

Chapter 92

CONSTRUCTION CODES, UNIFORM

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[HISTORY: Adopted by the Town Board of the Town of Nichols 12-12-2006 by L.L. No. 2-2006. Amendments noted where applicable.]

GENERAL REFERENCES

Flood damage prevention — See Ch. 114.
Mobile homes and mobile home parks — See Ch. 132.

Swimming pools — See Ch. 157.
Zoning — See Ch. 194.

§ 92-1. Purpose and intent; applicability.

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, 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.

§ 92-2. Definitions.

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

BUILDING — Any building, structure or portion thereof intended for residential, business, industrial or other purposes.

BUILDING PERMIT — A permit issued pursuant to § 92-4 of this chapter. 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 OCCUPANCY — A certificate issued pursuant to § 92-7B of this chapter.

CODE ENFORCEMENT OFFICER — The Code Enforcement Officer appointed pursuant to § 92-3B of this chapter.

CODE ENFORCEMENT PERSONNEL — Includes the Code Enforcement Officer and all inspectors.

COMPLIANCE ORDER — An order issued by the Code Enforcement Officer pursuant to § 92-15A of this chapter.

ENERGY CODE — The State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

INSPECTOR — An inspector appointed pursuant to § 92-3D of this chapter.

OPERATING PERMIT — A permit issued pursuant to § 92-10 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.

PERMIT HOLDER — The person to whom a building permit has been issued.

PERSON — Includes 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.

STOP-WORK ORDER — An order issued pursuant to § 92-6 of this chapter.

TEMPORARY CERTIFICATE — A certificate issued pursuant to § 92-7D of this chapter.

TOWN — The Town of Nichols.

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

§ 92-3. Code Enforcement Officer and inspectors.

A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this chapter. 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, 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, temporary certificates and operating permits, and to include in building permits, certificates of occupancy, temporary certificates and operating permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;

- (3) To conduct construction inspections, inspections to be made prior to the issuance of certificates of occupancy, temporary certificates and operating permits, firesafety 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 Subsection A of § 92-15, Enforcement; penalties for offenses, of this chapter;
 - (7) To maintain records;
 - (8) To collect fees as set by the Town Board;
 - (9) To pursue administrative enforcement actions and proceedings;
 - (10) In consultation with this Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this chapter, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this chapter; and
 - (11) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this chapter.
- B. The Code Enforcement Officer shall be appointed by the Town Board of the Town of Nichols. 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 thereunder.
- C. In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board of the Town of Nichols to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this chapter.
- D. One or more inspectors may be appointed by the Town Board of the Town of Nichols 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 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 State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

- E. The compensation for the Code Enforcement Officer and inspectors shall be fixed from time to time by the Town Board of this Town.

§ 92-4. 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 Code Enforcement Officer.
- 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 120 square feet (11.15 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 associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools 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 five feet nine inches 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; or

- (12) Repairs, provided that such repairs do not involve:
- (a) The removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component;
 - (b) The removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;
 - (c) The enlargement, alteration, replacement or relocation of any building system; or
 - (d) The removal from service of all or part of a fire protection system for any period of time.
- C. Exemption not deemed authorization to perform noncompliant 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 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 prepared in accordance with the provisions of the Uniform Code; and
 - (5) At least two sets of construction documents (drawings and/or specifications) which:
 - (a) Define the scope of the proposed work;
 - (b) Are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;
 - (c) Indicate with sufficient clarity and detail the nature and extent of the work proposed;
 - (d) Substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and

- (e) Where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.
- 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 Subsection D(5) 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. Building permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- H. Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The building permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended building permit reflecting such change is issued.
- I. Time limits. Building permits shall become invalid unless the authorized work is commenced within six months following the date of issuance. Building permits shall expire 12 months after the date of issuance. A building permit which has become invalid or which has expired pursuant to this subsection may be renewed upon application by the permit holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.
- J. Revocation or suspension of building permits. If the Code Enforcement Officer determines that a building permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a building permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the building permit or suspend the building permit until such time as the permit holder demonstrates that:

- (1) All work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code; and
 - (2) All work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.
- K. Fee. The fee specified in or determined in accordance with the provisions set forth in § 92-16, 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.

§ 92-5. 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 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) 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, reinspected, and found satisfactory as completed.
- D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 92-16, Fees, of this chapter must be paid prior to or at the time of each inspection performed pursuant to this section.

