

City of Cortland
Fire Department
Code Enforcement



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To: Mayor Susan Feiszli
From: Captain Wm Knickerbocker
Date: September 14, 2010
RE: ADOPTION OF LOCAL LAW 1203, REVISION OF ADMINISTRATION OF UNIFORM CODE

During a recent Insurance Service Office evaluation of the City's Code Enforcement program, I was informed that the City of Cortland's overall ISO rating would negatively be affected due to the City never formally having adopted a revised local law, which originally dates back to 1987.

ISO conducts this audit on a regular 5 year cycle and awards positive performance points for this type of activity. Eventually this rating may affect some City property's insurance premium.

I have been informed by ISO, that if the City were to take action and formally begin the process of adopting 1203, that eventually the final ISO rating, would reflect this action.

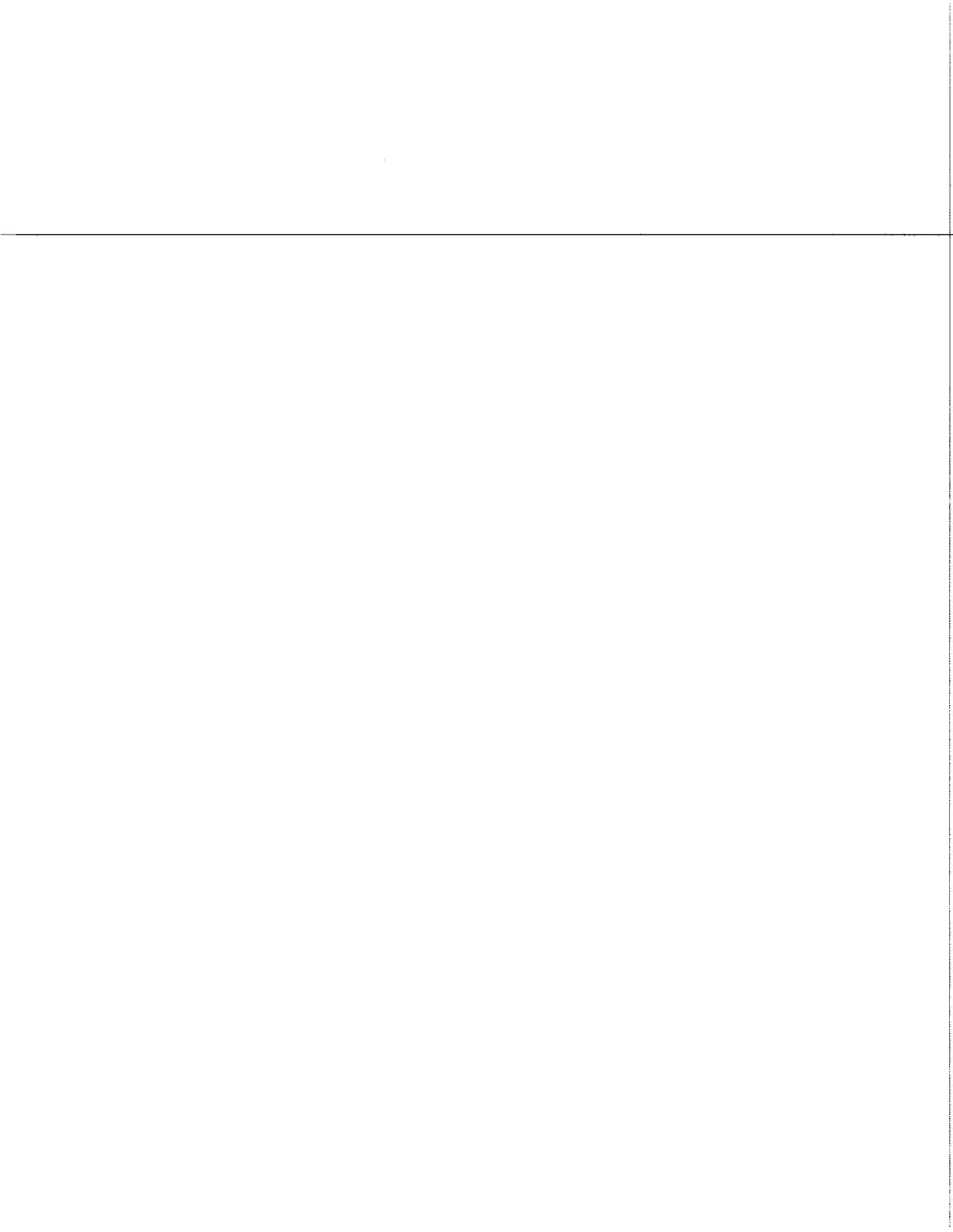
In 2003 New York State adopted the International family of Codes. What this meant is that each municipality needed to retire old language and update its law to include updated and more comprehensive administrative features, such as stop work orders and operational permits.

