



Building Standards and Codes

New York State
Department of State
Division of Building Standards and Codes
One Commerce Plaza
99 Washington Avenue, Suite 1160
Albany, NY 12231-0001
Phone: (518) 474-4073
Fax: (518) 486-4487
www.dos.ny.gov

Notice and Petition Relating to More Restrictive Construction Standards (Uniform Code – Executive Law § 379)

INSTRUCTIONS TO PETITIONER:

Complete this Notice and Petition in its entirety and submit as indicated in PART 6. All "Exhibits" required in PART 4 must be included and correctly labeled.

PART 1: MUNICIPALITY INFORMATION:

This Notice and Petition relates to a Local Law or Ordinance enacted or adopted by the following local government or county (the "Municipality"):

City Town Village of Elmsford or County of Nassau.

Address: _____

PART 2: LOCAL LAW OR ORDINANCE INFORMATION:

This Notice and Petition relates the Municipality's: Local Law Ordinance No. 2 of 2021.

Date of enactment or adoption of the Local Law or Ordinance by Legislative Body: June 7, 2021.

Local Law only: Date of filing of Local Law pursuant to Municipal Home Rule Law: July 2, 2021.¹

PART 3: PETITIONER INFORMATION:

This Notice and Petition is filed by the Petitioner named below (the "Petitioner").

Petitioner is the Chief Executive Officer of the Municipality.

The Municipality has no Chief Executive Officer. Petitioner is the Chairperson of the Legislative Body.²

Name of Petitioner: Robert Williams

Title of Petitioner: Mayor Supervisor Chairperson of Legislative Body

Other (specify) _____

Telephone Number: (914) 592 -6555

Fax Number: (914) 592 -8129

Email Address: mayorelmsford@elmsfordny.org

¹ Executive Law § 379(1) provides that the Notice and Petition relating to a local law or ordinance that imposes more restrictive standards for construction must be submitted within thirty days of such enactment or adoption by the Legislative Body. Please note that the thirty-day time period begins on the date of enactment or adoption by the Legislative Body, and not on (1) the date the local law or ordinance is approved by the Chief Executive Officer, or (2) the effective date of the local law or ordinance, or (3) the date on which the local law is filed with the Department of State's Division of Corporations, State Records, and Uniform Code pursuant to the Municipal Home Rule Law. Please note also that the Code Council may deny a request to adopt (approve) a more restrictive construction standard if the Notice and Petition is untimely. Please consult with the Municipality's attorney before submitting a Notice and Petition more than thirty (30) days after enactment or adoption of the local law or ordinance by the Legislative Body.

² Executive Law § 379(1) provides that "(w)ithin 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." The Code Council may deny a request to adopt (approve) a more restrictive construction standard if the Notice and Petition is not submitted by the chief executive officer of the Municipality (or, if there is no chief executive officer, by Chair of the Legislative Body of the Municipality).

PART 4: NOTICE AND PETITION:

TO: The State Fire Prevention and Building Code Council (the "Code Council")
c/o New York State Department of State, Division of Building Standards and Codes

Notice of Enactment or Adoption. Please take notice that the Legislative Body of the Municipality enacted or adopted the Local Law or Ordinance described above (the "Local Law or Ordinance") on the "date of enactment or adoption" indicated above.

A true and complete copy of the Local Law or Ordinance is included herewith and labeled **Exhibit A.**

Petition for Determination. The undersigned Petitioner hereby petitions the Code Council for a determination that the standards for construction imposed by the Local Law or Ordinance are more stringent than the standards for construction applicable generally to the Municipality in the New York State Uniform Fire Prevention and Building Code (the "Uniform Code").

A detailed description of (1) the standards for construction imposed by the Local Law or Ordinance; (2) the corresponding standards imposed by the Uniform Code; and (3) the reasons why 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 is included herewith and labeled **Exhibit B.**

Special Conditions. The undersigned Petitioner hereby requests that the Code Council find that the higher or more restrictive standards for construction imposed by the Local Law or Ordinance are reasonably necessary because of special conditions prevailing within the Municipality.

