

Chapter 88

Building Code Administration

[HISTORY: Adopted by the Town Board of the Town of Perinton 12-27-2006 by L.L. No. 11-2006. Amendments noted where applicable.]

§ 88-1 Interpretation and application.

Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances or local laws, the most restrictive provisions, or those imposing the higher standards, shall govern.

§ 88-2 Administration and enforcement of state and Town standards.

[Amended 2-24-2010 by L.L. No. 1-2010; 12-18-2019 by L.L. No. 2-2020; 3-9-2022 by L.L. No. 2-2022]

- A. Purpose and intent. This chapter provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code), the State Energy Conservation Construction Code (the Energy Code), the Design Criteria and Construction Specifications for Land Development and the codes of the Town of Perinton in the Town of Perinton. This chapter is adopted pursuant to § 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this chapter, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions of this chapter.
- B. Definitions. As used in this chapter, the following terms have the meanings indicated:

ASSEMBLY AREA

An area in any building, or in any portion of a building, that is primarily used or intended to be used for gathering fifty or more persons for uses including, but not limited to, amusement, athletic, entertainment, social, or other recreational functions; patriotic, political, civic, educational, or religious functions; food or drink consumption; awaiting transportation; or similar purposes.

BUILDING PERMIT

A permit issued pursuant to Subsection D of this section. The term "building permit" shall also include a building permit which is renewed, amended or extended pursuant to any provision of this section.

CERTIFICATE OF OCCUPANCY; CERTIFICATE OF COMPLIANCE

A certificate issued pursuant to Subsection G(2) of this section.

CODE ENFORCEMENT PERSONNEL

The Director of Building and Codes and all inspectors.

COMPLIANCE ORDER

An order issued by the Director of Building and Codes pursuant to Subsection Q. (1) of this section.

DESIGN CRITERIA AND CONSTRUCTION SPECIFICATIONS FOR LAND DEVELOPMENT

The Town of Perinton manual on accepted design and construction practices related to land development.

DIRECTOR OF BUILDING AND CODES

The Director of Building and Codes appointed pursuant to Subsection C(2) of this section.

ENERGY CODE

The State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

INSPECTOR

An inspector appointed pursuant to Subsection C(4) of this section.

OPERATING PERMIT

A permit issued pursuant to Subsection J of this section. The term "operating permit" shall also include an operating permit which is renewed, amended or extended pursuant to any provision of this chapter.

PERMIT HOLDER

The person to whom a building permit has been issued.

PERSON

An individual, corporation, limited liability company, partnership, limited partnership, business trust, estate, trust, association, or any other legal or commercial entity of any kind or description.

STOP-WORK ORDER

An order issued pursuant to Subsection F of this section.

TOWN

The Town of Perinton.

UNIFORM CODE

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

C. Director of Building and Codes and inspectors.

(1) The office of Director of Building and Codes is hereby created within the Department of Public Works. The Director of Building and Codes shall administer and enforce all the provisions of the Uniform Code, the Energy Code, the Design Criteria and Construction Specifications for Land Development, the codes of the Town of Perinton and this chapter. The Director of Building and Codes shall have the following powers and duties:

(a) To receive, review, and approve or disapprove applications for building permits, certificates of occupancy/certificates of compliance and operating permits, and the plans, specifications and construction documents submitted with such applications;

- (b) Upon approval of such applications, to issue building permits, certificates of occupancy/certificates of compliance and operating permits, and to include in building permits, certificates of occupancy/certificates of compliance and operating permits such terms and conditions as the Director of Building and Codes may determine to be appropriate;
 - (c) To conduct construction inspections, inspections to be made prior to the issuance of certificates of occupancy/certificates of compliance and operating permits, fire safety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this chapter;
 - (d) To issue stop-work orders;
 - (e) To review and investigate complaints;
 - (f) To issue orders pursuant to Subsection Q(1), Compliance orders, of this section;
 - (g) To maintain records;
 - (h) To collect fees as set by the Town Board;
 - (i) To pursue administrative enforcement actions and proceedings;
 - (j) In consultation with the Town's attorney and the Commissioner of Public Works, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code, the Design Criteria and Construction Specifications for Land Development, the codes of the Town of Perinton and this chapter, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code, the Design Criteria and Construction Specifications for Land Development, the codes of the Town of Perinton or this chapter;
 - (k) To provide the Board of Appeals in writing with all facts pertaining to his refusal to issue such permits whenever such information shall be requested by said Board; and
 - (l) To exercise all other powers and fulfill all other duties conferred upon the Director of Building and Codes by this chapter.
- (2) The Director of Building and Codes shall be appointed by the Town Board and report to the Commissioner of Public Works. The Director of Building and Codes shall possess background experience related to building construction or fire prevention and shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and the Director of Building and Codes shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- (3) In the event that the Director of Building and Codes is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Director of Building and Codes. The Acting Director of Building and Codes shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Director of Building and Codes by this chapter.

