

**VILLAGE OF HASTINGS-ON-HUDSON, NEW YORK**  
**BOARD OF TRUSTEES**  
**PUBLIC HEARING NO. 2**  
**MAY 6, 2008**

A Public Hearing was held by the Board of Trustees on Tuesday, May 6, 2008 at 8:15 p.m. in the Meeting Room, Municipal Building, 7 Maple Avenue.

**PRESENT:** Mayor Wm. Lee Kinnally, Jr., Trustee Peter Swiderski, Trustee Jeremiah Quinlan, Trustee Diggitt McLaughlin, Trustee Danielle Goodman, Village Manager Francis A. Frobel, Village Attorney Marianne Stecich, and Village Clerk Susan Maggiotto.

**CITIZENS:** Seven (7).

Mayor Kinnally declared the Board in session for the purpose of conducting a Public Hearing in accordance with the legal notice that appeared in the April 18, 2008 issue of *The Rivertowns Enterprise* to consider the advisability of adopting the following Proposed Local Laws:

**1. Proposed Local Law No. 4 of 2008 Amending Chapter 4, Appearance Tickets, of the Hastings-on-Hudson Code:**

Section 1: § 4-2 of the Hastings-on-Hudson Code should be amended to read as follows (new language *in italics*):

**§ 4-2. Authority to issue.**

The following persons are hereby authorized and empowered to issue and serve appearance tickets, provided that the issuance thereof is made pursuant to their statutory authority and otherwise consistent with the terms and provisions of this chapter:

- A. Village Manager
- B. Building Inspector
- C. Parking enforcement officer(s)
- D. Superintendent of Public Works
- E. *Fire Inspector*
- F. *Hastings-on-Hudson police officer(s)*

Section 2: This local law shall take effect immediately upon filing in the office of the New York Secretary of State.

**2. Proposed Local Law No. 5 of 2008 Amending Chapter 101, Building Construction, of the Hastings-on-Hudson Code:**

Section 1: Section 101-4 is hereby repealed.

Section 2: Sections 101-5 and 101-6 are hereby redesignated sections 101-4 and 101-5.

Section 3: Chapter 101 shall be amended by adding the following new section 101-6:

**§ 101-6. Complaints.**

The Building Inspector or Fire Inspector shall review and investigate complaints that allege or assert the existence of conditions or activities that fail to comply with the New York State Uniform Fire Prevention and Building Code, the State Energy Conservation Construction Code, the Zoning chapter (Chapter 295) of this Code, the Fire Prevention and Life Safety chapter (Chapter 143) of this Code, or any other local law or regulation adopted for administration and enforcement of those codes and chapters. The process for responding to a complaint shall include such of the following steps as the Building Inspector or Fire Inspector deems to be appropriate:

- A. Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection.
- B. If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner described in § 101-9 (Violations).
- C. If appropriate, issuing a stop work order.
- D. If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

Section 3: Section 101-9 is hereby repealed.

Section 4: Chapter 101 shall be amended by adding the following new section 101-9:

**§ 101-9. Violations.**

- A. Compliance Orders. The Building Inspector and Fire Inspector are 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 New York State Uniform Fire Prevention and Building Code, the State Energy Conservation Construction Code, or any chapter of the Hastings-on-Hudson Code of which the Building Inspector or Fire Inspector is charged with the enforcement. Upon finding that any such condition or activity exists, the Building Inspector or Fire Inspector shall issue a Compliance Order. The Compliance Order shall (1) be in writing; (2) be dated and signed by the Building Inspector or Fire Inspector; (3) specify the condition or activity that violates the Uniform Code, the Energy Code, or the Hastings-on-Hudson Code; (4) specify the provision or provisions of the codes that is/are violated by the specified condition or activity; (5) specify the period of time which the Building Inspector or Fire Inspector deems to be reasonably necessary for achieving compliance; (6) direct that compliance be achieved within the specified period of time; and (7) state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time. The Building Inspector or Fire Inspector shall cause the Compliance Order, or a copy thereof, to be served on the owner of the affected property personally or by registered or certified mail or any other method of delivery providing proof of delivery. The Building Inspector or Fire Inspector shall be permitted, but not required, to cause the Compliance 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 being performed at the affected property personally or by registered or certified mail or any other method of delivery providing proof of delivery; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the Compliance Order.
- B. Appearance Tickets. The Building Inspector, Fire Inspector, and their designees are authorized to issue appearance tickets for any violation of the New York State Uniform Fire Prevention and Building Code, the State Energy Conservation Construction Code, or any chapter of the

Hastings-on-Hudson Code of which the Building Inspector or Fire Inspector is charged with the enforcement.