A detailed description of (1) the special conditions prevailing within the Municipality including documentation verifying its existence and (2) the reasons why the Petitioner and the Municipality believe that such special conditions make the higher or more restrictive standards imposed by the Local Law or Ordinance reasonably necessary is included herewith and labeled **Exhibit C.**³

Conformance with Accepted Practices. The undersigned Petitioner hereby requests that the Code Council find that the standards for construction imposed by the Local Law or Ordinance conform with accepted engineering and fire prevention practices.

A detailed description of the reasons why the Petitioner and the Municipality believe that such standards for construction conform with accepted engineering and fire prevention practices is included herewith and labeled **Exhibit D.**⁴

Conformance with Purposes of Article 18. The undersigned Petitioner hereby requests that the Code Council find that the standards for construction imposed by the Local Law or Ordinance conform with the purposes of Article 18 of the Executive Law.

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 is included herewith and labeled **Exhibit E.**⁵

³ The Code Council cannot adopt (approve) higher or more restrictive standards for construction enacted or adopted by a municipality unless the Code Council finds that such higher or more restrictive standards are reasonably necessary because of special conditions prevailing within the municipality. See Executive Law § 379(2).

⁴ The Code Council cannot adopt (approve) higher or more restrictive standards enacted or adopted by a municipality unless the Code Council finds that such higher or more restrictive standards conform with accepted engineering and fire prevention practices. See Executive Law § 379(2).

⁵ The Code Council cannot adopt (approve) higher or more restrictive standards enacted or adopted by a municipality unless the Code Council finds that such higher or more restrictive standards conform with the purposes of Article 18 of the Executive Law. See Executive Law § 379(2).

Variance Process.

- The Municipality has established a process whereby an aggrieved party may request a variance from the construction standards imposed by the Local Law or Ordinance. Such process is:
 - included in the following sections or provisions of the Local Law or Ordinance attached as Exhibit A:
 - _____ included in a local law, ordinance, rule, or regulation other than the Local Law or Ordinance attached as Exhibit A, a true and complete copy of such other local law, ordinance, rule, or regulation being included herewith and labeled **Exhibit F.**⁶
- The Municipality has not established a process whereby an aggrieved party may request a variance from the construction standards imposed by the Local Law or Ordinance.

Additional Documentation.

List here all additional documentation submitted in support of this Petition. If more than four additional documents are submitted, attach additional pages to list those additional documents. The Department of State **strongly** recommends that the Municipality provide copies of the minutes and/or transcripts of the meetings or hearings in which the Local Law or Ordinance was discussed and enacted or adopted, particularly if those minutes or transcripts include information relating to the more restrictive nature of the standards imposed by the Local Law or Ordinance, special conditions that make the local standards reasonably necessary, and/or conformance with accepted practices and the purposes of Article 18. However, do not fail to submit this Notice and Petition within 30 days after enactment or adoption of the Local Law or Ordinance by the Legislative Body.


- Exhibit G** Letter from Elmsford Fire Chief _____ (document name)
- Exhibit H** _____ (document name)
- Exhibit I** _____ (document name)
- Exhibit J** _____ (document name)

⁶ The Municipality's process (if any) for granting a variance from the standards for construction imposed by the Local Law or Ordinance must provide that no variance granted pursuant to such process can reduce any requirement below the level established by the Uniform Code. Neither the Municipality, nor any code enforcement official or other official or employee of the Municipality, nor any variance or appeals board established by the Municipality has the authority to waive, vary, modify or otherwise alter any provision or requirement of Uniform Code. Provisions or requirements of the Uniform Code may be varied or modified only pursuant to procedures established by the Secretary of State pursuant to Section 381(1)(f) of the Executive Law.

Request for Adoption / Approval.

