorizes the performance of work. The term "Building Permit" shall also include a Building Permit which is renewed, amended, or extended pursuant to any provision of this Chapter.

**CERTIFICATE OF COMPLIANCE** – A document issued by the Town of Richmond stating that work was done in compliance with approved construction documents and the Codes.

**CERTIFICATE OF OCCUPANCY** – A document issued by the Town of Richmond certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and approved by the Town of Richmond, and indicating that the building or structure, or portion thereof, is in a condition suitable for occupancy.

**CODE ENFORCEMENT OFFICER** – The Code Enforcement Officer (“CEO”) appointed pursuant to § 101-3(A) of this Chapter. Throughout this document, the abbreviation “CEO” may be used for the term “Code Enforcement Officer.”

**CODE ENFORCEMENT PERSONNEL** – The Code Enforcement Officer, Deputy Code Enforcement Officer and Inspectors.

**CODES** – The Uniform Code and the Energy Code.

**DEPUTY CODE ENFORCEMENT OFFICER** – Those individuals designated as such pursuant to § 101-3(D) of this Chapter.

**ENERGY CODE** – The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law, as currently in effect and as hereafter amended from time to time.

**EQUIPMENT** – All materials related to plumbing, heating, electrical, ventilating, air conditioning, refrigerating, elevators, dumbwaiters, escalators, and other mechanical additions or installations.

**FCNYS** – The 2020 Fire Code of New York State as currently incorporated by reference in 19 NYCRR Part 1225.

**FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTION** – An inspection performed to determine compliance with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference.

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

**INSPECTOR** – An inspector appointed pursuant to § 101-3(E) of this Chapter.

**MOBILE FOOD PREPARATION VEHICLES** – Vehicles that contain cooking equipment that produces smoke or grease-laden vapors for the purpose of preparing and serving food to the public. Vehicles intended for private recreation shall not be considered mobile food preparation vehicles.

**OPERATING PERMIT** – A permit issued pursuant to § 101-10 of this Chapter. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended, or extended pursuant to any provision of this Chapter.

**ORDER TO REMEDY** – An order issued by the Code Enforcement Officer pursuant to §101-17(A) of this Chapter.

**PERMIT HOLDER** – The Person to whom a Building Permit has been issued.

**PERSON** – An individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

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

**RCNYS** – The 2020 Residential Code of New York State as currently incorporated by reference in 19 NYCRR Part 1220.

**REPAIR** – The reconstruction, replacement, or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

**STOP-WORK ORDER** – An order issued pursuant to §101-6 of this Chapter.

**SUGARHOUSE** – A building used, in whole or in part, for the collection, storage, or processing of maple sap into maple syrup and/or maple sugar.

**TEMPORARY CERTIFICATE OF OCCUPANCY** – A certificate issued pursuant to §101-7(D) of this Chapter.

**TOWN** – The Town of Richmond.

**UNIFORM CODE** – The New York State Uniform Fire Prevention and Building Code, Subchapter A of Chapter XXXIII of Title 19 of the NYCRR, adopted pursuant to Article 18 of the Executive Law, as currently in effect and as hereafter amended from time to time.

**UNSAFE BUILDING OR STRUCTURE** – Any building or structure, or portion thereof, which, because of its structural condition, is or may become dangerous or unsafe to the public, or is open at the doorways or walls, making it accessible to and an object of attraction to minors under 18 years of age, as well as to vagrants and other trespassers, or is or may become a place of rodent infestation, or consists of debris, rubble, or parts of buildings left on the ground after demolition, reconstruction, fire or other casualty, or presents any other danger to the health, safety, morals, and general welfare of the public.

§ 101-3. Code Enforcement Officer; Deputy Code Enforcement Officers; Inspectors.

A. The Office of Code Enforcement Officer (“CEO”) is hereby created. The CEO shall administer and enforce all the provisions of the Uniform Code, the Energy Code, and this Chapter. The CEO shall have the following powers and duties:

- (2) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits, and the plans, specifications, and construction documents submitted with such applications;
- (2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits, and to include in terms and conditions as the Code Enforcement Officer may determine to be appropriate Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits;
- (3) to conduct construction inspections; inspections to be made prior to the issuance of Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits; fire safety and property maintenance inspections; inspections incidental to the investigation of complaints; and all other inspections required or permitted under any provision of this Chapter;
- (4) to issue Stop Work Orders;
- (5) to review and investigate Complaints;
- (6) to issue orders pursuant to § 101-18 (Violations) of this Chapter;
- (7) to maintain records;
- (8) to collect fees as set by the Town Board of this Town;
- (9) to pursue administrative enforcement actions and proceedings;
- (10) in consultation with the Town Attorney and/or Attorneys for the Town, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code, and this Chapter, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code, or this Chapter;
- (11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this Chapter; and
- (12) coordinate the activities and responsibilities of all Deputy Code Enforcement Officers and Inspectors to ensure adherence of the Town of Richmond’s responsibilities under the Uniform Code, the Energy Code, and/or this Chapter. Any requests made by the CEO for duties to be performed by any Deputy Code Enforcement Officers or Inspectors shall be made sufficiently in advance and in

such a manner so as to ensure timely processing of plan review, building permit issuance, field inspections, and all other requirements of this Chapter.

