

Local Law Filing

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County
City
Town of LYNDONVILLE, ORLEANS COUNTY, NEW YORK
Village

Local Law No. 1 of the year 2007

A local law Providing for the Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code

Be it enacted by the Village Board of the

County
City
Town of LYNDONVILLE, Orleans County, New York as follows:
Village

Be it enacted by the Village of LYNDONVILLE in the County of Orleans, as follows:

SECTION 1: PURPOSE AND INTENT

This local law shall provide for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (Uniform Code), as presently existing and as amended from time to time, in the Village of LYNDONVILLE, Orleans County, New York. This local law is adopted pursuant to the Municipal Home Rule Law and the Executive Law of the State of New York. Except as otherwise provided by this local law, New York State law or the Uniform Code, all premises within the Village of LYNDONVILLE, regardless of use, are subject to the provisions of this local law.

SECTION 2: INTERMUNICIPAL CONTRACTS

The Village Board may, by resolution, authorize the Mayor to enter into a contract with another municipality to enforce the provisions of this local law.

SECTION 3: 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 hereof.

SECTION 4: CODE ENFORCEMENT OFFICER - DUTIES AND POWERS

- A. The office of Code Enforcement Officer is hereby created and shall be administered by an appointee of the Village Board. The Code Enforcement Officer shall possess background experience related to building construction and fire prevention and shall, within the time limits prescribed by law, obtain such training as the State of New York shall require for code enforcement officials.
- B. In the absence of the Code Enforcement Officer, or in the case of his/her inability to act for any reason, the Village Mayor shall have the power, with the consent of the Village Board, to designate a person to act on behalf of the Code Enforcement Officer and to exercise all the powers conferred upon him/her by this local law.
- C. The Village Mayor, with the approval of the Village Board, may appoint one or more inspectors, as the need may appear, to act under the supervision and direction of the Code Enforcement Officer.
- D. The compensation of the Code Enforcement Officer, acting Code Enforcement Officer and inspectors shall be fixed and determined by the Village Board.
- E. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code and the provisions of this local law, including receiving building permit applications, reviewing plans and specifications, conducting inspections, issuing permits for the erection, alteration, relocation, addition, repair and/or demolition of buildings and structures, issuing certificates of occupancy and certificates of compliance, collecting fees as set forth by the Village Board and maintaining and filing all records necessary for the administration of the office to the satisfaction of the Mayor and Village Board. The Code Enforcement Officer is authorized to pursue administrative actions and in consultation with the Village attorney, such legal action as is necessary to abate conditions not in compliance with the Uniform Code, this local law, or other laws, rules or regulations of the Village of LYNDONVILLE or of the State of New York.

SECTION 5: BUILDING PERMITS

- A. Permits Required.
 - 1. Except as hereinafter provided, no person, firm, corporation, limited liability company, association, partnership or other entity shall commence the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, or install a solid fuel burning heating appliance, chimney or flue in any dwelling unit, without first obtaining a permit from the Code Enforcement Officer.
 - 2. No permit shall be required for:
 - a. 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 that the gross floor area does not exceed 144 square feet (13.88 square meters);
- b. installation of fences which are not part of an enclosure surrounding a swimming pool;
 - c. construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;
 - d. installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
 - e. installation of partitions or movable cases less than 5'-9" in height;
 - f. painting, wallpapering, tiling, carpeting, or other similar finish work;
 - g. installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
 - h. replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
 - i. repairs, provided that such repairs do not involve:
 - (1) the removal or cutting away of a load bearing wall, partition, or portion thereof, or of any structural beam or load bearing component;
 - (2) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;
 - (3) the enlargement, alteration, replacement or relocation of any building system;
 - (4) the removal from service of all or part of a fire protection system for any period of time.

