

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
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STATE OF NEW YORK
DEPARTMENT OF STATE
FILED
JAN 12 2009

~~COUNTY~~
~~CITY~~ of EASTCHESTER
Town of
~~VILLAGE~~

Local Law No. 3 of the year 2009.

MISCELLANEOUS
& STATE RECORDS

A local law *(Insert Title)* providing for the Amendment to Local Law No. 1 of 2003,
a local law known as, "Supplemental Provisions to
the New York State Fire Prevention and The Building
Code within the unincorporated Town of Eastchester.

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

~~COUNTY~~
~~CITY~~ of EASTCHESTER as follows:
Town of
~~VILLAGE~~

(If additional space is needed, attach pages the same size as this sheet, and number each.)

**LOCAL LAW NO. 3 - 2009
TOWN OF EASTCHESTER
LOCAL LAW NO. 1 - 2003
SUPPLEMENTAL PROVISIONS TO NEW YORK STATE FIRE
PREVENTION AND BUILDING CODE,
REPEALING THE TOWN OF EASTCHESTER BUILDING CODE
ADOPTED IN 1938 AND ALL ITS AMENDMENTS,
THE TOWN OF EASTCHESTER PLUMBING CODE AND ALL ITS
AMENDMENTS, AND
LOCAL LAW NO. 8 – 2002, WHICH AMENDED LOCAL LAW NO. 2 –
2001.**

BE IT ENACTED by the town governing body of the Town of Eastchester as follows:

PART I

ARTICLE 1.1

SCOPE

Section 1.1.1. PURPOSE

This local law shall supplement the New York State Fire Prevention and Building Code which was adopted by resolution of the Town Board Meeting on December 17, 2002 and shall facilitate the implementation and application of the New York State Fire Prevention and Building Code.

Section 1.1.2. MATTER COVERED

The following provisions together with the New York State Fire Prevention and Building Code and any rules or regulations or amendments that may be made from time to time, shall supplement the New York State Fire Prevention and Building Code, and is intended to provide for matters concerning, affecting or relating in any way to the manner of erection, construction, alterations, additions, repairs, demolition, equipment, removal, and moving of any building or structure in the Town of Eastchester.

Section 1.1.3. LOCAL LAW REMEDIAL.

This local law is hereby declared to be supplemental to the New York State Fire Prevention and Building Code and remedial, and shall be construed to secure the beneficial interests and purposes thereof, which are public safety, health and welfare, through structural

strength and stability, sanitation, means of egress, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the design, construction, alteration, addition, repair, removal, demolition, use and occupancy of buildings, structures or premises. Any conflict between this local law and the New York State Fire Prevention and Building Code shall be decided in favor of the New York State Fire Prevention and Building Code.

Section 1.1.4. ALL NEW WORK TO CONFORM

- (a) No building or structure shall hereafter be constructed, altered, repaired, or removed, nor shall the equipment of a building or structure be constructed, installed, altered, repaired or removed, except in conformity with the provisions of this local law and that of the New York State Fire Prevention and Building Code.
- (b) Nothing in this local law shall prohibit the raising or lowering of a building to meet a change of grade in the street on which it is located, provided that the building is not otherwise altered.

Section 1.1.5 USE AND MAINTENANCE.

- (a) It shall be unlawful to maintain, occupy or use a building or structure, or part thereof, that has been erected or altered in violation of this local law or that of the New York State Fire Prevention and Building Code.
- (b) All buildings or structures, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safeguards which are required by this local law in a building when erected, altered, or repaired, shall be maintained in good working order. The owner, or his designated agent, shall be responsible for the maintenance of buildings and structures.

Section 1.1.6. BUILDINGS AFFECTED

The provisions of this local law apply to all buildings and structures in the Town of Eastchester not devoted to or appropriated for streets, and to constructions such as vaults, areas, or street encroachments, however placed, that are appurtenant to such buildings or structures. Such provisions shall apply with equal force to Municipal, County, State or Government buildings and structures as they do to private buildings, except as may be specifically provided by Statute or Local Law.

Section 2.1.1. (1) BUILDING OFFICIAL

The Department of Buildings in the Town of Eastchester shall be in charge of a building official known as the Building Inspector.

- (2) Appointment. In the event of a vacancy occurring in the office of Building Inspector of the Town of Eastchester, the appointment to such

office shall be made by the Town Board of the Town of Eastchester under and pursuant to the laws of the State of New York.

- (3) The Town Board may appoint assistant Building Inspectors who shall assist the Building Inspector in enforcing the provisions of this local law.
- (4) during the temporary absence or disability of the Building Inspector, the Town Board may at any time designate a substitute who, shall exercise the powers and perform the duties of the Building Inspector.

Section 2.1.2 DUTIES.

The Building Inspector shall devote his/her whole time to the duties of his/her office. He/she shall receive applications required by this local law; issue permits and furnish the prescribed certificates. He/she shall examine premises for which permits have been issued and shall make necessary inspections to see that the provisions of the law are complied with and that construction is prosecuted safely. He/she shall enforce all laws relating to the construction, alteration, repair, removal, demolition, equipment, use and occupancy, location, and maintenance of buildings and structures, except as may be otherwise provided for. He/she shall, when requested by the Town Board, or when the interests of the municipality so require, make investigations in connection with matters referred to in this local law and render written reports on the same when requested by the Town Board. He/she shall issue such notices or orders as may be necessary for the purpose of enforcing compliance with the law, to cause to be removed illegal or unsafe conditions, to secure the necessary safeguards during construction, or to require adequate necessary safeguards during construction, or to require adequate exit facilities in existing buildings and structures.

