

Local Law 12-2024

A local law repealing chapter 162 (Housing/Property Maintenance and Building Code Administration), Article I (Terminology); Article II (Title; Applicability; Construal), Article III (General Provisions), Article IV (Space and Equipment Requirements); Article V (Occupant Responsibilities); Article VII (Commercial Occupancy); Article IX (Outdoor Signs); Article X (Transfer of Ownership); and Article XI (Residential Occupancy Restrictions) and adopting a new Chapter 162 (Housing and Property Maintenance) to the Village of Ossining Code.

BE IT ENACTED by the Board of Trustees of the Village of Ossining as follows:

Section 1. Repealer

Chapter 162 (Housing/Property Maintenance and Building Code Administration), Article I (Terminology), Article II (Title; Applicability; Construal), Article III (General Provisions), Article IV (Space and Equipment Requirements), Article V (Occupant Responsibilities), Article VII (Commercial Occupancy), Article IX (Outdoor Signs), Article X (Transfer of Ownership), and Article XI (Residential Occupancy Restrictions) are repealed in their entirety.

Section 2. Chapter 162 (Housing and Property Maintenance) is added to the Village of Ossining Code with new language **underlined**.

Article I Applicability

Section 162-1 Purpose and Intent

This chapter supplements the provisions found in the Uniform Fire Prevention and Building Code (“Uniform Code”), Title 19 NYCRR Chapter XXXIII, Subchapter A, as hereinafter amended from time to time and the New York State Energy Conservation Construction Code (“Energy Code”), Title 19 Chapter XXXIII, Subchapter B as hereinafter amended from time to time.

Section 162-2 Applicability

The provisions of this chapter apply to all structures and premises which are now or may become substandard.

Section 162-3 Existing remedies.

Nothing in this chapter shall be deemed to abolish or impair existing remedies of the Village relating to the removal or demolition of any buildings which are deemed to be dangerous, unsafe or unsanitary.

Section 162-4 Construal of provisions

This chapter shall not affect violations of any other code or regulation of the Village of Ossining existing prior to the effective date of this chapter, and such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those codes or regulations in effect at the time the violation was committed.

Article II Terminology

Section 162-5 Word Usage

- A. Words used in the present tense include the future; words in the masculine gender include the feminine and neuter; the singular number includes the plural and the plural the singular.
- B. Whenever the words “multifamily dwelling”, “dwelling unit” or “premises” are used in this chapter, they shall be construed as though the words were followed by the words “or any part thereof.”

Section 162-6 Terms defined in other codes.

Where terms not defined in this chapter are defined in the Uniform Fire Prevention and Building Code (“Uniform Code”) including the Property Maintenance Code of New York State, Building Code of New York State, Fire Code of New York State, Fuel Gas Code of New York State, Mechanical Code of New York State, Plumbing Code of New York State, Residential Code of New York State, NFPA 70, Chapter 92 (Building Construction and Fire Prevention Code-Administration and Enforcement) and Chapter 270 (Zoning) of the Village of Ossining Code, such terms shall have the meanings ascribed to them as stated in those codes.

Section 162-7 Terms not defined.

Where terms are not defined through the methods authorized by this chapter, such terms shall have their ordinarily accepted meanings or such as the context herein may imply.

Section 162-8 Definitions

Unless otherwise expressly stated, the following terms shall, for the purposes of this chapter have the meanings provided herein.

DWELLING UNIT

A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. Dwelling units include, but are not limited to one-or single-family dwellings, each unit in a two-family dwelling, each unit in a multiple single-family dwelling (townhouse), and each unit in a multi-family dwelling.

ENERGY CODE

The New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law.

INOPERABLE MOTOR VEHICLE

A motor vehicle that cannot be driven upon the public streets of the village for reasons including, but not limited to being unregistered, wrecked, abandoned, in a state or disrepair or incapable of being moved under its own power.

OWNER

Any person, agent, operator, firm or corporation having legal or equitable interest in the property; or recorded in the official records of the state, county or village as holding title to the property; or otherwise having control of the property, including the guardian or any estate of such

person, and the executor or administrator of the estate of such person if ordered to take possession of the real property by a court.

