Title 15

BUILDINGS AND CONSTRUCTION

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Chapter 15.04

STATE UNIFORM FIRE PREVENTION AND *BUILDING* CODE ADMINISTRATION AND ENFORCEMENT*

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* Prior history: LL No. 13, 2001.

15.04.010 Purpose and intent.

This chapter provides for the administration and enforcement of the New York State Uniform Fire Prevention and *Building* Code (the *Uniform Code*) and the State Energy Conservation Construction Code (the *Energy Code*) in the town of Big Flats. This chapter is adopted pursuant to Section 10 of the Municipal Home Rule Law. Except as otherwise provided in the *Uniform Code*, other state law, or other section of this chapter, all *buildings*, *structures*, and *premises*, regardless of use or occupancy, are subject to the provisions of this chapter.
(LL No. 6, 2007 § 1: LL No. 7, 2006 § 1)

15.04.020 Definitions.

In this chapter:

Building permit means a permit issued pursuant to Section 15.04.040 of this chapter. The term *building permit* shall also include a *building permit*, which is renewed, amended or extended pursuant to any provision of this chapter.

Certificate of occupancy means a certificate issued pursuant to Section 15.04.070(B) of this chapter.

Code enforcement officer means the *code enforcement officer* appointed pursuant to Section 15.04.030(B) of this chapter.

Code enforcement personnel means and includes the *code enforcement officer* and all *inspectors*.

Compliance order means an order issued by the *code enforcement officer* pursuant to Section 15.04.140(A) of this chapter.

Energy Code means the State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

Inspector means an *inspector* appointed pursuant to Section 15.04.040(D) of this chapter.

Operating permit means a permit issued pursuant to Section 15.04.090 of this chapter. The term *operating permit* shall also include an *operating permit*, which is renewed, amended or extended pursuant to any provision of this chapter.

Permit holder means the *person* to whom a *building permit* has been issued.

Person means and includes an individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

Stop work order means an order issued pursuant to Section 15.04.060 of this chapter.

Temporary certificate means a certificate issued pursuant to Section 15.04.070(D) of this chapter.

Town means the town of Big Flats.

Uniform Code means the New York State Uniform Fire Prevention and *Building* Code, as currently in effect and as hereafter amended from time to time.
(LL No. 6, 2007 § 2: LL No. 7, 2006 § 2)

15.04.030 *Code enforcement officer* and ***inspectors***.

A. The office of *code enforcement officer* is created, and shall consist of as many officers as determined and appointed by the *town board*. The *code enforcement officer* shall administer and enforce all the provisions of the *Uniform Code*, the *Energy Code* and this chapter. The *code enforcement officer* shall have the following powers and duties:

1. To receive, review, and approve or disapprove *applications* for *building permits*, *certificates of occupancy*, *temporary certificates* and *operating permits*, and the plans, specifications and construction documents submitted with such *applications*;

2. Upon approval of such *applications*, to issue *building permits*, *certificates of occupancy*, *temporary certificates* and *operating permits*, and to include in *building permits*, *certificates of occupancy*, *temporary certificates* and *operating permits* such terms and conditions as the *code enforcement officer* may determine to be appropriate;

3. To conduct construction inspections, inspections to be made prior to the issuance of *certificate of occupancy*, *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 Section 5.04.140(A) (Violations) of this chapter;

7. To maintain *records*;

8. To collect fees as set by the *town board* of the town of Big Flats;

9. To pursue administrative enforcement actions and proceedings;

10. In consultation with the town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the *Uniform Code*, the *Energy Code* and this chapter, or to abate or correct conditions not in compliance with the *Uniform Code*, the *Energy Code* or this chapter; and

11. To exercise all other powers and fulfill all other duties conferred upon the *code enforcement officer* by this chapter.

B. The *code enforcement officer* shall be appointed by the *town board*. The *code enforcement officer* shall possess background experience related to *building* construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-*service* training, advanced in-*service* training and other training as the state of New York shall require for *code enforcement personnel*, and the *code enforcement officer* shall obtain certification from the state fire administrator pursuant to the executive law and the regulations promulgated thereunder.

C. In the event that the *code enforcement officer* is unable to serve as such for any reason, an individual shall be appointed by *town board* to serve as acting *code enforcement officer*. The acting *code enforcement officer* shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the *code enforcement officer* by this chapter.

D. One or more *inspectors* may be appointed by the *town board* to act under the supervision and direction of the *code enforcement officer* and to assist the *code enforcement officer* in the exercise of the powers and fulfillment of the duties conferred upon the *code enforcement officer* by this chapter. Each *inspector* shall, within the time prescribed by law, obtain such basic training, in-*service* training, advanced in-*service* training and other training as the state of New York shall require for *code enforcement personnel*, and each *inspector* shall obtain certification from the state fire administrator pursuant to the executive law and the regulations promulgated thereunder.

E. The compensation for the *code enforcement officer* and *inspectors* shall be fixed from time to time by the *town board* of the town of Big Flats.
(LL No. 6, 2007 § 3: LL No. 7, 2006 § 3)

15.04.040 *Building permits*.

A. *Building Permits* Required. Except as otherwise provided in subsection B of this section, a *building permit* shall be required for any work which must conform to the *Uniform Code* and/or the *Energy Code*, including, but not limited to, the construction, enlargement, *alteration*, improvement, removal, relocation or demolition of any *building* or *structure* or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in any *dwelling* unit. No *person* shall commence any work for which a *building permit* is required without first having obtained a *building permit* from the *code enforcement officer*.

B. Exemptions. No *building permit* shall be required for work in any of the following categories:

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

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

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

4. Installation of *fences*, which are not part of an enclosure surrounding a swimming pool;

5. Construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;

6. Construction of *temporary* motion picture, television and theater stage sets and scenery;

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

8. Installation of partitions or movable cases less than five feet nine inches in height;

9. Painting, wallpapering, tiling, carpeting, or other similar finish work;

10. Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

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

12. Repairs, provided that such repairs do not involve: (a) the removal or cutting away of a load bearing wall, partition, or portion thereof, or of any structural beam or load bearing component; (b) the removal or change of any required means of egress, or the rearrangement of parts of a *structure* in a manner which affects egress; (c) the enlargement, *alteration*, replacement or relocation of any *building* system; or (d) the removal from *service* of all or part of a fire protection system for any period of time.

C. Exemption Not Deemed Authorization to Perform Noncompliant Work. The exemption from the requirement to obtain a *building permit* for work in any category set forth in subsection B of this section shall not be deemed an authorization for work to be performed in violation of the *Uniform Code* or the *Energy Code*.

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

1. A description of the proposed work;

2. The tax map number and the street address of the *premises* where the work is to be performed;

3. The occupancy classification of any affected *building* or *structure*;

4. Where applicable, a statement of special inspections prepared in accordance with the provisions of the *Uniform Code*; and

5. At least two sets of construction documents (drawings and/or specifications) which: (a) define the scope of the proposed work; (b) are prepared by a New York State registered architect or licensed professional engineer where so required by the education law; (c) indicate with sufficient clarity and detail the nature and extent of the work proposed; (d) substantiate that the proposed work will comply with the *Uniform Code* and the *Energy Code*; and (e) where applicable, include a *site plan* that shows any existing and proposed *buildings* and *structures* on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the *buildings* and *structures* and the *lot lines*.

E. Construction Documents. Construction documents will not be accepted as part of an *application* for a *building permit* unless they satisfy the requirements set forth in subsection (D)(5) of this section. Construction documents which are accepted as part of the *application* for a *building permit* shall be marked as accepted by the *code enforcement officer* in writing or by stamp. One set of the accepted construction documents shall be retained by the *code enforcement officer*, and one set of the accepted construction documents shall be returned to the *applicant* to be kept at the work site so as to be available for use by the *code*

enforcement personnel. However, the return of a set of accepted construction documents to the *applicant* shall not be construed as authorization to commence work, nor as an indication that a *building permit* will be issued. Work shall not be commenced until and unless a *building permit* is issued.

F. Issuance of *Building Permits*. An *application* for a *building permit* shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the *Uniform Code* and *Energy Code*. The *code enforcement officer* shall issue a *building permit* if the proposed work is in compliance with the applicable requirements of the *Uniform Code* and *Energy Code*.

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

H. Work to be in Accordance with Construction Documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the *application* for the *building permit*. The *building permit* shall contain such a directive. The *permit holder* shall immediately notify the *code enforcement officer* of any change occurring during the course of the work. The *building permit* shall contain such a directive. If the *code enforcement officer* determines that such change warrants a new or amended *building permit*, such change shall not be made until and unless a new or amended *building permit* reflecting such change is issued.

