

**STAFF ANALYSIS OF THE PETITION  
FOR APPROVAL (ADOPTION) OF  
MORE RESTRICTIVE LOCAL STANDARDS  
ENACTED OR ADOPTED BY**

**Local Law No. 2 of 2021**

**Amendments to the Village of Elmsford Village Code-  
Chapter 282**

*Located in the*

**Village of Elmsford  
Westchester County, New York**

**February 15, 2022**



New York State Department of State  
Division of Building Standards and Codes  
Code Development Unit

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## **Part I: Executive Summary**

### **Introduction**

Executive Law §379 authorizes the legislative body of a local government (city, town, or village) to enact or adopt local laws or ordinances that impose standards for construction that are more restrictive than the standards imposed by the Uniform Code.<sup>1</sup> If a local government enacts or adopts a local law or ordinance establishing such a standard (herein referred to as a More Restrictive Local Standard, or MRLS), the Chief Executive Officer of the local government must, within 30 days of enactment of the local law or adoption of the ordinance, notify the State Fire Prevention and Building Code Council (the Code Council) of the enactment or adoption and petition the Code Council for a determination that (1) the standards imposed by the local law or ordinance are, in fact, higher and more restrictive than the Uniform Code, (2) the standards imposed by the local law or ordinance are reasonably necessary because of special conditions prevailing within the local government, and (3) the standards imposed by the local law or ordinance conform with accepted engineering and fire prevention practices and the purposes of Article 18 of the Executive Law. If the Code Council determines that the local standards for construction satisfy these requirements, the Code Council will approve (or “adopt”) the local standards.

The Council has the power to (1) limit the duration of the standard, (2) impose conditions in connection with the adoption, and (3) terminate the standard at such times that the Council deems necessary.

### **Village of Elmsford Notice and Petition**

The Division of Building Standards and Codes (the Division) has received a Notice and Petition from the Village of Elmsford (the Village), asking the Code Council to approve the standards for construction imposed by the Village’s Local Law No. 2 of 2021 (hereinafter referred to as “the 2021 Local Law”).

The 2021 Local Law repeals and replaces Chapter 282 of the Village Code with §282-1 (A) through (D). §282-1 (A) and §282-1 (C) impose standards for construction while §282-1 (B) and §282-1 (D) impose administration and enforcement provisions based on the standards for construction identified in §282-1 (A) and §282-1 (C).

The Division notes that the prior version of Village Code Chapter 282 appears to have originally been adopted by the Village’s Local Law No. 2 of 1989 and had included sprinkler provisions. The Division was unable to locate any records indicating that the Village submitted a Notice and Petition for approval of Local Law No. 2 of 1989 to the Code Council and/or the Division in accordance with Executive Law §379.

More detailed summaries and staff findings are provided below.

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<sup>1</sup> Per Executive Law §379, the legislative body of any local government may not enact or adopt a local law or ordinance imposing higher or more restrictive standards for construction for factory manufactured homes, intended for use as one- or two-family dwelling units or multiple dwellings of not more than two stories in height. See Executive Law §379 (1). See also Appendix B for language of Executive Law §379.

**Summary of Village Code Provisions, as amended by the 2021 Local Law (Standards for Construction; refer to Part II B of this analysis for details)**

The Village Code provisions, as amended by the 2021 Local Law, provide as follows:

Chapter 282, Sprinkler Systems of the Village Code states:

*§282-1 Sprinkler systems required; permits.*

*A. All new buildings, including one- and two-family residences, shall have a fire Sprinkler System conforming to current National Fire Protection Association (NFPA) standards.*

*B. Building permits. No building permit shall be issued for the construction of any building, structure or portion thereof unless compliance is met, as defined in Subsection A above. Applicant shall submit plans and calculation signed and sealed by a licensed New York State Professional Engineer with the building permit application.*

