

**Village of Chester
Board of Trustees Meeting Minutes October 1, 2018**

The Board of Trustees of the Village of Chester held their monthly meeting in the Village Hall meeting room on Monday, October 1, 2018.

Members present: Mayor, John Thomas Bell, Deputy Mayor, Christopher Battiato, Trustee, Alan Battiato Trustee, Elizabeth A. Reilly and Trustee, Brian J. Boone.

Also, present: Village Clerk, Rebecca Rivera, Attorney for the Village, Henry Christensen Jr., Village Street Superintendent, Charles Bono, Village Police Chief, Peter Graziano, Village Water Commissioner, Gary Green, and Village Code Enforcement Officer, John Orr. Village Treasurer, Angela O’Neill was absent.

Mayor John Thomas Bell opened the meeting at 7:00 PM. Trustee, Alan Battiato led with the Pledge of Allegiance.

Mayor John Thomas Bell welcomed everyone to the October 1, 2018 Village monthly meeting.

AUDIT OF BILLS: Mayor John Tom Bell noted that the audit of the September 2018, Village’s monthly bills for approval was complete.

A motion to approve the audit of the bills was made by Trustee, Elizabeth A. Reilly, second by Trustee, Alan Battiato. Motion unanimously passed.

APPROVAL OF MINUTES: Monthly meeting minutes of August 13, 2018 and September 10, 2018.

Village Clerk, Rebecca Rivera made mention that the August 13, 2018 monthly meeting minutes that were distributed on August 10, 2018 to Mayor and Board of Trustees, included the corrections suggested by counsel, Henry Christensen Jr.

A motion to approve the Monthly meeting minutes of August and September 2018 was made by Trustee, Elizabeth A. Reilly second by Deputy Mayor, Christopher Battiato. Motion unanimously passed.

TREASURERS REPORT: Mayor, John Thomas Bell read the Treasurer’s report as follows:

CASH BALANCES ENDING SEPTEMBER 30, 2018

<u>Fund/Bank Account</u>	<u>Deposits</u>	<u>(Disbursements)</u>	<u>Interest</u>	<u>Ending Balance</u>
<u>General Fund</u>				
Savings (Sterling National Bank)	--	--	606.86	2,913,558.61
Checking (Orange County Trust)	563,960.00	714,810.01	9.90	210,433.35
Savings (Orange County Trust)	-	766,820.44	351.81	3,323,170.10
<u>Water Fund</u>				
Capital Checking	--	--	8.19	98,284.75
Checking	34,015.81	81,594.96	17.47	328,102.46
<u>Sewer Fund</u>				
Checking	332,015.81	2,429.60	28.44	773,795.34

Cumulative Fiscal Year Interest Earned by Fund 06/1/18 05/31/2019

General Fund	\$	3,752.27
Water Fund	\$	107.85
Sewer Fund	\$	87.45

Treasurer's Discussion: Mayor, John Thomas Bell read the Treasurer's report as follows:

1. STATEMENT OF REVENUE & EXPENDITURES: Year to Date Report is attached
2. 2018-2019 COLLECTION: Collection of Village Property Taxes and Sewer are underway. Sewer Installment #2 is due by 10/01/18. Installment #3 is due by 12/31/18
3. UNPAID TAX NOTICES: Notice of unpaid 2018-2019 Village Property Tax were mailed today 9/10/18. Village Property Tax is due no later than 10/31/18.
4. WATER FILTRATION PLANT CAPITAL PROJECTS BANK ACCOUNT: A resolution will be presented tonight to close out the water filtration plant capital project which was completed in 2012. The Sterling National Bank Capital Projects checking account will remain open as there are monies currently on deposit for various water capital expenditures related to the badger water meters replacement project, water filter plant equipment replacement and general water department equipment purchase.

A motion to accept the Treasurer's report and allow for the editing as needed, read by Mayor, John Thomas Bell was made by Trustee, Elizabeth A. Reilly, second by, Deputy Mayor, Christopher Battiato. Motion unanimously passed.

BUILDING REPORT: Building Inspector/Code Enforcement Officer, John Orr, read his report as follows:

BYK – 48 Leone Lane

- 1- Work almost complete.

Holiday Inn – 2 Bryle Place

- 1- Lobby work continues.

Nexans – 25 Oakland Ave

- 1- Work now complete.

32 Leone Ln

- 1- Work has not started yet.

152 Main Street

- 1- Sprinkler system is in. CO issued

With the start of the new year, I will be instituting an "Operating Permit" program. An Operating permit is a special permit issued for an Operation (activity) within a building. Examples of operating permits would be storing or handling hazardous materials, hazardous processes such as crop ripening and operations that produce combustible dust, use of pyrotechnic devices in assembly occupancies, building containing areas of public assembly of over 100 persons and building or uses that pose a substantial hazard to public safety. New York has required these permits to be issued for quite some time now and only a small amount of building departments in NY have a program.

A discussion regarding 152 Main St. took place. Building Inspector/Code Enforcement Officer, John Orr made mention that 152 Main St. is the first residential property with a sprinkler system due to the property consisting of three floors. The owner had done some work to a bedroom and bathroom for which no permits could be found on the file. The owner is in the process of selling the property, and, before he could move forward with the sale, he needed to rectify the issues.

Building Inspector/Code Enforcement Officer, John Orr, stated that he will hold off on the rest of his report until we get to "New Business" when he will address Introductory Local No. 7 of 2018.

Mayor John Thomas Bell asked the board if there were any additional questions for Building Inspector/Code Enforcement Officer, John Orr. There were no questions.

A motion to accept the Building Department report, as read, was made by Trustee, Elizabeth A. Reilly, second by Deputy Mayor, Christopher Battiato. Motion unanimously passed.

POLICE REPORT: Police Chief, Peter Graziano, read his report as follows:

Before addressing his department's monthly report, Chief Graziano said he was not sure, whether it will be discussed tonight, but that he wanted to address upcoming events that could have the potential of creating a traffic problem. He's wasn't sure if it was still scheduled to take place but if so, he expects there will be traffic

problems in the downtown Chester area and wanted to make everyone aware of it.

Mayor John Thomas Bell responded by saying that the events are scheduled to take place later this month.

Chief Graziano also brought up the subject regarding the towing issues discussed last month. He prepared a packet for the Board of Trustees, in the packet presented to the board are supplements relating to last month towing charges issues. The Chief has been in contact with Attorney for the Village of Chester, Mr. Christensen regarding the related issues. Mr. Christensen suggested that, if we wanted to, we could send the supplements to the towing companies and ask for their input to see what they believe are fair prices in hopes to incorporate into a schedule or matrix for towing charges.

The Chief also mentioned that the Village of Chester currently has the following list of towing companies, in total four: MLMR, Johnson, LMR, and Prestige. The Chief added that towing company C & M of Monroe, New York stated they have some property in the Village of Chester and they want to construct a tow yard. Chief advised them to talk to the Building Inspector.

C&M requested an application even though they are currently four miles outside the village. An application was given but they have not produced a completed application as of today.

Chief Graziano asked Attorney for the Village, Henry Christensen if this is a route that the Village should explore and if, so, should we make this happen. The Mayor stated that he is in favor of asking the tow companies for their input.

Attorney for the Village, Henry Christensen suggested a matrix be posted on the website to let citizens comment on it. Counsel also mentioned that he previously had done some research as to what the surrounding communities charge. Chief Graziano asked the boards permission to move forward as counsel suggested and in addition he would also get the tow operators input.

Halloween curfew is coming up the 30th, 8pm to the 31st at 6am and then it goes back to the 31st of October to 8pm to November 1st at 6am. All the details are on the website and chief will double check to make sure they're there.

The Chief said he received an important email from Orange and Rockland Utilities regarding a contact and identification of Village properties with critical functions that could be compromised by power outages. The Chief has been working on the Excel worksheet to fill in the priorities listed that need additional information. Orange and Rockland Utilities had identified only about 4 facilities for the Village of Chester. In updating the Excel worksheet, the Chief added up to 20 additional properties to the list including sewer pumps owned by the Village and maintained by the Moodna Basin O&M Commission. He's working with Village Department heads as well as Moodna Basin, and, at this point, he feels it's complete. He's going to share the final draft of the worksheet with the Mayor, Board of Trustees and Village department heads for a final review before it gets submitted to Orange and Rockland Utilities.

The Mayor asked if anyone had any further questions for the Chief. Trustee Reilly had a question for the Police Chief. Trustee Reilly stated that, while auditing vouchers, she came across a voucher for the repair of a seat repair in one of the police vehicles and wanted to know if vehicles have the seats repaired often. The Chief responded that it was normal wear and tear from the officers getting in and out the vehicle wearing equipment. He also stated that he tends to get the seats repaired as soon as possible and that it happens often to the older vehicles.

1. Personnel:

- No issues.

2. Citizen Issues:

- No issues.