I. Time Limits. *Building permits* shall become invalid unless the authorized work is commenced within six months following the date of issuance. *Building permits* shall expire twelve (12) months after the date of issuance. A *building permit* which has become invalid or which has expired pursuant to this subsection may be renewed upon *application* by the *permit holder*, payment of the applicable fee, and approval of the *application* by the *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 Section 15.04.150 (Fees) of this chapter must be paid at the time of submission of an *application* for a *building permit*, for an amended *building permit*, or for renewal of a *building permit*.
(LL No. 6, 2007 § 4: LL No. 7, 2006 § 4)

15.04.050 Construction inspections.

A. Work to Remain Accessible and Exposed. Work shall remain accessible and exposed until inspected and accepted by the *code enforcement officer* or by an *inspector* authorized by the *code enforcement officer*. The *permit holder* shall notify the *code enforcement officer* when any element of work described in subsection B of this section is ready for inspection.

B. Elements of Work to be Inspected. The following elements of the construction process shall be inspected 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. *Building* systems, including underground and rough-in;

6. Fire resistant construction;

7. Fire resistant penetrations;

8. Solid fuel burning heating appliances, chimneys, flues or gas vents;

9. *Energy Code* compliance; and

10. A final inspection after all work authorized by the *building permit* has been completed.

C. Inspection Results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the *permit holder* shall be notified as to where the work fails to comply with the *Uniform Code* or *Energy Code*. Work not in compliance with any applicable provision of the *Uniform Code* or *Energy Code* shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the *Uniform Code* and the *Energy Code*, reinspected, and found satisfactory as completed.

D. Fee. The fee specified in or determined in accordance with the provisions set forth in Section 15.04.150 (Fees) of this chapter must be paid prior to or at the time of each inspection performed pursuant to this section.
(LL No. 6, 2007 § 5: LL No. 7, 2006 § 5)

15.04.060 ***Stop work orders***.

A. Authority to Issue. The *code enforcement officer* is authorized to issue *stop work orders* pursuant to this section. The *code enforcement officer* shall issue a *stop work order* to halt:

1. Any work that is determined by the *code enforcement officer* to be contrary to any applicable provision of the *Uniform Code* or *Energy Code*, without regard to whether such work is or is not work for which a *building permit* is required, and without regard to whether a *building permit* has or has not been issued for such work; or

2. Any work that is being conducted in a dangerous or unsafe manner in the opinion of the *code enforcement officer*, without regard to whether such work is or is not work for which a *building permit* is required, and without regard to whether a *building permit* has or has not been issued for such work, or

3. Any work for which a *building permit* is required which is being performed without the required *building permit*, or under a *building permit* that has become invalid, has expired, or has been suspended or revoked.

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

C. *Service* of *Stop Work Orders*. The *code enforcement officer* shall cause the *stop work order*, or a copy thereof, to be served on the *owner* of the affected property (and, if the *owner* is not the *permit holder*, on the *permit holder*) personally or by registered, certified U.S. mail return receipt requested. The *code enforcement officer* shall be permitted, but not required, to cause the *stop work order*, or a copy thereof, to be served on any builder, architect, *tenant*, *contractor*, subcontractor, construction superintendent, or their agents, or any other *person* taking part or assisting in work affected by the *stop work order*, personally or by registered, certified U.S. mail return receipt requested; provided, however, that failure to serve any *person* mentioned in this sentence shall not affect the efficacy of the *stop work order*.

D. Effect of *Stop Work Order*. Upon the issuance of a *stop work order*, the *owner* of the affected property, the *permit holder* and any other *person* performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the *stop work order*.

E. Remedy Not Exclusive. The issuance of a *stop work order* shall not be the exclusive remedy available to address any event described in subsection A of this section, and the authority to issue a *stop work order* shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under Section 15.04.140 (Violations) of this chapter or under any other applicable local law or state law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a *stop work order*.

(LL No. 6, 2007 § 6: LL No. 7, 2006 § 6)

15.04.070 ***Certificates of occupancy***.

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

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

1. A written statement of structural observations and/or a final report of special inspections; and

2. *Flood* hazard certifications.

C. Contents of *Certificate of Occupancy*. A *certificate of occupancy* shall contain the following information:

1. The *building permit* number, if any;

2. The date of issuance of the *building permit*, if any;

3. The name, address and tax map number of the property;

4. If the *certificate of occupancy* is not applicable to an entire *structure*, a description of that portion of the *structure* for which the *certificate of occupancy* is issued;

5. The use and occupancy classification of the *structure*;

6. The type of construction of the *structure*;

7. The assembly occupant load of the *structure*, if any;

8. If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;

9. Any *special conditions* imposed in connection with the issuance of the *building permit*; and

10. The signature of the *code enforcement officer* issuing the *certificate of occupancy* and the date of issuance.

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

E. Revocation or Suspension of Certificates. If the *code enforcement officer* determines that a *certificate of occupancy* or a *temporary certificate* was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the *code enforcement officer* within such period of time as shall be specified by the *code enforcement officer*, the *code enforcement officer* shall revoke or suspend such certificate.

F. Fee. The fee specified in or determined in accordance with the provisions set forth in Section 15.04.150 (Fees) of this chapter must be paid at the time of submission of an *application* for an *application* for a *certificate of occupancy* or for *temporary certificate*.
(LL No. 6, 2007 § 7: LL No. 7, 2006 § 7)

15.04.080 Notification regarding fire or explosion.

The chief of any fire department providing fire fighting *services* for a property within the town shall promptly notify the *code enforcement officer* of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.
(LL No. 6, 2007 § 8: LL No. 7, 2006 § 8)

15.04.090 *Operating permits*.

A. Operation Permits Required. *Operating permits* shall be required for conducting the activities or using the categories of *buildings* listed below:

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

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

3. Use of pyrotechnic devices in assembly occupancies;

4. *Buildings* containing one or more areas of public assembly with an occupant load of one hundred (100) *persons* or more; and

5. *Buildings* whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the *town board* of the town.

Any *person* who proposes to undertake any activity or to operate any type of *building* listed in this subsection shall be required to obtain an *operating permit* prior to commencing such activity or operation.

B. *Applications* for *Operating Permits*. An *application* for an *operating permit* shall be in writing on a form provided by or otherwise acceptable to the *code enforcement officer*. Such *application* shall include such information as the *code enforcement officer* deems sufficient to permit a determination by the *code enforcement officer* that quantities, materials, and activities conform to the requirements of the *Uniform Code*. If the *code enforcement officer* determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such *person* or *persons* as may be designated by or otherwise acceptable to the *code enforcement officer*, at the expense of the *applicant*.

C. Inspections. The *code enforcement officer* or an *inspector* authorized by the *code enforcement officer* shall inspect the subject *premises* prior to the issuance of an *operating permit*.

D. Multiple Activities. In any circumstance in which more than one activity listed in subsection A of this section is to be conducted at a location, the *code enforcement officer* may require a separate *operating permit* for each such activity, or the *code enforcement officer* may, in his or her discretion, issue a single *operating permit* to apply to all such activities.

E. *Duration* of *Operating Permits*. *Operating permits* shall remain in effect until reissued, renewed, revoked, or suspended.

F. Revocation or suspension of *Operating Permits*. If the *code enforcement officer* determines that any activity or *building* for which an *operating permit* was issued does not comply with any applicable provision of the *Uniform Code*, such *operating permit* shall be revoked or suspended.

G. Fee. The fee specified in or determined in accordance with the provisions set forth in Section 15.04.150 (Fees) of this chapter must be paid at the time submission of an *application* for an *operating permit*, for an amended *operating permit*, or for reissue or renewal of an *operating permit*.
(LL No. 6, 2007 § 9: LL No. 7, 2006 § 9)

15.04.100 Fire safety and property maintenance inspections.

A. Inspections Required. Fire safety and property maintenance inspections of *buildings* and *structures* shall be performed by the *code enforcement officer* or an *inspector* designated by the *code enforcement officer* at the following intervals:

1. 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 (A)(2) of this section, and all nonresidential *buildings*, *structures*, uses and occupancies not included in subsection (A)(1) or (A)(2) of this section, shall be performed at least once every thirty-six (36) months.

B. Inspections Permitted. In addition to the inspections required by subsection A of this section, a fire safety and property maintenance inspection of any *building*, *structure*, use, or occupancy, or of any *dwelling* unit, may also be performed by the *code enforcement officer* or an *inspector* designated by the *code enforcement officer* at any time upon:

1. The request of the owner of the property to be inspected or an authorized agent of such owner;

2. Receipt by the *code enforcement officer* of a written statement alleging that conditions or activities failing to comply with the *Uniform Code* or *Energy Code* exist; or

3. Receipt by the *code enforcement officer* of any other information, reasonably believed by the *code enforcement officer* to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the *Uniform Code* or *Energy Code* exist;

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

C. OFPC Inspections.

1. 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.

