

CHAPTER 5

LOCAL LAW NO. 3 OF 2015

A LOCAL LAW ENTITLED BUILDING CONSTRUCTION/ADMINISTRATION AND ENFORCEMENT OF THE NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE AND ENERGY CONSERVATION CODE

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF
SHOREHAM, AS FOLLOWS:

SECTION 1. ENACTMENT.

A Chapter 5 of the Village Code entitled **Administration and Enforcement of the New York State Fire Prevention and Building Code and Energy Conservation Code**, is enacted, as follows:

§ 5-1. Legislative Intent.

The purpose of this Chapter 5, entitled a Building Construction Law, is to provide for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code (Uniform Code) and Energy Conservation Code (Energy Code).

§ 5-2. Definitions.

As used in this Chapter 5, each of the following defined terms shall have the meaning indicated:

- (1) **Building Commissioner** - the person appointed to serve pursuant to §4 of this Chapter 5.
- (2) **Building Inspector** - the person appointed to serve pursuant to §5 of this Chapter 5.
- (3) **building permit** - a permit allowing the performance of permit work.
- (4) **code enforcement officer** - the person appointed to serve pursuant to § 5-4 or § 5-5 of this Chapter 5.
- (5) **exempt work** - work that does not require a building permit, but does require compliance with the Uniform Code, Energy Code and Village Code.

- (6) **governmental entity** - any governmental or regulatory body, other than the Village, having purview over a Village matter.
- (7) **permit work** - work other than exempt work.
- (8) **plot** - a parcel of land located in the Village, not owned by the Village or a governmental entity.
- (9) **property** - any plot, public place or street.
- (10) **public place** - real property located in the Village, owned or otherwise controlled by the Village.
- (11) **site work** - work on a plot, other than any part thereof located in the Coastal Erosion Hazard Area, involving any structure intended to service any building or accessory structure, including any: cesspool; curbing; drainage facility; driveway; mechanical equipment; underground system; site lighting; utility line for cable TV, electricity, telecommunications, water or other utility service; or any other electrical wiring or piping located on such plot, whether located aboveground or underground; walkway, whether located aboveground or in-ground; walls; or other such structure **[AMENDED AUGUST 18, 2016, BY LL NO. 23 OF 2016]**.
- (12) **Village entity** - any Village board or committee, or appointed or elected official, empowered under the Village Code or New York Village Law.

§ 5-3. Word Usage.

For purposes of this Chapter 5:

- (1) The words "allow," "approve," "authorize," "disapprove," "issue," or words of such nature connoting the disposition of any matter, whether in the form of a verb or noun, shall be deemed to mean that a determination is being made.
- (2) The words "expire on the date," or words of such nature, shall be deemed to be referring to the expiration of the period running through the end of such date.
- (3) Unless otherwise indicated to the contrary, the concept of including something on a list of things shall be deemed to embody the concept of including those things by way of illustration and not limitation.
- (4) The word "shall" shall be deemed to be mandatory.
- (5) The word "approval," "permit," or any type or variation thereof, shall be deemed to be a reference to issuance of same, if appropriate in context.

(6) The word "work," or any type or variation thereof, shall be deemed to be a reference to the performance of same, if appropriate in context.

(7) Any adjective modifying a defined term, or part of a defined term, including the words, "a," "any," "the," "this," "said" and "such," shall not affect the meaning of the defined term it modifies, and any defined term used as an adjective or verb, or reordered but carrying the intent of such defined term, or capitalized or pluralized, or put in the possessive form, shall carry the same meaning as such definition is expressed in § 5-2 of this Chapter 5, with the understanding that any defined term having initial capitalization shall only carry the intended definition if so capitalized, unless otherwise indicated in context.

(8) Wording in the disjunctive form shall be deemed to be preceded or followed by the words "as applicable" or "as the case may be."

(9) The present tense shall include the future tense.

(10) The singular shall include the plural and vice versa.

(11) Undefined terms shall be interpreted so as to give them the meaning they have in common or lawful usage, so as to give this Chapter 5 its most reasonable interpretation.

(12) Captions and headings shall be deemed to be inserted for convenience and reference only, and shall in no way be deemed to define, describe or limit the intent, meaning or scope of this Chapter 5.

§ 5-4. Appointment and Power of Building Commissioner.

A. Appointment of Building Commissioner. The Building Commissioner shall coordinate and oversee the land use permit process in the Village, including applications before any other Village Entity. Such commissioner shall be appointed by the Mayor with the approval of the Village Board for a term of two (2) years, commencing on the first Monday of the month following the election of the Mayor for a full term.

B. Power of Building Commissioner. The Building Commissioner shall have the power and duty to act under this Chapter 5, including the power and duty to:

(1) Administer, interpret and enforce the provisions of the Uniform Code, Energy Code and this Chapter 5 and other provisions of the Village Code as set forth therein, and make determinations as permitted or required thereunder.

