

## **Bill WHD 24-\_\_**

A local law amending and restating Chapter 220 of the Code of the Village of West Hampton Dunes, a law providing for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code.

**Section 1.** Village Code Chapter 220 is hereby amended in its entirety, to read as follows:

### **“Chapter 220 Building Construction**

#### **220-1. PURPOSE AND INTENT**

A. The purpose of this Chapter is to provide for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in the Village of West Hampton Dunes. Except as otherwise provided in the Uniform Code, the Energy Code other State law, or other section of this Chapter, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this Chapter.

B. The intent of the of this Chapter is:

1. To promote in the public interest the orderly enforcement of building and construction laws and regulations in the Village.

2. To provide for the safety and well-being of the residents of the Village and the visitors to the Village, and to provide for safe conditions in the Village.

#### **220-2. DEFINITIONS**

The following terms shall have the meanings shown in this section:

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

“BCNYS” shall mean the 2020 Building Code of the New York State or any successor, updated or amended versions of the BCNYS.

“Building Inspector” shall mean the official appointed by the Mayor subject to approval by the Board of Trustees for the purpose of enforcing the provisions of this Chapter. Building Inspector and Deputy Building Inspectors shall be referred to as “Inspectors”.

“Building Permit” shall mean a building permit, construction permit, demolition permit, or other permit that authorizes the performance of work. The term “Building Permit” shall also include a Building Permit which is renewed, amended, or extended pursuant to any provision of this Chapter.

“Certificate of Compliance” shall mean a document issued by the Village of West Hampton Dunes stating that work was done in compliance with approved construction documents, this Chapter and the Codes.

“Certificate of Occupancy” shall mean a document issued by the Village of West Hampton Dunes certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and approved by the Building Inspector or Code Enforcement Official of the Village of West Hampton Dunes and indicating that the building or structure, or portion thereof, is in a condition suitable for occupancy.

“Code Enforcement Officer” shall mean the Code Enforcement Officer appointed pursuant to section 220-3(B) of this Chapter.

“Code Enforcement Official” shall mean the Code Enforcement Official qualified and appointed pursuant to the New York State Uniform Code and this Chapter.

“Code Enforcement Personnel” shall include the Code Enforcement Official and all Inspectors.

“Codes” shall mean the Uniform Code and Energy Code.

“Deputy Building Inspector” shall mean the official appointed by the Mayor subject to approval by the Board of Trustees for the purpose of enforcing the provisions of this Chapter upon the direction of the Building Inspector in assisting the Building Inspector perform his or her duties under this Chapter or under the Uniform Code, or when the Building Inspector has a conflict or is unable to serve on a particular application or matter or period of time.

“Energy Code” shall mean the New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law.

“FCNYS” shall mean the 2020 Fire Code of New York State as currently incorporated by reference in 19 NYCRR Part 1225, and includes any subsequent amendments to the FCNYS.

“Fire Safety and Property Maintenance Inspection” shall mean an inspection performed to determine compliance with the applicable provisions of 19 NYCRR Part 1225 and the

publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference.

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

“Inspector” shall mean an inspector appointed pursuant to section 220-3(D) of this Chapter.

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

“Operating Permit” shall mean a permit issued pursuant to section 220-10 of this Chapter. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended, or extended pursuant to any provision of this Chapter.

“Order to Remedy” shall mean an order issued by the Code Enforcement Official or Building Inspector pursuant to section 220-17(A) of this Chapter.

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

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

“PMCNYS” shall mean the 2020 Property Maintenance Code of New York State as currently incorporated by reference in 19 NYCRR Part 1226 or any successor, updated or amended versions of the PMCNYS.

“RCNYS” shall mean the 2020 Residential Code of New York State as currently incorporated by reference in 19 NYCRR Part 1220 or any successor, updated or amended versions of the RCNYS.

“Repair” shall mean the reconstruction, replacement, or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

“Stop Work Order” shall mean an order issued pursuant to section 220-6 of this Chapter.

“Temporary Certificate of Occupancy” shall mean a certificate issued pursuant to section 220-

7(D) of this Chapter.

“Uniform Code” shall mean the New York State Uniform Fire Prevention and Building Code, Subchapter A of Chapter XXXIII of Title 19 of the NYCRR, adopted pursuant to Article 18 of the Executive Law.