Section 2.1.3. INSPECTIONS

- (1) Inspections required under the provisions of this local law shall be made by the Building Inspector or a duly appointed assistant; provided that in lieu of his/her personal inspection, he/she may accept reports of inspectors of recognized inspection services, after investigation of their qualifications and reliability. But no certificate called for by any provision of this local law shall be based on such reports unless the same are in writing and certified by a responsible officer of such service.
- (2) The Building Inspector, or his/her representative, shall make an inspection of all existing buildings in the Town, when deemed necessary, for the purpose of determining the suitability of the building for its occupancy.

Section 2.1.4. RECORDS.

- (1) The Building Inspector shall keep careful and comprehensive records of applications, of permits issued, of certificates issued, of inspections made, of reports rendered, and of orders and notices issued. He/she shall retain on file

copies of all papers in connection with building work so long as any part of the building or structure to which they relate may be in existence.

- (2) All such records shall be open to public inspection at reasonable hours but shall not be removed from the office of the Building Inspector unless under due process of law, or in connection with the business of the Town.

Section 2.1.5. REPORTS.

The Building Inspector shall make a report to the Town Board once each month, or more often if requested, including statements of permits and certificates issued, and orders promulgated.

Section 2.1.6 COOPERATION OF OTHER OFFICIALS.

The Building Inspector may request and shall receive so far as may be necessary, in the discharge of his/her duties, the assistance and cooperation of a Town Engineer or Planner, if available, in fixing grades, of the Chief of Police in enforcing orders, of the Town Counsel in prosecuting violations, and of other Town Officials.

Section 2.1.7. RIGHT TO ENTRY.

The Building Inspector, in the discharge of his/her duties, shall have authority to enter any building, structure or premises at any reasonable hour. Any owner, contractor, occupant or other person being on any premises in this Town, who shall refuse to comply with the reasonable and proper orders of the Building Inspector with relation to any matter committed to him/her by this local law, shall be deemed guilty of a violation of this local law or the he/she shall issue such notices or orders as may be necessary.

Section 2.1.8 ENFORCEMENT OF THIS LOCAL LAW

- (a) It shall be the duty of the Building Inspector to enforce the provisions of this local law and the New York State Fire Prevention and Building Code and all local laws, which have a bearing upon building construction.
- (b) The Building Inspector is hereby authorized to stop the work on any excavation, construction, addition, alteration or repair of any building or structure or any work is being conducted contrary to the provisions of this local law or the New York State Fire Prevention and Building Code. Such stop order may be oral, but shall be followed by a written stop order. It shall be unlawful to do any work, except that which is necessary to prevent injury to persons or property, or to resume operation after the issuance of a stop order except upon written notice from the Building Inspector.

- (c) Police officers in the discharge of their duty shall stop work on any excavation, construction, addition, alteration or repairs of any building or structure, or the erection of signs, fences or walls being made without a building permit from the Building Inspector, and shall report the same to the Chief of Police Department who shall notify the Building Inspector of such action.

Section 2.1.9 REPORTS ON FIRES.

- (1) The Board of Fire Commissioners or other persons in charge of fire extinguishment in the Town to which this provision and rules apply, shall file a report with the Building Inspector of all fires in any of the buildings or structures to which this local law applies.
- (2) Where a fire is accompanied with explosion, panic or loss of life, in any of the buildings or structures to which this local law applies, the Supervisor and the Building Inspector shall be notified immediately by any department of the Town having knowledge and notice of same.

ARTICLE 2.2.

PERMITS

Section 2.2.1 STATE LAW.

- (1) The structural requirements of the Labor Law and Industrial Code of the State of New York are applicable to Factories, Factory Buildings, Buildings containing Mercantile Establishments and Places of Public Assembly as defined in the Labor Law.
- (2) No permit for the construction of any building or structure, which is required to conform to the structural requirements of the New York State Uniform Fire Prevention and Building code or the rules adopted there under shall be issued by the Building Inspector, until the plans have been approved by the Building Inspector.
- (3) School Buildings, additions or alterations to same, must be approved by the State Education Department before being submitted to the Building Inspector. The school district shall submit one (1) set of SED approved plans for file in Eastchester Building Department.
- (4) No permit shall be issued unless the Contractor, Architect, Owner, etc., shall produce proof that the employer of labor has procured Worker's Compensation as provided in the New York State Worker's Compensation Law.

Section 2.2.2. APPLICATION FOR PERMIT.

Before the erection, construction, removal or alteration of any building, sign, wall, fence or other structure hereafter erected, constructed, altered, converted or removed, and also all existing buildings, signs, walls, fences or other structures, or any buildings, signs, walls, fences, or other structures now in the course of construction, located within the jurisdiction of this Town, which become affected by the provisions of this local law, shall be erected, constructed, altered, removed, converted or controlled and maintained in keeping with the provisions of this local law, the owner or his duly authorized representative shall file plans and applications in the office of the Building Inspector for a Building Permit for such work.

