

Chapter 36

MINIMUM HOUSING AND BUILDINGS CODE

[HISTORY: Adopted by the Board of Trustees of the Village of Brockport 2-4-1974.
Amendments [00-00-2008](#)

GENERAL REFERENCES

Building Construction Code — See Ch. 10.
Building Construction Administration — See Ch. 11.
Electrical inspection — See Ch. 17.
Fire Prevention — See Ch. 19.
Flood Damage Prevention – See Ch. 20
Garbage and refuse — See Ch. 21.
Land Subdivision Regulations — See Ch. 26.
Stromwater - See Ch. 27.
Local law hearings – See Ch. 28.
Sewers – See Ch. 47.
Zoning — See Ch. 58.
Code Enforcement — See Ch. 59.
Uniform Code State of New York

ARTICLE I

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§ 36-1 **Title; purpose; scope; definitions; enforcement of the Minimum Housing and Buildings Code**

A. This code shall be known as the “Minimum Housing and Buildings Code for Dwellings, Buildings, Multiple Dwellings, Dwelling units, Premises, Structures and Equipment and is herein referred to as the “Housing and Buildings Code” or “this code.”

B. The purpose of this code is to protect the public health, safety and welfare in buildings used for dwelling and human occupation purposes as hereinafter provided by:

(1) Establishing minimum standards for basic equipment, facilities, hazardous processes / activities and/or to eliminate issues that pose a substantial potential hazard to public safety including, but not limited to, light, ventilation, space heating and electrical, for sanitation, safety from fire, for occupancy and space, use and location, exiting and means of egress, safe and sanitary maintenance, cooking equipment, plumbing provisions in all dwellings, buildings, multiple dwellings, dwelling units, premises, structures and equipment now in existence and planned.

(2) Fixing the responsibilities of owners, operators and occupants of dwellings, buildings and multiple dwellings, dwelling units, rental units, premises and structures.

(3) Providing for administration, enforcement and penalties.

C. Matters covered; 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) and local laws in the Village of Brockport. This local law is adopted in accordance with article 21 of the Village Law State of New York , Article 3 Municipal Home Rule Law State of New York. Except as otherwise provided in the Uniform Code, other state law(s), or other sections of this local law, all buildings, structures and premises, regardless of use or occupancy, are subject to the provisions of this Local Law. The provisions of the Housing & Buildings Code shall apply to all structures used for human habitation with respect to structural integrity, protection against fire and hazards, equipment or maintenance, provisions for light and air, heating, sanitary conditions and occupancy, and proper building construction and fire prevention. Or otherwise as to uses that may be deemed to constitute a menace to the safety, health or welfare of its occupants, and the general public. The existence of such conditions, factors or characteristics that can adversely affect public safety, health and welfare and lead to the continuation, extension and aggravation of urban blight. Adequate protection of the public, therefore, requires the establishment and enforcement of these minimum Housing and Buildings standards.

D. Definitions; Definitions and use of words of the code cited herein shall be as per Chapter 58, § 58-2, of the Code of the Village of Brockport and this Chapter 36.

Building - Any roofed wall structure as per the definitions stated in Chapter 58, § 58-2, of the Code of the Village of Brockport.

Building Permit - A permit issued pursuant to Section 36-2 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 the local law.

Certificate of Occupancy / Certificate of Compliance - A certificate issued pursuant to sections 36-4 – 36-7.

Code Enforcement Officer - An Officer employed by the Village of Brockport as certified by the State of New York either in the capacity of the Code Enforcement Officer, Building Inspector, Fire Marshal, Planning/Zoning Officer, Peace Officer, Stormwater Manager, Floodplain Administrator or any combination there-of.

Code Enforcement Personnel - Shall be deemed to include the Code Enforcement Officer and all Inspectors employed by the Village of Brockport, as certified by the State of New York State either in the capacity of Code Enforcement Officer, Building Inspector & Fire Marshal, and/or titled as the Assistant Code Enforcement Officer, Building Inspector & Fire Marshal or any combination there-of.

Compliance Order – A written order for the remedying of found violation(s) of the code(s), pursuant to Article II section 36-18 C.

Dwelling - To include one-family and two-family dwellings, boardinghouses, rooming houses and apartment houses, as per the definitions stated in Chapter 58, § 58-2, of the Code of the Village of Brockport.

Energy Code – New York State Energy Conservation Construction Code regulates design and construction of residential and commercial buildings for the effective use of energy.

FOIL – (Freedom of Information Law) A legislative act to assist persons seeking public records, to identify records sought.

Municipality – Shall be deemed to be The Village of Brockport

Operating permit – Shall mean a permit issued pursuant to section 36-3. The term “operating permit” shall also include an operating permit which is renewed, amended or extended pursuant to any provision of this article.

Owner - The person or entity in whose name the premises affected by an Order, issued in accordance with this article, is recorded as the owner in the office of the Monroe County Clerk.

Placard/Posting – A public notice placed on a building, structure, premise, dwelling unit, equipment and/or land pursuant to Article 1 section 36-16.

Red Tag – See Placard/Posting

Residential Rental Property – Shall mean: (1) single-family houses (one dwelling unit with living, kitchen, sanitary and sleeping facilities), rented by absentee owners to tenants by verbal contract or written contract (lease) for agreed terms, and rentals, and subject to

agreed possessory conditions; (2) multiples, so rented by absentee owners to tenants with two or more dwelling units, each with living, kitchen, sanitary and sleeping facilities, including doubles, triples, fours, or more; (3) apartment houses, with each apartment being a dwelling unit so rented by absentee owners to tenants, with living, kitchen, sanitary and sleeping facilities; (4) boarding houses and rooming houses with multiple sleeping rooms (up to 30 in number) serviced by common sanitary facilities. [For purposes of these amendments, each sleeping room in a Boardinghouse, Furnished-Room House, and Rooming House is not deemed a dwelling unit as defined above].

A. The definition of Residential Rental Properties supplements the existing Village of Brockport Code definitions for Apartment House, Boardinghouse, Furnished-Room House, Rooming House, Dwelling (Multiple), Dwelling (Two-Family), Dwelling Unit, and Unit (Single-Family Dwelling).

Stop Work Order – A public notice placed on a building, structure, premise, dwelling unit, equipment and/or land pursuant to Article 1 section 36-15, that work and/or a use is in non-compliance and shall cease.

Uniform Code - The New York State Uniform Fire Prevention and Building Code, as currently in effect and as hereafter amended.

Village - Shall be deemed to be The Village of Brockport.

E. Every portion of a building or premises used or intended to be used for human habitation purposes, shall comply with the provisions of this code, irrespective of when such building shall have been constructed, altered or repaired, except as hereinafter provided.

F. Application of New York State Uniform Fire Prevention and Building Code & the State Energy Conservation Construction Code. This code shall apply to residential rental property, one and two-family dwellings, multiple dwellings, boardinghouses, furnished-room houses, rooming houses, tourist homes, apartment houses or any other type of residential rental property, in addition to any commercial occupancies such as, but not limited to, stores and shops for retail purposes, bars and restaurants, private or public business uses, industrial manufacturing and processes, storage and warehousing. And Hotels and motels serving transient guests and rest homes, convalescent homes and nursing homes whereby sleeping accommodations are provided, hospitals, religious facilities and private schools, day cares and municipal buildings and equipment therein or a part of in respect to any alterations to buildings or changes of use therein which may be caused directly or indirectly by the enforcement of this code shall be done in accordance with applicable sections of the New York State Uniform Fire Prevention and Building Code (the Uniform Code) and the State Energy Conservation Construction Code (the Energy Code) and local law(s) of the Village of Brockport.

