

LOCAL LAW PROVIDING FOR THE
ADMINISTRATION AND ENFORCEMENT OF THE
NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE

LOCAL LAW #2 of 2006

Be it enacted by the Town of Springwater, in the County of Livingston, as follows:

SECTION 1: PURPOSE AND INTENT

This local law shall provide for administration and enforcement of the New York State Uniform Fire Prevention and Building Code (Uniform Code) in the Town of Springwater. This local law is adopted pursuant to Section 10 of Article 2 of the Municipal Home Rule Law. Except as otherwise provided within this law, state law, or within the Uniform Code, all premises regardless of use, are subject to the provisions which follow.

SECTION 2: PARTIAL INVALIDITY

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

SECTION 3: ADOPTION OF STANDARDS

The Town Board of the Town of Springwater hereby adopts and ratifies any previous adoption of the New York State Uniform Fire Prevention and Building Code (henceforth collectively referred to as the "Uniform Code"), if any, and all subsequent amendments thereto.

SECTION 4: CEO, DUTIES AND POWERS

A. The Town Board of the Town of Springwater does hereby acknowledge and ratify the establishment of the position to be known as "Code Enforcement Officer," hereinafter referred to as "CEO" This position shall be filled by an appointment of the Town Board. The CEO shall possess background experience related to building construction or fire prevention and shall, within the time constraints proscribed by law, obtain such training as the State of New York shall require for code enforcement personnel.

B. In the absence of the CEO, or in the case of his inability to act for any reason, the Town Supervisor shall have the power, with the consent of the Town Board to designate a person to act on behalf of the CEO and to exercise all the powers conferred upon him by this local law.

C. The Town Supervisor, with the approval of the Town Board, may appoint one inspector or more, as the need may appear, to act under the supervision and direction of the CEO and to exercise any portion of the powers and duties of the CEO as directed by the CEO.

D. The compensation for the CEO, acting CEO and inspectors shall be fixed and adjusted as needed by the Town Board.

E. The CEO shall administer and enforce all the provisions of the Uniform Code and the provisions of this local law, including receiving building permit applications, reviewing plans and specifications, conducting inspections, issuing permits for the erection, alteration, relocation, addition, repair and/or demolition of buildings and structures, issuing certificates of occupancy, collecting fees as set forth by the Town Board and maintaining and filing all records necessary for the administration of the office to the satisfaction of the Town Board. Additionally, the CEO shall administer and enforce those provisions of the Building Code dealing with building construction related to fire prevention and fire/life safety.

F. The CEO shall keep permanent official records of all transactions and activities conducted by him, including all applications received, plans approved, permits and certificates issued, inspection reports, all rules and regulations promulgated by him with the consent of the Town Board, and notices and orders issued. 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.

G. The CEO shall issue notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction or demolition and to assure compliance with all applicable laws, codes, ordinances, rules and regulations.

SECTION 5: APPLICABILITY OF STANDARDS

A. The provisions of the Uniform Code relating to maintenance, housekeeping and behavior regulations so as to protect life and property against the hazards of fire, explosion, and the release of toxic gases arising from the storage, handling or use of combustible or hazardous substances, materials or devices shall apply equally to new and existing buildings and conditions.

B. The CEO shall have the authority to permit the continuance of existing conditions not in strict compliance with the terms of this local law where the exceptions do not constitute a distinct hazard to life or property.

SECTION 6: BUILDING PERMITS

A. Permits Required.

1. Except as hereinafter provided, no person, firm, corporation, association or partnership shall commence the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, or install a solid fuel burning heating appliance, chimney or flue in any dwelling unit, without first having obtained a permit from the CEO.