I have included a document entitled *History of the NYS Uniform Code*, as well as the draft version of the law that we started several years ago- for your consideration.

Please note that some key points in the law do include penalties for building permits that are filed **after** the start of a project, as well as other imperative issues that we deal with on a daily basis.

As always, if you require more specific information-please let me know and I will available if you need any assistance.

Thank you



HISTORY OF THE NYS UNIFORM CODE

In 1981, the New York State Legislature enacted legislation directing the development and implementation of an integrated building and fire code for the State. Prior to the adoption of this legislation, the decision as to whether to adopt and enforce a building and/or fire prevention code had been left to the discretion of local governments in New York. Many municipalities, primarily in the more developed and densely populated areas of the State, had adopted building and/or fire prevention codes. However, there were also many communities, mostly rural in nature, where no building or fire prevention code was in effect.

Finding this situation unacceptable in light of the perils posed by fire and inadequate building construction, the State Legislature adopted a new Article 18 of the Executive Law to provide for an integrated and comprehensive building and fire prevention code. Article 18, consisting of sections 370 through 383 of the Executive Law, sets forth the process by which the code is to be developed, maintained, administered, and enforced for the protection of all New Yorkers. Both State government and local governments are participants in this process. The code, called the **New York State Uniform Fire Prevention and Building Code** ("Uniform Code"), took effect January 1, 1984 and prescribed minimum standards for both fire prevention and building construction. It is applicable in every municipality of the State except the City of New York, which was permitted to retain its own code.

Although the Uniform Code took effect in 1984, its antecedents are much older. Beginning in the late 1940's, New York State began developing a code known as the State Building Construction Code, which provided standards for the construction of buildings and the installation of equipment therein. Developing and maintaining the State Building Construction Code eventually became the responsibility of the New York State Division of Housing and Community Renewal (DHCR). In the 1960's, DHCR began developing a second code, the

State Building Conservation and Fire Prevention Code, to address fire safety practices in buildings. Both of these codes were applicable in a municipality only when affirmatively adopted by the governing body. The State Building Construction Code and the State Building Conservation and Fire Prevention Code were repealed effective January 1, 1984 when they were replaced by the Uniform Code.

In 1978, the State Legislature added Article 11 to the Energy Law to provide for a comprehensive energy conservation construction code applicable to all public and private buildings in New York State (including buildings located in the City of New York). Article 11, consisting of sections 11-101 through 11-110 of the Energy Law, sets forth the process by which the State Energy Conservation Construction Code ("Energy Code") is to be developed, maintained, administered, and enforced for the conservation of energy in buildings in New York State. Both State government and local governments are participants in this process.

Effective January 1, 2003, the Uniform Fire Prevention and Building Code consists of several subunits, each based on a model code developed by the International Code Council. The following publications, each incorporated by reference into Title 19 of the Official Compilation of Codes, Rules and Regulations of the State of New York (19 NYCRR), in combination comprise the substantive provisions of the Uniform Code:

Code of New York State (Residential RCNYS)

Building Code of New York State (BCNYS)

Plumbing Code of New York State (PCNYS)

Mechanical Code of New York State (MCNYS)

Fuel Gas Code of New York State (FGNYS)

Fire Code of New York State (FCNYS)Property

Maintenance Code of New York State (PMCNYS)

Effective July 3, 2002, the State Energy Conservation Construction Code is based on a model energy code, developed by the International Code Council. The following publication is incorporated by reference into Title 19 of the Official Compilation:

*Energy
Conservation
Construction
Code of New
York State
(ECNYS)*

CODE DEVELOPMENT AND MAINTENANCE

Responsibility for developing and maintaining the Uniform Code and the Energy Code is vested in the State Fire Prevention and Building Code Council, a seventeen member body composed of State officials, local government officials, and members from the private sector. Originally, the Council was part of the Division of Housing and Community Renewal and the Commissioner of DHCR served as its chair. In 1996, the Council was transferred to the Department of State, and the Secretary of State now serves as chair. The Council is required to meet at least quarterly but additional meetings may be called by the chairman or by petition of five members of the Council.