- (4) One or more inspectors may be appointed by the Town Board to act under the supervision and direction of the Director of Building and Codes and to assist the Director of Building and Codes in the exercise of the powers and fulfillment of the duties conferred upon the Director of Building and Codes by this chapter. Each inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.
- (5) The compensation for the Director of Building and Codes and inspectors shall be fixed from time to time by the Town Board.

D. Building permits.

- (1) Building permits required. Except as otherwise provided in Subsection D(2) of this section, a building permit shall be required for any work which must conform to the Uniform Code, the Energy Code, the Design Criteria and Construction Specifications for Land Development and/or the codes of the Town of Perinton, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof; the addition to, alteration of, replacement or relocation of any water service, sewer, drainage, gas, soil, waste, vent or similar piping, electrical wiring, fuel gas piping, mechanical system, fire protection equipment or other work affecting public health or safety; and the installation of a solid-fuel-burning heating appliance, chimney or flue. No person shall commence any work for which a building permit is required without first having obtained a building permit from the Director of Building and Codes.
- (2) Exemptions. No building permit shall be required for work in any of the following categories:
 - (a) Installation of swings and other similar playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses), except structural recreational facilities as required in § 208-24 of this Code;
 - (b) Installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
 - (c) Construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;
 - (d) Construction of temporary motion-picture, television and theater stage sets and scenery;
 - (e) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
 - (f) Installation of partitions or movable cases less than five feet nine inches in height;
 - (g) Painting, wallpapering, tiling, carpeting, or other similar finish work;
 - (h) Installation of listed portable electrical, plumbing, heating, ventilation or cooling

equipment or appliances;

- (i) 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
- (j) 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; or
 - [4] The removal from service of all or part of a fire protection system for any period of time.
- (3) Exemption not deemed authorization to perform noncompliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in Subsection D(2) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code, the Energy Code, the Design Criteria and Construction Specifications for Land Development or the codes of the Town of Perinton.
- (4) Applications for building permits. Applications for a building permit shall be made in writing on a form provided by or otherwise acceptable to the Director of Building and Codes. The application shall be signed by the owner of the property where the work is to be performed or by an authorized agent of the owner. The application shall include such information as the Director of Building and Codes deems sufficient to allow a determination by the Director of Building and Codes that the intended work complies with all applicable requirements of the Uniform Code, the Energy Code, the Design Criteria and Construction Specifications for Land Development, and the codes of the Town of Perinton. The application shall include or be accompanied by the following information and documentation:
 - (a) A description of the proposed work;
 - (b) A survey map of the property;
 - (c) The Tax Map number and the street address of the premises where the work is to be performed;
 - (d) The occupancy classification of any affected building or structure;
 - (e) Where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and
 - (f) At least two sets of construction documents (drawings and/or specifications) which:
 - [1] Define the scope of the proposed work;
 - [2] Are prepared by a New York State registered architect or licensed professional engineer

where so required by the Education Law;

- [3] Indicate with sufficient clarity and detail the nature and extent of the work proposed;
 - [4] Substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and
 - [5] Where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.
- (5) Construction documents. Construction documents will not be accepted as part of an application for a building permit unless they satisfy the requirements of Subsection D(4) above. Construction documents which are accepted as part of the application for a building permit shall be marked as accepted by the Director of Building and Codes in writing or by stamp. One set of the accepted construction documents shall be retained by the Director of Building and Codes, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the code enforcement personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a building permit will be issued. Work shall not be commenced until and unless a building permit is issued.
- (6) Issuance of building permits. An application for a building permit shall be examined to ascertain whether the proposed work is in compliance with the applicable requirements of the Uniform Code, Energy Code, the Design Criteria and Construction Specifications for Land Development and the codes of the Town of Perinton. The Director of Building and Codes shall issue a building permit if the proposed work is in compliance with the applicable requirements of the Uniform Code, Energy Code and the codes of the Town of Perinton.
- (7) Building permits to be displayed. Building permits shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.
- (8) Work to be in accordance with construction documents. All work shall be performed in accordance with the construction documents which were submitted with and accepted as part of the application for the building permit. The permit holder shall immediately notify the Director of Building and Codes of any change occurring during the course of the work. If the Director of Building and Codes determines that such change warrants a new or amended building permit, such change shall not be made until and unless a new or amended building permit reflecting such change is issued.
- (9) Time limits.
- (a) Building permits shall become invalid unless the authorized work is commenced within three months following the date of issuance. Building permits shall expire 18 months after the date of issuance, with the exception of building permits for the following, which shall expire six months after the date of issuance:

- [1] Swimming pools.