“Village” shall mean the Village of West Hampton Dunes.

### **220-3. CODE ENFORCEMENT OFFICIAL AND INSPECTORS, AND CODE ENFORCEMENT OFFICE.**

A. The Office of Code Enforcement is hereby continued. The Code Enforcement Official shall administer and enforce all the provisions of the Uniform Code, the Energy Code, and this Chapter. The Code Enforcement Official shall have the following powers and duties:

1. to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, Demolition Permits, and Operating Permits, and the plans, specifications, and construction documents submitted with such applications;

2. upon approval of such applications, to issue Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, Demolition Permits, and Operating Permits, and to include in terms and conditions as the Code Enforcement Official or Building Inspector may determine to be appropriate Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, Demolition Permits, and Operating Permits;

3. to conduct construction inspections; inspections to be made prior to the issuance of Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, Demolition Permits, 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 220-17(A) of this Chapter 220;

7. to maintain records;

8. to collect fees as set by the Board of Trustees of the Village;

9. to pursue administrative enforcement actions and proceedings;

10. in consultation with the Village Attorney, and with the approval of the Board of Trustees, 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 Official or Building Inspector and Inspectors by this Chapter and the Uniform Code.

12. The Code Enforcement Officer shall have the authority to issue Notices of violation, violations, stop work orders, review and investigate complaints, maintain records, and pursue administrative enforcement actions and proceedings, arising from this Chapter, as well as other chapters of the West Hampton Dunes Village Code.

B. The Building Inspector, Inspectors and Code Enforcement Official and Code Enforcement Officer shall be appointed by the Mayor of the Village and approved by the Board of Trustees. The Code Enforcement Official and Building Inspector and Inspectors 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 Building Inspector and Code Enforcement Official, and the shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

C. If the Code Enforcement Official or Building Inspector is unable to serve as such for any reason, another individual shall be appointed by Mayor subject to approval by the Board of Trustees to serve as Acting Code Enforcement Official. The Acting Code Enforcement Official or Building Inspector shall, during the term of their appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Official or Building Inspector by this Chapter.

D. One or more Inspectors may be appointed by the Mayor and approved by the Board of Trustees to act under the supervision and direction of the Code Enforcement Official or Building Inspector and to assist the Code Enforcement Official or Building Inspector in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Official or Building Inspector 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 Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

E. The compensation for the Code Enforcement Officer, Code Enforcement Official

or Building Inspector and Inspectors shall be fixed from time to time by the Board of Trustees of the Village.

#### **220-4. BUILDING PERMITS.**

A. Building Permits Required. 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 Village.

B. 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 Official. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Official or Building Inspector deems sufficient to permit a determination by the Code Enforcement Official or Building Inspector that the person applying for the permit has authority to act on behalf of the owner. Where the property is owned by a limited liability company, corporation or partnership, all individual beneficial owners shall be identified as part of the application. The Code Enforcement Official or Building Inspector shall review the application to determine whether the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

1. a description of the location, nature, extent, and scope of the proposed work;
2. the tax map number and the street address of any affected building or structure;
3. the occupancy classification of any affected building or structure;
4. where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
5. at least 2 sets of construction documents (drawings and/or specifications) which (i) describe the location, nature, extent, and scope of the proposed work; (ii) show that the proposed work will conform to the applicable provisions of the Codes; (iii) show the location, construction, size, and character of all portions of the means of egress; (iv) show a representation of the building thermal envelope; (v) show structural information including but not limited to braced wall designs, the size, section, and relative locations of structural members, design loads, and other pertinent structural information; (vi) show the proposed structural, electrical, plumbing, mechanical, fire-protection, and other service systems of the building; (vii) include a written statement indicating compliance with the Energy Code; (viii) include a site plan, drawn

to scale and drawn in accordance with an accurate boundary survey, showing the size and location of new construction and existing structures and appurtenances on the site, distances from lot lines, the established street grades and the proposed finished grades, and, as applicable, flood hazard areas, floodways, and design flood elevations; and (ix) evidence that the documents were prepared by a licensed and registered architect in accordance with Article 147 of the New York State Education Law or a licensed and registered professional engineer in accordance with Article 145 of the New York State Education Law and practice guidelines, including but not limited to the design professional's seal which clearly and legibly shows both the design professional's name and license number and is signed by the design professional whose name appears on the seal in such a manner that neither the name nor the number is obscured in any way, the design professional's registration expiration date, the design professional's firm name (if not a sole practitioner), and, if the documents are submitted by a professional engineering firm and not a sole practitioner professional engineer, the firm's Certificate of Authorization number.

