

**SCHEDULE A
LOCAL LAW NO. 4 OF 2017
TOWN OF OTEGO, NEW YORK**

**A LOCAL LAW REGARDING ADMINISTRATION AND ENFORCEMENT OF THE
NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE AND
THE STATE ENERGY CONSERVATION CONSTRUCTION CODE**

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 the Town of Otego. This Local Law is adopted pursuant to Section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this law, all buildings, structures and premises, regardless of use or occupancy are subject to this Local Law.

SECTION 2. DEFINITIONS

Building - shall mean any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosing of persons, animals, or property.

Building Permit - shall mean a permit issued pursuant to Section 4 of this Local Law. 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 Occupancy/Certificate of Compliance - shall mean a certificate issued pursuant to subdivision (b) of Section 7 of this Local Law.

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, all inspectors and all staff assigned to the Code Enforcement Office.

Compliance Order - shall mean an order issued by the Code Enforcement Officer or inspector pursuant to subdivision (a) of Section 15 of this Local Law. A Compliance Order may also be referred to as a Cease and Desist Order or an Order to Remedy.

Energy Code - shall mean the State Energy Conservation Code as currently in effect and as hereafter amended from time to time.

Inspector - shall mean an inspector appointed pursuant to subdivision (d) of Section 4 of this Local Law.

Operating Permit – shall mean a permit issued pursuant to Section 10 of this Local Law. The term “Operating Permit” shall also include and Operating Permit which is renewed, amended, or extended pursuant to any provision 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.

Stop Work Order – shall mean an order issued pursuant to Section 6 of this Local Law.

Structure – Anything constructed or erected, the use of which requires location on the ground or attachment to something having location on the ground. Structures may include but shall not be limited to: buildings, fencing, enclosures, garages, gazebos, greenhouses, retaining walls, kiosks, sheds, tents, and utility buildings. For the purposes of this Local Law, a structure shall also include a septic tank, drywell, and wastewater distribution field.

Temporary Certificate- shall mean a certificate issued pursuant to subdivision (d) of Section 7 of this Local Law.

Town – shall mean the Town of Otego.

Uniform Code – shall mean the New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

SECTION 3. CODE ENFORCEMENT OFFICER AND INSPECTORS

- (a) The office of Code Enforcement is hereby created. The Code Enforcement Officer shall administer and enforce all 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 and Operating Permits, and the plans, specifications and construction documents submitted with such applications.
 - (2) To request or demand additional documentation or information as deemed necessary for the review of any application.
 - (3) Upon approval of such applications, to issue Building Permits, Certificates of Occupancy/Certificates of Compliance, Temporary Certificates and Operating Permits, by such terms and conditions as the Code Enforcement Officer may determine to be appropriate;

- (4) To conduct construction inspections, site visits and inspections to be made prior to the issuance of Building Permits, Certificates of Occupancy/Certificates of Compliance, Temporary Certificates and Operating Permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this Local Law;
 - (5) To issue Stop Work Orders;
 - (6) To review and investigate complaints;
 - (7) To issue orders pursuant to Section 15 (Violations) of this Local Law.
 - (8) To create and maintain official records;
 - (9) To collect fees as set by the Town Board of Otsego;
 - (10) To pursue administrative enforcement actions and proceedings.
 - (11) In consultation with this Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code or this Local Law and;
 - (12) 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 Town Board. The Code Enforcement Officer shall possess a 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 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 New York State Department of State pursuant to the Executive Law and the regulations promulgated thereunder.
- (c) In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual or the Otsego County Code Officer may be appointed by the Town Supervisor to serve as Acting Code Enforcement Officer, until the next regularly scheduled Town Board Meeting, whereupon the Town Board shall take action on such appointment. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this Local Law.
- (d) One or more Uniform Code Inspectors may be appointed by the Town Board to act under the supervision of 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 service training, and other training as the State of New York shall require for code enforcement personnel, and the Inspector shall obtain certification from the New York State Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

- (e) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Town Board of Otego.