3. Public Safety Issues:

- Traffic Details: Continuing.

4. Facilities:

- Everyone is reminded that the Halloween Curfew will be in effect as it has in the past years. The entire curfew can be view on the Village website. Just follow the link on the main page.

Village Code §69-4(in Part):

5. Equipment:

- No issues.

6. Vehicles:

- Police car 726 (2011 impala 88,000+) is having a chronic transmission issues. It has been to the shop several times and so far, has been covered under warranty.

7. Other:

- No issues.

8. Department Activity YTD:

Call Type	2018
Calls for Service	2139
Criminal Cases	432
Arrests	256
Traffic Accidents	161

The Mayor asked if anyone had any further questions for Chief Graziano, and there were no further questions.

A motion to accept the Police Department report, as read, was made by Trustee Elizabeth A. Reilly and seconded by Deputy Mayor Christopher Battiato. Motion unanimously passed.

STREET REPORT: Street Superintendent, Charles Bono, read his report as follows:

We did some blacktopping on Railroad Ave. where we repaired a drainage pipe and Meadow Ave and Vadala Rd. and also replaced 140' of 18" drainage pipe on Walnut Street by the entrance to the school.

Spoke to Steve Bolan at Carbone Auto Group about our new vehicle. They have just started building the 2019 models and ours has not been scheduled yet. He said to check back at the end of the month on the status.

At this time, Village residents can bring leaves out to the curb to be picked up. We ask that you do not put out leaves in or near storm drains or by catch basins as this will prevent water from getting to storm drains and catch basins and will cause the water to back up onto the streets. Also, please keep sticks, and stones separate from leaves as this will clog or damage the leaf vacuum and cause downtime. All weekly pick up, including leaf pick will end on December 1st, so we urge Village residents to put out their leaves at their earliest convenience.

The Village snow ordinance will go into effect on November 1st to April 15th, at which time there is no parking on any Village street between the hours of 3:00am to 6:00am.

We continue with the normal weekly sweeping, mowing, and picking up of bags and brush.

A motion to accept the Street Department report, as read, was made by Trustee, Elizabeth A. Reilly and seconded by Deputy Mayor, Christopher Battiato. Motion unanimously passed.

WATER REPORT: Water Commissioner, Gary Green Jr., read his report as follows:

- 1) Daily filter plant & well operations
- 2) Twice per week filter cleaning
- 3) Weekly mowing of facilities
- 4) Repaired service line leak at 45 Meadow Ave
- 5) Repair water main break in front of Brady's auto
- 6) Painting of fire hydrants continues.
- 7) Monthly samples were taken to lab for testing
- 8) Marking out of water lines for Dig safe N.Y.
- 9) Replaced shut off box at 53 Cromwell Rd.
- 10) Replaced fire hydrant on 94 on Garden Street.

Trustee, Elizabeth A. Reilly asked the Water Commissioner if it was time to send a certified letter to 9 Winkler regarding the backflow prevention device, saying that if it's not done by a certain time water service will be shut off. The Water Commissioner stated that, per the law, he can shut off water service but at this time he wants to give the landlord some leeway due to the building having six apartments. In addition, he's been in contact with the landlord and explained to him the importance of getting this done.

Mayor Bell asked the Water Commissioner to inform the landlord that the Village Board is getting antsy over how long it's taking to get this done. Also, to share once again the importance of getting it done.

A motion to accept the Water Department report, as read, was made by Trustee, Elizabeth A. Reilly, and seconded by Deputy Mayor, Christopher Battiato. Motion unanimously passed.

PARK & RECREATION: Park and Recreation director Lori Streichert was present and read her report as follows:

The Town of Chester hired Michelle Deshler, who will be working with the Park and Recreation department as of September 26, 2018.

The Park and Recreation director shared a few upcoming events as well as past events. Park and Rec. had a bus trip to the New York Botanical Garden on September 27, 2018 had good weather, but it wasn't a full trip and felt that the trip needed to be promoted better to have fewer empty seats.

Annual Kite Festival is scheduled for Sunday, October 14, 2018 from 11am to 2pm at Knapp's View in Chester.

The Senior Movie Matinee will be held at the new facility, located at 81 Laroe Rd. It is scheduled for October 18, 2018, movie to be determined. If anyone is interested, they can contact Park and Rec center at 845-469-7000 for further information.

Movie night at the Walton Fire Engine and Hose is scheduled for Saturday, October 27, 2018, weather permitting. The movie is "Hotel Transylvania III".

The Park and Rec department is currently working on the Halloween Trunk & Treat and parade and Michelle Deshler will be instrumental in organizing that event. The event is to take place on Sunday, October 28, 2018.

Classic Yoga, Chair Yoga and OSO exercise has been well received. Park and Rec will be working on setting up other classes and meetings like line dancing, weight watchers, and mad science.

Park and Rec director stated that they are getting full use of the new facility.

Mayor Bell made mentioned that Michelle Deshler is meeting with him today to give him an update on the following upcoming events in the Village:

- Halloween Trunk and Treat is scheduled for Sunday, October 28, 2018 from 12 – 2pm at Community Park, also known as Carpenter field. To participate you must register with Park and Recreation Center.
- Halloween Parade is scheduled for October 28, 2018 beginning at 2:30pm at the Chester Erie Train Station. The route for the Halloween Parade will start on Main Street to Vadala Rd and up to Community Park.

For more information contact Park and Recreation Center.

Trustee, Brian J. Boone asked the Park and Rec Director whether the Town of Chester had created a new position for Michelle Deshler or whether took over an existing position. Park and Rec director Lori Streichert responded that it is a part-time position, which was one of two approved by the Town of Chester Board. Currently the second position is vacant and, once it's filled, we will be able to do a lot more events. The Center is going to open in the evenings and weekends. We will see how things go moving forward.

Trustee, Elizabeth A. Reilly asked Park and Rec director if Kristen is still working for the Town of Chester. Park and Rec director responded by saying that Kristen covers the grounds and maintenance with regards to the baseball fields.

Trustee, Alan Battiato asked if Kristen will still be handling the music series. The Park and Rec Director responded by saying we will have to see where things go. There are changes on the horizon at the Town, so I would not want to speculate. As of right now I'm going to assume everything is going to remain the same unless someone institutes changes.

OLD BUSINESS:

No Old Business pending

OTHER BUSINESS:

The Mayor presented the following proposed resolution

18-35 RESOLUTION ACKNOWLEDGING VILLAGE JUDGE ANNUAL COURT RECORDS AUDIT

WHEREAS, pursuant to Section 2019-a of the Uniform Justice Court Act, the Board of Trustees of the Village is required to confirm that the records and dockets of the Village Justice Court be audited, and that the fact of that auditing be reflected in the minutes of the proceedings of this Board; and

WHEREAS, the Village’s auditors, RBT CPA, LLC, have performed said audit of Village Judge VanderMuelen and Village Judge Hunter’s records from June 1, 2016 – May 31, 2017, and forwarded findings for review to the Village Board accordingly; and

WHEREAS, the Village Board is required, in compliance with the Uniform Justice Court Act §2019-a, to reflect in the minutes of its proceedings that such audit has occurred and that the fines therein collected have been turned over to the proper officials of the Village as required by law; and

THEREFORE, BE IT RESOLVED, the Board of Trustees of the Village of Chester does hereby acknowledge that the audit of the records of the Village Justice Court required under Uniform Justice Court Act § 2019-a has been conducted, and that the Justice Court Audit Report has been received by the Board and the fines therein collected have been turned over to the proper officials of the Village as required by law; and

BE IT FURTHER RESOLVED, the Village Clerk forward to the New York State Office of Court Administration a copy of said Justice Court Audit Report and a copy of this Resolution.

Introduced By: Trustee, Brian J. Boone
Second By: Deputy Mayor, Christopher Battiato
On a vote of 5 to 0 the resolution was adopted

Roll Call

	<u>For</u>	<u>Against</u>	<u>Absent/Abstain</u>
Mayor John Thomas Bell	X		
Deputy Mayor Christopher Battiato	X		
Trustee Alan Battiato	X		
Trustee, Elizabeth A. Battiato	X		
Trustee, Brain J. Boone	X		

Attorney Henry Christensen gave a brief synopsis of the reason for resolution 18-36. The Village set up a capital project account for the water plant project in 2008 to keep track of the monies that were collected, and monies spent. The project having been completed, the Village is meant to close the Project out.

Per the auditors, the Village is to close out the project so that no further monies are spent from the Project account without further Village Board of Trustees action.

18-36 RESOLUTION CLOSING WATER PLANT IMPROVEMENTS CAPITAL PROJECT

WHEREAS, on or about 2008, the Village commenced a capital project to upgrade its Walton Lake Water Plant (the “Capital Project”), and

WHEREAS, the Capital Project has been completed in all respects and all expenses incurred and obligations arising in connection with the Capital Project, other than ongoing bond service, have been fully paid;

NOW, THEREFORE, be it

RESOLVED, that the Mayor and Trustees acknowledge the completion of the Walton Lake Water Plant Upgrade Capital Project and that the said Capital Project is closed.