Section 2.2.3. DESCRIPTION

Applications filed with the Building Inspector requesting a permit for the erection of any building or conversions, the demolition or removal of any building or structure, or the alternate, or addition, or the raising or lowering, or the demolition or removal of any building or structure, or any part thereof, shall be in writing, on appropriate application blanks to be furnished by the Building Inspector. Such application blanks shall be properly filled out and filed with the Building Inspector by the owner or any person duly authorized by the owner, giving the full name and residence of each of the owners of the premises, the name and business address of the person or persons who are to do the work, a description of the property by Section, Block and Lot Number, and such other information in respect to the erection of any building or structure, or the alteration or addition, or the raising or lowering or the demolition or removal of any building or structure, or any part thereof, as the Building Inspector may require. Such applications shall be accompanied by detailed plans and specifications, showing and stating the type of work to be done. Plans and specifications shall be filed in duplicate.

Section 2.2.4 PERMIT NECESSARY.

(1)

a. It shall be unlawful to commence any excavation or the erection, construction, addition, alteration, repair, conversion, demolition or removal of any building, structure, or part thereof, wall, accessory structure, sign or fence, until applications, plans, specifications, plot or lot diagram have been filed with the Building Inspector in compliance with the provisions in this local law, and a permit has been issued by said Building Inspector.

b. The Building Inspector may require the applicant to file details, computations, stress diagrams, strain sheets and other data necessary to describe the construction and basis of calculations, which shall bear the name of a Registered architect or Professional engineer licensed to practice in the State of New York.

c. Specifications for one and two family houses or one-story buildings need not be filed when all necessary requirements are specifically noted on the plans.

- (2) Plot Diagram or Lot Plan. The owner, or person duly authorized by the owner shall file a separate plot diagram for each principal new building hereafter erected except for plots contiguous to each other under one ownership in business districts. In all cases the plot diagram or lot plan shall show the size and location of the proposed buildings and all existing buildings on the lot.
- (3) Interior Alteration. In the case of an interior alteration, which does not provide for additional families, or a minor exterior alteration to an existing structure, the filing of a plot plan may not be required, unless the Building Inspector deems it necessary because of special conditions.
- (4) Registered Architects and Professional Engineers.
 - (a) All plans and specifications filed with the Building Inspector for a building permit for the erection of new buildings or structures, or for additions, alterations or repairs to existing buildings or structures, costing more than five thousand (\$5,000.00) dollars, shall bear the name, registration number, and seal of a registered architect or professional engineer licensed to practice in the State of New York.
 - (b) Before the issuance of building permit for the erection of buildings or structures of steel skeleton, reinforced concrete or fire-proof construction, or whenever the plans and specifications filed accompanying an application are for a building or structure which, in the opinion of the Building Inspector involves construction under conditions which are hazardous or complex, the applicant shall, in addition to the building applications required, file with the Building Inspector a sworn affidavit signed by the registered architect or professional engineer who prepared the plans and specifications, certifying that the prepared plans and specifications as filed comply with the requirements of this local law and other applicable laws including the New York State Fire Prevention and Building Code.
 - (c) Whenever a building permit is to be issued in reliance upon a sworn affidavit as provided herein, or whenever the work to be covered by a building permit involves construction under conditions which in the opinion of the Building Inspector are hazardous or complex, the registered architect or professional engineer who prepared the plans and specifications and signed the affidavit filed with the Building Inspector, shall, at the owner's expense, supervise the construction of such building or structure, be responsible for its conformity with the approved plans, specifications, computations, design, the provisions of this local law and other applicable laws, and forthwith upon its completion, shall make and file with the Building Inspector an affidavit certifying that the work has been done in conformity with the approved plans, specifications, computations, design, the provisions of this local law and other applicable

laws. In the event that such registered architect or professional engineer does not supervise the filed operations of the construction, the owner shall employ in his stead a competent superintendent of construction or person with at least ten years experience who is qualified to supervise this type of construction. The superintendent of construction or person employed by the owner to supervise such construction shall submit to the Building Inspector the written affidavit at the completion of such work as required in this Section.

- (5) Action On application and Issuance of Permit. If the Building Inspector is satisfied that the work described in an application for a building permit and the plans filed therewith conform to the requirements of this local law and other pertinent laws and local laws, he/she shall issue a permit therefore to the applicant.
- (6) Refusal To Issue Permit. If the application for a permit and the plans and specifications filed therewith describe work which does not conform to the requirements of this local law or other pertinent laws or local laws, the Building Inspector shall not issue a permit, but shall return the plans and specifications to the applicant with his/her refusal to issue such permit. Such refusal when requested shall be in writing and shall contain the reasons therefore

Fee for Failure to Timely Apply for Building Permit. Upon an applicant applying to the Building Inspector for a building permit for an existing structure, and said structure shall meet the requirements of this local law and the New York State Fire Prevention and Building Code, the applicant shall pay upon issuance of the building permit, a fee based on the cost of the construction of the structure, which cost shall be the value as of the date of the filing of the application for the building permit. The cost of construction shall be determined by the Building Inspector. There shall be a fee charged in connection with the administration and enforcement of this local law in such amounts as set forth in the most current law known as, "The Local Law Pertaining to the Building and Planning Department Fee Schedule".

