

Board of Trustees Meeting Minutes

11/07/2022 4:00 PM

3:45pm - Skatepark RFP's – none

Public Hearings were opened by the Mayor and Board of Trustees with a salute to the flag at 4:00pm for Local Law 2-2022 Administration and Enforcement of the NYS Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code and Local Law 3-2022 Zoning Law pertaining to Short Term Rentals, Telecommunication Facilities and Solar Energy

Resident Tom Stetz had several questions regarding the Zoning Law changes. He questioned the use of the word ordinance within the law. The board stated that anywhere there was the word ordinance it would be changed to the word law. He had several questions regarding how things were worded and made a few suggestions. He asked if a vacant lot in the village could have solar panels placed upon it. The board stated that it was addressed within the proposed law. There are minimum lot requirements, setbacks and regulations that must be followed.

The public hearing was closed at 4:32pm.

The meeting of the Board of Trustees was called to order with a salute to the flag at 4:33 pm by Mayor G. Pearl.

Present: Trustees: D. Papasergi, J. Kolkowski, R. Barton, J. Cummins, Clerk Treasurer K. Roth, DPW Superintendent F. Snyder, Chief of Police C. Baker, Deputy Clerk A. Silluzio, Allison Thomas, Tom Stetz

RESOLUTION #2022-108-ACCEPT MINUTES

On motion made by Trustee J. Kolkowski, second by Trustee J. Cummins resolved to approve the minutes from October 24, 2022. Aye-all, Nay-none

RESOLUTION #2022-109-APPROVE PAYMENT OF CURRENT BILLS

On motion made by Trustee D. Papasergi, second by Trustee R. Barton resolved to approve the payment of current bills. Aye-all, Nay-none.

PUBLIC SESSION

Correspondence

A letter from resident Steven Saunders was addressed to the Mayor and Board of Trustees and states the following:

JJK
JRC

10/18/22

Village Board of Allegany

106 E. Main Street

Allegany, N.Y. 14706

Dear Mayor and Village Councilmen: Most of you should still remember when the Village sidewalk snow blower hit one of the pillars in front of our home at 216 White Oak Drive. At that time the Mayor Greg Pearl said the Village of Allegany would pay for the damages, but then when I went to your village board meeting one of your village council men said my brick pier could have been damaged by an earthquake. Thus, in your infinite wisdom, you decided not to pay for the obviously damaged pier by the village sidewalk snowblower.

Now, my wife and I have been watching the village crew picking up leaves on our street and backing up the Allegany Village dump truck in front of our home close to our previously hit pillar and wrought iron fence. We do not put our leaves out on the street. Instead, we take them down to the Cattaraugus County transfer station and pay Cattaraugus County to dispose of them. There is no reason the village dump truck needs to back up to our property creating a potential accident. Why not back the dump truck up to the property of the homes that do put their leaves out on the street for pickup and do not have pillars and wrought iron fencing in front of them?

Please read this request and have it included in the minutes of your next board meeting, so there is no confusion that this request has been made.

Thank you,

Steven T. Saunders

Steven T. Saunders

216 White Oak Drive

Allegany, N.Y. 14706

The village board stated that the Department of Public Works provide excellent service and have the responsibility to pick up debris in the road as well as maintain it.

The Enchanted Garden Club sent an email and provided a diagram of where they would like to plant trees at the River Park. They are asking for someone to be able to water as needed once they are planted in the spring. The Village Board reviewed the diagram and will get back with any suggestions in the near future.

POLICE REPORT

Chief of Police C. Baker provided reports for September and October 2022. He stated that they are starting to get very busy with athletic events and traffic control.

DPW REPORT

DPW Superintendent F. Snyder provided the board with a piece of the lining to show the board what it looks and feels like. The sewer lining has been done on Harriet Street, Upland Terrace, Chestnut and Third Street. This should help with any infiltration in these areas. He stated that Union Street is paved and the roads have been striped within the village. Fall pickup of leaves will end November 15th.

Trustee D. Papasergi asked if they seen a lot of problems with the laterals coming into the sewer. DPW Superintendent F. Snyder stated that they have seen a lot roots within the laterals of residents.

Trustee J. Kolkowski asked if we could put some information out to residents regarding the Orange Burg piping that they probably have. There are things that they can do to help with the cost of repairing their sewer lines. Insurance companies do provide riders to cover cost of repair or replacement. Clerk Treasurer K. Roth will put information in the next newsletter.

RESOLUTION #2022-110-ACCEPT THE RESIGNATION OF DUSTIN LONG

On motion made by Trustee J. Kolkowski, second by Trustee J. Cummins resolved to approve with regret the resignation of Dustin Long as DPW worker effective October 25, 2022. Aye-all, Nay-none

RESOLUTION #2022-111-APPOINT MIKE SILLUZIO AS ALTERNATE PLANNING BOARD MEMBER

On motion made by Trustee J. Kolkowski, second by Trustee D. Papasergi resolved to appoint Mike Silluzio as an alternate to the planning board effective November 7, 2022. Aye-all, Nay-none

RESOLUTION #2022-112-LETTER TO STEVE ABRAMS REGARDING SEWER

On motion made by Trustee D. Papasergi, second by Trustee J. Kolkowski resolved to appoint a letter to Steve Abrams regarding his sewer issue. The Village of Allegany will no longer be calling him when they are working on the sewer lines. Aye-all, Nay-none

RESOLUTION #2022-113-OFF STREET PARKING NOTIFICATIONS

On motion made by Trustee J. Cummins, second by Trustee R. Barton resolved to have letters sent out to landlords requiring them to provide off street parking for their renters. Aye-all, Nay-none.

