

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. OF 2023**

**A LOCAL LAW AMENDING CHAPTER 2 OF THE TOWN CODE
ENTITLED “ADMINISTRATION AND ENFORCEMENT”**

BE IT ENACTED by the Town Board of the Town of North Hempstead, as follows:

Section 1. Legislative Intent.

The Board finds that it is in the best interest of the Town of North Hempstead to amend Chapter 2 of the Town Code entitled “Administration and Enforcement” in order to revise certain enforcement provisions in the Town Code to comply with recent amendments to State regulations establishing minimum standards for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code and the New York State Energy Conservation Construction Code.

Section 2.

Article I of Chapter 2 of the Town Code is hereby amended as follows:

§ 2-7 Definitions

As used in this Article, 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 COMMISSIONER

The duly appointed Commissioner of the Department of Building, Safety Inspection and Enforcement of the Town of North Hempstead or his or her designee.

BUILDING DEPARTMENT

The Department of Building, Safety Inspection and Enforcement of the Town of North Hempstead.

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 OR CERTIFICATE OF COMPLETION

A document issued by the Town stating that work was done in compliance with approved construction documents and the Codes.

CERTIFICATE OF OCCUPANCY

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

CODES

The Uniform Code and Energy Code.

ENERGY CODE

The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law.

FIRE CODE

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.

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.

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.

PROPERTY MAINTENANCE CODE

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

RESIDENTIAL CODE

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 Section 2-15 of this Article.

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 Section 2-21 of this Article.

TOWN

The Town of North Hempstead.

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.

§2-8 Climatic and Geographic Design Criteria.

A. The Building Commissioner 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 termites; 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 Residential Code. The design criteria shall include the data identified in the Design Criteria Table found in Chapter 3 of the residential code; and

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

- (i) the accompanying Flood Insurance Rate Map (FIRM);**
- (ii) Flood Boundary and Floodway Map (FBFM); and**
- (iii) related supporting data along with any revisions thereto.**

B. The Building Commissioner shall prepare a written record of the climatic and geographic design criteria determined pursuant to subdivision (A) of this section, shall maintain such record within the office of the Building Department, and shall make such record readily available to the public.

Section 2-9 is hereby amended as follows:

§ 2-9. Permit required; application. [Amended 8-21-1990 by L.L. No. 8-1990; 9-17-1996 by L.L. No. 22-1996; 1-28-1997 by L.L. No. 3-1997; 4-2-2002 by L.L. No. 4-2002]

A. No person, firm or corporation shall commence the alteration of any lot or parcel, including the erection, construction, enlargement, alteration, removal, improvement, demolition or conversion of any building or structure or tree, or part thereof, or change the nature of the occupancy of any building or structure or cause the same to be done or the removal of trees without first filing with the Building Commissioner an application for such removal, construction, alteration, moving or demolition or installation of elevator, heating or heat-producing appliance or equipment, other than ordinary stoves or ranges, and obtaining a **building** permit, except that no **building** permit shall be required for the performance of

ordinary repairs which are not structural in nature, **impact the required means of egress, or which do not affect the fire protection system or require the removal from service of any part of the fire protection system for any period of time. Except as otherwise provided herein 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; or

(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.

B. Such application shall be made to the Building Commissioner **in writing** on forms provided by him and shall contain the following information:

(1) A description of the land on which the proposed work is to be done, **including the tax map number and the street address of any affected building or structure.**

(2) A statement of the use or occupancy of all parts of the land and the proposed building structure.

(3) The valuation of the proposed work.

(4) The full name and address of the owner and of the applicant, and the names and addresses of their officers if any of them are corporations.

(5) A brief description of the nature of the proposed work.

(6) A duplicate set of plans and specifications as set forth in Subsection G of this section.

(7) **Where required by** ~~[A short environmental assessment form, as set forth in]~~ Part 617 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York, **an environmental assessment form**. [Added 12-16-2003 by L.L. No. 15-2003]

(8) A statement from the applicant and owner disclosing: [Added 12-16-2003 by L.L. No. 15-2003]

(a) Whether the soils on or the groundwater beneath the land on which the proposed work is to be done has been contaminated by hazardous waste; and

(b) Whether the lot or parcel on which the proposed work is to be done is subject to a consent order and a plan. If the lot or parcel is subject to a consent order and a plan, the applicant and owner shall provide a copy of such consent order and plan, along with the names, addresses, telephone numbers, and other contact information of any regulatory agency deemed relevant by the Commissioner of Buildings. No permit will be issued if the Building Commissioner determines, based upon information provided by a regulatory agency, that the owner or applicant is not in compliance with the consent order or plan.

(c) For the purposes of this § 2-9B(8):

[1] The term "hazardous waste" shall have the same meaning as set forth for said term in Part 371 of Title 6 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

[2] The term "consent order" shall mean an order issued by a regulatory agency for the remediation or monitoring of hazardous waste contaminating either the soils on or the groundwater beneath the land on which work is proposed hereunder.

[3] The term "plan" shall mean a plan for the remediation or monitoring of hazardous waste contaminating either the soils on or the groundwater beneath the land on which work is proposed hereunder, which has been approved by a regulatory agency as part of a consent order.

[4] The term "regulatory agency" shall mean the United States Environmental Protection Agency, the New York State Department of Environmental Conservation, the Nassau County Department of Health, or any other federal, state, or local agency, board, department, or other entity overseeing compliance with the consent order and implementation of a plan.

(9) Where applicable, a statement of special inspections, as defined in Section 202 of the 2020 Building Code of New York State, prepared in accordance with the provisions of the Uniform Code.

(~~9~~10) Such other information as may reasonably be required by the Building Commissioner to establish the compliance of the proposed work with the requirements of the applicable building laws, ordinances and regulations.

C. Applications shall be made by the owner or lessee, or agent of either, or by the architect, engineer or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner or applicant that the proposed work is authorized by the owner and that the applicant is authorized to make such application.

D. If the application contemplates the moving of an existing building or structure from one location to another, it shall be accompanied by a description of the method to be used and a statement of the route to be followed. If the performance of the work requires the removal of a tree or trees, it shall be accompanied by a tree removal permit application as required by § 2-9T. Permits from the state, county, Town and/or village authorities shall be submitted at the time of making application for the permit.

E. The Building Commissioner shall require a separate application to be filed for an elevator installation, but in case such separate application is filed by the same applicant in connection with and relating to an application to construct or alter a building or structure, it shall not be necessary to duplicate the affidavit attached to, or information contained in, the application to construct or alter.

F. Nothing in this section shall prevent the Building Commissioner from requiring such additional information as may be necessary for an intelligent understanding of any proposed work.