G. Conflict with other ordinances. In any case where a provision of this code is found to be in conflict with a provision of any zoning, building, fire, safety or health ordinance or code(s) of this municipality, the County of Monroe or the State of New York, the provision which establishes the higher standard for the promotion and the protection of the safety and health of the people shall prevail. In any case where a

provision of this code is found to be in conflict with a provision of any other ordinance of the code of this municipality existing on the effective date of this article which establishes a lower standard for the promotion and protection of the safety and health of the people, the provisions of this article shall prevail, and such other ordinances or codes and articles are hereby declared to be repealed to the extent that they may be found in conflict with this code.

H. Partial Invalidity; If any section of this Local Law shall be held unconstitutional, illegal, invalid, or otherwise unenforceable as violative of State or Local laws, the remainder of the Local Law shall remain in full force and effect, and be enforceable as such.

I. This code establishes minimum requirements for the initial and continued occupancy of all buildings used for human habitation and does not replace or modify requirements otherwise established for the construction, repair, alteration or use of buildings, equipment or facilities, except as provided in this section.

J. Nothing in this code shall be deemed to abolish or impair existing remedies of the municipality or its officers or agencies relating to the removal or demolition of any buildings which are deemed to be dangerous, unsafe or unsanitary.

K. Code Enforcement Officer; It shall be the duty and responsibility of the Code Enforcement Officer to enforce the provisions of the Housing and Buildings Code as herein provided. The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code, the Energy Code and the local law(s). The Code Enforcement Officer shall have the following powers and duties:

(1) To receive, review, and approve or disapprove applications for Building Permits, Operating Permits, Certificates of Occupancy / Certificates of Compliance, Temporary Certificates of Occupancy / Certificates of Compliance, Residential Rental Property Registrations, plans, specifications, construction documents and matters required as submitted with all such applications;

(2) Upon approval of such applications, to issue Building Permits, Operating Permits, Certificates of Occupancy / Certificates of Compliance, Temporary Certificates of Occupancy / Certificates of Compliance, Residential Property Registration and Operating Permits, and to include in Building Permits, Certificates of Occupancy / Certificates of Compliance, Temporary Certificates of Occupancy / Certificates of Compliance and Residential Rental Property Registration and such terms and conditions as the Code Enforcement Officer may determine to be appropriate;

(3) To conduct inspections including without limitations for construction, fire, fire or explosion, housing, verification of use, property maintenance any and all, inspections to be made prior to the issuance of Building Permits, Operating Permits, Certificates of Occupancy / Certificates of Compliance, Temporary Certificates of Occupancy, Residential Rental Property Registration, Fire safety inspections and property maintenance inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provisions of any local laws; and/or other codes rules and/or regulations.

- (a) To issue Stop Work Orders;
- (b) To review and investigate complaints;
- (c) To assign Points/Penalty per local law Chapter 57.
- (d) To placard unsafe buildings or structures.
- (e) To issue orders pursuant to article II section 36-18 of this local law;
- (f) To maintain records;
- (g) To collect fee(s) as determined from time to time by resolution adopted by the Board of Trustees Village of Brockport as contained in the Village of Brockport Fee Schedule.
- (h) To pursue administrative enforcement actions and proceedings;
- (i) In consultation with the Village of Brockport Attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and local laws article/articles listed further in LL Chapter 59, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this article/articles and local laws;
- (j) To exercise all other powers and fulfill all other duties conferred upon the Code Enforcement Officer by the local law(s).

(4) The Code Enforcement Officer shall be employed by the Village of Brockport. The Code Enforcement Officer shall possess background experience related to building construction and 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 State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

(5) One or more Inspectors may be employed by the Village of Brockport 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 the local law(s). 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 State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

§ 36-2 **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, the Energy Code and/or the Village of Brockport Code(s), 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, gas appliances, chimney or flue. 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. A specific list of building permits required is listed in the Village of Brockport fee Schedule.

B. Exemptions; No Building Permit shall be required for work in any of the following categories;

(a) Construction or installation of one story detached structures associated with one - or two-family dwellings or townhouses which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);

(b) Installation of swings and other playground equipment associated with a one - or two-family dwelling or multiple single-family dwellings (townhouses);

(c) 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;

(d) Installation of fences which are not part of an enclosure surrounding a swimming pool, or located in a front yard per LL Chapter 6;

(e) Construction of retaining walls unless such walls support a surcharge or impound for Class I, II or IIIA liquids as per the State of New York Building / Fire Code;

(f) Construction of temporary motion picture, television and theater stage sets and scenery;

(g) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or townhouse;

(h) Installation of partitions or movable shelving or cases less than 5'-9" in height;

(i) Painting, wallpapering, tiling, carpeting, or other similar finish work;

(j) Installation of generally accepted listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;

(k) Replacement of any equipment provided the replacement does not alter the equipment's generally accepted listing or render it inconsistent with the equipment's original specifications;

(l) Repairs, provided that such repairs do not involve;

(1) The removal or cutting away of a load bearing wall, partition, or portion thereof, or of any structural beam or load bearing component;

(2) The removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;

(3) The enlargement, alteration, replacement or relocation of any building system; or

(4) The removal from service of all or part of a fire protection system for any period of time;

C. Exemption not deemed an 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 or the Local Law(s) of the Village of Brockport.

D. Applications for Building Permits; Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. The application shall be signed by the permit applicant and 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, the Energy Code and any local laws. The application shall include or be accompanied by the following information and documentation;

(a) A description of the proposed work;

(b) The tax map number and the street address of the premises where the work is to be performed;

(c) The occupancy classification of any affected building or structure;

(d) Where applicable, a statement of special inspections in accordance with the provisions of the Uniform Code State of New York;

(e) At least 2 (two) sets of construction documents, drawings and/or specifications which;

1. Defines the scope of the proposed work;
2. May be prepared by a New York State registered architect or licensed professional engineer where so required by the New York State Education Law;
3. Indicates with sufficient clarity and detail the nature and extent of the work proposed;
4. Substantiate that the proposed work will comply with the New York State Uniform Code and the Energy Code; and
5. 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, easements, Rights of Way, any above - or below-grade utilities, their locations and drainage swales. As well, the location of the intended work, and the distances between all other buildings and structures and 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 section 36-2 D (e) of this article. Construction documents which are accepted as part of the application for a Building Permit shall be marked as accepted by the Code Enforcement Officer, and one set of the accepted construction documents shall be retained by the Code Enforcement Officer. Work shall not commence until unless a Building Permit has been issued by the Village of Brockport.

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 New York State Uniform Code and Energy Code and local laws. The Code Enforcement Officer shall issue a Building Permit if the proposed work is in compliance with the applicable requirements of the New York State Uniform Code, Energy Code and local laws.

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 approved 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 to the Village of Brockport, with the renewal application approval given 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 or local law, 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/or the local law and (2) all work then proposed to be performed shall be in compliance with all applicable provisions of the New York State Uniform Code and the Energy Code and the local laws.

K. Fee; A fee specified in or determined in accordance with the provisions set forth as required by this article shall be deposited with the Village of Brockport. Payment of fee(s) as determined by resolution adopted by the Board of Trustees as contained in the Village of Brockport Fee Schedule. Payment of fee(s) shall be at the time of issuance of an application for a Building Permit, for an amended Building Permit, or for renewal of a Building Permit, or thereafter. Work shall not be commenced until and unless a Building Permit is issued.

L Liability for damages. This code shall not be construed to hold the Village of Brockport responsible for any damages to persons or property by reason of the issuances of a Building Permit or inspections made pursuant to a Building Permit or the failure to make inspections pursuant to an application for a Building Permit, or the issuance or the failure to issue a Building Permit.