*C. For any existing building, structure or occupancy, except a one- or two-family residence, which does not contain a sprinkler system conforming to NFPA standards where the total floor area is increased by 50% or more or for which the cost of any alterations, additions or repairs made within a six-month period exceeds 50% of the cost of replacement of the building at the beginning of that six-month period or where the use is converted to an A occupancy, as defined by the Uniform Code, and NFPA, plans shall be submitted in accordance with §282-1.A. and a fire sprinkler system shall be installed.*

*D. Certificates of occupancy. No certificate of occupancy shall be issued for occupancy or use of any building, structure or portion thereof required to have a sprinkler system, as defined in Subsection A above, unless such system is installed, inspected, tested and approved.*

**Special Conditions Summary (Refer to Part II C of this Analysis for details)**

Provided below are the special conditions identified by the Village as part of the Notice and Petition for the Village Code provisions, as amended by the 2021 Local Law.

- The Village states that fire protection is provided by the Elmsford Fire Department which also covers the North Elmsford and West Elmsford protection districts, which are within the surrounding Town of Greenburgh. The Town of Greenburgh has a similar existing law requiring fire sprinklers (Local Law 8 of 1994, approved June 25, 1996, by the Code Council). The Village states that the fire department has requested, and the Village Board agrees, that the Village should have the same requirements as the Town so the entire fire district will fall under the same set of standards. The Village provided a letter of support from Chief Eugene Malone III of the Elmsford Fire Department
- In addition to the reasons cited above by the Village, Chief Malone also cited in their letter of support that in providing fire protection in the Town of Greenburgh, the fire department has seen the fire protection benefit of requiring sprinklers within the Town of Greenburgh for both commercial and residential properties. Furthermore, Chief Malone identified that based on current and future development and construction within the Village, the new provisions come at an appropriate time for the Village.

## **Compliance Summary**

The following summarizes the Division's staff analysis of the Notice and Petition in relation to the requirements of Executive Law §379. Refer to Part II of this analysis for details.

- Part II A. Executive Law §379(1) Submission Requirements: The Village's Notice and Petition for the Village Code provisions, as amended by the 2021 Local Law, was timely as it was submitted by the Village Mayor on July 6, 2021, 29 days after the adoption of the 2021 Local Law on June 7, 2021.
- Part II B. Analysis and Comparison to the Uniform Code: The standards imposed by Village Code Chapter 282, as amended by the 2021 Local Law, pertaining to the requirement of installing a fire sprinkler system in all new and certain modified existing buildings on the surface is more restrictive than the Uniform Code, however, the language of the 2021 Local Law as written allows for provisions that are also less restrictive than the Uniform Code.
- Part II C. Prevailing Special Conditions: The Code Council must determine if the information provided by the Village substantiates the claim that there are special conditions prevailing in the Village that make the higher or more restrictive construction standards imposed by Village Code Chapter 282, as amended by the 2021 Local Law, reasonably necessary.
- Part II D. Conformance with Accepted Engineering and Fire Prevention Practices: The standards imposed by Village Code Section 282, as amended by the 2021 Local Law, requiring a "fire sprinkler system" for all new buildings and in certain modified and converted existing buildings, structures, or occupancies would initially appear to generally conform with accepted engineering and fire prevention practices; however, the 2021 Local Law does not permit the use of widely accepted alternative automatic fire-extinguishing systems that may better serve the intent of an automatic fire suppression system. Additionally, it does not consider the typical cost-benefit calculation to justify a fire suppression system in all types of buildings and structures. For these reasons, the standards imposed by Village Code Section 282, as amended by the 2021 Local Law, do not generally conform with accepted engineering and fire prevention practices
- Part II E. Conformance with the Purposes of Article 18: The standards imposed by Village Code Section 282, as amended by the 2021 Local Law, do not appear to conform to the purpose of Article 18 as they may inadvertently offer the residents of the Village with a level of protection from the hazards of fire that is lower than the level of protection that would otherwise be provided by the Uniform Code.

## **Staff's Findings and Recommendation**

The Division's staff recommends that the Code Council find and determine that the standards for construction imposed by Chapter 282 of the Village Code, as amended by the 2021 Local Law,

- contains language that is less restrictive than the Uniform Code;
- do not conform with accepted engineering and fire prevention practices;
- are (or are not) reasonably necessary due to special conditions prevailing in the Village; and
- do not conform with the purposes of Article 18 of the Executive Law.

