

LOCAL LAW NO. 6 OF THE YEAR 1985- PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF THE NEW YORK STATE FIRE PREVENTION AND BUILDING CODE

Be it enacted by the Board of Trustees of the Village of Alfred as follows:

Section 1. Applicability

This local law shall provide the basic method for administration and enforcement of the New York State Uniform Fire Prevention and Building Code in the Village of Alfred and shall establish powers, duties, and responsibilities in connection therewith.

Section 2. Effective Date

This local law shall take effect on the 15th day of August, 1985.

Section 3. Administration

The governing body shall designate an official inspection agency for the New York State Uniform Fire Prevention and Building Code within the Village of Alfred.

Section 4. Partial Invalidity

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

Section 5. Rules and Regulations

a) The Village of Alfred shall promulgate rules and regulations to secure the intent and purposes of this ordinance and a proper enforcement of the laws, ordinances, rules and regulations governing building plans, specifications, construction, alteration or repairs.

b) The Village of Alfred shall publish all rules and regulations at least 15 days prior to the effective date thereof in newspaper of general circulation within the Village of Alfred.

Section 6. Duties of Inspector

a) Except as otherwise specifically provided by law, ordinance, rule or regulation, or except as herein otherwise provided, the inspector shall administer and inspect the provisions of laws, ordinances, rules and regulations applicable to the plans, specifications, or permits for the construction, alteration and repair of buildings and structures, and the installation and uses of materials and equipment therein, and the location, use and occupancy thereof.

b) The inspector shall receive applications for the erection and alteration of buildings and structures or parts thereof and shall examine the premises for which such application has been received, plans approved, or such permits have been issued for the purpose of insuring compliance with the laws, ordinances, rules and regulations governing building construction or alteration.

C) The inspector shall issue in writing to the municipality all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to insure compliance during the entire course of construction with requirements of such laws, ordinances, rules and regulations, and such notices or orders which may be served upon the property owner or his agent personally by the Village of Alfred or by sending by certified mail a copy of such order to the owner or his agent at the address set forth in the application for permission for the construction or alteration of such building, and by posting the same upon a conspicuous place of the premises to which the notice applies. He shall make all inspections which are necessary or proper for the carrying out of his duties.

d) Whenever the same may be appropriate to determine compliance with the provisions of applicable laws, ordinances, rules or regulations covering building construction or alteration, he may, in his discretion, accept and rely upon a written report of tests in the field by experienced, professional persons or by an accredited authoritative testing laboratories or service and inspection bureaus or agencies.

e) The official inspection agency may issue a certificate of occupancy where appropriate for a building constructed or altered in accordance with the provisions of the New York State Uniform Fire Prevention and Building Code which such certificate shall certify that the building conforms to the requirements of the State Uniform Code.

Section 7. Building Permits

a) No person, firm or corporation shall commence the erection, construction, alteration, enlargement, improvement, conversion, or change in the nature of the occupancy of any building or structure, or cause the same to be done, without first obtaining a separate building permit from the official inspection agency for each such building or structure; except that no building permit shall be required for the performance of ordinary repairs which are not structural in nature.

b) Application for a building permit shall be made to the official inspection agency on forms provided by them and shall contain the following information:

1) A description of the land on which the proposed work is to be done;

2) A statement of the use or occupancy of all parts of the land and the proposed building or structure;

(3) The valuation of the proposed work;

(4) The signature of the applicant or agent;

(5) The full name and address of the owner and of the applicant, and the full names and addresses of their responsible officers if any of them are corporations, and the name and address of the owners authorized agent, if any;

(6) A brief description of the nature of work;

(7) Such other information as may reasonably be required by the

inspector to establish compliance of the proposed work with the requirements of the applicable building laws, ordinances, rules and regulations.

c) The application shall be made by the owner or his agent, architect, engineer, or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner that the proposed work is authorized by the owner and that the applicant is authorized to make such application, and the affidavit shall contain a statement that the owner authorizes the applicant to permit inspector to enter upon the premises without a search warrant.

d) Each application for a building permit shall be accompanied by duplicate copies of specifications, including plot plan drawn to scale, showing location of all proposed new construction and all existing structures on the site, the nature and the character of the work to be performed and the materials to be incorporated, distance from lot lines, walks, alleys, and, where required by the inspector, details of structural, mechanical, and electrical work including computations, stress diagrams and other essential data; plans and specifications, when required, shall bear the signature of the person responsible for the design and drawings.

e) Any residential dwelling consisting of 3,500 square feet or more, plus any commercial business consisting of 2,500 square feet or more, plus all industrial buildings, will require submitted plans including a professional engineer's approval before a building permit will be issued.

f) Amendments, if any, to the application or to the plans and specifications accompanying the same shall be filed with the Village of Alfred and with the inspector and approval shall be received from the inspector prior to the commencement of such change of work.

g) The inspector shall examine or cause to be examined all applications for permits and the documents filed therewith. He shall then approve or disapprove the application.

h) Upon approval of the application and upon receipt of the fees therefor, the designated inspection agency shall issue a building permit to the applicant upon forms prescribed by them.

i) If the application together with other documents filed therewith describe work which does not conform to all of the requirements of the applicable building regulations, the inspector shall disapprove the same. Upon request of the applicant, the inspector shall cause the refusal, together with the reasons therefor, to be transmitted to the applicant in writing.

j) A building permit shall be effective to authorize the commencing of work for a period of six months after the date of its issuance. For good causes the inspector may allow a maximum of two extensions for periods not exceeding three months each. All work shall conform to the approved application, and shall be in accordance with applicable laws, ordinances, rules, and regulations.

k) A building permit shall be prominently displayed on the job site at all times during the progress of the work so as to be readily seen from adjacent thoroughfares.