§ 36-3 **Operating Permits**

A. Operating Permits required. Operating Permits shall be required for conducting the activities or using the categories of buildings listed below:

- a) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3) or 2703.1.1(4) in the publication entitled “Fire Code of New York State” and incorporated by reference in 19 NYCRR section 1225.1;
- b) 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;
- c) Use of pyrotechnic devices in assembly occupancies or locations;
- d) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and
- e) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined and adopted by the Board of Trustees of the Village of Brockport, including and without limitation.

B. 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 or continuing such activity or operation. The eligibility of an owner for the issuance of an Operating Permit, shall be subject to the Owner being in full compliance with all applicable requirements of New York State Uniform Code, local laws, and the Codes of the Village of Brockport, specifically, and without limitation, the Village of Brockport Local Laws and Codes concerning Certificates of Occupancy, Building Permits, Residential Rental Registration, and Chapter 57 Nuisance Point/Penalty.

(1) Insurance/Indemnification: The classification of any property or use hereunder as requiring an Operating Permit, and the issuance and/or renewal thereafter of any Operating Permit may be conditioned upon the provision by the Owner of Liability, Fire, and Hazard Insurance in amounts and with additional insured coverage for the Village and/or in the execution of an Indemnification and Save Harmless Agreement by the Owner to and for the benefit of the Village of Brockport, in such form as the Code Enforcement Officer shall require; the expense of such insurance and/or indemnification shall be borne by the owner. Failure of the owner to comply with this provision shall be a ground and/or basis for the denial, revocation, or suspension of any Operating Permit.

(2) The Code Enforcement Officer of the Village of Brockport shall classify properties in the Village as being subject to the requirements of this Operating Permit requirement. Each property classification under this Code shall become a part of and be noted in any other permit or registration required for the property, as for example, on certificates of occupancy, on building permits, and on residential rental registrations. The applicant/owner shall be responsible for the expense of any professional or expert testing of the property, or its anticipated use, occupancy, or operation as the Code Enforcement Officer deems necessary (in his sole discretion) to classify the property as being subject to, or exempt from, the requirements of the Code.

C. 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 and local laws. 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.

a) 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.

b) Duration of Operating Permits. Operating Permits shall be issued for one year in the case of any Operating Permit issued, or for such lesser time periods for the occupancy, use, or operation of a property deemed by the Code Enforcement Officer to be of a temporary nature, consistent with local conditions. The effective period of the Operating Permit shall be specified in the Operating Permit. Operating Permits are renewable at the expiration of each permit period noted on the permit. It is the obligation of the owner to order a compliance inspection for the renewal of the Operating Permit at least 60 days prior to the expiration of the Operating Permit. Failure of the owner to do so shall be deemed a violation of this local law, and may subject the owner to the imposition of fines and penalties as are stated in this local law, or elsewhere to general jurisdiction fines and penalties as are stated in the Code of the Village of Brockport. The failure of an owner to comply with the Operating Permit requirements of the local law, both issuance and renewal, may subject the owner to the issuance by the Code Enforcement Officer of a temporary or permanent cease and desist Order, and/or a Stop Work Order, or an Order to vacate and discontinue the use of the property unless or until it again comes into

compliance with the requirements of this local law and/or to the assignment of Points/Penalty LL Chapter 57.

c) 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.

d) 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 NYS Uniform Codes, or any other State or Local Law that may apply (including without limitation Certificate of Occupancy / Certificate of Compliance requirements, Building Permit requirements, Residential Rental Property Registrations, and Point/Penalty requirements), such Operating Permit shall be revoked or suspended.

D. Fees: Applications for Operating Permit; Initial issuance and/or renewals shall require payment specified in or determined in accordance with the provisions set forth as required by this article and shall deposit with the Village of Brockport, application fee(s) as determined by resolution adopted by the Board of Trustees as contained in the Village of Brockport Fee Schedule. Payment of fee(s) shall be at the time of issuance of an Operating Permit as stated in the Schedule of Fees. Fee(s) shall be determined, assessed, administered and enforced by the Code Enforcement Officer of the Village of Brockport. Approved operating permit shall be obtained and paid for within thirty (30) days of issuance or such approved operating permit shall become null and void and subject to a violation of Article II section 36-18.

§ 36-4 **Certificate of Occupancy / Certificate of Compliance**

A. Certificates of Occupancy / Certificates of Compliance required; A Certificate of Occupancy / Certificate of Compliance shall be required for any work which is the subject of a Building Permit and for all structures, buildings, or portions accessory structures and equipment thereof, which are constructed, converted from one use or occupancy classification or sub-classification to another, equipment installation or structural alterations. Permission to use or occupy or put into service a building, structure, or portion thereof or equipment, for which a Building Permit was previously issued shall be granted only by issuance of a Certificate of Occupancy / Certificate of Compliance.

B. Additionally when required; Prior to transfer of title to a new owner or execution and recording of a mortgage or upon said building becoming vacant, no two-family dwelling, mixed occupancy containing two or more families, boardinghouse, rooming house, furnished-room house, tourist home, apartment house, multiple dwelling or any other type of rental property, including single-family homes, shall be occupied, in whole or in part, until the issuance of a current Certificate of Occupancy by the Code Enforcement Officer certifying that said dwelling substantially conforms to the requirements of this code, the Uniform Code, if applicable, the Zoning Ordinance and all other applicable laws, ordinances or rules. A "Current certificate of Occupancy," as used in this subsection, shall mean a Certificate of Occupancy issued no sooner than 60 days prior to transfer of title to a new owner or the execution and recording of a mortgage.

C. Issuance of Certificates of Occupancy / Certificates of Compliance; The Code Enforcement Officer shall issue a Certificate of Occupancy / Certificate of Compliance if the work which was the subject of a Building Permit and/or pursuant to section 36-2 B and was completed in accordance with all applicable provisions of the Uniform Code, Energy Code and local laws, if applicable, that the structure, building or portion thereof that was constructed, either was converted from one use or occupancy classification or sub-classification, equipment installation or structural alterations complies with all applicable provisions of the Uniform Code, Energy Code and local laws. The Code Enforcement Officer or an Inspector authorized by the Code Enforcement Officer can inspect the building, structure or work prior to the issuance of a Certificate of Occupancy / Certificate of Compliance. In addition, where applicable, documents or inspection(s) reports which will substantiate compliance can be prepared in accordance with the provisions of the Uniform Code by such person or persons as may be designated by or are otherwise acceptable to the Code Enforcement Officer, such documents or inspection report(s) will be the expense of the permit holder or applicant prior to issuance of the Certificate of Occupancy / Certificate of Compliance.

D. Contents of Certificates of Occupancy / Certificates of Compliance; A Certificate of Occupancy / Certificate of Compliance shall contain the following information;

- (a) A written statement of structural observations and/or a final report of special inspections;
- (b) Flood hazard certifications;
- (c) The Building Permit number, if any;
- (d) The date of issuance of the Building Permit, if any;
- (e) The name, address and tax map number of the property;
- (f) If the Certificate of Occupancy / Certificate of Compliance is not applicable to an entire structure, a description of that portion of the structure for which the Certificate of Occupancy / Certificate of Compliance is issued;
- (g) The use and occupancy classification of the structure;
- (h) The type of construction of the structure;
- (i) The assembly occupant load of the structure, if any;
- (j) If an automatic fire sprinkler, fire suppression system/systems fire alarm/alarms are provided, a notation as to whether the automatic fire sprinklers, fire suppression system/systems or fire alarm/alarms are required;
- (k) Any special conditions imposed in connection with the issuance of the Building Permit; and

(l) The signature of the Code Enforcement Officer issuing the Certificate of Occupancy / Certificate of Compliance and the date of issuance.