G. Each application for a building permit shall be accompanied by duplicate plans and specifications, and duplicate original property surveys representing existing conditions stamped and sealed by a licensed land surveyor. The applicant shall type or print legibly all pertinent information on the applications. **The plans and specifications shall:**

(1) describe the location, nature, extent, and scope of the proposed work;

(2) show that the proposed work will conform to the applicable provisions of the Codes;

(3) show the location, construction, size, and character of all portions of the means of egress;

(4) show a representation of the building thermal envelope;

(5) 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;

(6) show the proposed structural, electrical, plumbing, mechanical, fire-protection, and other service systems of the building;

(7) include a written statement indicating compliance with the Energy Code.

The plot plan shall be drawn to scale and shall show the location, size, shape and dimensions of the property, the setbacks from the property lines, ~~and~~ the size of all existing and proposed buildings, additions and/or structures on the property, **the established street grades and the proposed finished grades, and, as applicable, flood hazard areas, floodways, and design flood elevations.** The plot plan shall show the location, type and size of all trees, indicating those trees to remain, those to be removed and those to be planted. Notwithstanding the above, property surveys representing existing conditions shall not be required for interior alterations or renovations that do not alter or change the footprint or the exterior shell of the building or structure, including but not limited to exterior walls and the roof, for which the building permit is sought.

H. **(Reserved)** [~~The plans shall be drawn to scale and shall show all necessary details of all structural, mechanical, electrical, and plumbing work to be performed.~~]

I. Plans and specifications **submitted in connection with an application for a building permit** shall **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** [bear the signature of the person responsible for the design and drawings and, where required by § 7302, as amended, of Article 147 of the Education Law of the State of New York, the seal of a licensed architect or a licensed professional engineer].

J. The Building Commissioner may waive the requirement for filing plans and specifications for minor alterations.

K. An application to demolish shall give the full name and address of the owner or owners, the applicant and the person who is to do the work and the lot number or street number of the premises. If the performance of the work requires the removal of a tree or trees, it shall be accompanied by a tree removal permit application as required by § 2-9T.

L. Amendments, if any, to the application or to the plans and specifications accompanying the same shall be filed with the Building Department and approval received from the Building Commissioner prior to the commencement of such change of work. Amendments shall be limited to minor changes, alterations, improvements or modifications to the work contemplated within the original permit application and/or plans and specifications which accompanied same. Amendments shall not include substantive changes, modifications, alterations or improvements to the work contemplated within the original permit application and/or plans and specifications which accompanied same. Substantive changes, modifications, alterations or improvements shall require the filing of an original permit application, together with the appropriate fees and supporting documentation prior to the commencement of work thereon. [Amended 5-8-2007 by L.L. No. 3-2007]

M. No building permit shall be issued for or in connection with any parcel of realty until the applicant for said permit shall have received the approval of a site or topographical map providing for drainage facilities and drainage so as to ensure adequate protection for the surrounding areas, except in those instances where the Building Commissioner deems it not necessary due to topography. Said topographical map shall include all factors which are material, i.e., surface drainage, existing structures, future development, elevations of surrounding areas, actual and potential capacities of all stormwater basins and pools and the size thereof. Said topographical survey shall be submitted to the Building Commissioner after the necessary approvals shall have been obtained from the Nassau County Department of Public Works in accordance with the requirements of the General Municipal Law (§ 239) if required.

N. Minor structures; temporary buildings; tents. Temporary one-story frame buildings on lots whereon buildings are in the course of erection or on adjoining vacant lots, or sales or operating offices in connection with the development of subdivision of property, or platforms, stands, election booths and circus or exhibition tents, intended for temporary use only, may be erected upon permit issued by the Commissioner of Buildings, but not otherwise; but no such permit shall authorize the maintenance of such temporary building or other structure for a period exceeding six months from the date of said permit, unless said permit be renewed by the Commissioner of Buildings from time to time for consecutive periods not exceeding six months. Tents are permitted on a temporary basis under the following conditions.

(1) The purpose for such tent is a permitted use in the zoning district.

- (2) The permit applicant submits plans describing the tent, its location on the property and provisions for vehicular parking.
- (3) The tent has such provisions for public health and safety as may be required by the circumstances.
- (4) The Nassau County Fire Marshal has approved the tent.
- (5) The permit applicant submits an insurance certificate in the minimum amount of \$250,000 for bodily injury, naming the Town of North Hempstead as an additional insured for the duration of the tent.
- (6) The permit applicant submits a consent to removal by the Town and a bond or cash deposit in an amount determined by the Commissioner of Buildings to cover the cost of removal of the tent, if the applicant fails to remove it upon expiration of the permit.
- (7) A permit may be approved for a maximum of 15 days with an extension, subject to approval of the Commissioner of Buildings, for an additional 15 days.

(a) This subsection shall be and is suspended, upon the effective date hereof and continuing through December 31, 2023, at which time this subsection shall revert to full force and effect. [Added 8-13-2020 by L.L. No. 6-2020; amended 4-22-2021 by L.L. No. 7-2021; 11-18-2021 by L.L. No. 23-2021; 3-31-2022 by L.L. No. 4-2022; amended 2-7-23 by L.L. No. 1-2023]

- O. Unlawful use. It shall be unlawful to use any temporary structure for any purpose other than that designated in the permit.
- P. Removal. Every temporary structure shall be removed at the expiration of the period for which the permit was issued unless such permit is renewed.
- Q. Upon application for a permit for a temporary structure, in addition to the prescribed fee, a cash deposit shall be required in an amount to be determined by the Building Commissioner, to guarantee the removal of said structure at the expiration of the period for which the permit is issued or, in case of default of the provisions of this section, to be forfeited to the Town of North Hempstead and used to defray the expense of removal of said structure. Such deposit shall be returned to the applicant upon his removal of the structure and compliance with the provisions of this article.
- R. Temporary buildings other than those mentioned above, which may be permitted in connection with a use permit granted by the Board of Appeals, shall comply with the regulations

of the Board of Appeals for such buildings, and shall also be subject to the provisions of Subsection N of this section.

S. Alterations and additions. Within the fire limits, no building or structure of frame construction or of unprotected metal construction shall be hereafter extended on any side unless the construction of such extension conforms to the requirements of this chapter for new construction, and provided that the area of the building as extended shall not exceed the allowable area for frame construction.

T. Tree removal permits.

- (1) No person, firm or corporation shall remove, destroy or substantially alter the habitat of any tree to cause the death of any tree or trees on private property, or cause the same to be done, without first obtaining a tree removal permit.
[Amended 6-19-2012 by L.L. No. 10-2012; 11-18-2021 by L.L. No. 21-2021]
 - (a) If the removal of a tree(s) on private property is in connection with another activity for which a permit is required under § 2-9A of this Code, a tree removal application as described in this subsection is required. In this section a “tree” is defined as any woody plant, dead or alive, which is six inches or more in diameter at a height of 4 ½ feet above the base of the trunk, including its root system and the environment within the area defined by the outermost limits of its branches.
 - (b) If the removal of a tree(s) on private property is not in connection with any other activity for which a permit is required under § 2-9A of this Code and is located in the front yard of a parcel, the tree removal is subject to the application and replacement requirements set forth in Chapter 20A.
 - (c) Where terms are not defined in this section, then the words shall have the meaning as set forth in §20A-3.
- (2) If any such tree removal occurs within the six months prior to the filing of an application for a permit required by § 2-9A, the removal of a tree or trees is deemed to have taken place in connection with the permit required by § 2-9A. This subsection shall not apply to any tree removal that occurred within the six-month period prior to the effective date of this subsection.
- (3) In addition to the information required by §2-9B of this Code, an application for a tree removal permit shall also include the following information:
 - (a) The name and address of the applicant and status of legal entity.
 - (b) The status of the applicant with respect to the land.