2. No permit shall be required for:

- a) Necessary repairs which do not materially affect structural features;
- b) Alterations to existing buildings provided that the alterations:
 - i) Cost less than \$10,000
 - ii) Do not materially affect structural features;
 - iii) Do not affect fire safety features such as smoke detectors, sprinklers, required fire separations and exits:
 - iv) Do not involve the installation or extension of electrical systems and;
 - v) Do not include the installation of solid fuel burning heating appliances and associated chimneys and flues.
 - c) Residential storage sheds and other small noncommercial structures less than 120 square feet which are not intended for use by one or more persons as quarters for living, sleeping, eating or cooking.
 - d) Installation of swings and other playground equipment associated with a one or two family dwelling.
 - e) Installation of swimming pools associated with a one or two family dwelling where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground.

f) Installation of fences which are not part of an enclosure surrounding a swimming pool.

g) Nonresidential farm buildings, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes.

B. Application for a permit.

1. The application for a building permit, and its accompanying documents, shall contain sufficient information to permit a determination that the intended work accords with the requirements of the Uniform Code.

2. The form of the permit and application therefore shall be approved by the Town Board. The application shall be signed by the owner (or his authorized agent) of the building and shall contain at least the following:

a) Full name and address of the owner and if by a corporation, the name and addresses of the responsible officials;

b) Identification and/or description of the land on which the work is to be done;

c) Description of use or occupancy of the land and existing or proposed building;

d) Description of the proposed work;

e) Two sets of plans and specifications, where required, including plot plans drawn to scale, showing the location and size of all proposed new construction as well as the location of all existing structures on the site; distances from lot lines; the relationship of structures on adjacent property; widths and grades of adjoining streets, walks, and alleys; watercourses, easements, and utilities on the property and;

f) The required fee.

3. The CEO may waive the requirement of plans and specifications when the work to be done involves minor alterations or is otherwise unnecessary.

4. Applicant shall notify the CEO of any changes in the information contained in the application during the period for which the permit is in effect. A permit will be issued when the application has been determined to be complete and when the proposed work has been determined to conform to the requirements of the Uniform Code. The authority conferred by such permit may be limited by conditions, if any, contained therein. Amendments, if any, to the application or to the plans and specifications accompanying the same shall be filed with the CEO and approval shall be received from the CEO prior to the commencement of such change of work.

5. Plans and specifications shall bear the signature of the person responsible for the design and drawings and, where required by the CEO, the seal of a licensed architect or a licensed professional engineer.

C. General Requirements.

1. A building permit issued pursuant to this local law shall be prominently displayed on the property or premises to which it pertains.

2. Acceptance of any permit issued pursuant to this local law constitutes agreement and consent by the person accepting the permit to allow the CEO to enter upon the premises at any reasonable time to conduct inspections as required by this local law. Refusal to allow such inspections and the records related to the permit shall constitute sufficient justification for the summary and immediate revocation or suspension of said permit.

3. A building permit issued pursuant to this Local Law may be suspended or revoked if it is determined that the permit was issued in error and should not have been issued in accordance with the applicable laws, codes, ordinances, rules or regulations, or that the work to which it pertains is not proceeding in conformance with the Uniform Code or with any condition attached to such permit, or if there has been misrepresentation or falsification of a material fact in connection with the application for the permit.

4. A building permit issued pursuant to this Local Law shall expire one (1) year from the date of issuance or upon the issuance of a certificate of occupancy (other than a temporary certificate of occupancy), whichever occurs first. The permit may, upon written request, be renewed for successive one-year periods provided that:

- a) The permit has not been revoked or suspended at the time the application for renewal is made,
- b) The relevant information in the application is up to date, and
- c) The renewal fee is paid.

SECTION 7: OPERATING PERMITS

1. Operating permits shall be required for conducting the activities or using the categories of buildings listed below:

- a) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4), of the Uniform Code of New York State (see 19 NYCRR Part 1225);
- b) 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;
- c) Use of pyrotechnic devices in assembly occupancies;
- d) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
- e) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by the CEO.