[2] Hot tubs.

[3] Fences.

[4] Electrical.

[5] Sewer.

[6] Generators.

[7] Wood stoves and fireplaces.

(b) A building permit which has become invalid or which has expired pursuant to this subsection may be renewed once upon application by the permit holder, payment of the applicable fee, and approval of the application by the Director of Building and Codes.

(10) Revocation or suspension of building permits. If the Director of Building and Codes determines that a building permit was issued in error because of incorrect, inaccurate or incomplete information, or that the work for which a building permit was issued violates the Uniform Code, the Energy Code, the Design Criteria and Construction Specifications for Land Development or the codes of the Town of Perinton, the Director of Building and Codes shall revoke the building permit or suspend the building permit until such time as the permit holder demonstrates that all work then completed is in compliance with all applicable provisions of the Uniform Code, the Energy Code, the Design Criteria and Construction Specifications for Land Development or the codes of the Town of Perinton and all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code, the Energy Code, the Design Criteria and Construction Specifications for Land Development and the codes of the Town of Perinton.

(11) Fee. The fee specified in or determined in accordance with the provisions set forth in Subsection R, Fees, of this section must be paid at the time of issuance of a building permit, for an amended building permit, or for renewal of a building permit.

E. Construction inspection.

(1) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Director of Building and Codes or by an inspector authorized by the Director of Building and Codes. The permit holder shall notify the Director of Building and Codes when any element of work described in Subsection E(2) of this section is ready for inspection.

(2) Elements of work to be inspected. The following elements of the construction process shall be inspected, where applicable:

(a) Work site prior to the issuance of a building permit;

(b) Footing and foundation;

(c) Preparation for concrete slab;

(d) Framing;

- (e) Building systems, including underground and rough-in, drainage systems, HVAC, electrical, fuel gas piping, water supply, fire suppression systems;
 - (f) Fire-resistant construction;
 - (g) Fire-resistant penetrations;
 - (h) Solid-fuel-burning heating appliances, chimneys, flues or gas vents;
 - (i) Energy Code compliance, including insulation, windows, mechanical systems;
 - (j) Site grading and required site improvements, where applicable; and
 - (k) A final inspection after all work authorized by the building permit has been completed.
- (l) Remote inspections. At the discretion of the Director of Building and Codes or inspector authorized to perform construction inspections, a remote inspection may be performed in lieu of an in-person inspection when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or by such authorized Inspector that the elements of the construction process conform with the applicable requirements of the Uniform Code and Energy Code. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.
- (3) Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to where the work fails to comply with the Uniform Code, Energy Code or the codes of the Town of Perinton. Work not in compliance with any applicable provision of the Uniform Code, Energy Code, the Design Criteria and Construction Specifications for Land Development or the codes of the Town of Perinton shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code, the Energy Code, the Design Criteria and Construction Specifications for Land Development and the codes of the Town of Perinton, reinspected, and found satisfactory as completed.
- (4) Fee. The fee specified in or determined in accordance with the provisions set forth in Subsection R, Fees, of this section may be charged for reinspection of failed inspections and shall be collected prior to the issuance of a certificate of occupancy or certificate of compliance.

F. Stop-work orders.

- (1) Authority to issue. The Director of Building and Codes is authorized to issue stop-work orders pursuant to this section. The Director of Building and Codes shall issue a stop-work order to halt:
 - (a) Any work that is determined by the Director of Building and Codes to be contrary to any applicable provision of the Uniform Code, Energy Code, the Design Criteria and Construction Specifications for Land Development or the codes of the Town of Perinton without regard to whether such work is or is not work for which a building permit is

required, and without regard to whether a building permit has or has not been issued for such work; or