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 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 heating appliance, chimney, flue, and the installation of a new or replacement septic system or any parts thereof. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the Code Enforcement Officer.
- (b) Exemptions. No Building Permit shall be required for work in any of the following categories:
- (1) Repairs, provided that such repairs do not involve:
 - (i) The removal or cutting away of a load bearing wall, partition, or portion thereof, or of any structural beam or load bearing component;
 - (ii) The removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;
 - (iii) The enlargement, alteration, replacement, or relocation of any building system; or
 - (iv) The removal from service of all or part of a fire protection system for any period of time.
 - (2) 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 (13.88 square meters).
 - (3) Installation of swings and other playground equipment associated with one- or two-family dwellings or multiple single-family dwellings (townhouses).

- (4) Installation of swimming pools associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground.
 - (5) Installation of fences which are not part of an enclosure surrounding a swimming pool and not over 7 feet (2134 mm) high.
 - (6) Construction of retaining walls that are not over 4 feet (1219 mm) in height measured from the bottom of the footing to the top of the wall, unless such walls support a surcharge or impound Class I, II or IIIA liquids.
 - (7) Construction of temporary motion picture, television and theater stage sets and scenery.
 - (8) Installation of window awnings supported by an exterior wall of one- or two-family dwellings or multiple single-family dwellings (townhouses).
 - (9) Installation of partitions or movable cases less than 5'-9" in height.
 - (10) Painting, wallpapering, tiling, carpeting, or other similar finish work.
 - (11) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances.
 - (12) Replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications.
- (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 Energy Code.
- (d) Emergency Repairs necessary to safeguard life or property or maintain a level of safety may be commenced. Where equipment replacements and repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the Code Enforcement Office.
- (e) Applications for Building Permits. Applications for Building Permits shall be made in writing on a form or forms provided by or otherwise acceptable to the Code Enforcement Officer. Applying for and obtaining any required Building Permit shall be the responsibility of: a) the owner, if the owner is acting as the general or prime contractor, or b) the general or prime contractor. 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 and by the general or prime contractor, if the owner is not acting as the general or prime contractor. The application shall include such information as the Code

Enforcement Official deems sufficient to permit a determination 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 thorough description of the proposed work;
 - (2) The tax map number and the street address of the premises where the work is to be performed;
 - (3) The occupancy classification of any effected building or structure;
 - (4) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code;
 - (5) At least two sets of construction documents (drawings and/or specifications) which (i) clearly define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.
- (f) 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 (e) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer in writing or by stamp. One set of accepted construction documents shall be retained by the Code Enforcement without charge and one set of accepted or approved documents shall be returned to the applicant to be kept at the work site so as to be available for use by Code Enforcement personnel. However, the return of a set of accepted construction documents 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.
- (g) 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 the Energy Code. Notwithstanding the foregoing, no Building Permit will be issued without:
- (i) Proof of Workers Compensation insurance where required or an appropriate documentation of exemption.

- (ii) Documentation of compliance with lead, asbestos, and other hazard regulations where required.
 - (iii) If required, documentation of compliance with the Town of Otego Flood Damage Prevention Local Law.
- (h) 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.
- (i) All work shall be performed in accordance with the accepted 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 changes 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.
- (j) Time limits. Building Permits shall become invalid unless the authorized work is not commenced within six months of the date of issuance. Permits shall expire twelve (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 the approval of the application by the Code Enforcement Officer.
- (k) 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 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 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.
- (l) Fees. The fee specified in or determined in accordance with the provisions set forth in Section 16 (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.
- (m) Disapproval. If an application, together with the other documents filed, does not conform to all of the requirements of the Uniform Code or local laws, the Code Enforcement Officer shall disapprove the application. The Code Enforcement Officer shall provide the applicant with a written statement of disapproval, together with the basis for the disapproval.

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 to perform said inspection. 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) Building systems, including underground and rough-in;
 - (6) Fire resistant construction;
 - (7) Fire resistant penetrations;
 - (8) Solid fuel burning heating appliances, chimneys, flues, or gas vents.
 - (9) Energy Code compliance;
 - (10) Electrical and Plumbing rough-in and finals;
 - (11) Septic Systems; and
 - (12) A final inspection after all work authorized by the Building Permit is completed.
- (c) Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code or the Energy Code. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work has been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, re-inspected, and found satisfactory as completed.