B. The Code Enforcement Officer shall be appointed by the Town Board. The CEO shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

C. In the event that the CEO is unable to serve as such for any reason, another individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the CEO by this Chapter.

D. Deputy Code Enforcement Officers. The Town Board by resolution shall designate one or more Town Staff as Deputy Code Enforcement Officers for the Town of Richmond and these individuals are hereby vested with such authority as is necessary to fulfill the duties of these positions. The Deputy Code Enforcement Officers shall be responsible for the following:

- (1) shall fulfill the duties of the CEO as defined in this Chapter during any anticipated or unanticipated vacancies, leaves, or vacations in the position of the Town Code Enforcement Officer. In designating Deputy Code Enforcement Officers, the Town Board shall establish a hierarchy of succession for assuming the duties of the CEO, including coordinating the activities of other Deputy Code Enforcement Officers and/or Inspectors;
- (2) 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 Deputy Code Enforcement Officer shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder; and
- (3) at the request of the CEO, shall assist the CEO in regard to the discharge of obligations under this Chapter to the extent that the Deputy Code Enforcement Officer's existing workload permits. It is anticipated that the Deputy Code Enforcement Officer shall work with the CEO to eliminate duplication of effort such as combining building safety inspections with required fire inspections.

E. One or more inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the CEO in the exercise of the powers and fulfillment of the duties conferred upon the CEO by this Chapter. 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.

F. The compensation for the CEO, Deputy Code Enforcement Officer, and Inspectors shall be fixed from time to time by the Town Board of this Town.

G. Resolution of differences in interpretation among Code Enforcement Personnel. The Code Enforcement Personnel shall work together to resolve any and all differences of opinion regarding the meaning and intent of the Uniform Code, the Energy Code, and /or this Chapter. In the instance where agreement cannot be reached between the Code Enforcement Personnel in a time determined to be reasonable by the CEO, the judgment of the CEO shall take precedence. The CEO shall have the authority to confer with the Town's attorneys, engineers, architects, manufacturers, representatives from the State Department of State, and such other consultants as the CEO deems necessary and appropriate to reach his or her determination. When Deputy Code Enforcement Officers and Inspectors disagree with a determination of the CEO, they shall have no other recourse than to file an official request for interpretation to the regional office of the New York State Department of State Codes Division with copies to the CEO and Town Supervisor.

#### § 101-4. Building Permits.

A. Building Permits Required. Except as otherwise provided in Subsection 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, and the installation of a solid fuel burning heating appliance, chimney, or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Town.

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

- (1) construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses), which are used for tool and storage sheds, playhouses, or similar uses, provided the gross floor area does not exceed 144 square feet;
- (2) construction of temporary sets and scenery associated with motion picture, television, and theater uses;
- (3) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (4) installation of partitions or movable cases less than 5'-9" in height;
- (5) painting, wallpapering, tiling, carpeting, or other similar finish work;
- (6) installation of listed portable electrical, plumbing, heating, ventilation, or cooling equipment or appliances;

- (7) replacement of any equipment, provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
- (8) repairs, provided that the work does not have an impact on fire and life safety, such as
  - (a) any part of the structural system;
  - (b) the required means of egress; or
  - (c) the fire protection system or the removal from service of any part of the fire protection system for any period of time.

C. Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a Building Permit for work in any category set forth in Subsection 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 CEO deems sufficient to permit a determination by the CEO that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

- (1) a description of the location, nature, extent, and scope of the proposed work;
- (2) the tax map number and the street address of any affected building or structure;
- (3) the occupancy classification of any affected building or structure;
- (4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) at least two (2) sets of construction documents (drawings and/or specifications) which:
  - (a) describe the location, nature, extent, and scope of the proposed work;
  - (b) show that the proposed work will conform to the applicable provisions of the Codes;
  - (c) show the location, construction, size, and character of all portions of the means of egress;
  - (d) show a representation of the building thermal envelope;