§ 92-6. 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 posting a copy on the structure and by 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 posting a copy on the structure and 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.
- 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 § 92-15, Enforcement; penalties for offenses, 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.

§ 92-7. Certificates of occupancy.

- A. Certificates of occupancy required. A certificate of occupancy shall be required for any work which is the subject of a building permit and for all 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.
- B. Issuance of certificates of occupancy. The Code Enforcement Officer shall issue a certificate of occupancy if the work which was the subject of the building permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a certificate of occupancy. 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, shall be provided to the Code Enforcement Officer prior to the issuance of the certificate of occupancy:
- (1) A written statement of structural observations and/or a final report of special inspections; and
 - (2) Flood hazard certifications.
- C. Contents of certificates of occupancy. A certificate of occupancy 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 is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy 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 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 six 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.
- E. Revocation or suspension of certificates. If the Code Enforcement Officer determines that a certificate of occupancy 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 § 92-16, Fees, of this chapter must be paid at the time of submission of an application for a certificate of occupancy or for a temporary certificate.

§ 92-8. Notification regarding fire or explosion.

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

§ 92-9. Unsafe buildings, structures and equipment.

Unsafe structures and equipment in this Town shall be identified and addressed in accordance with the following procedures:

- A. Purpose. Unsafe buildings pose a threat to life and property in the Town of Nichols. Buildings and structures may become unsafe by reason of damage by fire, the elements, age or general deterioration. Vacant buildings not properly secure at doorways and windows also serve as an attractive nuisance for young children who may be injured therein, as well as a point of congregation by vagrants and transients. A dilapidated building may also serve as a place of rodent infestation, thereby creating a health menace to the community. It is the purpose of this chapter to provide for the safety, health, protection and general welfare of persons and property in the Town by requiring that such unsafe buildings be repaired or demolished and removed.
- B. Investigation and report. When the Code Enforcement Officer, in his/her own opinion, or upon receipt of information that a building is or may become dangerous or unsafe to the general public; is open at the doorways and windows, making it accessible to and an object of attraction to minors under 18 years of age, as well as to vagrants and other trespassers; is or may become a place of rodent infestation; presents any other danger to the health, safety, morals and general welfare of the public; or is unfit for the purposes for which it may lawfully be used, he or she shall cause or make an inspection thereof and report in writing to the Town Board of the Town his/her findings and recommendations in regard to its repair or demolition and removal.
- C. Town Board order. The Town Board shall thereafter consider such report and by resolution determine, if in its opinion the report so warrants, that such building is unsafe and dangerous and order its repair if the same can be safely repaired or its demolition and removal, and further order that a notice be served upon the persons and in the manner provided herein.
- D. Contents of notice. The notice shall contain the following:
- (1) A description of the premises;
 - (2) A statement of the particulars in which the building is unsafe or dangerous;
 - (3) An order outlining the manner in which the building is to be made safe and secure, or demolished and removed;
 - (4) A statement that the securing or removal of such building shall commence within 30 days of the service of the notice and shall be completed within 60 days thereafter, unless, for good cause shown, such time shall be extended upon written application to the Town Board;
 - (5) A date, time and place for a hearing before the Town Board in relation to such dangerous or unsafe building, which hearing shall be scheduled not less than five business days from the date of service of the notice; and
 - (6) A statement that in the event of neglect or refusal to comply with the order to secure or demolish and remove the building, the Town Board is authorized to provide for its demolition and removal, to assess all expenses thereof against the land on which it is located, and to institute a special proceeding to collect the costs of demolition, including legal expenses.
- E. Service of notice.

