



# TOWN OF PENFIELD

3100 Atlantic Avenue, Penfield, NY 14526-9798

## **NOTICE OF PUBLIC HEARING, PENFIELD TOWN BOARD**

PLEASE TAKE NOTICE that Town of Penfield Town Board will hold a public hearing at its meeting on **Wednesday, July 20, 2022**, at 7:00 p.m. at the Penfield Town Hall, 3100 Atlantic Avenue, in the Town of Penfield, New York on said date, to consider a proposed Local Law to amend Penfield Town Code, Chapter 94 (Building and Construction) to ensure that the town's regulations conform with New York State Department of State's model code language. The amendment includes: the addition of terms and definitions not previously included in the code; minor modifications to building permitting and inspection processes; the insertion of two new sections required by New York State (i.e., Condition Assessments of Parking Garages and Climatic and Geographic Design Criteria); modifications to clarify the intent of Article II (Electric Inspection); and removal of Article III (Fire Sprinkler Systems).

The hearing will begin in the order shown on the published meeting agenda. A copy of the proposed local law is available in hard copy format in the Town Clerk's office and in digital format on the Town's website ([www.penfield.org](http://www.penfield.org)).

Amy Steklou, RMC/CMC  
Town Clerk

## Summary of Proposed Changes to Chapter 94 – Building and Construction

The table below provides a summary of the sections being amended through the proposed local law. The corresponding areas where amendments have been made are highlighted in yellow.

Section	Change
94-2	Highlighted definitions added or modified to match the State’s definitions.
94-5	Highlighted sections pertaining construction inspection requirements and standards; remote inspection provisions added.
94-7	Highlighted sections reflect edits to the Temporary Certificate of Occupancy requirements.
94-10	Highlighted text shows changes to the types of permits requiring an Operating Permit and the modified language around inspection requirements
94-11	Highlighted text added remote inspection provisions for fire safety and property maintenance inspections.
94-13	New code section for Condition Assessments of Parking Garages regulations added per NYS model code.
94-14	New code section for Climatic and Geographic Design Criteria added per NYS model code.
94-17	Highlighted text reflects edits to the Violations provisions.
94-20	Highlighted text reflects title change to more accurately reflect the content of Article II regulations. Note, the NYS model code does not address electrical inspections, as they are a local matter administered differently in each municipality.
94-21	Highlighted text added to more clearly depict the intent of this Article.
94-27 – 94-32	Article III has been removed. The regulations pertaining to Fire Sprinkler Systems are addressed in the NYS Uniform Code, which the Town of Penfield enforces.

**DRAFT**

**Town of Penfield**

**Local Law 2022-2**

**A Local Law to Amend Chapter 94 of the Penfield Town Code**

**Section 1.** The Town is amending Chapter 94 to conform to updated model regulations provided by the New York State Department of State. The existing Chapter 94 of Penfield Town Code shall be replaced in its entirety with following regulations:

**Article I**

**Building Code Administration and Enforcement**

**§ 94-1 Purpose and Intent.**

This article provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in the Town of Penfield. This chapter is adopted pursuant to section 10 of Municipal Home Rule Law. 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 article.

**§ 94-2 Definitions.**

As used in this article, the following terms shall have the meanings indicated:

**ASSEMBLY AREA**

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

**BUILDING PERMIT**

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 local law.

**CERTIFICATE OF COMPLIANCE**

A document issued by the Town of Penfield stating that work was done in compliance with approved permit and the Codes.

**CERTIFICATE OF OCCUPANCY**

A document issued by the Town of Penfield certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and approved by the Town, and indicating that the building or structure, or portion thereof, is in a condition suitable for occupancy.

**CODE ENFORCEMENT OFFICER**

The Code Enforcement Officer appointed pursuant to § **94-3B** of this chapter.

## **CODE ENFORCEMENT PERSONNEL**

Includes the Code Enforcement Officer and all inspectors.

## **COMPLIANCE ORDER**

An order issued by the Code Enforcement Officer pursuant to § **94-17A** of this chapter.

## **ENERGY CODE**

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

## **FCNYS**

The 2020 Fire Code of New York State as currently incorporated by reference in 19 NYCRR Part 1225.

## **FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTION**

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**

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.

## **MOBILE FOOD PREPARATION VEHICLES**

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.