2. Notwithstanding any other provision of this section to the contrary:

   a. The *code enforcement officer* shall not perform fire safety and property maintenance inspections of a *building* or *structure* which contains an area of public assembly if OFPC performs fire safety and property maintenance inspections of such *building* or *structure* at least once every twelve (12) months;

   b. The *code enforcement officer* shall not perform fire safety and property maintenance inspections of a *building* or *structure* occupied as a dormitory if OFPC performs fire safety and property maintenance

inspections of such *building* or *structure* at least once every twelve (12) months;

c. The *code enforcement officer* shall not perform fire safety and property maintenance inspections of a multiple *dwelling* not included in subsection (A)(1) or (A)(2) of this section if OFPC performs fire safety and property maintenance inspections of such multiple *dwelling* at intervals not exceeding the interval specified in subsection (A)(3) of this section; and

d. The *code enforcement officer* shall not perform fire safety and property maintenance inspections of a nonresidential *building*, *structure*, use or occupancy not included in subsection (A)(1) or (A)(2) of this section if OFPC performs fire safety and property maintenance inspections of such nonresidential *building*, *structure*, use or occupancy at intervals not exceeding the interval specified in subsection (A)(3) of this section.

D. Fee. The fee specified in or determined in accordance with the provisions set forth in Section 15.04.150 (Fees) 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.
(LL No. 6, 2007 § 10: LL No. 7, 2006 § 11)

15.04.110 Complaints.

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

A. Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;

B. If a violation is found to exist, providing the *owner* of the affected property and any other *person* who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in Section 15.04.140 (Violations) of this chapter;

C. If appropriate, issuing a *stop work order*;

D. If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.
(LL No. 6, 2007 § 11: LL No. 7, 2006 § 12)

15.04.120 *Record* keeping.

A. The *code enforcement officer* shall keep permanent official *records* of all transactions and activities conducted by all *code enforcement personnel*, including *records* of:

1. All *applications* received, reviewed and approved or denied;

2. All plans, specifications and construction documents approved;

3. All *building permits*, *certificates of occupancy*, *temporary certificates*, *stop work orders*, and *operating permits* issued;

4. All inspections and tests performed;

5. All statements and reports issued;

6. All complaints received;

7. All investigations conducted;

8. All other features and activities specified in or contemplated by Sections 15.04.040 through 15.04.110, inclusive, of this chapter, including; and

9. All fees charged and collected.

B. All such *records* shall be public *records* open for public inspection during normal business hours. All plans and *records* pertaining to *buildings* or *structures*, or appurtenances thereto, shall be retained for at least the minimum time period so required by state law and regulation.
(LL No. 6, 2007 § 12: LL No. 7, 2006 § 13)

15.04.130 Program review and reporting.

A. The *code enforcement officer* shall annually submit to the town board of the town a written report and summary of all business conducted by the *code enforcement officer* and the *inspectors*, including a report and summary of all transactions and activities described in Section 15.04.120 (*Record* keeping) of this chapter and a report and summary of all appeals or litigation pending or concluded.

B. The *code enforcement officer* shall annually submit to the Secretary of State, on behalf of the town, on a form prescribed by the Secretary of State, a report of the activities of the town relative to administration and enforcement of the *Uniform Code*.

C. The *code enforcement officer* shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the *records* and related materials the town is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of the town in connection with administration and enforcement of the *Uniform Code*.
(LL No. 6, 2007 § 13: LL No. 7, 2006 § 14)

15.04.140 Violations.

A. *Compliance Orders*. The *code enforcement officer* is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any *building*, *structure*, or *premises* in violation of the *Uniform Code*, the *Energy Code*, or this chapter. Upon finding that any such condition or activity exists, the *code enforcement officer* shall issue a *compliance order*. The *compliance order* shall: (1) be in writing; (2) be dated and signed by the *code enforcement officer*; (3) specify the condition or activity that violates the *Uniform Code*, the *Energy Code*, or this chapter; (4) 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; (5) specify the period of time which the *code enforcement officer* deems to be reasonably necessary for achieving compliance; (6) direct that compliance be achieved within the specified period of time; and (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The *code enforcement officer* shall cause the *compliance order*, or a copy thereof, to be served on the *owner* of the affected property *person*ally or by registered, certified U.S. mail return receipt requested. The *code enforcement officer* shall be permitted, but not required, to cause the *compliance order*, or a copy thereof, to be served on any builder, architect, *tenant*, *contractor*, subcontractor, construction superintendent, or their agents, or any other *person* taking part or assisting in work being performed at the affected property personally or by registered, certified U.S. mail return receipt requested; provided, however, that failure to serve any *person* mentioned in this sentence shall not affect the efficacy of the *compliance order*.

B. Appearance Tickets. The *code enforcement officer* and each *inspector* are authorized to issue appearance tickets for any violation of the *Uniform Code*.

C. Civil Penalties. In addition to those penalties proscribed by state law, any *person* who violates any provision of the *Uniform Code*, the *Energy Code* or this chapter, or any term or condition of any *building permit*, *certificate of occupancy*, *temporary certificate*, *stop work order*, *operating permit* or other notice or order issued by the *code enforcement officer* pursuant to any provision of this chapter, shall be liable to a civil penalty of not more than two hundred dollars ($200.00) 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 the town.

D. Injunctive Relief. An action or proceeding may be instituted in the name of the town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the *Uniform Code*, the *Energy Code*, this chapter, or any term or condition of any *building permit*, *certificate of occupancy*, *temporary certificate*, *stop work order*, *operating permit*, *compliance order*, or other notice or order issued by the *code enforcement officer* pursuant to any provision of this chapter. In particular, but not by way of limitation, where the construction or use of a *building* or *structure* is in violation of any provision of the *Uniform Code*, the *Energy Code*, this chapter, or any *stop work order*, *compliance order* or other order obtained under the *Uniform Code*, the *Energy Code* or this chapter, an action or proceeding may be commenced in the name of the town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the *building* or *structure* or an abatement of the condition in violation of such provisions. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the town supervisor of the town.

E. Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in Section 15.04.060 (*Stop work orders*) of this chapter, in any other section of this chapter, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in Section 15.04.060 (*Stop work orders*) of this chapter, in any other section of this chapter, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of Section 381 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of Section 381 of the Executive Law.
(LL No. 6, 2007 § 14: LL No. 7, 2006 § 15)

15.04.150 Fees.

Fees shall be established by resolution of the *town board* of the town. Such fees may thereafter be amended from time to time by like resolution. The fees shall be charged and collected for the submission of *applications*, the issuance of *building permits*, amended *building permits*, renewed *building permits*, *certificates of occupancy*, *temporary certificates*, *operating permits*, fire safety and property maintenance inspections, and other actions of the *code enforcement officer* described in or contemplated by this chapter. Any outstanding fees not paid within thirty (30) days of written request shall be deemed delinquent and added to the annual tax levy. Delinquent accounts shall be added to the tax roll and charged an administrative *service* fee and penalty set by resolution of the town board.
(LL No. 6, 2007 § 15: LL No. 7, 2006 § 16)

15.04.160 Intermunicipal agreements.

The *town board* of the town may, by resolution, authorize the town supervisor of the town to enter into an agreement, in the name of the town, with other governments to carry out the terms of this chapter, provided that such agreement does not violate any provision of the *Uniform Code*, the *Energy Code*, Part 1203 of Title 19 of the NYCRR, or any other applicable law.
(LL No. 6, 2007 § 16: LL No. 7, 2006 § 17)

Chapter 15.08

BUILDING NUMBERING SYSTEM

Sections:
15.08.010 Purpose.
15.08.020 Enumeration required.
15.08.030 Assignment of numbers.
15.08.040 Size, style and display of numbers.

15.08.010 Purpose.

In order to assist fire, police, and other emergency services in locating buildings along the various roads, highways, and other public right-of-way within the town, enumeration of all buildings is deemed necessary to protect the health, safety, and welfare of the

residents of the town.
(LL No. 14, 2001 § 1)

15.08.020 Enumeration required.

All buildings within the town existing and hereinafter constructed shall display uniquely assigned numbers that identify the building location on any given road, highway, or other public right-of-way.
(LL No. 14, 2001 § 2)

15.08.030 Assignment of numbers.

A. The town accepts and recognizes the numerical designations assigned by the County 911 System for existing building located within the town.

B. Hereinafter, the town CEO shall assign a number to any new building upon the issuance of a building permit.

C. Any new certificate of occupancy issued after the effective date of this chapter shall state the number and street name where the building is located.

D. For the purposes of this section, only one principal building upon any individual land parcel shall be required to hold and display the number assigned.
(LL No. 14, 2001 § 3)

15.08.040 Size, style and display of numbers.

The figure or figures comprising the number to be displayed on a building shall be:

A. In numerals of a color that provide sharp contrast to the immediate background;

B. A minimum height of three inches;

C. Unobstructed from view and plainly legible from the center of the roadway, highway or other public right-of-way adjacent to the building at all times between sunrise and sunset;

D. Sufficiently reflective or illuminated as to be readily visible at night;

E. Affixed either:

1. In a prominent and conspicuous place upon that portion of the building that faces the roadway, highway or other public right-of-way that serves as the primary access to the building, or

2. Upon a freestanding signpost or similar fixture erected within the front yard of said building, which shall also comply with all other provisions of the town code and applicable provisions of any and all other local rules and regulations.

