

HOSLEY, JR., FARBER AND HUNT

NAYS: NONE

COUNTY OF HAMILTON  
LOCAL LAW NO. 5 OF THE YEAR 1988

A LOCAL LAW PROVIDING THAT THE COUNTY OF HAMILTON  
WILL ENFORCE THE NEW YORK STATE UNIFORM FIRE PREVENTION  
AND BUILDING CODE.

Be it enacted by the Board of Supervisors of the County of Hamilton  
as follows:

Legislative intent: The purpose of this Local Law is to provide  
that the County of Hamilton will enforce the New York State Uniform Fire  
Prevention and Building Code.

Section 1. REPEAL OF LOCAL LAW NO. 1 OF 1985

Local Law No. 1 of 1985 which was duly adopted by the Hamilton Coun-  
ty Board of Supervisors on the 3rd. day of October 1985, which Local Law  
provided the County of Hamilton would not enforce the New York State  
Uniform Fire Prevention and Building Code, be and the same hereby is  
repealed in its entirety.

Section 2. ENFORCEMENT OF NEW YORK STATE UNIFORM FIRE PREVENTION AND  
BUILDING CODE

The Board of Supervisors of the County of Hamilton hereby provides  
that the County of Hamilton will commencing on January 1, 1989, enforce  
the New York State Uniform Fire Prevention and Building Code, which  
became effective January 1, 1984. This Local Law is adopted in accor-  
dance with the provisions of Section 381, paragraph 2, of the Executive  
Law of the State of New York.

Section 3. DESIGNATION OF CODE ENFORCEMENT OFFICIAL AS PUBLIC OFFICIAL

There is hereby designated in the County of Hamilton a public official to be known as the code enforcement official, who shall be appointed by the Board of Supervisors of the County of Hamilton, and the Board shall fix the compensation to be paid to said code enforcement official.

Section 4. DUTIES AND POWERS OF CODE ENFORCEMENT OFFICIAL

Except as otherwise specifically provided by law, ordinance, rule or regulation, or except as herein otherwise provided, the code enforcement official shall administer and enforce all of the provisions of the New York State Uniform Fire Prevention and Building Code and other laws, ordinances, rules and regulations applicable to plans, specifications, or permits for the construction, alteration and repair of buildings and structures, and the installation and use of materials and equipment therein, and to the location, use and occupancy thereof.

Section 5. ACTING CODE ENFORCEMENT OFFICIAL

In the absence of the code enforcement official, or in the case of his inability to act for any reason, the Board of Supervisors shall have the power to designate a person to act on behalf of the code enforcement official and to exercise all the powers conferred upon him by this Local Law.

Section 6. APPOINTMENT OF INSPECTORS

The Board of Supervisors may appoint one inspector or more as the need may appear, to act under the supervision and direction of the code enforcement official and to exercise any portion of the powers and duties of the code enforcement official as he may direct. The compensation of such inspectors shall be fixed by the Board of Supervisors.

Section 7. CONTRACTS

The Board of Supervisors does hereby establish the authority to negotiate a renewable one year contract with a qualified private firm to provide specific services relative to the administration of the New York State Uniform Fire Prevention and Building Code. The negotiated contract shall be approved by a majority vote of the Board of Supervisors.

The contractor shall perform inspections as provided for in this Local Law and shall review applications for building permits and certificates of occupancy and shall advise the Code Enforcement Official when such permits or certificates of occupancy should be issued.

#### Section 8. REVIEW BOARD

Where practicable difficulties or unnecessary hardship may result from enforcement of the strict letter of any provision of the NYS Uniform code, applications for variances consistent with the spirit of the Code may be made to the regional Board of Review in accordance with Part 440 of the New York Code of Rules and Regulations entitled "Uniform Code: Board of Review" as promulgated by the New York Department of State. The Code Enforcer shall maintain a copy of such rules and regulations for public inspection and shall obtain and retain a copy of all decisions rendered by the Board of Review pertaining to matters effecting the County of Hamilton.

#### Section 9. PERMITS

a. Except as hereinafter provided, no person, firm, corporation, association or partnership shall commence the construction, enlargement, alteration, improvement, removal or demolition of any building or structure or any portion thereof, or install a solid fuel burning heating apparatus, chimney or flue in any dwelling unit, without first having obtained a permit from the Enforcement Officer.

b. No permit shall be required for:

1) necessary repairs which do not materially affect structural features;

2) alterations to existing buildings, provided that the alterations:

i) cost less than \$10,000;

ii) do not materially affect structural features;

iii) do not affect fire safety features such as smoke detectors, sprinklers, required fire separations and exits;

iv) do not involve the installation of extension of electrical systems; and

v) do not include the installation of solid fuel burning heating appliances and associated chimneys and flues.