E. 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:

(a) That the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely;

(b) That any fire and/or smoke-detection or fire protection equipment which has been installed is operational, and

(c) 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 are deemed necessary or appropriate to ensure safety or to further the purposes and intent of the Uniform Code and/or local law/laws. A Temporary Certificate shall be effective for a period of time, not to exceed six (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, and/or local laws.

F. Revocation or suspension of certificates; If the Code Enforcement Officer determines that a Certificate of Occupancy / Certificate of Compliance 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.

G. Fee(s), Certificate of Occupancy; Initial issuance shall require payment specified in or determined in accordance with the provisions set forth as required by this article and shall deposit with the Village of Brockport, Certificate of Occupancy fee(s) as determined by resolution adopted by the Board of Trustees as contained in the Village of Brockport Fee Schedule. Payment of fee(s) shall be at the time of issuance of a Certificate of Occupancy as stated in the Schedule of Fees. Fee(s) shall be determined, assessed, administered and enforced by the Code Enforcement Officer of the Village of Brockport. Approved certificate of occupancy(s) shall be obtained and paid for within thirty (30) days of issuance of such approved Certificate of Occupancy, in the event payment is not rendered to the Village of Brockport the Certificate of Occupancy shall become null and void and subject to a violation of Article II section 36-18.

H. Liability for damages. This code shall not be construed to hold the Village of Brockport responsible for any damages to persons or property by reason of inspections made pursuant to an application for a Certificate of Occupancy or the failure to make

inspections pursuant to an application for a Certificate of Occupancy, or the issuance or the failure to issue a Certificate of Occupancy.

§ 36-5 Renewals of Certificates of Occupancy

A. Where no changes of occupancy or use, or any of the conditions set forth in Section 36-4 Subsection have occurred, a certificate of occupancy shall remain valid for a period of three years from the date of its issuance. No later than 30 days prior to the expiration of a Certificate of Occupancy, it shall be the obligation of the Owner to notify the Code Enforcement Officer or the Code Enforcement Officer may on his own initiative cause an inspection to be made of the dwelling for which the expiring certificate of occupancy is issued. When notifying Code Enforcement Officer to make inspection(s), the Owner shall be in compliance with a current rental registration. The Code Enforcement Officer shall then make measures for an inspection to be made of the dwelling for which the Certificate of Occupancy application is made thereof. If the dwelling is found to be in violation of any applicable law, ordinance or rule, the Code Enforcement Officer shall cause a notice / inspection report to be sent to the registered owners of the building in the manner provided for the issuance of notices / inspection report orders by the Codes Office:

- (a) Informing them of outstanding violations of laws, ordinances and rules and specifying the law, ordinance or rule involved.
- (b) Directing them to correct the violations as provided by law within a time specified therein.

B. Thereafter, the subject building shall not be occupied or used unless a Certificate of Occupancy with conditions is procured pursuant to 36-6 B.

C. If the dwelling is substantially in compliance with the laws, ordinances and rules specified in the Certificate of Occupancy and any other applicable law, ordinance or rules, the Code Enforcement Officer may issue a renewed certificate of occupancy for an additional three-year period, upon the receipt of the fee for such certificate from the registered owners.

D. Notwithstanding the existence of a valid Certificate of Occupancy, the Code Enforcement Officer may cause the subject building to be inspected as often as may be necessary for the purpose of ascertaining and causing to be corrected any violations of the provisions of the laws, ordinances or rules which are enforced.

E. Whenever violations of the Housing Code & Buildings Codes, Zoning Ordinance or any other applicable law, ordinance or rule are discovered and those violations affect the structure's substantial compliance with the applicable law, the existing Certificate of Occupancy permit shall become null and void, and the Code Enforcement Officer shall notify the registered owners that the continued occupancy or use of the building is forbidden unless a certificate of occupancy with conditions can be procured as provided in 36-6 B.

F. The registered owners of a dwelling which has been cited for violations of the applicable laws, ordinances or rules must thereafter secure a new Certificate of Occupancy.

G. Fees: Applications for Certificate of Occupancy; Initial issuance and/or renewals, conditional shall require payment specified in or determined in accordance with the provisions set forth as required by this article and shall deposit with the Village of Brockport, application fee(s) as determined by resolution adopted by the Board of Trustees are contained in the Village of Brockport Fee Schedule. Payment of fee(s) shall be at the time of issuance of a Certificate of Occupancy as stated in the Schedule of Fees. Fee(s) shall be determined, assessed, administered and enforced by the Code Enforcement Officer of the Village of Brockport. Approved Certificate of Occupancy shall be obtained and paid for within thirty (30) days of issuance of such approved Certificate of Occupancy. If said approved Certificate of Occupancy fee(s) is not rendered paid to the Village of Brockport such Certificate of Occupancy shall become null and void and subject to violation(s) of Article II section 36-18 A.

H. Liability for damages. This code shall not be construed to hold the Village of Brockport responsible for any damages to persons or property by reason of inspections made pursuant to an application for a Certificate of Occupancy or the failure to make inspections pursuant to an application for a Certificate of Occupancy, or the issuance or the failure to issue a Certificate of Occupancy.

§ 36-6 Contents of Conditional Certificates of Occupancy – Certificates of Compliance.

A. The Certificates of Occupancy with conditions shall state that the subject dwelling complies with the provisions of this chapter, the Uniform Code, the Zoning Ordinance, the Multiple Residence Law, if applicable, and all other applicable laws, ordinances and rules specified therein. In addition, Certificates of Occupancy shall state the purposes for which the building may be used in its several parts.

B. Certificate of Occupancy with conditions. The Code Enforcement Officer, in his discretion, may issue a Certificate of Occupancy with conditions where:

(1) The subject dwelling is in compliance with the Zoning Ordinance as evidenced by the endorsement of the head of the division responsible for administering the Zoning Ordinance.

(2) The subject dwelling is near substantial compliance with applicable laws, ordinances and rules.

(3) The requirements to bring the dwelling into full compliance are not essential to making the building habitable.

C. If a Certificate of Occupancy with conditions is issued, in addition to the contents required above, it shall state the specific work remaining to be done to bring the dwelling into substantial compliance with the laws, ordinances and rules specified therein, the date by which the work shall be completed and a warning that the failure to complete the work

on that date shall be sufficient cause for the revocation of the Certificate of Occupancy without further notice to the owners and other interested parties.

(1). Time limitations set forth in Certificates of Occupancy with conditions shall constitute amendments to time limitations imposed by prior notices and orders of the Department.

D. Liability for damages. This code shall not be construed to hold the Village of Brockport responsible for any damages to persons or property by reason of inspections made pursuant to an application for a Certificate of Occupancy or the failure to make inspections pursuant to an application for a Certificate of Occupancy, or the issuance or the failure to issue a Certificate of Occupancy.

§ 36-7 Certificate of Occupancy issuance and filing

A. A Certificate of Occupancy, Certificate of Compliance, temporary Certificate of Occupancy, conditional Certificate of Occupancy shall be issued within 10 days after written application thereof, if the dwelling at the time of such application is not in violation of applicable laws, ordinances or rules.

B. A record of all Certificates of Occupancy, Certificate of Compliance, Certificates of Occupancy with conditions and temporary Certificates of Occupancy, and their status, shall be kept in the office of the Code Enforcement Officer, and copies shall be furnished upon request to any owner, co-owner, tenant or mortgagee of the subject dwelling upon filing and approved FOIL and payment of the prescribed fee thereof.