- (c) Written consent of the owner or owners of the land, if the applicant is not the owner or sole owner.
- (d) The location of the property, including the section, lot and block number and street address.
- (e) The reason tree removal is sought.
- (f) The condition of each tree with respect to disease and danger of falling.
- (g) A description of the size and type of each tree to be removed, including common name and/or botanical name.
- (h) Photos of each tree to be removed.
[Added 11-18-2021 by L.L. No. 21-2021]
- (i) A diagram showing the proposed location of the required replanting. A copy of the Tree Standards and Specifications will be made available to the applicant.
[Added 11-18-2021 by L.L. No. 21-2021]
- (j) Such other information as may be reasonably be required by the Building Commissioner to establish compliance with this section, including, but not limited to the following:
 - [1] A signed statement from a New York State certified arborist indicating the health of the tree.
 - [2] An erosion control plan.
 - [3] Reserved
 - [4] A survey noting the location of any structures or utilities endangered by the tree.
 - [5] Alternative mitigation if the tree acts as a visual and/or noise barrier to a road or highway.
 - [6] Proposed methods to ensure the protection of remaining trees.
[Added 11-18-2021 by L.L. No. 21-2021]
 - [7] Flagging of each tree to be removed.

- (4) In making the determination to grant or deny the application, the Building Commissioner shall be guided by the following criteria:
- (a) The ability of the applicant to rearrange the layout of proposed structures to minimize the removal of trees.
 - (b) The necessity of removal or alteration of the tree in question.
 - (c) The condition of the tree with respect to disease and danger of falling. In the event that the diseased condition of the tree is not evident, the Building Commissioner maintains the right to require the applicant to submit proof from a New York State certified arborist.
 - (d) The proximity of the tree to proposed or existing structures.
 - (e) Whether the tree endangers the usefulness of a public sewer or public utility.
 - (f) The significance of the tree in regard to:
 - [1] The size of the tree.
 - [2] The rarity of the species.
 - [3] The historical value of the tree.
 - [4] Whether the tree is included on the inventory of landmark trees and other significant trees in the Town.
[Added 11-18-2021 by L.L. No. 21-2021]
 - (g) The effect of removal on:
 - [1] The character of the site with respect to vegetation management practices.
 - [2] Ecological systems
 - [3] The existing screening of any road or highway bordering the property in question.
 - [4] Erosion control from the parcel on which the tree is to be removed and its impact on adjacent parcels.

- (h) Whether a denial of the permit will result in unnecessary hardship or severe financial loss to the applicant.
- (5) Tree replacement guidelines. Each tree removed of a diameter of six inches or greater shall be subject to the tree replacement guidelines enumerated in this subsection. Failure to comply with the tree replanting requirements set forth in this section shall constitute a separate and distinct offense hereunder.
[Added 11-18-2021 by L.L. No. 21-2021]
- (a) Replacement tree(s) must be a minimum diameter of 3 inches, measured at 4 1/2 feet in height above grade or above the root collar. Except as provided for in § 2-9(T)(5)(d):
 - [1] Each tree removed having a diameter measuring between six inches to twenty-four inches shall require one replacement tree to be planted.
 - [2] Each tree removed having a diameter measuring greater than twenty-four inches to thirty inches shall require two replacement trees to be planted.
 - [3] Each tree removed having a diameter greater than thirty inches shall require three replacement trees to be planted.
 - (b) The tree(s) to be planted in replacement shall be located on the same parcel from which the tree(s) is proposed to be removed. To the extent practicable, a tree removed in the front yard shall be replaced with a tree planted in the front yard.
 - (c) The tree(s) to be planted in replacement shall be from a similar size class or from a larger size class as the tree(s) removed, unless a smaller size class is determined to be more appropriate, as determined by the Building Commissioner. Size classes are enumerated in the Tree Standards and Specifications to be promulgated by the Town Board, subject to the advice of the Tree Advisory Committee established pursuant to Chapter 20A.
 - (e) All required tree plantings shall occur between April 1 and December 1 and 90 days after the tree removal.

(f) If plantings cannot occur within 90 days of the removal due to the above planting time restrictions, the Commissioner of Buildings shall require the applicant to deposit a performance bond or a cash deposit in the form of a certified check with the Commissioner of Buildings in an amount which shall be determined by the Commissioner to be equal to the estimated cost of planting the required number of trees and, if applicable, stabilizing the site. The term of said deposit or performance bond shall not exceed a period of six months, and the deposit or bond shall not be released until the plantings have been satisfactorily completed in accordance with the approved tree removal permit.

[1] In the event of a default, such bond or cash deposit shall be forfeited to the Building Department and the funds shall be applied to the Tree Preservation Fund. If a permittee is found to be in violation of the conditions of the tree removal permit, the Commissioner of Buildings shall determine the remedy of the violation; however, in no circumstances shall such forfeiture of the bond serve as a remedy of the violation.

[2] Upon satisfactory completion of the contemplated work in accordance with the application and this chapter, such bond or cash deposit shall be released by the Commissioner of Buildings. Satisfactory completion of the work shall be evidenced by the Commissioner of Buildings.

(6) A two year tree establishment bond will be required where trees have been removed on a parcel in conjunction with or to facilitate the construction of a new commercial building or residential dwelling in which tree replanting is required.
[Added 11-18-2021 by L.L. No. 21-2021]

(a) The applicant shall deposit a two year tree establishment bond or a cash deposit in the form of a certified check with the Commissioner of Buildings after the Commissioner of Buildings approves the trees at the final inspection and prior to issuance of the certificate of occupancy. The bond or escrow amount shall be 100 percent of the total landscaping costs, but in no case shall be less than \$1,000 per required replacement tree. If a bond is offered, it shall be executed by a surety or guaranty company qualified to transact business in the State of New York and acceptable to the Town.

- (b) Two years after the date of the bond or escrow account being provided, the Commissioner of Buildings shall inspect the site and make a determination of whether the required trees are viable, and if so, the Town may release the bond or escrow account upon approval by the Commissioner of Buildings. In the event of a default, such bond or cash deposit shall be forfeited to the Building Department and the funds shall be applied to the Tree Preservation Fund.