## **INSPECTOR**

An inspector appointed pursuant to § **94-3D** of this chapter.

## **OPERATING PERMIT**

A permit issued pursuant to § **94-10** 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 article.

## **ORDER TO REMEDY**

An order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 17 of this chapter.

## **PERMIT HOLDER**

The person to whom a building permit has been issued.

## **PERSON**

Includes an individual, corporation, limited-liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

## **PMCNYS**

The Property Maintenance Code of New York State as currently incorporated by reference in 19 NYCRR Part 1226.

## **RCNYS**

The Residential Code of New York State as currently incorporated by reference in 19 NYCRR Part 1220.

## **REPAIR**

The reconstruction, replacement, or renewal of any part of an existing building, structure and/or building system element for the purpose of its maintenance or to correct damage.

## **STOP-WORK ORDER**

An order issued pursuant to § 94-6 of this chapter.

## **SUGARHOUSE**

A building used, in whole or in part, for the collection, storage, or processing of maple sap into maple syrup and/or maple sugar.

## **TEMPORARY CERTIFICATE**

A certificate issued pursuant to § 94-7D of this chapter.

## **TOWN**

The Town of Penfield.

## **UNIFORM CODE**

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.

### **§ 94-3 Code Enforcement Officer and Inspectors.**

- A. The office of Code Enforcement Officer is hereby created. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and this chapter. The Code Enforcement Officer shall have the following powers and duties:
- (1) To receive, review, and approve or disapprove applications for building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits, and the plans, specifications and construction documents submitted with such applications;
  - (2) Upon approval of such applications, to issue building permits, certificates of occupancy/certificates of compliance, temporary certificates, and operating permits, and to include in building permits, certificates of occupancy/certificates of compliance, temporary certificates and operating permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;
  - (3) To conduct construction inspections; inspections to be made prior to the issuance of certificates of occupancy/certificates of compliance, temporary certificates and operating permits; fire safety and property maintenance inspections; inspections incidental to the investigation of complaints; and all other inspections required or permitted under any provision of this chapter;

- (4) To issue stop-work orders;
  - (5) To review and investigate complaints;
  - (6) To issue orders pursuant to § 94-17A of this article;
  - (7) To maintain records;
  - (8) To collect fees as set by the Town Board;
  - (9) To pursue administrative enforcement actions and proceedings;
  - (10) In consultation with the Town Attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this chapter, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this chapter; and
  - (11) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this chapter.
- B. The Code Enforcement Officer shall be appointed by the Town Board. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from Department of State pursuant to the Executive Law and the regulations promulgated thereunder.
- C. In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his/her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this article.
- D. One or more inspectors may be appointed by the Town Board to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this chapter. Each inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each inspector shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.
- E. The compensation for the Code Enforcement Officer and inspectors shall be fixed from time to time by the Town Board.

#### § 94-4 **Building permits.**

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

- B. Exemptions. No building permit shall be required for work in any of the following categories:
- (1) construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses), which are used for tool and storage sheds, playhouses, or similar uses, provided the gross floor area does not exceed 144 square feet;
  - (2) construction of temporary sets and scenery associated with motion picture, television, and theater uses;
  - (3) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
  - (4) installation of partitions or movable cases less than 5'-9" in height;
  - (5) painting, wallpapering, tiling, carpeting, or other similar finish work;
  - (6) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
  - (7) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
  - (8) repairs, provided that the work does not have an impact on fire and life safety, such as (i) any part of the structural system; (ii) the required means of egress; or (iii) the fire protection system or the removal from service of any part of the fire protection system for any period of time.
- C. Exemption not deemed authorization to perform noncompliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in Subsection **B** of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.
- D. Applications for building permits. Applications for a building permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:
- (1) A description of the proposed work;
  - (2) The Tax Map number and the street address of the premises where the work is to be performed;
  - (3) The occupancy classification of any affected building or structure;
  - (4) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
  - (5) At least two sets of construction documents (drawings and/or specifications) which:
    - (a) describe the location, nature, extent, and scope of the proposed work ;