UNIFORM CODE

The New York State Fire Prevention and Building Code, Subchapter A of Chapter XXXIII of Title 19 of the NYCRR, adopted pursuant to Article 18 of the Executive Law and as hereinafter amended from time to time.

Article III Commercial Occupancy

Section 162-9 Purpose

The Village of Ossining seeks to encourage new businesses to come to the village and prosper. To accomplish this goal the Board of Trustees believes it is important that these new businesses possess necessary information from the Building Department regarding compliance with applicable codes, rules and regulations.

Section 162-10 License for change in commercial occupancy

Prior to occupying any commercial space within any building in the Village of Ossining, a Commercial Occupancy License must be applied for and approved by the Building Department. The fee for the license will be published in the annual fee schedule approved by the Board of Trustees. The Building Inspector will determine if plans are required detailing the proposed utilization of the commercial space/building and if the proposed business is consistent with the Uniform Code, the State Energy Code and the Village Code. Plans may be required regardless of whether alterations or renovations are proposed.

Section 162-11 Issuance of commercial occupancy license

- A. Where no physical changes to the building or commercial space are planned, upon review by the Building Inspector, the Commercial Occupancy License will be granted:
 1. If the use of the space is the same as the previous use the applicant shall:
 - a. Provide a letter that describes the nature of the proposed use.
 - b. Indicate hours of operation.
 - c. Indicate number of employees.
 - d. Provide a floor plan of the space with dimension.
 - e. Pay applicable fees.
 2. If the proposed new use is not the same as the prior use, provide the information above and a code analysis for the change of use indicating compliance with the Uniform Code, State Energy Code and Village Code. The code analysis shall be prepared by a professional engineer or registered architect licensed by the State of New York.
 3. Before the Commercial Occupancy License is issued, the premises shall be inspected by Code Enforcement Personnel and any deficiencies found shall be corrected.
- B. Where physical changes to the building or tenant space are proposed, a building permit will be required pursuant to Village Code section 92-4.

- C. If the proposed business requires a license to operate pursuant to Village Code chapter 171, an application for the license shall be obtained from the Village Clerk.
- D. If the proposed business requires a license to operate by the State of New York or County of Westchester, copies of those licenses shall be submitted with the application for a Commercial Occupancy License.
- E. An entity disclosure statement pursuant to section 92-29 shall be submitted with the application for a Commercial Occupancy License.

Section 162-12 Review by Building Inspector

If the Building Inspector finds after reviewing the application for a Commercial Occupancy License that the proposed changes do not substantially conform to the requirements in Chapter 270 (zoning) of the Village Code, the Building Inspector shall refer the application to the Planning Board, Board of Architectural Review, Zoning Board of Appeals and/or Historic Preservation Commission.

Section 162-13 Designation of agent

- A. The owner of a business that is subject to the provisions of this article and who does not maintain a bona fide residence in the County of Westchester shall designate an agent who maintains a bona fide residence in the County of Westchester. No post office box address will be accepted in lieu of the domicile or street address for any of the information required by this article. The designation of the agent shall be indicated on the application form. The Building Department shall be promptly notified of any change in designation of the agent.
- B. The business owner's designated agent may be served with a notice of violation, order to remedy, notice of unsafe condition, an appearance ticket or other service of process, whether criminal or civil, pursuant to and subject to the provisions of law, as if served upon the business owner. No business owner who designates an agent may assert the defense of lack of notice or lack of personal jurisdiction based upon service upon the designated agent.

Section 162-14 Issuance of commercial occupancy license

The Building Inspector shall issue a commercial occupancy license if the proposed business complies with the applicable requirements of the Uniform Code, the State Energy Code, and Village Code. The permit will remain in effect, unless revoked or suspended.