The undersigned Petitioner hereby requests that the Code Council adopt (approve) the standards for construction imposed by the Local Law or Ordinance. The undersigned Petitioner and the Municipality acknowledge that (1) the Code Council has the power to adopt (approve) such standards in whole or in part; to limit the term or duration of such standards, to impose conditions in connection with the adoption thereof, and to terminate such standards at such times, and in such manner as the Code Council may deem necessary, desirable or proper; and (2) the Local Law or Ordinance cannot be enforced until an affirmative determination by the Code Council.

Dated: July 6, 2021



Signature of Petitioner (Chief Executive Officer of the Municipality or Chairperson of Legislative Body of the Municipality)

Robert Williams

Print or Type Name and Title of Petitioner

PART 5: MUNICIPALITY CONTACT PERSON IF OTHER THAN PETITIONER:

Name: Antonio V. Capicotto, P.E. Title: Village Engineer / Building Inspector

Telephone Number: (914) 345 - 1553 Email address: acapicotto@elmsfordny.org

PART 6: SUBMISSION INFORMATION:

Please submit this Notice and Petition, all required Exhibits, and any additional documentation the Petitioner and the Municipality wish to submit in support of this Notice and Petition to:

Gerard Hathaway, R.A.
Assistant Director for Code Development
NYS Department of State, Division of Building Standards and Codes
99 Washington Ave., Suite 1160
Albany, New York 12231

Or by email to: Dos.sm.codes.codedevelopment@dos.ny.gov.
When submitting petitions via email, type "MRLS:" in the subject line followed by the name of the Municipality and the Local Law # or Ordinance #. (Example: MRLS: Town of Anywhere, Local Law # 5 of 2017)
Electronic submissions are strongly encouraged.

If you have questions concerning submission requirements, please call the Code Development Unit at (518) 486-6990, e-mail at Gerard.Hathaway@dos.ny.gov or fax at (518) 486-4487.



The Village of Elmsford

Building & Engineering Department

Exhibit A – Local Law 2-2021, attached

Exhibit B – The proposed local law requires fire sprinklers in all new buildings and buildings where the total floor area is increased by 50% or where alterations and additions exceed 50% of the cost of replacement. The uniform code only requires sprinklers in certain uses and occupancies.

Exhibit C – 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 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.

Exhibit D – The proposed standards fall in line with those enacted in other states and in many Towns within the State of New York. Furthermore, the Village of Elmsford is completely serviced by a municipal water system and has the capacity to service sprinkler systems within the Village which will reduce the cost of the installation of sprinklers.

Exhibit E – The request for approval of this more restrictive code conforms to the requirements of Article 18 of Executive Law as this application has been prepared in accordance with the requirements of Article 18.

Exhibit G – See attached Letter from Elmsford Fire Chief Eugene Malone

Elmsford Fire Department

David Signor Sr.
1st Assistant Chief

Eugene J. Malone III
Chief of Department

Peter DeLuca
2nd Assistant Chief

June 7, 2021

Elmsford Village Board
15 South Stone Avenue
Elmsford, New York 10523

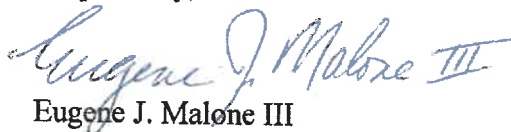
Dear Mayor Williams and Village Board of Trustees,

I am writing this letter to show my support for the pending considerations for the repeal of Local Law Chapter 282 1989 entitled "Sprinkler Systems", and encourage the adoption of Local Law Chapter 282 2021 as purposed.

I feel there is a need for this action, in order to provide better protection for the property we protect in the Village of Elmsford. The Elmsford Fire Department is under contract to the Town of Greenburgh for fire protection to the North Elmsford and West Elmsford Fire Protection Districts. These areas are currently protected under the Town of Greenburgh Building, Fire and Plumbing Code Chapter 100-13 titled "Sprinkler System". We have seen the benefit of this law and the aid in protecting these areas, based on first hand fire suppression activity in the commercial and residential properties.

