

LOCAL LAW NO. 4 OF 2023

A LOCAL LAW amending the Code of the Village of Quogue to add a new Chapter 35 entitled Fire Prevention.

BE IT ENACTED by the Board of Trustees of the Village of Quogue as follows:

SECTION 1. Amendment. The Code of the Village of Quogue is hereby amended by adding a new Chapter 35 entitled Fire Prevention as follows:

**CHAPTER 35
FIRE PREVENTION**

**Article I
Legislative Intent.**

§35-1 Legislative intent.

A. It is the intent of the Board of Trustees of the Village of Quogue to establish regulations to safeguard life and property from the hazards of fire and explosion arising from the storage, handling and use of hazardous substances, materials and devices, and from conditions hazardous to life or property in the use or occupancy of land or buildings, whether or not the land is improved or the building is occupied.

B. The Board of Trustees hereby adopts the provisions of the Fire Code of New York State and successor law for application within its jurisdictional borders, which shall be enforced in accordance with the enforcement provisions of this chapter to the fullest extent permitted by law.

C. The Board of Trustees intends to enforce the provisions of the Fire Code of New York State; the standards and regulations published by the National Fire Protection Association; and the provisions of this chapter to prevent the loss of life and the destruction of property.

D. Pursuant to §4-412 of the New York State Village Law; §119.1 (Administration and Enforcement) of the New York State Uniform Fire Prevention and Building Code, 19 NYCRR 1203.2, Executive Law §381(2) and §382 and the Municipal Home Rule Law §10(1)(ii)(a)(11) and (12), §10(1)(ii)(e)(3), 10(3)(b) and (4)(a) and (b); and other applicable laws, rules, and regulations, or successor laws, the enforcement provisions of this chapter shall control and supersede any remedy or enforcement provision contained in the Fire Code of New York State, and other applicable state law, rule, regulation or successor law to the fullest extent permitted by law.

**Article II
Administration and Enforcement**

§35-2 Fire Marshal designated; appointment, compensation. There is hereby designated in the Village of Quogue a public official to be known as the “Fire Marshal,” who shall be appointed by the Mayor with the consent of the Board of Trustees at a compensation to be fixed by it.

§35-3 Acting Fire Marshal. In the absence of the Fire Marshal or in the case of his inability to act for any reason, the Mayor shall have the power, with the consent of the Board of Trustees, to designate a person to act on behalf of the Fire Marshal and to exercise all the powers conferred upon him by this chapter. In the absence of such a designation, the Building Inspector or Ordinance Enforcement Officer shall exercise all such powers.

§35-4 Assistant or deputy Fire Marshals. The Mayor, with the consent of the Board of Trustees, may appoint assistant or deputy Fire Marshals, as the need may appear, to act under the supervision and direction of the Fire Marshal and to exercise any portion of the powers and duties of the Fire Marshal as directed by him or her. The compensation of such assistants or deputy Fire Marshals shall be fixed by the Board of Trustees.

§35-5 Powers and duties of the Fire Marshal.

The powers and duties of Fire Marshal shall be as follows:

A. It shall be the duty of the Fire Marshal to administer and enforce those portions of the New York State Uniform Fire Prevention and Building Codes addressing fire safety (primarily the Fire Code and Property Maintenance Code of the State of New York) and such other provisions of the Code of the Village of Quogue that authorizes the Fire Marshal to administer and enforce, including but not limited to the provisions of Chapter 73 (Building Construction and Fire Prevention).

B. The Fire Marshal shall have the power and authority to issue notices of violation, appearance tickets, and other accusatory instruments relative to the administration and enforcement of the Fire Code, including parking tickets. In addition, upon the request of the Building Inspector, Police or Board of Trustees, the Fire Marshal may enforce or administer other specific sections of the Code of the Village of Quogue on behalf of any other department or entity of the Village.

C. In addition to the other functions and duties granted to the Fire Marshal by this Code or by separate resolution of the Village Board or local law, the Fire Marshal shall review all subdivision applications, site plan applications, building permit applications, and plans for all buildings and structures, except one- or two-family residential dwellings. In his or her review, the Fire Marshal shall consider, among other things, items relative to exits; fire lanes; occupancy load and all factors having an effect thereon; construction restricting the spread of fire; hazardous material storage, use, handling or manufacture; hazardous processes; all fire protection equipment; and all other matters of interest or concern to the Fire Marshal.