If the Code Council makes the aforementioned findings and determinations, then the Code Council should deny the Village's petition with respect to the standards for construction imposed by Chapter 282 of the Village Code, as amended by the 2021 Local Law.

## **Part II: Detailed Analysis of the Petition for a MRLS**

### **A. Submission Requirements**

The Division's staff conducted a detailed analysis of the Notice and Petition. For ease of use, the checklist designations in the following Administrative Completeness Checklist correspond to the remaining sections of this analysis, where applicable.

#### **Administrative Completeness Checklist (S = Submitted, NS = Not Submitted)**

<b>S</b>	<b>NS</b>	<b>Analysis Section</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A copy of the Local Law or Ordinance.
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A detailed description of the standards for construction imposed by the Local Law or Ordinance, the corresponding standards imposed by the Uniform Code, and the reason the Municipality believes the standards for construction imposed by the Local Law or Ordinance are more restrictive than the standards imposed by the Uniform Code. <b>(Part II B)</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A detailed description of the special conditions prevailing within the Municipality, including documentation verifying its existence, and the reasons why the Petitioner and the Municipality believe that the special conditions make the more restrictive standards imposed by the Local Law or Ordinance reasonably necessary. <b>(Part II C)</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A detailed description of the reasons why the Petitioner and the Municipality believe that the standards for construction imposed by the Local Law or Ordinance conform with accepted engineering and fire prevention practices. <b>(Part II D)</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	A detailed description of the reasons why the Petitioner and the Municipality believe that such standards for construction conform with the purposes of Article 18. <b>(Part II E)</b>
<input type="checkbox"/>	<input checked="" type="checkbox"/>	Documentation regarding procedures for an aggrieved party to request a variance at the local level from the construction standards imposed by the Local Law or Ordinance. <b>(Part II F)</b>
<input checked="" type="checkbox"/>	<input type="checkbox"/>	Additional documentation. <b>(Part II G) Letter of support from the Elmsford Fire Chief</b>

#### **Executive Law §379(1) Submission Requirements**

Petition submitted by the Chief Executive Officer (CEO), or if there be none, the Chairman of the Legislative Body?  Yes  No

Name: Mayor Robert Williams  CEO  Chairman

Date of adoption of the Local Law: **June 7, 2021**

Date the Petition was received by the Division of Buildings Standards and Codes: **July 6, 2021**

Petition submitted within 30 days of adoption of the local law?  Yes  No **(29 Days)**

## **B. Analysis and Comparison to the Uniform Code (Executive Law §379(1) & §379(2))**

This analysis was performed primarily on §282-1 (A) and §282-1 (C) of Chapter 282, as both §282-1 (B) and §282-1 (D) of Chapter 282 are simply administration and enforcement provisions, not standards for construction.<sup>2</sup> §282-1 (B) and §282-1 (D) of Chapter 282 require that the standards for construction imposed by §282-1 (A) and §282-1 (C) of Chapter 282 be complied with prior to issuing either a Building Permit or a Certificate of Occupancy, respectively.

### §282-1 (A) of Chapter 282

The 2021 Local Law adds §282-1 (A) requiring fire sprinkler systems for all new buildings and specifically states that *“All new buildings, including one- and two-family residences, shall have a fire Sprinkler System conforming to current National Fire Protection Association (NFPA) standards.”*

The Uniform Code does not require a fire sprinkler system in all new buildings. Instead, the 2020 Building Code of New York State (2020 BCNYS) requires automatic sprinkler systems in certain occupancies as outlined in Section 903. Therefore, adding the requirement for a fire sprinkler system in all new buildings is generally more restrictive; however, for reasons discussed below, the implementation of the requirement conflicts with the Uniform Code, resulting in the potential of less restrictive enforcement. The need for an automatic sprinkler system within the Uniform Code changes based on conditions including but not limited to building height, building area, fire area, occupancy, occupant load, egress distances, and other attributes that may increase the hazards in a building or structure.