- (7) In the event the Building Commissioner denies a request for a tree removal permit, the applicant may appeal his decision to the Board of Zoning and Appeals pursuant to § 70-225M.

- (8) No permit shall be issued for tree removal unless:
 - (a) The application is accompanied by plans for the development of the land from which such tree is to be removed and of any other land on the same tax lot or lots; or
 - (b) The application demonstrates a serious threat to public health and safety, which cannot be effectively eliminated by trimming the tree and can be solved by removal of such tree. If the stated serious threat to public health and safety concerns the health of the tree, the Building Commissioner may request a signed statement from a New York State certified arborist indicating the health of the tree.
[Added 11-18-2021 by L.L. No. 21-2021]

- (9) Display of permit. Any permit issued under Section 2-9(T) of this chapter shall be conspicuously displayed on the frontage of the premises for which it was issued so as to be easily visible from the nearest public street. The permit shall be posted at all times during the performance of the work and shall not be removed until such time as the authorized tree work has ended and the Building Department has issued a certificate of tree planting to close out the permit. A property owner or permit holder who fails to post a permit shall be deemed in violation of this chapter.
[Added 11-18-2021 by L.L. No. 21-2021]

- (10) Prior to land preparation or construction activity that could damage any tree on a property a protective barrier shall be placed around the tree. Such protective barrier shall remain in place until all construction activity is terminated. If the construction or development of a property results in damage to a tree on the property requiring its

removal, such tree shall be subject to the provisions of this section. Minor tree damage shall be repaired in accordance with accepted tree surgery practice.

[Added 11-18-2021 by L.L. No. 21-2021]

(11) The Building Commissioner shall issue a certificate of tree planting if it is found that the proposed tree removal and tree replacement has been completed substantially in accordance with the permit and the laws applicable thereto. A photo of each replacement tree that is planted shall be maintained in the certificate of tree planting file.

[Added 11-18-2021 by L.L. No. 21-2021]

(12) No certificate of occupancy shall be issued by the Building Commissioner until all tree planting and associated restoration work shall be completed to the satisfaction of the Building Commissioner except that, where a certificate of occupancy is applied for between December 1 and April 1, the permit holder shall submit an agreement, in writing, on a form approved by the Town Attorney, to the Town signed by the permit holder to ensure compliance with all planting and restoration work to the satisfaction of the Building Commissioner on or before the first day of May next following the making of the agreement.

[Added 11-18-2021 by L.L. No. 21-2021]

(13) Severability. If any clause, sentence, paragraph, section, word or part of this chapter is adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder of this chapter but shall be confined in its operation to the clause, sentence, paragraph, section or part of this chapter directly involved in the controversy in which such judgment is rendered.

[Added 11-18-2021 by L.L. No. 21-2021]

U. Condition Assessments of Parking Garages

(1) Definitions.

For the purposes of this section:

(a) 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;

(b) 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;

(c) the term “parking garage” means any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:

- (i) buildings in which the only level used for parking or storage of motor vehicles is on grade;
- (ii) an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and
- (iii) a townhouse unit with attached parking exclusively for such unit;

(d) 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;

(e) 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;

(f) 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 Property Maintenance Code; and

(g) 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.

(2) Condition Assessments – General Requirements.

The owner operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in subdivision (3) of this section, periodic condition assessments as described in subdivision (4) of this

section, and such additional condition assessments as may be required under subdivision (5) of this section. Each condition assessment shall be conducted by or under the direct supervision of a professional engineer. A written report of each condition assessment shall be prepared and provided to the Town, in accordance with the requirements of subdivision (6) 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.

(3) Initial Condition Assessment.

Each parking garage shall undergo an initial condition assessment as follows:

- (a) Parking garages constructed on or after the effective date of this local law, shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure.**
- (b) 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 August 1, 2023.**

(4) 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.

(5) Additional Condition Assessments.

(a) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under subdivision (3) 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.

(b) If the Building Commissioner becomes aware of any new or increased deterioration which, in the judgment of the Building Commissioner, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the Building Commissioner to be appropriate.

(6) 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 Building Commissioner within five (5) days of completion of the written report. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:

- (a) an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;**
- (b) 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;**
- (c) an evaluation and description of the unsafe conditions;**
- (d) an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;**
- (e) an evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;**
- (f) an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;**
- (g) the responsible professional engineer's recommendation regarding preventative maintenance;**
- (h) 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

- (i) the responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in their professional judgment.

(7) Review Condition Assessment Reports.

The Building Commissioner 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 Building Commissioner shall 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 (b) and (c) of subdivision (6). 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 Building Commissioner 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.

(8) The Building Commissioner 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 Building Commissioner 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 Building Commissioner 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.

(9) This section shall not impair the right or the obligation of the Building Commissioner:

(a) to perform such construction inspections as are required by section 2-11.F;

(b) to perform such periodic fire safety and property maintenance inspections as are required by Article VIII; and/or

(c) 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 Building Commissioner by means of his 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.

§2-9.1. Safe and code-compliant construction.

[Added 9-29-2015 by L.L. No. 12-2015; amended 9-7-2017 by L.L. No. 8-2017]

A. For purposes of this § 2-9.1, the following terms shall have the following meanings:

APPLICANT

The person, firm or other entity making an application to the Department of Building Safety, Inspection and Enforcement pursuant to § 2-9 of the Town Code.

BUILDING PERMIT

The permit described in § 2-9 of the Town Code.

CERTIFICATE OF COMPLETION

A certificate issued by the DOL, which recognizes an individual's successful completion of a state-approved and state-registered apprenticeship program in any trade and job title necessary for the completion of the large commercial project. The certificate shall evidence that the successful completion occurred within the program time period.

CONTRACTOR OR SUBCONTRACTOR

A contractor or subcontractor who employs labor on a large commercial project.

DEPARTMENT

The Department of Building Safety, Inspection and Enforcement of the Town of North Hempstead.

DOL

The New York State Department of Labor.

LARGE COMMERCIAL PROJECT

The erection, construction, enlargement, alteration, removal, improvement, renovation, demolition or conversion of a commercial building or structure where such erection, construction, enlargement, alteration, removal, improvement, renovation, demolition or conversion involves an area of 100,000 square feet or more of floor area. The threshold of 100,000 square feet may be met either in a single building or a collection of buildings located on the same property.

PROGRAM TIME PERIOD

The period of time equal to twenty-four (24) months plus the apprenticeship program's length as established by the DOL for the specific trade referenced in the certificate of completion, measured retroactively from the date of the application for a building permit. For purposes of this definition, the program time period for the trade of laborer shall be twenty-four (24) months.

SPONSOR

Any organization or entity operating an apprenticeship program registered with the DOL and in whose name the program is registered.