Section 162-14 Revocation or suspension of Commercial Occupancy Permit

The Building Inspector may revoke or suspend a commercial occupancy permit:

- A. Where the Building Inspector finds that false statements or misrepresentations as to material facts were made in the application, plans or other documents upon which the license was based.
- B. Where the Building Inspector finds that the Commercial Occupancy License was issued in error because of incorrect, inaccurate, or incomplete information or the business for which the permit was issued violates the Uniform Code, the Energy Code or the village code and should not have been issued.
- C. Review of denial, suspension or revocation. The Corporation Counsel shall serve as the hearing officer to hear and decide appeals taken by any determination made by the Building Inspector

which denied, suspended or revoked a Commercial Occupancy Permit. Any applicant who shall have been refused a permit or the holder Commercial Occupancy Permit which permit has been suspended or revoked may appeal to the Corporation Counsel for review of such denial, suspension or revocation as set forth in this section. The failure of an aggrieved party to take an appeal within 10 days of service of such denial, suspension or revocation shall constitute a waiver of the right to appeal. For personal service, service will be deemed effective upon the date of service. For service by registered or certified mail, service will be deemed effective three days after mailing. An appeal shall be taken by filing with the Corporation Counsel a written appeal statement providing the applicant or permit holder's name, address, email address, phone number and contact information for the applicant or permit holder's representative, if any. The appeal statement should detail the basis for which a determination is requested reversing or modifying the determination of the Building Inspector. The applicant or permit holder may be represented by counsel and shall have an opportunity to present evidence and question witnesses. The Building Inspector similarly may present evidence. Upon consideration of the evidence, but in no event later than 10 business days after the close of the hearing, the Corporation Counsel shall issue a decision sustaining, modifying or reversing the decision of the Building Inspector. The determination by the Corporation Counsel shall be filed with the Village Clerk and upon filing will become final. The Corporation Counsel's determination is subject to review pursuant to Article 78 of the Civil Practice Law and Rules. Such proceeding must be commenced within 30 days of the filing of the determination.

Section 162-15 License may not be assigned or transferred.

The Commercial Occupancy License may not be assigned or transferred. Any change in ownership requires submission of another application for a Commercial Occupancy License.

Section 162-16 Penalties for offenses.

- A. Code enforcement personnel are authorized to issue Orders to Remedy, appearance tickets, and notices of violation for any violations of this chapter.
- B. An action or proceeding may be brought by the village in Supreme Court, Westchester County to prevent, restrain, correct or abate any violation of this article. This may include a request that the business be temporarily or permanently closed.
 1. Proceeding for a permanent injunction.
 - a. To the extent known, the owner of the business and the owner of the building, if different, shall be defendants in the proceeding.
 - b. In rem jurisdiction shall be complete over the building and business by affixing the notice of petition to the door of the business and by mailing the notice of petition or order to show cause by certified mail to the building owner and, if available, the business owner.
 - c. The village may file a notice of pendency pursuant to article sixty-five of the civil practice law and rules.
 - d. Upon being served with the proceeding, the building owner shall, within three days provide the names of the owners/operators of the business that is the subject of the proceeding, thereafter, the business owner may be made a party to the proceeding if not already accomplished.