- (b) Any work that is being conducted in a dangerous or unsafe manner in the opinion of the Director of Building and Codes without regard to whether such work is or is not work for which a building permit is required, and without regard to whether a building permit has or has not been issued for such work; or
 - (c) Any work for which a building permit is required which is being performed without the required building permit, or under a building permit that has become invalid, has expired, or has been suspended or revoked.
- (2) Content of stop-work orders. Stop-work orders shall be in writing, be dated and signed by the Director of Building and Codes or his designee, state the reason or reasons for issuance, and, if applicable, state the conditions which must be satisfied before work will be permitted to resume.
 - (3) Service of stop-work orders. The Director of Building and Codes shall cause the stop-work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by first-class or registered mail and posting the order on the property. The Director of Building and Codes shall be permitted, but not required, to cause the stop-work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop-work order, personally or by first-class or registered mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop-work order.
 - (4) Effect of stop-work order. Upon the issuance of a stop-work order, the owner of the affected property, the permit holder and any other person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the stop-work order.
 - (5) Remedy not exclusive. The issuance of a stop-work order shall not be the exclusive remedy available to address any event described in Subsection F(1) of this section, and the authority to issue a stop-work order shall be in addition to, and not in substitution for or limitation of, the right and authority to pursue any other remedy or impose any other penalty under Subsection Q, Violations, of this section or under any other applicable local law or state law. Any such other remedy or penalty may be pursued at any time, whether prior to, at the time of, or after the issuance of a stop-work order.

G. Certificates of occupancy/certificates of compliance.

- (1) Certificates of occupancy/certificates of compliance required. A certificate of occupancy/certificate of compliance shall be required for any work which is the subject of a building permit and for all structures, buildings, or portions thereof, which are converted from one use or occupancy classification or subclassification to another. Permission to use or occupy a building or structure, or portion thereof, for which a building permit was previously issued shall be granted only by issuance of a certificate of occupancy/certificate of compliance. A failure to obtain a certificate of occupancy/certificate of compliance prior to use or occupancy shall constitute a

violation of this section.

- (2) Issuance of certificates of occupancy/certificates of compliance. The Director of Code Enforcement and Development shall issue a certificate of occupancy/certificate of compliance if the work which was the subject of the building permit was completed in accordance with all applicable provisions of the Uniform Code, Energy Code, the Design Criteria and Construction Specifications for Land Development and Zoning Code and, if applicable, the structure, building or portion thereof that was converted from one use or occupancy classification or subclassification to another complies with all applicable provisions of the Uniform Code, Energy Code, the Design Criteria and Construction Specifications for Land Development and Zoning Code. The Director of Building and Codes or an inspector authorized by the Director of Building and Codes shall inspect the building, structure or work prior to the issuance of a certificate of occupancy temporary certificate/certificate of compliance. In addition, where applicable, the following documents, prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or otherwise acceptable to the Director of Building and Codes, at the expense of the applicant for the certificate of occupancy/certificate of compliance, shall be provided to the Director of Building and Codes prior to the issuance of the certificate of occupancy/certificate of compliance:
 - (a) A written statement of structural observations and/or a final report of special inspections;
 - (b) Flood hazard certifications; and
 - (c) A survey map of the property showing the newly constructed building(s).
- (3) Contents of certificates of occupancy/certificates of compliance. A certificate of occupancy/certificate of compliance shall contain the following information:
 - (a) The building permit number, if any;
 - (b) The date of issuance of the building permit, if any;
 - (c) The name, address, and tax map number of the property;
 - (d) If the certificate of occupancy/certificate of compliance is not applicable to an entire structure, a description of that portion of the structure for which the certificate of occupancy/certificate of compliance is issued;
 - (e) The use and occupancy classification of the structure;
 - (f) The type of construction of the structure;
 - (g) The assembly occupant load of the structure, if any;
 - (h) If an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
 - (i) Any special conditions imposed in connection with the issuance of the building permit; and

- (j) The signature of the Director of Building and Codes issuing the certificate of occupancy/certificate of compliance and the date of issuance.
- (4) Revocation or suspension of certificates. If the Director of Building and Codes determines that a certificate of occupancy/certificate of compliance was issued in error because of incorrect, inaccurate or incomplete information, or that the conditions of approval of the Town Board, Planning Board or Zoning Board of Appeals have been violated, and if the relevant deficiencies are not corrected to the satisfaction of the Director of Building and Codes within such period of time as shall be specified by the Director of Building and Codes, the Director of Building and Codes shall refer the matter to the Town Board for a hearing to revoke or suspend such certificate, unless he shall determine such deficiencies create an immediate danger to the health, safety and welfare of the public, at which time he shall immediately revoke or suspend the certificate.
- (5) Fee. The fee specified in or determined in accordance with the provisions set forth in Subsection R, Fees, of this section must be paid at the time of submission of an application for a certificate of occupancy/certificate of compliance.
- H. Notification regarding fire or explosion. The chief of any fire department providing firefighting services for a property within the Town of Perinton shall promptly notify the Director of Building and Codes of any fire or explosion involving any structural damage, fuel-burning appliance, chimney or gas vent.
- I. Unsafe buildings and structures. Unsafe structures and equipment in the Town of Perinton shall be identified and addressed in accordance with the procedures established in Chapter 95 of the Code of the Town of Perinton, as now in effect or as hereafter amended from time to time.
- J. Operating permits. Any person who proposes to undertake any activity or to operate any type of building listed in this Subsection J(1) shall be required to obtain an operating permit prior to commencing such activity or operation.
- (1) Operating permits required. Operating permits shall be required for conducting the activities or using the categories of buildings listed below:
 - (a) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in the applicable Maximum Allowable Quantity tables found in the "Fire Code of New York State" (FCNYS).
 - (b) Buildings, structures, facilities, processes, and/or activities that are within the scope and/or permit requirements of the chapter or section title of the FCNYS as follows:
 - (i) Chapter 22, "Combustible Dust-Producing Operations." Facilities where the operation produces combustible dust;
 - (ii) Chapter 24, "Flammable Finishes." Operations utilizing flammable or combustible liquids, or the application of combustible powders regulated by Chapter 24 of the FCNYS;
 - (iii) Chapter 25, "Fruit and Crop Ripening." Operating a fruit- or crop-ripening