Introduced By: Trustee, Elizabeth A. Reilly
Second By: Deputy Mayor, Christopher Battiato
On a vote of 5 to 0 the resolution was adopted

Roll Call

	<u>For</u>	<u>Against</u>	<u>Absent/Abstain</u>
Mayor, John Thomas Bell	X		
Deputy Mayor, Christopher Battiato	X		
Trustee, Alan Battiato	X		
Trustee, Elizabeth A. Battiato	X		
Trustee, Brain J. Boone	X		

INTRODUCTORY LOCAL LAW NO. 5 OF 2018

Attorney Henry Christensen gave a brief synopsis of Introductory Local Law No.5 as follows: At a couple of recent meetings, members of the public have pointed out that the Town of Chester has adopted a local law setting up a “No knock registry” that the Clerk maintains a list of homes where people don’t want to be disturbed by solicitors. The sense of discussion at those meetings had been that maybe the Village should do the same. Mr. Christensen has adapted the Town of Chester’s law and made a few minor changes and/or corrections but the Introductory Local Law is essentially a mirror image of what the Town of Chester has in place.

Mr. Christensen added that the Village of Chester has a Solicitor and Peddling law in the Village code and the one presented to the Board of Trustees this evening, if adopted, would replace that chapter; to move forward the Village would need to adopt a local law. A public hearing is required, and the proposed text must be posted in the Clerk’s office and on the Village website.

Mayor Bell asked the Village Board if there were any objections to setting a public hearing and if anyone had any questions for Attorney Christensen.

Trustee, Elizabeth A. Reilly added that we review the fees as the ones listed were in place 25 years ago or longer.

A motion to set a date for a public hearing on Tuesday, November 13, 2018 at 6:45 or as soon thereafter as possible to hear public comment on Introductory Local Law No. 5 was made by Trustee Elizabeth A. Reilly and seconded by Deputy Mayor, Christopher Battiato. Motion unanimously passed. The text of the Introductory Local Law No. 5 is as follows:

INTRODUCTORY LOCAL LAW NO. 5 OF 2018

A LOCAL LAW AMENDING AND REPLACING CHAPTER 71 ENTITLED “PEDDLING AND SOLICITING” OF THE CODE OF THE VILLAGE OF CHESTER, SAID CHAPTER TO BE RENAMED “PEDDLING, SOLICITING AND DO NOT KNOCK REGISTRY”

Be it enacted by the Board of Trustees of the Village of Chester in the County of Orange, as follows:

SECTION 1. Title

This Local Law shall be referred to as "A Local Law Amending and Replacing Chapter 71, entitled “Peddling and Soliciting,” of the Village Code of Chester.

SECTION 2: Purpose and Intent

It is the purpose of this Local Law to amend and replace Chapter 71, entitled “Peddling and Soliciting,” of the Village Code of the Village of Chester, as it relates to peddling and solicitation, and to add regulations which create a “Do Not Knock” registry in an effort to further protect the inalienable right of the residents of the Village of Chester to personal safety, tranquility and privacy.

SECTION 3: Peddling, Solicitation and Do Not Knock Registry

Chapter 71 of the Code of the Village of Chester is hereby amended to read as follows:

Chapter 71. Peddling, Soliciting and Do Not Knock Registry

§71-1. Title.

This Chapter shall be known and may be cited as the “Peddling, Solicitation and Do Not Knock Registry Law of the Village of Chester”. This Chapter amends, replaces and supersedes the former Chapter 71, entitled “Peddling and Soliciting”.

§71-2. Purpose.

The Village Board of the Village of Chester determines that it is in the best interest of the public to afford a just protection from peddlers and solicitors by regulating door-to-door solicitation by licensed sales agents; establishing a Do Not Knock Registry; and promulgating reasonable time and manner restrictions on door-to-door solicitation, including enforcement of the Do Not Knock Registry, and to preserve the private property, good order, peace, health, safety, welfare and comfort of the citizens of the Village of Chester.

§71-3. Definitions

As used in this Chapter, the following terms shall have the meanings indicated:

APPEALS OFFICER

The Village Board of the Village of Chester, or its designee, responsible for receiving the information from the Village and applicant or licensed solicitor with respect to any denial, suspension or revocation of a license and issuing a decision as required by this Chapter.

CHARITABLE SOLICITOR

A person, corporation or institution engaged in the sale of any merchandise, the proceeds of which sale shall be given in whole or in part to a charitable and/or tax-exempt institution, which solicitation shall include solicitation for funds without the sale of any merchandise.

DO NOT KNOCK REGISTRY

A list of residential addresses in the Village of Chester, organized alphabetically by street name, indicating those residential properties where the owner or occupant has indicated that he or she does not want to be solicited and does not want sales agents to enter onto his or her property.

LICENSING OFFICER

The Village Clerk of the Village of Chester, or other designee of the Village Board of the Village of Chester, responsible for receiving from an applicant or licensed solicitor the completed application and either denying, granting, suspending or revoking the application or license.

PEDDLER

A person commonly referred to as a "peddler" or a "hawker," who goes from place to place by travelling on streets and/or from house to house and carries with him or her goods, wares or merchandise for the purposes of selling and/or delivering the same to purchasers.

PEDDLING

The vending or hawking, or offering for sale, including the itinerant transporting and/or the exposing or the offering for sale and for concurrent delivery, in any public street or place, or the vending or the hawking by sales calls from residence to residence in the Village of Chester, of any goods, wares, merchandise, provisions, groceries, meats, fish, fruits, vegetables, trees, shrubbery, potted plants and flowers.

SOLICITING

The soliciting upon the residential property in the Village of Chester for the purposes of vending, peddling or soliciting purchase orders for any merchandise, device, book, periodical or printed matter whatsoever; or for services to be performed in the future; or for purposes of seeking to make or facilitate a home solicitation sale; or for purposes of conducting any consumer or other surveys; or for soliciting alms; or for a subscription or contribution to any church, charitable or public institution; or for the purpose of distributing any handbill, pamphlet, tract, notice or advertising matter; or for the purpose of selling or distributing any ticket of chance.

SOLICITOR

One who, either individually, as a principal and on his or her own behalf, or in association with one or more other persons in a partnership or other unincorporated business relation; a corporation; and a person who, as an agent, officer, or employee of some other person or persons, engaged in the act of soliciting.

VILLAGE

The Village of Chester.

VILLAGE BOARD

The Mayor and Trustees of the Village of Chester

VILLAGE CLERK

The Village Clerk of the Village of Chester

TRANSIENT MERCHANT

A person commonly referred to as an "itinerant vendor," who engages or proposes to engage temporarily in merchandising personal property within the Village of Chester and who occupies a room, building, tent, lot or stand for the purposes of selling goods, wares or merchandise.

§71-4. Exemptions.

A. The following are exempt from the license requirements of this Chapter:

- 1) Persons specifically invited to a residence by a competent individual prior to the time of the person's arrival at the residence;
- 2) Persons soliciting in good faith for the benefit of any bona fide fraternal, educational, religious, or charitable organization such as Girl or Boy Scout programs, Little League, Rotary Club, Lions Club or

like-minded civic groups soliciting for the benefit of organizations that shall have otherwise been certified or duly qualified as required by law or by any competent governmental body or organization;

- 3) An honorably discharged veteran who:
 - i. Is physically disabled as a result of injuries received while in the service as set forth in New York General Business Law §35; and
 - ii. Holds a license granted pursuant to New York General Business Law §32.
- 4) Persons delivering goods to a residence pursuant to a previously made order, or persons providing services at a residence pursuant to a previously made request by a competent individual;
- 5) Students soliciting contributions to finance extracurricular social, athletic, artistic, scientific or cultural programs; provided, however, that the solicitation has been approved in writing by the school administration and filed with the Village, and that such student solicitors carry current picture student identification from the educational institution for which they are soliciting;
- 6) A child regularly attending any public or private school within Orange County;
- 7) Sales conducted pursuant to statute or Court order; and
- 8) Persons engaged in the sale of cosmetics or household goods within a residence; provided, however, that such sales occur solely and exclusively within a residence by the permission of the owner thereof.

B. All persons and organizations who are exempted from the license requirements under this Chapter shall maintain and keep records identifying all persons soliciting funds within the Village, and such records shall contain at least the name and address of the person soliciting, the areas solicited and the date or dates of solicitation. Said records shall be made available for inspection by a law enforcement authority or other enforcement official investigating any solicitor or peddler.

§71-5. Solicitation Prohibited.