- (b) show that the proposed work will conform to the applicable provisions of the Codes;
  - (c) show the location, construction, size, and character of all portions of the means of egress;
  - (d) show a representation of the building thermal envelope;
  - (e) 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;
  - (f) show the proposed structural, electrical, plumbing, mechanical, fire-protection, and other service systems of the building;
  - (g) include a written statement indicating compliance with the Energy Code;
  - (h) 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
  - (i) evidence that the documents were prepared by a licensed and registered architect in accordance with Article 147 of the New York State Education Law or a licensed and registered professional engineer in accordance with Article 145 of the New York State Education Law and practice guidelines, including but not limited to the design professional's seal which clearly and legibly shows both the design professional's name and license number and is signed by the design professional whose name appears on the seal in such a manner that neither the name nor the number is obscured in any way, the design professional's registration expiration date, the design professional's firm name (if not a sole practitioner), and, if the documents are submitted by a professional engineering firm and not a sole practitioner professional engineer, the firm's Certificate of Authorization number.
- E. Construction documents. Construction documents will not be accepted as part of an application for a building permit unless they satisfy the requirements set forth in Subsection **D (5)** of this section. Construction documents which are accepted as part of the application for a building permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by code enforcement personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a building permit will be issued. Work shall not be commenced until and unless a building permit is issued.
- F. Issuance of building permits. An application for a building permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code. The Code Enforcement Officer shall issue a building permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.
- G. Building permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- H. Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the building permit. The building permit shall contain such a directive. The permit holder shall



immediately notify the Code Enforcement Officer of any change occurring during the course of the work. The building permit shall contain such a directive. If the Code Enforcement Officer determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended building permit reflecting such change is issued.

- I. Time limits. Building permits shall become invalid unless the authorized work is commenced within 12 months following the date of issuance. Building permits in which the authorized work has commenced shall expire 12 months after the date of issuance. A building permit which has become invalid or which has expired pursuant to this subsection may be renewed upon application by the permit holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.
- J. Revocation or suspension of building permits. If the Code Enforcement Officer determines that a building permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a building permit was issued violates the Uniform Code or the Energy Code, the Code Enforcement Officer shall revoke the building permit or suspend the building permit until such time as the permit holder demonstrates that:
  - (1) All work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code; and
  - (2) All work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.
- K. Fee. The fee specified in or determined in accordance with the provisions set forth in § 94-18 of this article 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.

§ 94-5 **Construction inspections.**

- A. Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an inspector authorized by the Code Enforcement Officer. The permit holder shall notify the Code Enforcement Officer when any element of work described in Subsection **B** of this section is ready for inspection.
- B. Elements of work to be inspected. The following elements of the construction process shall be inspected, 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 factory 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 Officer 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 Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or by such authorized Inspector that the elements of the construction process conform with the applicable requirements of the Uniform Code and Energy Code. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.

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 where the work fails to comply with the Uniform Code or Energy Code, including a citation to the specific code provision or provisions that have not been met. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

E. Fee. The fee specified in or determined in accordance with the provisions set forth in § 94-18 of this chapter must be paid prior to or at the time of each inspection performed pursuant to this section.

**§ 94-6 Stop-work orders.**

- A. Authority to issue. The Code Enforcement Officer is authorized to issue stop-work orders pursuant to this section. The Code Enforcement Officer shall issue a stop-work order to halt:
  - (1) Any work that is determined by the Code Enforcement Officer to be contrary to any applicable provision of the Uniform Code or Energy Code, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
  - (2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer, without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
  - (3) Any work for which a building permit is required which is being performed without the required building permit, or under a building permit that has become invalid, has expired, or has been suspended or revoked.

- B. Content of stop-work orders. Stop-work orders shall:
- (1) Be in writing;
  - (2) Be dated and signed by the Code Enforcement Officer;
  - (3) State the reason or reasons for issuance; and
  - (4) If applicable, state the conditions which must be satisfied before work will be permitted to resume.
- C. Service of stop-work orders. The Code Enforcement Officer shall cause the stop-work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by registered mail/certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop-work order, personally or by registered mail/certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop-work order.
- D. Effect of stop-work order. Upon the issuance of a stop-work order, the owner of the affected property, the permit holder and any other person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the stop-work order.
- E. Remedy not exclusive. The issuance of a stop-work order shall not be the exclusive remedy available to address any event described in Subsection A of this section, and the authority to issue a stop-work order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under § 94-15 of this article or under any other applicable local law or state law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a stop-work order.