- B. This section shall be applicable only to applications for building permits for large commercial projects filed with the Department on or after the effective date of this section.
- C. Prior to the issuance of a building permit for a large commercial project, the applicant shall:
 - (1) Demonstrate that any general contractor, contractor or subcontractor for such project is a participant in good standing in a qualified apprenticeship program that is registered with and approved by the DOL and has apprenticeship agreements, which are specifically identified as pertaining to the trade(s) and/or job title(s) called for by such project; and

(2) Submit certificates of completion to the Town for every general contractor, contractor or subcontractor, or his or her sponsor performing work on a large commercial project. If a contractor or subcontractor is a signatory to a sponsor, the applicant must submit to the Town a letter from the sponsor verifying the contractor's or subcontractor's signatory status.

- D. If a subcontractor is used on a large commercial project subsequent to the issuance of a building permit, the applicant shall submit certificates of completion for the subcontractor. The applicant must submit a subcontractor's certificates of completion to the Town prior to a subcontractor beginning work on such project. If a subcontractor is a signatory to a sponsor, the applicant must submit to the Town a letter from the sponsor verifying the signatory status.
- E. It shall be the responsibility of the applicant to verify that a contractor or subcontractor is a participant in a state-approved and state-registered apprenticeship program and to include certificates of completion as an attachment to the application for a building permit.
- F. This section shall not apply where a specific trade has not been included among the list of trades maintained by the New York State Commissioner of Labor available for apprenticeship agreements at the time an application for a building permit for a large commercial project is filed.
- G. The determination of compliance with this section shall be made by the Commissioner of the Department or his or her designee.

§ 2-9.2 Construction Site Safety Training
[Added 10-21-2021 by L.L. No. 18-2021]

§ 2-9.2(1) Purpose.

The provisions of this section are intended to promote the safety of Minor and Major construction sites within the Town. The provisions of this section are designed to provide that workers employed or otherwise engaged at such construction sites have received adequate safety training; that contractors performing construction work have essential safety training and that contractors performing construction work have essential safety training systems to prevent injuries and protect workers who are injured.

§ 2-9.2(2) Definitions.

- a. Permit Holder. The person to whom a building permit has been issued or for a building permit has been applied.

- b. 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.
- c. Contractor. Any person contracted or subcontracted to perform work covered by this section for or on behalf of any other person.
- d. Minor Construction Project. A construction site, with an area greater than 35,000 square feet, which involves the construction, demolition or alteration of a structure or building.
- e. Major Construction Project. A construction site, with an area greater than 50,000 square feet, which involves the construction, demolition or alteration of a structure or building.
- f. OSHA. The United States Department of Labor Occupational Safety and Health Administration.
- g. OSHA 30-hour class. A class that includes 30 or more hours in construction industry safety and health that is intended for workers and satisfies the following conditions:
 - i. Such class is (i) approved by OSHA and conducted in accordance with the OSHA outreach training program or (ii) an equivalent 30 or more hour construction industry safety and health class approved by the Building Department.
 - ii. Such class consists of in-person training, actively proctored online training or, if such training is conducted before the effective date of this section, online training.
- h. OSHA 100-hour class. A class or program that:
 - i. Includes 100 or more hours of training in technical subjects relating to a construction trade, including an apprenticeship program registered with the New York State Department of Labor; and
 - ii. Is approved by OSHA, the United States Department of Labor, the New York State Department of Education or the New York State Department of Labor. § 2-9.2(3) Safety Training Required.

i. Site Safety Designee. The Site Safety Designee must have completed an OSHA 100-hour class. On a Major Construction Project, the Site Safety Designee shall use reasonable prudence to ensure that safety is maintained as job conditions dictate and shall complete any tasks required of a Site Safety Designee under this Chapter.

§ 2-9.2(3) Safety Training Required.

- a. In addition to any other applicable town, state or federal law or rule, each permit holder:
 - 1. at a Minor Construction Site, shall be responsible for ensuring that each construction or demolition worker employed or otherwise engaged at such site by the permit holder or any person performing work for or on behalf of

such permit holder at such site has successfully completed and maintains a current OSHA 30-hour class certificate.

2. at a Major Construction Site, shall be responsible for ensuring that a foreman or designated employee or individual otherwise engaged at such site by the permit holder or any person performing work for or on behalf of such permit holder is designated as a Site Safety Designee. The Site Safety Designee shall be tasked with ensuring that each construction or demolition worker employed or otherwise engaged at such site by the permit holder or any person performing work for or on behalf of such permit holder at the site is in compliance with section 2-9.2(3)(a)(1) and shall report violations of this Chapter to the Building Department.
- b. The Applicant, Permit Holder or any person performing such work on behalf of the permit holder shall certify to the Building Department, in a form and manner established by the Building Department, that the requirements of § 2-9.2(3)(A)(1) and/or § 2-9.2(3)(A)(2) have been met. No permit for construction or demolition work for which training is required pursuant to this section shall be issued or renewed until the applicant has certified that all workers who will be working under such permit will have the requisite training throughout the duration of such permit.
 - c. The Applicant, Permit Holder or any person performing such work on behalf of the permit holder shall certify that all New York State and OSHA safety requirements and workers compensation and insurance requirements have been met.
 - d. The Permit Holder shall maintain at such site a daily log that identifies each such worker and that includes, for each such worker, proof of compliance with § 2-9.2(3)(A)(1) and § 2-9.2(3)(A)(2), as applicable. Such logs shall be made available to the Building Department upon request and shall be submitted to the Building Department as a prerequisite to the issuance of a Certificate of Occupancy, Certificate of Completion and/or Certificate of Approval.

§ 2-9.2(4) Penalties.

- a. Any violations of this section by a permit holder shall be punishable by a fine of not less than \$1,000 nor more than \$10,000. Each worker performing work on a construction site covered by this section without required safety training shall constitute a separate additional offense. Each day that the violation continues shall constitute a separate additional offense.

- b. For a second offense, committed by a permit holder within a period of five years, such violation shall be punishable by a fine of not less than \$3,000 nor more than \$20,000 or by imprisonment for a period not to exceed 15 days, or both.
- c. Permits issued to permit holders found to be in violation of this section may be revoked by the Building Department upon discovery of such violation.
- d. The Building Department shall be authorized to issue stop orders for violations of this section. Upon the issuance of a stop order, the owner of the affected property, the permit holder and any other person or contractor performing, taking part in or assisting in the work shall suspend all building activities in violation of this section until the stop order has been rescinded.

§ 2-10. Action on application for permits.

