

# **Proposed Local Law Number 11 Of 2022**

## **County of Ulster**

### **A Local Law Amending Chapter 166 Of The Code Of The County Of Ulster Providing For The Administration And Enforcement Of The New York State Uniform Fire Prevention And Building Code**

**BE IT ENACTED**, by the County Legislature of the County of Ulster as follows:

#### **SECTION 1. LEGISLATIVE INTENT AND FINDINGS.**

The Ulster County Legislature hereby finds and determines that the County of Ulster enacted Local Law Number 10 of 2007 pursuant to §381(2) of the Executive Law to establish a code enforcement program to provide for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the “Uniform Code”) and the State Energy Conservation Construction Code (the “Energy Code”), including the administration and enforcement of the Uniform Code with respect to County buildings, premises, and equipment. Local Law Number 10 of 2007 was thereafter amended by Local Law Number 3 of 2010 and codified as Chapter 166 of the Code of the County of Ulster.

The Ulster County Legislature further finds that, in response to recent changes to the Uniform Code and Energy Code, the New York State Legislature made corresponding changes to 19 NYCRR Part 1203, which will become effective on December 30, 2022. The Ulster County Legislature further finds that the New York State Department of State has recommended that each local government responsible for the administration and enforcement of the Uniform Code and/or the Energy Code update its code enforcement program.

Therefore, the purpose of this Local Law is to amend the County of Ulster’s code enforcement program, as set forth in Chapter 166 of the Code of the County of Ulster, in conformity with the recent changes to 19 NYCRR Part 1203.

#### **SECTION 2. AMENDMENTS TO CHAPTER 166 OF THE CODE OF THE COUNTY OF ULSTER.**

The following sections of Chapter 166 of the Code of the County of Ulster are hereby amended to read as follows:

A. Section 166-1 is hereby amended as follows:

This Local Law provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the “Uniform Code”) and the State Energy Conservation Construction Code (the “Energy Code”) by the County of Ulster, pursuant to

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§381 (2) of the Executive Law. This chapter shall also provide for administration and enforcement of the Uniform Code with respect to County buildings, premises and equipment as hereinafter set forth. Except as otherwise provided in the Uniform Code, Energy Code, other state law, or other section of this chapter, all buildings, structures and premises, regardless of use or occupancy, are subject to the provisions of this chapter. This chapter replaces in its entirety Local Law Number 2 of 1986 of the County of Ulster, entitled “A Local Law of the County Ulster Providing for the Administration and Enforcement of the New York State Fire Prevention and Building Code”.

**B. Section 166-2 is hereby amended as follows:**

A. The Environmental Sanitation Division of the Ulster County Department of Health is hereby designated to administer and enforce the Uniform Code in those localities which have properly opted out of responsibility for enforcement of the Uniform Code, such localities being hereinafter referred to as “properly opted out localities.”

B. The Ulster County Safety Department is hereby designated to administer and enforce the Uniform Code with respect to buildings, premises and equipment in the custody of, or activities related thereto, undertaken by the County of Ulster. Said department shall maintain and be responsible for any and all records pertaining to enforcement of the Uniform Code with respect to County buildings, premises and equipment.

**C. Chapter 166-3 is hereby amended as follows:**

“Assembly Area” shall mean an area in any building, or in any portion of a building, that is primarily used or intended to be used for gathering fifty or more persons for uses including, but not limited to, amusement, athletic, entertainment, social, or other recreational functions; patriotic, political, civic, educational, or religious functions; food or drink consumption; awaiting transportation; or similar purposes.

“Building Permit” shall mean a permit issued pursuant to ~~§166-5 Section 5~~ of this ~~Local chapter Law~~. The term “Building Permit” shall also include a Building Permit which is renewed, amended or extended pursuant to any provision of this Local Law.

“Certificate of Occupancy” or Certificate of Compliance” shall mean a certificate issued pursuant to §166-8B of this chapter.

“Code Enforcement Officer” shall mean one or more Code Enforcement Officers appointed

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pursuant to §166-4 of this chapter.

“Code Enforcement Personnel” shall include the Code Enforcement Officer and all Inspectors.  
“County” shall mean the County of Ulster.

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

“FCNYS” shall mean the 2020 Fire Code of New York State as currently incorporated by reference in 19 NYCRR Part 1225.