(2) Determine whether a building permit will be required for the performance of any proposed work and what other approvals or permits will be required therefor.

(3) Coordinate the building permit application process, working in concert with other Village Entities as set forth in this Chapter 5.

(4) Collect building permit application fees as established by the Village Board from time to time.

(5) As related to the performance of any permit work, working in concert with other Village Entities:

(a) Coordinate construction inspections.

(b) Investigate complaints.

(6) Serve as Code Enforcement Officer.

(7) Send notices of violation of the Village Code coming under the purview of said commissioner, or as directed by any other Village Entity for violation of said code coming under the purview of such entity, and collect fines resulting therefrom as set forth in § 5-7B of this Chapter 5.

(8) Assist the Building Inspector with the duties set forth in § 5-5B of this Chapter 5.

(9) Maintain records related to all matters coming under the purview of said commissioner as set forth in this § 5-4B.

§ 5-5. Appointment and Power of Building Inspector.

A. Appointment of Building Inspector. The Building Inspector shall be a person qualified pursuant to 16 NYCRR Part 434 and 19 NYCRR Part 1208, who shall be responsible for the administration and enforcement of the Uniform Code and the Energy Code, and this Chapter 5. Such inspector who shall be appointed by the Village Board for a term as established by said board.

B. Power of Building Inspector. The Building Inspector shall:

(1) Assist the Building Commissioner with the duties set forth in § 5-4B of this Chapter 5 as requested by said commissioner.

(2) Administer, interpret and enforce the provisions of the Uniform Code, Energy Code and this Chapter 5, and other provisions of the Village Code as set forth therein, and make

determinations as permitted or required thereunder.

(3) Review, approve or disapprove applications for building permits.

(4) Issue certificates of compliance, existing use and occupancy.

(5) Serve as the Code Enforcement Officer.

(6) Issue stop-work orders.

(7) Pursue enforcement proceedings and actions, as set forth in § 5-4B(7) of this Chapter 5.

(8) Maintain records related to all matters coming under the purview of said inspector.

§ 5-6. Building Permits.

A. Applicability. No person shall perform permit work, unless a building permit is issued therefor by the Building Inspector in accordance with the provisions of this Chapter 5, with the understanding that no such permit shall be issued without satisfaction of the conditions set forth in § 5-6G and § 5-6H of this § 5-6.

B. Application Process/Fees. Any person seeking a building permit shall file a complete application for same with the Building Commissioner for review and processing, together with:

(1) As prepared and stamped by an architect or engineer licensed by New York State, and as requested by the Building Commissioner:

(a) Scaled architectural and mechanical plans, and specifications.

(b) Scaled site plans when applicable.

(2) Such additional plans, specifications, or other information or items, requested by the Building Commissioner.

(3) Payment of the building permit application fee.

C. Referral to Other Village Entities. Upon receipt by the Building Commissioner of a complete application for a building permit, said commissioner shall if appropriate refer same to other Village Entities and coordinate the application process, working in concert with any such entity so required to be involved with such process.

D. Required Input from Other Village Entities. Upon referral by the Building Commissioner of a complete application for a building permit to any Village Entity, each such entity shall be permitted to

request through the Building Commissioner such additional plans, specifications, or other information or items, required to carry out such entity's duties under the Village Code, and each such entity shall have the power and duty, as set forth below in this § 5-6D, to advise the Building Commissioner whether the permit work being the subject of such application will, in the determination of the:

(1) Building Inspector, violate any provision of the Village Code falling under said inspector's purview as set forth in § 5-5B(2) of this Chapter 5.

(2) Coastal Erosion Management Officer,

(a) Adversely affect any part of the Coastal Erosion

Hazard Area.

(b) Require a variance for issuance of any required coastal erosion-management permit.

(3) Parks Commissioner, adversely affect Village Parkland.

(4) Planning Board, adversely affect any public place other than Village Parkland.

(5) Public Works Commissioner,

(a) Adversely affect property located within any street right-of-way.

(b) Require issuance of any required street work permit.

(6) Stormwater Management Officer, comply with the provisions of Chapters 13 and 25 of the Village Code.

E. Related Approvals and Permits. In addition to the issuance of Design Review Board approval as required under Chapter 8 of the Village Code, if issuance of a building permit requires issuance of a coastal erosion-management permit, floodplain-development permit, site-plan approval, steep-slope permit, street-work permit, or variance, those Village Entities having purview over same shall process any application for such approvals or permits in accordance with the provisions of the Village Code, and the work being the subject of any such approvals, permits or variances shall be deemed to be part of the permit work falling under such building permit.

