

Town of Berkshire

New York State Uniform Fire Prevention and Building Code Local Law

Table of Contents:

Section 1	Purpose and Intent	Page 2
Section 2	Definitions	Page 2
Section 3	Administration and Enforcement	
	I. Code Enforcement Officer	Page 3
	II. Enforcement Actions	Page 4
	(Includes Code Enforcement assignment, duties, and/or actions required to endorse provision of this law)	
Section 4	Intermunicipal Agreements	Page 17
Section 5	Partial Invalidity	Page 17
Section 6	Penalties	Page 17
Section 7	References	Page 18
Section 7	Effective Date	Page 18

**A LOCAL LAW PROVIDING FOR THE ADMINISTRATION AND
ENFORCEMENT OF THE
NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE**

Be it enacted by the Town Board of the Town of Berkshire, in the County of Tioga, to declare its intent to protect the welfare of the citizens by administering and enforcing the New York State Uniform Fire Prevention and Building Code as follows:

SECTION 1. PURPOSE AND INTENT

This local law provides for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) in this **Town of BERKSHIRE**. This local law is adopted pursuant to section 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, the Energy Code other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this local law.

SECTION 2. DEFINITIONS (In this local law, the following terms shall have the meanings shown in this section:

“Assembly Area” shall mean 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” shall mean a building permit, construction permit, demolition permit, or other permit that authorizes the performance of work. The term “Building Permit” shall also include a Building Permit which is renewed, amended, or extended pursuant to any provision of this local law.

“Certificate of Compliance” shall mean a document issued by the **Town of Berkshire** stating that work was done in compliance with approved construction documents and the Codes.

“Certificate of Occupancy” shall mean a document issued by the **Town of Berkshire** certifying that the building or structure, or portion thereof, complies with the approved construction documents that have been submitted to, and approved by the **Town of Berkshire**, and indicating that the building or structure, or portion thereof, is in a condition suitable for occupancy.

Code Enforcement Officer or CEO- An appointee of the Town of **Berkshire** who is hired to enforce New York State Uniform Fire Prevention and Building Code, Building Code Local Law, this local law, and other local laws assigned for enforcement.

“Energy Code” shall mean the New York State Energy Conservation Construction Code adopted pursuant to Article 11 of the Energy Law.

“FCNYS” shall mean the 2020 Fire Code of New York State as currently incorporated by reference in 19 NYCRR Part 1225.

“Order to Remedy” shall mean an order issued by the CEO pursuant to section 3, II, K, of this local law.

“Permit Holder” shall mean the Person to whom a Building Permit has been issued.

“Person” shall include 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.

“PMCNY” shall mean the 2020 Property Maintenance Code of New York State as currently incorporated by reference in 19 NYCRR Part 1226.

“RCNYS” shall mean the 2020 Residential Code of New York State as currently incorporated by reference in 19 NYCRR Part 1220.

“Repair” shall mean the reconstruction, replacement, or renewal of any part of an existing building for the purpose of its maintenance or to correct damage.

“Stop Work Order” shall mean an order issued pursuant to section 3, II, D,d of this local law.

“Temporary Certificate of Occupancy” shall mean a certificate issued pursuant to section 3, II, d of this local law.

“Town” shall mean the **Town of Berkshire**.

“Uniform Code” shall mean the New York State Uniform 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.

SECTION 3. ADMINISTRATION AND ENFORCEMENT

I. CODE ENFORCEMENT OFFICER (CEO)

(a) The Office of Code Enforcement Officer is hereby created. The CEO shall administer and enforce all the provisions of the Uniform Code, the Energy Code, and this local law. The CEO shall have the following powers and duties:

(1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits, and the plans, specifications, and construction documents submitted with such applications;

(2) upon approval of such applications, to issue Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits, and to

include in terms and conditions as the CEO may determine to be appropriate Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, and Operating Permits;

(3) to conduct construction inspections; inspections to be made prior to the issuance of Certificates of Occupancy, Certificates of Compliance, Temporary Certificates of Occupancy, 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 local law;

(4) to issue Stop Work Orders;

(5) to review and investigate complaints;

(6) to issue orders pursuant to section 3, II, K (Violations) of this local law;

(7) to maintain records;

(8) to inform applicants to pay all fees set by the Town Board of this Town of Berkshire to the Berkshire Town Clerk;

(9) to pursue administrative enforcement actions and proceedings;

(10) in consultation with this town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code, and this local law, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code, or this local law; and

(11) to exercise all other powers and fulfill all other duties conferred upon the CEO by this local law.

