

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
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Town of THURSTON

Local Law No. 1 of the year 2002

A local law **PROVIDING FOR ADMINISTERING AND ENFORCING THE NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE (UNIFORM CODE)**

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)
of THURSTON as follows:

A LOCAL LAW OF THE TOWN OF THURSTON FOR ADMINISTERING AND ENFORCING THE NEW YORK STATE UNIFORM FIRE PREVENTION AND BUILDING CODE (UNIFORM CODE)

Section 1. Purpose

The Town Board of the Town of Thurston hereby enacts the following Administrative Local Law pursuant to the provisions of section 381 of the Executive Law of the State of New York and of all other applicable laws.

Section 2. Designation of Code Enforcement Officer as Public Official

There is hereby established in the Town of Thurston (the "Town") the office of Code Enforcement Officer. A Code Enforcement Officer shall be appointed by the Town Board of the Town (the "Board") at a compensation to be fixed by it from time to time.

Section 3. Acting Code Enforcement Officer

In the absence of the Code Enforcement Officer, or in the case of his/her inability to act for any reason, the Supervisor shall have the power, with the consent of the Board, to designate a person to act on behalf of the Code Enforcement Officer and to exercise all the powers conferred upon him/her by this Local Law.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

Section 4. Variance and Review

Pursuant to the provisions of part 440 of the rules and regulations for administration and enforcement of the Uniform Fire Prevention and Building Code, as same may be amended from time to time, and/or any successor thereto (“Uniform Code”), the regional board of review created under section 440.1 exercising its powers, functions and duties in Steuben County shall have the power to vary or modify, in whole or in part, any provision of the Uniform Code in cases where permitted under section 440.4 and pursuant to the procedure established under section 440.5 upon the payment of the fees required by section 440.7.

Section 5. Restrictions on Employees

No Code Enforcement Officer or Acting Code Enforcement Officer shall engage in any activity inconsistent with his/her duties or with the interests of the Town; nor shall he/she, during the term of his/her employment, be engaged directly or indirectly in any building business, in the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building or the preparation of plans or specifications thereof within the Town, excepting that this provision shall not prohibit any employee from such activities in connection with the construction of a building or structure owned by him/her or any member of his/her immediate family, and not constructed for sale.

Section 6. Duties and Powers of Code Enforcement Officer

- a. Except as otherwise specifically provided by law, ordinance or regulation, or except as herein otherwise provided, the Code Enforcement Officer shall administer and enforce all of the provisions of laws, ordinances and regulations applicable to the construction, alteration, repair, removal and demolition of buildings and structures, and the installation and use of materials and equipment therein, and the location, use, occupancy and maintenance thereof.
- b. He/She shall have the power to recommend to the Board the adoption of rules to secure the intent and purposes of this Local Law and a proper enforcement of the laws, ordinances and regulations governing building construction.
- c. He/She shall receive applications and issue permits for the erection, alteration, removal and demolition of buildings or structures or parts thereof and shall examine the premises for which applications have been received or permits have been issued for the purpose of insuring compliance with laws, ordinances and regulations governing building construction.
- d. He/She shall issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to insure compliance during the entire course of construction with the requirements of the laws, ordinances and regulations. He/She shall make all inspections necessary or proper for the carrying out of his/her duties, except that he/she may accept written reports of inspection from generally recognized and authoritative service and inspection bureaus, provided they are certified by a responsible official thereof.

e. He/She may require the performance of tests in the field by experienced, professional persons or by accredited and authoritative testing laboratories or service bureaus by agencies whenever necessary or appropriate to assure compliance with the provisions of applicable laws, ordinances and regulations covering building construction.

Section 7. Department Records and Reports

a. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by him/her, including all applications received, permits and certificates issued, fees charged and collected, inspection reports, and notices and orders issued. These shall be public records open to public inspection during business hours.

b. Each month the Code Enforcement Officer shall submit to the Board a written report and summary of all business conducted by him/her, including permits and certificates issued, fees collected, orders and notices promulgated, inspections and tests made and appeals of litigation pending.