facility or conducting a fruit-ripening process using ethylene gas;

(iv) Chapter 26, "Fumigation and Insecticidal Fogging." Conducting fumigation or insecticidal fogging operations in buildings, structures, and spaces, except for fumigation or insecticidal fogging performed by the occupant of a detached one-family dwelling;

(v) Chapter 31, "Tents, Temporary Special Event Structures, and Other Membrane Structures." Operating an air-supported temporary membrane structure, a temporary special event structure, or a tent where approval is required pursuant to Chapter 31 of the FCNYS;

(vi) Chapter 32, "High-Piled Combustible Storage." High-piled combustible storage facilities with more than 500 square feet (including aisles) of high-piled storage;

(vii) Chapter 34, "Tire Rebuilding and Tire Storage." Operating a facility that stores in excess of 2,500 cubic feet of scrap tires or tire byproducts or operating a tire rebuilding plant;

(viii) Chapter 35, "Welding and Other Hot Work." Performing public exhibitions and demonstrations where hot work is conducted, use of hot work, welding, or cutting equipment, inside or on a structure, except an operating permit is not required where work is conducted under the authorization of a building permit or where performed by the occupant of a detached one- or two-family dwelling;

(ix) Chapter 40, "Sugarhouse Alternative Activity Provisions." Conducting an alternative activity at a sugarhouse;

(x) Chapter 56, "Explosives and Fireworks." Possessing, manufacturing, storing, handling, selling, or using, explosives, fireworks, or other pyrotechnic special effects materials except the outdoor use of sparkling devices as defined by Penal Law section 270;

(xi) Section 307, "Open Burning, Recreational Fires and Portable Outdoor Fireplaces." Conducting open burning, not including recreational fires and portable outdoor fireplaces; and

(xii) Section 308, "Open Flames." Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies.

(c) Use of pyrotechnic devices in assembly occupancies;

(d) Energy storage systems, where the system exceeds the values shown in Table 1206.1 of the FCNYS or exceeds the permitted aggregate ratings in section R327.5 of the RCNYS.

(e) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of the Town of Perinton.

(f) Buildings containing one or more assembly areas;

(g) Outdoor events where the planned attendance exceeds 1,000 persons;

- (h) Facilities that store, handle or use hazardous production materials;
- (i) Parking garages as defined in subdivision (a) of section 13 of this local law;
- (2) Applications for operating permits. An application for an operating permit shall be in writing on a form provided by or otherwise acceptable to the Director of Building and Codes. Such application shall include such information as the Director of Building and Codes deems sufficient to permit a determination by the Director of Building and Codes that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Director of Building and Codes determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Director of Building and Codes, at the expense of the applicant.
- (3) Exemptions. Operating permits shall not be required for processes or activities, or the buildings, structures, or facilities listed in paragraphs (1) through (7) of subdivision (a) of this section, provided that the use is expressly authorized by a certificate of occupancy or certificate of compliance, fire safety and property maintenance inspections are performed in accordance with section 11 (Fire Safety and Property Maintenance Inspections) of this local law, and condition assessments are performed in compliance with section 13 (Condition Assessments of Parking Garages) of this local law, as applicable.]
- (4) Inspections. The Director of Building and Codes or an inspector authorized by the Director of Building and Codes shall inspect the subject premises prior to the issuance of an operating permit.
- (5) Multiple activities. In any circumstance in which more than one activity listed in Subsection J(1) of this section is to be conducted at a location, the Director of Building and Codes may require a separate operating permit for each such activity, or the Director of Building and Codes may, in his or her discretion, issue a single operating permit to apply to all such activities.
- (6) Duration of operating permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any operating permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Director of Building and Codes to be consistent with local conditions. The effective period of each operating permit shall be specified in the operating permit. An operating permit may be reissued or renewed upon application to the Director of Building and Codes, payment of the applicable fee, and approval of such application by the Director of Building and Codes.
- (7) Revocation or suspension of operating permits. If the Director of Building and Codes determines that any activity or building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code, such operating permit shall be revoked or suspended.
- (8) Fee. The fee specified in or determined in accordance with the provisions set forth in Subsection R, Fees, of this section must be paid at the time of submission of an application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit.