2. Parties who propose to undertake the types of activities or operate the type of buildings listed in paragraph (1) of the subdivision shall be required to obtain an operating permit prior to commencing such operation. An application for an operating permit shall contain sufficient information to permit a determination that quantities, materials, and activities conform to the requirements of the Uniform Code. Tests or reports necessary to verify conformance shall be required.

3. An inspection of the premises shall be conducted prior to the issuance of an operating permit.

4. A single operating permit may apply to more than one hazardous activity.

5. Operating permits may remain in effect until reissued, renewed or revoked or may be issued for a specified period of time consistent with local conditions.

6. Where activities do not comply with applicable provisions of the Uniform Code, an operating permit shall be revoked or suspended.

SECTION 8: FEES

A fee schedule shall be established, and changed as needed, by resolution of the Town Board, subject to a Public Hearing. Such fees may be charged for the issuance of permits, certificates of occupancy, temporary certificates of occupancy, and for fire safety inspections.

SECTION 9: CERTIFICATE OF OCCUPANCY

A. No building hereafter erected subject to the Uniform Code shall be used or occupied, except to the extent authorized hereunder, until a certificate of occupancy has been issued. No building similarly enlarged, extended, or altered, or upon which work has been performed which requires

the issuance of a building permit shall be occupied or used more than 30 days after the completion of the alteration or work unless a certificate of occupancy has been issued. No change shall be made in the nature of the occupancy of an existing building unless a certificate of occupancy authorizing the change has been issued. The owner or his agent shall make application for a certificate of occupancy.

B. A temporary certificate of occupancy may be issued if the building or structure or a designated portion of a building or structure is sufficiently complete that it may be put to the use for which it is intended. A temporary certificate of occupancy shall expire six months from the date of issuance or at an earlier date if so specified. A temporary certificate of occupancy may, at the discretion of the CEO and upon payment of an additional fee as specified for a temporary certificate of occupancy, be renewed. The CEO may place special conditions on Temporary Certificates of Occupancy as necessary to insure safety and to protect the interest of the Town.

SECTION 10: INSPECTION

A. Inspections during construction:

1. Work for which a building permit has been issued hereunder shall be inspected for approval prior to enclosing or covering any portion thereof and upon completion of each stage of construction, including, but not limited to, building location; site preparation; excavation; footing and foundation; preparation for concrete slab; framing; building systems; fire resistant construction; fire resistant penetrations; superstructure; solid fuel burning appliances, chimneys, flues or gas vents; energy code compliance; electrical; plumbing; and heating and air conditioning. It shall be the responsibility of the owner, applicant, or his agent to inform the inspector that the work is ready for inspection and to schedule such inspection. Such notification shall be given to the CEO not less than one working day prior to the time the inspection is to be scheduled unless otherwise approved by the CEO. All inspections shall be scheduled on regular working days during normal working hours.
2. Work which requires special inspections during construction shall be the responsibility of the owner, applicant, or his agent, at their expense. A statement of the special inspections, including a complete list of materials and work requiring such inspections, and a list of the individuals, and approved agencies shall be provided to the CEO for the permit application file. The reports of such special inspections shall be provided to the CEO for the permanent record.
3. If entrance to make an inspection is refused or cannot be obtained, the Town Board, after being notified by the inspector of the situation, may apply to any court of competent jurisdiction for an order to make an inspection.
4. Failure to request an inspection shall be cause for rejection of the work or an order to expose the work for inspection.

B. Fire Prevention and Property Maintenance Inspections

1. Fire safety inspections of buildings or structures having areas of public assembly, defined as "all buildings or portions of buildings used for gathering together fifty or more persons for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social, or similar purposes, the entire fire area of which they are a part, and the means of egress there from" shall be performed at least once in every twelve (12) months.
2. All other buildings, uses and occupancies (except one- or two-family dwellings) shall be inspected at any other time upon:
 - a.) The request of the owner, authorized agent, or tenant.
 - b.) Other reasonable and reliable information that a violation exists.