6. A signed list identifying all of the beneficial owners where the property is owned by a limited liability company, corporation or partnership.

C. 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 paragraph (5) of subdivision (d) 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 Official or Building Inspector in writing or by stamp, or in the case of electronic media, an electronic marking. One set of the accepted construction documents shall be retained by the Code Enforcement Official, 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.

D. 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 Official or Building Inspector shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

E. 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.

F. 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 Official or Building Inspector of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Official or Building Inspector 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.

G. 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 one year after the date of issuance.

1. A Building Permit may be renewed for two one year extensions. .

2. An application for the extension of an expiring Building Permit must be filed with the Village of West Hampton Dunes not less than fifteen (15) calendar days prior to the date of the expiration of the Building Permit.

H. Revocation or suspension of Building Permits. If the Code Enforcement Official or Building Inspector 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 Official or Building Inspector 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.

I. Fees. Fees for all permits required herein shall be as determined by the Board of Trustees from time to time by resolution. The fees specified in or determined in accordance with the provisions set forth in Section 220-18 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.

#### **220-5. CONSTRUCTION INSPECTIONS.**

A. Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Official or Building Inspector or by an Inspector authorized by the Code Enforcement Official. The Permit Holder shall notify the Code Enforcement Official or Building Inspector when any element of work described in subdivision (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, where applicable:



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

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

D. 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 the manner in which the work fails to comply with the Uniform Code or Energy Code, including a citation to the specific code provision or provisions that have not been met. Work not in compliance with any applicable

provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

E. Fee. . Fees for all permits required herein shall be as determined by the Board of Trustees from time to time by resolution. The fees specified in or determined in accordance with the provisions set forth in section 220-18 of this Chapter must be paid prior to or at the time of each inspection performed pursuant to this section.

#### **220-6. STOP WORK ORDERS.**

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

1. any work that is determined by the Code Enforcement Official or Building Inspector 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 Building Inspector or Code Enforcement Official, 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 Building Inspector or Code Enforcement Official, (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 Building Inspector or Code Enforcement Official shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by certified and regular mail. The Building Inspector or Code Enforcement Official 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 certified and regular mail, provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

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

E. Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) of this section, and the authority to issue a Stop Work Order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under section 17 (Violations) of this Chapter 220 or under any other applicable Chapter 220 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.

#### **220-7. CERTIFICATES OF OCCUPANCY AND CERTIFICATES OF COMPLIANCE**

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

B. Issuance of Certificates of Occupancy and Certificates of Compliance. The Building Inspector or Code Enforcement Official shall issue a Certificate of Occupancy or Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Official or Building Inspector or an Inspector authorized by the Code Enforcement Official or Building Inspector shall inspect the building, structure, or work prior to the issuance of a Certificate of Occupancy or Certificate of Compliance. 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 Building Inspector or Code Enforcement Official, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance, shall be provided to the Code Enforcement Official or Building Inspector prior to the issuance of the Certificate of Occupancy or Certificate of Compliance:

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

2. flood hazard certifications,
3. a written statement of the results of tests performed to show compliance with the Energy Code, and
4. where applicable, the affixation of the appropriate seals, insignias, and manufacturer's data plates as required for factory manufactured buildings and/or manufactured homes.

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

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

D. Temporary Certificate of Occupancy. The Code Enforcement Official or Building Inspector shall be permitted to issue a Temporary Certificate of Occupancy allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Official or Building Inspector issue a Temporary Certificate of Occupancy unless the Code Enforcement Official or Building Inspector determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate of Occupancy, may be occupied safely, (2) that any required fire and life safety components, such as fire protection equipment and fire, smoke, carbon monoxide, and heat detectors and alarms are installed and operational, and (3) that all required means of egress from the structure have been provided. The Code Enforcement Official or Building Inspector may include in a Temporary Certificate of

Occupancy such terms and conditions as he or she deems necessary or appropriate to ensure the health and safety of the persons occupying and using the building or structure and/or performing further construction work in the building or structure. A Temporary Certificate of Occupancy shall be effective for a term to be set by the Code Enforcement Official or Building Inspector which may be up to but not exceeding six (6) months and shall be specified in the Temporary Certificate of Occupancy. During the specified period of effectiveness of the Temporary Certificate of Occupancy, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

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

F. Fees. . Fees for all permits required herein shall be as determined by the Board of Trustees from time to time by resolution. The fees specified in or determined in accordance with the provisions set forth in Section 220-18 of this Chapter must be paid at the time of submission of an application for a Certificate of Occupancy, Certificate of Compliance, or for Temporary Certificate of Occupancy.