F. Application Review/Appeal Process. Upon receipt by a Village Entity of a complete application for a building permit as required under § 5-6B of this § 5-6, and input from any consultant, or other Village Entities, involved with the application process, such entity shall review and process such

application in accordance with the provisions of the Village Code, and make a determination thereon, and the Building Commissioner shall send a copy of such determination to the applicant, and the applicant, if aggrieved by such determination, except for any such determination related to any application for a site-plan approval or steep slope permit, shall be permitted to appeal same to the Board of Appeals in accordance with provisions of Article VII of the Village Zoning Code, with the understanding that any appeal related to any site plan or steep slope determination shall be processed through an Article 78 proceeding.

G. Conditions of Approval. No building permit shall be issued, unless as required under this Chapter 5:

(1) The applicant files a complete application for a building permit in accordance with the provisions of § 5-6B of this § 5-6.

(2) The applicant files with the Building Commissioner copies of any determination required under the Village Code related to the proposed permit work, and pays the application fees therefor, including any such determination required by:

(a) Those Village Entities referenced in § 5-6D of this § 5-6.

(b) Any governmental entity.

(3) The proposed permit work complies with the provisions of the Uniform Code, Energy Code and Village Code.

(4) The Building Commissioner submits a letter to the Building Inspector certifying that all approvals and permits required under § 5-6E of this § 5-6 have been issued.

H. Issuance of Permits. Upon satisfaction of the requirements set forth in § 5-6A through § 5-6G of this § 5-6, the Building Inspector shall issue a building permit, with conditions or otherwise, including any such condition related to the manner or period in which permit work shall be required to be performed, or alternatively, if any of said requirements are not satisfied, disapprove the application for such permit, and said inspector shall send to the Building Commissioner for transmittal to the applicant a copy of such determination, and all items related thereto, including:

(1) A copy of such building permit, which shall be posted on the property being the subject of such permit, setting forth:

(a) The permit work permitted to be performed.

(b) Any condition related thereto, which may include requirements to complete certain parts of the permit work prior to the expiration of such permit.

(c) The expiration date of such permit, with indication that same shall be subject to the provisions of § 5-61 of this § 5-6.

(2) A copy of any other written approval or permit issued in connection with the issuance of such building permit, and any other items related thereto.

(3) Two (2) sets of approval plans and specifications stamped "approved" with any notations applicable thereto.

(4) A letter of disapproval if applicable.

I. Duration of Permits. Except as otherwise required by any condition imposed under § 5-6H(1)(b) of this § 5-6, and subject to any determination required by any governmental entity, building permits shall expire on the date one (1) year following the date of issuance thereof, unless the applicant requests an extension thereof in writing and pays the application fee therefor, with the understanding that:

(1) Any such extension shall be issued for a period of six (6) months provided the subject permit work has commenced and is continuing in good faith and provided the subject permit work performed to date is in compliance with the Uniform Code, Energy Code and Village Code.

(2) If an applicant fails to request such extension as required under this § 5-61, the term of the subject building permit shall expire as set forth therein, with the understanding that thereafter the applicant shall only be permitted to renew such permit by reapplying for same in accordance with the provisions of § 5-6B of this § 5-6, including payment of the required building permit fee.

(3) Any building permit issued prior to January 1, 2016 and failing to include an expiration date on the face thereof shall expire in all events eighteen (18) months after the date of its issuance, subject to reissuance in accordance with the provisions of this Chapter **[AMENDED NOVEMBER 13, 2018, BY LL NO. 3 OF 2018]**.

J. Permit Work Inspections. As the following elements of permit work are completed, same shall remain accessible and exposed until inspected and approved by the Building Commissioner in writing:

- (1) Site work.
- (2) Footings, foundations and waterproofing.
- (3) Preparation for concrete slab.
- (4) Framing and strapping.
- (5) Building systems, including same underground and

rough installations.

(6) Fire resistant construction.

(7) Fire resistant penetrations.

(8) Solid fuel burning heating appliances, chimneys, flues, gas vents, gas lines and storage tanks.

(9) Uniform Code, Energy Code and Village Code compliance.

(10) Any other inspection as may be required under the Uniform Code, Energy Code or Village Code, or the circumstances of a specific project.

(11) A final inspection after all work authorized by the building permit is completed.

K. Stop-Work Orders. If in the determination of the Building Inspector any permit work is not completed by the permit expiration date of the corresponding building permit, as same may be extended under § 5-6I of this § 5-6, or if the permit work is not being performed or completed in accordance with the provisions of the Uniform Code, Energy Code or Village Code, or if the applicant is performing work in an unsafe manner, the Building Inspector shall order the immediate discontinuance of the work being the subject of such notice, and the applicant shall thereafter immediately discontinue the performance of such work. Any stop-work order must be in writing, signed by the Building Inspector, stating the reasons for its issuance and describing the conditions that must be corrected.