**§ 94-7 Certificates of occupancy/certificates of compliance.**

- A. Certificates of occupancy/certificates of compliance required. A Certificate of Occupancy/Certificate of Compliance shall be required for any work which is the subject of a building permit and for all structures or 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/Certificate of Compliance.
- B. Issuance of certificates of occupancy/certificates of compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy/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 Officer or an inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy/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 Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy/Certificate of Compliance, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of

Occupancy/Certificate of Compliance:

- (1) A written statement of structural observations and/or a final report of special inspections; and
- (2) Flood hazard certifications.

C. Contents of certificates of occupancy/certificates of compliance. A Certificate of Occupancy/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, address and Tax Map number of the property;
- (4) If the Certificate of Occupancy/Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy/Certificate of Compliance is issued;
- (5) The use and occupancy classification of the structure;
- (6) The type of construction of the structure;
- (7) the occupant load of the assembly areas 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 Officer issuing the Certificate of Occupancy or the Certificate of Compliance and the date of issuance.

D. Temporary Certificate of Occupancy. The Code Enforcement Officer 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 Officer issue a temporary certificate unless the Code Enforcement Officer determines 1) that the building or structure, or the portion thereof covered by the temporary certificate, may be occupied safely, 2) that any 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 building or structure have been provided. The Code Enforcement Officer 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 shall be effective for a period of time, not to exceed six months, which shall be determined by the Code Enforcement Officer and specified in the temporary certificate. During the specified period of effectiveness of the temporary certificate, the permit holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

E. Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy/Certificate of Compliance or a temporary certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not

corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.

- F. Fee. The fee specified in or determined in accordance with the provisions set forth in § 94-18 of this article must be paid at the time of submission of an application for a Certificate of Occupancy/Certificate of Compliance or for a temporary certificate.

**§ 94-8 Notification regarding fire or explosion.**

The chief of any fire department providing fire-fighting services for a property within the Town of Penfield shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel-burning appliance, chimney or gas vent.

**§ 94-9 Unsafe buildings and structures.**

Unsafe structures and equipment in the Town shall be identified and addressed in accordance with the procedures established by Chapter 97 of the Town Code, as now in effect or as hereafter amended from time to time.

**§ 94-10 Operating permits.**

- A. **Operation Permits required.** Operating Permits shall be required for conducting any process or activity or for operating any type of building, structure, or facility listed below:
- (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:
    - (a) Combustible Dust-Producing Operations (Chapter 22). Facilities where the operation produces combustible dust;
    - (b) Flammable Finishes (Chapter 24). Operations utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24 of the FCNYS;
    - (c) Fruit and Crop Ripening (Chapter 25). Operating a fruit- or crop-ripening facility or conducting a fruit-ripening process using ethylene gas;
    - (d) Fumigation and Insecticidal Fogging (Chapter 26). 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
    - (e) Tents, Temporary Special Event Structures, and Other Membrane Structures (Chapter 31). Operating an air-supported temporary membrane structure, a temporary special event structure, or a tent where approval is required pursuant to Chapter 31 of the FCNYS;
    - (f) High-Piled Combustible Storage (Chapter 32). High-piled combustible storage facilities with more than 500 square feet (including aisles) of high-piled storage;

- (g) Tire Rebuilding and Tire Storage (Chapter 34). Operating a facility that stores in excess of 2,500 cubic feet of scrap tires or tire byproducts or operating a tire rebuilding plant;
  - (h) Welding and Other Hot Work (Chapter 35). 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;
  - (i) Sugarhouse Alternative Activity Provisions (Chapter 40). Conducting an alternative activity at a sugarhouse;
  - (j) Explosives and Fireworks (Chapter 56). Possessing, manufacturing, storing, handling, selling, or using, explosives, fireworks, or other pyrotechnic special effects materials except the outdoor use of sparking devices as defined by Penal Law section 270
  - (k) Open Burning, Recreational Fires and Portable Outdoor Fireplaces (Section 307). Conducting open burning, not including recreational fires and portable outdoor fireplaces;
  - (l) Open Flames (Section 308). Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies; and
  - (m) Mobile Food Preparation Vehicles. Section 319). Operating a mobile food preparation vehicle in accordance with the permitting requirements established by state and county regulations in effect now, and any town ordinances in effect in the future, and as amended from time to time.
- (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; and
  - (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 article;
  - (8) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by Penfield Town Board; and
  - (9) Other processes or activities or for operating any type of building, structure, or facility as determined by resolution adopted by the Penfield Town Board.