- C. **Civil Penalties.** In addition to those penalties proscribed by State law, any person who violates any provision of the New York State Uniform Fire Prevention and Building Code, the State Energy Conservation Construction Code, or any chapter of the Hastings-on-Hudson Code of which the Building Inspector or Fire Inspector is charged with the enforcement, or any term or condition of any building permit, certificate of occupancy or certificate of compliance, temporary certificate, stop work order, Operating Permit or other notice or order issued by the Building Inspector or Fire Inspector pursuant to any provision of this Code, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the Village.
- D. **Injunctive Relief.** An action or proceeding may be instituted in the name of the Village, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of the New York State Uniform Fire Prevention and Building Code, the State Energy Conservation Construction Code, or any chapter of the Hastings-on-Hudson Code of which the Building Inspector or Fire Inspector is charged with the enforcement, or any term or condition of any building permit, certificate of occupancy or certificate of compliance, temporary certificate, stop work order, Operating Permit, Compliance Order, or other notice or order issued by the Building Inspector or Fire Inspector pursuant to any provision of this Code. No action or proceeding described in this subdivision shall be commenced without the appropriate authorization from the Board of Trustees of the Village.
- E. **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 any other chapter of this Code, 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 any other chapter of this code, or in any other applicable law.

**3. Proposed Local Law No. 6 of 2008 Amending Chapter 143, Fire Prevention, of the Hastings-on-Hudson Code:**

Section 1: The title of Chapter 143, Fire Prevention of the Village of Hastings-on-Hudson Code shall be amended to read as follows (new language *in italics*):

**Chapter 143  
FIRE PREVENTION AND LIFE SAFETY**

Section 2: ARTICLE III, Controlling Provisions, of Chapter 143 shall be amended to read as follows (new language *in italics*):

**ARTICLE III  
Controlling Provisions**

The controlling fire prevention standards for the Village of Hastings-on-Hudson are ~~on file in the office of the Village Clerk~~ *included both in this Chapter and in the New York State Uniform Fire Prevention and Building Code, as currently in effect and as amended from time to time. Whenever any provision of this Chapter differs from the New York State Uniform Fire Prevention and Building Code, the provision that is the more restrictive or imposes a higher standard shall govern.*

Section 3: Chapter 143 shall be amended by adding the following new Article IV:

**ARTICLE IV**

**Notification Regarding Fire or Explosion**

**§ 143-9. Notification regarding fire or explosion.**

The chief of the fire department providing fire fighting services for a property within the Village of Hastings-on-Hudson shall promptly notify the Building Inspector of any fire or explosion involving any structural damage, fuel burning appliance, chimney, or gas vent.

Section 4: Chapter 143 shall be amended by adding the following new Article V:

ARTICLE V  
**Operating Permits**

**§ 143-10. Operating Permits required.**

Operating Permits shall be required for conducting the activities or using the categories of buildings listed below. Any person who proposes to undertake any activity or to operate any type of building listed in this section shall be required to obtain an Operating Permit prior to commencing such activity or operation.

- 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 that produce combustible dust as a byproduct, fruit and crop ripening, and waste handling.
- C. Use of pyrotechnic devices in assembly occupancies.
- D. Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more.
- E. Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Board of Trustees of the Village.

**§ 143-11. Applications for Operating Permits.**

An application for an Operating Permit shall be in writing on a form provided by or otherwise acceptable to the Building Inspector. Such application shall include such information as the Building Inspector deems sufficient to permit a determination that quantities, materials, and activities conform to the requirements of the New York State Uniform Fire Prevention and Building Code. If the Building Inspector 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 Building Inspector, at the expense of the applicant.

**§ 143-12. Inspection.**

The Building Inspector, Fire Inspector, or their designees shall inspect the subject premises prior to the issuance of an Operating Permit.

**§ 143-13. Multiple activities.**

In any circumstance in which more than one activity listed in § 143-10 is to be conducted at a location, the Building Inspector may require a separate Operating Permit for each activity or may, in his/her discretion, issue a single Operating Permit to apply to all such activities.

**§ 143-14. Duration of Operating Permits.**

Operating Permits shall be issued for such period of time, not to exceed one year in the case of any Operating Permit issued for an area of public assembly and not to exceed three years in any other case, as shall be determined by the Building Inspector to be consistent with local conditions. The effective period of each Operating Permit shall be specified in the Operating Permit. An Operating Permit may be reissued or renewed upon application to the Building Inspector, payment of the applicable fee, and approval of such application by the Building Inspector.

**§ 143-15. Revocation or suspension of Operating Permits.**

If the Building Inspector determines that any activity or building for which an Operating Permit was issued does not comply with any applicable provision of the New York State Uniform Fire Prevention and Building Code, the Building Inspector shall revoke or suspend the Operating Permit.

**§ 143-16. Fee.**

An application for an Operating Permit, or for renewal or reissuance of an Operating Permit, shall be accompanied by a fee to be determined by the Village Board by resolution and set in the fee schedule.