- A. The Building Commissioner shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith **to ascertain whether the proposed work is in compliance with the applicable requirements of the Codes.** He shall approve or disapprove the application within a reasonable time.
- B. Upon **finding that the proposed work is in compliance with the applicable requirements of the Codes, the Building Commissioner shall** approve^[at] ^[of-an] **the** application for a **building** permit and, upon receipt of the legal fees therefor, the Building Commissioner shall issue a **building** permit to the applicant upon the form prescribed by him and shall affix his signature or cause his signature to be affixed thereto.
- C. Upon approval of an application for a building permit, both sets of plans and specifications shall be endorsed with the word "approved." One (1) set of such approved plans and specifications shall be retained in the files of the Building Department and the other set shall be returned to the applicant, together with the building permit and shall be kept at the building site, open to inspection by the Building Commissioner or his authorized representative at all reasonable times. **Work shall not be commenced until and unless a building permit is issued. Building permits shall contain such a directive that 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 and require the permit holder to immediately notify the Building Commissioner of any change occurring during the course of the work that is the subject of the permit.**
- D. If an application, together with plans, specifications and other documents filed therewith, describe proposed work which does not conform to all the requirements of the applicable building ordinances and regulations, the Building Commissioner shall disapprove the

same, and one (1) set of plans and specifications shall become part of the public record and one (1) set returned to applicant. Upon request of the applicant, the Building Commissioner shall cause such refusal, together with the reasons therefor, to be transmitted to the applicant in writing.

§2-10.1 Procedure on Request for Expedited permit

[Added 5-29-2007 by L.L. No. 6-2007; amended 5-27-2008 by L.L. No. 5-2008; 8-4-2022 by L.L. No. 12-2022]

A. An applicant may apply in writing to the Building Commissioner requesting expedited permit application review, which request shall include such supportive documentation as the Building Commissioner may require. The Building Commissioner shall review the request to determine if it meets one or more of the following criteria:

- (1) The request is made to accommodate an emergency situation which has created a danger to health and/or safety; or
- (2) The request is in furtherance of advancing a public interest such as, but not limited to, job creation and/or economic development; or
- (3) The request is made in connection with the provision of an essential service, which shall include, but not be limited to, facilities or parts thereof which are connected to the furnishing of medical, governmental, police, fire and/or health and safety services; or
- (4) The request is made to avoid extreme financial hardship to the applicant, which hardship is not self-created.
- (5) The request is related to an application for design modifications and accessibility improvements to facilitate access, safety or independent living or to remove architectural barriers to access for persons with mobility impairments or for people with disabilities, at entrances to and within buildings. Some examples of requests satisfying this criterion shall include but not be limited to the following: the installation of ramps or kitchen and bathroom renovations for the purposes listed above.
- (6) The request is made to address an urgent concern including but not limited to, illness, disability, extreme living conditions, death in the family, or a critical need involving the applicant or an immediate family member of the applicant, and the delay in waiting for the application to be processed under ordinary review-time standards would result in a severe detriment to the applicant or the applicant's immediate family member.

B. The procedure set forth in Section 2-10.1(A) shall not apply to the following:

(1) Building and plumbing permit applications to maintain construction, changes, alterations, improvements or modifications previously undertaken without the required permit(s).

(2) Where it can be reasonably determined by the Building Commissioner that the applicant or someone on the applicant's behalf engaged in conduct that is contrary to the Town Code, New York State Building Code, or other applicable law, or with the intention of not complying with such code or law without first seeking a required approval.

C. Upon receipt of a request for expedited permit application review, the Building Commissioner and the Planning Commissioner shall review the request, together with the documentation supporting it, and render a written determination within five (5) business days. The Building Commissioner and Planning Commissioner may require additional documentation to support the request. If the two commissioners agree on the determination, the determination shall be the final determination. If the two commissioners do not agree on the determination, the request shall be denied. The Building Commissioner shall notify the applicant of the determination, in writing, within five (5) business days from receipt of the request. The written determination shall become a part of the permanent file maintained by the Building Department.

D. Prohibitions. It shall be unlawful for any person or business entity to make false statements or mislead the Building Commissioner in order to secure an expedited review pursuant to the provisions of this chapter, or to fail and/or neglect to inform the Commissioner of a change in the project which would negate eligibility for an expedited review.

§ 2-10.2 Expedited permit application review for solar panels and electric vehicle charging stations. [Added 2-7-2023 by L.L. No. 2-2023]

A. All building permit applications for the installation of solar energy panels and related equipment, including battery backups, shall be expedited by the Building Department.

B. All building permit applications for the installation of electric vehicle charging stations shall be expedited by the Building Department.

C. Expedited permit application under this section shall be reviewed by the Building Department within 14 business days of the filing of a completed application.

§ 2-11. Performance of work under permit.

- A. A building permit shall be effective to authorize the commencing of work in accordance with the application, plans and specifications on which it is based for a period of three (3) months after the date of its issuance. If work is not commenced within such period of three (3) months, the project shall be deemed abandoned. For good cause, the Building Commissioner may allow reasonable extensions at his discretion. Any project which is not completed within two (2) years from the date of issuance of a building permit shall be deemed abandoned unless good reason for delay is shown.
- B. The issuance of a building permit shall constitute authority to the applicant to proceed with the work in accordance with the approved plans and specifications and in accordance with the applicable building ordinances or regulations. All work shall conform to the approved application, plans and specifications. **The permit holder shall immediately notify the Building Commissioner of any change occurring during the course of the work that is the subject of the permit. The Building Commissioner shall determine whether the change warrants a new or amended building permit, and such change shall not be made until and unless a new or amended building permit reflecting the change is issued.**
- C. The location of a new building or structure, or an extension of an existing building or structure, shown on an accepted and approved plot diagram or an approved amendment thereof, shall be strictly adhered to.
- D. It shall be unlawful to reduce or diminish the area of any lot or plot of which a plot diagram has been filed and has been used as the basis for a permit, unless a revised plot diagram showing the proposed change in condition shall have been filed and approved; provided, however, that this shall not apply when the lot area is reduced by reason of a street opening or widening or other public improvement.
- E. The Building Commissioner shall be given at least twenty-four (24) hours notice of the starting of work under a permit.
- F. Before ceilings, walls or partitions of any work for which a permit is required, **or work for which an inspection is required as provided below,** are covered with lath, plasterboard, plaster ceiling or other covering, the Commissioner shall be notified. Within three (3) days after receipt of such notice, he shall inspect the same. No such ceilings, walls or partitions shall be covered until permission to do so has been granted by the Building Commissioner. **All work for which an inspection is required shall remain accessible and exposed until inspected and accepted by the Building Commissioner. 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 servicesystems 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, energyrecovery, 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.**

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

- G. Building permits shall be prominently displayed on the job site at all times during the progress of construction [~~so as to be readily seen from adjacent thoroughfares~~] **and shall remain visibly displayed at the work site until the authorized work has been completed.**

§ 2-12. Supervision of construction.