“Fire Safety and Property Maintenance Inspection” shall mean 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” shall mean a solid, liquid, or gas associated with semiconductor manufacturing that has a degree-of-hazard rating in health, flammability, or instability of Class 3 or 4, as ranked by NFPA 704 (Standard Systems for Identification of the Hazards of Materials for Emergency Response), and which is used directly in research, laboratory, or production processes which have, as their end product, materials that are not hazardous.

“Inspector” shall mean an inspector appointed pursuant to §166-11 of this chapter.

“Mobile Food Preparation Vehicles” shall mean vehicles that contain cooking equipment that produces smoke or grease-laden vapors for the purpose of preparing and serving food to the public. Vehicles intended for private recreation shall not be considered mobile food preparation vehicles.

“Operating Permit” shall mean a permit issued pursuant to §166-11 of this chapter. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision of this chapter.

“Order to Remedy” shall mean an order issued by the Code Enforcement Officer pursuant to §166-16A of this chapter.

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

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

“PMCNYS” shall mean the 2020 Property Maintenance Code of New York State as currently incorporated by reference in 19 NYCRR Part 1226.

“RCNYS” shall mean the 2020 Residential Code of New York State as currently incorporated by reference in 19 NYCRR Part 1220.

“Repair” shall mean 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” shall mean an order issued pursuant to §166-7 of this chapter.

“Sugarhouse” shall mean 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” shall mean a certificate issued pursuant to §166-8D of this chapter.

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

**D. Section §166-4 is hereby amended as follows:**

The Code Enforcement Officer of the Ulster County Department of Health, Environmental Sanitation Division, shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this chapter in all properly opted out localities.

The Code Enforcement Officer of the Ulster County Safety Department shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this chapter for all buildings, premises, and equipment in the custody of, or activities related thereto, undertaken by the County of Ulster.

A. The Code Enforcement Officer shall have the following powers and duties:

(1) to receive, review, and approve or disapprove applications for Building Permits,

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Certificates of Occupancy, Certificates of Compliance, Temporary Certificates and Operating Permits, and the plans, specifications and construction documents submitted with such applications;

- (2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates and Operating Permits, and to include Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement officer may determine to be appropriate;
- (3) to conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, and Operating Permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this chapter;
- (4) to issue Stop Work Orders;
- (5) to review and investigate complaints;
- (6) to issue orders pursuant to §166-16A of this chapter;
- (7) to maintain records;
- (8) to collect fees as set by §166-16A of this chapter;
- (9) to pursue administrative enforcement actions and proceedings;
- (10) in consultation with this County's Attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this chapter, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this chapter; and
- (11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this chapter.

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

C. In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be named by the corresponding department head to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, while serving shall exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this chapter.

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D. One or more Inspectors may act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this chapter. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated there under.

**E. Section 166-5 is hereby amended as follows:**

A. Building Permits Required. Except as otherwise provided in Subsection B of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer. Building Permits for properly opted out localities shall be applied for and obtained through the Environmental Sanitation Division of the Ulster County Department of Health. Building Permits with respect to buildings, premises and equipment in the custody of, or activities related thereto, undertaken by the County of Ulster, shall be applied for and obtained through the Ulster County Safety Department.

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

- (1) construction of temporary sets and scenery associated with motion picture, television and theater uses;
- (2) installation of window awnings supported by an exterior wall of a one or two family dwelling or multiple single family dwellings (townhouses);
- (3) installation of partitions or movable cases less than 5'-9" in height;
- (4) painting, wallpapering, tiling, carpeting, or other similar finish work;
- (5) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

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

(7) repairs, provided that the work does not have an impact on fire and life safety, such as (i) any part of the structural system; (ii) the required means of egress; or (iii) the fire protection system or the removal from services of or any part of the fire protection system for any period of time.

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

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

- (1) a description of the location, nature, extent, and scope of the proposed work;
- (2) the tax map number and the street address of any affected building or structure;
- (3) the occupancy classification of any affected building or structure;
- (4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
- (5) at least two (2) sets of construction documents (drawings and/or specifications) which (i) describe the location, nature, and scope of the proposed work; (ii) show that the proposed work will conform to the applicable provisions of the Codes; (iii) show the location, construction, size, and character of all portions of the means of egress; (iv) show a representation of the building thermal envelope; (v) 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; (vi) show the proposed structural, electrical, plumbing, mechanical, fire-protection, and other service systems of the building; (vii) include a written statement indicating compliance with the Energy Code; (viii) include a site plan, drawn to scale

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and drawn in accordance with an accurate boundary survey, showing the size and location of new construction and existing structures and appurtenances on the site, distances from lot lines, the established street grades and the proposed finished grades, and, as applicable, flood hazard areas, floodways, and design flood elevations; and (ix) 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.

E. Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in Subsection D(5) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp, or in the case of electronic media, an electronic marking. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

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

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

H. Work to be accordance with construction documents. All work shall be performed in



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

I. Time limits. Building Permits shall become invalid unless the authorized work is commenced within six (6) months following the date of issuance. Building Permits shall expire twelve (12) months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.

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

K. Fee. The fee specified in or determined in accordance with the provisions set forth in §166-6 of this chapter must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

#### **F. Section 166-6 is hereby amended as follows:**

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

B. Elements of work to be inspected. The following elements of the construction process

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shall be inspected made, where applicable:

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

C. Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code, 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 Uniform Code and the Energy Code, re-inspected, and found satisfactory as completed.

D. Fee. The fee specified in or determined in accordance with the provisions set forth in §166-17 of this chapter must be paid prior to or at the time of each inspection performed pursuant to this section.

E. Remote inspections. At the discretion of the Code Enforcement Officer or Inspector

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

**G. Section 166-7 is hereby amended as follows:**

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

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

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

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

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

C. Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect,

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tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

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

E. Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in Subsection A of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under §166-16 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.

#### **H. Section 166-8 is hereby amended as follows:**

A. Certificates of Occupancy and Certificates of Compliance required. A Certificate of Occupancy or Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or sub-classification to another.

Permission to use or occupy a building or structure, or portion thereof, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy or Certificate of Compliance.

B. Issuance of Certificates of Occupancy and Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy or Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or sub-classification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy or Certificate of Compliance. In addition, where

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applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance, shall be provided to the Code Enforcement Officer 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.

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

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

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D. Temporary Certificate of Occupancy. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate of Occupancy (“Temporary Certificate”) allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. (1) However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines (a) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely, (b) that any 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 (c) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure the health and safety of the persons occupying and using the building or structure and/or further construction work in the building and structure. A Temporary Certificate shall be effective for a period of time, not to exceed six [6] months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

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

F. Fee. The fee specified in or determined in accordance with the provisions set forth in §166-17 of this chapter must be paid at the time of submission of an application for a Certificate of Occupancy, Certificate of Compliance or Temporary Certificate.

#### **I. Section 166-10 is hereby amended as follows:**

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

- A. General. When a building, structure or equipment is found to be unsafe, or a structure is found to be unfit for human occupancy, such building, structure or equipment shall be condemned pursuant to the provisions of this Local Law. As used in this Section of

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this Local Law, the following terms shall have the meanings set forth below:

- (1) Unsafe buildings or structures. An unsafe building or structure is one that is found to be dangerous to the life, health, property, or safety of the public or the occupants of the building or structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such building or structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe, or of such faulty construction or unstable foundation that partial or complete collapse is possible. Buildings or structures which may be unsafe include but are not limited to the following:
  - A. Those whose interior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
  - B. Those which, exclusive of the foundation, show 33% or more of damage or deterioration of the supporting member or members or 50% of damage or deterioration of the non-supporting enclosing or outside walls or covering.
  - C. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
  - D. Those which have been damaged by fire, wind, or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants or the people of the County.
  - E. Those having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein.
  - F. Those having inadequate facilities for egress in cases of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.
  - G. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
  - H. Those which, because of their condition, are unsafe, unsanitary, or dangerous to the health, safety, or general welfare of the people of this County.

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- (2) Unsafe equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property, or safety of the public or occupants of the premises, building or structure.
- (3) Buildings or structures unfit for human occupancy. A building or structure is unfit for human occupancy whenever such building or structure is unsafe, unlawful or, because of the degree to which the building or structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by the Uniform Code, or because the location of the building or structure constitutes a hazard to the occupants of the building or structure or to the public.

B. Inspection and Report. The Ulster County Safety Department or Ulster County Department of Health, upon information and belief that a building or structure may be unsafe or unfit for human occupancy, shall cause an inspection thereof to be made by the Code Enforcement Officer and shall cause a report to be made containing the following information:

- (1) A description of the premises;
- (2) A statement of the particulars, if any, in which the building or structure is unsafe or unfit for human occupancy; and
- (3) A recommendation with respect to the repair or the demolition and removal of the building or structure.