#### **220-8. NOTIFICATION REGARDING FIRE OR EXPLOSION.**

The Chief of the Westhampton Beach Fire Department or any other Fire Department responding in the Village of West Hampton Dunes shall promptly notify the Code Enforcement Official or Building Inspector of any fire or explosion involving any structural damage, fuel burning appliance, chimney, or gas vent.

#### **220-9. UNSAFE BUILDINGS, STRUCTURES, AND EQUIPMENT AND CONDITIONS OF IMMINENT DANGER**

Unsafe buildings, structures, and equipment and conditions of imminent danger in this Village of West Hampton Dunes may be identified and addressed in accordance with Chapter 180 of the West Hampton Dunes Village Code and as provided in the New York State General Municipal Law, New York State Executive Law, New York State Village Law, New York State Civil Practice Law and Rules, Uniform Code and any other applicable codes and regulations.

#### **220-10. OPERATING PERMITS**

A. Operating Permits required. Operating Permits shall be required for conducting any process or activity of or operating any type of building, structure, or facility listed below:

1. Manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in the applicable Maximum Allowable Quantity tables found in Chapter 50 of the FCNYS;

2. Buildings, structures, facilities, processes, and/or activities that are within the scope and/or permit requirements of the chapter or section title of the FCNYS as follows:

i. Chapter 22; “Combustible dust-Producing Operations.” Facilities where the operation produces combustible dust:

ii. Chapter 24; “Flammable Finishes.” Operations utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24 of the FCNYS;

iii. Chapter 25, “Fruit and Crop Ripening.” Operating a fruit or crop-ripening facility or conducting a fruit-ripening process using ethylene gas;

iv. Chapter 26, “Fumigation and Insecticidal Fogging.” Conducting fumigation or insecticidal fogging operations in buildings, structures, and spaces, except for fumigation or insecticidal fogging performed by the occupant of a detached one-family dwelling;

v. Chapter 31. “Tents, Temporary Special Event Structures, and other Membrane Structures.” Operating and air-supported temporary membrane structure, a temporary special event structure, or a tent where approval is required pursuant to Chapter 31 of the FCNYS.

vi. Chapter 32. “High-Piled Combustible Storage.” High-piled combustible storage facilities with more than 500 square feet (including aisles) of high-piled storage;

vii. Chapter 34, “Tire Rebuilding and Tire Storage,” Operating a facility that stores in excess of 2,500 cubic feet of scrap tires or tire byproducts or operating a tire rebuilding plant;

viii. Chapter 35, “Welding and Other Hot Work.” Performing public exhibitions and demonstrations where hot work is conducted, use of hot work, welding, or cutting equipment, inside or on a structure, except an operating permit is not required where work is conducted under the authorization of a building permit or where performed by the occupant of a detached one or two family dwelling.

ix. Chapter 40, “Sugarhouse Alternative Activity Provisions.” Conducting an alternative activity at a sugarhouse;

x. Chapter 56, “Explosives and Fireworks.” Possessing, manufacturing, storing,

handling, selling, or using, explosives, fireworks, or other pyrotechnic special effects materials except the outdoor use of sparkling devices as defined by Penal Law section 270;

xi. Section 307, “Open Burning, Recreational Fires and Portable Outdoor Fireplaces.” Conducting open burning, not including recreational fires and portable outdoor fireplaces;

xii. Section 308, “Open Flames.” Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies; and

xiii. Section 319, “Mobile Food Preparation Vehicles.” Operating a mobile food preparation vehicle in accordance with the permitting requirements established by this Chapter.

3. energy storage systems, where the system exceeds the values shown in Table 1206.1 of the FCNYS or exceeds the permitted aggregate ratings in section R327.5 of the RCNYS.