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

B. Applications for operating permits. An application for an operating permit shall be in writing on a

form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.

- C. **Inspections.** The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an 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 Officer or an Inspector authorized by the Code Enforcement Officer, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or Inspector authorized by the Code Enforcement Officer that the premises conform with the applicable requirements of the Uniform Code and the code enforcement program. Should a remote inspection not afford the Town 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.
- D. **Multiple activities.** In any circumstance in which more than one activity listed in Subsection A of this section is to be conducted at a location, the Code Enforcement Officer may require a separate operating permit for each such activity, or the Code Enforcement Officer may, in his/her discretion, issue a single operating permit to apply to all such activities.
- E. **Duration of operating permits.** Operating permits shall be issued for a specified period of time consistent with local conditions, but in no event to exceed as follows:
- (1) 180 days for tents, special event structures, and other membrane structures;
  - (2) 60 days for alternative activities at a sugarhouse;
  - (3) [specify interval not to exceed three (3) years] years for the activities, structures, and operations determined per paragraph (9) of subdivision (a) of this section, and
  - (4) [specify interval not to exceed one (1) year] year for all other activities, structures, and operations identified in subdivision (a) of this section.
- F. **Revocation or suspension of operating permits.** If the Code Enforcement Officer determines that any activity or building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code, such operating permit shall be revoked or suspended.
- G. **Fee.** The fee specified in or determined in accordance with the provisions set forth in § 94-18 of this article 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.



§ 94-11 **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 Officer or an inspector designated by the Code Enforcement Officer at the following intervals:
- (1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every 12 months.
  - (2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every 12 months.
  - (3) Fire safety and property maintenance inspections of all multiple dwellings not included in Subsection A(1) or (2) of this subsection, and all nonresidential buildings, structures, uses and occupancies not included in Subsection A(1) or (2) of this subsection, shall be performed at least once every 36 months.
- B. Remote inspections. At the discretion of the Code Enforcement Officer or Inspector authorized to perform fire safety and property maintenance inspections, a remote inspection may be performed in lieu of in-person inspections when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or such authorized Inspector that the premises conform with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.
- C. Inspections permitted. In addition to the inspections required by Subsection A of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at any time upon:
- (1) The request of the owner of the property to be inspected or an authorized agent of such owner;
  - (2) Receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
  - (3) Receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subsection shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.
- C. OFPC inspections. Nothing in this section or in any other provision of this article shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control (OFPC) and the New York State Fire Administrator under Executive Law § 156-e and Education Law § 807-b. Notwithstanding any other provision of this section to the contrary, the Code Enforcement Officer may accept an inspection performed by the Office of Fire Prevention and Control or other authorized entity pursuant to sections 807-a and 807-b of the



Education Law and/or section 156-e of the Executive Law, in lieu of a fire safety and property maintenance inspection performed by the Code Enforcement Officer or by an Inspector, provided that:

- (1) the Code Enforcement Officer is satisfied that the individual performing such inspection satisfies the requirements set forth in 19 NYCRR section 1203.2(e);
  - (2) the Code Enforcement Officer is satisfied that such inspection covers all elements required to be covered by a fire safety and property maintenance inspection;
  - (3) such inspections are performed no less frequently than once a year;
  - (4) a true and complete copy of the report of each such inspection is provided to the Code Enforcement Officer; and
  - (5) upon receipt of each such report, the Code Enforcement Officer takes the appropriate action prescribed by section 17 (Violations) of this article.
- E. Fee. The fee specified in or determined in accordance with the provisions set forth in § 94-18 of this article must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

#### § 94-12 Complaints.

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

- A. Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection.
- B. If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § 94-17 of this article.
- C. If appropriate, issuing a stop-work order.
- D. If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

#### § 94-13. 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:
    - (a) buildings in which the only level used for parking or storage of motor vehicles is on grade;
    - (b) an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and
    - (c) 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 Town, 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:

(a) if originally constructed prior to January 1, 1984, then prior to October 1, 2019;

(b) if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and

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

(3) Any parking garage constructed prior to the effective date of the local law enacting this provision that has not undergone an initial condition assessment prior to that effective date shall undergo an initial condition assessment prior to [specify date not more than six (6) months after the effective date of this local law].