Said report shall be filed in the Ulster County Safety Department or Ulster County Department of Health, respectively.

C. Notice and Hearing. Upon a finding that a building or structure is unsafe or unfit for human occupancy, the Code Enforcement Officer shall notify the owner of record of the building or structure, and may notify all others having an interest therein, either personally or by certified mail, addressed to his or her last known address as shown by the records of the Ulster County Clerk.

- (1) Such notice shall be in writing and shall contain:
  - A. A description of the premises;
  - B. A statement of the particulars in which the building or structure



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is unsafe or unfit for human occupancy;

- C. An order requiring that the building or structure be repaired and made safe or demolished and removed;
  - D. An order requiring that such repair or demolition and removal be commenced within ten (10) days of the date of personal service or mailing of the written notice and that repair or demolition and removal be completed within thirty (30) days after the date required for its commencement;
  - E. The date, time, and location of the hearing before a hearing officer designated by the Ulster County Commissioner of Health relative to the underlying unsafe building or structure, which hearing shall be scheduled not less than five (5) consecutive days from the date of personal service or mailing of written notice;
  - F. A statement that, in the event of the failure, neglect, or refusal to comply with the order to repair and make safe, or demolish and remove, the unsafe building or structure, the Ulster County Safety Department or Ulster County Department of Health is authorized to provide for the security of the building or structure or for its demolition and removal, to assess all expenses thereof against the land on which it is located and to institute legal action to recover the costs of demolition and removal of said unsafe building or structure, as well as legal fees and expenses; and
  - G. A statement that the recipient of the notice may wish to consult with an attorney in connection with the notice.
- (2) If such service be by certified mail, the Code Enforcement Officer shall post a copy of such notice on the premises. A copy of such notice may also be filed in the office of the Ulster County Clerk in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules and shall have the same effect as a notice of pendency as therein provided, except as hereinafter provided in this subsection. A notice so filed shall be effective for a period of one (1) year from the date of filing; provided, however, that it may be vacated upon the order of a judge or justice of a court of record or upon consent of the Ulster County Attorney. Upon presentation of and filing of such consent or certified copy of such order in the office of the Ulster County Clerk, the aforementioned notice and any record or docket thereof shall be marked as canceled of record by said County Clerk.

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- (3) In the event that the one or more adult persons are residing and have a lawful interest in the unsafe building or structure at the time of the inspection referenced above in §166-10(B) of this chapter a copy of the written notice provided herein shall be served upon any one such adult person if such person can reasonably be found.
  - (4) In the event that the whereabouts of the owner of the unsafe building or structure are unknown and cannot be ascertained after the exercise of reasonable diligence by the Code Enforcement Officer, the Code Enforcement Officer shall execute an affidavit to that effect, which shall be filed in the Ulster County Safety Department or Ulster County Department of Health, as applicable. In such a case, notice shall be served by securely posting copy of said written notice on the unsafe building or structure in a conspicuous location.
  - (5) In the event that the owner of the unsafe building or structure fails or refuses to comply with the order to make safe or demolish and remove said unsafe building or structure, and after a hearing has been held in accordance with this section, the Ulster County Safety Department or Ulster County Department of Health may cause said unsafe building or structure to be made safe or demolished and removed.
  - (6) The County shall be reimbursed for all costs and expenses incurred by it in connection with the proceedings to make safe or demolish and remove any building or structure pursuant to §166-10 of this chapter in addition to the actual cost of demolishing and removing said building or structure. Such costs and expenses may be assessed against and recovered from the land on which the building or structure was located. The County may also institute a civil action to recover said costs and expenses from the owner of the affected property.
- D. Emergency Powers. In cases of an emergency which, in the opinion of the Code Enforcement Officer, involves conditions of imminent danger to human life or health, the Code Enforcement Officer shall promptly cause such building or structure, or portion thereof, to be made safe or removed. In such cases of emergency:
- (1) Posting, placarding, and condemning a building or structure may occur immediately and the structure shall be vacated. The placard or notice posted on the premises shall read as follows: *“This Structure is Unsafe and its Occupancy has been Prohibited by the Fire Code Official. It shall be unlawful*

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*for any person to enter this structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition, or demolishing the structure.”* The structure shall be cordoned off with caution tape, and all openings on the ground level will be properly secured to prevent entry.