- (e) show structural information including but not limited to braced wall designs, the size, section, and relative locations of structural members, design loads, and other pertinent structural information;
  - (f) show the proposed structural, electrical, plumbing, mechanical, fire-protection, and other service systems of the building;
  - (g) include a written statement indicating compliance with the Energy Code;
  - (h) include a site plan, drawn to scale and drawn in accordance with an accurate boundary survey, showing the size and location of new construction and existing structures and appurtenances on the site, distances from lot lines, the established street grades, and the proposed finished grades, and, as applicable, flood hazard areas, floodways, and design flood elevations; and
  - (i) evidence that the documents were prepared by a licensed and registered architect in accordance with Article 147 of the New York State Education Law or a licensed and registered professional engineer in accordance with Article 145 of the New York State Education Law and practice guidelines, including, but not limited to, the design professional's seal which clearly and legibly shows both the design professional's name and license number and is signed by the design professional whose name appears on the seal in such a manner that neither the name nor the number is obscured in any way, the design professional's registration expiration date, the design professional's firm name (if not a sole practitioner), and, if the documents are submitted by a professional engineering firm and not a sole practitioner professional engineer, the firm's Certificate of Authorization number.
- (6) the signature of the owner or authorized agent of the owner; and
  - (7) proof, duly subscribed, that workers' compensation insurance and disability benefits coverage issued by an insurance carrier in the form satisfactory to the Chair of the Workers' Compensation Board as provided for in § 57 of the Workers' Compensation Law is effective, or an affidavit that such application has not engaged an employer or employee as those terms are defined in § 2 of the Workers' Compensation Law to perform work relating to such permit.

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 Subsection D of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp, or in the case of electronic media, an electronic marking. One set of the accepted construction documents shall be retained by the CEO, 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 CEO shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

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

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

I. Time limits. Building Permits shall become invalid unless the authorized work is commenced within six (6) months of 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 subsection may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the CEO. Building Permits can be renewed without Town Board approval two (2) times. Additional renewals require Town Board approval.

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

K. Fee. The fee specified in or determined in accordance with the provisions the provisions set forth in § 101-19 (Fees) of this Chapter 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.

#### § 101-5. 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 CEO. The Permit Holder shall notify the CEO when any element of work described in Subsection B of this section is ready for inspection.

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

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

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

D. In the event of an in-person inspection, the CEO, Deputy CEO, Inspector, and any other Town representative shall obtain the express consent of the dwelling's apparent resident, owner, or their respective agents to enter the area to be inspected. In the event that consent is not obtained, the CEO shall proceed to obtain a warrant or Court Order authorizing access.

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

F. Fee. The fee specified in or determined in accordance with the provisions set forth in § 101-19 (Fees) of this Chapter must be paid prior to or at the time of each inspection performed pursuant to this section.

#### § 101-6. Stop Work Orders.

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

- (1) any work that is determined by the CEO to be contrary to any applicable provision of the Uniform Code or the Energy Code or the Town 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 CEO, 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; or
- (4) any work that is not in compliance with the terms of a Building Permit that has been issued.

B. Content of Stop Work Orders. Stop Work Orders shall (1) be in writing, (2) be dated and signed by the CEO, (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 certified mail. The CEO shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

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

E. Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in Subsection 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 § 101-18 (Violations) of this Chapter 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.

#### § 101-7. Certificates of Occupancy, Certificates of Compliance, and Temporary Certificates of Occupancy.

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

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

- (1) a written statement of structural observations and/or a final report of special inspections;
- (2) flood hazard certifications, if applicable;
- (3) a written statement of the results of tests performed to show compliance with the Energy Code; and

- (4) where applicable, the affixation of the appropriate seals, insignias, and manufacturer's data plates as required for factory manufactured buildings and/or manufactured homes.

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

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

D. Temporary Certificate of Occupancy. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate of Occupancy allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the CEO issue a Temporary Certificate of Occupancy unless the Code Enforcement Officer determines:

- (1) that the building or structure, or the portion thereof, covered by the Temporary Certificate of Occupancy, may be occupied safely;
- (2) that any required fire and life safety components, such as fire protection equipment, and fire, smoke, carbon monoxide, and heat detectors and alarms are installed and operational;
- (3) that all required means of egress from the structure have been provided. The CEO may include in a Temporary Certificate of Occupancy such terms and conditions as he or she deems necessary or appropriate to ensure the health and

safety of the persons occupying and using the building or structure, and/or performing further construction work in the building or structure; and

- (4) All electrical installations shall have been made in conformity with the requirements of the currently adopted Uniform Code and Energy Code, and the National Electrical Code (NEC). In the event of a conflict between the Uniform Code and the Energy Code and NEC, the provisions of NEC shall be recognized as proper compliance with this Chapter.