Similar to the 2020 BCNYS, the 2020 Residential Code of New York State (2020 RCNYS) does not require fire sprinkler systems in all new buildings. The 2020 RCNYS requires automatic fire sprinkler systems in the following scenarios:

- Townhouses, and one- and two-family dwellings having a height of three stories above grade plane (R313.1 and R313.2);
- Owner-occupied lodging houses with five or fewer guestrooms (R101.2 (6));<sup>3</sup> and
- Live/work units located in townhouses (R101.2 (5)).

When an automatic sprinkler system is required by the 2020 RCNYS or the 2020 BCNYS, the provisions then provide for the type of system that can be installed. For example, Section R313 of the 2020 RCNYS, which requires an automatic fire sprinkler system to be installed in townhouses, and one- and two-family dwellings having a height of three stories above grade plane, specifically indicates an automatic residential fire sprinkler system in accordance with Section P2904 of the 2020 RCNYS or NFPA 13D is permissible. Similarly, the 2020 BCNYS generally requires an NFPA 13 system to be installed when the code requires an automatic sprinkler system (See Section 903.3.1.1 of the 2020 BCNYS). However, the

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<sup>2</sup> The language of §282-1 (B) may cause some confusion as it may be interpreted as prohibiting the issuance of a building permit without a completed compliant fire sprinkler system. The Town of Greenburgh code, which the Village noted as serving as the model for the 2021 Local Law has significantly different language for this section. Additionally, although unrelated to the standards for construction, §282-1 (C) indicates *“plans shall be submitted in accordance with §282-1. A;”* however, §282-1 (A) does not require the plans, §282-1 (B) does. It should also be noted that the language of §282-1 (B) requires *“plans and calculation signed and sealed by a licensed New York State Professional Engineer with the building permit application”* which would exclude submission of plans and calculations signed and sealed by a New York State Registered Architect. See Education Law §7307.

<sup>3</sup> Lodging houses with more than five guestrooms would need to comply with the 2020 BCNYS as a Group R occupancy and would require an automatic sprinkler system per Section 903 of the 2020 BCNYS.

2020 BCNYS allows Group R occupancies up to and including four stories in height in buildings not exceeding 60 feet in height above grade plane be equipped with an NFPA 13R system, but automatic sprinkler systems installed in one- and two-family dwellings; Group R-3; Group R-4, Condition 1; and townhouses are permitted to be installed throughout in accordance with NFPA 13D, rather than an NFPA 13 system (See Section 903.3.1.2 and Section 903.3.1.3 of the 2020 BCNYS). The 2020 BCNYS also permits alternative automatic fire-extinguishing systems complying with Section 904 of the 2020 BCNYS where recognized by the applicable standard and approved by the fire code official (See Section 903.1.1 of the 2020 BCNYS).

The NFPA standards referenced by the Uniform Code are specific editions and versions that are officially incorporated by reference into the Uniform Code through the New York State Administrative Procedure Act process. For example, NFPA 13, NFPA 13R, and NFPA 13D noted above as being required by the 2020 BCNYS and 2020 RCNYS are specific to the 2016 editions of these standards. Although the 2019 and 2022 editions of these standards are currently published by NFPA, only the 2016 editions are enforceable under the Uniform Code.

§282-1 (A) of the 2021 Local Law specifically indicates that the required fire sprinkler system needs to conform to current NFPA standards. The 2021 Local Law does not define what a current NFPA standard is, and this statement can therefore be interpreted to mean any number of things. One interpretation would be that “current” means the most recently published version of the standard, which in the case of these three standards, would be the 2022 editions. In this interpretation, a detailed review of each individual provision would need to be completed to compare the “current” 2022 editions of these standards to the 2016 editions incorporated into the Uniform Code to determine if any single provision is less restrictive in the 2022 editions than the 2016 editions. This review was not completed by the Division as it would be very time consuming and was deemed unnecessary in light of additional items noted in this Staff Analysis.