- (7) Unlawful To Reduce Area Of Lot or Plot. It shall be unlawful to reduce or diminish the area of a lot or plot of which a plot diagram has been filed and has been used as the basis for a permit, unless a revised plot diagram showing the proposed change in conditions shall have been filed and approved; provided that this shall not apply when the lot is reduced by reason of a new street opening, or widening or other public improvement.
- (8) Signature of Building Inspector. Every permit issued by the Building Inspector under the provisions of this local law shall have his/her signature affixed thereto; but this shall not prevent the Town Board from authorizing a subordinate to affix such signature during his/her absence.

- (9) Plans To Be Kept At Site. When the Building Inspector issues a permit, he/she shall endorse in writing, or stamp both sets of plans, "APPROVED." One set of plans so approved shall be retained by the Building inspector and filed in his/her office as a public record, and the other set shall be returned to the applicant who shall keep same at the site of work and shall be open to inspection by the Building Inspector or his/her authorized representative.

Section 2.2.5 ADDITIONS OR ALTERATIONS. Additions or alterations estimated to cost one hundred dollars or more shall be accompanied by two sets of drawings and specifications and shall be filed with the application and a permit shall be obtained as in the case of new buildings. The Building Inspector may impose conditions on said permit as he/she sees fit, including but not limited to requests for insurance and performance bond.

Section 2.2.6 TEMPORARY PERMIT FOR FOUNDATION. When application for permit to erect or enlarge a building has been filed and pending issuance of such permit, the Building Inspector may at his/her discretion, issue a temporary permit for the foundation of such building. The Building Inspector may impose conditions on said permit as he/she sees fit, including but not limited to requests for insurance and performance bond. The holder of such a temporary permit shall proceed at his/her own risk and without assurance that a permit for the superstructure will be granted.

Section 2.2.7. DURATION OF PERMIT.

- (a) All permits to construct or alter any building shall be valid for six months from the date thereof. If no construction has commenced within the six months, a new permit must be obtained. If construction under a building permit is not begun within six months from its date of issue or within such longer period as the Building Inspector may authorize because of occurrence of conditions unforeseen at the time of issuance, such permit shall expire, and if construction has begun but is not completed within one year from the issuance of such permit or such longer period as may be authorized in writing for the completion of work under way, such building permit shall expire and no further work shall be done thereunder until a new building permit has been obtained.
- (b) Any application for an approval which has been disapproved in whole or in part, and upon which no further action has been taken by the applicant within six months after such disapproval shall be considered as automatically withdrawn, but may be reinstated by the Building Inspector provided it complies with all provisions of this local law and other laws pertaining to same which are in effect at the time application for reinstatement is made.

Section 2.2.8. CHANGE OF PLANS AND SPECIFICATIONS. No deviation from the original plans and specifications or the methods to be employed in the construction of any building or structure (for which a permit has been issued) shall be made without having obtained written permission from the Building Inspector, who may give such permission by signing his/her name in approval of such modifications as may be presented to him/her in writing. Should the change

contemplated be so extensive as in the opinion of the Building Inspector to require a new set of plans and specifications, an entirely new application for a permit must be presented in regular form but, in no event shall said changes exceed the requirements of the Zoning Law of the Town of Eastchester.

Section 2.2.9 ORDINARY REPAIRS. Ordinary repairs may be made without notice to the Building Inspector, except in districts requiring fireproof construction, but, the term, "ordinary repairs" shall not be construed to include any new construction, the cutting in of any door or window, or closing up of same, the erection, removal or replacing of any partitions, the alteration or cutting of any structural supports or the removal or closing of any stairway or exit, nor repairs costing more than one hundred (\$100.00) dollars.

Section 2.2.10. POSTING OF PERMITS. All permits for work pertaining to this local law shall be posted in a conspicuous location on the buildings or structures affected before work is started so as to afford ready inspection by any interested party.

Section 2.2.11. PERMIT FOR REMOVAL. No permit to move a building or structure shall be granted until a notice shall have been given to the owners of lots adjoining the lot upon which said building or structure is to be moved and to the owners of wires or other impediments the temporary removal of which will be necessary; nor until the necessary permission has been obtained from the Superintendent of Highways or other authorities who have control over the Public Highway; nor until an opportunity has been given the adjoining Property Owners to be heard upon such application; nor until a bond in an adequate sum satisfactory to the town Board has been filed with the Town Clerk to indemnify and save harmless the Town for damages.

Section 2.2.12 DEMOLITION OR MOVING BUILDINGS. When plans and detailed statements are filed with the Building Inspector for the erection of a new building, if an existing building or part of an existing building is to be demolished or moved, such fact shall be stated in the statement so filed. No frame building shall be moved from without the districts requiring fireproof construction to any place within those districts or from one place to another within the said districts.

Section 2.2.13 BUILDING WITHOUT PERMITS. Structures or buildings subject to the provisions of this local law hereafter erected without a permit and not in conformity with this local law may be removed or legalized as hereinabove required.

Section 2.2.14 FEES FOR PERMITS.

