

§ 24-7. Severability.

The invalidity of any section, clause, sentence or provision of this chapter shall not affect the validity of any other part of this chapter which can be given effect without such invalid part or parts.

§ 24-8. When effective.

This chapter shall take effect immediately.

## **Chapter 26**

### **BUILDING CONSTRUCTION**

**§ 26-1. Authority**

**§ 26-2. Designation of Code Enforcement Official as Public Officer**

**§ 26-3. Code Enforcement Official**

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**§ 26-12. Departments of Records and Reports**

**§ 26-13. Stop-Work Orders**

**§ 26-14. Violations**

**[History: Adopted by the Board of Trustees of the Village of Port Dickinson 7-11-95 as Local Law 8-1995.]**

**§ 26-1. Authority**

This Local Law is enacted pursuant to the provisions of Section 381 of the Executive Law of the State of New York and all other applicable laws.

## **§ 26-2. Designation of Code Enforcement Official as Public Official**

There is hereby designated in the Village of Port Dickinson a public official to be known as the Code Enforcement Official, who shall be appointed by the Mayor with the approval of the Board of Trustees at a compensation to be fixed by it from time to time.

## **§ 26-3. Code Enforcement Official**

In the absence of the Code Enforcement Official, or in the case of his inability to act for any reason, the Mayor shall have the power to act in behalf of the Code Enforcement Official and to exercise all the powers conferred upon him by this Local Law, or, with the consent of the Board of Trustees to designate a person to act in behalf of the Code Enforcement Official and to exercise all the powers conferred upon him by this Local Law.

## **§ 26-4. Duties and Powers of Code Enforcement Official**

Except as otherwise specifically provided by law, ordinance, rule or regulation, the Code Enforcement Official shall administer and enforce all of the provisions of the New York State Uniform Fire Prevention and Building Code and other laws, ordinances, rules and regulations adopted by the Village of Port Dickinson Pursuant to this Local Law applicable to plans, specifications, or permits for the construction, alteration and repair of buildings and structures, and the installation and use of materials and equipment therein, and to the location, use and occupancy thereof.

## **§ 26-5. Rules and Regulations**

The Board of Trustees may, after public notice and publication at least five (5) days prior to the effective date thereof in a news-paper of general circulation within the Village, adopt such further procedural/administrative rules and regulations as the board deems reasonable to carry out the provisions of this local law. The Enforcement Officer may make recommendations to the Board of Trustees to adopt, amend or appeal such rules and regulations as they may relate to efficient administration and enforcement of the provisions of the Uniform Code. Such rules and regulations shall not conflict with the Uniform Code, this local law, or any other provision of law.

## **§ 26-6. Restrictions on Employees**

The Code Enforcement Official shall not engage in any activity inconsistent with his duties, or with the interests of the building department; nor shall he, during the term of his employment, be engaged directly or indirectly in any building business, in the furnishing of labor, materials, supplies or appliances for, or the supervision of, the construction, alteration, demolition or maintenance of a building or the preparation

of plans or specifications thereof within the County of Broome except that this provision shall not prohibit him from engaging in any such activities in connection with the construction of a building or structure owned by him for his own personal use and occupancy or for the use and occupancy of members of his immediate family, and not constructed for sale.

#### **§ 26-7. Review Board**

- (a) Where practicable difficulties or unnecessary hardship may result from enforcement of the strict letter of any provision of the uniform Code, applications for variances consistent with the spirit of the Code may be made to the regional Board of Review in accordance with Part 450 of the New York Code of Rules and Regulations entitled “Uniform Code: Board of Review” as promulgated by the New York Department of State. The Code Enforcement Official shall maintain a copy of such rules and regulations for public inspection and shall obtain and retain a copy of all decisions rendered by the Board of Review pertaining to matters affecting the Village of Port Dickinson.
- (b) Where practical difficulties or unnecessary hardship may result from enforcement of the strict letter of any provision of this Local Law or any rule or regulation hereunder which provision is not required by the Uniform Code, applications for variances and appeals, consistent with the spirit of such law, rule or regulation, may be made to the Village Zoning Board of Appeals.