#### §282-1 (C) of Chapter 282

The 2021 Local Law adds §282-1 (C) requiring *“For any existing building, structure or occupancy, except a one- or two-family residence, which does not contain a sprinkler system conforming to NFPA standards where the total floor area is increased by 50% or more or for which the cost of any alterations, additions or repairs made within a six-month period exceeds 50% of the cost of replacement of the building at the beginning of that six-month period or where the use is converted to an A occupancy, as defined by the Uniform Code, and NFPA, plans shall be submitted in accordance with §282-1.A. and a fire sprinkler system shall be installed.”*

The Uniform Code regulates buildings and structures that undergo a repair, alteration, change of occupancy, addition to and/or relocation of, and provides for triggering conditions that would result in the need to install an automatic sprinkler system that differs from the 50% thresholds and exception for one- or two-family residences identified in the 2021 Local Law §282-1 (C). Several examples are discussed below.

The 2021 Local Law §282-1 (C) provides an exception to the need to install a fire sprinkler system for existing one- or two-family dwellings, implying under no circumstance within the Village would an existing one- or two-family residence require a fire sprinkler system, regardless of the type of work or construction performed. Appendix J of the 2020 RCNYS requires the installation of an automatic sprinkler system in one- and two-family residences under a number of different scenarios. For example, Section AJ801.3.3 requires an automatic sprinkler system when an addition is made to create a third story above grade plane, when a habitable attic is added to a building creating a third story above grade

plane, or when the floor area of a legally existing third story is increased by more than 10 percent, with some exceptions.<sup>4</sup>

With the 2021 Local Law §282-1 (C) only requiring a fire sprinkler system be installed when certain 50% thresholds are met or when an occupancy is converted to a Group A, there are a number of scenarios where the 2020 BCNYS would require an automatic sprinkler system be installed that do not meet the 50% thresholds or conversion. For example, following the Work Area Method of the 2020 Existing Building Code of New York State (2020 EBCNYS) for a change of occupancy, Section 1011.2.1 indicates:

*“Where a change in occupancy classification occurs or where there is a change of occupancy within a space where there is a different fire protection system threshold requirement in Chapter 9 of the Building Code of New York State that requires an automatic fire sprinkler system to be provided based on the new occupancy in accordance with Chapter 9 of the Building Code of New York State, such system shall be provided throughout the area where the change of occupancy occurs.”*

This section would require an automatic sprinkler system to be installed in existing occupancies that are converted to a different occupancy classification other than an A where the 2020 BCNYS requires an automatic sprinkler system. Based on the 2021 Local Law §282-1 (C), those types of conversions are not required to install a fire sprinkler system.

An additional scenario where the 2020 EBCNYS would require the installation of an automatic sprinkler system at a threshold that is different than the 2021 Local Law §282-1 (C) is using the Work Area Method for a level II alteration. Section 803.2 identifies specific scenarios for high-rise buildings, specific use groups with exits or corridors shared by more than one tenant or that have exits or corridors serving an occupant load greater than 30, and windowless buildings.

There are many other scenarios where the 2021 Local Law would not require a fire sprinkler system, while the Uniform Code would require an automatic sprinkler system to be installed.

- **Although the requirement for a fire sprinkler system to be installed in all new buildings on the surface is more restrictive than the Uniform Code, for the reasons and examples noted in this section of the Staff Analysis, the Division recommends the Code Council find that the Local Law also contains less restrictive provisions than the Uniform Code. Those integrated less restrictive provisions cannot easily be isolated from the overall more restrictive concept.**

### **C. Prevailing Special Conditions (Executive Law §379(1))**

Exhibit C of the Notice and Petition to the Code Council identified the following as the special conditions prevailing within the Village that make the standards for construction reasonably necessary:

*“The Village of Elmsford is totally surrounded by the Town of Greenburgh. The Town of Greenburgh has a sprinkler law requiring fire sprinklers in all buildings (the language in Local Law 2-2021 was taken from the existing Greenburgh law). The Village of Elmsford Fire Department services fire protection districts in North Elmsford and West Elmsford protection districts which are within the Town and which comply with the Town Sprinkler Law. The Fire*

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<sup>4</sup> This is not an all-inclusive list, but just one example of a scenario where a one- or two-family residence would require an automatic sprinkler system be installed. A review of the entirety of Appendix J of the 2020 RCNYS should be performed by the Village to ensure any standard for construction adopted by the Village is more strict than the Uniform Code in all scenarios.