RESOLUTION #2022-114-ORANGE BURG PIPE

On motion made by Trustee J. Cummins, second by Trustee R. Barton resolved to notify residents that they may have Orange Burg pipe and that it could be failing. A notification will be put in the next newsletter. Aye-all, Nay-none.

RESOLUTION #2022-115-APPROVE COLLECTOR’S REPORT OF UNPAID TAXES

On motion made by Trustee J. Cummins, second by Trustee J. Kolkowski resolved to approve the Collector’s Report of Unpaid Taxes for 2022. Aye-all, Nay-none.

RESOLUTION #2022-116-LONGEVITY PAY FOR FULL TIME EMPLOYEES

On motion made by Trustee D. Papasergi, second by Trustee R. Barton resolved to approve the longevity pay to be paid for 2022. Aye-Trustee J. Cummins, Trustee D. Papasergi, Trustee Barton, Nay-Trustee J. Kolkowski

RESOLUTION #2022-117-VILLAGE BOARD MEETINGS TO TWO PER MONTH

On motion made by Trustee D. Papasergi, second by Trustee J. Cummins resolved to schedule Village Board meetings to the 1st and 3rd Mondays of each month starting November 21, 2022. Meeting will continue to be held at 4:00pm. Aye-all, Nay-none

The Board of Trustees discussed setting up interviews for a Maintenance Worker for the Department of Public Works. The interviews will be scheduled for Thursday November 10th starting at 7:00.

RESOLUTION #2022-118-FOOD TRUCK REGULATIONS

On motion made by Trustee J. Kolkowski, second by Trustee J. Cummins resolved to ask the Village Planning Board to make suggestions on regulations for food trucks in the Village. Aye-all, Nay-none

RESOLUTION #2022-119-APPROVE LOCAL LAW 2-2022

On motion made by Trustee J. Kolkowski, second by Trustee J. Cummins resolved to approve Local Law 2-2022. Aye-all, Nay-none

Local Law # 2 of 2022 – Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code

Be it enacted by the **Board of Trustees** of the **Village** of Allegany,
in the County of Cattaraugus, as follows:

SECTION 1. PURPOSE AND INTENT

This local law 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 this **Village**. This local law is adopted pursuant to section 10 of the Municipal Home Rule Law.

Except as otherwise provided in the Uniform Code, the Energy Code other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this local law. This local law will eliminate Local Law 1-1986.

SECTION 2. DEFINITIONS

In this local law, 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.

“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 local law.

“Certificate of Compliance” shall mean a document issued by the **Village of Allegany** stating that work was done in compliance with approved construction documents and the Codes.

“Certificate of Occupancy” shall mean a document issued by the **Village of Allegany** certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and approved by the

Village of Allegany, 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 subdivision (b) of section 3 of this local law.

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

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

“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.

“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 subdivision (d) of section 3 of this local law.

“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 10 of this local law. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended, or extended pursuant to any provision of this local law.

“Order to Remedy” shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of section 17 of this local law.

“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.

“RCNYS” shall mean the 2020 Residential Code of New York State as currently incorporated by reference in 19 NYCRR Part 1220.

"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 6 of this local law.

"Sugarhouse" shall mean 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 of Occupancy" shall mean a certificate issued pursuant to subdivision (d) of section 7 of this local law.

"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 Allegany.

SECTION 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 local law. 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 of Occupancy, 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, and Operating Permits, and to include in terms and conditions as the Code Enforcement Officer may determine to be appropriate Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, 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, 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 local law;
 - (4) to issue Stop Work Orders;
 - (5) to review and investigate complaints;

- (6) to issue orders pursuant to subdivision (a) of section 17 (Violations) of this local law;
- (7) to maintain records;
- (8) to collect fees as set by the **Board of Trustees** of this *Village of Allegany*;
- (9) to pursue administrative enforcement actions and proceedings;
- (10) in consultation with this Village's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code, and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code, or this local law; and
- (11) to exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by this local law.
- (b) The Code Enforcement Officer shall be appointed by **the Village Board of Trustees**. The Code Enforcement Officer shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training, and other training as the State of New York shall require for code enforcement personnel, and the Code Enforcement Officer shall obtain certification from the 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, another individual shall be appointed by **the Village Board of Trustees** to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of their appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.
- (d) One or more Inspectors may be appointed **by the Village Board of Trustees** 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 local law. 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 **Board of Trustees** of this *Village*.

SECTION 4. BUILDING PERMITS.