In no event, however, will the cost of expense of such electrical inspections be a charge against the Town.

A Temporary Certificate of Occupancy shall be effective for a period of time, up to ninety (90) days, which shall be determined by the CEO and specified in the Temporary Certificate of Occupancy. During the specified period of effectiveness of the Temporary Certificate of Occupancy, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

E. Revocation or suspension of Certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy, Certification of Compliance, or a Temporary Certificate of Occupancy was issued in error or on the basis of incorrect information, and if the relevant deficiencies are not corrected to the satisfaction of the CEO within such period of time as shall be specified by the CEO, the CEO shall revoke or suspend such certificate.

F. Fee. The fee specified in or determined in accordance with the provisions set forth in § 101-19 (Fees) of this Chapter must be paid at the time of submission of an application for a Certificate of Occupancy, Certificate of Compliance, or for a Temporary Certificate of Occupancy.

#### § 101-8. Notification regarding fire or explosion.

The chief of any fire department providing firefighting services for a property within this Town shall promptly notify the Code Enforcement Officer of any fire, or flaring, or explosion involving any structural damage, fuel-burning appliance, chimney or gas vent, as well as discharge of or shutting down of any fire-protection devices.

#### § 101-9. Unsafe buildings, structures, and equipment and conditions of imminent danger.

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

A. Inspection; report. When, in the opinion of the Code Enforcement Officer, any building or structure located in the Town of Richmond shall be deemed to be dangerous or unsafe to the public as defined in this Chapter, the Code Enforcement Officer shall make a formal inspection thereof and report, in writing, to the Town Board his or her findings and recommendations in regard to the building's or structure's removal or repair.

B. Order to repair; hearing. The Town Board shall thereupon consider the report, and, if it finds that such building or structure is dangerous and unsafe to the public, it shall, by resolution, order its repair if the same can be safely repaired, and, if not, its removal and demolition, and shall further order that a hearing be held before the Town Board, at a time and place therein specified and on at least five (5) days notice to the owner of the building or structure, or persons having an interest therein, to determine whether said order to repair or remove shall be affirmed or modified or vacated and, in the event of modification or affirmance, to assess all costs and expenses incurred by the Town in the repair or removal of such building or structure against the land on which said building or structure is located. Said order shall also provide that the securing or removal of said building or structure shall commence within thirty (30) days after service of notice and shall be completed within sixty (60) days thereafter.

C. Contents of notice. The notice shall contain the following statements:

- (1) the name of the owner or person in possession as appears from the tax and deed records;
- (2) a brief description of the premises and its location;
- (3) a description of the building or structure which is unsafe or dangerous and a statement of the particulars in which it is unsafe or dangerous;
- (4) an order requiring the same to be made safe and secure or to be removed;
- (5) that the securing or removal of said building or structure shall commence within thirty (30) days of the service of the notice and shall be completed within sixty (60) days thereafter;
- (6) the time and place of the hearing to be held before the Town Board, at which hearing the owner or occupant shall have the right to contest the order and findings of the Town Board;
- (7) that, in the event that such owner, occupant, or other person having an interest in said premises, shall fail to contest such order and fail to comply with the same, that the Town Board will order the repair or removal of such building or structure by the Town, and that the Town will assess all costs and expenses incurred in such removal against the land on which such building or structure is located.

D. Inspections permitted. In addition to the inspections required by § 101-11(A) of this Chapter, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer, Deputy Code Enforcement Officer, or an Inspector designated by the Code Enforcement Officer, at any time upon the request of the owner of the property to be inspected or an authorized agent of such owner; receipt by the CEO of a written statement alleging that conditions or activities failing to comply with the Uniform Code or the Energy Code exist; or receipt by the CEO of any other information, reasonably believed by the CEO to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or the Energy Code exist. Should entrance to make an inspection be refused or permission to enter be unable to be



obtained after the CEO has requested entry and provided identification, an application may be made for a warrant to make such inspection to any court of competent jurisdiction. 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.