Section 5: Chapter 143 shall be amended by adding the following new Article VI:

## ARTICLE VI

### **Fire Safety and Property Maintenance Inspections**

#### **§ 143-17. Inspections required.**

Fire safety and property maintenance inspections of buildings and structures shall be performed by the Building Inspector and/or the Fire Inspector, or an inspector designated by the Board of Trustees at the following intervals:

- A. Fire safety and property maintenance inspections of buildings or structures that contain an area of public assembly shall be performed at least once every 12 months.
- B. Fire safety and property maintenance inspections of buildings or structures being occupied as dormitories shall be performed at least once every 12 months.
- C. Fire safety and property maintenance inspections of all multiple dwellings not included in paragraphs A or B of this section, and all non-residential buildings, structures, uses and occupancies not included in paragraphs A or B of this section, shall be performed at least once every 36 months.

#### **§ 143-18. Inspections permitted.**

In addition to the inspections required by § 143-17, 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 Building Inspector or Fire Inspector, or their designees at any time upon:

- A. The request of the owner of the property to be inspected or an authorized agent of such owner; or
- B. Receipt by the Building Inspector of a written statement alleging that conditions or activities failing to comply with the New York State Uniform Fire Prevention and Building Code or the State Energy Conservation Construction Code exist; or



- C. Receipt by the Building Inspector of any other information, reasonably believed by him or her to be reliable, giving rise to reasonable cause to believe that conditions or activities failing to comply with the New York State Uniform Fire Prevention and Building Code or the State Energy Conservation Construction Code,

provided, however, that nothing in this section 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.

**§ 143-19. OFPC inspections.**

Nothing in this section or in any other provision of this article shall supersede, limit or impair the powers, duties and responsibilities of the New York State Office of Fire Prevention and Control ("OFPC") and the New York State Fire Administrator under the Executive Law and the Education Law.

**§ 143-20. Fee.**

The fee determined by the Board of Trustees and set in the fee schedule must be paid prior to or at the time each inspection is performed pursuant to this article. This section shall not apply to inspections performed by OFPC.

Section 6: Chapter 143 shall be amended by adding the following new Article VII:

ARTICLE VII

**Fires on Streets or Public Places**

**§ 143-21. Fires on streets or public places.**

No person or persons shall place or burn or cause to be placed or burned any rubbish, papers or light any inflammable material on any street or public place in the Village.

**§ 143-22. Penalties for offenses.**

Any person violating this article shall be liable and subject to a penalty of not more than \$250.

Section 7: All ordinances, local laws, and parts thereof inconsistent with this local law are hereby repealed.

Section 8: This local law shall take effect immediately upon filing in the office of the New York Secretary of State.

**4. Proposed Local Law No. 7 of 2008 Amending the Zoning Code of the Village of Hastings-on-Hudson with Respect to Requirement for Building Permits and Certificates of Occupancy**

[ AS ATTACHED ]

**Village Attorney Stecich:** The building code and the fire code in the Village are really the state Uniform Fire Prevention and Building Code. The Village has adopted them, but the state requires the Village to enact its own code provisions for implementing and enforcing the Uniform Fire Prevention and Building Code. It has some minimum standards. Some of them we had in our code, some we did not. These several local laws enact all of those standards. They mainly deal with enforcement. The reason there are four separate laws is that different sections of the code are being modified. Under state law, one local law can only deal with one issue.

The first local law modifies sections of the zoning code that deal with building permits, inspections during construction, and stop work orders. It also creates a new document, a certificate of completion. Right now the only document that closes out a building permit is a certificate of occupancy, which does not make sense for certain construction like retaining walls. That is the only new thing. The second local law modifies the building construction chapter, mainly dealing with appointment of the Building Inspector. It also has provisions for handling complaints and dealing with violations. The third local law amends the fire prevention and life safety chapter. These were all taken from the model law provided by the Department of State. The fourth local law amends our code provision on appearance tickets. There is a provision in administration of the code about who can give appearance tickets, and at the moment it does not include the Fire Inspector or police officers. They have them under other authority from other places in the law, but this just clarifies it, that the Fire Chief and the police officers can give tickets.

In the draft local laws you have, there is one correction that Devan Sharma called me with today that he and Jim Drumm had discussed. Page 8 has a provision that for inspections there are certain inspections required for fire safety and property maintenance inspections. This says the fee has to be paid before they do the inspection. As a practical matter, that

does not make any sense. That did come from the model law, but they are right that it does not make any sense. I would suggest changing section 143-20 to say that a fee for these inspections will be set by the Board of Trustees by resolution. I do not believe that is a substantive change.

**Mayor Kinnally:** This being a public hearing, anyone wishing to speak either in favor of, or in opposition to, the proposed local laws please come forward and give your name and address for the record.

Hearing no comments, Mayor Kinnally asked for a motion to close the public hearing.

**CLOSE OF PUBLIC HEARING**

On MOTION of Trustee McLaughlin, SECONDED by Trustee Swiderski with a voice vote of all in favor, Mayor Kinnally closed the Public Hearing at 8:20 p.m.