- e. A defendant shall provide the following in a verified statement within five days of a demand: If the defendant is a natural person a defendant shall provide the person's: i) name; ii) date of birth; iii) current home or business address. If the defendant is a partnership, limited liability partnership, limited liability company or other unincorporated association, items i, ii, and iii shall be provided for all members. If the defendant is a corporation, provide the state of incorporation, names of officers and name of any agent for service of process.
 - f. If a finding is made that the business has been operating without a Commercial Occupancy License a penalty may be awarded against the building owner and the business owner in an amount not to exceed \$1,000 for each day that the defendants intentionally conducted, maintained or permitted the unlicensed activity.
2. Preliminary Injunction
- a. Pending a proceeding for a permanent injunction the court may grant a preliminary injunction enjoining the unlicensed activity and the person or persons conducting, maintaining, or permitting the unlicensed activity from further conducting, maintaining or permitting the unlicensed activity where the public health, safety or welfare immediately requires the granting of such an injunction. A temporary closing order may be granted pending a hearing for a preliminary injunction where it appears by clear and convincing evidence that the business is being operated without a Commercial Occupancy License and that the public health, safety or welfare immediately requires the granting of a temporary closing order. A temporary restraining order may be granted pending a hearing for a preliminary injunction.
 - b. A preliminary injunction shall be enforced by a police officer.
 - c. The village shall show by affidavit and such other evidence as may be submitted that there is a cause of action for a permanent injunction abating the unlicensed activity.
3. Temporary closing order
- a. If, on a motion for a preliminary injunction alleging unlicensed activity as described in this section in a building used for commercial purposes, the village demonstrates by clear and convincing evidence that such unlicensed activity is being conducted, maintained or permitted and that the public health, safety or welfare immediately requires a temporary closing order, a temporary order closing such part of the building or premises where the unlicensed activity is being conducted, maintained or permitted may be granted without notice, pending order of the court granting or refusing the preliminary injunction and until the further order of the court. Upon granting a temporary closing order, the court shall direct the holding of a hearing for the preliminary injunction at the earliest possible time with a decision on the motion for a preliminary injunction to be rendered by the court at the earliest possible time after the conclusion of the hearing.
 - b. The temporary closing order shall be served personally in the same manner as a summons pursuant to the civil practice law and rules.
 - c. A temporary closing order shall only be issued for that portion of the building where the unlicensed activity is being conducted.
4. Temporary restraining order.

- a. If, on a motion for a preliminary injunction alleging that a business is operating without a commercial occupancy license, the village demonstrates by clear and convincing evidence that such unlicensed activity is being conducted, maintained, or permitted and that the public health, safety or welfare immediately requires a temporary restraining order, a temporary restraining order may be granted without notice restraining the defendants from conducting, maintaining or permitting such unlicensed activity, pending order of the court granting or refusing the preliminary injunction and until further order of the court. Upon granting a temporary restraining order, the court shall direct the holding of a hearing for the preliminary injunction at the earliest possible time.
 - b. Unless the court orders otherwise, a temporary restraining order and the papers upon which it was based and a notice of hearing for the preliminary injunction shall be personally served, in the same manner as a summons provided in the civil practice law and rules, upon any agent, employee or other representative of the unlicensed business at the time the temporary restraining order is served.
5. Additional proceedings for the temporary closing order and temporary restraining order
 - a. Police officers may assist in the enforcement of a temporary closing order and temporary restraining order.
 - b. The police officer serving a temporary closing order shall, upon service of the order, command all persons present in that portion of the building or premises to vacate those premises forthwith. Upon the portion of the building or premises being vacated, the premises shall be securely locked by the Building Department who shall maintain the keys. If the building owner is not present when the order is being executed, the Building Department shall padlock the premises or building and retain the keys.
 - c. Upon service of the temporary closing order or temporary restraining order, the police officer shall post a copy of the order in a conspicuous place or upon one or more of the principal doors at the entrance to the premises where the unlicensed activity is being conducted, maintained or permitted. In addition, where a temporary closing order has been granted, the officer shall affix, in a conspicuous place or upon one or more of the principal doors at the entrances to such premises, a printed notice that the premises have been closed by court order, which notice shall have the legend "closed by court order" in block lettering sufficient to be observed, the date of the order, the court that issued the order and the name of the officer or agency posting the order. A similar notice shall be posted where a temporary restraining order has been issued. Mutilation or removal of such a posted order or notice while it remains in force, shall be punishable, on conviction, by a fine of not more than \$3,000, provided such order or notice contains notice of the penalty.
6. No action or proceeding described in this subsection shall be commenced without authorization of the Village of Ossining Board of Trustees.
- C. Upon conviction, the penalty for operating a business without a commercial occupancy license shall be a fine not less than \$500 nor more than \$2,000. Every violation shall be a separate and distinct offense, and in the case of continuing violations, every day thereof shall be considered a separate and distinct offense.