(b) The CEO shall be appointed by the Berkshire Town Board. The CEO 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 CEO shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.

(c) In the event that the CEO is unable to serve as such for any reason, another individual shall be appointed by the Berkshire Town Board to serve as Acting CEO. The Acting CEO shall, during the term of their appointment, exercise all powers and fulfill all duties conferred upon the CEO by this local law.

(d) The compensation for the CEO shall be fixed from time to time by the **Town of Berkshire** Town Board.

II. ENFORCEMENT ACTIONS

A. BUILDING PERMITS

(a) Building Permits Required. Except as otherwise provided in subdivision (b) of this section, a Building Permit shall be required for any work which must conform to the Uniform Code and/or the Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation, or demolition of any building or structure or any portion thereof, and the installation of a

solid fuel burning heating appliance, chimney, or flue in any dwelling unit. No Person shall commence any work for which a Building Permit is required without first having obtained a Building Permit from the **Town of Berkshire** CEO.

(b) Exemptions. No Building Permit shall be required for work in any of the following categories:

(1) construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses), which are used for tool and storage sheds, playhouses, or similar uses, provided the gross floor area does not exceed 144 square feet;

(2) construction of temporary sets and scenery associated with motion picture, television and theater uses;

(3) painting, wallpapering, tiling, carpeting, or other similar finish work;

(4) repairs, provided that the work does not have an impact on fire and life safety, such as

(i) any part of the structural system;

(ii) the required means of egress;

(iii) the fire protection system or the removal from service of any part of the fire protection system for any period of time.

(5) installation of window awnings supported by an exterior wall of a one-or two-family dwelling or multiple single-family dwellings (townhouses);

(6) installation of partitions or movable cases less than 5'-9" in height;

(7) installation of listed portable electrical, plumbing, heating ventilation or cooling equipment or appliances;

(8) 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

(c) Exemption not deemed authorization to perform non-compliant work. The exemption from the requirement to obtain a building permit for work in any category set forth in subdivision (b) of this section shall not be deemed an authorization for work to be performed in violation of the Uniform Code or the Energy Code.

(d) Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the CEO. The application shall be signed by the owner of the property where the work is to be performed or an authorized agent of the owner. The application shall include such information as the CEO deems sufficient to permit a determination by the CEO that the intended work complies with all applicable requirements of the Uniform Code and the Energy Code. The application shall include or be accompanied by the following information and documentation:

(1) a description of the location, nature, extent, and scope of the proposed work;

(2) the tax map number and the street address of any affected building or structure;

(3) the occupancy classification of any affected building or structure;

(4) where applicable, a statement of special inspections prepared in accordance with the provisions of the Uniform Code; and

(5) at least 2 sets of construction documents (drawings and/or specifications) which

(i) describe the location, nature, extent, and scope of the proposed work;

(ii) show that the proposed work will conform to the applicable provisions of the Uniform Code and Energy Code;

(iii) show the location, construction, size, and character of all portions of the means of egress;

(iv) show a representation of the building thermal envelope;

(v) show structural information including but not limited to braced wall designs, the size, section, and relative locations of structural members, design loads, and other pertinent structural information;

(vi) show the proposed structural, electrical, plumbing, mechanical, fire-protection, and other service systems of the building;

(vii) include a written statement indicating compliance with the Energy Code;

(viii) include a site plan, drawn to scale and drawn in accordance with an accurate boundary survey, showing the size and location of new construction and existing structures and appurtenances on the site, distances from lot lines, the established street grades and the proposed finished grades, and, as applicable, flood hazard areas, floodways, and design flood elevations; and

(ix) evidence that the documents were prepared by a licensed and registered architect in accordance with Article 147 of the New York State Education Law or a licensed and registered professional engineer in accordance with Article 145 of the New York State Education Law and practice guidelines, including but not limited to the design professional's seal which clearly and legibly shows both the design professional's name and license number and is signed by the design professional whose name appears on the seal in such a manner that neither the name nor the number is obscured in any way, the design professional's registration expiration date, the design professional's firm name (if not a sole practitioner), and, if the documents are submitted by a professional engineering firm and not a sole practitioner professional engineer, the firm's Certificate of Authorization number.