B. Application for a permit.

- 1. An application for a building permit shall request sufficient information to permit a determination that the intended work complies with the requirements of the Uniform Code and shall require submission of the following information and documentation:
 - a. a description of the proposed work;
 - b. the tax map number and street address of the property;
 - c. the occupancy classification of any affected building or structure;
 - d. where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
 - e. at least 2 sets of construction documents (drawings and/or specifications) that define the scope of the proposed work.
- 2. Construction documents shall not be accepted as part of an application for a building permit unless such documents:
 - a. are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law or as otherwise required by the Code Enforcement Officer

- b. indicate with sufficient clarity and detail the nature and extent of the work proposed;
 - c. substantiate that the proposed work will comply with the Uniform Code and the State Energy Conservation Construction Code;
 - d. where applicable, include a site plan that shows any existing and proposed structures on the site, the location of any existing or proposed well/public water supply, sewage disposal system/public sewer, fire hydrants, the location of the intended work, and the distances between all structures and the property lines.
3. An application for a building permit or for an amendment thereto shall be examined to ascertain whether the proposed construction is in substantial conformance with the requirements of the Uniform Code.
 - a. The Code Enforcement Office shall stamp, sign and date all accepted construction documents. One set of accepted construction documents shall be retained by the Code Enforcement Officer. One set shall be returned to the applicant to be kept at the work site so as to be available at all times for use by the Code Enforcement Officer.
4. The building permit shall contain a statement directing that all work shall be performed in accordance with the construction documents submitted and accepted as part of the application and shall include the directive that the Code Enforcement Officer shall be notified immediately in the event of any change occurring during construction.
5. Building permits shall expire twelve (12) months from the date of issuance. Permits shall become invalid unless the work authorized is commenced within six (6) months following the date of issuance. Building permits may be renewed provided that the work has commenced in such a manner as to be ongoing and upon payment of the appropriate fee.
6. In instances where a building permit was issued in error because of incorrect, inaccurate or incomplete information, or when the work for which the permit was issued violates the Uniform Code, the building permit shall be revoked or suspended until such time as the permit holder satisfactorily demonstrates that all work completed to date and all work proposed to be completed is and shall be in compliance with applicable provisions of the code.
7. Building permits shall be prominently displayed at the work site and shall remain visible until the project has been completed and a certificate of occupancy issued.

SECTION 6: FEES

- A. A fee schedule shall be established, and changed as needed, by resolution of the Village Board. Such fees may be charged for the issuance of permits, permit renewals, certificates of occupancy, certificates of compliance, temporary certificates

of occupancy, operating permits and for fire safety and property maintenance inspections.

SECTION 7: CONSTRUCTION INSPECTIONS

- A. Permitted work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer. It shall be the responsibility of the owner, applicant, or his/her agent to notify the Code Enforcement Officer when construction work is ready for inspection.
 - 1. If entrance to make an inspection is refused or cannot be obtained, the Village Board, after being notified by the inspector of the situation, may apply to any court of competent jurisdiction for an order to make an inspection.
- B. The Code Enforcement Officer shall inspect such of the following elements of the construction process as he/she shall determine to be applicable:
 - 1. work site prior to the issuance of a 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; and
 - 10. a final inspection after all work authorized by the building permit has been completed.
- C. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified in what respect the work fails to comply with the Uniform Code. Construction work not in compliance with code provisions shall be required to remain exposed until it has been brought into compliance with the code, reinspected and determined to be satisfactory.

SECTION 8: STOP WORK ORDERS

- A. The Code Enforcement Officer is authorized to issue stop work orders to halt work that is determined to be contrary to provisions of the Uniform Code, or is being conducted in a dangerous or unsafe manner, or is being performed without obtaining a required permit. A stop work order shall state the reason for its issuance and the conditions which must be satisfied before work will be permitted to be resumed.

SECTION 9: CERTIFICATES OF OCCUPANCY, CERTIFICATES OF COMPLIANCE AND TEMPORARY CERTIFICATES

- A. No building erected subject to the New York State Uniform Fire Prevention and Building Code shall be used or occupied, except to the extent authorized hereunder, until a certificate of occupancy has been issued.
- B. No building which has been enlarged, extended or altered, or upon which work has been performed which required the issuance of a building permit, shall be occupied or used after completion of such work unless a certificate of occupancy or a certificate of compliance has been issued by Code Enforcement Officer.
- C. No change shall be made in the nature of the occupancy of an existing building unless a certificate of occupancy authorizing the change has been issued.
- D. A certificate of occupancy or a certificate of compliance shall be preceded by an inspection of the building, structure or work. Where applicable, the Code Enforcement Officer may require a written statement of structural observations and/or a final report of special inspections, in accordance with the provisions of the Uniform Code, to be received prior to the issuance of the certificate. Also, where applicable, a flood hazard certification, prepared in accordance with the provisions of the Uniform Code, shall be filed with the Code Enforcement Officer prior to the issuance of the certificate.
- E. A certificate of occupancy or certificate of compliance shall contain the following information:
 - 1. the building permit number, if any;
 - 2. the date of issuance of the permit, if any;
 - 3. the name and address of the owner and the tax map number of the property;
 - 4. if the certificate is not applicable to an entire structure, a description of that portion of the structure for which the certificate 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 official issuing the certificate and the date of issuance.
- F. A temporary certificate of occupancy may be issued if the building or structure or a designated portion of a building or structure is sufficiently complete that it may be put to the use for which it is intended.
 - 1. A temporary certificate shall not be issued unless:
 - a. the structure or portions thereof may be occupied safely;
 - b. any fire- and smoke-detecting or fire protection equipment which has been installed is operational; and