4. buildings containing one or more assembly areas;

5. outdoor events where the planned attendance exceeds 1,000 persons;

6. facilities that store, handle or use hazardous production materials;

7. parking garages as defined in subdivision (a) of section 13 of this Chapter;

8. buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Village of West Hampton Dunes; and

9. other processes or activities or for operating any type of building, structure, or facility as determined by resolution adopted by the [ specify legislative body] of this [ City / Town / Village].

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision

a. shall be required to obtain an Operating Permit prior to commencing such activity or operation.

b. Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials,

and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

c. This subdivision is intentionally omitted.

d. Inspections. The Code Enforcement Official or an Inspector authorized by the Code Enforcement Official or the Board of Trustees shall inspect the subject premises prior to the issuance of an Operating Permit. Such inspections shall be performed either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the Code Enforcement Official or an Inspector authorized by the Code Enforcement Official, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Official or Inspector authorized by the Code Enforcement Official that the premises conform with the applicable requirements of the Uniform Code and the code enforcement program. Should a remote inspection not afford the Village of West Hampton Dunes sufficient information to make a determination, an in-person inspection shall be performed. After inspection, the premises shall be noted as satisfactory and the operating permit shall be issued, or the operating permit holder shall be notified as to the manner in which the premises fail to comply with either or both of the Uniform Code and the code enforcement program, including a citation to the specific provision or provisions that have not been met.

e. Multiple Activities. In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Official may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in their discretion, issue a single Operating Permit to apply to all such activities.

f. Duration of Operating Permits. Operating permits shall be issued for a specified period of time consistent with local conditions, but in no event to exceed as follows:

(1) 30 days for tents, special event structures, and other membrane structures;

(2) 60 days for alternative activities at a sugarhouse;

(3) 3 years for the activities, structures, and operations determined per paragraph (9) of subdivision (a) of this section, and

(4) 1 year for all other activities, structures, and operations identified in subdivision (a) of this section.

The effective period of each Operating Permit shall be specified in the Operating Permit. An



Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.

g. Revocation or suspension of Operating Permits. If the Code Enforcement Official 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.

h. Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (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.

## **220-11. 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 Official or Building Inspector or an Inspector designated by the Code Enforcement Official or Building Inspector at the following intervals:

1. at least once every 12 months for buildings which contain an assembly area;
2. at least once every 12 months for public and private schools and colleges, including any buildings of such schools or colleges containing classrooms, dormitories, fraternities, sororities, laboratories, physical education, dining, or recreational facilities; and
3. at least once every 36 months for multiple dwellings and all nonresidential occupancies.

B. Remote inspections. At the discretion of the Code Enforcement Official or Building Inspector or Inspector authorized to perform fire safety and property maintenance inspections, a remote inspection may be performed in lieu of in-person inspections when, in the opinion of the Code Enforcement Official or Building Inspector or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Official or Building Inspector or such authorized Inspector that the premises conform with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference. Should a remote inspection not afford the Code Enforcement Official or Building Inspector or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.

C. Inspections permitted. In addition to the inspections required by subdivision (a) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Official or Building Inspector or an Inspector authorized to perform fire safety and property maintenance inspections 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 Official or Building Inspector 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 Official or Building Inspector of any other information, reasonably believed by the Code Enforcement Official or Building Inspector 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;

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

D. OFPC Inspections. Nothing in this section or in any other provision of this Chapter 220 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 or other authorized entity under Executive Law section 156-e and Education Law section 807-b.

## **220-12. COMPLAINTS**

A. The Code Enforcement Official or Building Inspector 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 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 Official or Building Inspector may deem to be appropriate:

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

2. if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and

opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 220-17 of this Chapter;

- a. if appropriate, issuing a Stop Work Order;
- b. 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.

### **220-13. CONDITION ASSESSMENTS OF PARKING GARAGES.**

A. Definitions. For the purposes of this Section:

1. the term “condition assessment” means an on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure;

2. the term “deterioration” means the weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component;

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

i. buildings in which the only level used for parking or storage of motor vehicles is on grade;

ii. an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and

iii. a townhouse unit with attached parking exclusively for such unit;

4. the term “professional engineer” means an individual who is licensed or otherwise authorized under Article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations;

5. the term “responsible professional engineer” means the professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report. The use of the term “responsible professional engineer” shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the

preparation of a condition assessment without being the responsible professional engineer for such condition assessment.