A. Unless otherwise authorized, permitted or exempted pursuant to the terms and provisions of this Chapter, the practice of being in and upon a private residence, or property upon which a private residence is located, within the Village by solicitors, for the purpose of home solicitation sales or to provide goods or services is prohibited and punishable as set forth in this Chapter.

B. It shall be unlawful for any person to solicit within the Village without first having registered with the Village Clerk and having received, and having in force and effect, a license for the same, as provided for in Section §71-6 hereof, if such is required by the Village Clerk.

C. No person shall engage in the following acts within the Village:

- 1) Promote, influence or attempt to promote or influence a property owner, occupant, or tenant to list for sale, sell, or remove from a lease of real property by referring to race, color, sexual orientation, ethnicity, or religious affiliation of neighbors, prospective buyers or other occupants or prospective buyers of real property;
- 2) Induce directly or indirectly, or attempt to induce directly or indirectly, the sale or listing for sale of real property by representing that the presence or anticipated presence of persons of any particular race, religion or national origin in the area has resulted in or may result in:
 - i. The lowering of property values;
 - ii. A change in the racial, religious or ethnic composition of the block, neighborhood, or area in which the property is located;
 - iii. An increase in the criminal or antisocial behavior in the area; or
 - iv. A decline in the quality of the schools serving the area.
- 3) Make any representation or misrepresentation concerning the listing for sale or the anticipated listing for sale or the sale of any real property in any residentially zoned areas for the purpose of inducing or attempting to induce the sale or listing for sale of other real property in such area.
- 4) Make any representation to any prospective purchaser that any block, neighborhood or area has, will or might undergo an adverse change with respect to the religious, racial or ethnic composition of the block, neighborhood or area for the purpose of discouraging the purchase of property in a particular area.

- 5) Place, canvas or distribute any letter, sign, note, pamphlet, advertisement, flyer, leaflet, placard or other written material to or upon a private residence purporting an offer for sale or purchase for any property that is not in fact offered for sale by the owner of said property.
- 6) Advertise for sale or rental property which is non-existent or which is not actually for sale or rental.
- 7) Engage in or hire or conspire with others to commit acts or activities of any nature, the purpose of which is to coerce, create or play upon unjustified fear with the purpose of inducing or attempting to induce the sale or listing for sale of real property.
- 8) Solicit or canvas any person whose name and property address is included on the list maintained by the Village Clerk of persons requesting that they not be canvassed or solicited, or to solicit or canvas any occupant of a residence displaying a "No Solicitation" notice or sticker.
- 9) Engage in any economic reprisal or any other form of intimidation against any person because that person has filed a complaint, testified, assisted or participated in any manner in any investigation, proceeding or conference under the terms of this Article.
- 10) Aid, abet, incite, compel or coerce any person to engage in any of the practices forbidden by this Article or to obstruct or prevent any person from complying with the provisions of this Article.
- 11) Refer, directly or indirectly or by implication, to race, color, creed, ethnicity or sexual orientation in any advertisement or other solicitation offering real property for sale or rental.
- 12) Solicit or attempt to solicit the sale or rental or the listing for sale or rental of real property without furnishing in written form to the owner or occupant of such real property the name of the person or organization soliciting such sale, rental or listing.
- 13) Solicit on sidewalks.
- 14) Maintain any booth or stand, or place any barrels, boxes, crates or other obstruction upon any street, sidewalk or public place for the purpose of conducting business without the express advanced approval of the Code Enforcement Officer or the Village Board.
- 15) Willfully misstate any fact about any article offered for sale.
- 16) Willfully offer for sale any article of an unwholesome or defective nature.
- 17) Call attention to goods by blowing a horn, ringing a bell, other than a house doorbell, by shouting or crying or by any loud or unusual noise, except that peddlers of ice cream and ice cream products for immediate consumption are exempted from the foregoing prohibition of the use of a bell.
- 18) Frequent any street, sidewalk or public place so as to cause a private or public nuisance.
- 19) Fail to keep any vehicle or receptacle used by him in his licensed business in a sound, clean and/or sanitary condition.
- 20) Fail to keep any edible articles offered for sale well-protected from dirt, dust and insects.
- 21) Fail to deliver to every person to whom a sale is made or from whom an order is taken a legibly written receipt, signed and dated by the licensee, setting out the total price, a description of the goods or services sold or rendered and a statement of any payment received by the licensee.
- 22) Fail to leave the premises promptly upon request of any occupant of such premises.
- 23) Solicit or selling during hours other than between the hours of 9:00 a.m. and 7:00 p.m.
- 24) Conduct business in a Village right-of-way or on Village property.
- 25) Conduct activities in such a manner as to interfere with the pedestrian or vehicular use of the public streets and places.
- 26) Cause or permit the public streets and places to be littered with papers, wrappings or other debris or refuse.
- 27) Conduct business within one hundred (100) feet of a street intersection.

D. All solicitors shall immediately move from a location if so ordered by any police officer or Village officer on grounds that the location is unsafe. Refusal to obey such order shall be grounds for suspension or revocation of the license. Such order may be appealed to the Village Board in the manner set forth herein.

§71-6. Deceptive Solicitation Practices Prohibited.

A. No solicitor shall intentionally make any materially false, fraudulent or otherwise misleading statement in the course of soliciting.

B. A solicitor shall immediately disclose to the consumer during face-to-face solicitation the following information:

- 1) The name of the solicitor;
- 2) The name and address of the entity with whom the solicitor is associated; and
- 3) The purpose of the solicitor's contact with the resident or occupant.

C. The requirements of subsection (B) of this section may be satisfied through the use of a badge and informational flyer.

D. No solicitor shall use a fictitious name, an alias or any name other than his or her true and correct name.

E. No solicitor shall represent directly or by implication that the granting of a license implies any endorsement by the Village of the solicitor's goods or services or of the individual solicitor.

F. The provisions of this section shall also apply to solicitors who are exempt from licensing requirements pursuant to the provisions of this Chapter.

§71-7. Do Not Knock Registry.

A. A Do Not Knock Registry shall be established and maintained by the Village Clerk's office. Residents may submit their property addresses for inclusion on this list by submitting a form, the contents of which shall be approved by the Village Board. This form shall be made available to the public at the Village Clerk's office. The Do Not Knock Registry shall be updated quarterly and the updated registry shall be provided to the Village of Chester Police Department on a quarterly basis.

B. Any resident who has requested to register their property address on the Do Not Knock Registry shall be able to purchase from the Village Clerk's office, for a nominal fee, a sticker for display at the premises, indicating enlistment on the Do Not Knock Registry. Display of this sticker shall be on or near the main entrance door of the residence. The display of such sticker shall constitute notice to any solicitor that the inhabitant of the residence does not desire to receive and/or does not invite solicitors.

C. Upon approval and issuance of a license for solicitation as provided for in this Chapter, each licensed solicitor shall be provided with a copy of the Do Not Knock Registry. The licensee shall not solicit at any premises identified in the most current registry.

§71-8. Registration of Solicitors and Application for License.

Unless otherwise exempt under this Chapter, all persons, corporations or institutions desiring to engage in door-to-door solicitations within the Village, prior to doing so, shall file with the Village Clerk an application, in a form to be determined by the Village Board, upon which the applicant shall give such information under oath as the application may require. Licenses shall be issued in a form prescribed by the Village Board and a record thereof shall be kept by the Village Clerk. Any false statement made on any application shall be grounds for denial or revocation of the license.

§71-9. License Fees.

A. A license fee for peddlers shall be \$2 per day or \$10 per week or \$15 per month.

B. The license fee for transient merchants shall be the sum of \$45 for the period of three months or any portion thereof.

C. No license shall be required for a charitable solicitor's license. Upon an application duly made in accordance with the provisions of this Chapter for the same, the Village Clerk shall issue an annual license to any charitable solicitor seeking the same, provided that the charitable solicitor has an office or a residential address within the Village, including the incorporated area of the Village. Such annual license shall be issued on a calendar-year basis and will be subject to all of the provisions contained in this Chapter.

§71-10. Denial, Suspension or Revocation of License.

A. A license may be denied, suspended or revoked by the Village Board upon the following conditions:

- 1) Any violation of the terms of such license;
- 2) Information submitted by the applicant is found to be incomplete or incorrect;

- 3) Since submission of the application, the applicant is subject to a previously undisclosed or unknown disqualifying status;
- 4) Failure to remit the requisite payment of fees;
- 5) Since the submission of the application, the Village has received a substantiated report regarding past or present conduct of the applicant;
- 6) Since the submission of the application, the Village or other governmental entity has either criminally convicted or obtained a civil injunction against the applicant for violating this Chapter or similar federal, state or municipal laws in a manner rising to the level of disqualifying status; or
- 7) Since the submission of the application, a final civil judgment has been entered against the applicant indicating that the applicant had either engaged in fraud or intentional misrepresentation or that a debt of the applicant was non-dischargeable in bankruptcy pursuant to 11 U.S.C. §§523(a)(2), (a)(4), (a)(6) or (a)(19).