(LL No. 14, 2001 § 4)

Chapter 15.12

FLOOD DAMAGE PREVENTION

Sections:
15.12.010 Purpose.
15.12.020 Objectives.
15.12.030 Definitions.
15.12.040 General provisions.
15.12.050 Applicable documents and studies.

15.12.060 Permits required.
15.12.070 Limited liability.
15.12.080 Administration.
15.12.090 Application documentation.
15.12.100 Duties and responsibilities of the local administrator.
15.12.110 As-built certification.
15.12.120 Inspections.
15.12.130 Stop work orders.
15.12.140 Certificate of compliance.
15.12.150 Information to be retained.
15.12.160 General construction standards.
15.12.170 Manufactured homes and recreational vehicles standards.
15.12.180 Variance procedure.
15.12.190 Conditions for variances.

15.12.010 Purpose.

The town board finds that the potential for and/or actual damages from *flooding* and erosion may be a problem to the residents of the town. Such damages may include: destruction or loss of private and public housing, damage to facilities, both publicly and privately owned, and injury to or loss of human life. It is the purpose of this chapter to promote the public health, safety, and general welfare, and to minimize public and private losses due to *flood* conditions in specific areas by provisions designed to:

A. Regulate uses which are dangerous to health, safety, and property due to water or erosion hazards, or which result in damaging increases in erosion or in *flood* heights or velocities;

B. Require that uses vulnerable to *floods*, including facilities which serve such uses, be protected against *flood* damage at the time of initial construction;

C. Control the *alteration* of natural *floodplains*, stream channels, and natural protective barriers which are involved in the accommodation of *flood* waters;

D. Control filling, grading, dredging, and other *development* which may increase erosion or *flood* damages;

E. Regulate the construction of *flood* barriers which will unnaturally divert *flood* waters or which may increase *flood* hazards to other lands; and

F. Qualify and maintain for participation in the National Flood Insurance Program.

(LL No. 15, 2001 § 1)

15.12.020 Objectives.

The objectives of this chapter are:

A. To protect human life and health;

B. To minimize expenditure of public money for costly *flood* control projects;

C. To minimize the need for rescue and relief efforts associated with *flooding* and generally undertaken at the expense of the general public;

D. To minimize prolonged business interruptions;

E. To minimize damage to public facilities and utilities such as water and gas mains, electric, telephone, sewer lines, streets and bridges located in areas of special *flood* hazard;

F. To help maintain a stable tax base by providing for the sound *use* and *development* of *areas of special flood hazard* so as to minimize future *flood* blight *areas*;

G. To provide that *developers* are notified that *property* is in an *area of special flood hazard*; and

H. To ensure that those who occupy the *areas of special flood hazard* assume responsibility for their actions.
(LL No. 15, 2001 § 2)

15.12.030 Definitions.

The following are defined for their use in this chapter:

Area of shallow flooding means a designated AO or AH Zone on the *Flood* Insurance Rate Map (FIRM) with a one-percent or greater annual chance of *flooding* to an average annual depth of one to three feet where a clearly defined channel does not exist, where the path of *flooding* is unpredictable and where velocity flow may be evident. Such *flooding* is characterized by ponding or sheet flow.

Area of special flood hazard means land in the *floodplain* within a community subject to a one percent or greater chance of *flooding* in any given year. This *area* may be designated as Zone A, AE, AH, AO, Al-A30 or A99. It is also commonly referred to as the *base floodplain* or one hundred (100) year *floodplain*.

Base flood means the *flood* having a one-percent chance of being equaled or exceeded in any given year (one hundred (100) year *flood*).

Development means any manmade change to improved or unimproved real estate, including but not limited to *buildings* or other *structures*, mining, dredging, filling, paving, excavation, or drilling operations or storage of equipment or materials.

Elevated building means a nonbasement *building* constructed, in the case of a *building* in Zones Al-A30, AE, A, A99, AO, AH, C or X, to have the top of the elevated floor or shear walls parallel to the flow of the water and adequately anchored so as not to impair the structural integrity of the *building* during a *flood* of up to the magnitude of the *base flood*. In the case of Zones Al-A30, AE, A, A99, AO, AH, C or X *elevated building* also includes a *building* elevated by means of fill or solid foundation perimeter walls with openings sufficient to facilitate the unimpeded movement of *flood* waters.

Flood or *flooding* means a general and *temporary* condition of partial or complete inundation of normally dry land *areas* from:

1. The overflow of inland or tidal waters;

2. The unusual and rapid accumulation or runoff of surface waters from any source.

Flood or *flooding* also means the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a flash *flood* or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in *flooding*.

Flood Boundary and Floodway Map (FBFM) means an official map of the community published by the Federal Emergency Management *Agency* as part of a riverine community's *Flood Insurance Study*. The FBFM delineates a *regulatory floodway* along *watercourses* studied in detail in the *Flood Insurance Study*.

Flood Elevation Study (*Flood Insurance Study*) means an examination, evaluation and determination of the *flood* hazards and, if appropriate, corresponding water surface elevations, or an examination, evaluation and determination of *flood* related erosion hazards.

Floodplain or *flood-prone area* means any land *area* susceptible to being inundated by water from any source (see definition of *Flooding*).

Flood proofing means any combination of structural and nonstructural additions, changes, or adjustments to *structures* which reduce or eliminate *flood* damage to real estate or improved real property, water and sanitary facilities, *structures* and their contents.

Local administrator means the person appointed by the community to administer and implement this chapter by granting or denying *development* permits in accordance with its provisions. This person is often the code enforcement officer, *building* inspector or

employee of an engineering *department*.

Lowest floor means *lowest floor* of the lowest enclosed *area* (including *basement* or *cellar*). An unfinished or *flood* resistant enclosure, usable solely for *parking* of vehicles, *building* access, or storage in an *area* other than a *basement area* is not considered a *building's lowest floor*; provided, that such enclosure is not built so as to render the *structure* in violation of the applicable nonelevation design requirements of this chapter.

Manufactured home means a *structure*, transportable in one or more sections, which is built on a permanent chassis and designed to be *used* with or without a permanent foundation when connected to the required utilities. The term does not include a *recreational vehicle*.

Manufactured home park or subdivision means a *parcel* (or contiguous *parcels*) of land divided into two or more *manufactured home lots* for rent or sale.

Mean sea level, for purposes of the National Flood Insurance Program, means the *National Geodetic Vertical Datum* (NGVD) of 1929 or other datum, to which *base flood* elevations shown on a community's Flood Insurance Rate Map are referenced.

National Geodetic Vertical Datum (NGVD)II; as corrected in 1929, is a vertical control *used* as a reference for establishing varying elevations within the *floodplain*.

Principally above ground means at least fifty-one (51) percent of the actual cash value of the *structure*, excluding land value, is above ground.

Regulatory floodway means the channel of a river or other *watercourse* and the adjacent land *areas* that must be reserved in order to discharge the *base flood* without cumulatively increasing the water surface elevation more than a designated height as determined by the Federal Emergency Management *Agency* in a

Flood Insurance Study or by other agencies as provided in Section l5.12.100 (F) of this chapter.

Start of construction means substantial improvement and means the initiation, excluding planning and design, of any phase of a project, physical *alteration* of the property, and shall include land preparation, such as clearing, grading, and filling; installation of streets and/or walkways; excavation for a basement, footings, piers, or foundations or the erection of temporary forms. It also includes the placement and/or installation on the property of accessory buildings (garages, sheds), storage trailers, and building materials. For *manufactured homes*, the *actual start* means affixing of the *manufactured home* to its permanent site.