Section 8. Cooperation of Other Departments

The Code Enforcement Officer may request and shall receive, so far as is necessary in the discharge of his/her duties, the assistance and cooperation of all municipal officials exercising jurisdiction over the construction, use, or occupancy of buildings or the installation of equipment therein, including but not limited to fire officials and health officials.

Section 9. Review Board

a. Where practical difficulties or unnecessary hardship may result from enforcement of the strict letter of any provision of the Uniform Code, applications for variances consistent with the spirit of the code may be made to the regional Board of Review in accordance with part 450 of the N.Y. Comp. Code of Rules & Regulations entitled "Uniform Code: Board of Review" as promulgated by the New York State Department of State. The Code Enforcement Officer shall maintain a copy of such rules and regulations for public inspection and shall obtain and retain a copy of all decisions rendered by the Board of Review pertaining to matters affecting the Town.

b. Where practical difficulties or unnecessary hardship may result from enforcement of the strict letter of any provision of this Local Law or any rule or regulation hereunder which provision is not required by the Uniform Code, applications for variances and appeals, consistent with the spirit of such law, rule or regulation, may be made to the Town Board.

Section 10. Building Permit

a. No person, firm or corporation shall commence the excavation, erection, construction, enlargement, alteration, or improvement of any building or structure, install solid fuel heating equipment or cause the same to be done, or commence the demolition of any building or

structure or any portion thereof, without first obtaining a separate building permit from the Code Enforcement Officer for each such building or structure; except that no building permit shall be required for:

1. Performance of necessary repairs which do not involve material alteration of structural features, and/or plumbing, electrical or heating/ventilation systems, including, for example, the replacement of siding and roofing materials, the erection of fences, or
2. The construction of non-commercial storage facilities of less than 50 square feet of gross floor area. Such work shall nevertheless be done in conformance with the Uniform Code, or
3. Alterations to existing buildings, provided that they:
 - i. Cost less than \$10,000;
 - ii. Do not materially affect structural features;
 - iii. Do not affect fire safety features such as smoke detectors, sprinklers, required fire separations and exits;
 - iv. Do not involve the installation or extension of electrical systems; and
 - v. Do not include the installation of solid fuel-burning heating appliances and associated chimneys or flues; or
4. Small non-commercial structures of not more than 100 square feet not intended for use by one or more persons as quarters for living, sleeping, eating or cooking and to be used exclusively for the storage of lawn and garden equipment and tools; or
5. Agricultural buildings or structures.

b. The Code Enforcement Officer shall receive applications, approve plans and specifications, and issue permits for the erection and alteration of buildings or structures or parts thereof and shall examine the premises for which such applications have been received, plans approved, or such permits have been issued for the purpose of insuring compliance with laws, ordinances, rules and regulations governing building construction or alterations.

A building permit will be issued when the application has been determined to be complete, and when the proposed work is determined to conform to the provisions of the Uniform Code. The permit shall be prominently displayed on the property or premises to which it pertains during construction so as to be readily seen from adjacent thoroughfares, if possible.

c. The form of the permit and application therefor shall be prescribed by resolution of the Town Board. The application shall be signed by the owner or his/her authorized agent of the building or work and shall contain at least the following:

1. Name and address of the owner;
2. Identification and/or description of the land on which the work is to be done;
3. Description of use or occupancy of the land and existing or proposed building;
4. Description of the proposed work;
5. Estimated cost of the proposed work;
6. Statement that the work shall be performed in compliance with the Uniform Code and applicable state and local laws, ordinances and regulations;
7. Required fee.

d. Such application shall be accompanied by such documents, drawings, plans (including plot plan) and specifications as the applicant shall deem adequate and appropriate for compliance with the Local Law, or as the Code Enforcement Officer may require as being necessary or appropriate in his/her judgment. Applicant may confer with the Code Enforcement Officer in advance of submitting the application to discuss the Code Enforcement Officer's requirements for same.

e. Any plans (including plot plan) or specifications that constitute a portion of the application, whether submitted subsequently or upon requirement by the Code Enforcement Officer, shall, if required by the Code Enforcement Officer, be stamped with the seal of an architect or professional engineer or land surveyor licensed in the State of New York, and shall in all respects comply with sections 7209 and 7307 of the Education Law of the State of New York as same may be amended from time to time.