B. The action of the Village Board shall be made at a regular or special meeting of the Village Board upon notice to the applicant or holder of the license.

C. The Village shall cause written notice to be mailed to the applicant or holder of such license, at the address as set forth in the application, at least three (3) days prior to the regular or special meeting at which such denial, suspension or revocation of license is to be so considered. In the event that the Village deems it necessary to shorten the three (3) day period, personal service upon the applicant or holder or the license of a written notice of the Village Board meeting to be held less than three days from the date of the notice shall be deemed sufficient.

D. The applicant or holder of the license shall have the right to be heard at the Village Board meeting at which such denial, suspension or revocation is to be considered.

§71-11. Appeals.

A. An applicant or licensed solicitor whose license has been denied, suspended or revoked shall have the right to appeal to the Village Board or its designee. Any appeal must be submitted by either the applicant, the responsible person or entity, or legal counsel for either who: (i) documents the relationship with the applicant or responsible person or entity or is licensed, or (ii) is authorized by the State of New York to do so and makes the assertion of an agency relationship.

B. Any appeal must be submitted in writing to the Village Clerk, with a copy of to any Licensing Officer, within ten (10) business days of the decision from which the appeal is taken. Such appeal shall describe in detail the nature of the appeal, the action complained of and the grounds for appeal.

C. Upon the request of the applicant or licensed solicitor, within one (1) business day, the Village will make available any information upon which it relied in making the determination to either deny, suspend or revoke the license.

D. The Appeals Officer of the Village shall review, de novo, all written information submitted by the applicant or licensed solicitor to the licensing officer, any additional information relied upon by the licensing officer as the basis for denial, suspension or revocation, and any additional information supplied by the Village, applicant or licensed solicitor. Any additional information submitted by any party to the appeal shall be simultaneously submitted to the opposing party. If desired, any party shall have three (3) business days to submit rebuttal documentation to the appeals officer regarding the additional information submitted by the opposing party.

E. The Appeals Officer of the Village will render a decision no later than fifteen (15) calendar days from the date the appeal was taken, unless an extension of time is agreed upon by the parties. In the event that any party to the appeal submits a rebuttal as allowed in subsection (D) of this section, fifteen (15) calendar days shall be extended to include the additional three (3) days for rebuttal.

F. The denial, suspension or revocation shall be reversed upon appeal if the Appeals Officer of the Village finds that the Licensing Officer made a material mistake of law or fact in denying the application or suspending or revoking the application or license.

G. If the written appeal and information submitted indicates that the Licensing Officer properly denied the application or suspended or revoked the license, the denial, suspension or revocation shall be affirmed and will constitute a final denial, suspension or revocation.

H. After the ruling of the Appeals Officer, the applicant or licensed solicitor shall be deemed to have exhausted all administrative remedies within the Village.

I. Nothing herein shall impede or interfere with the applicant or solicitor's, or Village's right to seek relief in a court of competent jurisdiction.

§71-12. Penalties for Offenses.

Any person, corporation or institution violating any of the provisions of this Chapter shall be punished by a minimum fine of \$2,500.00 to a maximum fine of \$5,000.00 in the first offense; a minimum fine of \$5,000.00 to a maximum fine of \$7,500.00 for a second offense within two years of a prior conviction; and a minimum fine of \$7,500.00 to a maximum fine of \$10,000.00 for a conviction of a third offense within two years of a prior conviction, and/or a jail sentence not to exceed 15 days. These penalties and fines may be amended from time to time by resolution of the Village Board at the annual reorganizational meeting. In addition, the Village Board shall have the right to apply for and secure injunctive relief against any person, corporation or institution found to have violated the provisions of this Chapter.

§71-13. Enforcement.

The police department of the Village of Chester and/or the Village Code Enforcement Officer or other enforcement official as may be designated by the Village Board, is charged with enforcing the provisions of this Chapter and shall have the power, right and authority to issue an appearance ticket for the violation of any of the provisions of this Chapter.

SECTION 4: Severability

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

SECTION 5: Effective Date

This local law shall take effect immediately upon filing with the Secretary of State

The Mayor asked for a motion with respect to the following Introductory Local Law to require notice to neighbors of pending subdivision applications:

INTRODUCTORY LOCAL LAW NO. 6 OF 2018

A LOCAL LAW AMENDING CHAPTER 84 OF THE VILLAGE OF CHESTER CODE WITH RESPECT TO NOTICE OF APPLICATIONS FOR SUBDIVISION OF LAND

Be it enacted by the Board of Trustees of the Village of Chester in the County of Orange, as follows:

SECTION 1. Title

This Local Law shall be referred to as "A Local Law Amending Chapter 84, entitled "Subdivision of Lands" of the Village Code of Chester.

SECTION 2: Purpose and Intent

It is the purpose of this Local Law to amend and amend Chapter 84, entitled "Subdivision of Lands" of the Village Code of Chester, as it relates to giving notice to interested parties of applications for subdivision of lands.

SECTION 3: Amendments to notice provisions.

A. Section 84-8. C.(1) is amended by inserting the language underlined below:

(1) The Planning Board shall hold a public hearing within 62 days after the receipt of a complete preliminary plat by the Planning Board. Such hearing shall be advertised at least once in a newspaper of general circulation in the Village at least five days before such hearing. **A copy of such notice shall be mailed by the Planning Board Clerk, at the expense of the applicant, to the owner of real property within five hundred (500) feet of lands proposed to be subdivided, and to each person known to reside within five hundred (500) feet of lands proposed to be subdivided.** The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat.

B. Section 84-9. B. (2) is amended by inserting the language underlined below:

(1) The Planning Board shall hold a public hearing within 62 days after the receipt of a complete preliminary plat by the Planning Board. Such hearing shall be advertised at least once in a newspaper of general circulation in the Village at least five days before such hearing. **A copy of such notice shall be mailed by the Planning Board Clerk, at the expense of the applicant, to the owner of real property within five hundred (500) feet of lands proposed to be subdivided, and to each person known to reside within five hundred (500) feet of lands proposed to be subdivided.** The Planning Board may provide that the hearing be further advertised in such manner as it deems most appropriate for full public consideration of such preliminary plat.

SECTION 4: Severability

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect

A motion to refer Introductory Local Law No. 6 of 2018 to the Village Planning Board for comments and/or opinion was made by Trustee, Elizabeth A. Reilly, second by Deputy Mayor, Christopher Battiato. Motion unanimously passed.

As previously requested by the Code Enforcement Officer, the Mayor asked for a motion to set a public hearing to consider a restatement of Chapter 38 of the Village Code, in the form of Introductory Local Law No. 7 of 2018.

A motion to set a date for a public hearing on Tuesday, November 13, 2018 at 6:45 or as soon thereafter as possible to hear public comment on Introductory Local Law No. 7 was made by Trustee Elizabeth A. Reilly and seconded by Deputy Mayor, Christopher Battiato. Motion unanimously passed. The text of the Introductory Local Law No. 7 is as follows:

INTRODUCTORY LOCAL LAW NO. 7 OF 2018

Be it enacted by the Board of Trustees of the Village of Chester, in the County of Orange, as follows:

Section 1. Chapter 38 of the Village Code of the Village of Chester is hereby amended, replaced and restated in its entirety as follows:

CHAPTER 38: FIRE PREVENTION AND BUILDING CONSTRUCTION

ARTICLE 1. ADMINISTRATION AND ENFORCEMENT

§ 38-1. 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 Village. This local law is adopted pursuant to § 10 of the Municipal Home Rule Law. Except as otherwise provided in the Uniform Code, other state law, or other section of this local law, all buildings, structures, and premises, regardless of use or occupancy, are subject to the provisions this local law.

§ 38-2. DEFINITIONS

In this local law:

“**BUILDING PERMIT**” shall mean a permit issued pursuant to § 38-4 of this local law. 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 OCCUPANCY**” shall mean a certificate issued pursuant to subdivision (b) of § 38-7 of this local law.

“**CODE ENFORCEMENT OFFICER**” shall mean the Code Enforcement Officer appointed pursuant to subdivision (b) of § 38-3 of this local law.

“**CODE ENFORCEMENT PERSONNEL**” shall include the Code Enforcement Officer and all Inspectors.

“**ORDER TO REMEDY**” shall mean an order issued by the Code Enforcement Officer pursuant to subdivision (a) of § 38-15 of this local law.

“ENERGY CODE” shall mean the State Energy Conservation Construction Code, as currently in effect and as hereafter amended from time to time.

“INSPECTOR” shall mean an inspector appointed pursuant to subdivision (d) of § 38-3 of this local law.

“OPERATING PERMIT” shall mean a permit issued pursuant to § 38-10 of this local law. The term “Operating Permit” shall also include an Operating Permit which is renewed, amended or extended pursuant to any provision 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.