K. Fire safety and property maintenance inspections.

- (1) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Director of Building and Codes or an inspector designated by the Director of Building and Codes at the following intervals:
 - (a) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every 12 months.
 - (b) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every 12 months.
 - (c) Fire safety and property maintenance inspections of all multiple dwellings not included in Subsection K(1) or (2) of this section, and all nonresidential buildings, structures, uses and occupancies not included in Subsection K(1) or (2) of this section, shall be performed at least once every 36 months.
- (2) Remote inspections. At the discretion of the Code Enforcement Officer or Inspector authorized to perform fire safety and property maintenance inspections, a remote inspection may be performed in lieu of in-person inspections when, in the opinion of the Code Enforcement Officer or such authorized Inspector, the remote inspection can be performed to the same level and quality as an in-person inspection and the remote inspection shows to the satisfaction of the Code Enforcement Officer or such authorized Inspector that the premises conform with the applicable provisions of 19 NYCRR Part 1225 and the publications incorporated therein by reference and the applicable provisions of 19 NYCRR Part 1226 and the publications incorporated therein by reference. Should a remote inspection not afford the Code Enforcement Officer or such authorized Inspector sufficient information to make a determination, an in-person inspection shall be performed.
- (3) Inspections permitted. In addition to the inspections required by Subsection K(1) of this section, a fire safety and property maintenance inspection of any building, structure, use, or occupancy, or of any dwelling unit, may also be performed by the Director of Building and Codes or an inspector designated by the Director of Building and Codes at any time upon: the request of the owner of the property to be inspected or an authorized agent of such owner; receipt by the Director of Building and Codes of a written statement alleging that conditions or activities failing to comply with the Uniform Code, Energy Code, the Design Criteria and Construction Specifications for Land Development or the codes of the Town of Perinton exist; or receipt by the Director of Building and Codes of any other information, reasonably believed by the Director of Building and Codes to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code, Energy Code, the Design Criteria and Construction Specifications for Land Development or the codes of the Town of Perinton exist; provided, however, that nothing in this subsection shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.
- (4) OFPC inspections. Nothing in this section or in any other provision of this chapter shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire

Administrator under Executive Law § 156-e and Education Law § 807-b.

(5) Fee. The fee specified in or determined in accordance with the provisions set forth in Subsection R, Fees, of this section must be paid prior to or at the time each inspection is performed pursuant to this section. This subsection shall not apply to inspections performed by OFPC.

L. Complaints. The Director of Building and Codes shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the Uniform Code, the Energy Code, this chapter, or the codes of the Town of Perinton or regulations adopted for administration and enforcement of the Uniform Code, the Energy Code or the codes of the Town of Perinton. The process for responding to a complaint shall include such of the following steps as the Director of Building and Codes may deem to be appropriate:

- (1) Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection.
- (2) If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in Subsection Q, Violations, of this section.
- (3) If appropriate, issuing a stop-work order.
- (4) If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

M. CONDITION ASSESSMENTS OF PARKING GARAGES.

(1) Definitions. For the purposes of this section:

- (a) the term “condition assessment” means an on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure;
- (b) the term “deterioration” means the weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component;
- (c) the term “parking garage” means any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:
 - (i) buildings in which the only level used for parking or storage of motor vehicles is on grade;
 - (ii) an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and