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

F. 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 Town becomes aware of any new or increased deterioration which, in the judgment of the Town, 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 Town 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 [City / Town / Village] within [specify time as fixed by the City / Town / Village]. 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 Town 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 Town shall, by Order to Remedy or such other means of enforcement as the 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 Town 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 Town 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 Town with a written statement attesting to the fact that he or she has been so engaged, Town shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The Town 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 Town:

(1) to perform such construction inspections as are required by section 5 (Construction Inspections) of this local law;

(2) to perform such periodic fire safety and property maintenance inspections as are required by section 11 (Fire Safety and Property Maintenance Inspections) of this local law; 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 [City / Town / Village] 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.

#### **§ 94-14 Climatic and Geographic Design Criteria.**

A. The Code Enforcement Officer shall determine the climatic and geographic design criteria for buildings and structures constructed within this Town 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 in the Flood Insurance Study for the community, as amended or revised with:

(a) the accompanying Flood Insurance Rate Map (FIRM);

(b) Flood Boundary and Floodway Map (FBFM); and

(c) related supporting data along with any revisions thereto.

B. The Code Enforcement Officer shall prepare a 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 Code Enforcement Officer, and shall make such record readily available to the public.

§ 94-15 **Record keeping.**

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

- (1) All applications received, reviewed and approved or denied;
- (2) All plans, specifications and construction documents approved;
- (3) All building permits, certificates of occupancy, 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 other features and activities specified in or contemplated by §§ 94-4 through 94-14', inclusive, of this article; and
- (10) All fees charged and collected.

B. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by state law and regulation.

§ 94-16 **Program review and reporting.**

A. The Code Enforcement Officer shall annually submit to the Town Board a written report and summary of all business conducted by the Code Enforcement Officer and the inspectors, including a report and summary of all transactions and activities described in § 94-15 of this article and a report and summary of all appeals or litigation pending or concluded.

B. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of the Town, on a form prescribed by the Secretary of State, a report of the activities of the Town relative to administration and enforcement of the Uniform Code.

C. The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials the Town

is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of the Town in connection with administration and enforcement of the Uniform Code.

§ 94-17 **Violations.**

A. **Orders to Remedy.** The Code Enforcement Officer is authorized to order in writing the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, or this local law. An Order to Remedy shall be in writing; shall be dated and signed by the Code Enforcement Officer; shall specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; shall specify the provision or provisions of the Uniform Code, the Energy Code, or this local law 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 [specify days] after the date of this Order to Remedy.”

The Order to Remedy may include provisions ordering the person or entity served with such Order to Remedy:

(1) to begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time which may be less than thirty (30) days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within thirty (30) days of the date of such Order to Remedy; and/or

(2) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this local law or by any other applicable statute, regulation, rule, local law or ordinance, and which the Code Enforcement Officer may deem appropriate, during the period while such violations are being remedied. The Code Enforcement Officer shall cause the Order to Remedy, or a copy thereof, to be served on the owner of the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy. The Code Enforcement Officer shall be permitted, but not required, to cause the Order to Remedy, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work being performed at the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

B. **Appearance tickets.** The Code Enforcement Officer and each inspector are authorized to issue appearance tickets for any violation of the Uniform Code and/or Town Code.

C. **Civil penalties.** In addition to those penalties prescribed by state law:

(1) Any Person who violates any provision of this local law or any term, condition, or provision of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be punishable by a fine of not more than \$200 per



day of violation, or imprisonment not exceeding 15 days, or both; and

- (2) Any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to pay a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this paragraph shall be recoverable in an action instituted in the name of this Town.
- D. Injunctive relief. An action or proceeding may be instituted in the name of the Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, this article, or any term or condition of any building permit, Certificate of Occupancy/Certificate of Compliance, temporary certificate, stop-work order, operating permit, compliance order, or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this article. 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 article, an action or proceeding may be commenced in the name of the Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the Town Board.
- E. Remedies not exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or penalty 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 § 94-6 of this article, in any other section of this article, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in § 94-6 of this article, in any other section of this article, 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 Executive Law § 382, Subdivision (2), 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 Executive Law § 382, Subdivision (2).