*Department has requested, and the Village Board has agreed that the Village should have the same requirements as the Town so the entire fire district will fall under the same set of standards. (See exhibit G). Since the Town was permitted to have this more restrictive requirement, it is only logical to extend the same approval to the Village which is wholly surrounded by the Town.”*

In summary, based on the request of the fire department that serves both the Village and a portion of the surrounding Town of Greenburgh, the Village petitioned on the basis that the requirement for fire sprinkler systems should be uniformly required across the fire district. Since a local law was previously approved for the Town of Greenburgh<sup>5</sup> the Village believes that it should extend the same level of protection to the Village.

In the opinion of Division staff, the mere presence of another jurisdiction in close proximity to, or sharing a fire department with the Village that has a requirement for fire sprinkler systems is not sufficient in itself to consider the standards for construction imposed by Village Code Section 282, as amended by the 2021 Local Law, reasonably necessary. All fire departments and their personnel are generally trained to handle all different fire scenarios, including buildings with and without fire sprinkler systems. While there is no argument being made by either the Division or the Village that a building equipped with a fire sprinkler is inherently safer than one that is not, Division staff feels as though the Village fails to show how in all buildings, the installation of a fire sprinkler system is “reasonably necessary” because of special conditions prevailing in the Village.

- **The Code Council must determine if the information provided substantiates the claim that there are special conditions prevailing in the Village that make the higher or more restrictive construction standards imposed by Village Code Section 282, as amended by the 2021 Local Law, reasonably necessary.**<sup>6</sup>

#### **D. Conformance to Accepted Engineering and Fire Prevention Practices (Executive Law §379(2))**

The standards imposed by the 2021 Local Law contain provisions to require the design and installation of a “fire sprinkler system” in all new and some modified existing buildings and conversions. Although the concept of installing fire sprinkler systems in buildings to protect against the spread of fire is, in general, an accepted engineering and fire prevention practice, the 2021 Local Law does not specifically identify what specific standards for fire sprinkler systems by NFPA are acceptable, nor what a “fire sprinkler system” is. Presumably, the 2021 Local Law is referencing the following standards for fire sprinkler system design and construction: NFPA 13 - Standard for Installation of Sprinkler Systems, NFPA 13R - Standard for the Installation of Sprinkler Systems in Low-Rise Residential Occupancies, and NFPA 13D - Standard for the Installation of Sprinkler Systems in One- and Two-family Dwellings and Manufactured Homes.

Although these standards are widely accepted for fire sprinkler system design, there are other methodologies of providing automatic fire suppression. The first, is Section P2904 of the 2020 RCNYS

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<sup>5</sup> The Town of Greenburgh has a similar Notice and Petition that was approved at the June 1996 Code Council meeting. The transcript of the meeting indicates the vote was unanimous based on the Town already having an approval for the provisions, but a second approval was needed because the Town had reorganized their own Code.

<sup>6</sup> To the extent that the standards for construction imposed by Village Code Section 282, as amended by the 2021 Local Law, include provisions that are *less* restrictive than the Uniform Code, the Code Council cannot find that such standards are reasonably necessary because of special conditions prevailing in the Village. See Executive Law §379(2).

which is a widely accepted prescriptive code that can be used as an alternative to NFPA 13D. Furthermore, many other NFPA standards do not necessarily fit into the title of a “fire sprinkler system” that would provide for automatic fire suppression methodologies and are widely accepted engineering and fire prevention practices. As discussed earlier, Section 903.1.1 of the 2020 BCNYS recognizes many other automatic fire-extinguishing systems standards that would appear to not be permitted by the 2021 Local Law, including but not limited to the following:

- Standard for the Installation of Foam-water Sprinkler and Foam-water Spray Systems, 2015 edition (NFPA 16)
- Standard for Low Expansion Foam, 2016 edition (NFPA 11)
- Standard on Carbon Dioxide Extinguishing Systems, 2015 edition (NFPA 12)
- Standard on Halon 1301 Fire Extinguishing Systems, 2015 edition (NFPA12a)
- Standard for Dry Chemical Extinguishing Systems, 2017 edition (NFPA 17)
- Standard for Wet Chemical Extinguishing Systems, 2017 edition (NFPA 17A)
- Standard on Water Mist Fire Protection Systems, 2015 edition (NFPA 750)
- Standard on Clean Agent Fire Extinguishing Systems, 2015 edition (NFPA 2001)
- Standard for Fixed Aerosol Fire-extinguishing Systems, 2015 edition (NFPA 2010)

These different standards provide a multitude of options to allow the best system for a variety of risks and scenarios. For example, a server farm may not be best served by a conventional fire sprinkler system and may instead need an inert gas fire suppression system that would serve the same purpose as a fire sprinkler system, but be better suited for the equipment in a server farm. Another example is in a Group H occupancy that stores water-reactive substances, a standard fire sprinkler system would not be appropriate as it may lead to a runaway chemical reaction and would likely cause more damage and a potential loss of life or property compared to the appropriate alternative automatic fire suppression system. Additionally, in an existing building that already has one of these alternative automatic fire-extinguishing systems installed, and that building undergoes one of the triggering conditions identified under §282-1 (C), presumably the alternative system would need to be removed and a fire sprinkler system installed.

Further, because §282-1 (A) applies to “All new buildings” and §282-1 (C) applies in part to “existing building, structure or occupancy, except a one- or two-family residence,” the 2021 Local Law does not recognize the cost benefits of installing a fire sprinkler system. In some situations, the cost of installing a fire sprinkler system would likely exceed the cost of the building, and the hazard or threat to life safety and property would not benefit from the substantial added cost. This is true for scenarios such as a small auxiliary storage building.

- **The standards imposed by Village Code Section 282, as amended by the 2021 Local Law, requiring a “fire sprinkler system” for all new buildings and in certain modified and converted existing buildings, structures or occupancies does not appear to generally conform with accepted engineering and fire prevention practices as it does not permit the use of widely accepted alternative automatic fire-extinguishing systems that may better serve the intent of an automatic fire suppression system and it does not consider the typical cost-benefit calculation to justify a fire suppression system in all types of buildings.**

#### **E. Conformance with the Purposes of Article 18 (Executive Law §379(2))**

When it enacted Article 18, the New York State Legislature declared that it shall be the public policy of the State of New York to provide for a minimum level of protection from the hazards of fire in every part of the state; and to provide for the promulgation of a uniform code addressing building construction and

fire prevention in order to provide a basic minimum level of protection to all people of the state from hazards of fire and inadequate building construction (see Executive Law §371(2)). By including provisions allowing a local government to enact or adopt more restrictive local standards, it appears that the Legislature recognized that the statewide Uniform Code needed to be adjusted, and made more restrictive, in a local government where, because of special conditions prevailing within the local government, the minimum standards imposed by the Uniform Code may not be sufficient to provide a sufficient level of protection to people in that local government.

The Village provided Exhibit E of the petition, however, it only affirmed that the 2021 Local Law was created in compliance with the purposes of Article 18 and provided no supporting evidence that the content of the 2021 Local Law complies with the purposes of Article 18.

The standards imposed by Village Code Chapter 282, as added by the 2021 local law, were likely intended to provide the people in the Village with a level of protection from the hazards of fire that are higher than the level of protection than would otherwise be provided by the Uniform Code. However, in some situations, the 2021 Local Law may have inadvertently created conditions where the Village is actually creating a *less restrictive* provision to the Uniform Code, as discussed in Section II B above, and is not in conformance with accepted engineering and fire prevention practices.