(a) Building Permits Required. Except as otherwise provided in subdivision (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 **Village**.

(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 non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in

subdivision (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 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

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

- (5) 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) 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 Officer 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 Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.

- (a) 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.
- (b) 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.
- (c) 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.
- (d) Time limits. Building Permits shall become invalid unless the authorized work is commenced within **6** months following the date of issuance. Building Permits shall expire **12** months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the Code Enforcement Officer.
- (e) 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.

- (f) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law 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.

SECTION 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 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 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 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. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

SECTION 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 ***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 ***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, other than work expressly authorized by the Code Enforcement Officer 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 local law 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.

SECTION 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 Code Enforcement Officer 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 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 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 Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance, shall be provided to the Code Enforcement Officer 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 Officer issuing the Certificate of Occupancy or Certificate of Compliance and the date of issuance.

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 of Occupancy unless the Code Enforcement Officer 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 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 of Occupancy shall be effective for a period of time, not to exceed **6** months, which shall be determined by the Code Enforcement Officer and 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.

- (a) Revocation or suspension of certificates. If the Code Enforcement Officer 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 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.
- (b) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law 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.

SECTION 8. NOTIFICATION REGARDING FIRE OR EXPLOSION.

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

SECTION 9. UNSAFE BUILDINGS, STRUCTURES, AND EQUIPMENT AND CONDITIONS OF IMMINENT DANGER

Unsafe buildings, structures, and equipment and conditions of imminent danger in this **Village** shall be identified and addressed in accordance with the following procedures once notified by the Code Enforcement officer:

1. Property owner shall have 14 days to hire at their expense a design professional to certify the building(s), structure(s) and/or equipment and condition is (are) safe and there is no imminent danger to the public, occupant or potential occupant.
2. In the event the Village does not receive a design professional's certification as stated in Item 1, within the designated days or previously agreed upon time between the property owner and Village, the Village will hire a design professional, at the expense of the property owner, to certify the building(s), structure(s) and equipment and condition is (are)
 - a. Safe and there is no imminent danger to the public, occupant or potential occupant; or
 - b. Unsafe conditions are present, and appropriate action(s) to correct must be taken in accordance with local and state laws.
 - i. Village costs shall be recouped in accordance with Local, County and State regulations

SECTION 10. OPERATING PERMITS.

- (a) Operation Permits required. Operating Permits shall be required for the following: 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:
 - (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 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;
- (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 when 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 sparking 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 Local Law Number [___ of ___], as now in effect or as hereafter 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;

(5) Outdoor events where the planned attendance exceeds 1,000 persons;

(6) Parking garages as defined in subdivision (a) of section 13 of this local law;

(7) Facilities that assembly 50 or more persons.

(8) Facilities that store, handle or use hazardous production materials;

(9) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the **Board of Trustees** of this Village; and

(10) other processes or activities or for operating any type of building, structure, or facility as determined by resolution adopted by the **Board of Trustees** of this **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) Exemptions. Operating permits shall not be required for processes or activities, or the buildings, structures, or facilities listed in paragraphs (1) through (6) of subdivision

(a) of this section, provided that the use is expressly authorized by a certificate of occupancy or certificate of compliance, fire safety and property maintenance inspections are performed in accordance with section 11 (Fire Safety and Property Maintenance Inspections) of this local law, and condition assessments are performed in compliance with section 13 (Condition Assessments of Parking Garages) of this local law, as applicable.]

(d) 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 **Village** 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 Officer 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) **60** 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 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.
- (h) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law 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.

SECTION 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) 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 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 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 Officer 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 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 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 local law

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.

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 local law.]

- (e) Fee. The fee specified in or determined in accordance with the provisions set forth in section 18 (Fees) of this local law 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.

SECTION 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 local law, or any other local law or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code.

The process for responding to a complaint shall include such of the following steps as the Code Enforcement Officer may deem to be appropriate:

- (a) performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;

(b) if a violation is found to exist, providing the owner of the affected property and any other Person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in section 17 (Violations) of this local law;

(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.

SECTION 13. 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 fees charged and collected; and

(10) all other features and activities specified in or contemplated by sections 4 through 14, inclusive, of this local law.

(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.

SECTION 14. PROGRAM REVIEW AND REPORTING

(a) The Code Enforcement Officer shall annually submit to **the Board of Trustees** of this **Village** a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in section 14 (Record Keeping) of this local law 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 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.

(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, 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.

SECTION 15: 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 thirty (30) 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.

(c) Penalties. In addition to such other penalties as may be 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 **\$250** 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 [*specify amount*] 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**

(d) Injunctive Relief. An action or proceeding may be instituted in the name of this **Village**, 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 local law, 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 Officer pursuant to any provision of this local law. 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 local law, or any Stop Work Order, Order to Remedy or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this

Village, 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 be commenced without the appropriate authorization from the **Board of Trustees** of this Village.

- (e) Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 6 (Stop Work Orders) of this local law, in any other section of this local law, 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.