Substantia1 damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged conditions would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.
(LL No. 15, 2001 § 3)

15.12.040 General provisions.

This chapter shall apply to all areas of special *flood* hazard within the jurisdiction of the town.
(LL No. 15, 2001 § 4)

15.12.050 Applicable documents and studies.

The areas of special *flood* hazard have been identified by the Federal Emergency Management Agency in a scientific and engineering report entitled "*Flood Insurance Study* Town New York, Chemung County" dated August 18, 1992, with Flood Insurance Rate Maps indicated on map index No. 360148 Panels 0005D, 0015D, and 0030D dated August 18, 1992. These documents are hereby adopted and declared to be a part of this chapter. The *Flood Insurance Study and/or maps are on file with the CEO in the Town Hall.*
(LL No. 15, 2001 § 5)

15.12.060 Permits required.

A *floodplain development* permit is established for all construction and other *development* to be undertaken in areas of special

flood hazard in the town for the purpose of protecting its citizens from increased flood hazards and insuring that new development is constructed in a manner that minimizes its exposure to *flooding*. No structure in the *area of a special flood hazard* shall be constructed, located, extended, converted, or altered, and no land shall be excavated or filled without full compliance with the terms of this chapter and any other applicable local, state or federal code, rule or regulation. It is unlawful to undertake any *development* in an *area of special flood hazard*, as shown on the Flood Insurance Rate Map, without a valid *floodplain development* permit.
(LL No. 15, 2001 § 6)

15.12.070 Limited liability.

The degree of *flood* protection required by this chapter is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger *floods;i/; can and will occur on rare occasions. Flood* heights may be increased by manmade or natural causes. This chapter does not imply that land outside the *area of special flood hazards* or uses permitted within such *areas* will be free from *flooding* or *flood* damages. This chapter shall not create liability on the part of the town, any officer or employee thereof, or the Federal Emergency Management Agency, for any *flood* damages that result from reliance on this chapter or any administrative decision lawfully made there under.
(LL No. 15, 2001 § 7)

15.12.080 Administration.

The director of building inspection and code enforcement is designated as the *local administrator* to administer and implement this chapter by granting or denying *floodplain development* permits in accordance with the provisions of this chapter. An application for a permit shall be made on forms furnished by the *local administrator* and may include, but not be limited to, plans drawn to scale and showing the following:

A. The nature, location, dimensions, and elevations of the area in question;

B. Existing or proposed structures, fill, storage of materials, drainage facilities, and the location of the foregoing;

C. All applications for a *floodplain development* permit shall include the appropriate application fee;

D. The *applicant* may be required to reimburse the town for any additional costs necessary for consultant review and inspection of a *floodplain development* permit pursuant to Chapter 2.08 of this code.

(LL No. 15, 2001 § 8)

15.12.090 Application documentation.

In order to properly ascertain that any *development in the floodplain will not adversely impact adjacent or downstream properties, information in addition to that provided for in the application form shall, as may be applicable, include:*

A. The proposed elevation, in relation to *mean sea level* of the *lowest floor* (including basement or cellar), of any new or substantially improved structure to be located in Zones Al-A30, AE or AH, or Zone A if *base flood elevation data is available. Upon completion of construction of the lowest floor* of a building located in Zones Al-A30, AE or AH, or Zone A, the permittee shall submit to the *local administrator* as-built elevations, certified by a licensed professional engineer, architect, or land surveyor in an authorized form;

B. The proposed elevation, in relation to *mean sea level*, to which any new or substantially improved nonresidential structure will be *flood* proofed. Upon completion of the *flood* proofed portion of the structure, the permittee shall submit to the *local administrator* the as-built *flood* proofed elevation, certified by a professional licensed engineer, architect, or land surveyor in an authorized form;

C. A certificate from a licensed professional licensed engineer, architect or land surveyor that any utility *flood* proofing will meet the criteria in Section 15.12.160(D);

D. A certificate from a licensed professional licensed engineer, architect or land surveyor that any nonresidential *flood* proofed structure will meet the *flood* proofing criteria in Section 15.12.160(F), nonresidential structures;

E. A description of the extent to which any watercourse will be altered or relocated as a result of proposed *development*. Computations by a licensed professional engineer must be submitted that demonstrates that the altered or relocated segment will provide equal or greater conveyance than that of the original stream segment. The *applicant* must submit any maps, computations or other material required by the Federal Emergency Management Agency (FEMA) to revise the documents enumerated in Section 15.12.050, when notified by the *local administrator*. The *applicant* shall be responsible to pay any fees or other cost assessed by FEMA for the purpose of review of such documentation. The *applicant* must also provide assurances that the conveyance capacity of the altered or relocated *stream* segment will be maintained;

F. A technical analysis, by a licensed professional engineer, if required by the *local administrator*, which shows whether or not a proposed *development* to be located in an *area of special flood hazard* may result in physical damage to any other *property*;

G. In Zone A, when no *base flood* elevation data is available from any other source, *base flood* elevation data shall be provided by the *applicant* for a *subdivision* proposal or other proposed *development (including proposals for manufactured home* and *recreational vehicles* parks and *subdivisions*) that are greater than either fifty (50) lots or five acres.

(LL No. 15, 2001 § 9)

15.12.100 Duties and responsibilities of the *local administrator*.

The *local administrator* shall conduct the following permit application review before issuing a *floodplain development* permit:

A. Review all *applications* for completeness, particularly with the standards of this chapter;

B. Review *subdivision* and other proposed new *development*, including *manufactured home parks to determine whether proposed building* sites will be reasonably safe from *flooding*. If a proposed *building* site is located in an *area of special flood hazard*, all new construction and substantial improvements shall meet the applicable standards of this chapter;

C. Determine whether any proposed *development* in an *area* of special flood hazard may result in physical damage to any other *property* (e.g., stream bank erosion and increased *flood* velocities). The *local administrator may require the applicant to submit additional technical analyses and data necessary to complete the determination;*

D. If the proposed *development* may result in physical damage to any other property or fails to meet the required standard, no permit shall be issued. The *applicant* may revise the application to include measures that mitigate or eliminate the adverse effects and re-submit the application;

E. Determine that all necessary permits have been received from those governmental agencies from which approval is required by state or federal law;

F. *Use* of other *flood data:*

1. When the Federal Emergency Management *Agency* has designated *areas* of special flood hazard on the community's *Flood* Insurance Rate Map (FIRM) but has neither produced water surface elevation data (these *areas* are designated Zone A on the FIRM), nor identified a *floodway*, the *local administrator* shall obtain, review and reasonably utilize any *base flood* elevation and *floodway* data available from a federal, state or other source including data developed pursuant to subsection 15.12.090(G). This data may be *used* as criteria for requiring that new construction, substantial improvements or other proposed *development* to meet the requirements of this chapter.

2. When *base flood* elevation data is not available, the *local administrator* may use *flood* information from any other authoritative source, such as historical data, to establish *flood* elevations within the *areas of special flood hazard*, for the purposes of this chapter;

G. *Alteration of watercourses:*

1. Notification to adjacent communities and the New York State *Department* of Environmental Conservation is required prior to permitting any *alteration* or relocation of a *watercourse*. Evidence of such notification shall be submitted to the Regional Director, Region II, Federal Emergency Management *Agency*,

2. Determine that the permit holder has provided for maintenance within the altered or relocated portion of the *watercourse* so that the *flood* carrying capacity is not diminished.

(LL No. 15, 2001 § 10)

15.12.110 As-built certification.

A. In Zones Al-A30, AE and AH, and also Zone A if *base flood* elevation data are available, upon placement of the *lowest floor* or completion of *flood* proofing of a new or substantially improved *structure*, the *local administrator* shall obtain from the permit holder a certification of the as-built elevation of the *lowest floor* or *flood* proofed elevation, in relation to *mean sea level*. The certificate shall be prepared by or under the direct supervision of a licensed land surveyor, architect, or professional engineer and certified by same. For *manufactured homes*, the permit holder shall submit the certificate of elevation upon placement of the *structure* on the site. A certificate of elevation must also be submitted for a *recreational vehicle* if it remains on a site of one hundred eighty (180) consecutive days or longer (unless it is fully licensed and ready for highway use).

B. Any further work undertaken prior to submission and approval of the certification shall be at the permit holder's risk. The *local administrator* shall review all data submitted. Deficiencies detected shall be cause to issue a stop work order for the project unless immediately corrected.
(LL No. 15, 2001 § 11)

15.12.120 Inspections.

The *local administrator* and/or the *developer's* engineer or architect shall make periodic inspections at appropriate times throughout the period of construction in order to monitor compliance with permit conditions and enable the inspector to certify, if requested, that the *development* is in compliance with the requirements of the *floodplain development permit* and/or any variance provisions.
(LL No. 15, 2001 § 12)

15.12.130 Stop work orders.

A. The *local administrator* shall issue, or cause to be issued, a stop work order for any *floodplain development* found ongoing without a *floodplain development* permit. Disregard of a stop work order shall be a violation of this chapter.

B. The *local administrator* shall issue, or cause to be issued, a stop work order for any *floodplain development* found noncompliant with the provisions of this chapter, and/or the conditions of the *floodplain development* permit. Disregard of a stop work order shall be a violation of this chapter.
(LL No. 15, 2001 § 13)

15.12.140 *Certificate of compliance*.

A. In *areas of special flood hazard*, as determined by documents enumerated in Section 15.12.050, it is unlawful to occupy or to permit the *use* or occupancy of any *building* or *premises*, or both, or part thereof hereafter created, erected, changed, converted or wholly or partly altered or enlarged in its *use* or *structure* until a *certificate of compliance* has been issued by the *local administrator* stating that the *building* or land conforms to the requirements of the chapter.

B. A *certificate of compliance* shall be issued by the *local administrator* upon satisfactory completion of all *development* in *areas of special flood hazard*.