- (2) The Code Enforcement Officer shall initiate the notice and hearing procedures contained in § 166-10 of this chapter as soon as practicable after causing such building or structure, or portion thereof, to be made safe or removed.

#### **J. Section 166-11 is hereby amended as follows:**

- A. 1. Operating Permits required. Operating Permits shall be required for conducting any process or activity or for operating any type of building, structure, or facility listed below:
- (a) manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in the applicable Maximum Allowable Quantity tables found in Chapter 50 of the FCNYS;
  - (b) buildings, structures, facilities, processes, and/or activities that are within the scope and/or permit requirements of the chapter or section title of the FCNYS as follows:
    - (i) Chapter 22, “Combustible Dust-Producing Operations.” Facilities where the operation produces combustible dust;
    - (ii) Chapter 24, “Flammable Finishes.” Operations utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24 of the FCNYS;
    - (iii) Chapter 25, “Fruit and Crop Ripening.” Operating a fruit- or crop-ripening facility or conducting a fruit-ripening process using ethylene gas;
    - (iv) Chapter 26, “Fumigation and Insecticidal Fogging.” Conducting fumigation or insecticidal fogging operations in buildings, structures, and spaces, except for fumigation or insecticidal fogging performed by the occupant of a detached one-family dwelling;
    - (v) Chapter 31, “Tents, Temporary Special Event Structures, and Other Membrane Structures.” Operating an air-supported temporary membrane structure, a temporary special event structure, or a tent where approval is required pursuant to Chapter 31 of the FCNYS;

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- (vi) Chapter 32, “High-Piled Combustible Storage.” High-piled combustible storage facilities with more than 500 square feet (including aisles) of high-piled storage;
  - (vii) Chapter 34, “Tire Rebuilding and Tire Storage.” Operating a facility that stores in excess of 2,500 cubic feet of scrap tires or tire byproducts or operating a tire rebuilding plant;
  - (viii) Chapter 35, “Welding and Other Hot Work.” Performing public exhibitions and demonstrations where hot work is conducted, use of hot work, welding, or cutting equipment, inside or on a structure, except an operating permit is not required where work is conducted under the authorization of a building permit or where performed by the occupant of a detached one- or two-family dwelling;
  - (ix) Chapter 40, “Sugarhouse Alternative Activity Provisions.” Conducting an alternative activity at a sugarhouse;
  - (x) Chapter 56, “Explosives and Fireworks.” Possessing, manufacturing, storing, handling, selling, or using, explosives, fireworks, or other pyrotechnic special effects materials except the outdoor use of sparkling devices as defined by Penal Law section 270;
  - (xi) Section 307, “Open Burning, Recreational Fires and Portable Outdoor Fireplaces.” Conducting open burning, not including recreational fires and portable outdoor fireplaces;
  - (xii) Section 308, “Open Flames.” Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies; and
  - (xiii) Section 319, “Mobile Food Preparation Vehicles.” Operating a mobile food preparation vehicle in accordance with the permitting requirements established by any local law as now in effect or as hereafter amended from time to time.
- (c) energy storage systems, where the system exceeds the values shown in Table 1206.1 of the FCNYS or exceeds the permitted aggregate ratings in section R327.5 of the RCNYS.
  - (d) buildings containing one or more assembly areas;
  - (e) outdoor events where the planned attendance exceeds 1,000 persons;
  - (f) facilities that store, handle or use hazardous production materials;

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- (g) parking garages as defined in subdivision (a) of Section 21 of this Local Law;
- (h) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Ulster County Legislature; and
- (i) other processes or activities or for operating any type of building, structure, or facility as determined by resolution adopted by the Ulster County Legislature.

2. Any person who proposes to undertake any activity or to operate any type of building listed in this Subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

- B. Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.
- C. Inspections. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operation Permit.
- D. Multiple Activities. In any circumstance in which more than one activity listed in Subsection A of this Section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.
- E. Duration of Operating Permits. Operating permits shall be issued for a specified period of time consistent with local conditions, but in no event to exceed as follows:
  - (a) One hundred eighty (180) days for tents, special event structures, and other membrane structures;
  - (b) Sixty (60) days for alternative activities at a sugarhouse;

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- (c) Three (3) years for the activities, structures, and operations determined per paragraph (i) of Subsection A of this section, and
- (d) One (1) year for all other activities, structures, and operations identified in Subsection A of this section.