L. Certificates of Compliance and Occupancy. No building, structure or plot shall be occupied or used, in whole or part, for any purpose, unless a certificate of compliance or occupancy therefor is issued by the Building Inspector for the use of such building, structure or plot as permitted under the Village Code. No such certificate shall be issued, unless the permit work being the subject of a building permit therefor is completed in accordance with the provisions of the Uniform Code, Energy Code and Village Code, and any required governmental entity determination related thereto. Upon issuance of any such certificate of compliance or occupancy, the Building Inspector shall send a copy of same to the Building Commissioner for transmittal to the applicant.

M. Exempt Work. No permit shall be required for the performance of exempt work, with the understanding that:

(1) The performance of exempt work shall be done in accordance with the provisions of the Uniform Code, Energy Code and Village Code, other than with respect to any such provision requiring the issuance of a building permit.

(2) Exempt work shall include:

(a) A detached shed not exceeding a floor area of 144 square feet.

(b) Playground equipment, pool less than 24 inches deep, painting, wallpapering, tiling, carpeting, repairs, or change of roofing, siding or windows, but only if such repairs do not involve the:

(i) Removal or cutting away of a loadbearing wall, partition, or portion thereof, or of any structural beam or load bearing component.

(ii) Removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress.

(iii) Enlargement, alteration, replacement or relocation of any building system.

(iv) Removal from service of all or part of a fire protection system for any period of time.

(c) Site work, but only if the cost of such work does not exceed five thousand (5,000) dollars in any twelve (12)-month period, or if such work is being performed to effect a repair or replacement **[AMENDED MAY 16, 2016, BY LL NO. 9 OF 2016]**.

(d) Any fence except for same otherwise requiring a permit under New York State Law or the Village Code, including any fence surrounding a swimming pool or being part of a recreational facility, with the understanding that the installation of any fence surrounding or otherwise being part of a flower or vegetable garden shall be deemed to be exempt work **[AMENDED AUGUST 18, 2016, BY LL NO. 23 OF 2016]**.

§ 5-7. Enforcement.

A. Authority of Building Commissioner and Building Inspector. The Building Commissioner and Building Inspector shall be authorized to enforce the provisions of the Uniform Code, Energy Code and this Chapter 5, and other provisions of the Village Code as set forth therein.

B. Appearance Tickets. The Building Commissioner, or Building Inspector, or any Code Enforcement Officer, shall be authorized to issue appearance tickets for violation of any provision of this Chapter 5.

C. Civil Penalties. Any person in violation of any provision of the Uniform Code, Energy Code or this Chapter 5, or the terms

of any building permit, certificate of compliance, certificate of occupancy, compliance order, stop-work order, shall be liable for a civil penalty of not more than two hundred (\$200.00) dollars for each day during which such violation continues.

D. Compliance Orders. If in the determination of the Building Commissioner or Building Inspector any condition or activity existing in, on or about any building, structure or plot is in violation of any provision of this Chapter 5, said commissioner or inspector shall send notice to the applicant by Certified or Registered Mail/Return Receipt Requested:

(1) Describing the condition or activity in violation of said chapter.

(2) Indicating the period in which such violation shall be required to be cured.

(3) Stating that an action or proceeding to compel compliance may be instituted if compliance is not achieved within such period.

E. Injunctive Relief. An action or proceeding may be instituted by the Village 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, Energy Code or this Chapter 5, or the terms of any building permit, certificate of compliance, certificate of occupancy, compliance order, stop work order, including any such action or proceeding to obtain an order directing the removal of any building or structure, or abatement of any condition, in violation of any such provision.

F. Remedies Not exclusive. No remedy or penalty set forth in this Chapter 5 shall be the exclusive remedy to address any violation of said chapter, and each such remedy or penalty shall be in addition to, and not in substitution for, or limitation of, other remedies or penalties available to the Village under law.

§ 5-8. Severability.

If any provision of this Chapter 5 is ruled unconstitutional or invalid, such ruling shall not affect the validity of any other provision of said code or said code as a whole.

SECTION 3. EFFECTIVE DATE.

This local law shall take effect immediately upon filing with the Secretary of State as provided by law.

SECTION 4. REPLACEMENT OF EXISTING LOCAL LAWS.

 This local law upon its effective date shall in all respects supersede the Village Zoning Ordinances of 1951, 1967 and 1989 of the Village of Shoreham having applicability to the provisions of this local law.

Dated: December 14, 2015

BY ORDER OF THE BOARD OF TRUSTEES OF
THE VILLAGE OF SHOREHAM

BY: Cathy Donahue-Spier, Village
 Clerk

Effective Date: January 3, 2016