C. Change of occupancy; No change of occupancy or use that would bring the dwelling under some other or additional classification of the Uniform Code, Housing Code & Buildings Code, Zoning Ordinance, of the Code of the Village of Brockport or other applicable law, ordinance or rule shall be made unless it is found, by the enforcing officer administering that law, ordinance or rule, to comply therewith, whereas the building shall not be occupied until a Certificate of Occupancy as applicable is issued thereof.

§ 36-8 Registration of Residential Rental Properties

A. Owners are required to “register” with the Village Code Enforcement Officer their residential rental properties, including boardinghouses, and rooming houses within ninety (90) days after the effective date of these amendments to the Code. The 90-day period is a one-time only grace period, regardless of how long registration and compliance takes, whether voluntary or under compulsion instituted by the Village Code Enforcement Officer. Registrations upon receipt and issuance of a rental registration shall remain valid for a period of one year from the date of its issuance. No later than thirty (30) days prior to the expiration of a rental registration, it shall be the obligation of the Owner to notify the Code Enforcement Officer to cause a rental registration to be made of the dwelling for which the expiring rental registration is issued or the Code Enforcement Officer may on his own initiative cause a rental registration to be made of such dwelling.

B. Within the 90-day period as indicated, owners of residential rental properties located within the Village shall complete and sign a “registration statement” provided by the Code Enforcement Officer, which shall state and provide the following information:

(a) The name, physical address, and telephone number of each owner;

(b) The number and address of each residential rental property (including boardinghouses, and rooming houses), the number of dwelling units contained within each residential rental property, whether the premises are governed by a written lease or an oral lease, daytime and evening telephone numbers of the owner, the maximum number of tenants and guests, and any other pertinent data sought by the Code Enforcement Officer.

(c) Name of a local property manager or agent on behalf of the property owner, if the property owner resides greater than 45 miles from the boundaries of the municipality.

C. The Owner shall sign a statement affirming whether a written lease is in effect, and, if applicable, that the written lease contains a tenant notice provision which states “Please take notice that you and the landlord (owner) have certain rights and responsibilities under the Village of Brockport Code (specifically, the Zoning code), a copy of which is available at the Village of Brockport offices, 49 State Street, Brockport, NY 14420 or at www.brockportny.org.”

D. The registration form shall indicate an address for receipt of notices by mailing for purposes of this code, and any other applicable laws or regulations.

E. The Owner shall be responsible for timely updating of such information in the event that changing circumstances would render the information in the registration form inaccurate.

F. The Owner consents to a property inspection by the Code Enforcement Officer to be conducted not later than 30 days after the filing of the Registration Statement for purposes of verifying the information provided on the Registration Statement.

G. At such time as the Registration Statement is filed and/or the information contained therein is verified by the Code Enforcement Officer, the Code Enforcement Officer shall issue a Notice to the Owner advising of the classification for the property hereunder. Such notice shall be either posted within each dwelling unit or a copy provided to each resident (tenant). At any time within 20 days after the mailing of the Notice of Classification to the Owner (receipt presumed on the fifth day following the date of postmark) by the Code Enforcement Officer, the Owner may apply to the Zoning Board of Appeals (ZBA) for a hearing on questions as follows:

- a.) Ownership and/or responsible party for the use and maintenance of the property;
- b.) Use of the property;
- c.) Classification of the property;
- d.) Whether the Classification for the property is reasonable, given all the facts and circumstances concerning the ownership, and use and occupancy of the property, historically, and at present.

H. The ZBA shall promulgate rules concerning procedure to be followed and evidence to be submitted by hearing applicants. Such rules will be published, with copies available at the Village offices, on or before the effective date of this Local Law.

I. Any Owner failing to register his residential rental property within the 90-day period following the effective date of these article, shall be subject to a Notice of Deficiency from the Code Enforcement Officer. Upon receipt of such Notice of Deficiency from the Code Enforcement Officer the owner will have another thirty (30) days to register the property without penalty; thereafter, failure to register the property after a second Notice of Deficiency (or ticket) from the Code Enforcement Officer, will result in the immediate termination/cancellation, without any further notice, of any Certificate of Occupancy in effect for the use and occupancy of the property, as well as the termination of any occupancy by more than 3-unrelated persons in such residential rental property, and further, may subject the owner upon application of the Code Enforcement Officer to a Court of competent jurisdiction, to a penalty of \$350 for each week after the initial 90-day registration period, or part of a week thereafter (from the date the owner receives the ticket), during which the residential rental property remained unregistered.

§ 36-9 **Owners-Responsible Parties**

A. The Owner of a residential rental property is the party deemed responsible for compliance with the legal requirements of these amendments. Owners are persons with record title of residential rental properties by deed conveyance, gift, devise, court order, or otherwise (including without limitation by non record-title instruments of conveyance and transfer, including without limitation installment lease purchase option agreements, installment land contracts, wrap-around contracts with deed transfer upon fulfillment of conditions stated). A “person” is defined for purposes of this definition to include living persons, or entities with the jural identity of a person, i.e., corporations, partnerships, LLC’s, etc.

B. Date of Ownership is the recording date for deeds of conveyance, gift deeds, devise deeds (executors or administrator’s deeds), the date of making and/or filing court orders transferring title, and the date of execution of non record title instruments of conveyance, as indicated. Where an instrument of conveyance is un-recorded, the grantor (seller), prior record-title owner, is deemed the owner for purposes of these amendments unless or until the deed is recorded, at which time, the grantee (buyer) will be deemed the record-title owner.

C. Intra-family transfers are not record dates, and this includes not only transfers to family members but also transfers to entities that are created for family use, tax planning, etc., i.e., trusts, corporations, LLC’s, etc. The initial acquisition of a property by a family member or by an entity controlled by the family, whether by conveyance, gift, devise, etc., is the record date.

§ 36-10 **Inspection of rental property.**

A. Property to which applicable; In addition to those provisions of Chapter 36, the Minimum Housing and Buildings Code, and notwithstanding said Chapter 36, the following requirements shall be applicable to multiple dwellings, boardinghouses, furnished-room houses, rooming houses, tourist homes, apartment houses or any other type of rental property whereby sleeping accommodations are provided.

B. Inspection of property. Those structures cited in 36-4 of this section shall require a certificate of occupancy to be issued by the Code Enforcement Office. The inspection of structures to which this section applies shall be once every three years for each structure, unless the Code Enforcement Office has reasonable grounds to believe that violations of the Housing Code, Buildings Code, Zoning Ordinance or any other local building regulation or regulations applicable to the Village exist, whereupon the Code Enforcement Office may inspect the premises as prescribed by this code. The date of subsequent triennial inspections pursuant to this code shall be in accordance with this local law.

§ 36-11 **Inspections.**

A. The Code Enforcement Officer shall make or cause to be made inspections to determine the conditions of dwellings, buildings, multiple dwellings, dwelling units, rooming houses, boardinghouses, rooming units and premises in order to safeguard the safety, health and welfare of the public under the provisions of this code. The Code Enforcement Officer is authorized to enter any dwelling, building, dwelling unit, multiple dwelling, rooming house or premises at any reasonable time for the purpose of performing his duties under this code. The owner, operator or occupant of every dwelling, building, multiple dwelling, dwelling unit or rooming unit, or the person in charge thereof, shall give the Code Enforcement Officer free access thereto and to all parts thereof and to the premises on which it is located at all reasonable times for the purpose of such inspection(s), examination and survey.

(a) It shall be unlawful for any person to refuse entrance or impede an inspector or officer authorized under this code in the performance of his duties, and every such inspector or officer shall have the right to enter, examine and survey all premises, grounds, structures, dwellings, dwelling units, buildings and multiple dwellings and every part thereof at all reasonable times upon display of proper identification.