- (iii) a townhouse unit with attached parking exclusively for such unit;
 - (d) the term “professional engineer” means an individual who is licensed or otherwise authorized under Article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations;
 - (e) the term “responsible professional engineer” means the professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report. The use of the term “responsible professional engineer” shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment.
 - (f) the term “unsafe condition” includes the conditions identified as “unsafe” in section 304.1.1, section 305.1.1, and section 306.1.1 of the PMCNYS; and
 - (g) the term “unsafe structure” means a structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.
- (2) Condition Assessments – general requirements. The owner operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in subdivision (c) of this section, periodic condition assessments as described in subdivision
- (d) of this section, and such additional condition assessments as may be required under subdivision (e) of this section. Each condition assessment shall be conducted by or under the direct supervision of a professional engineer. A written report of each condition assessment shall be prepared, and provided to the Town of Perinton, in accordance with the requirements of subdivision (f) of this section. Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.
- (3) Initial Condition Assessment. Each parking garage shall undergo an initial condition assessment as follows:
- (a) Parking garages constructed on or after August 29, 2018, shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure.
 - (b) Parking garages constructed prior to August 29, 2018, shall undergo an initial condition assessment as follows:
 - (i) if originally constructed prior to January 1, 1984, then prior to October 1, 2019;
 - (ii) if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and
 - (iii) if originally constructed between January 1, 2003 and August 28, 2018, then prior to

October 1, 2021.

- (c) Any parking garage constructed prior to the effective date of the local law enacting this provision that has not undergone an initial condition assessment prior to that effective date shall undergo an initial condition assessment prior to [specify date not more than six (6) months after the effective date of this local law].
- (4) Periodic Condition Assessments. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed [specify interval not to exceed three (3) years].
- (5) Additional Condition Assessments.
 - (a) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.
 - (b) If the Town of Perinton becomes aware of any new or increased deterioration which, in the judgment of the Town of Perinton, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the Town of Perinton to be appropriate.
- (6) Condition Assessment Reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the Town of Perinton within [specify time as fixed by the City / Town / Village]. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:
 - (a) an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;
 - (b) an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;
 - (c) an evaluation and description of the unsafe conditions;
 - (d) an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;
 - (e) an evaluation and description of the corrective options available, including the

recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;

- (f) an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;
 - (g) the responsible professional engineer's recommendation regarding preventative maintenance;
 - (h) except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and
 - (i) the responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in their professional judgment.
- (7) Review Condition Assessment Reports. The Town of Perinton shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the Town of Perinton shall, by Order to Remedy or such other means of enforcement as the Town of Perinton may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to paragraphs (2) and (3) of subdivision (f). All repairs and remedies shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the Town of Perinton to take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.
- (8) The Town of Perinton shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the Town of Perinton with a written statement attesting to the fact that he or she has been so engaged, the Town of Perinton shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The Town of Perinton shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.

- (a) This section shall not limit or impair the right or the obligation of the Town of Perinton:

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- (i) to perform such construction inspections as are required by section 5 (Construction Inspections) of this local law;
- (ii) to perform such periodic fire safety and property maintenance inspections as are required by section 11 (Fire Safety and Property Maintenance Inspections) of this local law; and/or
- (iii) to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the Town of Perinton by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.

N. CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA.

- (1) The Code Enforcement Officer shall determine the climatic and geographic design criteria for buildings and structures constructed within this The Town of Perinton as required by the Uniform Code. Such determinations shall be made in the manner specified in the Uniform Code using, where applicable, the maps, charts, and other information provided in the Uniform Code. The criteria to be so determined shall include but shall not necessarily be limited to, the following:
 - (a) Design criteria to include ground snow load; wind design loads; seismic category; potential damage from weathering, frost, and termite; winter design temperature; whether ice barrier underlayment is required; the air freezing index; and the mean annual temperature;
 - (b) Heating and cooling equipment design criteria for structures within the scope of the RCNYS. The design criteria shall include the data identified in the Design Criteria Table found in Chapter 3 of the RCNYS; and
 - (c) Flood hazard areas, flood hazard maps, and supporting data. The flood hazard map shall include, at a minimum, special flood hazard areas as identified by the Federal Emergency Management Agency in the Flood Insurance Study for the community, as amended or revised with:
 - (i) the accompanying Flood Insurance Rate Map (FIRM);
 - (ii) Flood Boundary and Floodway Map (FBFM); and
 - (iii) related supporting data along with any revisions thereto.
- (2) The Director of Building and Codes shall prepare a written record of the climatic and geographic design criteria determined pursuant to subdivision (a) of this section, shall maintain such record within the office of the Code Enforcement Officer, and shall make such record readily available to the public.

O. Recordkeeping.

- (1) The Director of Building and Codes shall keep permanent official records of all transactions and activities conducted by all code enforcement personnel, including records of:
 - (a) All applications received, reviewed and approved or denied;

- (b) All plans, specifications and construction documents approved;
 - (c) All building permits, certificates of occupancy/certificates of compliance, temporary certificates, stop-work orders, and operating permits issued;
 - (d) All inspections and tests performed;
 - (e) All statements and reports issued;
 - (f) All complaints received;
 - (g) All investigations conducted;
 - (h) All other features and activities specified in or contemplated by Subsections D through L, inclusive, of this section; and
 - (i) All fees charged and collected and
 - (j) All condition assessment reports received.
- (2) 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 appurtenances thereto, shall be retained for at least the minimum time period so required by state law and regulation.