SECTION 16: FEES

A fee schedule shall be established by resolution of the **Board of Trustees** of this **Village**. 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 local law.

SECTION 17. INTERMUNICIPAL AGREEMENTS

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

SECTION 18. PARTIAL INVALIDITY

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

SECTION 19. EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law

RESOLUTION #2022-120-APPROVE LOCAL LAW 3-2022

On motion made by Trustee J. Cummins, second by Trustee J. Kolkowski resolved to approve Local Law 3-2022 with the changes as discussed during the meeting. Aye-all, Nay-none

Local Law 3-2022-Amend and Update Local Law 2-2003 Zoning Law

**Village of Allegany Zoning Law Amendment
Recommendations**

**ARTICLE VII DISTRICT USE REGULATION Section 7.1 Zoning Districts Table 7.1
Table of Permitted Uses**

	R-1	R-2	R-3	B-1	B-2	B-3	I-1
Short-term Rental ⁴	NP	P	P	P	P	P	NP
Telecommunication facilities	SP	SP	SP	SP	SP	SP	SP
Tier 1&2 Solar Energy Systems	P	P	P	P	P	P	P
Tier 3 Solar Energy Systems	NP	NP	NP	NP	NP	NP	NP

⁴ Application required. See Section 9.18

**ARTICLE IX SUPPLEMENTARY REGULATIONS Section 9.15 Telecommunications
Facilities**

(A) Intent and Purpose

(4) Telecommunications facilities may be permitted with a grant of special use permit in all districts. The Village has established a hierarchy of preferred locations outside of the Industrial District for telecommunications towers. This hierarchy is intended to serve as a guideline for potential applicants. The locations/districts are listed in order from most preferred to least preferred:

- (a) Property with an existing structure suitable for co-location. Placement of the antenna(s) on a suitable, existing structure is encouraged whenever feasible.
- (b) Municipal or government-owned property.
- (c) Business Districts
- (d) Residential Districts

Section 9.18 Short-Term Rentals

(A) Purpose

The purpose of this section is to authorize and regulate the establishment and operation of short-term rental properties in the Village of Allegany and to ensure the preservation of the character, integrity, and property values of the surrounding areas within which such properties are located and maintained. The Village needs to take action to ensure that the operation of short-term rentals is done in a safe and controllable manner for the well-being of all in the community. The intent of these regulations is not to

restrict or eliminate short-term rentals; rather the intent is to have safeguards in place to protect the consumer as well as the property owner, surrounding neighbors and emergency responders. The character of residential zoning districts must also be preserved.

(B) Definitions

- (1) *Bedroom*. To count as a bedroom, a room must comply with applicable requirements for bedrooms and habitable spaces set forth in the current Residential Code of New York State (RCNYS).
- (2) *Local Agent*. An individual or legal entity designated to: (i) oversee the short-term rental of a rental unit in accordance with this chapter; (ii) respond to calls from renters, concerned citizens, and representatives of the Village; (iii) act as an agent of the owner with respect to a short-term rental unit, which shall include the authority to accept service of legal papers relating to the unit on the owner's behalf. The local agent must live or maintain a physical place of business within 25 miles of the rental unit used for short-term rentals. A property owner who meets these criteria may be the local agent.
- (3) *Short-Term Rental Unit*. A dwelling or portion thereof rented for a term of less than one month.
- (4) *Short-Term Rental Permit*. A written document issued by the Village indicating that the dwelling unit identified thereon is authorized to operate as a short-term rental in accordance with this chapter. A short-term rental permit shall be valid for one year from the date of the inspection that found the rental unit in compliance, absent newly or later detected violations of the Village's property maintenance code, fire code, this chapter or other applicable laws, rules or regulations, or a revocation of the permit pursuant to this chapter within that time, and the expiration date shall be shown on the permit. A permit shall be valid for one year from date of issuance unless terminated due to a violation and shall be renewed annually.

(C) Permit Applications

- (1) *Permits required*. All dwelling units used for short-term rentals must be registered with and have a short-term rental permit issued by the Code Enforcement Office of the Village. The short-term rental of a dwelling without a permit is prohibited.
- (2) *Application*. To apply for a short-term rental permit, the applicant shall:
 - a. Provide and/or certify as true the following on a form provided by the Village:
 - i. Name, address, email address, and telephone numbers (local and cell phone) of the applicant and any agent for the applicant.
 - ii. The street address of the short-term rental unit, along with other identification if more than one short-term rental unit has the same street address.
 - iii. The number of short-term rental units in the building, if more than one.
 - iv. The number of off-street parking spaces provided on the lot that are reserved exclusively for occupants of the short-term rental unit would require 1 parking space per bedroom rented.
 - v. A statement certifying that each bedroom has a working smoke alarm, that there is a working carbon monoxide detector on each floor, and that the owner or local agent will check on those devices at least every 90 days.