(e) Construction documents. Construction documents will not be accepted as part of an application for a Building Permit unless they satisfy the requirements set forth in paragraph (5) of subdivision (d) of this section. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the CEO in writing or by stamp, or in the case of electronic media, an electronic marking. One set of the accepted construction documents shall be retained by the CEO, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site 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.

(f) 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 and Energy Code. The CEO shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code.

(g) Building Permit Authorizations to be displayed. Building permit authorizations shall be visibly displayed at the work site and shall remain visible until the authorized work has been completed.

(h) 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 Building Permit shall contain such a directive. The Permit Holder shall immediately notify the CEO of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the CEO 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.

(i) Time limits. Building Permits shall become invalid unless the authorized work is commenced within 6 months following the date of issuance. Building Permits shall expire 12 months after the date of issuance. A Building Permit which has become invalid or which has expired pursuant to this subdivision may be renewed upon application by the Permit Holder, payment of the applicable fee, and approval of the application by the CEO.

(j) Revocation or suspension of Building Permits. If the CEO 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 or the Energy Code, the CEO shall revoke the Building Permit or suspend the Building Permit until such time as the Permit Holder demonstrates that

(1) all work then completed is in compliance with all applicable provisions of the Uniform Code and the Energy Code and

(2) all work then proposed to be performed shall be in compliance with all applicable provisions of the Uniform Code and the Energy Code.

(k) Fee. The fee, specified in or determined in accordance with the provisions set forth in section 3, II, L (Fees) of this local law, must be paid to the Town Clerk at the time of submission of an application for a Building Permit, an amended Building Permit, or for the renewal of a Building Permit.

B. CONSTRUCTION INSPECTIONS

(a) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the CEO or by an Inspector authorized by the CEO. The Permit Holder shall notify the CEO when any element of work described in subdivision (b) of this section is ready for inspection.

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

- (1) work site prior to the issuance of a Building Permit;
- (2) footing and foundation;
- (3) preparation for concrete slab;
- (4) framing;
- (5) structural, electrical, plumbing, mechanical, fire-protection, and other similar service systems of the building;
- (6) fire resistant construction;
- (7) fire resistant penetrations;
- (8) solid fuel burning heating appliances, chimneys, flues, or gas vents;
- (9) inspections required to demonstrate Energy Code compliance, including but not limited to insulation, fenestration, air leakage, system controls, mechanical equipment size, and, where required, minimum fan efficiencies, programmable thermostats, energy recovery, whole-house ventilation, plumbing heat traps, and high-performance lighting and controls;
- (10) installation, connection, and assembly of factory manufactured buildings and manufactured homes; and
- (11) a final inspection after all work authorized by the Building Permit has been completed.

(c) Remote inspections. At the discretion of the CEO, a remote inspection may be performed in lieu of an in-person inspection when, in the opinion of the CEO, 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 CEO 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 CEO sufficient information to decide, an in-person inspection shall be performed;

(d) 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 the way the work fails to comply with the Uniform Code or Energy Code, including a citation to the specific code provision or provisions that have not been met. Work not in compliance with any applicable provision of the Uniform Code or Energy Code shall remain exposed until such work shall have been brought into compliance with all applicable provisions of the Uniform Code and the Energy Code, reinspected, and found satisfactory as completed.

C. STOP WORK ORDERS

(a) Authority to issue. The CEO is authorized to issue Stop Work Orders pursuant to this section. The CEO shall issue a Stop Work Order to halt:

(1) any work that is determined by the CEO to be contrary to any applicable provision of the Uniform Code or Energy Code, 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

(2) any work that is being conducted in a dangerous or unsafe manner in the opinion of the CEO, 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

(3) 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.

(b) Content of Stop Work Orders. Stop Work Orders shall:

(1) be in writing,

(2) be dated and signed by the CEO,

(3) state the reason or reasons for issuance, and

(4) if applicable, state the conditions which must be satisfied before work will be permitted to resume.