- c. all required means of egress from the structure have been provided.
- 2. A temporary certificate shall list the items which remain uncompleted. The Code Enforcement Officer may place special conditions on temporary certificates as necessary to insure safety and to protect the interests of the Village.
- 3. The effectiveness of a temporary certificate shall be limited to a specified period of time as determined by the Code Enforcement Officer, but in no event longer than six (6) months, during which the permit holder shall undertake to bring the structure into full compliance with applicable provisions of the Uniform Code.
- 4. A temporary certificate of occupancy may, in the sole discretion of the Code Enforcement Officer and upon payment of an additional fee as specified for a temporary certificate of occupancy, be renewed.
- G. A certificate of occupancy or certificate of compliance issued in error or on the basis of incorrect information shall be suspended or revoked if the relevant deficiencies are not corrected within the period of time specified by the Code Enforcement Officer.

SECTION 10: OPERATING PERMITS

- A. The Code Enforcement Officer shall issue operating permits 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) or 2703.1.1(4), of the Fire Code of New York State (see Title 19 NYCRR Part 1225);
 - 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 occupant load of 100 persons or more;
 - 5. buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by the Village Board by resolution;
 - 6. manufactured home parks; and
 - 7. carnivals, fairs and other special events excluding one and two family occasions.

- B. Parties who propose to undertake the types of activities or operate the types of buildings listed in paragraph (A) of this subdivision shall be required to obtain an operating permit prior to commencing such operation. An application for an operating permit shall be provided by the Code Enforcement Officer and shall contain sufficient information to permit a determination that quantities, materials, and activities conform to the requirements of the Uniform Code. Tests or reports necessary to verify conformance shall be required as determined by the Code Enforcement Officer.
- C. An inspection of the premises shall be conducted prior to the issuance of an operating permit.
- D. A single operating permit may apply to more than one hazardous activity as determined by the Code Enforcement Officer.
- E. Operating permits for areas of public assembly shall be limited to one year. Operating permits for all other occupancies as noted in paragraph A shall be for not more than three years or shall coincide with the schedule of inspections as required by Section 11 of this local law.
- F. Where activities do not comply with applicable provisions of the Uniform Code, an operating permit shall be revoked or suspended.

SECTION 11: FIRE PREVENTION AND PROPERTY MAINTENANCE INSPECTIONS

- A. Fire Prevention and Property Maintenance Inspections
 - 1. Fire safety and property maintenance inspections of buildings or structures having areas of public assembly shall be performed at least once in 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 in every twelve (12) months.
 - 3. Fire safety and property maintenance inspections for all other buildings, uses and occupancies (except one or two family dwellings) shall be inspected at least once in every thirty-six (36) months.
 - 4. An inspection of a building or dwelling unit may also be performed at any other time upon:
 - a. The request of the owner, authorized agent, or tenant.
 - b. Receipt of a written statement alleging that conditions or activities failing to comply with the Uniform Code exists; or
 - c. Other reasonable and reliable information that such a violation exists.
- B. All such inspections shall be performed by the Code Enforcement Officer or his/her duly authorized deputies.

SECTION 12: NOTIFICATION REGARDING FIRE OR EXPLOSION

- A. The chief of the Village of Lyndonville Fire Department shall notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent, or any fire the origin of which has been traced to the electrical system of any building or structure.

SECTION 13: UNSAFE BUILDINGS AND COLLAPSED STRUCTURES

- A. The Village of LYNDONVILLE has made provision for the repair or demolition and removal of unsafe buildings and collapsed structures in Local Law No. 1 of 1987, entitled "A Local Law Providing for the Removal or Repair of Unsafe Buildings and Collapsed Structures in the Village of LYNDONVILLE." Which said Local Law is found in Chapter 72 of the Code of the Village of LYNDONVILLE.