1) The inspector may revoke a permit in the following instances:

1) Where he finds that there has been any false statement or misrepresentation as to a material fact in the applicaiton, or other documents on which the building permit was based;

2) Where he finds that the building permit was issued in error and should not have been issued in accordance with the applicable law;

3) Where he finds that the work performed under the permit is not being prosecuted in accordance with the applicable law and provisions of the application;

4) Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the inspector.

Section 8. Inspections

a) Before issuing a certificate of occupancy the official inspection agency shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit to construct, alter, enlarge, repair or change the use or nature of occupancy, and he may conduct such inspections as he deems appropriate from time to time during and upon completion of the work for which a building permit has been issued. There shall be maintained by the official inspection agency a record of all such inspections and examinations together with a record of findings of violations of law.

b) Existing buildings not subject to inspection under subdivision "a" of this section shall be subject to periodic inspections for compliance with the Uniform Code. Such inspections may be made at any reasonable time.

c) If entrance to make an inspection is refused or cannot be obtained the Village of Alfred after being notified by the inspector of the situation, may apply for a warrant to make an inspection to any court of competent jurisdiction.

d) The periodic inspections to meet compliance with the above mentioned provisions shall be agreed upon between the governing body and the official inspection agency.

Section 9. Violations

In accordance with Section 383 of Article 18 of the Executive Law of the State of New York:

a) It shall be unlawful for any person, firm or corporation, to construct, alter, repair, move, equip, use or occupy any building or structure or portion thereof in violation of any provisions of law or ordinance, as well as any rule or regulation promulgated by the municipality in accordance with applicable laws, or fail in any manner to comply with a notice or directive or order of the municipality or to construct, alter, use or occupy any building or structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy.

b) Any person who shall fail to comply with a written order

within the time fixed for compliance therewith, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendants or their agents, or any person taking part or assisting in the construction or use of the building who shall knowingly violate any of the applicable provisions of law, or any lawful order, notice, directive, permit or certificate of the inspector made thereunder shall be punishable by a fine or imprisonment or both. Each week that a violation continues shall be deemed a separate offense.

c) Whenever the designated inspector finds that there has been a violation of the State Uniform Code, this local law, or any rule or regulation adopted pursuant to this local law, a violation order shall be issued to the person or persons responsible by the local municipality or the issuing inspector.

d) Violation orders shall be in writing; shall identify the property or premises, shall specify the violation and remedial action to be taken; shall provide a reasonable time limit for compliance; and shall state the time limit within which an appeal may be taken.

e) Violation orders may be served by personal service; by mailing by registered or certified mail; or by posting a copy thereof in a conspicuous place on the premises and by mailing a copy thereof to the premises on the same day as posted, enclosed in a postpaid wrapper addressed to the person responsible.

f) In case the owner, lessor, occupant or the agent of any of them shall fail, neglect, or refuse to remove, eliminate or abate the violation within the time specified, legal action shall be made to Justice Court of the Village of Alfred.

Section 10. Penalties

a) Failure to comply with any provision of the New York State Uniform Fire Prevention and Building Code, this local law, rules or regulations adopted pursuant to this local law, or a violation order shall be deemed a violation and the violator shall be liable for a fine of not more than fifty dollars, or imprisonment not to exceed fifteen days, or both, and each week such violation continues shall constitute a separate violation.

b) An action or proceeding in the name of the Village of Alfred may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction the violation of any provisions of the Uniform Code, this local law, any rules or regulations adopted pursuant to this local law, or a violation order, or to vacate the occupancy or building in the case of imminent danger to life or property. Such remedy shall be in addition to penalties otherwise prescribed by law.

c) Except as otherwise provided by law, such violation shall not be a crime and the penalty or punishment imposed therefor shall not be deemed for any purpose a penal or criminal penalty or punishment, and shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person found guilty of such an offense.

Section 11. Right of Entry

The inspector, upon showing of proper credentials and in

discharge of their duties, shall be permitted to enter upon any building, structure, or premises without interference, during reasonable working hours.