(b) Access by owner or operator. Every occupant of a dwelling unit or rooming unit shall give the owner or operator thereof or his agent or employee access to any part of such dwelling unit, rooming unit or its premises at reasonable times for the purpose of making such inspections, maintenance, repairs or alterations as are necessary to comply with the provisions of this code.

(c) Application for search warrant. If in the opinion of the Code Enforcement Officer has been unreasonably and unlawfully refused entry into the premises for purposes of inspection, shall apply forthwith for an administrative search warrant, said application to be brought before a Town Justice of the Town of Sweden Justice Court. Upon the issuance of said warrant, the Code Enforcement Officer shall conduct the inspection as per the conduct and procedures provided for in this code.

(d) Coordination of enforcement. Inspection of premises and the issuing of orders in connection therewith under the provisions of this code shall be the exclusive responsibility of the Codes Office of the municipality. Wherever, in the opinion of the Codes Official, it is necessary or desirable to have inspections of any condition by any other departments, shall arrange for this to be done in such manner that the owners or occupants of buildings shall not be subjected to visits by numerous inspectors or to multiple or conflicting orders. No order for correction of any violation under this code shall be issued without the approval of the Code Enforcement Officer, and it shall be the responsibility of the Inspector before issuing any such order to determine that it has the concurrence of any other department or official of the government concerned with any matter involved in the case in question.

B. Administrative liability. Except as may otherwise be provided by statute, local law or ordinance, no office, agent or employee of the municipality charged with the enforcement of the Housing and Buildings Code shall render himself personally liable for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his duties under this code. No person who institutes or assists in the prosecution of a criminal proceeding under this code shall be liable to damage hereunder unless he acted with actual malice and without reasonable grounds for believing that the person accused or prosecuted was guilty of an unlawful act or omission. Any suit brought against any Mayor, Trustee(s) of the Village of Brockport, officer, agent or employee of the municipality, as a result of any act required or permitted in the discharge of his duties under this code, shall be defended by the legal representative of the municipality at no cost to the Mayor, Trustee(s) of the Village of Brockport, officer, agent or employee of the municipality, until the final determination of the proceedings therein.

§ 36-12 **Construction Inspections.**

A. Work where a building permit as been issued 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 subject to inspection as the Code Enforcement Officer deems necessary, shall included without limitations;

(a) Work site prior to the issuance of a Building Permit, if deemed necessary by the Code Enforcement Officer.

(b) Footing and foundation;

(c) Sanitary / Storm laterals and water services;

(d) Structural framing assemblies;

- (e) Building systems, including underground and rough-in;
- (f) Fire resistant construction;
- (g) Fire resistant penetrations;
- (h) Electrical rough-in;
- (i) Fire suppression and fire alarm systems installations and tests;
- (j) Solid fuel burning heating appliances gas appliances, chimneys, flues or gas vents;
- (k) Energy Code compliance; and
- (l) Final inspection after all work authorized by the Building Permit has been completed.

C. Construction Inspection results; After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the building permit/applicant holder shall be notified as to where the work fails to comply with the Uniform Code or Energy Code or local law. 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, Energy Code, and local law(s) re-inspected, and found satisfactory as completed.

D. Liability for damages. This code shall not be construed to hold the Village of Brockport responsible for any damages to persons or property by reason of inspections made pursuant to an application for a Building permit, Certificate of Occupancy or Certificate of Compliance or the failure to make inspections pursuant to an application for a Building permit, Certificate of Occupancy, Certificate of Compliance or the issuance or the failure to issue a Building permit, Certificate of Occupancy, Certificate of Compliance.

§ 36-13 Fire Safety, 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 that contain one or more areas of public assembly with an occupant load of 100 persons or more shall be performed at least once every twelve (12) months.

(2) Fire safety and property maintenance inspections of buildings or structures being occupied as Health-care, Private Schools and Day Cares shall be performed at least once every twelve (12) months.

(3) Fire safety and property maintenance inspections of all one- or two-family dwellings, multiple dwellings, boardinghouses, furnished-room houses, rooming houses, tourist homes, apartment houses, group homes or any other type of residential rental property 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.

B. Inspections permitted. In addition to the inspections required by 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 complaint statement alleging that conditions or activities failing to comply with the Uniform Code or Energy Code or local law 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 or local law exist; provided, however, that nothing in this subdivision shall be construed as permitting an inspection under any circumstances under which a court order or warrant permitting such inspection is required, unless such court order or warrant shall have been obtained.

C. Liability for damages. This code shall not be construed to hold the Village of Brockport responsible for any damages to persons or property by reason of inspections, or the failure to make or to cause an inspection.

§ 36-14 **Complaints**

A. 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, the local law(s), or any other local law or ordinance or regulation adopted for administration and enforcement of the Uniform Code or the Energy Code and local laws. The process for responding to a complaint shall include the following steps as the Code Enforcement Officers at his discretion as may deem to be appropriate:

(1) Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection;

- (2) If a violation is found to exist, providing the owner of the affected property and any other person(s) 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 by this local law;
- (3) If appropriate, issuing a Stop Work Order, and
- (4) Assigning Point/Penalty, and
- (5) 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.

§ 36-15 **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 or local laws, without regard to whether such work is or is not work for which a Building Permit or approvals are required, and without regard to whether a Building Permit or approval 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 or approval is required, and without regard to whether a Building Permit or approval has or has not been issued for such work, or
- (3) Any work for which a Building Permit or approval is required which is being performed without the required Building Permit or approval , or under a Building Permit and/or approval that has become invalid, has expired, or has been suspended or revoked.

B. Content of Stop Work Orders. Stop Work Orders shall: (1) be in writing, (2) be dated and signed by the 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.

C. 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 applicant holder, on the Permit Holder) personally or by registered mail / 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 registered mail / certified mail; provided, however, that failure to serve

any Person mentioned in this sentence shall not affect the efficacy of the Stop Work Order.

D. Effect of Stop Work Order. Upon the issuance of a Stop Work Order, the owner of the affected property, the Permit Holder and any other person performing, taking part in or assisting in the work shall immediately cease all work which is the subject of the Stop Work Order.

E. Remedy not exclusive. The issuance of a Stop Work Order shall not be the exclusive remedy available to address any event described in subdivision (1) 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 Article II Section 36-18 F 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.

§ 36-16. **Structures unfit for human habitation [RED TAG – PLACARD]**

A. Dwellings shall be condemned as unsafe for human habitation as herein provided.

(1) Whenever the Code Enforcement Officer finds that any dwellings, buildings, multiple dwellings, dwelling unit, structure, premises or equipment is found to be unsafe and/or constitutes a hazard to the safety, health or welfare of the occupants or to the public because it lacks maintenance; is in disrepair, damaged, or is unsanitary, vermin infested or rodent infested; or because it lacks the sanitary facilities or equipment, or otherwise fails to comply with the minimum provisions of the code, but has not yet reached such state of complete disrepair as to be condemned as a dangerous structure, the Code Enforcement Officer may declare such dwelling, building, multiple dwelling, dwelling unit, structure or equipment unfit for human habitation and order it to be vacated.

(2) If any dwelling, building, multiple dwelling, dwelling unit, structure, premises or any part thereof is occupied by more occupants than permitted under the code, or was erected, altered or occupied contrary to law, such dwelling, buildings or multiple dwelling, dwelling unit, structure or premises shall be deemed an unlawful structure, and the Code Enforcement Officer may cause such dwelling to be vacated. It shall be unlawful to again occupy such dwelling until, as the case may be has been made to conform to the law.