- vi. A statement certifying that each kitchen has a working fire extinguisher and that a working fire extinguisher is located near each outdoor cooking device.
 - vii. A statement certifying that the owner consents to inspections by the Village and will make the dwelling unit available to inspections upon request.
 - viii. A Certificate of Liability Insurance issued by the insurance company listing the Village of Allegany as the Certificate Holder must be provided.
 - ix. A copy of the Certificate of Authority issued by the Cattaraugus County Treasurer's Office to collect an Occupancy Tax must be provided.
 - x. Such other information as the Village requests.
- b. Sign the application form and provide the signature of the local agent.
 - c. Pay an administrative fee for review of the application and inspection of the property.
 - d. Submit the property to annual inspection for compliance with applicable codes and Laws. Should a premises fail inspection, the initial re-inspection shall be free of charge. Failure to satisfactorily complete an inspection shall be grounds for withholding a permit or deeming an existing permit to be immediately void.
- (3) *Changes in information.* The applicant shall notify the Village in writing within 30 days of any change in the information provided on the application form. An owner of a short-term rental unit shall notify the Village in writing within ten days of any change in the designated local agent.
- (4) *Procedure.* Submit the application to the Code Enforcement Officer, who shall refer any application for a Short-Term Rental Unit located in an R2 or R3 to the Planning Board to approve/disapprove by determining the suitability of the Short-Term Rental Unit at the proposed location. Applications for a Short-Term Rental Unit located in a B1, B2, or B3 shall be subject to approval by the Code Enforcement Officer. Short Term Rental Units are not permitted in R1 and I1 zoning districts.

(D) Short-Term Rental Regulations.

- (1) *Advertising regulations.* No short-term rental unit may be occupied or advertised for rent unless the Village has issued a valid short-term rental unit permit pursuant to this chapter. A short-term rental unit shall not be advertised for an occupancy that is greater than the allowed maximum occupancy calculated pursuant to this section.
- (2) *Local agent required.* All short-term rental units must have a designated local agent. If the owner of a short-term rental unit does not qualify as a local agent, the owner shall designate a local agent and authorize the agent in writing to act as the owner's agent for any acts required of the owner or the owner's agent under this article.
- (3) *Maximum occupancy.* Each short-term rental unit permit shall indicate the maximum occupancy for the unit, calculated by the Code Enforcement Officer in accordance with the current Property Maintenance Code of New York State (PMCNYS). The owner, local agent, and occupants shall be in violation if the number of occupants in the short-term rental unit exceeds the maximum occupancy stated on the permit. The maximum occupancy shall be stated in the lease or other rental agreement.
- (4) *Permit transfers.* A short-term rental unit permit may not be transferred to a new owner of a short-term rental unit.

- (5) *Applicable codes.* Compliance with applicable zoning, construction, fire, and property maintenance codes of New York State shall be a condition of all rental unit permits. Violations of any of those codes shall also be a violation of this local law.
- (6) *Basement/Attic regulations.* No basement or attic space can be used for a bedroom unless it has an egress window approved by the Village Code Enforcement Office and found in compliance with local and state code requirements.
- (7) *Curbside refuse pickup.* The owner must make provisions to have refuse picked up (curbside) at least once per week when the short-term rental unit is being rented.
- (8) *Liability Insurance.* The owner of the short-term rental shall have adequate liability insurance coverage throughout the duration of operation as a short-term rental unit.
- (9) *Excluded districts.* Short-term rental units are not permitted in the following districts: R2 and R3 without prior approval granted by the Planning Board and not at all in R1 and I1.

(E) Inspections.

- (1) *Scheduling.* Upon written notice from the Village, it shall be the owner's responsibility to schedule and allow the Village's inspection of the short-term rental unit. Inspections shall occur during the Village's regular business hours, unless the Village agrees to other arrangements, and all fees shall be paid prior to the inspection.
- (2) *Opportunity to correct deficiencies.* If an inspection reveals that the short-term rental unit is not in compliance with this chapter or applicable codes, the owner shall be provided a written list of deficiencies or violations that must be corrected. Failure to correct such deficiencies in a reasonable time shall be grounds for withholding a permit or voiding an existing permit.
- (3) *Additional inspections.* The Village may conduct additional inspections as it deems necessary, upon reasonable notice to the owner or agent, such as when:
 - a. A complaint is filed with the Village; or
 - b. The Village otherwise has reasonable cause to believe a short-term rental unit is in violation of any Village Law.
- (4) *Changes in conditions following inspection.* The owner shall notify the Village in writing within 30 days if any of the items inspected pursuant to this chapter are altered after inspection by the Village.

(F) Safety Equipment.

- (1) *Smoke detectors.* The owner of each short-term rental unit shall be responsible for the installation of smoke detectors/alarms in each rental unit. All smoke detectors/alarms shall be UL (Underwriters Laboratories, Inc.) approved, and shall be installed in accordance with the provisions of the NYS Residential Building Code. Smoke detectors/alarms shall be installed in the following locations:
 - a. In each sleeping room;
 - b. Outside of each separate sleeping area in the immediate vicinity of the bedrooms; and
 - c. On each additional story of the rental unit, including basements and cellars, but not including crawl spaces and uninhabitable attics. In rental units with split levels and

without an intervening door between the adjacent levels, a smoke detector/alarm installed on the upper level shall suffice for the adjacent lower level, provided that the lower level is less than one full story below the upper level.