“STOP WORK ORDER” shall mean an order issued pursuant to § 38-6 of this local law.

“TEMPORARY CERTIFICATE” shall mean a certificate issued pursuant to subdivision (d) of § 38-7 of this local law.

“UNIFORM CODE” shall mean the New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended from time to time.

“VILLAGE” shall mean Village of Chester.

§ 38-3. CODE ENFORCEMENT OFFICER AND INSPECTORS

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

- 1) to receive, review, and approve or disapprove applications for Building Permits, Certificates of Occupancy, Temporary Certificates 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, Temporary Certificates and Operating Permits, and to include in Building Permits, Certificates of Occupancy, Temporary Certificates and Operating Permits such terms and conditions as the Code Enforcement Officer may determine to be appropriate;
- 3) to conduct construction inspections, inspections to be made prior to the issuance of Certificates of Occupancy, Temporary Certificates 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 subdivision (a) of § 38-15 (Violations) of this local law;
- 7) to maintain records;
- 8) to collect fees as set by the Board of Trustees of this Village;
- 9) to pursue administrative enforcement actions and proceedings;
- 10) in consultation with this Village'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 Code Enforcement Officer by this local law.

- a) The Code Enforcement Officer shall be appointed by the Board of Trustees. The Code Enforcement Officer 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 Code Enforcement Officer shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.
- b) In the event that the Code Enforcement Officer is unable to serve as such for any reason, an individual shall be appointed by the Mayor, with the consent of the Board of Trustees, to serve as Acting Code Enforcement Officer. The Acting Code Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Code Enforcement Officer by this local law.
- c) One or more Inspectors may be appointed by the Board of Trustees to act under the supervision and direction of the Code Enforcement Officer and to assist the Code Enforcement Officer in the exercise of the powers and fulfillment of the duties conferred upon the Code Enforcement Officer by this local law. Each Inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each Inspector shall obtain certification from the Department of State pursuant to the Executive Law and the regulations promulgated thereunder.
- d) The compensation for the Code Enforcement Officer and Inspectors shall be fixed from time to time by the Board of Trustees of this Village.

§ 38-4. 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 Code Enforcement Officer.
- b) **Exemptions.** No Building Permit shall be required for work in any of the following categories:

- 1) installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- 2) installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
- 3) construction of retaining walls unless such walls support a surcharge or impound Class I, II or IIIA liquids;
- 4) construction of temporary motion picture, television and theater stage sets and scenery;
- 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) painting, wallpapering, tiling, carpeting, or other similar finish work;
- 8) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
- 9) 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
- 10) repairs, provided that such repairs do not involve

- (i) the removal or cutting away of a loadbearing wall, partition, or portion thereof, or of any structural beam or load bearing component;
- (ii) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;
- (iii) the enlargement, alteration, replacement or relocation of any building system; or
- (iv) the removal from service of all or part of a fire protection system for any period of time.

- a) 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.
- b) Applications for Building Permits. Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. 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 Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer 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 proposed work;
- 2) the tax map number and the street address of the premises where the work is to be performed;
- 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) define the scope of the proposed work; (ii) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law; (iii) indicate with sufficient clarity and detail the nature and extent of the work proposed; (iv) substantiate that the proposed work will comply with the Uniform Code and the Energy Code; and (v) where applicable, include a site plan that shows any existing and proposed buildings and structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the buildings and structures and the lot lines.

- 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 Code Enforcement Officer in writing or by stamp. One set of the accepted construction documents shall be retained by the Code Enforcement Officer, and one set of the accepted construction documents shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Personnel. However, the return of a set of accepted construction documents to the applicant shall not be construed as authorization to commence work, nor as an indication that a Building Permit will be issued. Work shall not be commenced until and unless a Building Permit is issued.
- 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 and the provisions of this article and other local laws of the Village. The Code Enforcement Officer shall issue a building permit if the proposed work is in compliance with the applicable requirements of the Uniform Code and Energy Code and the provisions of this article and other local laws of the Village. No building permit shall be issued by the Code Enforcement Officer except in conformity with the requirements of Chapter 98, Zoning, of the Code of the of the Village of Chester, New York, and where the site plan of such building is subject to approval by the Planning Board under the provisions of Chapter 98, Zoning, except in conformity with the plans approved by said Board. No building permit shall be issued by the Code Enforcement Officer for a building to be used for any special permitted use designated in said Chapter 98, Zoning, in any zoning district where such use is allowed only by approval of the Planning Board, unless and until such approval has been duly granted by the Planning Board. Building Permits to be displayed.
- g) Building permits 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 Code Enforcement Officer of any change occurring during the course of the work. The Building Permit shall contain such a directive. If the Code Enforcement Officer 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 Code Enforcement Officer.
- j) Revocation or suspension of Building Permits. If the Code Enforcement Officer 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 Code Enforcement Officer 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 §38-16 (Fees) of this local law must be paid at the time of submission of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit.

§ 38-5. CONSTRUCTION INSPECTIONS

- a) Work to remain accessible and exposed. Work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer or by an Inspector authorized by the Code Enforcement Officer. The Permit Holder shall notify the Code Enforcement Officer 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 made, 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) building systems, including underground and rough-in;
- 6) fire resistant construction;
- 7) fire resistant penetrations;
- 8) solid fuel burning heating appliances, chimneys, flues or gas vents;
- 9) Energy Code compliance; and
- 10) a final inspection after all work authorized by the Building Permit has been completed.

- a) Inspection results. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the Permit Holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code. 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, re-inspected, and found satisfactory as completed.
- b) Fee. The fee specified in or determined in accordance with the provisions set forth in §38-16 (Fees) of this local law must be paid prior to or at the time of each inspection performed pursuant to this section.

§ 38-6. STOP WORK ORDERS

a) Authority to issue. The Code Enforcement Officer is authorized to issue Stop Work Orders pursuant to this section. The Code Enforcement Officer shall issue a Stop Work Order to halt:

- 1) any work that is determined by the Code Enforcement Officer 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 Code Enforcement Officer, 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.
- 4) Any work for which a building permit is required which is not in conformity with the building permit or any plans or specifications approved in connection therewith or the approved site plan.

- a) Content of Stop Work Orders. Stop Work Orders shall
 - (1) be in writing,
 - (2) be dated and signed by the Code Enforcement Officer,
 - (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.
- b) Service of Stop Work Orders. The Code Enforcement Officer 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 Code Enforcement Officer 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.
- c) 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.
- d) 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 § 15 (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.

§ 38-7. CERTIFICATES OF OCCUPANCY

- a) Certificates of Occupancy required. A Certificate of Occupancy 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.
- b) Issuance of Certificate of Occupancy. The Code Enforcement Officer shall issue a Certificate of Occupancy 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 Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the building, structure or work prior to the issuance of a Certificate of Occupancy. 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 Code Enforcement Officer, at the expense of the applicant for the Certificate of Occupancy, shall be provided to the Code Enforcement Officer prior to the issuance of the Certificate of Occupancy:

- 1) a written statement of structural observations and/or a final report of special inspections, and
- 2) flood hazard certifications.

a) Contents of Certificate of Occupancy. A Certificate of Occupancy 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, address and tax map number of the property;
- 4) if the Certificate of Occupancy is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy is issued;
- 5) the use and occupancy classification of the structure;
- 6) the type of construction of the structure;
- 7) the assembly occupant load of the structure, if any;
- 8) if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is required;
- 9) any special conditions imposed in connection with the issuance of the Building Permit; and
- 10) the signature of the Code Enforcement Officer issuing the Certificate of Occupancy and the date of issuance.

- d) Temporary Certificate. The Code Enforcement Officer shall be permitted to issue a Temporary Certificate 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 Code Enforcement Officer issue a Temporary Certificate unless the Code Enforcement Officer determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely, (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. The Code Enforcement Officer may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code. A Temporary Certificate shall be effective for a period of time, not to exceed [6] months, which shall be determined by the Code Enforcement Officer and specified in the Temporary Certificate. During the specified period of effectiveness of the Temporary Certificate, 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 Code Enforcement Officer determines that a Certificate of Occupancy or a Temporary Certificate was issued in error because of incorrect, inaccurate or incomplete information, and if the relevant deficiencies are not corrected to the satisfaction of the Code Enforcement Officer within such period of time as shall be specified by the Code Enforcement Officer, the Code Enforcement Officer shall revoke or suspend such certificate.
- f) Fee. The fee specified in or determined in accordance with the provisions set forth in § 38-16 (Fees) of this local law must be paid at the time of submission of an application for a Certificate of Occupancy or for Temporary Certificate.

§ 38-8. NOTIFICATION REGARDING FIRE OR EXPLOSION

The chief of any fire department providing firefighting services for a property within this Village shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent.