B. Notice of the declaration of any building under the Housing and Buildings Code as unfit for human habitation and order to vacate it shall be served as provided in the following subsections. When the condition requires the removal or demolition of the building, such notice shall be given as provided in § 36-18 D of this code, and the Code Enforcement Officer shall have authority for emergency measures as provided in § 36-22 B. of the code pertaining to unsafe buildings.

C. Any dwelling, building, multiple dwelling, dwelling unit, structure, premises or equipment is declared as unfit for human habitation shall be posted with a placard by the code official. The placard shall include the following:

- (1) The name of the village.
- (2) The name of the Code Enforcement Officer and department having jurisdiction.
- (3) The chapter and section of the Code under which it is issued.
- (4) An order that the dwelling, building, multiple dwelling or structure, premises when vacated must remain vacant until the provisions of the order are complied with and the order to vacate is withdrawn.
- (5) The date that the placard is posted.
- (6) A statement of the penalty for defacing or removal of the placard.

D. Form of notice. In addition to section § 36-18 D, whenever the Code Enforcement Officer has declared a dwelling, building, multiple dwelling, dwelling unit, structure, premises or equipment as unfit for human habitation, the Code Enforcement Officer shall give notice to the owner of such declaration and placarding of the dwelling, building, multiple dwelling, dwelling unit, structure, premises or equipment as unfit for human habitation. Such notice shall:

- (a) Be in writing.
- (b) Include a description of the real estate sufficient for identification.
- (c) Include a statement of the reason or reasons why it is being issued.
- (d) State the remedies to correct the conditions.
- (e) State the time occupants must vacate the dwelling units.

E. Service of notice. Service of notice to vacate shall be as follows:

- (a) By depositing the notice in the United States Post Office addressed to the owner at his last known address with postage prepaid thereon.
- (b) By posting and keeping posted for 24 hours a copy of the notice in placard form in a conspicuous place on the premises to be vacated.

F. Removal of placard or notice. No person shall deface or remove the placard from any dwelling, building or multiple dwelling, dwelling unit, structure, premises or equipment which has been declared or placarded as unfit for human habitation, except by authority from the Code official.

G. Vacating of declared building. Any dwelling, building, multiple dwelling, dwelling unit, structure, premises or equipment which has been declared and placarded as

unfit for human habitation by the Code Enforcement Officer shall be vacated within a reasonable time as required by the Code Enforcement Officer, and it shall be unlawful for any owner or operator to let to any person for use for human habitation said dwelling, building, multiple dwelling or dwelling unit, structure, premises or use equipment. No person shall occupy any dwelling, building, multiple dwelling, dwelling unit, structure, premises or use equipment which has been declared or placarded by the Code Enforcement Officer as unfit for human habitation or use after the date set forth in the placard.

H. Occupancy of building. No dwelling, building or multiple dwelling, dwelling unit, structure or equipment which has been declared or placarded as unfit for human habitation shall again be used for human habitation until approval is secured from the Code official. The Code official shall remove such placard whenever the defect or defects upon which the declaration and placarding action were based have been eliminated, by application(s) and/or any proceedings are issued or completed.

ARTICLE II ADMINISTRATION

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§ 36-17. **Enforcement**

A. The Code Enforcement Officer of the Village of Brockport (and such assistant CEO's, and/or assistant Code Enforcement Officers, collectively the "Code Enforcement Officers" hereunder) is/are the official(s) authorized to enforce the provisions of these articles by notice, ticketing, etc., or such other enforcement procedure means and methods set forth in the Code, or otherwise permitted by law.

B. Any Notice of determination by the Code Enforcement Officer concerning residential rental property registration shall be subject to one appeal to the Village of Brockport Zoning Board of Appeals, as hereinafter indicated.

- A. Notice of violation; When the Village of Brockport determines that activity is not being carried out in accordance with the requirements of this article, the Code Enforcement officer shall issue a written notice of violation/violations to the owner, owner's agent and/or resident, e.g. tenant/tenants.
- B. Informal compliance Orders; 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(s) of the Uniform Code, the Energy Code, or this article or local law(s). Upon finding that any such condition or activity exists, the Code Enforcement Officer can issue an informal (voluntary compliance) order either in writing or verbally.
- C. Compliance Orders; 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, Energy Code, or this article or local law(s). Upon finding that any such condition or activity exists, the Code Enforcement Officer shall issue a Compliance Order.

The Compliance Order shall;

- a) Be in writing;
 - b) Be dated and signed by the Code Enforcement Officer;
 - c) Specify the condition or activity that violates the Uniform Code, the Energy Code, or this article or local law(s);
 - d) Specify the provision or provisions of the Uniform Code, the Energy Code, this article or local law(s) which is/are violated by the specified condition or activity;
 - e) Specify the period of time which the Code Enforcement Officer deems to be reasonably necessary for achieving compliance;
 - f) Direct that compliance be achieved within the specified period of time; and state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time.
- D. The Code Enforcement Officer shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by registered mail / certified mail. The Code Enforcement Officer shall be permitted, but not required, to cause the Compliance Order, or a copy thereof, to be served on any property manager or agent, builder, architect, tenant(s), contractor, subcontractor, construction superintendent, or their agents, or any other Person taking part or assisting in work or use being performed or occurring at the affected property personally or by registered mail / certified mail; provided, however, that failure to serve any Person mentioned in this sentence shall not affect the efficacy of the Compliance Order.
- E. Appearance Tickets. The Code Enforcement Officer and each Inspector under the provisions of the Codes Office are authorized to issue appearance tickets for any violation of the Uniform Code, Energy Code, or this article or local law(s) when in the opinion of the Code Enforcement Officer and/or each Inspector there has been aggressive ongoing violation/violations of Uniform Code, Energy Code, or this article or local law(s)

that materially affects either life-safety or person/persons and/or the public, or the property is unsanitary and/or made a hazardous / unsafe structure or equipment/condition. The Code Enforcement Officer and/or each Inspector can issue Appearance Tickets forgoing sections 36-18 B & C, as per the authorization of Local Law Chapter 59 Section 59-1.

F. 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 the local law, or any term or condition of any Building Permit, Certificate of Occupancy / Certificate of Compliance, Temporary Certificate of Occupancy, Conditional Certificate of Occupancy Residential Rental Registration, Stop Work Order, Operating Permit or other notice or order issued by the Code Enforcement Officer pursuant to any provision of this article or local law(s), shall be liable to a civil penalty of not more than \$350 for each day or part thereof during which such violation continues. Each day on which any violation of any of the provisions of this ordinance occurs shall constitute one offense and each successive day of violation shall constitute a separate and distinct offense. Upon conviction of any such violation, such person, partnership, or corporation shall be punished by a fine of not more than \$350.00 for each offense. In addition to any other penalty authorized by this section, any person, partnership, or corporation convicted of violating any of the provisions of this article and/or local law(s) shall be required to bear the expense of such compliance. Any person who violates the provisions of this article and or local law(s) shall be subject to a fine not exceeding three hundred fifty dollars (\$350.00) or imprisonment for a period not to exceed six months, or both for conviction of a first offense; for conviction of a second offense both of which were committed within a period of five years, punishable by a fine not less than \$350.00 nor more than seven hundred dollars (\$700.00) or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense all of which were committed within a period of five years, punishable by a fine not less than \$700.00 nor more than one thousand dollars (\$1000.00) or imprisonment for a period not to exceed six months, or both. However, for the purposes of conferring jurisdiction upon courts and judicial officers generally, violations of this article or local law(s) shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the Village of Brockport.