- (2) *Carbon monoxide detectors.* The owner of each short-term rental unit shall be responsible for the installation of a carbon monoxide detectors in each rental unit. All carbon monoxide detectors shall be according to the NYS Fire Code.
- (3) *Fire extinguisher.* The owner of each short-term rental unit shall be responsible for the installation of a fire extinguisher in the kitchen of each unit and near each outdoor cooking device.
- (4) *Tampering prohibited.* No person shall tamper or interfere with the effectiveness of a smoke detector, carbon monoxide detector or fire extinguisher required by this section. **(G) Penalties for Offenses.**

(1) The Code Enforcement Officer shall pursue abatement of the failure to comply with any provision of this section as a violation in accordance with Article X of this local law.

(2) *Permit Revocation.*

a. The Village may revoke the short-term rental permit for any short-term rental which is the site of at least three (3) separate incidents (occurring on three separate days) within a calendar year resulting in a plea of responsibility (with or without an explanation), a plea of guilty, a plea of no contest, or a court's determination of responsibility or guilt by the owner or any renter for a violation of one or more of the following:

i. any provision of this Law; ii. the Village noise and nuisance Law; and iii. any violation of the zoning Law or any permit or approval issued pursuant to the zoning Law.

b. Upon a determination by the Village that the short-term rental permit is subject to revocation, the Village shall issue a notice to the property owner and the local agent stating that the Village intends to revoke the short-term rental permit. The notice shall inform the owner and local agent of a right to a hearing to show cause as to why the short-term rental permit should not be revoked, if a hearing is requested within fourteen (14) days of the service of the notice. If a hearing is timely requested, the Village shall schedule the hearing before the Planning Board. The Village shall notify the owner and the local agent in writing of a time and place for that hearing. At the hearing, the owner and local agent may present evidence that the requirements for revocation provided are not satisfied, or that the property owner and local agent should not be held responsible for one or more of the three (3) requisite violations due to extenuating circumstances. Extenuating circumstances may include circumstances such as:

i. the violation was committed by a non-renter and the renter(s) attempted to prevent or halt the violation; ii. the violation resulted

from an act of God; or

iii. other circumstances that the owner or the owner's agent could not reasonably anticipate and prevent, and could not reasonably control.

- c. Upon revocation of a permit, a new permit for the address will not be issued for a period of eighteen (18) months, and the dwelling cannot be used for short-term rentals until a new permit is obtained.

Section 9.19 Solar Energy

(A) Authority

This Solar Energy Local Law is adopted pursuant to sections 7-700 through 7-704 of the Village Law of the State of New York, which authorize the Village of Allegany to adopt zoning provisions that advance and protect the health, safety and welfare of the community, and, in accordance with the Village Law of New York State, “to make provision for, so far as conditions may permit, the accommodation of solar energy systems and equipment and access to sunlight necessary therefor.”

(B) Purpose

(1) This Solar Energy Local Law is adopted to advance and protect the public health, safety, and welfare of the Village of Allegany by creating regulations for the installation and use of solar energy generating systems and equipment, with the following objectives:

- a) To take advantage of a safe, abundant, renewable and non-polluting energy resource;
- b) To decrease the cost of electricity to the owners of residential and commercial properties, including single-family houses;
- c) To increase employment and business development in the Village of Allegany, to the extent reasonably practical, by furthering the installation of Solar Energy Systems;
- d) To mitigate the impacts of Solar Energy Systems on environmental resources such as important agricultural lands, forests, wildlife and other protected resources, and;
- e) To create synergy between solar and the stated goals of the community pursuant to its Comprehensive Plan.

(C) Definitions BUILDING-INTEGRATED SOLAR ENERGY SYSTEM: A combination of Solar Panels

and Solar Energy Equipment integrated into any building envelope system such as vertical facades, semitransparent skylight systems, roofing materials, or shading over windows, which produce electricity for onsite consumption.

FARMLAND OF STATEWIDE IMPORTANCE: Land, designated as “Farmland of Statewide Importance” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that is of state wide importance for the production of food, feed, fiber, forage, and oilseed crops as determined by the appropriate state agency or agencies. Farmland of Statewide Importance may include tracts of land that have been designated for agriculture by state law.

GLARE: The effect by reflections of light with intensity sufficient as determined in a commercially reasonable manner to cause annoyance, discomfort, or loss in visual performance and visibility in any material respects.

GROUND-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System that is

anchored to the ground via a pole or other mounting system, detached from any other structure, that generates electricity for onsite or offsite consumption.

NATIVE PERENNIAL VEGETATION: native wildflowers, forbs, and grasses that serve as habitat, forage, and migratory way stations for pollinators and shall not include any prohibited or regulated invasive species as determined by the New York State Department of Environmental Conservation.

POLLINATOR: bees, birds, bats, and other insects or wildlife that pollinate flowering plants, and includes both wild and managed insects.