C. The CEO may, at any reasonable hour, enter any building, with the exception of a dwelling, for the purpose of making any inspection or investigation to ensure compliance with the provisions of this local law and the Uniform Code. Should entrance be refused or permission to enter be unable to be obtained, application may be made for an order to make such inspection to any court of competent jurisdiction.

D. The chief of any fire department providing fire fighting services for a property shall notify the CEO of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent. The chief shall provide such notification to the CEO, in writing, within five (5) business days of the date of the fire or explosion. Such notice shall contain the following:

1. Full name and address of the owner and if by a corporation, the name and address of the responsible officials;
2. Location of the property; and
3. Description of the structural damage or fuel burning appliance, chimney or gas vent involved.

SECTION 11: VIOLATIONS

A. Upon determination that a violation of the Uniform Code or this local law exists in, on, or about any building or premises, the CEO shall order in writing the remedying of the condition. Such order shall state the specific provision of the Uniform Code which the particular condition violates and shall grant such time as may be reasonably necessary for achieving compliance before proceedings to compel compliance shall be instituted. Such order shall be served personally or by notification by certified mail.

B. In addition to those penalties proscribed by State law, any person, firm or corporation who violates any provision of the Uniform Code or any rule or regulation of this local law, or the terms or conditions of any Certificate of Occupancy issued by the CEO, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the Town of Springwater on its own initiative or at the request of the CEO.

C. Alternatively or in addition to an action to recover the civil penalties provided by subsection B, the Town Board may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code or the terms or conditions of any Certificate of Occupancy issued by the CEO.

SECTION 12: STOP WORK ORDERS

Whenever the CEO has reason to believe that the work on any building or structure is being performed in violation of the provisions of the applicable building laws, ordinances, rules or regulations, or not in conformity with the provisions of an application, or in an unsafe and dangerous manner, he shall notify the owner of the property, or the owner's agent, to suspend all work and suspend all building activities until the stop work order has been rescinded. Such order and notice shall be in writing, shall state the conditions under which the work may be resumed and shall be served upon the person to whom it is directed either by delivering it personally to him, or by posting the same upon a conspicuous portion of the building where the work is being performed and sending a copy of the same to him by certified mail at the address set forth in the application for the building permit.

SECTION 13: DEPARTMENT RECORDS AND REPORTS

A. The CEO shall keep permanent official records of all transactions and activities conducted by him, including all applications received, plans approved, permits and certificates issued, fees

charged and collected, inspection reports, all rules and regulations promulgated by him with the consent of the Town Board, and notices and orders issued. 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.

B. The CEO shall annually submit to the Town Board a written report and summary of all business conducted by his office, including approvals, permits and certificates issued, fees collected, orders and notices promulgated, inspections and tests made, and appeals or litigation pending or concluded.

SECTION 14: LIABILITY OF TOWN

This local law shall not be construed to hold any CEO of the Town of Springwater responsible for any damages to persons or property by the reason of the inspection or reinspection authorized herein or failure to inspect or reinspect, as required by any permits under this local law, nor shall the Town be liable for any damages to persons or property by reason of the CEO exercising their discretion as provided in this local law.

SECTION 15: MORE STRINGENT RESTRICTIONS TO APPLY

In the event that the provisions of this local law shall be in conflict with any other law, rule or regulation, the more stringent provision shall govern.

SECTION 16: APPLICABILITY

This local law shall apply, upon its effective date, to all buildings, structures or appurtenances thereto or portions thereof in the Town of Springwater. This local law, upon its effective date, shall also apply to all departments of the Town of Springwater, all residents, citizens, and businesses, and all permits or certificates of occupancy or compliance issued or to be issued and all actions of the Town of Springwater, its offices and employees in carrying out and enforcing the Uniform Code and related laws, codes, ordinances and regulations, as more fully set forth within.

SECTION 17: EFFECTIVE DATE

This local law shall be effective upon its filing with the New York State Secretary of State.