Based on the new development and construction current and future for the village, it is the appropriate time for the Village Board to approve this current code change.

Respectfully,



Eugene J. Malone III

Chief of Department

Village of Elmsford
Board of Trustees Resolution
May 17, 2021

**RESOLUTION ESTABLISHING A PUBLIC HEARING
ON A LOCAL LAW AMENDING CHAPTER 282 OF
THE CODE OF THE VILLAGE OF ELMSFORD
ENTITLED “SPRINKLER SYSTEMS”**

BE IT RESOLVED, by the Board of Trustees of the Village of Elmsford that a public hearing will be held at 7:30 p.m. or as soon as such hearing may be called thereafter, on the 7th day of June, 2021, at the Elmsford Village Hall, 15 South Stone Avenue, Elmsford, New York 10523, on the proposed Local Law entitled:

*Local Law No 2 of 2021 A LOCAL LAW AMENDING CHAPTER 282 OF
THE CODE OF THE VILLAGE OF ELMSFORD ENTITLED “SPRINKLER SYSTEMS”,
and, be it further*

RESOLVED, that the Village Clerk give due notice of this public hearing in accordance with the Village Code and the provisions of the Municipal Home Rule Law of the State of New York.

Motion by: Trustee Henry
Second by: Trustee Evans

Roll Call Vote:	Trustee Henry	Yes
	Trustee Coffey	Yes
	Trustee Evans	Yes
	Trustee Lopez	Yes
	Mayor Williams	Yes

Adopted 5 Yes, 0 No, 0 Absent

PUBLIC NOTICE

NOTICE IS HEREBY GIVEN that the Board of Trustees of the Village of Elmsford will hold a public hearing at 7:30 p.m., or as soon as said hearing may be called thereafter on, the 7th day of June, 2021, at Village Hall, 15 South Stone Avenue, Elmsford, New York, to hear and discuss a Local Law amending Chapter 282 of the Code of the Village of Elmsford entitled “Sprinkler Systems”.

Michael C. Mills,
Village Administrator

Local Law № 2 of 2021

**A LOCAL LAW AMENDING CHAPTER 282
OF THE CODE OF THE VILLAGE OF ELMSFORD
ENTITLED “SPRINKLER SYSTEMS”**

BE IT ENACTED by the Board of Trustees of the Village of Elmsford, New York, as follows:

Section 1. Chapter 282 of the Code of the Village of Elmsford entitled “Sprinkler Systems” is hereby repealed in its entirety and replaced with the following:

“Chapter 282, Sprinkler Systems

§ 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.

Section 2. The invalidity of any word, section, clause, paragraph sentence, part, or provision of this local law shall not affect the validity of any part of this local law which can be given effect without such invalid part or parts.

Section 3. This Local Law shall take effect immediately upon filing in the Office of the Secretary of State.

**Village of Elmsford
Board of Trustees Resolution
June 7, 2021**

**RESOLUTION ADOPTING
A LOCAL LAW AMENDING CHAPTER 282 OF THE
CODE OF THE VILLAGE OF ELMSFORD
ENTITLED “SPRINKLER SYSTEMS”**

WHEREAS, on May 14, 2021, a proposed Local Law was placed on the desks of the members of the Board of Trustees amending Chapter 282 of the Code of the Village of Elmsford entitled “Sprinkler Systems”; and

WHEREAS, on June 7, 2021 a public hearing was held on said Local Law in the Elmsford Village Hall after due publication of said notice of Public Hearing, and;

NOW, THEREFORE, BE IT

RESOLVED, that said Local Law be and the same is hereby adopted and shall be known as Local Law № 2 for the year 2021 in the Village of Elmsford.

Motion by: Trustee Henry

Second by: Trustee Coffey

Roll Call Vote:	Trustee Henry	Yes
	Trustee Coffey	Yes
	Trustee Evans	Yes
	Trustee Lopez	Yes
	Mayor Williams	Yes

Adopted 5 Yes, 0 No, 0 Absent