PRIME FARMLAND: Land, designated as “Prime Farmland” in the U.S. Department of Agriculture Natural Resources Conservation Service (NRCS)’s Soil Survey Geographic (SSURGO) Database on Web Soil Survey, that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is also available for these land uses.

ROOF-MOUNTED SOLAR ENERGY SYSTEM: A Solar Energy System located on the roof of any legally permitted building or structure that produces electricity for onsite or offsite consumption.

SOLAR ACCESS: Space open to the sun and clear of overhangs or shade so as to permit the use of active and/or passive Solar Energy Systems on individual properties.

SOLAR ENERGY EQUIPMENT: Electrical material, hardware, inverters, conduit, storage devices, or other electrical and photovoltaic equipment associated with the production of electricity.

SOLAR ENERGY SYSTEM: The components and subsystems required to convert solar energy into electric energy suitable for use. The term includes, but is not limited to, Solar Panels and Solar Energy Equipment. The area of a Solar Energy System includes all the land inside the perimeter of the Solar Energy System, which extends to any interconnection equipment. A Solar Energy System is classified as a Tier 1, Tier 2, or Tier 3 Solar Energy System as follows.

Tier 1 Solar Energy Systems include the following:

- a. Roof-Mounted Solar Energy Systems
- b. Building-Integrated Solar Energy Systems

Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with system capacity up to [25] kW AC and that generate no more than [110] % of the electricity consumed on the site over the previous [12] months.

OR

Tier 2 Solar Energy Systems include Ground-Mounted Solar Energy Systems with a total surface area of all solar panels on the lot of up to [4,000] square feet and that generate up to [110] % of the electricity consumed on the site over the previous [12] months.

Tier 3 Solar Energy Systems are systems that are not included in the list for Tier 1 and Tier 2 Solar Energy Systems.

SOLAR PANEL: A photovoltaic device capable of collecting and converting solar energy into electricity.

STORAGE BATTERY: A device that stores energy and makes it available in an electrical form.

(D) Applicability

- (1) The requirements of this Local Law shall apply to all Solar Energy Systems permitted, installed, or modified in the Village of Allegany after the effective date of this Local Law, excluding general maintenance and repair.
- (2) Solar Energy Systems constructed or installed prior to the effective date of this Local Law shall not be required to meet the requirements of this Local Law.
- (3) Modifications to an existing Solar Energy System that increase the Solar Energy System area by more than [5] % of the original area of the Solar Energy System (exclusive of moving any fencing) shall be subject to this Local Law.
- (4) All Solar Energy Systems shall be designed, erected, and installed in accordance with all applicable codes, regulations, and industry standards as referenced in the NYS Uniform Fire Prevention and Building Code (“Building Code”), the NYS Energy Conservation Code (“Energy Code”), and the Village of Allegany Code.

(E) General Requirements

- (1) A Building permit shall be required for installation of all Solar Energy Systems.
- (2) Local land use boards are encouraged to condition their approval of proposed developments on sites adjacent to Solar Energy Systems so as to protect their access to sufficient sunlight to remain economically feasible over time.
- (3) Issuance of permits and approvals by the Village Planning Board shall include review pursuant to the State Environmental Quality Review Act [ECL Article 8 and its implementing regulations at 6 NYCRR Part 617 (“SEQRA”)].

(F) Permitting Requirements for Tier 1 Solar Energy Systems

All Tier 1 Solar Energy Systems shall be permitted in all zoning districts and shall be exempt from site plan review under the local zoning code or other land use regulation, subject to the following conditions for each type of Solar Energy Systems:

- (1) Roof-Mounted Solar Energy Systems
 - (a) Roof-Mounted Solar Energy Systems shall incorporate, when feasible, the following design requirements:
 - i. Solar Panels on pitched roofs shall be mounted with a maximum distance of [8] inches between the roof surface the highest edge of the system.
 - ii. Solar Panels on pitched roofs shall be installed parallel to the roof surface on which they are mounted or attached.
 - iii. Solar Panels on pitched roofs shall not extend higher than the highest point of the roof surface on which they are mounted or attached.
 - iv. Solar Panels on flat roofs shall not extend above the top of the surrounding parapet, or more than [24] inches above the flat surface of the roof, whichever is higher.
 - (b) Glare: Solar panels that are on the ground shall have anti-reflective coatings.
 - (c) Height: All Roof-Mounted Solar Energy Systems shall comply with the height limitations in Appendix 3.

OR

All Roof-Mounted Solar Energy Systems shall be subject to the maximum height regulations specified for principal and accessory buildings within the underlying zoning district.

(2) Building-Integrated Solar Energy Systems shall be shown on the plans submitted for the building permit application for the building containing the system.

(G) Permitting Requirements for Tier 2 Solar Energy Systems

All Tier 2 Solar Energy Systems shall be permitted in all zoning districts as accessory structures and shall be exempt from site plan review under the local zoning code or other land use regulations, subject to the following conditions:

- (1) Glare: All Solar Panels shall have anti-reflective coating(s).
- (2) Setbacks: Tier 2 Solar Energy Systems shall be subject to the setback regulations specified for the accessory structures within the underlying zoning district. All Ground- Mounted Solar Energy Systems shall only be installed in the side or rear yards in residential districts.
- (3) Height: Tier 2 Solar Energy Systems shall be subject to the height limitations specified for accessory structures within the underlying zoning district.