- (1) The notice shall be served:
 - (a) By personal service of a copy thereof upon the owner, executor, administrator, agent, lessee, or any person having a vested or contingent interest in such unsafe building as shown by the records of the Tax Collector or of the County Clerk; or, if no such person can reasonably be found, by mailing such owner, by registered mail, a copy of such notice directed to his/her last known address as shown by the above records; and
 - (b) By personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found; and
 - (c) By securely affixing a copy of such notice upon the unsafe building.
 - (2) A copy of the notice served as provided herein shall be filed in the office of the County Clerk of the County of Tioga.
- F. Refusal to comply. In the event of the refusal or neglect of the person so notified to comply with said order of the Town Board and after the hearing, the Town Board shall provide for the demolition and removal of such building or structure either by Town employees or by contract. Except in emergency as provided in Subsection II hereof, any contract for demolition and removal of a building shall be awarded in accordance with the requirements for competitive bidding.
- G. Assessment of expenses. All expenses incurred by the Town in connection with the proceedings to repair and secure or demolish and remove the unsafe building, including the cost of actually removing such building, and all reasonable and necessary legal expenses incidental thereto, shall, at the option of the Town Board, either:
- (1) Be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided in the Town Law for the levy and collection of a special ad valorem levy; or
 - (2) Be collected by commencement of a special proceeding against the owner of said unsafe or dangerous building or structure pursuant to General Municipal Law § 78-b.
- H. Emergency cases. Where it reasonably appears that there is present a clear and imminent danger to the life, safety or health of any person or property, unless an unsafe building is immediately repaired and secured or demolished, the Town Board may by resolution authorize the Building Inspector to immediately cause the repair or demolition of such unsafe building. The expenses of such repair or demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected as provided in Subsection G hereof.

§ 92-10. Operating permits.

- A. Operating permits required.

- (1) Operating permits shall be required for conducting the activities or using the categories of buildings listed below:
 - (a) 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 1225.1;
 - (b) Hazardous processes and activities, including, but not limited to, commercial and industrial operations which produce combustible dust as a by-product, fruit and crop ripening, and waste handling;
 - (c) Use of pyrotechnic devices in assembly occupancies;
 - (d) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
 - (e) 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 this Town.
 - (2) Any person who proposes to undertake any activity or to operate any type of building listed in this Subsection A shall be required to obtain an operating permit prior to commencing such activity or operation.
- B. Applications for operating permits. An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.
- C. 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 Subsection 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 remain in effect until reissued, renewed, revoked, or suspended.
- 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 § 92-16, Fees, of this chapter 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.

§ 92-11. Firesafety and property maintenance inspections.

- A. Inspections required. Firesafety 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) Firesafety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every 12 months.
 - (2) Firesafety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every 12 months.
 - (3) Firesafety and property maintenance inspections of all multiple dwellings not included in Subsection A(1) or (2), and all nonresidential buildings, structures, uses and occupancies not included in Subsection A(1) or (2), shall be performed at least once every 36 months.
- B. Inspections permitted. In addition to the inspections required by Subsection A of this section, a firesafety 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 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.
- C. 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 under Executive Law § 156-e and Education Law § 807-b.

- D. Fee. The fee specified in or determined in accordance with the provisions set forth in § 92-16, Fees, of this chapter must be paid prior to or at the time of each inspection performed pursuant to this section. This subsection shall not apply to inspections performed by OFPC.

§ 92-12. 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 chapter, or any other local law, ordinance or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the 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 § 92-15, Enforcement; penalties for offenses, 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.

§ 92-13. 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, 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 §§ 92-4 through 92-12, 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.

§ 92-14. Program review and reporting. ¹

- A. The Code Enforcement Officer shall monthly submit to the Town Board of this Town 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 § 92-13, Recordkeeping, of this chapter and a report and summary of all appeals or litigation pending or concluded.
- B. The Code Enforcement Officer shall monthly 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 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 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.

§ 92-15. Enforcement; penalties for offenses.

- 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 chapter. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a compliance order.
- (1) The compliance order shall:
- (a) Be in writing;
 - (b) Be dated and signed by the Code Enforcement Officer;
 - (c) Specify the condition or activity that violates the Uniform Code, the Energy Code, or this chapter;
 - (d) 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;
 - (e) Specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance;

1. Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

- (f) Direct that compliance be achieved within the specified period of time; and
 - (g) State that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time.
- (2) 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 posting and 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 posting and 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 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 chapter, or any term or condition of any building permit, certificate of occupancy, temporary certificate, 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 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 subsection shall be recoverable in an action instituted in the name of this Town.
- D. Injunctive relief. An action or proceeding may be instituted in the name of this Town, 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, 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 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, compliance order 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 subsection shall be commenced without the appropriate authorization from the Code Enforcement Officer of this Town.
- E. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty 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 § 92-6, Stop-work orders, of this chapter, in any other section of this chapter, 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 § 92-6, 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 § 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 § 381 of the Executive Law.

§ 92-16. Fees.

A fee schedule shall be established by resolution of the Town Board of this Town. 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, temporary certificates, operating permits, firesafety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this chapter.

§ 92-17. Intermunicipal agreements.

The Town Board of this Town may, by resolution, authorize this Town to enter into an agreement, 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.