Periodically both the Uniform Code and the Energy Code require amendment. If the Code Council decides to amend either code, it commences a process for rule making set forth in the State Administrative Procedure Act. That process requires publication of a notice of proposed rule making in the New York State Register which commences a period for public comment on the proposed change.

Executive Law § 377 requires the comment period for any proposed change to the Uniform Code to include at least one hearing where the public may present testimony regarding the proposal. Prior to adopting any amendment, the Council

must review and assess any public comments received with regard to the proposed rule making.

ADMINISTRATION AND ENFORCEMENT OF THE CODES

Although the task of developing and promulgating the Uniform Code is a State responsibility, Executive Law § 381 directs that the cities, towns, and villages of the State shall be responsible for enforcing the code. Pursuant to a Department of State regulation (19 NYCRR Part 1201) counties are accountable for administration and enforcement of the Uniform Code with respect to buildings, premises and equipment in the custody of, or activities related thereto undertaken by, the respective county. Unlike the earlier State Building Construction Code and State Building Conservation and Fire Prevention Code, the Uniform Code does not need to be affirmatively adopted by a municipality. It is in effect by directive of the State Legislature.

An individual city, town, or village cannot choose to exclude itself from the provisions of the Uniform Code. However, Executive Law § 381 provides that a municipality may decline to be the entity enforcing the code within its boundaries. The municipality may adopt a local law stating that it will not enforce the code and thereafter responsibility for enforcement will pass to the county in which the particular city, town, or village is located. The transfer of responsibility will become effective the following January 1, provided the local governing body adopts the necessary local law prior to July 1. If a county declines to enforce the code, it may likewise adopt a local law to that effect and responsibility for code enforcement will immediately pass to the Department of State. Energy Law § 11-107 provides that administration and enforcement of the Energy Code within a municipality shall be conducted by the governmental entity responsible for administration and enforcement of the Uniform Code. The statute directs enforcement of the Energy Code in the manner prescribed by local law or ordinance or by the procedures adopted pursuant to Executive Law § 381 for administration and enforcement of the Uniform Code. Consequently, if a municipality adopts a local law declining to administer and enforce the Uniform

Code, the result is that the municipality will also relinquish responsibility for administering and enforcing the Uniform Code.

Should a municipality choose to reassume responsibility for code enforcement, it may adopt a second local law to repeal the local law that states that the municipality will not enforce the Uniform Code. Authority to administer and enforce the code will return to the municipality as of the effective date of the second local law. The Department of State enforces the Uniform Code and the Energy Code in the place of only a limited number of local governments.

LOCAL PROGRAMS FOR ADMINISTRATION AND ENFORCEMENT OF THE CODES

Primary responsibility for administering and enforcing the Uniform Code and the Energy Code falls to the cities, towns, and villages of the State. Therefore, it is necessary for each municipal governing body to develop and implement a program for enforcement of the code within municipal boundaries. Although, fire prevention, building construction, and energy standards are uniform throughout the State, municipal programs for enforcing such standards are not and should not be uniform. A municipal code enforcement program appropriate for a large city containing many apartment buildings and a downtown commercial core is undoubtedly not an appropriate program for a rural town with a small population and mostly single family homes. Local needs and conditions should be considered when designing a municipal code enforcement program.

Executive Law § 381 directs the Secretary of State to promulgate rules and regulations prescribing minimum standards for administration and enforcement of the Uniform Code. In response to that directive, the Secretary has adopted 19 NYCRR Part 1203 (Uniform Code: Minimum Standards for Administration and Enforcement). Section 1203.2(a) of Part 1203 states:

Every city, village, town, and county charged under Subdivision 2 of section 381 of the Executive Law with administration and enforcement of the Uniform Code shall provide for such administration and enforcement of the code by local law, ordinance, or other appropriate regulation.

In most cities, towns, villages and counties, implementation of a local program for administration and enforcement of the Uniform Code will require the adoption of a local law or ordinance. Some type of local legislation is necessary to empower the local enforcement program with the force of law. As the power of villages to enact ordinances was discontinued in 1974, villages will need to rely upon their power to adopt local laws when establishing their enforcement programs.

Part 1203 provides that every municipal code enforcement program shall include certain features. The municipal governing body must establish a comprehensive coordinated program, which contains all the features, listed in Part 1203. Of necessity, some features of a municipal enforcement program will be the subject of local legislation, but others may be implemented through other methods. The choice of how to implement a local code enforcement program is left to the discretion of the local officials who are best able to assess local needs and circumstances in making their decision.