#### **§ 26-8. Building Permit**

- (a) No person firm or corporation shall commence the excavation, erection, construction, enlargement, alteration, or improvement of any building or structure, install solid fuel heating equipment or cause the same to be done, or commence the demolition of any building or structure on any portion thereof, without first obtaining a separate building permit from the Code Enforcement Official for each such building or structure; except that no building permit shall be required for:
  - (1) Performance of necessary repairs which do not involve material alteration of structural features, and/or plumbing, electrical or heating/ventilation systems, including, for example, the replacement of siding and roofing materials, nor for the erection of fences, nor
  - (2) The construction of non-commercial storage facilities of less than 140 square feet of gross floor area. Such work shall nevertheless be done in conformance with the Uniform Fire Prevention and Building Code, nor
  - (3) Alterations to existing buildings, provided that they:
    - (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 or flues; or more persons as quarters for living, sleeping, eating or cooking, for example; a small storage building, nor

(4) Agricultural buildings or structures.

- (b) The Code Enforcement Official shall receive applications, approve plans and specifications, and issue permits for the erection and alteration of buildings or structures or parts thereof and shall examine the premises for which such applications have been received, plans approved, or such permits have been issued for the purpose of insuring compliance with laws, ordinances, rules and regulations governing building construction or alterations.

A building permit will be issued when the application has been determined to be complete, when the proposed work is determined to conform to the provisions of the Uniform Code, and when the Code Enforcement Officer has determined that the proposed work is in compliance with the Zoning Code of the Village. The permit shall be prominently displayed on the property or premises to which it pertains during construction so as to be readily seen from adjacent thoroughfares, if possible.

- (c) The form of the permit and application therefore shall be prescribed by resolution of the Board of Trustees. The application shall be signed by the owner (or his authorized agent) of the building or work and shall contain at least the following:

- (1) Name and address of the owner;

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

- (3) Description of use or occupancy of the land and existing or proposed building;

- (4) Description of the proposed work;

- (5) Estimated cost of the proposed work;

- (6) Statement that the work shall be performed in compliance with the Uniform Code and applicable State and local laws, ordinances and regulations;

- (7) Required fee.

- (d) Such application shall be accompanied by such documents, drawings, plans (including plot plan) and specifications as the applicant shall deem adequate and appropriate for compliance with the local law, or as the Code Enforcement Officer may require as being necessary or appropriate in his judgment. Applicant may confer with the Code Enforcement Officer in advance of submitting his application to discuss the Code Enforcement Officer's requirements for same.

- (e) Any plans (including plot plan) or specifications which com-prise a portion of the application, whether submitted subsequently upon requirement by the Code Enforcement Officer, shall be stamped with the seal of an architect or professional engineer or land sur-veyor licensed in this State, and shall in all respects comply with Section 7209 and 7307 of the Education Law of the State of New York as same may be amended from time to time.
- (f) Applicant shall notify the Enforcement Officer 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 is 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.
- (g) A building permit issued pursuant to this Local Law may be suspended or revoked if it is determined 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.
- (h) 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:
  - (1) The permit has not been revoked or suspended at the time the application for renewal is made.
  - (2) The relevant information in the application is up to date, and
  - (3) The renewal fee is paid.

**§26-9. Fees** [Para (a) amended 4-12-05 as Local Law 3 -2005]

Any person applying for a building permit shall, in addition to filing an application therefor as provided in §26-8 of this Chapter, pay to the Code Enforcement Officer before the permit is issued, the fee required in this section as follows:

- (a) For the construction of a new building, additions, alterations or other structures equal to or exceeding one hundred twenty (120) square feet in area:
  - (1) One and two-family dwellings: \$.01 per square foot or the sum of Twenty-five Dollars (\$25.00), whichever shall be more:
  - (2) Multiple dwellings: \$.02 per square foot. or the sum of Twenty-five Dollars (\$25.00), whichever shall be more:

- (3) General Commercial Construction: \$.02 per square foot. or the sum of Twenty-five Dollars (\$25.00), whichever shall be more:
- (4) Industrial Construction: \$.03 per square foot. or the sum of Twenty-five Dollars (\$25.00), whichever shall be more:
- (5) Supplemental Structure:
  - a. Residential - whether attached to or detached from the main structure, more particularly in reference to, but not limited to, garages, patios, decks, breezeways, porch enclosure or enlargement, dormers and swimming pools: \$5.00. . or the sum of Twenty-five Dollars (\$25.00), whichever shall be more:
  - b. Commercial - \$.02 per square foot. or the sum of Twenty-five Dollars (\$25.00), whichever shall be more:
  - c. Industrial - \$.03 per square foot. or the sum of Twenty-five Dollars (\$25.00), whichever shall be more:
- (6) The square feet of area shall be determined from the outside dimensions of the structures and shall include all floor areas, except for nonhabitable basements and attics of dwellings and garages.