(c) Service of Stop Work Orders. The CEO 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 certified mail. The CEO 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 certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

(d) 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, other than work expressly authorized by the CEO to correct the reason for issuing the Stop Work Order.

(e) Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (a) 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 section 3, II, K (Violations) of this local law 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.

D. CERTIFICATES OF OCCUPANCY AND CERTIFICATES OF COMPLIANCE

(a) Certificates of Occupancy and Certificates of Compliance required. A Certificate of Occupancy or 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 or Certificate of Compliance.

(b) Issuance of Certificates of Occupancy and Certificates of Compliance. The CEO shall issue a Certificate of Occupancy or 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 and Energy Code and, if applicable, that 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 and Energy Code. The CEO shall inspect the building, structure, or work prior to the issuance of a Certificate of Occupancy or 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 CEO, at the expense of the applicant for the Certificate of Occupancy or Certificate of Compliance, shall be provided to the CEO prior to the issuance of the Certificate of Occupancy or Certificate of Compliance:

- (1) a written statement of structural observations and/or a final report of special inspections,
- (2) flood hazard certifications,
- (3) a written statement of the results of tests performed to show compliance with the Energy Code,
- (4) where applicable, the affixation of the appropriate seals, insignias, and manufacturer's data plates as required for factory manufactured buildings and/or manufactured homes.

(c) Contents of Certificates of Occupancy and Certificates of Compliance. A Certificate of Occupancy or Certificate of Compliance shall contain the following information:

- (1) the Building Permit number, if any;
- (2) the date of issuance of the Building Permit, if any;

(3) the name (if any), address and tax map number of the property;

(4) if the Certificate of Occupancy or Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy or Certificate of Compliance is issued;

(5) the use and occupancy classification of the structure;

(6) the type of construction of the structure;

(7) the occupant load of the assembly areas in the structure, if any;

(8) any special conditions imposed in connection with the issuance of the Building Permit; and

(9) the signature of the CEO issuing the Certificate of Occupancy or Certificate of Compliance and the date of issuance.

(d) Temporary Certificate of Occupancy. The CEO shall be permitted to issue a Temporary Certificate of Occupancy allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the CEO issue a Temporary Certificate of Occupancy unless the CEO determines:

(1) that the building or structure, or the portion thereof covered by the Temporary Certificate of Occupancy, may be occupied safely,

(2) that any required fire and life safety components, such as fire protection equipment and fire, smoke, carbon monoxide, and heat detectors and alarms are installed and operational, and

(3) that all required means of egress from the structure have been provided.

The CEO may include in a Temporary Certificate of Occupancy such terms and conditions as he or she deems necessary or appropriate to ensure the health and safety of the persons occupying and using the building or structure and/or performing further construction work in the building or structure. A Temporary Certificate of Occupancy shall be effective for a period of time specified by the CEO and included on this certificate; it shall not exceed 6 months. During the specified period of effectiveness of the Temporary Certificate of Occupancy, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the Uniform Code and the Energy Code.

(e) Revocation or suspension of certificates. If the CEO determines that a Certificate of Occupancy, Certification of Compliance, or a Temporary Certificate of Occupancy was issued in error or based on incorrect, inaccurate, or incomplete information, and if the relevant deficiencies are not corrected to

the satisfaction of the CEO within the time period specified by the CEO, the CEO shall revoke or suspend such certificate.

E. UNSAFE BUILDINGS, STRUCTURES, AND EQUIPMENT AND CONDITIONS OF IMMINENT DANGER

(a) Unsafe buildings, structures, and equipment and conditions of imminent danger in the **Town of Berkshire** shall be identified and addressed in accordance with the procedures set by the New York State Property Maintenance Code and outlined in the Town of Berkshire Unsafe Building Ordinance.

(b) The CEO shall inspect the premises and report findings and take action as outlined in said regulation as necessary. Such inspections shall be performed either in-person or remotely. Remote inspections in lieu of in-person inspections may be performed when, at the discretion of the CEO, 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 CEO that the premises conform with the applicable requirements of the Uniform Code, the Property Maintenance Code, and the Unsafe Building Ordinance. Should a remote inspection not afford the Town of Berkshire sufficient information to decide, an in-person inspection shall be performed. Should the premises fail to comply with either or both the Uniform Code and the code enforcement program, a citation to the specific provision or provisions shall be issued to the property to bring compliance to said regulation and remedy any unsafe or dangerous situation(s).

F. FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS

(a) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the CEO at the following intervals:

(1) at least once every 12 months for buildings which contain an assembly area;

(2) at least once every 12 months for public and private schools, including dining, or recreational facilities;

(3) at least once every 36 months for multiple dwellings and all nonresidential occupancies.

(b) Remote inspections. At the discretion of the CEO, a remote inspection may be performed in lieu of in-person inspections when, in the opinion of the CEO, 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 CEO that the premises conform with the applicable provisions. Should a remote inspection not afford the CEO sufficient information to make a determination, an in-person inspection shall be performed.

(c) Inspections permitted. In addition to the inspections required by subdivision (a) 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 CEO or an Inspector authorized to perform fire safety and property maintenance inspections at any time upon:

- (1) 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.
- (2) buildings whose use or occupancy classification, processes, or activities for operating any type of building, structure, or facility that may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Berkshire Town Board.
- (3) facilities where the operation produces combustible dust;
- (4) operations utilizing flammable or combustible liquids, or the application of combustible powders;
- (5) the request of the owner of the property to be inspected or an authorized agent of such owner;
- (6) receipt by the CEO of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
- (7) receipt by the CEO of any other information, reasonably believed by the CEO to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the Uniform Code or Energy Code exist; provided, however, that nothing in this subdivision 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.

(d) Notification regarding fire or explosion. The chief of any fire department providing firefighting services for a property within **the Town of Berkshire** shall promptly notify the Code Enforcement Officer CEO of any fire or explosion involving any structural damage, fuel burning appliance, chimney, or gas vent.

(e) OFPC Inspections. Nothing in this section or in any other provision of this local law 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 or other authorized entity under Executive Law section 156-e and Education Law section 807-b.

G. COMPLAINTS

(a) The CEO 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 local law, or any other local law, ordinance, or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code. The process for responding to a complaint shall include such of the following steps as the CEO 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 section 3, II, K (Violations) of this local law;
- (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.

H. CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA

(a) The CEO shall determine the climatic and geographic design criteria for buildings and structures constructed within the **Town of Berkshire** 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:

(1) 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;

(2) 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

(3) 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.

(b) The CEO 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 CEO, and shall make such record readily available to the public.

I. RECORD KEEPING

(a) On behalf of the **Town of Berkshire**, the CEO shall keep, harbor, and retain permanent official records of all transactions and activities that are conducted during their employment as the Berkshire

CEO. It shall be recognized that all these records belong to the Town of Berkshire and must be retained to ensure the new CEO shall have factual, accurate information of past code enforcement actions and activities. Upon exiting the CEO position, these records shall be presented by the CEO to the Town Supervisor. These records shall include but not be limited to:

- (1) all applications received, reviewed, and approved or denied;
- (2) all plans, specifications and construction documents approved;
- (3) all Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Citations and Court Orders issued;
- (4) all inspections and tests performed;
- (5) all statements and reports issued;
- (6) all complaints received;
- (7) all investigations conducted;
- (8) all condition assessment reports received;
- (9) all fees charged and collected; and
- (10) all other features and activities specified in or contemplated by section 3, I, II, inclusive, of this local law.
- (11) 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.

J. PROGRAM REVIEW AND REPORTING

(a) The CEO shall annually submit to Berkshire Town Board a written report and summary of all business conducted by the CEO including a report and summary of all transactions and activities described in section 3,II, I (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.

(b) The CEO shall annually submit to the Secretary of State, on behalf of this **Town of Berkshire**, on a form prescribed by the Secretary of State, a report of the activities of the **Town of Berkshire** relative to administration and enforcement of the Uniform Code.

(c) The CEO shall, upon request of the New York State Department of State, provide to the New York State Department of State, true and complete copies of the records and related materials the **Town of**

Berkshire is required to maintain; true and complete copies of such portion of such records and related materials as may be requested by the Department of State; and/or such excerpts, summaries, tabulations, statistics, and other information and accounts of its activities in connection with administration and enforcement of the Uniform Code and/or Energy Code as may be requested by the Department of State.