- **The standards imposed by Village Code Section 282, as amended by the 2021 Local Law, do not appear to conform to the purpose of Article 18 as they may inadvertently offer the residents of the Village with a level of protection from the hazards of fire that is lower than the level of protection that would otherwise be provided by the Uniform Code.**

## **APPENDIX A SUBMITTED DOCUMENTS**

The following documents were received by the Division of Building Standards and Codes:

1. Completed “Notice and Petition Relating to More Restrictive Construction Standards” Received July 6, 2021.
2. Exhibit A – “Notice of Filing: Local Law #2 -2021”, “Local Law Filing”
3. Exhibit B – Summary of Local Law
4. Exhibit C – Narrative on Special Condition
5. Exhibit D –Affirmation that the enhanced standards comply with accepted engineering practices
6. Exhibit E – Justification for the conformance of the purpose of Article 18
7. Exhibit G – Letter of Support Eugene J. Malone III, Chief of Elmsford Fire Department June 7, 2021

## **APPENDIX B**

### **EXECUTIVE LAW ARTICLE 18 §379**

#### **§-379. Incorporation of higher standards by council upon recommendation of local government; local building regulations.**

1. Except in the case of factory manufactured homes, intended for use as one or two family dwelling units or multiple dwellings of not more than two stories in height, the legislative body of any local government may duly enact or adopt local laws or ordinances imposing higher or more restrictive standards for construction within the jurisdiction of such local government than are applicable generally to such local government in the uniform code. Within thirty days of such enactment or adoption, the chief executive officer, or if there be none, the chairman of the legislative body of such local government, shall so notify the council, and shall petition the council for a determination of whether such local laws or ordinances are more stringent than the standards for construction applicable generally to such local government in the uniform code. Such local laws or ordinances shall take full force and effect upon an affirmative determination by the council as provided herein.

2. If the council finds that such higher or more restrictive standards are reasonably necessary because of special conditions prevailing within the local government and that such standards conform with accepted engineering and fire prevention practices and the purposes of this article, the council shall adopt such standards, in whole or part. The council shall have the power to limit the term or duration of such standards, impose conditions in connection with the adoption thereof, and to terminate such standards at such times, and in such manner as the council may deem necessary, desirable or proper.

3. Nothing in this article shall be construed to prohibit any municipality from adopting or enacting any building regulations relating to any matter as to which the uniform fire prevention and building code does not provide, but no municipality shall have the power to supersede, void, repeal or make more or less restrictive any provisions of this article or of rules or regulations made pursuant hereto.

4. Within one hundred twenty days after the effective date of the uniform code, a local government may by resolution duly enacted petition the council for a determination as to whether an existing building and/or fire code in force in said local government is more stringent than the uniform code. During the period in which the council is considering such petition such local code shall remain in full force and effect. If, after review, the council determines that such local code is less stringent than the uniform code the council shall notify the chief executive officer or, if there be none, the chairman of the legislative body of such local government and the uniform code shall, thirty days after the date of notification, apply in such local government. If the council finds that such local code is not less stringent than the uniform code such local code shall continue in full force and effect until the council, upon its own initiative, reviews such local code and determines that it is no longer more stringent, whereupon the council shall notify the chief executive officer or chairman of the legislative body of such local government and thirty days after the date of notification the uniform code shall apply in such local government.

5. Notwithstanding the provisions of subdivision one of this section, the legislative body of Nassau county may have duly enacted or adopted or may duly enact or adopt local laws or ordinances imposing higher or more restrictive standards for construction within the jurisdiction of the county than are applicable generally to the county in the uniform code. The chief executive officer, or if there be none, the chairman of the legislative body of the county, shall notify the council, and shall petition the council for a determination of whether such preexisting local laws or ordinances, or within thirty days of such enactment or adoption of such local laws or ordinances, are more stringent than the standards for construction applicable generally to such county in the uniform code. During the period in which the council is considering such petition, such local laws or ordinances shall remain in full force and effect.