SECTION 14: COMPLAINTS

- A. Bona fide complaints which assert that conditions or activities fail to comply with the Uniform Code or with local laws, ordinances or regulations adopted for administration and enforcement of the Uniform Code, shall be investigated by the Code Enforcement Officer. The process for responding to such complaints shall include:
1. provisions for inspection of the conditions and/or activities alleged to be in violation of the code or this local law. Complaints shall be in writing and signed by the complainant;
 2. written notification to any offending party and to the property owner of any violation, with a period of time as determined by the Code Enforcement Officer to cause any such violations to be corrected;
 3. written notification to the Village Board that a complaint has been received and that a notice of violation has been issued;
 4. upon abatement of a violation, an inspection shall be performed by the Code Enforcement Officer to ensure that the violation has been corrected, and a final written report shall be filed with the complaint.

SECTION 15: VIOLATIONS AND PENALTIES

- A. Upon determining that a violation of the Uniform Code or this local law exists in, on, or about any building or premises, the Code Enforcement Officer shall issue a written order directing that the violation be corrected. Such order shall state the specific provision of the Uniform Code which the particular condition violates and shall grant such time as may be reasonably necessary for achieving compliance before proceedings to compel compliance shall be instituted. Such order shall be served by personal service or by certified mail, return receipt requested

- B. In addition to those penalties provided by State law, any person, firm, corporation or other entity violating any provision of the Uniform Code or any provision of this local law, or any term or condition of any Certificate of Occupancy issued by the Code Enforcement Officer, shall be liable to a civil penalty not to exceed \$200 for each day or part of a day that a violation continues. The civil penalty provided by this subdivision shall be recoverable in an action instituted in the name of the Village Board on its own initiative or at the request of the Code Enforcement Officer.
- C. Alternatively or in addition to an action to recover the civil penalties provided by subsection (B), the Village Board may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code or the terms or conditions of any Certificate of Occupancy issued by the Code Enforcement Officer.

SECTION 16: DEPARTMENT RECORDS AND REPORTS

- A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by him/her, including all applications received, plans approved, permits and certificates issued, fees charged and collected, inspection reports, all rules and regulations promulgated by him/her with the consent of the Village Board, and all notices and orders issued. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenance thereto, shall be retained for at least the minimum time period so required by State law and regulation.
- B. The Code Enforcement Officer shall annually submit to the Mayor and Village Board a written report and summary of all business conducted by the Building Department, including approvals, permits and certificates issued, fees collected, orders and notices promulgated, inspections and tests made, and appeals or litigation pending or concluded.
- C. The Code Enforcement Officer shall annually submit to the Secretary of State on behalf of the Village Board, on a form prescribed by the Secretary of State, a report of all activities relative to the administration and enforcement of the Uniform Code.

SECTION 17: REPEAL OF LOCAL LAW #2 OF 1985

Village of LYNDONVILLE Local Law #2 of 1985, entitled "A Local Law Providing for the Enforcement of the Uniform Fire Prevention and Building Code of the State of New York in the Village of LYNDONVILLE", is hereby repealed in its entirety.

All local laws, ordinances, rules or regulations, or parts or portions thereof that conflict or are contrary to any provision of this Local Law are hereby repealed.

SECTION 18: EFFECTIVE DATE

This local law shall take effect immediately upon filing with the Department of State.

(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. 1 of 2007 of the (County)(City)(Town)(Village) of LYNDONVILLE was duly passed by the LYNDONVILLE Village Board on April 9, 2007, 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. _____ 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 _____ and was deemed duly adopted on _____, 20____, in accordance with the applicable provisions of law.

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 _____. 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 _____. 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-wise basis or, if there be none, the chairman 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 of 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 1, above.

Debra W Miller
Clerk of the County legislative body, City, Town or Village Clerk Village Clerk
or officer designated by local legislative body

(SEAL)

Dated: 4-10-07

(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 ORLEANS: ss.

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.

David C. Schubel
David C. Schubel, Esq.

LYNDONVILLE

Webster & Schubel, Attorneys for the Town of

Title _____
County _____
City _____
Town of LYNDONVILLE
Village _____
Date: 4-10-07