C. Issuance of the certificate of compliance shall be based upon the inspections conducted as prescribed in this chapter, and/or any certified elevations, hydraulic data, *flood proofing, anchoring requirements or encroachment analyses which may have*

been required as a condition of the approved floodplain development permit.
(LL No. 15, 2001 § 14)

15.12.150 Information to be retained.

The *local administrator* shall retain and make available for inspection, copies of the following:

A. *Floodplain development permits and certificates of compliance;*

B. Certifications of as-built *lowest floor* elevations of structures, required pursuant to Sections 15.12.090 through 15.12.110 and/or whether or not the *structures* contain a *basement*;

C. *Flood proofing* certificates required pursuant to Sections 15.12.090(B) and 15.12.110(A) and whether or not the *structures contain a basement;*

D. Variances issued pursuant to Section 15.12.180, variance procedures; and,

E. Notices required under Section 15.12.100(G), *alteration of watercourses.*
(LL No. 15, 2001 § 15)

15.12.160 General construction standards.

The following standards apply to new or substantially improved structures in the special *flood* hazard area:

A. Subdivision Proposals.

1. Proposals shall be consistent with the need to minimize *flood* damage;

2. Public utilities and facilities such as sewer, gas electrical and water systems shall be located and constructed so as to minimize *flood* damage; and

3. Adequate drainage shall be provided to reduce exposure to *flood* damage.

B. Encroachments.

1. Within Zones Al-A30 and AE, on streams without a *regulatory floodway*, no new construction, substantial improvements or other *development* (including fill) shall be permitted unless:

a. The *applicant* demonstrates that the cumulative effect of the proposed *development*, when combined with all other existing and anticipated *development*, will not increase the water surface elevation of the *base flood* more than one foot at any location, or

b. The town agrees to apply to the Federal Emergency Management Agency (FEMA) for a conditional FIRM revision, FEMA approval is received and the *applicant* provides all necessary data, analyses and mapping and reimburses the town for all fees and other costs in relation to the application. The *applicant* must also provide all data, analyses and mapping and reimburse the town for all costs related to the final map revision.

2. On streams with a *regulatory floodway*, as shown on the Flood Boundary and Floodway Map or the Flood Insurance Rate Map adopted in this chapter, no new construction, substantial improvements or other *development* in the floodway (including fill) shall be permitted unless:

a. A technical evaluation by a licensed professional engineer shows that such an encroachment shall not result in any increase in *flood* levels during occurrence of the *base flood*, or

b. The town agrees to apply to the Federal Emergency Management Agency (FEMA) for a

conditional FIRM and floodway revision, FEMA approval is received and the *applicant* provides all necessary data, analyses and mapping and reimburses the town for all fees and other costs in relation to the application. The *applicant* must also provide all data, analyses and mapping and reimburse the town for all costs related to the final map revisions.

C. Standards for all Structures.

1. Anchoring. New structures and substantial improvement to structures in areas of special *flood* hazard shall be anchored to prevent flotation, collapse, or lateral movement during the *base flood*. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.

2. Construction Materials and Methods.

a. New construction and substantial improvements to structures shall be constructed with materials and utility equipment resistant to *flood* damage.

b. New construction and substantial improvements to structures shall be constructed using methods and practices that minimize *flood* damage.

c. For enclosed areas below the *lowest floor* of a structure within Zones Al-A30, AE or AH and also Zone A if *base flood* elevation data are available, new and substantially improved structures shall have fully enclosed areas below the *lowest floor* that are useable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to *flooding*, designed to automatically equalize hydrostatic *flood* forces on exterior walls by allowing for the entry and exit of *flood* waters. Designs for meeting this requirement must either be certified by a licensed professional engineer or architect or meet or exceed the following minimum criteria:

i. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to *flooding*, and

ii. The bottom of all such openings no higher than one foot above the lowest adjacent finished grade.

Openings may be equipped with louvers, valves, screens or other coverings or devices, provided they permit the automatic entry and exit of *flood* waters. Enclosed areas sub-grade on all sides are considered basements and are not permitted.

D. Utilities.

1. Machinery and equipment servicing a building must either be elevated to or above the *base flood* level or designed to prevent water from entering or accumulating within the components during a *flood*. This includes heating, ventilating, and air conditioning equipment, hot water heaters, appliances, elevator lift machinery and electrical junction and circuit breaker boxes. When located below the *base flood* elevation, a professional engineer's or architect's certification of the design is required;

2. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of *flood* waters into the system;

3. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of *flood* waters. Sanitary sewer and storm drainage systems for buildings that have openings below the *base flood* elevation shall be provided with automatic backflow valves or other automatic backflow devices that are installed in each discharge line passing through a building's exterior wall; and

4. On-site waste disposal systems shall be located to avoid impairment to them or contamination from them during *flooding*.

E. Residential Construction Standards. The following standards, in addition to the general construction standards listed

elsewhere in this chapter, apply to residential structures located in areas of special *flood* hazard as indicated.

1. Within Zones Al-A30, AE and AH and also Zone A if *base flood* elevation data are available, new construction (including basement) elevated to three or more feet above the *base flood* level.

2. Within Zone A, when no *base flood* elevation data are available, new and substantially improved structures shall have the *lowest floor* (including basement) elevated at least three feet above the highest adjacent grade.

3. Within Zone AO, new and substantially improved structures shall have the *lowest floor* (including basement) elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's Flood Insurance Rate Map enumerated in this chapter (at least three feet if no depth number is specified).

4. Within Zones AH and AO, adequate drainage paths are required to guide *flood*waters around and away from proposed structures on slopes.

F. Nonresidential Construction Standards. The following standards apply to new and substantially improved commercial, industrial and other nonresidential structures, in addition to the general construction standards set forth elsewhere in this chapter:

1. Within Zones Al-A30, AE and AH, and also Zone A if *base flood* elevation data are available, new construction and substantial improvements of any nonresidential structure, together with attendant utility and sanitary facilities, shall either:

   a. Have the *lowest floor* (including basement) elevated above the *base flood* elevation; or

   b. Be *flood* proofed so that the structure is watertight below the *base flood* level with walls substantially impermeable to the passage of water. All structural components located below the *base flood level must be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.*

2. Within Zone AO, new construction and substantial improvements of nonresidential structures shall:

   a. Have the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least three feet if no depth number is specified); or

   b. Together with attendant utility and sanitary facilities, be completely *flood proofed to that level to meet the flood proofing* standard specified in Section l5.12.160(D).

3. If the structure is to be *flood proofed*, a licensed professional engineer or architect shall develop and/or review structural design, specifications, and plans for construction. A *flood proofing* certificate or other certification shall be provided to the *local administrator* that certifies the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions of this chapter, including the specific elevation (in relation to *mean sea level*) to which the structure is to be *flood* proofed.

4. Within Zones AH and AO, adequate drainage paths are required to guide *flood* waters around and away from proposed structures on slopes.

5. Within Zone A, when no *base flood* elevation data are available, the *lowest floor* (including basement) shall be elevated at least three feet above the highest adjacent grade.

(LL No. 15, 2001 § 16)

15.12.170 Manufactured homes and recreational vehicles standards.

The following standards in addition to the general construction standards listed elsewhere in this chapter apply as indicated, in areas of special *flood hazard to manufactured homes* and to recreational vehicles, which are located in areas of special *flood* hazard.

A. Recreational vehicles placed on sites within Zones Al-A30, AE and AH shall either:

1. Be on site fewer than one hundred eighty (180) consecutive days;

2. Be fully licensed and ready for highway use; or

3. Meet all of the requirements for *manufactured homes* established in this chapter.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices and has no permanently attached additions.

B. A *manufactured home that is placed or substantially improved in Zones Al-A30, AE and AH that is on a site either:*

1. Outside of an existing *manufactured home park or subdivision* as herein defined;

2. In a new *manufactured home park or subdivision* as herein defined;

3. An expansion to an existing *manufactured home park or subdivision* as herein defined; or

4. An existing *manufactured home park or subdivision* as herein defined on which a *manufactured home* has incurred *substantial damage* as the result of a *flood*; shall be elevated on a permanent foundation such that the *lowest floor* is elevated three or more feet above the *base flood* elevation and is securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors.

C. A *manufactured home to be placed or substantially improved in Zone AI-A30, AE and AH in an existing manufactured home park or subdivision* that is not to be placed on a site on which a *manufactured home* has incurred *substantial damage* shall be:

1. Elevated in a manner such as required in this section; or

2. Elevated such that reinforced piers support the *manufactured home* chassis or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

D. Within Zone A, when no *base flood* elevation data are available, new and substantially improved *manufactured homes* shall be elevated such that the *manufactured home* chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above the lowest adjacent grade and are securely anchored to an adequately anchored foundation system to resist flotation, collapse, or lateral movement. Elevation on piers consisting of dry stacked blocks is prohibited.

E. Within Zone AO, the floor shall be elevated three feet above the depth number specified on the *Flood* Insurance Rating Map. If no depth number is specified the floor shall be elevated three feet or more above the highest adjacent grade. Elevation on piers consisting of dry stacked blocks is prohibited.