- (d) Fee. The fee specified in or determined in accordance with the provisions set forth in Section 16 (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) Where the Code Enforcement Officer finds any work regulated by the Uniform Code or Energy Code being performed in a manner either contrary to the provisions of said Codes or dangerous or unsafe, 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 for which a Building Permit is required and without regard to whether a Building Permit has or has not been issued.
 - (2) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Code Enforcement Officer or designee, without regard to whether such work is or is not for which a Building Permit is required, and without regard to whether a Building Permit has or has not been issued.
 - (3) Any work for which a Building Permit is required which is being performed without the required Building Permit, or under a Building Permit that has become invalid, has expired or has been suspended or revoked.
- (b) Content of Stop Work Orders. Stop Work Orders shall (1) be in writing, (2) be dated and signed by the Code Enforcement Officer, (3) state the reason or reasons for issuance, and (4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.
- (c) Service of Stop Work Orders. The Code Enforcement Officer shall cause the Stop Work Order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the Permit Holder, on the Permit Holder) personally or by registered mail/certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Stop Work Order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work affected by the Stop Work Order, personally or by registered mail / certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.
- (d) Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder, and any other Person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.

- (e) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in 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 15 (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/CERTIFICATES OF COMPLIANCE.

- (a) Certificates of Occupancy/Certificates of Compliance required. A Certificate of Occupancy / Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or sub-classification to another. Permission to use or occupy a building or structure, or portion thereof, for which Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy / Certificate of Compliance.
- (b) Issuance of Certificates of Occupancy/Certificates of Compliance. The Code Enforcement Officer shall issue a Certificate of Occupancy / Certificate of Compliance if the work which was the subject of the Building Permit was completed in accordance with all applicable provisions of the Uniform Code and Energy Code and, if applicable, that the structure, building or portion thereof that was converted from one use or occupancy classification or sub-classification to another complies with all applicable provisions of the Uniform Code and Energy Code. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy / Certificate of Compliance. In addition, where applicable, the following documents prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy / Certificate of Compliance, shall be provided to the Code Enforcement Officer prior to issuance of the Certificate of Occupancy / Certificate of Compliance:
 - (1) A written statement of structural observations and/or final report of special inspections; and
 - (2) Flood hazard certifications in compliance with the Town of Otego Flood Damage Prevention Local Law.
- (c) Contents of Certificates of Occupancy / Certificates of Compliance. A Certificate of Occupancy / Certificate of Compliance shall contain the following information:
 - (1) The Building Permit number if any.

- (2) The date of issuance of the Building Permit if any.
 - (3) The name, address and tax map number of the property where the work was performed and the Building Permit was issued.
 - (4) If the Certificate of Occupancy / Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy / Certificate of Compliance is issued;
 - (5) The use and occupancy classification of the structure;
 - (6) The type of construction of the structure;
 - (7) The assembly occupant load of the structure, if any;
 - (8) If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required.
 - (9) Any special conditions imposed in connection with the issuance of the Building Permit; and
 - (10) The signature of the Code Enforcement Officer issuing the Certificate of Occupancy / Certificate of Compliance and the date of issuance.
- (d) Temporary Certificate. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate allowing the temporary occupancy or use of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer Determines:
- (1) That the building or structure, or portion thereof covered by the Temporary Certificate, may be occupied safely.
 - (2) That any fire and smoke detecting, fire protection or carbon monoxide detecting equipment, which would normally be required with a full Certificate of Occupancy / Certificate of Compliance, has been installed and is fully operational;
 - (3) That all required means of egress from the building or structure have been provided.

The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed six months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder shall undertake to

bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

- (e) Revocation or suspension of certificates. If the Code Enforcement Officer determines that a Certificate of Occupancy / Certificate of Compliance or a Temporary Certificate was issued in error because of because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified in writing by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.
- (f) Fee. The fee as specified or determined in accordance with the provisions set forth in Section 16 (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 a Temporary Certificate.

SECTION 8. NOTIFICATION REGARDING FIRE OR EXPLOSION.

The chief of any fire department providing firefighting services for a property within this Town 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.

Unsafe structures and equipment in this Town shall be identified and addressed in accordance with the procedures established by the New York State Property Maintenance Code and/or the New York State Fire Code as now in effect or as hereafter amended from time to time and in accordance with this Local Law.

- (a) Unsafe Structures. If during the inspection of a premises, building or structure, or any building system or equipment, in whole or in part, there exists a clear and imminent threat to human life, safety or health, the Code Enforcement Officer shall exercise its powers in due and proper manner so as to extend to the public protection from the hazards of threat to human life, safety, or health.