f. Applicant shall notify the Code Enforcement Officer of any changes in the information contained in the application during the period for which the permit is in effect. A permit will be issued when the application has been determined to be complete and when the proposed work is determined to conform to the requirements of the Uniform Code. The authority conferred by such permit may be limited by conditions, if any, contained therein.

g. A building permit issued pursuant to this Local Law may be suspended or revoked if it is determined that the work to which it pertains is not proceeding in conformance with the Uniform Code or with any condition attached to such permit, or if there has been misrepresentation or falsification of a material fact in connection with the application for the permit.

h. A building permit issued pursuant to this Local Law shall expire 12 months from the date of issuance or upon the issuance of a certificate of occupancy (other than a temporary certificate of occupancy), whichever occurs first. The permit may, upon written request, be renewed for successive 6-month periods provided that:

1. The permit has not been revoked or suspended at the time the application for renewal is made.
2. The relevant information in the application is up to date, and
3. The renewal fee is paid.

Section 11. Certificate of Occupancy

a. No building erected subject to the Uniform Code and this Local Law shall be used or occupied, except to the extent provided in this section, until a Certificate of Occupancy has been issued. No building similarly enlarged, extended or altered, or upon which work has been performed which required the issuance of a building permit, shall be occupied or used for more than thirty (30) days after the completion of the alteration or work unless a Certificate of Occupancy has been issued. No change shall be made in the nature of the occupancy of an existing building unless a Certificate of Occupancy authorizing the change has been issued. The owner or his/her agent shall make application for a Certificate of Occupancy.

b. A temporary Certificate of Occupancy may be issued if the building or structure or a designated portion of a building or structure is sufficiently complete that it may be put to the use for which it is intended. A temporary Certificate of Occupancy shall expire 6 months from the date of issuance, but may be renewed an indefinite number of times.

c. No Certificate of Occupancy shall be issued except upon an inspection which reveals no uncorrected deficiency or material violation of the Uniform Code in the area intended for use and upon payment of the appropriate fee.

Section 12. Inspections

a. Work for which a building permit has been issued under this Local Law shall be inspected for approval prior to enclosing or covering any portion thereof and upon completion of each stage of construction including, but not limited to, building location, site preparation, excavation, foundation, framing, superstructure, electrical, plumbing, and heating and air conditioning. It shall be the responsibility of the owner, applicant, or agent to inform the Code Enforcement Officer that the work is ready for inspection and to schedule such inspection.

b. Existing buildings not subject to inspection under subdivision (a) of this section shall be subject to periodic inspections for compliance with the Uniform Code in accordance with the following schedule: all areas of public assembly as defined in the Uniform Code, all buildings or structures containing areas of public assembly, and the common areas of multiple dwellings—every 24 months; all buildings or structures open to the general public—every 24

months; all other buildings—every 36 months. Notwithstanding any requirement of this subdivision to the contrary, no regular periodic inspections of occupied dwelling units shall be required, provided, however, that this shall not be a limitation on inspections conducted at the invitation of the occupant or where conditions on the premises threaten or present a hazard to public health, safety, or welfare.

Section 13. Stop-Work Orders

a. Whenever the Code Enforcement Officer has reasonable grounds to believe that work on any building or structure is proceeding without a permit, or is otherwise in violation of the provisions of any applicable law, code, ordinance or regulation, or is not in conformity with any of the provisions of the application, plans or specifications on the basis of which a permit was issued, or is being conducted in an unsafe and dangerous manner, he/she shall notify either the owner of the property or the owner's agent or the person, firm or corporation performing the work to immediately suspend all work. In such instance, any and all persons shall immediately suspend all related activities until the stop-work order has been duly rescinded.

b. Such stop-work order shall be in writing on a form prescribed by the Code Enforcement Officer and shall state the reasons of the stop-work order, together with the date of issuance. The stop-work order shall bear the signature of the Code Enforcement Officer and shall be prominently posted at the work site. A stop-work order shall be served upon a person to whom it is directed either by delivering it personally or by posting the same upon a conspicuous portion of the building where the work is being performed and sending a copy of the same to the person, firm or corporations by certified mail.