K. VIOLATIONS

- (a) Order to Remedy. The CEO 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, or this local law. An Order to Remedy shall:
- (1) be in writing;
 - (2) be dated and signed by the CEO;
 - (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law;
 - (4) specify the provision or provisions of the Uniform Code, the Energy Code, or this local law which is/are violated by the specified condition or activity; and
 - (5) include a statement directing the person or entity served with this Order to Remedy to completely remedy each violation described in this Order to Remedy no later than thirty (30) days after the date of this Order to Remedy.”
 - (6) in some cases, the Order to Remedy may include provisions ordering the person or entity served with such Order to Remedy to begin immediately, or within some other time period specified by the CEO which may be less than thirty (30) days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within thirty (30) days of the date of such Order to Remedy; and/or
 - (7) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by this local law or by any other applicable statute, regulation, rule, local law, or ordinance, and which the CEO may deem appropriate, during the period while such violations are being remedied.
 - (8) specified period of time which the CEO deems to be reasonably necessary for achieving compliance;
 - (9) direct that compliance be achieved within the specified period of time; and
 - (10) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time.

(11) The CEO shall cause the Order to Remedy, or a copy thereof, to be served on the owner of the affected property personally or by registered mail or certified mail within five (5) days after the date of the Order to Remedy. The CEO shall be permitted, but not required, to cause the Order to Remedy, 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 registered mail or certified mail within five (5) days after the date of the Order to Remedy; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.

L. FEES

A fee schedule shall be established by resolution of the **Town of Berkshire**. 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, Temporary Certificates, fire safety and property maintenance inspections, and other actions of the CEO described in or contemplated by this local law.

SECTION 4. INTERMUNICIPAL AGREEMENTS

The **Town of Berkshire** may, by resolution, authorize the Town Supervisor of the **Town of Berkshire** to enter into an agreement, in the name of this Town, with other governments to carry out the terms of this local law, 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.

SECTION 5. PARTIAL INVALIDITY

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

SECTION 6. PENALTIES

(a) Penalties. In addition to such other penalties as may be prescribed by State law,

(1) any person who violates any provision of this local law or any term, condition, or provision of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, or other notice or order issued by the Code Enforcement Officer CEO pursuant to any provision of this local law, shall be punishable by a fine of not more than **\$250.00** per violation, or imprisonment not exceeding **15 days**], or both per incident;

(2) any Person who violates any provision of the Uniform Code, the Energy Code or this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance

Temporary Certificate, Stop Work Order, or other notice or order issued by the Code Enforcement Officer CEO pursuant to any provision of this local law, shall be liable to pay a civil penalty of not more than [specify amount] \$250.00 for each day or part thereof during which such violation continues. The civil penalties provided by this paragraph shall be recoverable in an action instituted in the name of the Town of Berkshire.

(b) Injunctive Relief. An action or proceeding may be instituted in the name of this Town, 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, this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Certificate of Compliance, Temporary Certificate, Stop Work Order, Order to Remedy, or other notice or order issued by the Code Enforcement Officer CEO pursuant to any provision of this local law. 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, this local law, or any Stop Work Order, Order to Remedy or other order obtained under the Uniform Code, the Energy Code or this local law, an action or proceeding may be commenced in the name of this Town, 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 subdivision shall be commenced without the appropriate authorization from the Town Board of Berkshire.

(b) Remedies Not Exclusive. No remedy or penalty specified in this section shall be the exclusive remedy or remedy 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 section 3,II,C (Stop Work Orders) of this local law, in any other section of this local law, 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 section 3,II,C (Stop Work Orders) of this local law, in any other section of this local law, 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 section 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 the section 382 of the Executive Law.

SECTION 6. REFERENCES

This updated local law is in response to the Building and Fire Code Law by NYS in December 2022, and this Local Law will replace Local Law number 1 of 2015 Building and Fire Code.

SECTION 7. EFFECTIVE DATE

This local law shall take effect immediately upon filing in the office of the New York State Secretary of Stateyear 2024 in accordance with section 27 of the Municipal Home Rule Law.