(1) Unsafe Structure. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or to the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire; or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, or structurally unsafe; or is of such faulty construction or unstable foundation that partial or complete collapse is possible.

(2) Unsafe Equipment. Unsafe equipment includes any boiler, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or any other equipment on the premises or within the structure that is in such disrepair or

condition that the equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

(3) **Structure Unfit for Human Habitation.** A structure is unfit for human occupancy whenever such structure is unsafe, or because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public.

(b) **Closing of Vacant Structures.** If a structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, a placard shall be posted on the premises, and the structure shall be closed up so as not to be an unattractive nuisance. The placard shall be removed whenever the defect or defects on which the placarding was based have been eliminated.

(c) **Notice.** Whenever a structure or equipment has been deemed unsafe by the Code Enforcement Officer under the provisions of this section, a notice shall be posted in a conspicuous place in or about the structure affected by such notice. The notice shall also be posted at each entrance to the structure and shall read as follows: "THIS STRUCTURE IS UNSAFE AND ITS OCCUPANCY HAS BEEN PROHIBITED BY THE CODE ENFORCEMENT OFFICER." A copy of the notice shall also be sent to the owner of the premises by regular mail.

(d) **Prohibited Occupancy.** It shall be unlawful for any person to enter such unsafe structure, except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or demolishing the structure. No person shall occupy an unsafe structure.

(e) **Opportunity to be Heard.** Any person aggrieved by a decision of the Code Enforcement Officer under this section shall have the right to appeal the decision to the Town of Otego Zoning Board of Appeals, provided that a written application for appeal is filed with the Zoning Board of Appeals within 20 days after the decision. The Zoning Board of Appeals shall meet to hear the appeal within 20 days after the application is filed. The applicant shall have the opportunity to present evidence to the Zoning Board of Appeals. The Zoning Board of Appeals shall affirm, deny or modify the decision of the Code Enforcement Officer and shall notify the applicant of the Board's determination, in writing, within 20 days of the hearing.

SECTION 10. OPERATING PERMITS.

(a) Operation Permits required. Operating Permits shall be required for conducting the activities or using the categories of buildings listed below:

(1) Manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) 2703.1.1(4) in the publication

entitled "International Fire Code" also known as the "Fire Code of New York State" and incorporated in reference in 19 NYCRR Section 1225.1;

- (2) Hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening and waste handling;
- (3) Use of pyrotechnic devices in assembly occupancies;
- (4) Buildings containing one or more areas of public assembly with an occupancy load of 100 persons or more; and
- (5) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of the Town of Otego.

Any person who proposes to undertake any activity or operate any type of buildings 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 or forms provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the owner, an authorized agent, or legal tenant of the property where the Operating Permit is to be issued. The 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 with all applicable requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.
- (c) Inspections. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit.
- (d) 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 his or her discretion, issue a single Operating Permit to apply to all such activities.
- (e) Duration of Operating Permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any Operating Permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. 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.

- (f) Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.
- (g) Fee. The fee specified or determined in accordance with the provisions set forth in Section 16 (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) Fire Safety and Property Maintenance Inspections of buildings and structures which contain an area of public assembly shall be performed at least once every twelve (12) months.
 - (2) Fire Safety and Property Maintenance Inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.
 - (3) Fire Safety and Property Maintenance Inspections of all multiple dwellings, not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings and structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision shall be performed at least once every thirty six (36) months.
- (b) 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 the Code Enforcement Officer or an inspector designated by the Code Enforcement Officer at any time upon:
 - (1) The request of the owner of the property to be inspected or an authorized agent of such inspector.
 - (2) Receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Unified 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.

- (c) 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 under Executive Law Section 156-e and Education Law Section 807-b.