§ 38-9. UNSAFE BUILDING AND STRUCTURES

Unsafe structures and equipment in this Village shall be identified and addressed in accordance with the following procedures:

- a) All buildings or structures which are structurally unsafe, insanitary or not provided with adequate egress, or which constitute a fire hazard or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment, are, severally, for the purpose of this section, unsafe buildings. All such unsafe buildings are hereby declared to be illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the procedure of this section.
- b) The Code Enforcement Officer shall examine or cause to be examined every building reported as unsafe or damaged and shall make a written record of such examination.
- c) Whenever the Code Enforcement Officer shall find any building or structure or portion thereof to be an unsafe building as defined in this section, he shall, in the same manner as provided for the service of stop-work orders in § 38-6, give to the owner, agent or person in control of such building or structure written notice stating the defects thereof. This notice shall require the owner within a stated time either to complete specified repairs or improvements or to demolish and remove the building or structure or portion thereof.
- d) If the Code Enforcement Officer finds that there is actual and immediate danger of failure or collapse so as to endanger life, such notice shall also require the building, structure, or portion thereof to be vacated forthwith and not reoccupied until the specified repair and improvements are completed, inspected and approved by the Code Enforcement Officer. The Code Enforcement Officer shall cause to be posted at each entrance to such building a notice: **THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE ENFORCEMENT OFFICER.** Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person, firm or corporation, or their agents or other persons, to remove such notice without written permission of the Code Enforcement Officer, or for any person to enter the building except for the purpose of making the required repairs or of demolishing same.
- e) In case the owner, agent or person in control cannot be found within the stated time limit, or if such owner, agent or person in control fails, neglects or refuses to comply with the notice to repair, rehabilitate or demolish and remove said building or structure or portion thereof, the Village Attorney shall be advised of all the facts in the case and shall institute an appropriate action in the courts to compel compliance.
- f) In cases of emergency which, in the opinion of the Code Enforcement Officer, involve imminent danger to human life or health, he shall promptly cause such building, structure or portion thereof to be made safe or to be removed. For this purpose, he may at once enter such structure or land on which it stands, or abutting land or structure, with such assistance and at such cost as may be necessary. He may vacate adjacent structures and protect the public by appropriate barricades or such other means as may be necessary, and for this purpose may close a public or private way.
- g) Costs incurred under Subsections E and F of this section shall be paid out of the Village treasury on certificate of the Code Enforcement Officer. Such costs shall be assessed against the land on which said building or structure is located and shall be and become a lien on said land as of the date of such assessment. The lien of the Village for such cost and expenses shall have priority over all other liens and encumbrances, except the liens of taxes and assessments which constitute prior liens.

§ 38-10. OPERATING PERMITS

- a) (a) Operation Permits required. Operating Permits shall be required for conducting any activity listed in paragraphs (1), (2), or (3) below or operating any type of building or structure listed in paragraphs (4), (5), or (6) below:
- b) (1) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 5003.1.1(1),5003.1.1(2),5003.1.1(3),5003.1.1(4) of the 2015 edition of the International Fire Code (a publication currently incorporated by reference in 19 NYCRR Part 1225);
- c) (2) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;
- d) (3) use of pyrotechnic devices in assembly occupancies;
- e) (4) buildings containing one or more areas of public assembly with an occupant load of 100 persons or more;
- f) (5) parking garages as defined in subdivision (a) of section 13 of this local law; and
- g) (6) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Board of Trustees of this Village.
Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.
- h) Applications for Operating Permits. An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Code Enforcement Officer, at the expense of the applicant.
- i) Inspections. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an Operating Permit.
- j) Multiple Activities. In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Code Enforcement Officer may require a separate Operating Permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single Operating Permit to apply to all such activities.
- k) Duration of Operating Permits. Operating permits shall be issued for such period of time, not to exceed one year in the case of any Operating Permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Code Enforcement Officer to be consistent with local conditions. The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Code Enforcement Officer, payment of the applicable fee, and approval of such application by the Code Enforcement Officer.
- l) Revocation or suspension of Operating Permits. If the Code Enforcement Officer determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the Uniform Code, such Operating Permit shall be revoked or suspended.
- m) Fee. The fee specified in or determined in accordance with the provisions set forth in § 16 (Fees) of this local law must be paid at the time submission of an application for an Operating Permit, for an amended Operating Permit, or for reissue or renewal of an Operating Permit.

§ 38-11. FIRE SAFETY AND PROPERTY MAINTENANCE INSPECTIONS

a) Inspections required. Fire safety and property maintenance inspections of buildings and structures shall be performed by the Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at the following intervals:

- 1) Fire safety and property maintenance inspections of buildings or structures which contain an area of public assembly shall be performed at least once every twelve (12) months.
- 2) Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every twelve (12) months.
- 3) Fire safety and property maintenance inspections of all multiple dwellings not included in paragraphs (1) or (2) of this subdivision, and all non-residential buildings, structures, uses and occupancies not included in paragraphs (1) or (2) of this subdivision, shall be performed at least once every thirty-six (36) months.

- a) 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 Code Enforcement Officer or an Inspector designated by the Code Enforcement Officer at any time upon:

- 1) the request of the owner of the property to be inspected or an authorized agent of such owner;
- 2) receipt by the Code Enforcement Officer of a written statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code exist; or
- 3) receipt by the Code Enforcement Officer of any other information, reasonably believed by the Code Enforcement Officer 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;
- 4) 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.

c) 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 under Executive Law § 156-e and Education Law § 807-b. Notwithstanding any other provision of this section to the contrary:

- 1) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure which contains an area of public assembly if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;
- 2) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a building or structure occupied as a dormitory if OFPC performs fire safety and property maintenance inspections of such building or structure at least once every twelve (12) months;
- 3) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a multiple dwelling not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such multiple dwelling at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section; and
- 4) the Code Enforcement Officer shall not perform fire safety and property maintenance inspections of a non-residential building, structure, use or occupancy not included in paragraphs (1) or (2) of subdivision (a) of this section if OFPC performs fire safety and property maintenance inspections of such non-residential building, structure, use or occupancy at intervals not exceeding the interval specified in paragraph (3) of subdivision (a) of this section.

- d) Fee. The fee specified in or determined in accordance with the provisions set forth in § 38-16 (Fees) of this local law must be paid prior to or at the time each inspection performed pursuant to this section. This subdivision shall not apply to inspections performed by OFPC.

§ 38-12. COMPLAINTS

The Code Enforcement Officer 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 Code Enforcement Officer may deem to be appropriate:

- a) performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
- b) 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 § 38-15 (Violations) of this local law;
- c) if appropriate, issuing a Stop Work Order;
- d) 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.

§ 38-13. CONDITION ASSESSMENTS OF PARKING GARAGES.

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

(1) the term “condition assessment” means an on-site inspection and evaluation of a parking garage for evidence of deterioration of any structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure;

(2) the term “deterioration” means the weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component;

(3) the term “parking garage” means any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:

(i) buildings in which the only level used for parking or storage of motor vehicles is on grade;

(ii) an attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and

(iii) a townhouse unit with attached parking exclusively for such unit;

(4) the term “professional engineer” means an individual who is licensed or otherwise authorized under Article 145 of the Education Law to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations;

(5) the term “responsible professional engineer” means the professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report. The use of the term “responsible professional engineer” shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment.

(6) the term “unsafe condition” includes the conditions identified as “unsafe” in section 304.1.1, section 305.1.1, and section 306.1.1 of the 2015 edition of the International Property Maintenance Code (a publication currently incorporated by reference in 19 NYCRR Part 1226); and

(7) the term “unsafe structure” means a structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.

(b) Condition Assessments – general requirements. The owner operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in subdivision (c) of this section, periodic condition assessments as described in subdivision (d) of this section, and such additional condition assessments as may be required under subdivision (e) of this section. Each condition assessment shall be conducted by or under the direct supervision of a professional engineer. A written report of each condition assessment shall be prepared, and provided to the Village, in accordance with the requirements of subdivision (f) of this section. Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.

(c) Initial Condition Assessment. Each parking garage shall undergo an initial condition assessment as follows:

(1) New parking garages shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure,

(2) Existing parking garages shall undergo an initial condition assessment as follows:

(i) if originally constructed prior to January 1, 1984, then prior to October 1, 2019;

(ii) if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and

(iii) if originally constructed between January 1, 2003 and the effective date of the rule adding this subdivision to 19 NYCRR section 1203.3, then prior to October 1, 2021.

(d) Periodic Condition Assessments. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed three (3) years.

(e) Additional Condition Assessments.

(1) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition

assessment would be required under subdivision (c) of this section, the Village shall require the owner or operator of such parking garage to cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an additional condition assessment no later than the date recommended in such condition assessment report.

(2) If the Village becomes aware of any new or increased deterioration which, in the judgment of the Village, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under subdivision (c) of this section, the Village shall require the owner or operator of such parking garage to cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the Village to be appropriate.