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

- F. Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.
- G. Fee. The fee specified in or determined in accordance with the provisions set forth in §166-17 of this chapter must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

**K. Section 166-12 is hereby amended as follows:**

- A. Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:
  - (1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every twelve (12) months.
  - (2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.
  - (3) Fire safety and property maintenance inspections of all multiple dwellings not included in Subsection A (1) or (2) of this section, and all non-residential buildings, structures, uses and occupancies not included in Subsection A (1) or (2) of this section, shall be performed at least once every twelve (12) months for properly opted out localities under the Environmental Sanitation Division, Ulster County Department of

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Health, and once every twelve (12) months for County properties performed by the Ulster County Safety Department.

B. Inspections permitted.

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

- (4) the request of the owner of the property to be inspected or an authorized agent of such owner;
- (5) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
- (6) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist;

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

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

C. Fee. The fee specified in or determined in accordance with the provisions set forth in §166-17 of this chapter must be paid prior to or at the time each inspection performed pursuant to this Section. This Subsection shall not apply to inspections performed by OFPC.

D. Remote inspections. At the discretion of the Code Enforcement Officer or Inspector authorized to perform fire safety and property maintenance inspections, a remote inspection may be performed in lieu of in-person inspections when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can

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be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or such authorized Inspector that the premises conform with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.

**L. Section 166-13 is hereby amended as follows:**

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

- (1) performing an inspection of the conditions an/or activities alleged to be in violation, and documenting the results of such inspection;
- (2) 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 §166-13 of this chapter;
- (3) if appropriate, issuing a Stop Work Order;
- (4) 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.

**M. Section 166-14 is hereby amended as follows:**

- A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:
  - (1) all applications received, reviewed and approved or denied;



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- (2) all plans, specifications and construction documents approved;
  - (3) all Building Permits, Certificates of Occupancy~~—/~~, Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
  - (4) all inspections and tests performed;
  - (5) all statements and reports issued;
  - (6) all complaints received;
  - (7) all investigations conducted;
  - (8) all condition assessment reports received;
  - (9) all fees charged and collected; and
  - (10) all other features and activities specified in or contemplated by Sections 166-5 through 166-13, inclusive, of this chapter.
- B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

**N. Section 166-15 is hereby amended as follows:**

- A. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of the County of Ulster, on a form prescribed by the Secretary of State, a report of the activities of the County of Ulster relative to administration and enforcement of the Uniform Code.
- B. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, true and complete copies of the records and related materials this County of Ulster is required to maintain; true and complete copies of such portion of such records and related materials as may be requested by the Department of State; and/or such excerpts, summaries, tabulations, statistics and other information and accounts of its activities in connection with administration and enforcement of the Uniform Code and/or Energy Code as may be requested by the Department of State.

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**O. Section 166-16 is hereby amended as follows:**

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

“The person or entity served with this Order to Remedy must completely remedy each violation described in this Order to Remedy by *[specify date]*, which is thirty (30) days after the date of this Order to Remedy.”

The Order to Remedy may include provisions ordering the person or entity served with such Order to Remedy (1) to begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time which may be less than thirty (30) days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within thirty (30) days of the date of such Order to Remedy; and/or (2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this ~~Local Law~~ chapter or by any other applicable statute, regulation, rule, local law or ordinance, and which the Code Enforcement Officer may deem appropriate, during the period while such violations are being remedied. The Code Enforcement Officer shall cause the Order to Remedy, or a copy thereof, to be served on the owner of the affected property personally or by ~~registered mail~~ or certified mail within five (5) days after the date of the Order to Remedy. The Code Enforcement Officer shall be permitted, but not required, to cause the Order to Remedy, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by ~~registered mail~~ or certified mail within five (5) days after the date of the Order to Remedy; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Order to Remedy.

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- B. Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.
- C. Penalties. In addition to those penalties proscribed by State law,
- (1) any Person who violates any provision of this ~~Local Law~~ chapter or any term, condition, or provision of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this ~~Local Law~~ chapter, shall be punishable by a fine of not more than two hundred (\$200) dollars per day of violation; and
  - (2) any Person who violates any provision of the Uniform Code, the Energy Code or this chapter, or any term or condition of any Building Permit, Certificate of Occupancy, ~~Certificate of Compliance~~, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this chapter, shall be liable to a civil penalty of not more than two hundred (\$200) dollars for each day or part thereof during which such violation continues. The civil penalties provided by this Subsection shall be recoverable in an action instituted in the name of this County of Ulster.
- D. Injunctive Relief. An action or proceeding may be instituted in the name of this County of Ulster, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this chapter, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Order to Remedy, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this chapter. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, this local law, or any Stop Work Order, Order to Remedy or other order obtained under the Uniform Code, the Energy Code or this chapter, an action or proceeding may be commenced in the name of this County of Ulster, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this Subsection shall be commenced without the appropriate authorization from the Executive Officer the County of Ulster, or,

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where appropriate or other required under federal, state or local law, by the Legislature of the County of Ulster.