D. It shall be the duty of the Fire Marshal to periodically inspect the interiors of all premises, except one- and two-family dwellings, for the purpose of ascertaining the existence of any

condition which may cause a fire, endanger life due to fire or violate the purpose and intent of this Code.

E. The Fire Marshal shall have the authority to assist the Quogue Fire Department in the initial investigation of the cause, origin and circumstances of any fire or explosion. The appropriate police investigatory authorities shall be contacted immediately if there is reason to believe that a fire or explosion is of incendiary or suspicious origin.

F. The Fire Marshal shall have the authority to summarily abate any condition that is in violation of any provision of this chapter and that presents immediate fire hazard to life or property.

G. The Fire Marshal may, at all reasonable hours, enter any building, structure or premises for the purpose of making any inspection or investigation which they may deem necessary to execute, accomplish or promote the purpose and intent of the Village Code in pursuance of the provisions thereof and the laws of the State of New York.

H. If the Fire Marshal determines from his inspection of any building or structure that there is actual and immediate danger of failure or collapse so as to endanger life, he shall promptly require the building, structure or portion thereof to be vacated forthwith and not to be reoccupied until the specified repairs are completed, inspected and approved by the Building Inspector. For this purpose, the Fire Marshal may enter such building or structure or land on which it stands or adjoining land or structures with such assistance and at such cost as may be necessary. The Fire Marshal may also order adjacent structures to be vacated and protect the public by appropriate barricades or such other means as may be necessary and for this purpose may close a private or public right-of-way. The Fire Marshal shall cause to be posted at each entrance to such building or structure a notice stating, "This structure is unsafe and its occupancy has been prohibited by the Building Inspector, Fire Marshal or Ordinance Enforcement Officer. Such notice shall remain posted until the required repairs are made or demolition is completed. It shall be unlawful for any person, firm or corporation or their agents or other persons to remove such notice without written permission of the Building Inspector, Fire Marshal or Ordinance Enforcement officer, or for any person to enter the building except for the purpose of making the required repairs or the demolition thereof.

I. The Fire Marshal may adopt rules and regulations for the administration and enforcement of the State Fire Prevention Code. Such rules and regulations shall be subject to the approval of the Board of Trustees and shall not conflict with the New York State Fire Prevention Code, this Chapter or any other provision of law.

J. The Fire Marshal shall keep permanent official records of all transactions and activities conducted by him or her, including all applications received, plans approved, certificates approved, fees charged and collected, inspection reports, all rules and regulations promulgated by him or her, with the consent of the Board of Trustees, and notices and orders issued. All such records shall be public records open to public inspection during normal business hours.

K. The Fire Marshal shall annually, or more frequently if required by such Board, submit to the Board of Trustees a report and summary of all business conducted by the Fire Marshal, including approvals, fees collected, orders and notices promulgated, inspections, investigations and tests made and appeals or litigation pending or concluded.

L. Where the Village has contracted for the performance of services by the Town of Southamptton Department of Fire Prevention or another contracting party, the Village Fire Marshal shall coordinate with the Town Department of Fire Prevention or the contracting party so as to not duplicate the services with his or her duties and responsibilities.

M. The Fire Marshal shall consult, advise and coordinate with the Village of Quogue Fire Department in the administration and enforcement of his or her duties under this Chapter.

§35-6 Permits.

A. A permit must be obtained from the Fire Marshal to conduct any of the following operations or to store, handle or use materials that are considered to present an extra or unusual fire hazard to life or property, as follows:

- (1) Bonfires. All fires conducted outside of a building, except fires kindled for the instruction of personnel in the methods of fighting fires or small fires kindled in or upon the ground or in a barbecue pit, exterior fireplace, cookout device or other similar out-of-doors eating or cooking device (see §123-1 & 2 of the Village Code).
- (2) Combustible dust-producing operations.
- (3) Compressed and liquefied gases.
- (4) Explosive materials. Explosives, blasting agents, water gels (slurries) and detonators, as classified by NFPA 495.
- (5) Flammable and combustible liquids, in amounts over 55 gallons, excluding paints or paint thinners but including operations involving spraying, flow-coating or dipping utilizing flammable or combustible liquids and operation (including the transportation) of asphalt kettles, except items covered pursuant to a building permit. In addition to the provisions of the State Code, all asphalt kettles shall meet the requirements of the NFPA Code with regard to roofing kettles (see §§ 3-6.3.2 and 3-6.3.3).
- (6) Flammable finishing.
- (7) Fireworks. The use of fireworks to provide audio and visual entertainment to a group of people. Applications for fireworks displays must be made at least fifteen (15) days in advance of the date of the display.
- (8) Pyroxylin plastics (cellulose nitrate).

- (9) Welding, cutting or other hot work. All cutting, welding and other hot work must be performed in accordance with the provisions of NFPA 51-B.
- (10) Tents. Applicants for permits to erect a tent will be required to submit a certificate that the tent is made of flame-resistive materials.
- (11) Installation/alteration of commercial cooking vapor removal system.
- (12) Installation/alteration of commercial fire extinguishing system.
- (13) Installation of LPG system (one- and two-family homes exempt).
- (14) Fire suppression sprinkler plans review.
- (15) Smoke/fire detection plans review (one- and two-family homes exempt).
- B. A permit issued under this section shall continue until revoked or for the period of time designated therein at the time of the issuance of the permit. The permit shall be issued to one person or business only and for the location or purpose described in the permit. Any change that affects any of the conditions of the permit shall require a new or amended permit. Permits shall not be transferable or assignable, and any change in activity, operation, location or ownership shall require a new permit.
- C. The Fire Marshal may grant an extension of the permit time period upon presentation by the permittee of a satisfactory reason for failure to start or complete the work or activity authorized by the permit within the required time period of the permit.
- D. When a temporary hazardous situation is anticipated for conditions not otherwise regulated by this article, the Fire Marshal is authorized to issue a temporary special permit for the duration of the hazard.
- E. Only one permit shall be required for each location of a firm that may be required to obtain more than one permit under permit requirements. Such a consolidated permit shall list all hazardous materials or operations covered by the permit. Revocation of any portion or portions of such a consolidated permit for specific hazardous materials or operations shall not invalidate any remaining portion of the permit.
- F. Applications for permits shall be on forms determined by the Fire Marshal and approved by the Board of Trustees and shall include the applicant's answers in full to inquiries set forth on such forms. Applications for permits shall be accompanied by such data as may be required by the Fire Marshal and such fees as may be established by the Board of Trustees.
- G. The Fire Marshal shall review all applications submitted, determine compliance with applicable provisions of the code and issue permits as required. If an application for a permit is rejected by the Fire Marshal, the applicant shall be advised of the reasons for such rejection.

- H. A copy of the permit shall be posted or otherwise readily accessible at each place of operation or carried by the permit holder, as specified by the Fire Marshal.
- I. Whenever any installation which pursuant to a permit issued under this chapter is subject to inspection prior to use is covered or concealed without having first been inspected, the Fire Marshal may require by written notice that such work be exposed for inspection. The Fire Marshal shall be notified when the installation is ready for inspection, and the Fire Marshal shall conduct the inspection within a reasonable period of time. When any construction or installation work is being performed in violation of the plans and specifications as approved by the Fire Marshal, a written notice shall be issued to the responsible party to stop work on that portion of the work that is in violation. The notice shall state the nature of the violation, and no work shall be continued on that portion until the violation has been corrected.
- J. Any activity authorized by any permit issued under this chapter shall be conducted by the permittee, the permittee's agents or employees in compliance with all requirements of this chapter applicable thereto and in accordance with the approved plans and specifications. No permit issued under this chapter shall be interpreted to justify a violation of any provision of this chapter or any other applicable law or regulation. Any addition or alteration of activities conducted under a permit issued under this chapter or any addition or alteration of approved plans or specifications shall be approved in advance by the Fire Marshal, as evidenced by the issuance of a new or amended permit.
- K. Permits shall be issued by the Fire Marshal and shall bear the name and signature of the Fire Marshal or that of the Fire Marshal's designated representative. In addition, the permit shall show:
 - (1) Operation or activities for which the permit is issued.
 - (2) Address or location where the operation or activity is to be conducted.
 - (3) Name and address of the permittee.
 - (4) Permit number and date of issuance.
 - (5) Period of validity of the permit.
 - (6) Inspection requirements.
- L. Any permit issued under this article shall not take the place of any other license or permit required by other applicable codes or laws.
- M. The Fire Marshal shall have the authority to revoke, suspend or deny the granting of any permit, approval or certificate required by this code for noncompliance with the provisions of such permit, approval or certificate or failure to meet the provisions of this code for the issuance of such permit, certificate or approval.