P. Program review and reporting.

- (1) The Director of Building and Codes shall annually submit to the Town Board of the Town of Perinton a written report and summary of all business conducted by the Director of Building and Codes and the inspectors, including a report and summary of all transactions and activities described in Subsection, O. Recordkeeping, of this section and a report and summary of all appeals or litigation pending or concluded.
- (2) The Director of Building and Codes shall annually submit to the Secretary of State, on behalf of the Town of Perinton on a form prescribed by the Secretary of State, a report of the activities of the Town of Perinton relative to administration and enforcement of the Uniform Code.
- (3) The Director of Building and Codes shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials the Town of Perinton is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of the Town of Perinton in connection with administration and enforcement of the Uniform Code.

Q. Violations.

- (1) Compliance orders. The Director of Building and Codes is authorized to order, in writing, the remedying of any condition or activity found to exist in, on or about any building, structure, or premises in violation of the Uniform Code, the Energy Code, the Design Criteria and Construction Specifications for Land Development, the codes of the Town of Perinton or this chapter. Upon finding that any such condition or activity exists,

the Director of Building and Codes shall issue a compliance order. The compliance order shall be in writing; be dated and signed by the Director of Building and Codes or inspector; specify the condition or activity that violates the Uniform Code, the Energy Code, the Design Criteria and Construction Specifications for Land Development, the codes of the Town of Perinton or this chapter; specify the provision or provisions of the Uniform Code, the Energy Code, the codes of the Town of Perinton or this chapter which is/are violated by the specified condition or activity; specify the period of time which the Director of Building and Codes deems to be reasonably necessary for achieving compliance; direct that compliance be achieved within the specified period of time; and state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Director of Building and Codes shall cause the compliance order, or a copy thereof, to be served on the owner of the affected property personally or by first-class mail. The Director of Building and Codes shall be permitted, but not required, to cause the compliance order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property personally or by first-class mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the compliance order.

- (2) Appearance tickets. The Director of Building and Codes and each inspector are authorized to issue appearance tickets for any violation of the Uniform Code.
 - (3) Civil penalties. In addition to those penalties prescribed by state law, any person who violates any provision of the Uniform Code, the Energy Code, the codes of the Town of Perinton or this chapter, or any term or condition of any building permit, certificate of occupancy/certificate of compliance, stop-work order, operating permit or other notice or order issued by the Director of Building and Codes pursuant to any provision of this chapter, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of the Town of Perinton.
 - (4) Injunctive relief. An action or proceeding may be instituted in the name of the Town of Perinton, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, the Energy Code, the codes of the Town of Perinton, this chapter, or any term or condition of any building permit, certificate of occupancy/certificate of compliance, stop-work order, operating permit, compliance order, or other notice or order issued by the Director of Building and Codes pursuant to any provision of this chapter. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of the Uniform Code, the Energy Code, the Design Criteria and Construction Specifications for Land Development, the codes of the Town of Perinton, or this chapter, an action or proceeding may be commenced in the name of the Town of Perinton, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions. No action or proceeding described in this subsection shall be commenced without the appropriate authorization from the Town Board of the Town of Perinton.
 - (5) Remedies not exclusive. No remedy or penalty specified in this section shall be the
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exclusive remedy or penalty available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in Subsection F, Stop-work orders, of this section, in any other section of this chapter, or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in Subsection F, Stop-work orders, of this section, in any other section of this chapter, or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision 2 of § 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in Subdivision 2 of § 382 of the Executive Law.

- R. Fees. A fee schedule shall be established by resolution of the Town Board of the Town of Perinton. Such fee schedule may thereafter be amended from time to time by like resolution. The fees set forth in, or determined in accordance with, such fee schedule or amended fee schedule shall be charged and collected for the submission of applications, the issuance of building permits, amended building permits, renewed building permits, certificates of occupancy/certificates of compliance, operating permits, fire safety and property maintenance inspections, and other actions of the Director of Building and Codes described in or contemplated by this chapter.
- S. Intermunicipal agreements. The Town Board of the Town of Perinton may, by resolution, enter into an agreement in the name of the Town of Perinton with other governments to carry out the terms of this chapter, provided that such agreement does not violate any provision of the Uniform Code, the Energy Code, Part 1203 of Title 19 of the NYCRR, or any other applicable law.