(b) Alteration of a Building:

- (1) Residential - \$5.00.
- (2) Commercial - \$10.00.
- (3) Industrial - \$10.00.

(c) Moving Any Type of Building to a New Location:

- (1) Residential - \$10.00.
- (2) Commercial - \$10.00.
- (3) Industrial - \$10.00.

(d) The demolition or wrecking of any building or structure shall be Five Dollars (\$5.00).

(e) Erection of signs and billboards equal to or exceeding ten (10) square feet in area shall be Five Dollars (\$5.00).

(f) No permit fee will be required for construction work less than one hundred twenty square feet (120) in area or for the erection of signs less than ten (10) square feet in area.

(g) No permit fee will be required for the erection on any lot of not more than one prefabricated metal storage shed not exceeding one hundred twenty (120) square

feet in gross floor area and to be used exclusively for the storage of lawn and garden equipment and tools.

- (h) The fee for renewal of a building permit when construction has not been completed within one year of its issuance shall be Five Dollars (\$5.00).
- (i) Any work which is not specifically provided for above, and for which a fee must be obtained, shall be charged a fee in accordance with the rate set forth in the category herein most analogous to such work to be determined at the discretion of the Code Enforcement Officer.
- (j) The definitions of one and two family dwellings, multiple dwellings and general construction shall be those set forth in the Uniform Code.
- (k) In the event any work is commenced prior to the issuance of a permit pursuant to the terms of this section, the permit fee shall be twice the amount of the regular fee above set forth.
- (l) The Building Inspector shall keep a record of all fees collected and received under this local law with the name of the persons upon whose account the fee was paid out and the date and amount there-of, together with the location of the building or premises to which they relate, and the amounts so collected shall be paid over monthly to the Village Treasurer.

#### **§ 26-10. Certificate of Occupancy**

- (a) No building erected subject to the Uniform Code and this local law shall be used or occupied, except to the extent provided in this section, until a certificate of occupancy has been issued. No building similarly enlarged, extended, or altered, or upon which work has been performed which required the issuance of a building permit shall be occupied or used for more than thirty (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 (6) months from the date of issuance, but may be renewed an indefinite number of times.
- (c) No certificate of occupancy shall be issued except upon an inspection which reveals no uncorrected deficiency or material violation of the Uniform Code in the area intended for use and upon payment of the appropriate fee.

#### **§ 26-11. Inspections.**

- (a) Work for which a building permit has been issued under this local law 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, foundation, framing, superstructure, electrical, plumbing, and heating and air conditioning. It shall be the responsibility of the owner, applicant, or his agent to inform the Code Enforcement Officer that the work is ready for inspection and to schedule such inspection.

- (b) Existing buildings not subject to inspection under subdivision “(a)” of this section shall be subject to periodic inspections for compliance with the Uniform Code in accordance with the following schedule: all areas of public assembly as defined in the Uniform Code, all buildings or structures containing areas of public assembly, and the common areas of multiple dwellings - every six months; all buildings or structures open to the general public - every twelve months; all other buildings - every 24 months. Notwithstanding any requirement of this subdivision to the contrary, no regular periodic inspections of occupied dwelling units shall be required provided, however, that this shall not be a limitation on inspections conducted at the invitation of the occupant or where conditions on the premises threaten or present a hazard to public health, safety, or welfare.
- (c) This Local Law shall not be construed to relieve from or lessen the responsibility of any person, owning, operating, or controlling any building or structure within the Village of Port Dickinson for loss of life or damage to person or property caused by any defect therein, nor shall the Village of Port Dickinson be deemed to have assumed any such liability by reason of any inspection made pursuant to this Local Law.

#### **§ 26-12. Department Records and Reports**

- (a) The Code Enforcement Officer 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 the municipality, and notices and orders issued. All such reports shall be public information open to public inspection during normal business hours.
- (b) The Code Enforcement Officer shall monthly submit to the Board of Trustees a written report of all business conducted.