(LL No. 15, 2001 § 17)

15.12.180 Variance procedure.

The zoning board of appeals as established by the town shall hear and decide appeals and requests for variances from the requirements of this chapter. The zoning board of appeals shall hear and decide appeals when it is alleged there is an error in any requirement, decision, or determination made by the *local administrator* in the enforcement or administration of this chapter. Those

aggrieved by the decision of the zoning board of appeals may appeal such decision to the Supreme Court pursuant to Article 78 of the Civil Practice Law and Rules. In passing upon such *applications*, the zoning board of appeals, shall consider all technical evaluations, all relevant factors, standards specified in other sections of this chapter and:

A. The danger that materials may be swept onto other lands to the injury of others;

B. The danger to life and property due to *flooding* or erosion damage;

C. The susceptibility of the proposed facility and its contents to *flood* damage and the effect of such damage on the individual *owner*;

D. The importance of the *services* provided by the proposed facility to the community;

E. The necessity to the facility of a waterfront location, where applicable;

F. The availability of alternative locations for the proposed *use* which are not subject to *flooding* or erosion damage;

G. The compatibility of the proposed use with existing and anticipated *development*;

H. The relationship of the proposed use to the comprehensive plan and *floodplain* management program of that *area*;

I. The safety of access to the property in times of *flood* for ordinary and emergency vehicles;

J. The costs to local governments and the dangers associated with conducting search and rescue operations during periods of *flooding*;

K. The expected heights, velocity, duration, rate of rise and sediment transport of the *flood* waters and the effects of wave action, if applicable, expected at the site; and

L. The costs of providing governmental *services* during and after *flood* conditions, including search and rescue operations, maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems and streets and bridges.

Upon consideration of the factors listed above and the purposes of this chapter, the zoning board of appeals may attach such conditions to the granting of variances, as it deems necessary to further the purposes of this chapter.

The *local administrator* shall maintain the *records* of all appeal actions including technical information and report any variances to the Federal Emergency Management *Agency* upon request.

(LL No. 15, 2001 § 18)

15.12.190 Conditions for variances.

Generally, variances may be issued for new construction and *substantial improvements* to be erected on a *lot* of one-half acre or less in size contiguous to and surrounded by *lots* with existing *structures* constructed below the *base flood* level, providing all items in Section 15.12.180 have been fully considered. As the lot size increases beyond the one-half acre, the technical justification required for issuing the variance increase.

A. Variances may be issued for the repair or rehabilitation of historic *structures upon determination that:*

1. The proposed repair or rehabilitation will not preclude the *structure's* continued designation as a historic *structure.*

2. The variance is the minimum necessary to preserve the historic character and design of the *structure*.

B. Variances may be issued by a community for new construction and substantial improvements and for other *development*, necessary for the conduct of a functionally dependent use provided that:

1. The criteria of this section are met;

2. The *structure or other development* is protected by methods that minimize *flood* damages during the *base flood* and create no additional threat to public safety.

C. Variances shall not be issued within any designated *floodway* if any increase in *flood* levels during the *base flood* discharge would result.

D. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the *flood* hazard, to afford relief.

E. Variances shall only be issued upon receiving written justification of:

1. A showing of good and sufficient cause;

2. A determination that failure to grant the variance would result in exceptional hardship to the *applicant*; and

3. A determination that the granting of a variance will not result in increased *flood* heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public or conflict with existing local laws, chapters or ordinances.

F. Any *applicant* to whom a variance is granted for a *building* with the *lowest floor* below the *base flood* elevation shall be given written notice over the signature of a community official that the cost of *flood* insurance will be commensurate with the increased risk resulting from lowest *flood* elevation.

(LL No. 15, 2001 § 19)

Chapter 15.16

UNSAFE OR DANGEROUS BUILDINGS

Sections:

15.16.010 Authority and purpose.
15.16.020 Unsafe or dangerous building defined.
15.16.030 Restrictions
15.16.040 Inspections required.
15.16.050 Reports and notices.
15.16.060 Hearing process.
15.16.070 Removal of an unsafe or dangerous building.
15.16.080 Assessment of expenses.
15.16.090 Notice of pendency.

15.16.010 Authority and purpose.

The purpose of this chapter is to protect the safety, health, welfare, and general well-being of the residents of the town by requiring that unsafe or dangerous buildings be either repaired or demolished and removed. This chapter is adopted pursuant to Town Law, Section 130 (16).

(LL No. 22, 2001 § 1)

15.16.020 Unsafe or dangerous building defined.

As used in this chapter, the following term shall have the meaning indicated:

Unsafe or dangerous buildings means a building, structure or portion thereof that presents a reasonable and objective danger to the health, safety and general welfare of the public because the building, structure or portion thereof:

A. Has a condition that is or is likely to make the building, structure or portion thereof structurally unsound;

B. Is abandoned and is open at the doorways or windows or walls;

C. Is a place of rodent infestation; or

D. Consists of debris, rubble or parts of buildings left after demolition, reconstruction, fire or other casualty.
(LL No. 22, 2001 § 2)

15.16.030 Restrictions.

No person shall own or occupy an unsafe or dangerous building in the town.
(LL No. 22, 2001 § 3)

15.16.040 Inspections required.

When a potential unsafe or dangerous building is identified as existing in the town, the director of building inspection and code enforcement shall:

A. Request the permission of the property *owner or other person with authority over the potential unsafe or dangerous building to formally inspect the potentially unsafe or dangerous building and to complete such inspection in a timely manner;*

B. In the absence of the authority pursuant to subsection A of this section, take the necessary action pursuant to Chapter 1.12 of the Town Code to complete the required inspection.

C. Upon completion of the inspection, make a determination whether such building, structure or portion thereof is an unsafe or dangerous building.
(LL No. 22, 2001 § 4)

15.16.050 Reports and notices.

A. When a determination has been made pursuant to Section 15.16.040(C) that an unsafe or dangerous building exists, a written report shall be prepared. Such written report shall be filed with the town clerk and presented to the town board at its next regularly scheduled meeting. This written report shall contain the following:

1. The name of the property owner as it appears on the tax records for the town;

2. A description of the unsafe or dangerous building and its location;

3. A statement of the particulars causing the building, structure, or portion thereof to be an unsafe or dangerous building.

B. Upon the receipt of the written report presented pursuant to subsection A of this section, the town board shall send a notice to the owner of the unsafe or dangerous building in accordance with subsection C of this section and shall order that a hearing be held in accordance with Section 15.16.060.

C. Notice. The written notice issued pursuant to subsection B of this section shall be filed with the town clerk and shall:

1. Contain the following:

a. An order that the unsafe or dangerous building be repaired within thirty (30) days of the date of the order or such other later date as determined by the town board, or

b. An order that the unsafe or dangerous building be demolished within thirty (30) days of the date of the order or such other later date as determined by the town board, and

c. A copy of the report referenced in subsection A of this section, and

d. The date, time and place of the hearing set by the town board pursuant to subsection B of this section;

2. Be served on the owner of the subject property as shown by the records of the town receiver of taxes or county clerk's office or county register:

a. Either personally; or

b. By U. S. Registered Mail, return receipt requested, if after a good faith effort to serve the property owner personally fails or if the property owner is not known or available for personal service in the County of Chemung; 3. Be posted on the property containing the unsafe or dangerous building.

(LL No. 22, 2001 § 5)

15.16.060 Hearing process.

A. The hearing shall not be set any earlier than seven days from the date of the notice issued pursuant to Section 15.16.050(B). The property owner or any other interested party may appear to offer evidence or make comment on the notice and orders issued pursuant to Section 15.16.050(C).

B. Within fifteen (15) days after the completion of the hearing held pursuant to Section 15.16.050(B), the town board shall file with the town clerk a written decision regarding the unsafe or dangerous building.

C. In issuing its decision, the town board may revoke the order to repair or remove the unsafe or dangerous building, modify the order or continue and affirm the order.

D. The decision made pursuant to this section shall be served upon the property owner pursuant to Section 15.16.050(C)(2).

(LL No. 22, 2001 § 6)

15.16.070 Removal of an unsafe or dangerous building.

A. In complying with a repair or removal order issued by the town board under this chapter, the property owner shall obtain all requisite permits to perform the work. Such work shall be inspected in accordance with Chapter 15.04 of this code.

B. In the event that the property owner refuses, fails or neglects to comply with a repair or removal order issued under this chapter, the town board shall order that such unsafe and dangerous building be repaired or removed by town employees or may contract for its removal.