- E. Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in §166-7 (stop-work-order) of this chapter, in any other section of this Local Law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in §166-7 (stop-work-order) of this chapter, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of § 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in Subdivision (2) of Section § 382 of the Executive Law.

**P. Section 166-17 is hereby amended as follows:**

A fee schedule shall be established by resolution of the Legislature of the County of Ulster. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this local law. The Ulster County Commissioner of Health shall, for any properly opted out localities, establish, and from time to time amend, the fees to be collected for Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections and other actions of the Code Enforcement Officer. Such fees shall be effective upon filing of the same with the Ulster County Clerk's office. A schedule of such fees shall be made available upon request to the Environmental Sanitation Division of the Ulster County Department of Health. All requirements for payment of fees, otherwise payable by applicants, pursuant to such fee schedule, shall be waived as they pertain to enforcement of the Uniform Code with respect to buildings premises and equipment

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in the custody of, or activities related thereto by the County of Ulster.

**SECTION 3. NEW PROVISION TO CHAPTER 166 OF THE CODE OF THE COUNTY OF ULSTER**

The following section is hereby added to Chapter 166 of the Code of the County of Ulster as follows:

**SECTION 21. CONDITION ASSESSMENTS OF PARKING GARAGES.**

A. Definitions. For the purposes of this section:

- (1) the term “condition assessment” means an on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure;
- (2) the term “deterioration” means the weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component;
- (3) the term “parking garage” means any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:
  - (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;
- (4) the term “professional engineer” means an individual who is licensed or otherwise authorized under Article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations;
- (5) the term “responsible professional engineer” means the professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report. The use of the term “responsible professional engineer” shall not be construed as limiting the

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professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment.

- (6) the term “unsafe condition” includes the conditions identified as “unsafe” in section 304.1.1, section 305.1.1, and section 306.1.1 of the PMCNYS;
- (7) and the term “unsafe structure” means a structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.

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

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

- (1) Parking garages constructed on or after August 29, 2018, shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure.
- (2) Parking garages constructed prior to August 29, 2018, shall undergo an initial condition assessment as follows:
  - (i) if originally constructed prior to January 1, 1984, then prior to October 1, 2019;
  - (ii) if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and
  - (iii) if originally constructed between January 1, 2003 and August 28, 2018, then prior to October 1, 2021.
- (3) Any parking garage constructed prior to the Effective Date of the Local Law enacting

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this provision that has not undergone an initial condition assessment prior to that Effective Date shall undergo an initial condition assessment prior to the date that is six (6) months after the Effective Date of this Local Law.

- D. Periodic Condition Assessments. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed three (3) years.
- E. Additional Condition Assessments.
- (1) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under ~~subdivision (e)~~ Subsection C of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.
  - (2) If the County becomes aware of any new or increased deterioration which, in the judgment of the County, 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 County to be appropriate.
- F. Condition Assessment Reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the County within fourteen (14) days. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:
- (1) an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;
  - (2) an evaluation and description of the extent of deterioration and conditions that cause

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deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;

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

- G. Review Condition Assessment Reports. The County 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 County shall, by Order to Remedy or such other means of enforcement as the County may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration,



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all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to paragraphs (2) and (3) of Subsection F. All repairs and remedies shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the County to take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.

- H. The County 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 County with a written statement attesting to the fact that he or she has been so engaged, the County shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The County shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.
- I. This section shall not limit or impair the right or the obligation of the County:
  - (1) to perform such construction inspections as are required by §166-6 of this chapter;
  - (2) to perform such periodic fire safety and property maintenance inspections as are required by §166-12 of this chapter; and/or
  - (3) to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the County by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.

#### **SECTION 4. PARTIAL INVALIDITY**

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

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**SECTION 5. EFFECTIVE DATE**

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