- (1) Fees Based on Cost. All fees shall be based upon the estimated cost of the work to be performed except permits for temporary structures, and permits for the demolition of an existing building or structure.
- (2) Estimated Cost. The estimated cost of work to be performed under a permit shall be based upon the reasonable value of all services, including professional fees, labor, material, scaffolding and other fixed equipment, devices or appliances, and further including the reasonable value of all services, labor and material which

may be donated gratis and entering into or necessary to the prosecution and completion of the work, and subject to the inspection services provided by the Town of Eastchester.

Fees. Before any person or persons shall erect, add to, alter, repair, demolish, move, raise or lower any building, wall, fence, sign or other structure, or part thereof, the person or persons intending or desiring to erect, add to, alter, repair, demolish, move, raise or lower any building, wall, fence, sign or other structure or part thereof, shall first apply for and obtain from the Building Inspector a building permit. There shall be a fee charged in connection with the administration and enforcement of this local law in such amounts as set forth in the most current law known as, "The Local Law Pertaining to the Building and Planning Department Fee Schedule".

- (3)
 - A. This Section is intentionally left blank.
 - B. Building permit fees for Municipal, County, State and Federal buildings or structures may be waived.
- (4) Fees Not Returnable. Fees shall be paid upon the filing of plans and applications. Fees are not returnable after the issuance of a building permit.

Section 2.2.15 NOTICE OF FINAL INSPECTION. It shall be the duty of the holder of every permit to notify the Building Inspector in writing of the time when such building will be ready for final inspection.

Section 2.2.16. APPEAL. In case of dissatisfaction with any decision of the Building Inspector, except where the safety of structures is involved, a written appeal may be made within seven (7) days after such decision of the Town Board, who shall dispose of each case after investigation of the appeal has been made. If no such appeal is made, the decision of the Building Inspector shall be final and conclusive.

Section 2.2.17 BOND REQUIRED. In addition to any fees herein prescribed, the Building Inspector in his/her discretion (or at the direction of the Town Board or Town Attorney) may compel a suitable bond to be furnished to safeguard the Town against damage of any nature whatsoever.

Section 2.2.18 REVOCATION.

- (1) The Building Inspector may revoke a permit or approval issued under the provisions of this local law in case there has been any false statement of misrepresentation as to a material fact in the application or plans on which the permit or approval was based.
- (2) Revocation of Permit for Performing Work in Violation of the Provisions of this Local Law. It shall be unlawful, after the revocation of such permit to proceed

with such building operation and the builder, owner or other person proceeding with such work shall be guilty of a violation of this local law unless such permit shall have been first reinstated or reissued by the Building Inspector in writing. Before a permit so revoked may be lawfully reissued or reinstated, the entire building or structure shall first be put into condition corresponding with the requirements of this local law, and any work or material applied in violation of any of the provisions of this local law, shall first be removed from such building or structure.

Section 2.2.19. COPYING OF PLANS AND SPECIFICATIONS. Permission to copy plans or any person shall not allow specifications from the files in the Building Inspector's office.

Section 2.2.20. REMOVAL OF PLANS AND SPECIFICATIONS. Plans, specifications or other documents filed in the Building Inspector's office, shall not be removed from the files of said office for any cause whatsoever, except by subpoena of a court or body having jurisdiction to issue a legal subpoena, or by a person designated by the Town Board and then only for the purpose of checking such plans and specifications or the construction work therein.

Section 2.2.21. CERTIFICATE OF OCCUPANCY.

- (1) **New Buildings.** No building hereafter erected shall be occupied or used, in whole or in part, until a certificate of occupancy shall have been issued by the Building Inspector certifying that such building conforms to the provisions of this local law.
- (2) **Buildings Hereafter Altered.** No building hereafter enlarged or extended, or so altered, wholly or in part, as to change its classification, and no building hereafter altered for which a certificate of occupancy has not been heretofore issued, shall be occupied or used, in whole or in part, until a certificate of occupancy shall have been issued by the Building Inspector certifying that the work for which the permit was issued has been completed in accordance with the provisions of this local law and the Zoning Law of the Town of Eastchester, provided that if the occupancy or use of such building was not discontinued during the work of alteration, the occupancy or use of the building shall not continue for more than thirty (30) days after completion of the alteration unless such certificate shall have been issued.
- (3) **Contents of Certificates.** In addition to the certification as to compliance with the provisions of this local law and the Zoning Law of the Town of Eastchester, the certificate of occupancy shall state the purposes for which the building may be used in its several parts, the maximum permissible live-loads on the several floors, the number of individual persons that may be accommodated in the several stories, in case such number is limited by a provision of law or by the permit and all special stipulations of the permit, if any.