- A. No building which is to have a total floor area in excess of ten thousand (10,000) square feet shall be constructed except under the supervision of a professional engineer or architect licensed or registered in the State of New York.
- B. No permit will be issued for the construction of a building which is to have a total floor area in excess of ten thousand (10,000) square feet until an affidavit is filed with the Building Department certifying that the construction of such building will be supervised

by a professional engineer or architect licensed or registered in the State of New York. The affidavit shall be signed and sworn to by the engineer or architect who will supervise the construction of such building and shall have his professional seal affixed. In the event such engineer or architect shall, for any reason, discontinue his supervision of the construction of the building at any time prior to the completion, he shall immediately notify the Building Department of such fact, and thereupon the building permit issued for such construction shall be suspended and no further work shall be done thereunder until another such affidavit shall be filed with the Building Department certifying that supervision of the construction has been resumed by another or the same engineer or architect.

- C. No certificate of occupancy will be issued for a building having a total floor area in excess of ten thousand (10,000) square feet until a final certificate is filed with the Building Department by the engineer or architect who supervised the construction that the building was in fact erected in conformity with the plans therefor filed with the Building Department.

§ 2-13. Abandonment of project.

In the event of the abandonment of any building project, it shall be the duty of the holder of the permit or the owner of the premises, his agent or duly authorized representative to backfill any open excavation up to the street or ground level; in case the construction of the building or structure has proceeded beyond the cellar excavation, all incomplete structures or openings shall be completely boarded up so as to prevent access to the building or structure in order to limit and prevent danger to persons or property and possible fire hazards.

§ 2-14. Revocation of permits.

[Amended 8-21-1990 by L.L. No. 8-1990; 4-2-2002 by L.L. No. 4-2002; 12-16-2003 by L.L. No. 15-2003]

The Building Commissioner shall have the authority to revoke any permits theretofore issued or withhold any certificate issued pursuant to the completion of the permitted work in the following instances:

- A. Where he finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specification on which the building permit was based.
- B. Where he finds that the permit was issued in error and should not have been issued in accordance with the applicable law.
- C. Where he finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications.

D. Where he finds that the work performed for which the permit was issued violates the Uniform Code or the Energy Code.

E[~~D~~]. Where the person to whom a permit has been issued fails or refuses to comply with a stop order issued by the Building Commissioner.

F[~~E~~]. Where he finds that trees have been removed without a tree removal permit having been obtained pursuant to § 2-9T of the Code.

G[~~F~~]. Where he finds that trees and/or shrubs have not been replaced or fees have not been paid as required by a tree removal permit having been obtained pursuant to § 2-9T of the Code.

H[~~G~~]. Where he finds that the applicant or owner is no longer in compliance with a consent order or plan for a lot or parcel on which the permitted work has been completed. For the purposes of this § 2-14G, the terms "consent order" and "plan" shall have the same meanings ascribed to them pursuant to § 2-9B(8)(c) of this Code.

I[~~H~~]. Where he takes action or the Town Board has adopted a resolution authorizing action pursuant to § 2A-9 of this Code.
[Amended 6-14-2011 by L.L. No. 9-2011]

J[~~I~~]. Where he exercises emergency powers pursuant to § 2A-12 of this Code.
[Amended 6-14-2011 by L.L. No. 9-2011]

§ 2-15 Stop Orders.

[Amended 4-2-2002 by L.L. No. 4-2002; 5-21-2019 by L.L. No. 9-2019]

A. **Without regard to whether 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,** whenever the Building Commissioner or Commissioner of Public Safety has reasonable grounds to believe that work on or in any building or structure is being performed in violation of the provisions of the applicable building laws, ordinances or regulations, **in violation of the Uniform Code or the Energy Code,** [~~or~~] not in conformity with the provisions of an application, plans or specifications on the basis of which a building permit was issued, **under a building permit that has become invalid, has expired, or has been suspended or revoked,** or in an unsafe and dangerous manner, he shall notify the owner of the property, the owner's agent, the lessee of the property, the tenant of the property, or the person performing the work to suspend all building activities until the stop order has been rescinded. Such order and notice shall be in writing, **be dated and signed by the Building Commissioner,** shall state the **reason or**

reasons for issuance and the conditions under which the work may be resumed, ~~and~~ The Stop Work Order shall ~~may~~ shall be served upon the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) ~~[a person whom it is directed]~~ either by delivering it personally to him, or by posting the same upon a conspicuous portion of the building under construction and sending a copy of same by registered or certified mail. The Building Commissioner shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by registered or certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

B. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (A) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under Article V 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.

C~~B~~. Penalties for offenses. Any person, association, firm, or corporation which violates this section or assists in the violation of this section shall be guilty of a violation, punishable:

- (1) By a fine of not less than \$1,000 and not exceeding \$5,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense.
- (2) By a fine of not less than \$5,000 nor more than \$10,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of the second offense.
- (3) By a fine of not less than \$10,000 nor more than \$20,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of the third or subsequent offense of a series of offenses, all of which were committed within a period of five years.

§ 2-16. Certificate of occupancy.

A. No building hereafter erected shall be occupied or used, in whole or in part, until a certificate of occupancy shall have been issued by the Building Commissioner certifying

that such building conforms substantially to the permit and the requirements of law applying to buildings of its class and kind.

- B. No building hereafter enlarged, extended or so altered, wholly or in part, as to change its classification as a residential, business or industrial building, and no building hereafter altered for which a certificate of occupancy had not been issued heretofore, shall be occupied or used, in whole or in part, until a certificate of occupancy shall have been issued by the Building Commissioner certifying both that the work for which the permit was issued has been completed substantially in accordance with the permit and the provisions of law applying to such an alteration, and that the building is safe for occupancy insofar as can be determined by visual inspection, provided that if the occupancy or use of such building was not discontinued during the work of alterations, the occupancy or use of the building shall not continue for more than thirty (30) days after completion of the alteration unless such certificate shall have been issued.

§ 2-17. Certificate of completion.

In those instances where work is performed under a permit but no certificate of occupancy is required, the Building Commissioner shall issue a certificate of completion if it is found that the proposed work has been completed substantially in accordance with the permit and the laws applicable thereto. The certificate shall also indicate the use or uses to which the structure or installation may thereafter be put and to what extent.

§ 2-18. Certificate of approval for plumbing and drainage work.

In those instances where plumbing or drainage work is to be performed under a permit, the Building Commissioner shall issue a certificate of approval of the plumbing or drainage work if it is found that said work has been completed substantially in accordance with the permit and the laws applicable thereto.

§ 2-19. Inspection prior to issuance of certificates; record.

- A. Before issuing a certificate of occupancy, a certificate of completion or a certificate of approval of plumbing or drainage work, the Building Commissioner shall examine or cause to be examined all building, structures, sites and work **which was the subject of a building permit.** ~~[for which such application has been filed;]~~ and the Building Commissioner may conduct such inspection as he deems appropriate from time to time during and upon completion of the work. **In addition to the required inspection, 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 Building Commissioner, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance, shall be provided to the**

Building Commissioner prior to the issuance of the Certificate of Occupancy or Certificate of Compliance:

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

B. There shall be maintained in the Building Department a record of all such examinations and inspections together with a record of findings of violations of the law.