OR

Tier 2 Solar Energy Systems shall comply with the height limitations in Appendix 1.

- (4) Screening and Visibility.
 - (a) All Tier 2 Solar Energy Systems shall have views minimized from adjacent properties to the extent reasonably practicable.
 - (b) Solar Energy Equipment shall be located in a manner to reasonably avoid and/or minimize blockage of views from surrounding properties and shading of property to the north, while still providing adequate solar access.
- (5) Lot Size: Tier 2 Solar Energy Systems shall comply with the existing lot size requirement specified for accessory structures within the underlying zoning district.

(H) Permitting requirements for Tier 3 Solar Energy Systems

All Tier 3 Solar Energy Systems are not permitted in any zoning district.

(I) Safety

- (1) Solar Energy Systems and Solar Energy Equipment shall be certified under the applicable electrical and/or building codes as required.
- (2) Solar Energy Systems shall be maintained in good working order and in accordance with industry standards. Site access shall be maintained, including snow removal at a level acceptable to the local fire department.
- (3) If Storage Batteries are included as part of the Solar Energy System, they shall meet the requirements of any applicable fire prevention and building code when in use and, when no longer used, shall be disposed of in accordance with the laws and regulations of the Village and any applicable federal, state, or county laws or regulations.

(J) Permit Time Frame and Abandonment

- (1) The Special Use Permit and site plan approval for a Solar Energy System shall be valid for a period of [18] months, provided that a building permit is issued for construction [or] construction is

commenced. In the event construction is not completed in accordance with the final site plan, as may have been amended and approved, as required by the [Reviewing Board], within [18] months after approval, the applicant or the Village may extend the time to complete construction for [180] days. If the owner and/or operator fails to perform substantial construction after [24] months, the approvals shall expire.

- (2) Upon cessation of electricity generation of a Solar Energy System on a continuous basis for [12] months, the Village may notify and instruct the owner and/or operator of the Solar Energy System to implement the decommissioning plan. The decommissioning plan must be completed within [360] days of notification.
- (3) If the owner and/or operator fails to comply with decommissioning upon any abandonment, the Village may, at its discretion, utilize the bond and/or security for the removal of the Solar Energy System and restoration of the site in accordance with the decommissioning plan.

(K) Enforcement

Any violation of this Solar Energy Law shall be subject to the same enforcement requirements, including the civil and criminal penalties, provided for in the zoning or land use regulations of Village.

(L) Severability

The invalidity or unenforceability of any section, subsection, paragraph, sentence, clause, provision, or phrase of the aforementioned sections, as declared by the valid judgment of any court of competent jurisdiction to be unconstitutional, shall not affect the validity or enforceability of any other section, subsection, paragraph, sentence, clause, provision, or phrase, which shall remain in full force and effect.

Appendix 1: Height Requirements

The following table displays height requirements for each type of Solar Energy Systems. The height of systems will be measured from the highest natural grade below each solar panel.

Table 1: Height Requirements

Zoning District	Tier 1 Roof-Mounted	Tier 2
R-1	2' above roof	10'
R-2	2' above roof	10'
R-3	2' above roof	10'
B-1	4' above roof	15'
B-2	4' above roof	15'
B-3	4' above roof	
.....	15'	
I-1	2' above roof	15'

Appendix 2: Sample Decommissioning Plan

Date: [Date]

Decommissioning Plan for [Solar Project Name], located at: [Solar Project Address]

Prepared and submitted by [Solar Developer Name], the owner of [Solar Farm Name]

As required by the Village of Allegany, [Solar Developer Name] presents this decommissioning plan for [Solar Project Name] (the "Facility").

Decommissioning will occur as a result of any of the following conditions:

1. The land lease, if any, ends
2. The system does not produce power for [12] months
3. The system is damaged and will not be repaired or replaced

The owner of the Facility, as provided for in its lease with the landowner, shall restore the property to its condition as it existed before the Facility was installed, pursuant to which may include the following:

1. Removal of all operator-owned equipment, concrete, conduits, structures, fencing, and foundations to a depth of 36 inches below the soil surface.
2. Removal of any solid and hazardous waste caused by the Facility in accordance with local, state and federal waste disposal regulations.
3. Removal of all graveled areas and access roads unless the landowner requests in writing for it to remain.

All said removal and decommissioning shall occur within [12] months of the Facility ceasing to produce power for sale.

The owner of the Facility, currently [Solar Developer Name], is responsible for this decommissioning.

Facility Owner Signature: _____ Date:

RESOLUTION #2022-121-ADJOURN MEETING

On motion made by Trustee D. Papasergi, second by Trustee J. Cummins resolved to adjourn the meeting. Aye-all, Nay-none

Respectfully submitted.
Kimberly Roth/Clerk Treasurer