(LL No. 22, 2001 § 7)

15.16.080 Assessment of expenses.

The expenses incurred by the town for any action taken pursuant to this chapter including, but not limited to, consultant fees, filing fees, hearing costs, attorney fees, administration and any and all costs associated with the repair or removal of an *unsafe or dangerous building* shall be the responsibility of the property *owner*. Should the property *owner* fail to pay the cost as outlined in this chapter, all such costs and expenses may be:

A. Assessed against the land on which the dangerous or unsafe building is or was located, and shall be included on the property *owner's* next annual tax assessment and collected thereby; or

B. Collected by special proceeding under General Municipal Law Section 78-b.

(LL No. 22, 2001 § 8)

15.16.090 Notice of pendency.

A. A notice issued pursuant to subsection 15.16.050(C) may be filed in the office of the Chemung *County* clerk and such notice shall be filed by the Chemung *County* clerk in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules;

B. Such notice shall have the same effect as a notice of pendency as therein provided, except as otherwise hereinafter provided in this section;

C. A notice so filed shall be effective for a period of one year from the date of filing; provided, however, that it may be vacated upon court order or upon the consent of the town board and the attorney for the town; and

D. The office of the Chemung *County* clerk shall mark such notice and any *record* or docket thereof as cancelled upon the presentation and filing of a court order or consent issued pursuant to subsection C of this section.
(LL No. 22, 2001 § 9)

Chapter 15.20

ISSUANCE OF APPEARANCE TICKETS BY THE DIRECTOR OF *BUILDING* INSPECTION AND CODE ENFORCEMENT

Sections:
15.20.010 Purpose and authority.
15.20.020 Issuance of appearance tickets.
15.20.030 *Service*.
15.20.040 Form.

15.20.010 Purpose and authority.

The purpose of this chapter is to authorize the director of *building* inspection and code enforcement of the town of Big Flats to issue and serve appearance tickets in connection with violations of state statutes, local laws, ordinances or rules and regulations of the town that the director of *building* inspection and code enforcement is authorized or required to enforce. The local law codified in this chapter was adopted pursuant to the authority set forth in Article 2 of the Municipal Home Rule Law.
(LL No. 1, 2003 § 1)

15.20.020 Issuance of appearance tickets.

The director of *building* inspection and code enforcement is hereby authorized to enforce and serve an appearance ticket as defined by Section 150.10 of the Criminal Procedure Law with respect to any and all violations of state statutes, local laws, ordinances or rules and regulations of the town of Big Flats that the director of *building* inspection and code enforcement is authorized or required to enforce.
(LL No. 1, 2003 § 2)

15.20.030 *Service*.

An appearance ticket shall be served personally upon a person whom the director of *building* inspection and code enforcement has reasonable cause to believe has committed a violation or criminal infraction of a state statute, a local law, an ordinance, and a rule or regulation of the town of Big Flats.
(LL No. 1, 2003 § 3)

15.20.040 Form.

An appearance ticket shall be a notice directing the offender to appear in the Big Flats town court at a specified time. The notice must specify the section of state statute, local law, ordinance and rule or regulation allegedly violated, and must be signed and dated by the director of *building* inspection and code enforcement.
(LL No. 1, 2003 § 4)

Chapter 15.24

INSTALLATION AND USE OF *OUTDOOR FURNACES*

Sections:

15.24.010 Purpose.
15.24.020 Intent.
15.24.030 Definitions.
15.24.040 Prohibited installations.
15.24.050 Specific requirements.
15.24.060 Exemption for *existing outdoor wood burning furnaces*.
15.24.070 Penalties.
15.24.080 Civil proceedings for enforcement of this chapter.
15.24.090 Authority to enforce this chapter.

15.24.010 Purpose.

The purpose of this chapter is to establish minimum standards for the regulation of the installation and use of *outdoor furnaces*.
(LL No. 4, 2007 § 1)

15.24.020 Intent.

The town of Big Flats has determined that although *outdoor furnaces* may provide an economical alternative to conventional heating systems, concerns have been raised concerning the safety and environmental impacts of these devices, particularly the production of offensive odors, potential health effects of uncontrolled emissions and can deprive neighboring residents on the enjoyment of their property or *premises*. This is to insure proper regulation of the installation and operation of such appliance that it does not create a nuisance or detrimental to the health safety and welfare of the town and its residents.
(LL No. 4, 2007 § 2)

15.24.030 Definitions.

For the purpose of this chapter, certain words and terms shall have the following meanings. Unless defined below, words and phrases used in this chapter shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application:

Existing outdoor wood burning furnace means an *outdoor furnace* already in place and in use on the site at the time when the local law codified in this chapter shall take effect.

Firewood means trunks and branches of trees and bushes but does not include leaves, needles, vines or brush smaller than two inches in diameter.

Outdoor furnace means any equipment, device or apparatus, or any part thereof, which is installed, affixed or situated outside the interior living space and/or walls of the primary *structure*, whether attached to or detached from a *principal structure*, designed and intended to provide large quantities of heated water, heated air or heat in general, through the burning of wood or combustion of fuel, for the primary purpose of heating the *principal structure*, and/or any other *structure* located on the same *premises* while functioning as a component of a heating system providing heat or hot water for any interior space. This definition shall include sheltered and unsheltered furnaces.

Untreated lumber means dry wood which has been milled and dried but which has not been treated or combined with any petroleum product, chemical, preservative, glue, adhesive, stain, paint or other substance.
(LL No. 4, 2007 § 3)

15.24.040 Prohibited installations.

It is unlawful to install and operate an *outdoor furnace* in any zoning *district* on a *lot* with an area less than four acres.
(LL No. 4, 2007 § 4)

15.24.050 Specific requirements.

A. Permit Requirements. No *person* shall cause, allow or maintain the use of an *outdoor furnace in the town of Big Flats without first obtaining a permit.*

B. Permitted Fuel. *Firewood* and *untreated lumber* are permitted to be burned in any *outdoor furnace*. Processed combustible fuels, such as wood pellets and dried corn, refined petroleum products, regulated gases, and coal(s) are also permitted providing the furnace is modified and operated in accordance with the manufactures specifications. Burning of any and all other materials in an *outdoor furnace* is prohibited.

C. *Setbacks*. *Outdoor furnaces* shall be allowed only in *rear yards* and shall be set back not less than two hundred (200) feet from any side and rear property line.

D. Months of Operation. *Outdoor furnaces* shall be operated only between September 15th and May 1st.

E. Spark Arrestors and Smoke Stacks. All *outdoor furnaces* shall be equipped with properly functioning spark arrestor and smoke stacks installed a minimum of fifteen (15) feet above adjacent grade or equal to or exceeding those specified by its manufacturer, if more restrictive.

F. No malodorous air contaminants from the furnace shall be detectable beyond the boundary of the property on which it is located.

G. The furnace emissions shall not interfere with the reasonable enjoyment of life or property of the residents of the town.

H. The furnace emissions shall not cause damage to vegetation or property.

I. The extension, enlargement or replacement of any such furnace is strictly prohibited, without permit.
(LL No. 4, 2007 § 5)

15.24.060 Exemption for *existing outdoor wood burning furnaces*.

Any *existing outdoor wood burning furnace* within the town prior to the effective date of the local law codified in this chapter may continue to be operated only if a permit is issued within six months of the effective date of the local law codified in this chapter, it is in full compliance with any applicable state and/or federal regulations and is operated in full compliance with the manufacturer's recommendations and specifications.

Any existing and outdoor wood burning furnace that is discontinued in use, abandoned, operates in a malfunctioning manner, becomes nonfunctioning, obsolete, or disabled for a period of three months during the authorized months of operation as provided in this chapter, shall not be permitted to be reestablished as a *nonconforming use* and shall be immediately removed from the property. If the property *owner* fails to remove the furnace, the *code enforcement officer* shall give written notice by certified mail or personal service to the property owner upon which the furnace is located. Such notice shall provide that such person shall remove the same within thirty (30) days of the notice. Should the furnace not be removed in the time specified, the *code enforcement officer* may arrange for its removal. The cost of which, if not paid, shall be charged to the property so effected by including such expenses in the next annual tax levy against the property.
(LL No. 4, 2007 § 6)

15.24.070 Penalties.

Violation of this chapter shall be punishable by fine or imprisonment or both as prescribed in Chapter 1 Article II of the code of the town of Big Flats. Each week shall be a separate violation shall constitute additional offense.
(LL No. 4, 2007 § 7)

15.24.080 Civil proceedings for enforcement of this chapter.

Compliance with this chapter may also be compelled and violations restrained by order or by injunction of a court of

competent jurisdiction. Any *person* who violates any provision of this chapter shall also be subject to a civil penalty of not more than the maximum amount which could be collected pursuant to this section, to be recovered by the town in a civil action and each week's continued violation shall, for the purpose of this chapter, be a separate and distinct violation. In the event the town is required to take legal action to enforce this chapter, the violator shall be responsible for any and all necessary costs relative thereto, including attorney's fees. Such costs to be in addition to the civil penalty amount imposed hereunder. All such amounts awarded under this section may, if they remain uncollected, be charged to the property so affected by including such expense in the next annual tax-levy against the property.
(LL No. 4, 2007 § 8)

15.24.090 Authority to enforce this chapter.

The *code enforcement officer* or any police officer of the state of New York or its subordinate jurisdiction are authorized in the name and on behalf of the town to undertake and prosecute any proceedings necessary to appropriate to enforce compliance with this law including the issuance of appearance tickets to effectuate the same.
(LL No. 4, 2007 § 9)