Notwithstanding any other provision of this section to the contrary:

- (1) The Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure which contains an area of public assembly if OFPC performs fire safety and property maintenance inspections of such building or structure at least every twelve (12) months.
 - (2) The Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure operated as a dormitory if OFPC performs fire safety and property maintenance inspections of such building or structure at least every twelve (12) months.
 - (3) The Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a multiple dwelling not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section: and
 - (4) The Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a non-residential building, structure, use or occupancy not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such non residential building, structure, use or occupancy at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section.
- (d) The fee specified or determined in accordance with the provisions set forth in Section 16 (Fees) of this local law must be paid prior to or at the time of 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, ordinance or regulation adopted for administration and enforcement of the Uniform Code or Energy Code. The Code Enforcement Officer may require that complaints be submitted in writing. The source of the complaint should remain confidential in most cases. 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 15 (Violations) of this local law.
- (c) If appropriate, issuing a Stop Work Order, a Cease and Desist Order, and Order to Remedy, or an Appearance Ticket.
- (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, Operating Permits, and any other documents prepared by the Code Enforcement Officer or Code Enforcement Personnel;
 - (4) All inspections and tests performed;
 - (5) All statements and reports issued;
 - (6) All complaints received;
 - (7) All investigations conducted;

- (8) All other features and activities specified in or contemplated by Sections 4 through 12, inclusive of this local law, including; and
- (9) All fees charged and collected.
- (b) All such records shall be public records open for public inspection during normal business hours upon 72 hours' notice. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for a least the minimum time period so required by State law and regulation.

SECTION 14. PROGRAM REVIEW AND REPORTING.

The Code Enforcement Officer shall prepare reports of Code Office activities.

- (a) The Code Enforcement Officer shall annually submit to the Town Board a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors including a report and summary of all transactions and activities described in Section 13 (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 Town, on a form prescribed by the Secretary of State, a report of the activities of this Town relative to the administration and enforcement of the Uniform Code and the Energy Code.
- (c) The Code Enforcement Officer shall, upon request of the New York State Department of State provide to the New York State Department of State, from the records and related materials of the Town of Otego is required to maintain, excerpts, summaries, tabulations, statistics, and other information and accounts of the activities of the Town of Otego in connection with the administration and enforcement of the Uniform Code and the Energy Code.

SECTION 15. VIOLATIONS.

- (a) Order 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. Upon finding that any such condition or activity exists, the Code Enforcement Officer shall be authorized to issue an Order to Remedy. The Order shall:
 - (1) Be in writing;
 - (2) Be dated and signed by the Code Enforcement Officer;
 - (3) Specify the condition or activity that violates the Uniform Code, the Energy Code or this Local Law;

- (4) Specify the provision or provisions of the Uniform Code, the Energy Code or this Local Law which is/are violated by the specific condition or activity;
 - (5) 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 _____, which is thirty (30) days after the date of this Order to Remedy."
 - (6) Direct that compliance be achieved within the specified period of time;
 - (7) State that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. 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 / certified mail within five (5) days after the Order's date. 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, engineer, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other Person who is responsible in whole or in part for any such condition or activity creating a violation, or taking part or assisting in work being performed, on or at the affected property, personally or by registered or certified mail; provided, however, that the failure to serve any Person mentioned in this sentence, whether known or unknown, shall not affect the efficacy of the Order to Remedy or other order.
- (b) Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code, Energy Code, or this Local Law.
- (c) Civil Penalties. In addition to those penalties proscribed by State law, 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 the Uniform Code or Energy Code or this Local Law, shall be liable to a civil penalty of not more than \$200.00 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the Town of Otego.
- (d) Injunctive Relief. An action or proceeding may be instituted in the name of the Town of Otego, 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 the Uniform Code, the Energy Code or

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 the Town of Otego, in 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 the subdivision shall be commenced without the appropriate authorization from the Town Board of the Town of Otego.

- (e) Remedies Not Exclusive. No remedy or penalty specified in the 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, 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 381 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 381 of the Executive Law.

SECTION 16. FEES.

A fee schedule shall be established by resolution of the Otego Town Board. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of Building Permits, amended Building Permits, renewed Building Permits, Certificates of Occupancy/Certificates of Compliance, Temporary Certificates, Operating Permits, Fire Safety and Property Maintenance Inspections, and other actions of the Code Enforcement Officer described in or contemplated by this Local Law.

SECTION 17. INTERMUNICIPAL AGREEMENTS.

The Town Board of Otego may, by resolution authorize the Code Enforcement Officer of the Town of Otego to enter into an agreement, in the name of this Town, 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.

SECTION 20. REPEAL.

Local Law #2 of 2007 and Local Law #1 of 2011 are hereby repealed in their entirety.