#### § 101-10. Operating Permits.

A. Operating Permits required. Operating Permits shall be required for conducting certain processes or activities or for operating certain types of buildings, structures, or facilities. Any person who proposes to undertake any processes or activity or to operate the types of buildings, structures, or facilities listed below shall obtain an Operating Permit:

- (1) manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in the applicable Maximum Allowable Quantity tables found in Chapter 50 of the FCNYS;
- (2) buildings, structures, facilities, processes, and/or activities that are within the scope and/or permit requirements of the chapter or section title of the FCNYS as follows:
  - (a) Chapter 22, “Combustible Dust-Producing Operations.” Facilities where the operation produces combustible dust;
  - (b) Chapter 24, “Flammable Finishes.” Operations utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24 of the FCNYS;
  - (c) Chapter 25, “Fruit and Crop Ripening.” Operating a fruit- or crop-ripening facility or conducting a fruit-ripening process using ethylene gas;
  - (d) Chapter 26, “Fumigation and Insecticidal Fogging.” Conducting fumigation or insecticidal fogging operations in buildings, structures, and spaces, except for fumigation or insecticidal fogging performed by the occupant of a detached one-family dwelling;
  - (e) Chapter 31, “Tents, Temporary Special Event Structures, and Other Membrane Structures.” Operating an air-supported temporary membrane structure, a temporary special event structure, or a tent where approval is required pursuant to Chapter 31 of the FCNYS;
  - (f) Chapter 32, “High-Piled Combustible Storage.” High-piled combustible storage facilities with more than 500 square feet (including aisles) of high-piled storage;
  - (g) Chapter 34, “Tire Rebuilding and Tire Storage.” Operating a facility that stores in excess of 2,500 cubic feet of scrap tires or tire byproducts or operating a tire rebuilding plant;

- (h) Chapter 35, "Welding and Other Hot Work." Performing public exhibitions and demonstrations where hot work is conducted, use of hot work, welding, or cutting equipment, inside or on a structure, except an Operating Permit is not required where work is conducted under the authorization of a Building Permit or where performed by the occupant of a detached one- or two-family dwelling;
  - (i) Chapter 40, "Sugarhouse Alternative Activity Provisions." Conducting an alternative activity at a sugarhouse;
  - (j) Chapter 56, "Explosives and Fireworks." Possessing, manufacturing, storing, handling, selling, or using explosives, fireworks, or other pyrotechnic special effects materials, except the outdoor use of sparkling devices as defined by Penal Law section 270;
  - (k) Section 307, "Open Burning, Recreational Fires and Portable Outdoor Fireplaces." Conducting open burning, not including recreational fires and portable outdoor fireplaces;
  - (l) Section 308, "Open Flames." Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies; and
  - (m) Section 319, "Mobile Food Preparation Vehicles." Operating a mobile food preparation vehicle in accordance with the permitting requirements of this Chapter.
- (3) energy storage systems, where the system exceeds the values shown in Table 1206.1 of the FCNYS, or exceeds the permitted aggregate ratings in section R327.5 of the RCNYS;
  - (4) buildings containing one or more assembly areas;
  - (5) outdoor events where the planned attendance exceeds 1,000 persons;
  - (6) facilities that store, handle, or use hazardous production materials;
  - (7) parking garages as defined in Subsection A of § 101-13 of this Chapter;
  - (8) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of the Town of Richmond; and
  - (9) other processes or activities, or for operating any type of building, structure, or facility as determined by resolution adopted by the Town Board of the Town of Richmond.

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

C. Exemptions. Operating Permits shall not be required for processes or activities, or the buildings, structures, or facilities listed in paragraphs (1) through (7) of Subsection A of this section, provided that the use is expressly authorized by a Certificate of Occupancy or Certificate of Compliance, fire safety and property maintenance inspections are performed in accordance with § 101-11 (Fire Safety and Property Maintenance Inspections) of this Chapter, and condition assessments are performed in compliance with § 101-13 (Condition Assessments of Parking Garages) of this Chapter as applicable.

D. Inspections. The Code Enforcement Officer, Deputy Code Enforcement Officer, or an Inspector authorized by the Code Enforcement Officer, shall inspect the subject premises prior to the issuance of an Operating Permit. Such inspections shall be performed either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the CEO, Deputy Code Enforcement Officer, or an Inspector authorized by the CEO, the remote inspection can be performed to the same level and quality as an in-person inspection, and the remote inspection shows to the satisfaction of the CEO, or Inspector authorized by the CEO, that the premises conform with the applicable requirements of the Uniform Code and the code enforcement program. Should a remote inspection not afford the Town sufficient information to make a determination, an in-person inspection shall be performed. After inspection, the premises shall be noted as satisfactory and the Operating Permit shall be issued, or the Operating Permit holder shall be notified as to the manner in which the premises fail to comply with either or both of the Uniform Code and the code enforcement program, including a citation to the specific provision or provisions that have not been met. In the event of an in-person inspection, the CEO, Deputy Code Enforcement Officer, Inspector, and any other Town representative, shall obtain the express consent of the dwelling's apparent resident, owner, or their respective agents to enter the area to be inspected. In the event that consent is not obtained, the CEO shall proceed to obtain a warrant or court order authorizing access.