§ 2-20. Issuance of certificates.

A. A certificate of occupancy, a certificate of completion or a certificate of approval of plumbing or drainage work shall be issued within a reasonable time after application therefor is made. A final survey must be submitted before a certificate of occupancy or a certificate of completion will be issued; except in instances where a certificate of completion is sought, a final survey shall not be required for interior alterations or renovations that do not alter or change the footprint or the exterior shell of the building or structure, including but not limited to exterior walls and the roof, for which the certificate is sought.

B. **A certificate of occupancy or certificate of compliance shall contain the following information:**

- (1) the building permit number, if any;**
- (2) the date of issuance of the building permit, if any;**
- (3) the name (if any), address and tax map number of the property;**
- (4) if the certificate of occupancy or certificate of compliance is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy or certificate of compliance is issued;**
- (5) the use and occupancy classification of the structure;**
- (6) the type of construction of the structure;**
- (7) the occupant load of the assembly areas in the structure, if any;**
- (8) any special conditions imposed in connection with the issuance of the building permit; and**

(9) the signature of the Building Commissioner issuing the certificate of occupancy or certificate of compliance and the date of issuance.

§ 2-21. Temporary certificate of occupancy.

[Amended 4-2-2002 by L.L. No. 4-2002]

The Building Commissioner 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. Following a determination that a building or structure, or the portion thereof, may be occupied safely, that any required fire and life safety components, such as fire protection equipment and fire, smoke, carbon monoxide, and heat detectors and alarms are installed and operational, and that all required means of egress from the structure have been provided [~~Upon request,~~] the Building Commissioner may issue a temporary certificate of occupancy for a building or structure, or part thereof, before the entire work covered by the building permit shall have been completed[~~, provided that such portion or portions of the building as have been completed may be occupied safely without endangering life, health or the public welfare~~]. **The Building Commissioner may include in a temporary certificate of occupancy such terms and conditions as he or she deems necessary or appropriate to ensure the health and safety of the persons occupying and using the building or structure and/or performing further construction work in the building or structure.** A temporary certificate of occupancy may be issued for a period not exceeding three (3) months from its date of issuance, **shall specify such date in the temporary certificate of occupancy,** and shall be void thereafter, except that for good cause the Building Commissioner may allow a maximum of two (2) extensions for periods not exceeding three (3) months each. **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.**

§ 2-21.1. Revocation of Certificates

If the Building Commissioner 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 Building Commissioner within such period of time as shall be specified by the Building Commissioner, the Building Commissioner shall revoke or suspend such certificate.

§ 2-22. Tests.

Whenever there are reasonable grounds to believe that any material, construction, equipment or assembly does not conform with the requirements of the applicable building laws, ordinances or regulations, the Building Commissioner may require the same to be subjected to tests by a testing agency designated by the Building Commissioner at the applicant's own cost in order to furnish proof of such compliance.

§ 2-23. Penalties for violation of certain state law.
[Amended 8-18-1987 by L.L. No. 12,1987]

In accordance with § 382 of Article 18 of the Executive Law of the State of New York:

- A. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, remove, demolish, equip, use, occupy or maintain any building or structure, or portion thereof in violation of any provision of the Uniform Fire Prevention and Building Code or rule promulgated by the Building Department, in accordance with the Uniform Code or to fail in any manner to comply with a notice, directive or order of the Building Commissioner, or to construct, alter, use or occupy any building or structure, or part thereof, in a manner not permitted by an approved building or plumbing permit or certificate of occupancy.
- B. Any person who shall fail to comply with a written order of the Building Commissioner within the time fixed for compliance therewith, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or any other person taking part or assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of the Uniform Fire Prevention and Building Code or any lawful order, notice, directive, permit or certificate of the Building Commissioner made thereunder regarding standards for construction, maintenance or fire protection equipment and systems, shall be punishable by a fine of not more than one thousand dollars (\$1,000.) or imprisonment not exceeding one (1) year, or both. Each day that a violation continues shall be deemed a separate offense.

§2-23.1 Complaints.

The Building Commissioner shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this local law, or any other local law, ordinance 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 Building Commissioner 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 Article V 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.

§ 2-24. Abatement of violation.

Appropriate actions and proceedings may be taken at law or in equity to prevent unlawful construction or to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises, or to prevent illegal acts, conduct or business in or about any premises, and these remedies shall be in addition to penalties otherwise prescribed by law.

§ 2-25. Fire limits.

[Added 4-28-1987 by L.L. No. 9, 1987; 2-27-1996 by L.L. No. 4, 1996]

- A. Fire limits are hereby established in the following districts as designated in Chapter 70, Zoning:
- (1) Multiple Residence Districts.
 - (2) Public Housing Residence Districts.
 - (3) Golden Age Districts.
 - (4) Parking Districts.
 - (5) Transportation Districts.

- (6) Business AA Districts.
- (7) Business A Districts.
- (8) Business B Districts.
- (9) Planned Industrial Park Districts.
- (10) Modified Planned Industrial Park Districts.
- (11) Service Commercial Districts.
- (12) Industrial A Districts.
- (13) Industrial B Districts.
- (14) Hospital Districts.

B. In Multiple Residence Districts, buildings of C6.1 occupancy designated by the New York State Uniform Fire Prevention and Building Code are exempt from fire limits, provided that the proposed building has a distance separation of twenty (20) feet, is fully sprinklered, is one-story and has six thousand five hundred (6,500) square feet or less.

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

Section 3.

Chapter 2 of the Town Code is hereby amended by adding new Article VIII to read as follows:

ARTICLE VIII Fire Safety and Property Maintenance Inspections

§2-141 Inspections Required.

A. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Building Commissioner at the following intervals:

(1) at least once every twelve (12) months for buildings which contain an assembly area;

(2) at least once every twelve (12) months for public and private schools and colleges,

including any buildings of such schools or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining, or recreational facilities; and

(3) at least once every thirty-six (36) months for multiple dwellings and all nonresidential occupancies.

B. Remote Inspections.

At the discretion of the Building Commissioner a remote inspection may be performed in lieu of in-person inspections when, in the opinion of the Building Commissioner, 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 Building Commissioner 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 Building Commissioner sufficient information to make a determination, an in-person inspection shall be performed.

C. Inspections Permitted.

In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Building Commissioner 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 Building Commissioner 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 Building Commissioner of any other information, reasonably believed by the Building Commissioner to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist;

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

D. Office of Fire Prevention and Control Inspections.

- (1) Nothing in this section or in any other provision of this local law shall supersede, limit, or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control and the New York State Fire Administrator or other authorized entity under Executive Law section 156-e and Education Law section 807-b.**
- (2) Notwithstanding any other provision of this section to the contrary, the Building Commissioner 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 Building Commissioner.**

Section 3.

This Local Law shall take effect immediately upon filing with the Secretary of State.