Section 14. Violations

a. Upon determination by the Code Enforcement Officer that a violation of the Uniform Code or this Local Law exists in, on, or about any building or premises, the Code Enforcement Officer shall order in writing the remedy of the condition. Such order shall state the specific provision of the Uniform Code which the particular condition violates and shall grant such time as may be reasonably necessary for achieving compliance before proceedings to compel compliance shall be instituted. Such order shall be served personally or by registered mail.

b. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, equip, use or occupy any building or structure or portion thereof in violation of any provision of the Uniform Code, or any amendment hereafter made thereto or to any successors thereof, as well as any regulation or rule promulgated by the Town Board, or to fail to comply with a notice, order or directive of the Code Enforcement Officer, or to construct, alter, repair, move or equip any building or structure or part thereof in a manner not permitted by an approved building permit.

c. Any person, firm or corporation who violates any provision of the Uniform Code or any rule or regulation of this Local Law, or the terms or conditions of any Certificate of Occupancy issued by the Building and Fire Safety Inspector, shall be liable to a fine of not

LOCAL LAW # 1 duly passed by the Town Board of Thurston on October 16, 2002.

more than \$50 for each day that the violation continues and to a civil penalty of not more than \$100 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the Town Board on its own initiative or at the request of the Code Enforcement Officer.

d. Alternatively, or in addition to an action to recover the civil penalties provided by subsection (b), the Town Board may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code or the terms or conditions of any Certificate of Occupancy issued by the Code Enforcement Officer, or to vacate the occupancy or building in case of imminent peril of life or property, notwithstanding that a penalty or other punishment for such violation has otherwise been provided.

Section 15. Cooperation of Other Departments

The Code Enforcement Officer may request and shall receive, so far as necessary in the discharge of his/her duties, the assistance and cooperation of all municipal officials exercising jurisdiction over the construction, use or occupancy of buildings or the installation of equipment therein, including but not limited to fire officials and health officials.

Section 16. Fees

Any person applying for a building permit shall, in addition to filing an application therefor as provided in section 6 of this Local Law, pay to the Code Enforcement Officer, before the permit for the construction of a new building, additions, or other structures equal to or exceeding fifty (50) square feet in area is issued, the fee required as set forth on Schedule "A" entitled "PERMIT FEES FOR CONSTRUCTION IN THE TOWN OF THURSTON".

The fees set forth on the aforesaid Schedule "A" may be changed as determined by resolution of the Town Board.

Section 17. Permit for Heating Appliances

A permit for installation of a solid fuel-burning heating appliance, chimney and flue in any dwelling unit shall be obtained in the same manner as provided in the Rules for Building referred to in section 6(b). If the Code Enforcement Officer, after inspection, determines that the installation is in compliance with the Uniform Code, he/she shall issue a Certificate of Compliance. A violation of this section and of subdivision 5 of section 378 of the Executive Law shall be punishable as provided in such subdivision 5.

Section 18. Fire Prevention and Safety Inspection

a. All dwelling units in a building consisting of more than two such units shall be inspected for the purpose of determining compliance with safety requirements of the Uniform Code at least once every 24 months. The common areas of the building such as halls, foyers, staircases, etc., shall be inspected at least once every 24 months.

b. All other buildings, uses and occupancies which are leased or rented shall be inspected when vacated and prior to being reoccupied by a new tenant.

c. An inspection of buildings or dwelling units shall be performed at any other time upon (1) request of the owner or authorized agent; (2) receipt of a written statement specifying the grounds upon which the subscriber believes a violation of the Uniform Code exists; or (3) other reasonable and reliable information that a violation exists.

Section 19. Uniform Code

As used herein "Uniform Code" shall refer to the New York State Uniform Fire Prevention and Building Code, as same may be amended from time to time, and/or any successor thereof.

Section 20. No Waiver of Assumption of Liability

This Local Law shall not be construed to relieve from or lessen the responsibility of any person owning, operating, or controlling any building or structure within the Town for loss of life or damage to person or property caused by any defect therein, nor shall the Town be deemed to have assumed any such liability by reason of any inspection made pursuant to this Local Law.