6. the term “unsafe condition” includes the conditions identified as “unsafe” in section 304.1.1, section 305.1.1, and section 306.1.1 of the PMCNYS; and

7. the term “unsafe structure” means a structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.

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

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

1. Parking garages constructed on or after August 29, 2018, shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure.

2. Parking garages constructed prior to August 29, 2018, shall undergo an initial condition assessment as follows:

i. if originally constructed prior to January 1, 1984, then prior to October 1, 2019;

ii. if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and

iii. if originally constructed between January 1, 2003 and August 28, 2018, then prior to October 1, 2021.

3. Any parking garage constructed prior to the effective date of the Chapter enacting this provision that has not undergone an initial condition assessment prior to that effective date shall undergo an initial condition assessment prior to December 31, 2024.

D. Periodic Condition Assessments. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed three (3) years.

E. Additional Condition Assessments.

1. If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.

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

F. Condition Assessment Reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the Village of West Hampton Dunes within three (3) months. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:

1. an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;

2. an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;

3. an evaluation and description of the unsafe conditions;

4. an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;

5. an evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;

6. an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;

7. the responsible professional engineer's recommendation regarding preventative maintenance;

8. except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and

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

G. Review Condition Assessment Reports. The Village of West Hampton Dunes shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the Village of West Hampton Dunes shall, by Order to Remedy or such other means of enforcement as the Village of West Hampton Dunes may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to paragraphs (2) and (3) of subdivision (f). All repairs and remedies shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the Village of West Hampton Dunes to take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.

H. The Village of West Hampton Dunes shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the Village of West Hampton Dunes with a written statement attesting to the fact that he or she has been so engaged,

the Village of West Hampton Dunes shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The Village of West Hampton Dunes shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.

I. This section shall not limit or impair the right or the obligation of the Village of West Hampton Dunes:

1. to perform such construction inspections as are required by section 220-5 of this Chapter; and/or

2. to perform such periodic fire safety and property maintenance inspections as are required by section 220-11 of this Chapter ; and/or

3. to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the Village of West Hampton Dunes by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.

#### **220-14. CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA.**

A. The Code Enforcement Official or Building Inspector shall determine the climatic and geographic design criteria for buildings and structures constructed within this Village of West Hampton Dunes as required by the Uniform Code. Such determinations shall be made in the manner specified in the Uniform Code using, where applicable, the maps, charts, and other information provided in the Uniform Code. The criteria to be so determined shall include but shall not necessarily be limited to, the following:

1. design criteria to include ground snow load; wind design loads; seismic category; potential damage from weathering, frost, and termite; winter design temperature; whether ice barrier underlayment is required; the air freezing index; and the mean annual temperature;

2. heating and cooling equipment design criteria for structures within the scope of the RCNYS. The design criteria shall include the data identified in the Design Criteria Table found in Chapter 3 of the RCNYS; and

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

4. the accompanying Flood Insurance Rate Map (FIRM);

5. Flood Boundary and Floodway Map (FBFM); and
6. related supporting data along with any revisions thereto.

The Building Inspector or Code Enforcement Official shall prepare written record of the climatic and geographic design criteria determined pursuant to subdivision (a) of this section, shall maintain such record within the office of the Building Inspector or Code Enforcement Official and shall make such record readily available to the public.

#### **220-15. RECORD KEEPING.**

A. The Code Enforcement Official or Building Inspector 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, Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
4. all inspections and tests performed;
5. all statements and reports issued;
6. all complaints received;
7. all investigations conducted;
8. all condition assessment reports received;
9. all fees charged and collected; and
10. all other features and activities specified in or contemplated in this Chapter 220.

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.

#### **220-16. PROGRAM REVIEW AND REPORTING**

A. The Code Enforcement Official or Building Inspector shall annually submit to the Board of Trustees of the Village of West Hampton Dunes a written report and summary of all



business conducted by the Code Enforcement Official or Building Inspector and the Inspectors, including a report and summary of all transactions and activities described in this Chapter and a report and summary of all appeals or litigation pending or concluded.

1. The Code Enforcement Official or Building Inspector shall annually submit to the Secretary of State, on behalf of this Village on a form prescribed by the Secretary of State, a report of the activities of this Village relative to administration and enforcement of the Uniform Code.