- D. Civil penalties. In addition to those penalties described in this section, any person who violates this article shall be liable to pay a civil penalty of not more than \$1,000 for each day or part thereof during which the violation continues. The civil penalties provided in this subsection shall be recoverable in an action brought by the village. Any person that violates this article shall be liable for all reasonable attorneys' fees, costs and disbursements incurred by the village to recover the civil penalty.

Article IV Outdoor Signs

Section 162-17 Abandoned signs

- A. An abandoned sign is any sign which advertises, identifies or pertains to an activity no longer in existence for at least 30 consecutive days. This section does not apply to seasonal activities during regular period when the activity is closed.
- B. The Building Department shall send a notice by certified mail to the property owner advising:
1. The location of the sign including section, block and lot number for the property;
 2. A description of the sign;
 3. That the sign is considered abandoned as the advertised or identified activity has not continued for at least 30 consecutive days;
 4. That the owner is directed to remove the sign within 20 days of the notice;
 5. That the owner must obtain all required permits from the Building Department before the sign can be removed;
 6. That the time to remove the sign may be extended by the Building Inspector upon a showing of good cause, however, such extension shall not exceed 60 days;
 7. That if the owner does not timely remove the abandoned sign, the Building Inspector will notify the Village Engineer to arrange for the sign's removal; and
 8. If the village removes the sign, the cost of the sign removal may be added to the tax roll for the property
- C. After the removal of the sign by the village, or by a contractor retained by the village, the Building Department shall send a notice of proposed assessment of costs to the property owner by certified mail. That notice will include the amount of the assessment including a 20% administrative fee; the date, time and location when the Board of Trustees will hear and determine any objections to the proposed assessment; that the Board of Trustees will determine an assessment that is just and reasonable and that in the event of a default, the assessment will not be greater than the amount in the notice. The notice also will include a statement that if the assessment is not paid to the Village Treasurer within 30 days of the determination by the Board of Trustees, the Village may commence an action to recover the amount of the assessment; issue a special warrant as directed by the Board of Trustees; or that the amount of the assessment may be included in the next annual tax levy to be collected and enforced in the same manner as real property taxes.
- D. Penalties for offenses. Upon conviction, the penalty for failure to remove an abandoned sign shall be a fine of not less than \$500 nor more than \$2,000. Every violation shall be a separate and distinct offense, and in the case of continuing violations, every day thereof shall be considered a separate and distinct offense.

Article V Inoperable Motor Vehicles

Section 162-18 Restrictions on parking, keeping and storing inoperable motor vehicles

- A. **No inoperable motor vehicle shall be parked, kept or stored on any premises and no motor vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.**
- B. **A motor vehicle of any type is permitted to undergo major overhaul, including body work, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purpose and consistent with the requirements of chapter 270 (zoning).**
- C. **Penalties for offenses. Upon conviction, the penalty for parking, keeping or storing an inoperable vehicle shall be a fine of not less than \$200 nor more than \$1,000 for the first offense; not less than \$500 nor more than \$2,000 for the second offense within twelve months of the first offense; and not less than \$1,000 nor more than \$4,000 for the third offense within twelve months of the first offense. Every violation shall be a separate and distinct offense, and in the case of continuing violations, every day thereof shall be deemed a separate and distinct offense.**

Article VI Residential occupancy restrictions

Section 162-19 Prosecutions for illegal residential occupancies and overcrowding in dwelling units.

In all civil and criminal prosecutions brought for the enforcement of the provisions of the Uniform Code, the State Energy Code, and the laws of the State of New York, the laws of the County of Westchester and the Village of Ossining Code with respect to the illegal use of any building for residential purposes or the illegal residential occupancy of any dwelling or dwelling unit by more families than the number of families permitted for such dwelling or dwelling units pursuant to code, the following rebuttable presumptions shall apply:

- A. **That any detached dwelling or dwelling unit which maintains more than one mailbox or mail receptacle, more than one gas meter, more than one electric meter, and/or more than one water meter is being used as the residence for two or more families.**
- B. **That any detached dwelling or dwelling unit which contains two or more mail boxes or mail receptacles, more than two gas meters, more than two electric meters and/or more than two water meters is being used as the residence for three or more families.**
- C. **That any detached dwelling or dwelling unit which maintains any entrance or entrances thereto, which entrance or entrances have not been set forth on any plans approved by and on file with the Building Department is being used as the residence of two or more families.**
- D. **That any detached dwelling or dwelling unit which maintains any third or additional entrances thereto, which entrance or entrances have not been set forth on any plans approved by and on file with the Building Department, is being used as the residence of three or more families.**
- E. **That any single-family dwelling or dwelling unit where the following are present is being used for two or more families:**
 - 1. **Permanent partitions or internal doors which are not on any plans approved by and on file with the Building Department, which partitions or internal doors may serve to bar access between portions of the dwelling, including but not limited to bedrooms, or the inability of any occupant or person in possession to have unimpeded and/or lawful access to all parts of the dwelling unit; and/or**

2. Two or more kitchens which are not on any plans approved by and on file with the Building Department, each kitchen containing one or more ranges, ovens, microwaves or similar devices used for cooking or preparation of foods.
- F. That any two-family dwelling units where the following are present are being used for three or more families:
1. Permanent partitions or internal doors which are not on any plans approved by and on file with the Building Department, which partitions or internal doors may serve to bar access between three or more segregated portions of the dwelling, including but not limited to bedrooms; and/or
 2. Three or more kitchens which are not on any plans approved by and on file with the Building Department, each kitchen containing one or more ranges, ovens, microwaves or similar devices used for cooking or preparation of foods.

Section 162-20 Search warrants.

Nothing in this chapter shall be construed to require an owner to consent to an inspection of a building or structure in order to determine compliance with applicable Code provisions. However, nor shall this chapter be construed as relieving the obligation of an owner to apply for and secure where applicable a building permit, certificate of occupancy, certificate of compliance, temporary certificate of occupancy, or operating permit for the premises. When applying for such permits or certificates requiring inspections, an owner shall have the right to decline to consent to the inspection. In such instance, the Village may, without further notice to the applicant, apply for a search warrant to conduct the inspection. However, if the premises are occupied, notice to the occupant or other person with apparent right of possession in accordance with the procedure outlined in this chapter shall be required.

Section 162-21 Notice of intent to conduct inspection.

- A. Before an application may be made for a search warrant Code Enforcement Personnel must give prior notice of his or her intent to conduct an inspection to the occupant or other person with apparent right of possession. No notice is required to an applicant who has declined to consent to an inspection. No further notice is required before additional warrants are sought to inspect a premises, including warrants to reinspect a premises if cited violations have been corrected, or additional warrants are necessitated by the expiration of a warrant before an inspection could be completed.
- B. The notice of intent to conduct an inspection shall contain the following:
- (1) The date and time at which the designated Code Enforcement personnel will be present to conduct the inspection;
 - (2) Instructions on how to reschedule the inspection to another date and time by contacting the Building Department before the stated date of inspection;
 - (3) Notice that if the inspection is not allowed to be conducted, the Village reserves its right to make an application to a court of competent jurisdiction for a search warrant to so inspect; and
 - (4) Notice that a tenant may be protected against retaliation by the lessor for making a good faith complaint of code violations pursuant to § 223-b of the New York State Real Property Law.

- C. The notice of intent to conduct an inspection must be sent either by first class mail or personally delivered to the occupant or person with apparent right of possession. The notice shall be addressed to the occupant(s) of record if the names are provided to the Village by the owner in writing, otherwise notice shall be sufficient if addressed to the occupant of a particular unit.

Section 162-22

Inspection search warrant application.