N. Appeals.

(1) Any person aggrieved by the determination of the Chief Fire Marshal, or the Public Safety and Emergency Management Administrator, with respect to a permit, approval or certificate required hereunder may appeal to the Board of Trustees within fifteen (15) days of the receipt of the determination by filing a written application with the Village Clerk setting forth the basis for said appeal. A public hearing shall be held by the Board of Trustees within a reasonable time after the filing of the application.

(2) The Board of trustees shall have the power to affirm, modify or annul the determination of the Fire Marshal; to vary or waive any provision of this code; or to render interpretations of the provisions of this code.

(3) In any appeal based upon a request for a variance or waiver of the provisions of this code, the applicant shall have the burden of establishing that the public health, safety and welfare will not be adversely affected.

O. Permit fees. Fees for each permit under this chapter, including late fees and fees for all lost, stolen, or destroyed permits, shall be established from time to time by resolution of the Board of Trustees, a copy of which shall remain on file with the Village Clerk's office. Fees shall not be refunded in the event that an application is denied, nor shall there be any reduction in fees for permits issued for a fractional part of the year.

P. If any of the above-referenced permits and/or fees are part of a special event the Board of Trustees shall have the authority to waive the scheduled fee.

Article III
Penalties for Offenses; Remedies

§35-7 Penalties for offenses.

A. Any person having been served, either personally or by registered or certified mail, with an order issued by the Fire Marshal under this chapter, who shall fail to comply with such order, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents or any other person taking part or assisting in the construction of any building who shall knowingly violate such order or any of the applicable provisions of the New York State Uniform Fire Prevention Code or any lawful order, notice, directive, permit or certificate made thereunder regarding standards for construction, maintenance or fire protection equipment and systems shall upon conviction be punishable by a fine of not more than \$1,000.00 per day of violation or imprisonment not exceeding fifteen (15) days, or both. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

B. Any person committing an offense against any provision of this Chapter shall, upon conviction thereof, be guilty of a violation pursuant to the Penal Law of the State of New York, punishable by a fine not exceeding \$1,000.00 or by imprisonment for a term not exceeding 15 days, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

C. For each and every violation of this chapter, the person or persons responsible for, causing, permitting, assisting in or refusing to abate or correct such violation shall be subject to a civil penalty not exceeding \$1,000.00 for each and every such violation. The continuation of a violation of this chapter shall constitute, for each day the violation is continued, a separate and distinct violation hereunder.

§35-8 Action to abate, restrain or prevent unlawful acts.

Appropriate actions and proceedings may be taken at law or in equity to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal acts, conduct or business in or about any premises, and these remedies shall be in addition to penalties otherwise prescribed by law. The Fire Marshal is authorized to issue appearance tickets relating to the enforcement of any laws, ordinances, rules or regulations administered or enforced by the Fire Marshal pursuant to this chapter.

SECTION 2. Authority. The proposed local law is enacted pursuant to §4-412 of the New York State Village Law; §119.1 (Administration and Enforcement) of the New York State Uniform Fire Prevention and Building Code, 19 NYCRR 1203.2, Executive Law §381(2) and §382 and the Municipal Home Rule Law §10(1)(ii)(a)(11) and (12), §10(1)(ii)(e)(3), 10(3)(b) and (4)(a) and (b).

SECTION 3. Severability. If any section or subsection, paragraph, clause, phrase, or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole, or any part thereof other than the part or provision so adjudged to be invalid or unconstitutional.

SECTION 4. Effective Date. This local law shall take effect upon filing with the Secretary of State pursuant to Municipal Home Rule Law.