3) small noncommercial structures not intended for use by one or more persons as quarters for living, sleeping, eating, or cooking, for example, a small storage building, or a building containing less than 140 square feet.

4) nonresidential farm buildings, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes.

c. The application for a building permit, and its accompanying documents, shall contain sufficient information to permit a determination that the intended work accords with the requirements of the Uniform code.

d. The form of the permit and application therefore shall be pre-

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scribed by resolution of the Board of Supervisors. The application shall be signed by the owner (or his authorized agent) of the building or work and shall contain at least the following:

- 1) name and address of the owner;
- 2) identification and/or description of the land on which the work is to be done;
- 3) description of use or occupancy of the land and existing or proposed building;
- 4) description of the proposed work;
- 5) estimated cost of the proposed work;
- 6) statement that the work shall be performed in compliance with the Uniform Code and applicable State and local laws, ordinances and regulations;
- 7) required fee;

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

f. Any plans (including plot plan) or specifications which comprise a portion of the application, whether submitted subsequently upon requirement by the Enforcement Officer, shall be stamped with the seal of an architect or professional engineer or land surveyor licensed in this State, and shall in all respects comply with Section 7209 of the Educa-

tion Law of the State of New York as same may be amended from time to time.

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

h. A building permit issued pursuant to this local law shall be prominently displayed on the property or premises to which it pertains.

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

j. A building permit issued pursuant to this local law shall expire one (1) year from the date of issuance or upon the issuance of a certificate of occupancy (other than a temporary certificate of occupancy), whichever occurs first. The permit may, upon written request, be renewed for successive one-year periods provided that

1) the permit has not been revoked or suspended at the time the application for renewal is made,

2) the relevant information in the application is up to date,  
and

3) the renewal fee is paid.

the Board of Supervisors or to fail to comply with a notice, order or directive of the Code Enforcer, or to construct, alter, repair, move or equip any building or structure or part thereof in a manner not permitted by an approved building permit.

b. Any person who shall willfully fail to comply with a written order of the Code Enforcement Officer within the time fixed for compliance herewith any owner, builder, architect, tenant, contractor, sub-contractor, plumber, construction superintendent, or their agents, or any other person taking part of assisting in the construction or use of any building who shall violate any of the applicable provisions of this Local Law or any lawful order, notice, directive, permit or certificate of the Code Enforcement Officer made thereunder or in addition to any other penalties provided for in this Local Law, any person who shall violate any of the provisions of this Local Law, the Uniform Code, any rules or regulations adopted pursuant to this chapter or who shall violate or fail to comply with any order made thereunder, or who shall build in violation of any detailed statement of specifications or plans submitted and approved thereunder, shall severally for each and every such violation shall be punishable by a fine of not less than fifty dollars [\$50.00] nor more than two hundred fifty dollars [\$250.00] or by imprisonment for not more than thirty (30) days, or both fine and imprisonment. The imposition of one penalty for any violation shall not excuse the violation nor permit it to continue; and all such persons shall be required to correct or remedy such violation or defects within a reasonable time; and when not otherwise specified, each day that the prohibited condition (s) or violation continues shall constitute a separate offense. The imposition of any such penalty shall not be held to prohibit the enforced removal of prohibited conditions by any appropriate remedy, including immediate application for an injunction.

c. Any action or proceeding in the name of the County of Hamilton may be commenced in any court of competent jurisdiction to compel compliance with, or restrain by injunction, the violation of, any provisions of the New York State Uniform Fire Prevention and Building Code this

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Section 10. CERTIFICATES OF OCCUPANCY

(a) No building hereafter erected shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the code enforcement officer.

(b) No building hereafter enlarged, extended or altered, or upon which work has been performed which required the issuance of a building permit shall be occupied or used for more than thirty (30) days after the completion of the alteration or work unless a certificate of occupancy shall have been issued.

(c) No change shall be made in the occupancy of an existing building unless a certificate of occupancy authorizing such change shall have been issued.

(d) When, after final inspection, it is found that the proposed work has been completed in accordance with the applicable laws, ordinances, rules or regulations, and also in accordance with the application, the code enforcement officer shall issue a certificate of occupancy. If it is found the proposed work has not been properly completed, the code enforcement officer shall not issue a certificate of occupancy and shall order the work completed in conformity with the building permit and in conformity with the applicable building regulations.

(e) A certificate of occupancy shall be issued where appropriate, within thirty days after written application therefore is made.

(f) The certificate of occupancy shall acknowledge that the work has been completed, and that the proposed use and occupancy is in conformity with the provisions of the applicable laws, ordinances, rules and regulations, and shall specify the use or uses and the extent therefore to which the building or structure or its several parts may be put to

use.