E. Multiple Activities. In any circumstance in which more than one activity listed in Subsection A of this section is to be conducted at a location, the CEO may require a separate Operating Permit for each such activity, or the CEO may, in his or her discretion, issue a single Operating Permit to apply to all such activities.

F. Duration of Operating Permits. Operating Permits shall be issued for a specified period of time consistent with local conditions, but in no event to exceed as follows:

- (1) 180 days for tents, special event structures, and other membrane structures;
- (2) 60 days for alternative activities at a sugarhouse;

- (3) three (3) years for the activities, structures, and operations determined per paragraph (9) of Subsection A of this section; and
- (4) one (1) year for all other activities, structures, and operations identified in Subsection A of this section.

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

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

H. Fee. The fee specified in or determined in accordance with the provisions set forth in § 101-19 (Fees) of this Chapter must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

§ 101-11. 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, Deputy Code Enforcement Officer, or an Inspector designated by the CEO, at the following intervals:

- (1) at least once every twelve (12) months for buildings which contain an assembly area; and
- (2) at least once every thirty-six (36) months for multiple dwellings and all non-residential occupancies.

B. Remote inspections. At the discretion of the Code Enforcement Officer, Deputy Code Enforcement Officer, or Inspector authorized to perform fire safety and property maintenance inspections, a remote inspection may be performed in lieu of in-person inspections when, in the opinion of the CEO, Deputy Code Enforcement Officer, or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the CEO, Deputy Code Enforcement Officer, or such authorized Inspector, that the premises conform with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference. Should a remote inspection not afford the CEO, Deputy Code Enforcement Officer, or such authorized Inspector, sufficient information to make a determination, an in-person inspection shall be performed. In the event of an in-person inspection, the CEO, Deputy Code Enforcement Officer, Inspector, and any other Town representative, shall obtain the express consent of the dwelling's apparent resident, owner, or their respective agents to enter the area to be inspected. In the event that consent is not obtained, the CEO shall proceed to obtain a warrant or court order authorizing access.

C. Inspections permitted. In addition to the inspections required by Subsection 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 CEO, Deputy Code Enforcement Officer, or an Inspector authorized to perform fire safety and property maintenance inspections, at any time upon:

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

D. OFPC Inspections. Nothing in this section, or in any other provision of this Chapter, shall supersede, limit, or impair the powers, duties, and responsibilities of the New York State Office of Fire Prevention and Control (“OFPC”) and the New York State Fire Administrator, or other authorized entity, under Executive Law Section 156-e and Education Law Section 807-b.

E. Notwithstanding any other provision of this section to the contrary, the Code Enforcement Officer may accept an inspection performed by the Office of Fire Prevention and Control or other authorized entity, pursuant to Sections 807-a and 807-b of the Education Law and/or Section 156-e of the Executive Law, in lieu of a fire safety and property maintenance inspection performed by the CEO, Deputy Code Enforcement Officer, or by an Inspector, provided that:

- (1) the CEO is satisfied that the individual performing such inspection satisfies the requirements set forth in 19 NYCRR Section 1203.2(e);
- (2) the CEO is satisfied that such inspection covers all elements required to be covered by a fire safety and property maintenance inspection;
- (3) such inspections are performed no less frequently than once a year;
- (4) a true and complete copy of the report of each such inspection is provided to the CEO; and
- (5) upon receipt of each such report, the CEO takes the appropriate action prescribed by § 101-18 (Violations) of this Chapter.

F. Fee. The fee specified in or determined in accordance with the provisions set forth in §101-19 (Fees) of this Chapter must be paid prior to or at the time each inspection is performed pursuant to this section. This subsection shall not apply to inspections performed by OFPC.

## § 101-12. Complaints.

The CEO or Deputy 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 Chapter, 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 CEO 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 § 101-18 (Violations) of this Chapter.
- C. If appropriate, issuing a Stop Work Order.
- D. If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the Complaint.
- E. People filing Complaints to the Code Enforcement Office and/or Zoning Inspector's Office are entitled to anonymity. These officials will not reveal the identity of someone making a Complaint without his or her consent. Though the identity of those who make a Complaint to the Code Enforcement Office will not be disclosed without the consent of the person making the Complaint, said officials may request the Complainant's name and contact information so that the Town may obtain additional information, if necessary.

## § 101-13. Condition Assessments of Parking Garages.

A. Definitions. For the purposes of this section:

- (1) the term "condition assessment" means an on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure;
- (2) the term "deterioration" means the weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component;
- (3) the term "parking garage" means any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:

- (a) buildings in which the only level used for parking or storage of motor vehicles is on grade;
  - (b) an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and
  - (c) a townhouse unit with attached parking exclusively for such unit;
- (4) the term “professional engineer” means an individual who is licensed or otherwise authorized under Article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations;
  - (5) the term “responsible professional engineer” means the professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report. The use of the term “responsible professional engineer” shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment;
  - (6) the term “unsafe condition” includes the conditions identified as “unsafe” in section 304.1.1, section 305.1.1, and section 306.1.1 of the PMCNYS; and
  - (7) the term “unsafe structure” means a structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.