Section 12. Fees

a) Any duly appointed inspector which is hereby authorized by the Village of Alfred to make an inspections an re-inspections of all buildings and structures under construction, subject to the provisions of the New York State Fire Prevention and Building Code, and to approve and disapprove the same, will do so at no cost of expense of such inspections or re-inspections against the Village of Alfred.

b) A copy of the fee schedule will be kept on file with the Village Clerk and a copy will be part of the application packet.

c) When applicable the cost for the P.E. approval will be assumed by the applicant.

d) In the event that an application for a building permit is not approved, the applicant shall be entitled to a refund of 50% of the fee paid, provided no work has commenced. If work has been started and the application is not approved the fees paid shall not be refunded.

e) The cost estimate for all existing buildings or structures subject to periodic fire prevention inspections will be reviewed with the local board of the Village of Alfred on an annual basis.

f) Payment schedule for the fees addressed above can be remitted quarterly, semi-annually, or annually as agreed upon.

Section 13. Stop Orders

Whenever the inspector has reasonable grounds to believe that the work on any building or structure is being prosecuted in violation of the provision of the applicable building laws, ordinances, rules or regulations, or not in conformity with the provisions of an application, or in an unsafe and dangerous manner, he shall notify the owner of the property, or the owners agent, to suspend all work and suspend all building activities until the stop order has been rescinded. Such order and notice shall appear in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him, or by posting the same upon a conspicuous portion of the building where the work is being performed and sending a copy of the same to him by certified mail at the address set forth in the application for the permission for the construction of such building.

Section 14. Certificate of Occupancy

a) No building hereafter erected shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the official inspection agency.

b) No building hereafter enlarged, extended or altered or upon which work has been performed which required the issuance of a building permit shall be occupied or used for more than 30 days after the completion of the alteration or work unless a certificate of occupancy shall have been issued.

c) No change shall be made in the occupancy of an existing building unless a certificate of occupancy authorizing such change shall have been issued.

d) The owner or his agent shall make application for a certificate of occupancy. Accompanying this application and before the issuance of a certificate of occupancy, there shall be filed with the municipality an affidavit of the registered architect or licensed professional engineer who supervised the construction of the work, or of the superintendent of construction who supervised the construction and who, by reason of his experience, is qualified to superintend the work for which the certificate of occupancy is sought. This affidavit shall state that the deponent has examined the approved plans of the structure for which a certificate of occupancy is sought, that the structure has been erected in accordance with approved plans, and as erected complies with the law governing building construction or as a variance which has been legally authorized. Such variances and qualifying conditions imposed therewith, if any, shall be specified in the affidavit.

e) When, after final inspection, it is found that the proposed work has been completed in accordance with the applicable laws, ordinances, rules or regulations, and also in accordance with the application, the official inspection agency shall issue a certificate of occupancy upon forms provided by them, if it is found the proposed work has not been properly completed, the official inspection agency shall not issues a certificate of occupancy and shall order the work completed in conformity with the building permit and in conformity with the applicable building regulations.

f) A certificate of occupancy shall be issued where appropriate, within thirty-days after written application therefor is made.

g) The certificate of occupancy shall certify that the work has been completed, and that the proposed use and occupancy is in conformity with the provisions of the applicable laws, ordinances, rules and regulations, and shall specify the use or uses and the extent therefor to which the building or structure or its several parts may be put to use.

h) Upon request, the official inspection agency may issue a temporary certificate of occupancy for building or structure, or part thereof, before the entire work covered by the building permit shall have been completed provided such portions as have been completed may be occupied safely without endangering life or the public health and welfare. A temporary certificate of occupancy shall remain effective for a period not exceeding three months from its date of issuance. For good causes the official inspection agency may allow a maximum of two extensions for periods not exceeding three months each.

Section 15. Department Records and Reports

a) The official inspection agency shall keep permanent official records of all transactions and activities conducted by them including all applications received, plans approved, permits and certificated issued, fees charged and collected, inspection reports, all rules and regulations promulgated by the municipality, and notices and orders issued. All such reports shall be public information open to public inspection during normal business hours.

b) The official inspection agency, shall annually submit to the Village of Alfred a written report of all business conducted.

Section 16. Review Boards

a) A board of review has been established for the purpose of granting variances where enforcement of any provision or requirement of the New York State Uniform Fire Prevention and Building Code results in practical difficulties or unnecessary hardships. Any such variation shall be consistent with the spirit of the Code and shall not be inconsistent with subdivision two of section three hundred ninety one of the Executive Law.

b) The Board of Review is composed of five members, one of whom is a registered architect licensed to practice in this state, one of whom is a professional engineer licensed to practice in this state, one of whom has a background in building code enforcement, one of whom has a background in fire prevention, and one of whom is a businessman or a lawyer. One of the five members, in addition, is a local government official.

c) Each member of the Board of Review has been appointed by the Secretary of State and shall serve a term of three years.

d) The Board of Review shall have the power (1) to vary or modify, in whole or in part, any provision or requirement of the Uniform Code in cases where strict compliance with such provision or requirement would entail practical difficulties or unnecessary hardship or would otherwise be unwarranted provided, however, that any such variance or modification will not substantially adversely affect provisions for health, safety, and security and that equally safe and proper alternatives are prescribed; and (2) to hear and decide appeals from and review any order or determination, or the failure within a reasonable time to make any such order or determination, by an administrative official charged with the enforcement of or purporting to enforce the Uniform Code.

e) The Village of Alfred and the official inspection agency shall obtain a copy of the Board of Review's decision for its records.