- A. Code Enforcement Personnel may make an application for a search warrant after notice of intent to conduct an inspection has been given or if the person notified does not allow, fails to schedule or unduly delays or hinders the inspection.
- B. The application for a warrant shall be in writing and contain the following information:
- (1) The name of the court to which it is addressed;
 - (2) The name(s) of the Code Enforcement Personnel applying for the warrant;
 - (3) The date of the making of the application;
 - (4) Indicate that an inspection is required under this chapter along with the specific permit or certificate requested;
 - (5) Describe the limited nature and purpose of the inspection and the manner in which the inspection is to be conducted;
 - (6) Identify the premises to be entered and inspected in sufficient detail and particularity so that Code Enforcement Personnel executing the warrant may readily ascertain the premises;
 - (7) For cases where prior notice of intent to conduct an inspection is required, the application should contain specific information showing how and when the notice was given and how the inspection has not been allowed, has not been scheduled or has been unduly delayed or hindered by the person notified;
 - (8) Request that the court issue a warrant directing an inspection of the subject premises for civil enforcement purposes only which may include the photographing or recording of the physical conditions found on the property, subject to such limitations and restrictions as may be provided by the court; and
 - (9) The application shall be subscribed and sworn to by the applicant before a Commissioner of Deeds or a notary public.

Section 162-23 Execution of inspection search warrant.

- A. In executing the inspection search warrant, Code Enforcement Personnel authorized by the court to execute the warrant shall, before entry, make a reasonable effort to present his/her credentials, authority and purpose to an occupant or person in possession of the premises designated in the warrant and deliver a copy of the warrant to such person.
- B. When authorized in the warrant, a police officer may provide protection to the Code Enforcement Personnel during the execution of the warrant. Absent such authorization, a police officer shall not accompany the Code Enforcement Personnel and designated surveyors during the inspection of the interior portions of a building not open to the public.
- C. A warrant shall be executed within the time specified in the warrant.

Section 162-24 Unlawful actions.

It shall be unlawful for any person to willfully deny or unduly delay entry or access to designated Code Enforcement Personnel with a search warrant authorizing inspection of said premises, to willfully deny or interfere with the inspection authorized by the warrant, or after receiving a copy of a warrant regarding the scheduling of an inspection, to willfully fail to schedule a reasonable date and time for the inspection as set forth in the warrant. Any person who violates this section shall be subject to an application to be found in contempt of court pursuant to Article 19 of the Judiciary Law and punishment as provided therein.

Section 162-25 Demand for inspection of premises

Upon written demand of the property owner, the Building Inspector shall have the premises inspected at a mutually convenient date and time. A report of the inspection shall be provided to the owner.

Section 162-26 Penalties for offenses

- A. Upon conviction for each code violation involving an illegal residential occupancy or an over-occupancy of a dwelling or dwelling unit, the owner of the premises shall be liable for a fine of not less than \$2,000 nor more than \$4,000 for the first offense; not less than \$4,000 nor more than \$8,000 for a second offense within twelve months of the first offense; and not less than \$8,000 nor more than \$16,000 for a third and subsequent offenses within twelve months of the first offense.
- B. Every violation shall be a separate and distinct offense. Where the violation is found to continue, every day thereof shall be separate and distinct offense.
- C. Loss of profit. If a person has gained a profit through an illegal residential occupancy or an over-occupancy of a dwelling or dwelling unit, then the court, in lieu of imposing the penalty authorized for the offense under Subsection A of this section, may sentence the defendant to pay an amount, fixed by the court, not exceeding double the amount of the defendant's gain from commission of the offense. The court shall make a finding after a hearing as to the amount of the profit gained by defendant's conduct.
- D. Civil penalties. In addition to those penalties prescribed in state law and in this section, any owner who has been convicted of maintaining an illegal residential occupancy or over-occupancy of a dwelling or dwelling unit, shall be liable to pay a civil penalty of not more than \$2,000 for each day or part thereof during which the violation continues. The civil penalties provided by this subsection shall be recoverable in an action brought by the Village of Ossining. Any person or entity that violates this section shall be liable for all reasonable attorneys' fees, costs and disbursements incurred by the village to recover this civil penalty. In such proceeding, the village shall be entitled to recover interest, costs, and disbursements incurred in connection with the proceeding and in addition to reasonable attorneys' fees, to recover expenditures for consultants retained by the village.

Article VII Effective date.

This local law shall become effective upon filing with the Secretary of State pursuant to section 27 of the Municipal Home Rule Law.