G. Injunctive Relief; An action or proceeding may be instituted in the name of the Village of Brockport, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the Uniform Code, Energy Code, this article or local law(s), or any term or condition of any Building Permit, Certificate of Occupancy / Certificate of Compliance, Temporary Certificate, Stop Work Order, Operating Permit, Residential Rental Registration, Compliance Order, 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, Energy Code, this article or local law(s), or any Stop Work Order, Compliance Order or other order obtained under the Uniform Code, the Energy Code or this article or local law(s), an action or proceeding may be commenced in the name of the Village of Brockport, 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 Board of Trustees of the Village of Brockport.

H. Remedies Not Exclusive; No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation described in this section, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified in this section, in section 36-15 (Stop Work Orders) or 36-16 (Structures unfit for human habitation) of this article or local law, in any other section of the local law(s), or in any other applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this section, in section 36-15 (Stop Work Orders) or 36-16 (Structures unfit for human habitation) of this article or local law, in any other section of local law(s), or in any other applicable law. In particular, but not by way of limitation, each remedy and penalty specified in this section shall be in addition to, and not in substitution for or limitation of, the penalties specified in subdivision (2) of section 382 of the Executive Law, and any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any penalty specified in subdivision (2) of section 382 of the Executive Law.

§ 36-19. **Right of appeal**

A. Any owner or person who is aggrieved with the ruling or decision of the enforcing officer in any matter relative to the interpretation or enforcement of any of the provisions of the Housing and Buildings Code may appeal the decision or interpretation.

B. This appeal must be filed with the Zoning Board of the Village of Brockport within 15 days of the date of the rendition of the decision or interpretation by the Code Enforcement Officer, whose orders in relation to the matter shall be stayed until the Zoning Board has rendered its decision.

C. The aggrieved party shall file with his appeal to the Village Clerk's office a written synopsis of the matter complained of and shall enumerate which of the specific findings of the Code Enforcement Officer said party is in disagreement with and which findings are admitted.

D. The Code Enforcement Officer shall file a written synopsis of the matter complained of, said synopsis to include the findings made pursuant to his inspection and what violations as per applicable provisions of this article code, or regulation as existing in the structure in question.

§ 36-20 **Appeal hearing**

A. The Zoning Board may require a hearing to assist in its determination of the appeal whereby testimony from the aggrieved party, the Code Enforcement Officer and witnesses on behalf of each respective party may be present. Notice of said hearing shall

be given to the aggrieved party by certified mail by the Village Clerk at least 10 days prior to the date of the scheduled hearing.

B. Decision of Zoning Board; The Zoning Board shall render its decision within 15 days of the final hearing with a copy of said decision being sent to the aggrieved party by registered mail by the Village Clerk.

C. Contents of decision. The decision of the Zoning Board shall state specific findings of fact as to the dispute in question and what provision of this article, or regulation(s), the decision was based upon. If the decision of the Zoning Board is in accord with the original findings of the Code Enforcement Officer, in whole or in part, the original orders of the Code Enforcement Officer shall be reinstated automatically and shall be deemed to be in effect as of the date of the signed post office receipt of the copy of the Zoning Board's decision by the aggrieved party.

D. The decision of the Zoning Board shall be final, and available administrative relief and remedies shall be considered exhausted. However, this shall not preclude the aggrieved party from seeking appropriate relief pursuant to Article 78 of the Civil Practice Law and Rules of the State of New York.

E. Fees: Applications hearing, initial issuance and/or renewals shall require payment specified in or determined in accordance with the provisions set forth as required by this article and shall be deposited with the Village of Brockport, application fee(s) as determined by resolution adopted by the Board of Trustees as contained in the Village of Brockport Fee Schedule. Payment of fee(s) shall be at the time of hearing application as stated in the Schedule of Fees.

§ 36-21 **Notification regarding fire or explosion**

A. The Fire Chief and/or his designee of the Village of Brockport fire department, providing fire fighting services for property within the Village of Brockport, shall promptly notify the Code Enforcement Officer of any fire or explosion involving any structural damage, or fires involving any fuel-burning appliance, chimney or gas vent and/or with any issues involving the structural integrity of a building of any kind.

§ 36-22 **Unsafe buildings**

A. The purpose of this section is to promote, protect and preserve the health, welfare and property of residents and owners of property within the Village of Brockport, by providing an ordinance for the removal or repair of buildings, residences and structures therein that from any cause may now be or shall hereafter become dangerous, unsafe or a public nuisance or fire hazard.

B. Unsafe buildings; removal or repair of buildings or structures. The owner of a building or structure, or part thereof, shall at all times maintain and keep the same in good repair and healthy, safe, secure and usable. If such structure is in disrepair or is unsafe, unhealthy, insecure or unusable, it shall be considered an unsafe or dangerous structure, and shall, unless placed into good repair and made safe, healthy, secure and usable, be removed by the owner.

- (1) A structure is unsafe or dangerous when:
- (a) The walls are in poor structural condition, the floors are overloaded or there are other major structural defects, including general exterior deterioration.
 - (b) There is a lack of safeguards against fire or the structure is so poorly maintained as to presently constitute a fire hazard.
 - (c) Entry by unauthorized persons to an unoccupied structure is readily available.
 - (d) There are substantial and significant violations of the Building Code, the Housing Code or the Multiple Residence Law, which violations constitute an endangerment of health, safety and public welfare.
 - (e) There exist other conditions whereby the health, safety or welfare of the public or of occupants of the structure are endangered.
- (2) The Building Inspector may render an opinion that an unsafe or dangerous structure has so deteriorated or contains such structural conditions that it is unfeasible to restore it to a safe condition, upon findings which shall include the five conditions enumerated above.

§ 36-23 **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:
- a) All applications received, reviewed and approved or denied;
 - b) All plans, specifications and construction documents approved;
 - c) All Building Permits, Certificates of Occupancy / Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued;
 - d) All inspections and tests performed;
 - e) All statements and reports issued;
 - f) All complaints received;
 - g) All investigations conducted;
 - h) All other features and activities specified in or contemplated by sections 36-2 through 8, and 36-12 through 16 inclusive, of this article, including; and 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.

§ 36-24 **Program review and reporting**

A. The Code Enforcement Officer shall annually submit to the Board of Trustees of the Village of Brockport 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 section 36-23 (Record Keeping) of this article

B. The Code Enforcement Officer shall annually submit to the Secretary of State, on behalf of this Village of Brockport, on a form prescribed by the Secretary of State, a report of the activities of the Village of Brockport relative to administration and enforcement of the Uniform Code.

D. 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 of Brockport is required to maintain, excerpts, summaries, tabulations, statistics and other information and accounts of the activities of the Village of Brockport in connection with administration and enforcement of the Uniform Code.

§ 36-25 **Intermunicipal agreements**

The Board of Trustees of this Village of Brockport may, by resolution, authorize the Codes Official of any Municipality within New York State enter into an agreement, in the name of the Village of Brockport, with other governments to carry out the terms of this article, 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(s).

§ 36-26 **Validity**

A. Severability. If any section, subsection, paragraph, sentence, clause or phrase of this code shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this code, which shall continue in full force and effect, and to this end the provisions of this code are hereby declared to be severable.

B. Saving clause. This code shall not affect violations of any other ordinance, code or regulation of the municipality existing prior to the effective date hereof, and any such violation shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes or regulations in effect at the time the violation was committed.

C. Unconstitutionality or invalidity in part. Should any section, paragraph, sentence, clause or phrase in this code be declared unconstitutional or invalid for any reason, the remainder of the code shall not be affected thereby and shall remain in full force and effect, and to this end the provisions of this code are declared to be severable.

§ 36-27

Effective Date

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