- (4) Temporary Occupancy. Upon request of the holder of a permit, or of the Owner, the Building Inspector may issue a temporary certificate of occupancy for part of a building. Such temporary permit shall be granted only upon the condition that the owner will save the Town harmless for any injuries or damage to person or property arising out of the use and occupancy of said building.
- (5) Issuance and Filing. A certificate of occupancy shall be issued within ten (10) days after written application therefore, if the building at the time of such application shall be entitled thereto. Copies of certificates of occupancy shall be furnished, on request, to persons having a proprietary interest in the building.
- (6) Existing Buildings. Nothing in this local law shall require the removal, alteration or abandonment of, nor prevent the continuance of the use and occupancy of a lawfully existing building except as may be necessary for the safety of life or property. Upon written request from the owner, the Building Inspector shall issue a certificate of occupancy for an existing building certifying, after verification by inspection, the occupancy or use of such building, provided that at the time of issuance of such certificate there are no violations of law or orders of the Building Inspector pending.
- (7) Change of Occupancy.
 - (a) No change of occupancy or use shall be made in a building hereafter erected or altered that is not consistent with the last issued certificate of occupancy for such building, unless a permit is secured. In case of an existing building, no change of occupancy that would bring it under some special provision of this local law shall be made, unless the Building Inspector finds, upon inspection, that such building conforms substantially to the provisions of law with respect to the proposed new occupancy and use, and issued a certificate of occupancy therefore.
 - (b) The use of a building or premises shall not be deemed to have changed because of a temporary vacancy or change of ownership or tenancy. The reestablishment in a building, after a change of occupancy has been made, of a prior use that would not have been permitted in a new building of the same type of construction, is prohibited. The change from a specifically prohibited use to another specifically prohibited use shall not be made.
- (8) Other Certificates. For Completed Installations. When a certificate is specifically required by a provision of this local law for an installation, extension, alteration or repair of an elevator or elevator equipment, plumbing, gas-piping, electric wiring or heating system, it shall be unlawful to use or permit the use of the installation, equipment or appliance to which such provision applies, until the appropriate certificate has been issued.

- (9) Affidavits Accompanying Applications for Certificates of Occupancy. Applications to the Building Inspector for a final certificate of occupancy for a building or structure, the plans for which were filed and approved, shall, be accompanied by an affidavit signed by the licensed architect, professional engineer, superintendent of construction. such affidavit shall state that the deponent has examined the approved plans of the building or structure for which a certificate of occupancy is sought, and that to the best of his knowledge and belief, the building or structure has been erected in accordance with the approved plans, applications and specifications, and as erected complies with the requirements of the New York State Fire Prevention and Building Code which includes the Plumbing and Electrical Codes and also complies with the Zoning Law of the Town of Eastchester and the Laws of the State of New York, except insofar as variations therefrom have been legally authorized. Such variations shall be specified in the affidavit.
- (10) Certificate of Compliance. Upon the completion of alterations or additions, the owner may apply to the Department of Buildings, in lieu of a Certificate of Occupancy, for a Certificate of Compliance if in the opinion of the Building Inspector a new Certificate of Occupancy for the entire building is not necessary. The certificate may be issued for that portion of the building or alteration so as to certify the completion of work to the satisfaction of the Building Inspector and all relative local laws.
- (11) Relief From Provisions of the Building Code.
- (A) The Town Board may upon application to it after a denial by the Building Inspector for the issuance of a building permit for a proposed or an existing structure, give relief from the provisions of this Building Code provided:
- (i) With respect to existing structures:
- (a) The structure meets all of the requirements of the State Building Code, and
- (b) The Building Inspector shall certify the structure in all other respects is safe and habitable, and
- (c) The applicant shall pay the fine upon issuance of the building permit, as set forth in PART XVII Article 17.1.1. (3a)
- (B) With respect to a proposed structure:
- (a) and (b) above shall be applicable, and
- (c) The Building Inspector recommends relief from the Building Code.

Section 2.2.22. SANITARY REQUIREMENTS. – All Provisions shall be subject to the New

York State Fire Prevention and Building Code:

- (1) No building permit shall be issued unless there are available adequate facilities for a supply of water for health and fire protection, for the disposal of sewage, for access for fire protection, on or immediately adjacent to the lot on which the proposed building is to be erected.
- (2) Such facilities shall be deemed to be available if at the time of the application for the building permit or prior to its issuance there shall be in existence firm contracts between responsible parties providing for the installation thereof prior to the completion of the erection of the proposed building.
- (3) All residential buildings now or hereafter constructed, altered or added to, shall be equipped with toilets, lavatories and bath facilities for the occupants thereof, following all minimum requirements.

ARTICLE 2.3.

UNSAFE OR DANGEROUS STRUCTURES

Section 2.3.1 UNSAFE BUILDINGS

- (1) Certain words when used in this local law unless otherwise expressly stated or unless the contents or subject matter otherwise require are defined as follows:
 - a. The word "Town" as used herein means the Town of Eastchester.
 - b. The words, "Town Board" shall mean the Town Board of the Town of Eastchester.
 - c. The words, "Building Inspector" shall mean the Building Inspector of the Town of Eastchester.
 - d. The words, "building and/or wall and/or structure" whenever used herein shall mean any building, wall or structure located within the unincorporated area of the Town of Eastchester, whether or not same be situate in a business, industrial, residential or other section of said Town of Eastchester.
 - e. The words, "dangerous and/or unsafe buildings, walls or structures" wherever used herein shall mean and include buildings structurally unsafe, unstable or unsanitary; inadequately provided with exit facilities; constituting a fire hazard; otherwise dangerous to life or property; unsuitable or improper for the use or occupancy to which it is put; constituting a hazard to health or safety because of inadequate maintenance, dilapidation, obsolescence, decay, deterioration or abandonment; a nuisance; having parts which are so attached that they may fall and injure members of the public, or public or private property; and those buildings, walls or structures existing in violation of any

provisions of this local law of the Town of Eastchester or of any other local law of the Town of Eastchester or any provisions of the New York State Fire Prevention and Building Code.