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

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

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

- (2) Parking garages constructed prior to August 29, 2018, shall undergo an initial condition assessment as follows:
  - (a) if originally constructed prior to January 1, 1984, then prior to October 1, 2019;
  - (b) if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and
  - (c) if originally constructed between January 1, 2003 and August 28, 2018, then prior to October 1, 2021.
- (3) Any parking garage constructed prior to the effective date of the Local Law enacting this provision that has not undergone an initial condition assessment prior to that effective date shall undergo an initial condition assessment six (6) months after the effective date of the Local Law adopting this Chapter.

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

E. Additional Condition Assessments.

- (1) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under Subsection D of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.
- (2) If the Town becomes aware of any new or increased deterioration which, in the judgment of the Town, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under Subsection D of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the Town to be appropriate.

F. Condition Assessment Reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the Town within two (2) months of the condition assessment. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:



- (1) an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;
- (2) an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;
- (3) an evaluation and description of the unsafe conditions;
- (4) an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;
- (5) an evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;
- (6) an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;
- (7) the responsible professional engineer's recommendation regarding preventative maintenance;
- (8) except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and
- (9) the responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage, or portion thereof, should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in his or her professional judgment.

G. Review Condition Assessment Reports. The Town shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the Town shall, by Order to Remedy or such other means of enforcement as the Town may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to paragraphs (2) and (3) of Subsection F. All repairs and remedies

shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the Town to take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.

H. The Town shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the Town with a written statement attesting to the fact that he or she has been so engaged, the Town shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The Town shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.

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

- (1) to perform such construction inspections as are required by § 101-5 (Construction Inspections) of this Chapter;
- (2) to perform such periodic fire safety and property maintenance inspections as are required by § 101-11 (Fire Safety and Property Maintenance Inspections) of this Chapter; 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 Town by means of its own inspections or observations, by means of a Complaint, or by any other means other than a condition assessment or a report of a condition assessment.

#### § 101-14. Climatic and Geographic Design Criteria.

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

- (1) design criteria to include ground snow load; wind design loads; seismic category; potential damage from weathering, frost, and termite; winter design temperature; whether ice barrier underlayment is required; the air freezing index; and the mean annual temperature;
- (2) heating and cooling equipment design criteria for structures within the scope of the RCNYS. The design criteria shall include the data identified in the Design Criteria Table found in Chapter 3 of the RCNYS; and
- (3) flood hazard areas, flood hazard maps, and supporting data. The flood hazard map shall include, at a minimum, special flood hazard areas as identified by the

Federal Emergency Management Agency in the Flood Insurance Study for the community, as amended or revised with:

- (a) the accompanying Flood Insurance Rate Map (FIRM);
- (b) Flood Boundary and Floodway Map (FBFM); and
- (c) related supporting data along with any revisions thereto.

B. The Code Enforcement Officer shall prepare a written record of the climatic and geographic design criteria determined pursuant to Subsection A of this section, shall maintain such record within the office of the CEO, and shall make such record readily available to the public.

#### § 101-15. Recordkeeping.

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

- (1) all applications received, reviewed and approved or denied;
- (2) all plans, specifications, and construction documents approved;
- (3) all Building Permits, Certificates of Occupancy, or Certificates of Compliance, 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 §§ 101-4 through 101-14, inclusive, of this Chapter; and
- (9) all fees charged and collected.

B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by state law and regulation.

#### § 101-16. Interpretations, determinations and decisions.

A. All applications, requests for interpretations, or other determinations and decisions made to the CEO, the Deputy Code Enforcement Officer, and Inspectors shall be made in writing. All decisions and responses shall also be made in writing. All such applications, requests for interpretations, determinations, and decisions, and all decisions and/or responses to same shall be

maintained as an official Town record in either hard copy form or an electronic form, and shall be retained by the Code Enforcement Office pursuant to the applicable provisions of the Richmond Town Code, the policies of the Town of Richmond, and as required by State law and regulation. Any verbal determinations, opinions, and/or decisions of the CEO, Deputy Code Enforcement Officer, or Inspectors, or any designee thereof, shall not be legally binding on the Town of Richmond and shall be null and void.