Section 21. Separability

If any part or provision of this Local Law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this Local Law or the application thereof to other persons or circumstances, and the Town Board hereby declares that it would have passed this Local Law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 22. Repeal

All ordinances, local laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 23. Effective Date

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

SCHEDULE "A"
OF LOCAL LAW #1 OF THE YEAR 2002

PERMIT FEES FOR CONSTRUCTION IN THE TOWN OF THURSTON
(Not including electrical inspections)

a. Fees are based on the local building construction factor, full market value.

Up to \$2,000	\$35.00
\$2,001 to \$25,000	\$35.00 for the first \$2,000 plus \$2.00 for each additional \$1,000 or fraction thereof.
\$25,001 to \$50,000	\$82.00 for the first \$25,000 plus \$1.00 for each additional \$1,000 or fraction thereof.
\$50,001 to \$100,000	\$107.00 for the first \$50,000 plus \$1.00 for each additional \$1,000 or fraction thereof.
\$100,001 to \$500,000	\$157.00 for the first \$100,000 plus \$1.00 for each additional \$1,000 or fraction thereof.
\$500,001 to \$1,000,000	\$557.00 for the first \$500,000 plus \$1.00 for each additional \$1,000 or fraction thereof.
\$1,000,001 to \$5,000,000	\$1,057.00 for the first \$1,000,000 plus \$1.00 for each additional \$1,000 or fraction thereof.
in excess of \$5,000,001	\$5,057.00 for the first \$5,000,000 plus \$1.00 for each additional \$5,000 or fraction thereof.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

- b. The permit fees for the demolition or wrecking of any building or structure shall be \$0.00.
- c. Permit fees for the erection of signs and billboards equal to or exceeding ten (10) square feet in area shall be \$35.00.
- d. No permit fee will be required for construction work less than fifty (50) square feet in area or for the erection of signs less than ten (10) square feet in area.
- e. The permit fee to move a building, to cut a curb or sidewalk, to construct a highway, or to erect a marquee shall be \$35.00.
- f. No permit fee will be required for the erection on any lot of not more than one storage shed not to exceed 100 square feet in gross floor area and to be used exclusively for the storage of lawn and garden equipment and tools.
- g. No permit fee will be required for any building used exclusively for agricultural purposes.
- h. All inspections required for mobile home installations regardless of the cost of installation \$45.00
- i. Applications for inspection of mobile homes (tie downs, anchoring only) on existing site \$15.00
- j. Installations of swimming pools (including related equipment and systems) (does not include the fees for electric inspections) \$45.00
- k. Septic System – Installation inspection
 - With dwelling inspection \$30.00
 - Without dwelling inspection \$45.00
- l. Percolation Test \$30.00
- m. Fire and safety inspections \$10.00
- n. Rental unit inspections \$10.00
- o. The fee for renewal of a building permit when construction has not been completed within 12 months of its issuance shall be 50% of the cost of the original permit.
- p. The definitions of one- and two-family dwellings, multiple dwellings and general construction shall be those set forth in the Uniform Code.
- q. In the event any work is commenced prior to the issuance of a permit pursuant to the terms of this section, the permit fee shall be twice the amount of the regular fee set forth above.
- r. The fee for each amendment to a building permit shall be \$10.00.
- s. In the event that an application for a building permit is not approved, the applicant shall be entitled to a refund of 50% of the fee paid provided no work has been commenced. If work has commenced and the application is not approved, the fee paid shall not be refunded.
- t. Electrical Inspection fees are as charged by the underwriters and are separate and in addition to the building permit fees established herein.
- u. The Code Enforcement Officer shall keep a record of all fees collected and received under this Local Law with the name of the persons upon whose account the fee was paid out and the date and amount thereof, together

***Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws and ordinances.**

with the location of the building or premises to which they relate. The amounts so collected shall be remitted monthly to the Supervisor of the Town.

v. The fees set forth in this section may be changed as needed, and/or from time to time, by resolution of the Town Board.