#### **§ 26-13. Stop-Work Orders**

- (a) Whenever the Code Enforcement Officer has reasonable grounds to believe that work on any building or structure is proceeding without a permit, or is otherwise in violation of the provisions of any applicable law, code, ordinance or regulation, or is not in conformity with any of the provisions of the application, plans or specifications on the basis of which a permit was issued, or

is being conducted in an unsafe and dangerous manner, he shall notify either the owner of the property or the owner's agent or person, firm or corporation performing the work to immediately suspend all work. In such instance, any and all persons shall immediately suspend all related activities until the stop-work order has been duly rescinded.

- (b) Such stop-work order shall be in writing on a form pre-scribed by the Code Enforcement Officer and shall state the reasons of the stop-work order, together with the date of issuance. The stop-work order shall bear the signature of the Code Enforcement Officer and shall be prominently posted at the work site. A stop work order shall be served upon a person to whom it is directed either by delivering it personally, 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 the person, firm or corporation by certified mail.

#### **§ 26-14. Violations.**

- (a) Upon determination by the Code Enforcement Officer that a violation of the Uniform Code or this local law exists in, on, or about any building or premises, the Code Enforcement Officer 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 registered mail.
- (b) It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, equip, use or occupy any building or structure or portion thereof in violation of any provision of the new York State Uniform Fire Prevention and Building Code, or any amend-ment hereafter made thereto, as well as any regulation or rule promulgated by the Board of Trustees, or to fail to comply with a notice, order or directive of the Code Enforcer, or to construct, alter, repair, move or equip any building or structure or part hereof in a manner not permitted by an approved building permit.
- (c) 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 Building and Fire Safety Inspector, shall be liable to a fine of not more than \$50.00 for each day that the violation continues and to a civil penalty of not more than \$100.00 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 Board of Trustees on its own initiative or at the request of the Code Enforcement Officer.
- (d) Alternatively or in addition to an action to recover the civil penalties provided by subsection (b), the Board of Trustees 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 Code Enforcement Officer, or to vacate the occupancy or building in case of imminent peril of life or property, notwithstanding that

a penalty or other punishment for such violation has otherwise been provided.

## Chapter 29

### DEFECTS, NOTIFICATION OF

§ 29-1. Notification required.

§ 29-2. Maintenance of records; notification of receipt of notice.

§ 29-3. Effect on existing requirements; severability.

§ 29-4. When effective.

[HISTORY: Adapted by the Board of Trustees of the Village of Port Dickinson 8-6-85 as Local Law No. 2-1985. Amendments noted where applicable.]

#### GENERAL REFERENCES

Streets and sidewalks—See Ch. 52.

§ 29-1. Notification required.

No civil action shall be maintained against the Village of Port Dickinson (hereinafter referred to as the “Village”) for damages or injuries to person or property sustained in consequence of any street, highway, bridge, culvert, sidewalk or crosswalk being defective, out of repair, unsafe, dangerous or obstructed or for damages or injuries to person or property sustained solely in consequence of the existence of snow or ice upon any sidewalk, crosswalk, street, highway, bridge or culvert unless written notice of the defective, unsafe, dangerous or obstructed condition or of the existence of the snow or ice, relating to the particular place, was actually given to the Village Clerk and there was a failure or neglect within a reasonable time after the receipt of such notice to repair or remove the defect, danger or obstruction complained of, or to cause the snow or ice to be removed, or the place otherwise made reasonably safe. [Amended by Local Law No. 2 - 2002 on September 10, 2002]

§ 29-2. Maintenance of records; notification of receipt of notice.

The Village Clerk of the village shall keep an index record, in a separate book, of all written notices which the Village Clerk shall receive of the existence of a defective, unsafe, dangerous or obstructed condition in or upon, or of any accumulation of ice and snow upon, any village street, highway, bridge, culvert or sidewalk or any other property owned by the village, which record shall state the date of the receipt of the notice, the nature and location of the condition stated to exist and the name and address of the person from whom the notice is received. The record of such notice shall be preserved for a period of five (5) years from the date it is received. The Village Clerk, upon receipt of such written notice, shall immediately and in writing notify the Public Works Superintendent and Mayor of the village of the receipt of such notice.

§ 29-3. Effect on existing requirements; severability.