#### § 101-17. Program review and reporting.

A. The Code Enforcement Officer shall annually submit to the Town Board of this Town a written report and summary of all business conducted by the CEO and the inspectors, including a report and summary of all transactions and activities described in § 101-15 (Recordkeeping), of this Chapter, and a report and summary of all appeals or litigation pending or concluded.

B. The CEO shall annually submit to the Secretary of State, on behalf of this Town, on a form prescribed by the Secretary of State, a report of the activities of this Town relative to administration and enforcement of the Uniform Code.

C. The CEO shall, upon request of the New York State Department of State, provide to the New York State Department of State, true and complete of records and related materials this Town is required to maintain, excerpts, summaries, tabulations, statistics, and other information and accounts of the activities of this Town in connection with administration and enforcement of the Uniform Code.

#### § 101-18. Violations.

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

“The person or entity served with this Order to Remedy must completely remedy each violation described in this Order to Remedy by \_\_\_\_\_ [specify date], which is thirty (30) days after the date of this Order to Remedy.” The Order to Remedy may include provisions ordering the person or entity served with such Order to Remedy (1) to begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time which may be 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 Chapter or by any other applicable statute, regulation, rule, local law, or ordinance, and which the CEO may deem appropriate, during the period while such violations are being remedied. The CEO 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 CEO shall be permitted, but not required, to cause the Order to Remedy, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

B. Appearance Tickets. The CEO and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

C. Penalties. In addition to such other penalties as may be prescribed by State law:

- (1) any Person who violates any provision of this Chapter, or any term, condition, or provision of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate of Occupancy, Stop Work Order, Operating Permit, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this Chapter, shall be punishable by a fine of not more than \$500.00 per day of violation; and
- (2) any Person who violates any provision of the Uniform Code, the Energy Code, or this Chapter, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate of Occupancy, Stop Work Order, Operating Permit, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this Chapter, shall be liable to pay a civil penalty of not more than \$500.00 for each day or part thereof during which such violation continues. The civil penalties provided by this paragraph shall be recoverable in an action instituted in the name of the Town of Richmond.

D. Injunctive Relief. An action or proceeding may be instituted in the name of the Town of Richmond, 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 Chapter, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate of Occupancy, 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 Chapter. 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 Chapter, or any Stop Work Order, Order to Remedy, or other order obtained under the Uniform Code, the Energy Code, or this Chapter, an action or proceeding may be commenced in the name of this Town, 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 Town Board of the Town of Richmond.

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 § 101-6 (Stop Work Orders) 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 § 101-6 (Stop Work Orders) of this Chapter, in any other section of this Chapter, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of Section 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of Section 382 of the Executive Law.

#### § 101-19. Fees.

A fee schedule shall be established by resolution of the Town Board of the Town of Richmond. 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 of Occupancy, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this Chapter.

#### § 101-20. Intermunicipal agreements.

The Town Board of the Town of Richmond may, by resolution, authorize the Supervisor of this Town to enter into an agreement, subject to review and approval by the Town Attorney and/or Attorney for the Town, in the name of this Town, with other governments to carry out the terms of this Chapter, 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 V. Validity and Severability.

Should the removal of any word, section, clause, paragraph, sentence, part, or provision of this Chapter be declared invalid by a court of competent jurisdiction, such determination shall not affect the validity of any other part hereof.

#### Section VI. Repeal, Amendment, and Supersession of Other Laws.

All other ordinances or Local Laws of the Town of Richmond which are in conflict with the provisions of this Chapter are hereby superseded or repealed to the extent necessary to give this Chapter force and effect.

#### Section VII. Effective Date.

The effective date of this Chapter shall be immediately upon its filing with the Secretary of State.

**(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)**

**1. (Final adoption by local legislative body only.),**

I hereby certify that the local law annexed hereto, designated as Local Law No. \_\_\_\_ of 2023 of the **Town of Richmond** was duly passed by the Richmond Town Board on \_\_\_\_\_, 2023, in accordance with the applicable provisions of law.

**~~2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer<sup>1</sup>.)~~**

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_, 20\_\_ in accordance with the applicable provisions of law.~~

**~~3. (Final adoption by referendum.)~~**

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the on 20\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_, 20\_\_, in accordance with the applicable provisions of law.~~

**~~4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)~~**

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_, and was (approved)(not approved)(repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_, 20\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_, 20\_\_, in accordance with the applicable provisions of law.~~

**~~5. (City local law concerning Charter revision proposed by petition.)~~**

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_ of the City of \_\_\_\_\_ of having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote~~

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<sup>1</sup> Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county- wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_, 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of November \_\_\_\_, 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

\_\_\_\_\_  
Town Clerk

(Seal)

Date: \_\_\_\_\_