(g) Upon request, the code enforcement officer may issue a temporary certificate of occupancy for building or structure, or part thereof, before the entire work covered by the building permit shall have been completed provided such portions as have been completed may be occupied safely without endangering life or the public health and welfare. A temporary certificate of occupancy shall remain effective for a period not exceeding three months from its date of issuance. For good causes, the code enforcement officer may allow a maximum of two extensions for periods not exceeding three months each.

#### Section 11. INSPECTIONS

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

b. Existing buildings not subject to inspection under subdivision "a" of this section shall be subject to periodic inspections for compliance with the Uniform Code in accordance with the following schedule: all areas of public assembly defined in the Uniform Code, all buildings or structures containing areas of public assembly, and the common areas of multiple dwellings - every six months; all buildings or structures open to the general public - every twelve months; all other buildings - every twenty-four months. Notwithstanding, any requirement of this subdivision to the contrary, no regular, periodic inspections of occupied dwelling units shall be required provided, however, that this shall not be a limitation on inspections conducted at the invitation of the occupant or where conditions on the premises threaten or present a haz-

ard to public health, safety, or welfare.

#### Section 12. INSPECTORS

a. The inspections required by Section 11 of this local law must be performed by the Code Enforcement Officer or Inspectors appointed by the Board of Supervisors to assist him. The Code Enforcement Officer is authorized to order, in writing, the correction of any condition in violation of the Uniform Code found in, on, or about any building. Such orders shall be served in person upon a responsible party or his authorized agent or by registered mail sent to the address of a responsible party set forth in any relevant application for a permit or in any relevant certificate. The order shall set forth the time within which the condition must be corrected. A responsible party who fails to correct the condition within the specified time shall be subject to a penalty as set forth in Section 15 in this local law.

b. A person subject to inspection under Section 11 may be required by the Code Enforcement Officer to have such inspection performed at his own cost and expense by a competent inspector acceptable to the Code Enforcement Officer. Such inspector may be a registered architect, licensed professional engineer, other certified code enforcement officer, or other person whose experience and training has been demonstrated to the satisfaction of the Code Enforcement Officer. Such inspector shall certify the results of his inspection to the Code Enforcement Officer. Any person required by the Code Enforcement Officer to have an inspection performed at his own costs and expense shall not be assessed the fees otherwise prescribed by the Town Board for such inspection.

#### Section 13. DEPARTMENT RECORDS AND REPORTS

a. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by him including all applications received, plans approved, permits and certificates

issued, fees charged and collected, inspection reports, all rules and regulations promulgated by the municipality, and notices and orders issued. All such reports shall be public information open to public inspection during normal business hours.

b. The Code Enforcement Officer shall annually submit to the County Board a written report of all business conducted.

Section 14. STOP-WORK ORDERS

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

b. Such stop-work order shall be in writing on a form prescribed by the Code Enforcement Officer and shall state the reasons of the stop-work order, together with the date of issuance. The stop-work order shall bear the signature of the Code Enforcement Officer or that of an assistant and shall be prominently posted at the work site.

Section 15. PENALTIES FOR VIOLATION OF BUILDING PERMIT

a. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, equip, use or occupy any building or structure or portion thereof in violation of any provision of the New York State Uniform Fire Prevention and Building Code, or any amendment hereafter made thereto, as well as any regulation or rule promulgated by

local law, or any rule or regulation relating thereto. Such remedy shall be in addition to any other penalties prescribed by law.

Section 16. BUILDING PERMIT FEES

Upon the filing of an application for a building permit, the applicant shall pay a fee which shall be fixed by the Board of Supervisors by resolution at the time this local law becomes effective, and at least, annually thereafter, or more frequent intervals as the Board of Supervisors may deem appropriate. The Board of Supervisors may set the fee based upon the estimated cost of the construction or alteration or upon the square footage of the proposed construction or alteration.

Section 17. RULES AND REGULATIONS

The Board of Supervisors may, after public notice and publication at least five (5) days prior to the effective date thereof in a newspaper of general circulation within the county, adopt such further procedural/administrative rules and regulations as the Board deems reasonable to carry out the provisions of this local law. The Enforcement Officer may make recommendations to the Board of Supervisors to adopt, amend, or appeal such rules and regulations as they may relate to efficient administration and enforcement of the provisions of the Uniform Code. Such rules and regulations shall conflict with the Uniform Code, this local law, or any other provision of law.

Section 18. FILING OF LOCAL LAW

The Clerk of the Board of Supervisors is hereby instructed to file a certified copy of this local law in the principal office of the State Fire Prevention and Building Code Counsel Division of Housing and Community Renewal at 2 World Trade Center, New York, New York, 10047.

Section 19. EFFECT OF LOCAL LAW

This local law shall take effect upon its being duly filed in the office of the Secretary of State of the State of New York.

Following discussion of proposed Local Law, County Attorney Drake informed he would review legal aspects involved and make any changes to the Local Law at the time of Public Hearing.