#### § 94-18 Fees.

A fee schedule shall be established by resolution of the Town Board. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of building permits, amended building permits, renewed building permits, certificates of occupancy/certificates of compliance, temporary certificates, operating permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this article.

#### § 94-19 Intermunicipal agreements.

The Town Board may, by resolution, authorize the Town Supervisor to enter into an agreement, in the name of the Town, with other governments to carry out the terms of this article, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, 19 NYCRR Part 1203, or any other applicable law.



## Article II

### Electrical Standards and Inspection Requirements

#### § 94-20 Title.

This article shall be known as the "Electrical Standards Inspection Requirements" of the Town of Penfield."

#### § 94-21 Purpose.

The purpose of this article is to regulate the manner in which wiring is installed, altered or repaired for electric light, heat, power and signal systems operating on 50 or more volts in or on all real property within the Town of Penfield and ensure proper inspection of electrical work conducted.

#### § 94-22 Standards.

All electrical installations referred to in § 94-21 shall be made in conformity with the requirements of the New York State Uniform Fire Prevention and Building Code (NYSUFPBC).

#### § 94-23 Electrical inspections.

- A. Any person or organization (hereinafter referred to as "agency") may apply to the Town Board for permission to conduct electrical inspections in the Town of Penfield. The application shall be in writing in such form as may be prescribed by Town Board resolution and shall be accompanied by a nonrefundable application fee as set forth in the fee schedule annually adopted by the Town Board, an insurance certificate showing statutory workers' compensation coverage for its employees and automobile and public liability coverage for property damage and personal injury, including wrongful death, in an amount of at least \$5,000,000, with the Town of Penfield named as additional insured.
- B. The completed application shall be submitted to the Building Inspector, who shall review the same for accuracy and completeness, and who shall also make an investigation into the business reputation and qualifications of the applicant. The Building Inspector shall, within 30 days of the receipt of the application, forward the same, together with his recommendation as to approval or rejection, to the Town Board for its determination.
- C. Upon approval, the Building Inspector shall issue a letter to the applicant certifying that the applicant has been approved to conduct electrical inspections in the Town of Penfield for a probationary period of one year.
- D. After a one-year probationary period, the applicant may apply for permanent approval from the Town Board. The Building Inspector shall submit the application, and his recommendation as to approval or rejection, to the Town Board. The Town Board shall either approve or reject the application. Such approval shall be valid until such a time as it is revoked by the Town Board upon good cause shown after a hearing before the Town Board, at which hearing the electrical inspector shall be given an opportunity to be heard and to present evidence in his/her defense. In the event that the applicant's application is not approved, he/she shall be given an opportunity to present his/her case to the Town Board at a hearing to be conducted by the Town Board within 30 days of such rejection and to present evidence in support of his/her application.
- E. Upon approval, the Building Inspector shall issue a letter to the applicant certifying that the applicant has been approved to conduct electrical inspections in the Town of Penfield.
- F. The Building Inspector shall at all times maintain a list of approved electrical inspectors with their current business addresses and telephone numbers.