- (2) Any building, wall or structure or any part of a building, wall or structure that from any cause is or shall become dangerous or unsafe shall be taken down and removed or made safe and secure in compliance with the provisions of this local law and those in the New York State Fire Prevention and Building Code.
- (3) The Building Inspector of the Town of Eastchester shall report to the Town Board of the Town of Eastchester any building, wall or structure about which he has received or shall hereafter receive a complaint within three (3) days of receiving same, and shall report all dangerous or unsafe buildings, walls or structures in the Town of which he/she has knowledge, or shall hereafter acquire knowledge and which he/she believes in any way violate the provisions and terms of this local law.
- (4) Upon receiving such report, the Town Board of the Town shall appoint an official to make an inspection of such building, wall or structure and to make a written report thereon to the Town Board.
- (5) Upon receipt of such report, the Town Board shall direct the Building Inspector to cause to be served upon the owner or some one of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in such premises upon which there is located such dangerous or unsafe building, wall or structure, a notice containing a description of the premises sufficient for identification, a statement of the particulars in which the building, wall or structure is unsafe or dangerous and an order requiring same to be made safe and secure or removed. Such notice shall be served either personally or be registered mail, addressed to the last known address, if any, of the owner or some one of the owner's executors, legal representatives, agents, lessees or other person having a vested or contingent interest in same, as shown by the records of the receiver of taxes and/or in the office of the County Clerk or County Registrar and if such service be made by registered mail a copy of such notice shall be posted on the said premises. such notice shall further specify the time within which the person served therewith must commence the securing or removal of such building, wall or structure. such notice shall further set forth the date, time and place of a hearing before the Town Board with respect to said dangerous or unsafe condition should the securing, repair or removal of said building, wall or structure not be completed in the time period set forth in said notice.
- (6) A copy of such notice may be filed in the office of the County Clerk of the county within which such building or structure is located which notice shall be filed by such clerk in the same manner as a notice of pendency pursuant to article sixty-five of the civil practice law and rules, and shall have the same effect as hereinafter provided in this paragraph. A notice so filed shall be effective for a

period of one year from the date of filing, provided, however, that it may be vacated upon the order of a judge or justice of a court of record or upon the consent of the Town Attorney. The clerk of the county where such notice is filed shall mark such notice and any record or docket thereof as cancelled of record upon the presentation and filing of such consent or of a certified copy of such order.

- (7) In the event of the neglect or refusal of the person served with notice required by paragraph 5 hereof to comply therewith, all costs and expenses incurred by the Town in connection with the proceeding to remove or secure, including the cost of actually removing or securing such building, wall or structure shall be assessed against the land on which said building, wall or structure shall be assessed against the land on which said building, wall or structure is located and shall be and become a lien on said land as of the date of such assessment. The lien of the Town for such costs and expense shall have priority over all other lien and encumbrances, except the liens of taxes and assessments, which would constitute a prior lien of liens under the provisions of the Westchester County Tax Act.
- (8) The remedies of the Town of Eastchester as herein set forth shall not be exclusive, but the Town shall have any other and further remedy at law or otherwise by injunction or otherwise now existing under the laws of the State of New York and any and all such remedies shall be deemed cumulative and the pursuit of any remedy shall not be construed as an election or the waiver of the right to pursue any and all others.
- (9)
 - (a) It shall be unlawful for any person or corporation to knowingly maintain or cause to be maintained or to knowingly allow or permit any other person or corporation as agent, lessee or otherwise to maintain any dangerous building, wall or structure as herein defined and any owner, occupant, lessee or other person or other corporation who shall knowingly maintain or cause to be maintained or knowingly allow or permit to maintained any such dangerous building, wall or structure and who shall fail to comply with any notice to secure or remove as set forth in Section 6 hereof, shall be guilty of a violation and upon conviction thereof shall be fined not exceeding \$250.00 or imprisonment for a term not to exceed fifteen (15) days or both, for each offense, and each and every day such failure to comply continues beyond the date fixed for such compliance by said notice to secure or remove shall constitute a separate offense. An adjudication by the Justice Court of the Town of Eastchester determining that any building, wall or structure is dangerous and/or unsafe and a nuisance shall be conclusive evidence of the fact of the existence of such dangerous or unsafe building, wall or structure.
 - (b) Any person removing any notice provided for herein shall be fined not exceeding \$250.00 for each offense.

Section 2.3.2. FALLEN BUILDINGS OR STRUCTURES, AND BUILDINGS OR STRUCTURES IMMINENTLY DANGEROUS. VACATING STRUCTURES;

Closing Streets and Sidewalks.