2. The Code Enforcement Official or Building Inspector shall, upon request of the New York State Department of State, provide to the New York State Department of State, true and complete copies of the records and related materials this Village is required to maintain; true and complete copies of such portion of such records and related materials as may be requested by the Department of State; and/or such excerpts, summaries, tabulations, statistics, and other information and accounts of its activities in connection with administration and enforcement of the Uniform Code and/or Energy Code as may be requested by the Department of State.

## **220-17. VIOLATIONS**

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

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

The Order to Remedy may include provisions ordering the person or entity served with such Order to Remedy (1) to begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time which may be less than thirty (30) days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within thirty (30) days of the date of such Order to Remedy; and/or (2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this Chapter or by any other applicable statute, regulation, rule, , and which the Code Enforcement Official or Building Inspector may deem appropriate, during the period while such violations are

being remedied. The Code Enforcement Official or Building Inspector shall cause the Order to Remedy, or a copy thereof, to be served on the owner of the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy. The Code Enforcement Official or Building Inspector shall be permitted, but not required, to cause the Order to Remedy, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

B. Appearance Tickets. The Code Enforcement Official or Building Inspector and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.

C. Penalties. In addition to such other penalties as may be prescribed by State law,

1. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, remove, demolish, equip, use, occupy or maintain any building or structure or portion thereof in violation of any provisions of this chapter, or to fail in any manner to comply with a notice, directive or order of the Building Inspector, or to construct, alter or use and occupy any building or structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy;

2. Any person committing a violation of any provision of this chapter or of the Uniform Code or any rule or regulation adopted pursuant to this chapter or the Uniform Code or any restriction or condition contained in a permit issued pursuant to this chapter or the Uniform Code shall be punished as provided herein, and not pursuant to the Executive Law of the State of New York; and

3. Any person who, having been served with a notice of violation under this chapter, shall fail to comply with said notice within such time as is specified therein or who shall continue to violate any requirement of this chapter in the respect named in said notice shall be deemed to have committed a violation of this Code. Each day that the violation is permitted to exist after the service of such notice shall constitute a separate offense;

4. any Person who violates any provision of this Chapter, the Uniform Code, the Energy Code or any term, condition, or provision any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, or other notice or order issued by the Code Enforcement Official or Building Inspector pursuant to any provision of this Chapter, shall be punishable by a fine as follows:

a. for a first offense, a fine of not less than \$1,000 nor more than \$2,500 per day of

violation and each and every day that the violation exists shall constitute a separate violation; and

- b. for a second offense occurring within an 18 month period, a fine of not less than \$2,500 nor more than \$5,000 per day of violation and each and every day that the violation exists shall constitute a separate violation; and
- c. for a third or subsequent offense occurring within an 18 month period, a fine of not less than \$5,000 nor more than \$10,000 per day of violation and each and every day that the violation exists shall constitute a separate violation;

5. in addition to the fine provided for in paragraph 4 above, any Person who violates any provision of the Uniform Code, the Energy Code or this Chapter, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order , Operating Permit, or other notice or order issued by the Code Enforcement Official or Building Inspector pursuant to any provision of this Chapter, shall be liable to pay a civil penalty of not more than \$2,500 for each day or part thereof during which such violation continues. The civil penalties provided by this paragraph shall be recoverable in an action instituted in the name of this Village of West Hampton Dunes.

D. Injunctive Relief. An action or proceeding may be instituted in the name of this Village of West Hampton Dunes in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this Chapter, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Order to Remedy, or other notice or order issued by the Code Enforcement Official or Building Inspector 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, Order to Remedy or other order obtained under the Uniform Code, the Energy Code or this Chapter, an action or proceeding may be commenced in the name of this Village of West Hampton Dunes 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 subdivision shall commence without the appropriate authorization from the Village of West Hampton Dunes.

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 6 (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 or any other section of this Chapter 220, 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 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 382 of the Executive Law.

## **220-18. FEES**

A fee schedule shall be established by resolution, from time to time, of the Board of Trustees of the Village of West Hampton Dunes.. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Official or Building Inspector described in or contemplated by this Chapter.

**Section 2. Severability.** If a court determines that any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance is invalid or unconstitutional, the court's order or judgment shall not affect, impair, or invalidate the remainder of this local law, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this local law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

**Section 3. Effective date.** This local law shall take effect immediately upon filing with the Secretary of State.