§ 94-24 **Standards for electrical inspection agencies.**

- A. The agency shall be authorized by the State of New York to conduct business within the boundaries of New York State. The agency represents that it maintains currently effective insurance, including statutory worker's compensation insurance for its employees and workers, public liability insurance for property damage and personal injury. The agency shall maintain such insurance policies in full force and effect while performing inspections and submitting certificates.
- B. The agency shall furnish the Building Inspector with proof of responsibility and organizational continuity. The agency shall not solicit of any person or entity or require as a condition of inspection any waiver of responsibility for an error, omission, or recommendation made by its inspectors, or for any other action of its inspectors.
- C. The agency shall require all wiring to meet standards of the latest revision of the National Electric Code and of any applicable code prescribed by this article.
- D. The agency shall not compete with others in any manner which would cause it to reduce the quality of its inspectors. The agency shall not knowingly accept an application at any given location from any applicant who has received notice from another agency.
- E. Each agency is required to maintain a file of current inspection charges with the Building Department. Established charges will be applied uniformly and will not be discounted. The agency shall ensure that the inspectors it employs have adequate experience, education and training as follows. Inspectors shall:
  - (1) Have a working knowledge of the principles of electricity necessary to interpret the National Electrical Code and other applicable requirements.
  - (2) Know the requirements of the National Electrical Code and other applicable requirements.
  - (3) Be familiar with the construction practices of the electrical wiring trade.
  - (4) Be a master electrician.
- F. The agency, its employees, and workers shall comply with all federal, state and local laws, ordinances, rules and regulations pertaining to any electrical inspection.
- G. The agency agrees to maintain adequate records so that it can provide the Building Department with records of inspections when requested. Such records shall be maintained for a minimum of 10 years.
- H. The agency will maintain an office in Monroe County staffed to receive telephone calls during normal business days for a minimum of six hours a day.
- I. The agency shall establish a system to receive applications and issue inspection reports in accordance with the following:
  - (1) The agency shall provide an application form, which shall include a copy for the Building Department.
  - (2) The agency, in subsequent progressive inspections of the wiring system, shall establish a procedure for prompt notification of any noncompliance. This notice shall be served on the Building Department and the applicant.

- (3) Upon a finding of compliance, the agency shall issue a certificate of final compliance and shall provide a copy of the certificate to the Building Department and the applicant.

**§ 94-25 Violations.**

It shall be a violation of this article for any person, firm or corporation to install or cause to be installed, or to alter or repair electrical wiring for electric light, heat, power and signal systems operating on 50 or more volts, in or on properties in the Town of Penfield, until an application for inspection has been filed with an approved electrical inspector or inspection agency. It shall be a violation of this article for a person, firm or corporation to connect or cause to be connected electrical wiring in or on properties for electric light, heat, power and signal systems operating on 50 or more volts to any source of electrical energy supply, prior to the issuance of a temporary certificate or a Certificate of Compliance by an approved inspector or inspection agency.

**§ 94-26 Penalties for offenses.**

- A. Any person, firm, company or corporation who or which shall omit, neglect or refuse to do any act required by this article, or who or which shall omit, neglect or refuse to do any act or condition imposed by the Town Board, Zoning Board of Appeals or the Planning Board, or who or which shall build any structure contrary to the plans or specifications submitted to the authorized official and certified by him/her as complying with this article, shall be subject to enforcement and penalties as set forth in Town Law § 268.
- B. Each and every day that a violation of any of the provisions of this article continues after written notice shall have been served upon the person in violation of this article pursuant to the Civil Practice Law and Rules shall constitute a separate violation. In addition to the remedies set forth, the Town Board may institute an appropriate action to proceed to abate any violation of the provisions of this article or to compel compliance therewith.
- C. Any person, firm, company or corporation who or which shall fail to acquire any permit or license herein required within 30 days of the time that said permit or license should have been acquired under this article shall pay to the Town Clerk, before the issuance of any said permit or license, a sum equal to three times the fee set for the issuance thereof.

**§ 94-27 Article not applicable in certain cases.**

The provisions of the article shall not apply to the electrical installation in mines, ships, railway cars, automotive equipment or the installations or equipment employed by a railway, electrical or communications utility in the exercise of its function as a utility, and located outdoors or in buildings used exclusively for that purpose. This article shall not apply to any work involved in the manufacture, assembly, test or repair of electrical machinery, apparatus, materials and equipment by a person, firm or corporation engaged in electrical manufacturing as his/her principal business.

**§ 94-28 No waiver or assumption of liability.**

This article shall not be construed to relieve from or lessen the responsibility of any person owning, operating, controlling or installing any electric wiring devices, appliances, or equipment for loss of life or damage to person or property caused by any defect therein, nor shall the Town of Penfield or the approved electrical inspector be deemed to have assumed any such liability by reason of any inspection made pursuant to this article.

**Section 2. Severability**

If any part or provision of this local law is judged invalid by any court of competent jurisdiction, such judgment shall be confined in application to the part or provision directly on which judgment shall have

been rendered and shall not affect or impair the validity of the remainder of this Law or the application thereof to other persons or circumstances. The Town hereby declares that it would have enacted the remainder of this Law even without such part or provision or application.

**Section 3. Effective Date**

This local law shall become effective immediately upon filing in the office of the New York Secretary of State pursuant to Section 27 of the Municipal Home Rule Law.