- (1) When upon receipt of information or inspection it is found that a building or structure or part thereof is so unsafe as to actually and immediately endanger life or property, or where any building or structure or part thereof has fallen and life is endangered by the occupation thereof, the Building Inspector in cooperation with the Police Department is hereby authorized and empowered to order and require all inmates and occupants of such building or structure or part thereof to vacate such building or structure forthwith.
- (2) The Building Inspector in cooperation with the Police, Fire and Highway Departments may, when necessary for the public safety, temporarily close sidewalks, streets, buildings, structures, and places adjacent to such building or structure.

Section 2.3.3. FALLEN STRUCTURES.

- (1) When a building or structure has fallen and persons are known or believed to be buried under the ruins of any such building or structure or part thereof in the Town, the Building Inspector in cooperation with the Police, Fire and Highway Departments, shall cause an immediate examination of the premises to be made for the recovery of the bodies of the killed or injured. Whenever, in making such examination, it shall be necessary to remove any debris from the premises, the Police, Fire and Highway Departments, shall cooperate with the Building Inspector in carrying out the purpose of this Article, and shall provide suitable and convenient places for the deposit of such debris.
- (2) For the purpose of this Article, the Building Inspector in cooperation with the Police, Fire and Highway Departments, may employ such laborers, equipment, material, etc., as may be necessary to perform the work required. The cost of such emergency work shall be done at the owner's expense and shall become a lien upon the property until paid.

Section 2.4.1. ENFORCEMENT.

- (1) Notice of Violation. The Building Inspector shall serve a notice or order of violation on the owner, contractor or other person, firm or corporation responsible for the erection, construction, alteration, extension, repair, use or occupancy of a building or structure in violation of the provisions of this local law, or in violation of a detailed statement or a plan approved thereunder, or in violation of a permit or certificate issued under the provisions of this local law; such notice or order shall direct the discontinuance of the illegal action or condition and the abatement of the violation.

- (2) **Prosecution of Violation.** If the notice or order of the discontinuance of the illegal action or condition and the abatement of the violation is not complied with promptly, the Building Inspector shall request the Town Attorney to institute appropriate proceedings at law or in equity to restrain, correct or abate such violation or to require the removal or termination of the unlawful use of the building or structure in violation of the provisions of this local law, or of the order or directive made pursuant thereto.
- (3) **Penalties.** Any person, firm, or corporation who shall violate a provision of this local law, or shall fail to comply with any of the requirements thereof, or who shall erect, construct alter or repair a building or structure in violation of an approved plan or directive of the Building Inspector or of a permit or certificate issued under the provisions of this local law, shall be guilty of misdemeanor, punishable by a fine of not more than five hundred (\$500.00) dollars or by imprisonment. Each day that a violation continues shall be deemed a separate offense.
- (4) **Abatement of Violation.** The imposition of the penalties herein prescribed shall not preclude the Town Board from instituting appropriate action to prevent unlawful construction or to restrain, correct or abate a violation, or to prevent illegal occupancy of a building, structure or premises or to stop an illegal act, conduct, business or use of a building or structure in or about any premises.
- (5) **No Legalization Due to Delinquency.** No oversight or dereliction of duty on the part of the Building Inspector or any of his/her assistants shall legalize the erection, construction, addition, alteration, repair, conversion, removal, use, or occupancy of a building, structure, or premises that does not conform with the provisions of this local law.

Severability

If any word, clause, sentence, paragraph, subdivision or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder hereof, but shall be limited in its application to the word, clause, sentence, paragraph, subdivision or part hereof directly involved in the controversy in which such judgment shall have been rendered.

Superseding Other Laws

All ordinances or parts of ordinances or local laws or parts of local laws, or State laws which conflict with the provisions of this local law are hereby superseded and rendered temporarily null and void to the extent necessary to give this local law full force and effect, pursuant to Article 2, Section 10 of the New York State Municipal Home Rule Law.

Effective Date.

This Local Law shall take effect immediately upon filing in the Office of the Secretary of State in accordance with section twenty-seven of the Municipal Home Rule Law.

DATED: JANUARY 7, 2009

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

~~1. (Final adoption by local legislative body only.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.~~
~~(Name of Legislative Body)~~

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ 3_____ of 20.09 of the (County)(City)(Town)(Village) of EASTCHESTER was duly passed by the TOWN BOARD on 1/06 20.09, and was (approved)(not approved)(repassed after disapproval) by the SUPERVISOR and was deemed duly adopted on 1/06 20.09, in accordance with the applicable provisions of law.
(Elective Chief Executive Officer*)

~~3. (Final adoption by referendum.)~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.~~

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.~~

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

~~5. (City local law concerning Charter revision proposed by petition.)~~

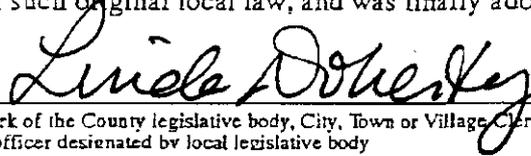
~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.~~

6. (County local law concerning adoption of Charter.)

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.~~

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 2, above.



Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body
LINDA DOHERTY, TOWN CLERK

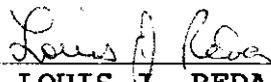
Date: JANUARY 7, 2009

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF WESTCHESTER

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.


Signature LOUIS J. REDA

TOWN ATTORNEY

Title

~~City~~
~~Town~~ of EASTCHESTER
~~Village~~

Date: JANUARY 7, 2009