(f) Condition Assessment Reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the Village within 60 days. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:

(1) an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;

(2) an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;

(3) an evaluation and description of the unsafe conditions;

(4) an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;

(5) an evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;

(6) an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;

(7) the responsible professional engineer's recommendation regarding preventative maintenance;

(8) except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and

(9) the responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in his or her professional judgment.

(g) Review Condition Assessment Reports. The Village shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the Village shall, by Order to Remedy or such other means of enforcement as the Village may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to paragraphs (2) and (3) of subdivision (f). All repairs and remedies shall comply with the applicable provisions of the Uniform Code. This section shall not limit or impair the right of the Village to take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.

(h) The Village shall retain all condition assessment reports for the life of the parking garage. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides the Village with a written statement attesting to the fact that he or she has been so engaged, the Village shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports) available to such professional engineer. The Village shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.

(i) This section shall not limit or impair the right or the obligation of the Village:

(1) to perform such construction inspections as are required by section 5 of this local law;

(2) to perform such periodic fire safety and property maintenance inspections as are required by section 11 of this local law; and/or

(3) to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the Village by means of its own inspections or observations, by means of a complaint, or by any other means other than a condition assessment or a report of a condition assessment.

§ 38-14. RECORD KEEPING

- a) The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

- 1) all applications received, reviewed and approved or denied;
- 2) all plans, specifications and construction documents approved;
- 3) all Building Permits, Certificates of Occupancy, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
- 4) all inspections and tests performed;
- 5) all statements and reports issued;
- 6) all complaints received;
- 7) all investigations conducted;
- 8) all other features and activities specified in or contemplated by § 38-4 through § 38-12, inclusive, of this local law, including; and
- 9) all fees charged and collected.

- a) 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.

§ 38-15. PROGRAM REVIEW AND REPORTING

- a) The Code Enforcement Officer shall annually submit to the Board of Trustees of this Village a written report and summary of all business conducted by the Code Enforcement Officer and the Inspectors, including a report and summary of all transactions and activities described in § 38-13 (Record Keeping) of this local law and a report and summary of all appeals or litigation pending or concluded.
- b) The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Village, on a form prescribed by the Secretary of State, a report of the activities of this Village relative to administration and enforcement of the Uniform Code.
- c) The Code Enforcement Officer shall, upon request of the New York State Department of State, provide to the New York State Department of State, from the records and related materials this Village is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of this Village in connection with administration and enforcement of the Uniform Code.

§ 38-16: VIOLATIONS

I. Orders to Remedy. The Code Enforcement Officer 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 be in writing; shall be dated and signed by the Code Enforcement Officer; shall specify the condition or activity that violates the Uniform Code, the Energy Code, or this local law; shall 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 shall include a statement substantially similar to the following:

“The person or entity served with this Order to Remedy must completely remedy each violation described in this Order to Remedy by _____ [specify date], which is thirty (30) days after the date of this Order to Remedy.”

The Order to Remedy may include provisions ordering the person or entity served with such Order to Remedy (1) to begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time 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 (2) 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 Code Enforcement Officer may deem appropriate, during the period while such violations are being remedied. The Code Enforcement Officer 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 Code Enforcement Officer 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.

- II. Appearance Tickets. The Code Enforcement Officer and each Inspector are authorized to issue appearance tickets for any violation of the Uniform Code.
- III. Civil Penalties. In addition to those penalties prescribed by State law, 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, Temporary Certificate, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this local law, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of this Village.
- IV. Injunctive Relief. An action or proceeding may be instituted in the name of this 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, the Energy Code, this local law, or any term or condition of any Building Permit, Certificate of Occupancy, Temporary Certificate, Stop Work Order, Operating Permit, Order to Remedy, or other notice or order issued by the Code Enforcement Officer 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 Village, 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 Mayor of this Village.

V. 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 § 38-6 (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 § 38-6 (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 § 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of § 382 of the Executive Law.

§ 38-17: FEES

A fee schedule shall be established by resolution of the Board of Trustees of this Village. 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, Temporary Certificates, Operating Permits, fire safety and property maintenance inspections, and other actions of the Code Enforcement Officer described in or contemplated by this local law.

§ 38-18. INTERMUNICIPAL AGREEMENTS

The Board of Trustees of this Village may, by resolution, authorize the Mayor of this Village to enter into an agreement, in the name of this Village, 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.

§ 38-19. 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.

§ 38-20. 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 § 27 of the Municipal Home Rule Law.

The Mayor asked for a motion with respect to a proposed local law to permit the Village Board from time to time to set or change the maximum fees for towing ordered by the Village. The Village Code now includes specific rates, which, it has been suggested, are not reasonable or realistic. Introductory Local Law No. 8 would make these charges subject to adjustment from time to time without amending the Code. The proposed change reads as follows:

INTRODUCTORY LOCAL LAW NO. 8 OF 2018

Be it enacted by the Mayor and Trustees of the Village of Chester as follows:

Section 1. Subsection E. of § 90-11. "Towing rates, fees and charges." of Chapter 90 of the Village Code, entitled "Towing," is hereby amended to read as follows:

§ 90-11. Towing rates, fees and charges.

E. Towing/impounding rates applying to all tow call list services shall be adopted and may be revised from time to time by the Village Board of Trustees, acting by resolution at a regular meeting of the Village Board of Trustees. A copy of the current rate list shall be available from the Village Clerk during regular business hours.

NOTE: No storage fees will be charged for vehicles released within the first 24 hours from time of tow. This shall not preclude the licensee from collecting a storage fee for the first 24 hours when a vehicle is released after that initial period.

Section 2. This Local Law shall take effect immediately upon filing with the Secretary of State.

A motion to set a date for a public hearing for Introductory Local Law No. 8 of 2018 on Tuesday, November 13, 2018 at 6:45 or as soon thereafter as possible was made by Trustee, Elizabeth A. Reilly and seconded by Deputy Mayor Christopher Battiato. Motion unanimously passed.

The Mayor asked for a resolution with respect to a proposed local law as set forth below permitting residency of appointed officials anywhere in Orange County:

INTRODUCTORY LOCAL LAW NO. 9 OF 2018

RESIDENCY OF APPOINTED OFFICIALS

Be it enacted by the Mayor and Trustees of the Village of Chester as follows:

Section 1. Pursuant to Subsection 2 of Village Law §3-300, in lieu of any other residency requirement imposed by law, any appointed Village officer may reside anywhere within Orange County, New York.

Section 2. This Local Law shall take effect immediately upon filing with the Secretary of State.

A motion to set a date for a public hearing for Introductory Local Law No.9 of 2018 on Tuesday, November 13, 2018 at 6:45 or thereafter was made by Trustee, Alan Battiato, second by Trustee, Brian J. Boone. Motion unanimously passed.

Village Clerk, Rebecca Rivera and Account Clerk, Gayle Sheely requested permission to attend New York State & Local Retirement Education Seminar, on October 12, 2018 from 9am to 3pm in the Town of Marbletown, Cottekill, NY.

A motion to authorize the Village Clerk and the Account Clerk to attend New York State & Local Retirement Education Seminar, on October 12, 2018 from 9am to 3pm in the Town of Marbletown, Cottekill, NY., was made by Trustee, Brian J. Boone, second by Trustee, Elizabeth A. Reilly. Motion unanimously passed.

A motion to reschedule the Village Board of Trustees monthly meeting from November 12, 2018 to November 13, 2018, was made by Trustee, Elizabeth A. Reilly, second by Trustee, Alan Battiato. Motion unanimously passed.

CALENDAR:

- Kite Festival – October 15, 2018 from 11-2pm at Knapp’s View on Kings Highway
- Proposed Comprehensive plan meeting will be held on: October 18, 2018 at 7pm. Location: 45 Main St., 2nd Floor above Police Station in the Village hall conference room.
- New launch date for new village of Chester website to be determined.
- Residential Water bills will be mailed on Thursday, November 1, 2018.
- Village of Chester will be CLOSED on Monday, October 8, 2018, Columbus Day.
- Comprehensive Committee Meeting on Thursday, October 25, and Thursday, November 8, 2018
- Halloween Curfew on Tuesday, October 30, 2018, and October 31, 2018.
- Village of Chester will be CLOSED on Tuesday, November 6, 2018, Election Day.
General Elections Tuesday, November 6, 2018 – for more information and polling site look up, visit: <https://www.orangecountygov.com/783/Board-of-Elections>
- Village of Chester will be CLOSED on Monday, November 12, 2018 due to Veterans Day.
- Village Board meeting will be held on November 13, 2018 due to Veterans Day.

ADJOURNMENT:

A motion to close the meeting at 8:15pm was made by Trustee, Brian J. Boone, second by Trustee, Alan Battiato. Motion unanimously passed.

Respectfully submitted,

Rebecca Rivera
Village Clerk