

Summary of Proposed Changes to Zoning Law

§ 376-141. Adoption of Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code by reference.

~~The New York State Building Construction Code was adopted by the Town Board on July 12, 1966, and its successor, the~~ The New York State Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code ~~is~~ are hereby adopted and recognized as the official Building Construction Code of the Town for the purposes set forth therein and as it may be amended from time to time.

§ 376-142. Granting of building permits and certificates of occupancy and/or use.

No building permit, certificate of occupancy or certificate of use shall be issued unless the proposed construction or use is in conformance with all the provisions of this chapter, ~~and other applicable laws,~~ the New York State Uniform Fire Prevention Code and the State Energy Conservation Construction Code.

§ 376-144. Building permit required.

A building permit is required for:

B. Any change in the bulk of a building, structure or nonbuilding use, but not including ordinary repairs ~~which are not structural in nature,~~ provided that such repairs do not involve:

- 1) the removal or cutting away of a loadbearing wall, partition, or portion thereof, or of any structural beam or load bearing component
- 2) the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress,
- 3) the enlargement, alteration, replacement or relocation of any building system,
- 4) the removal from service of all or part of a fire protection system for any period of time.

§ 376-145. Application procedure.

(2) Each application for a building permit shall be accompanied by plans which must comply with the New York State Uniform Fire Prevention and Building Code and the State Energy conservation Construction Code and specifications, including plot plans and site plans as required drawn to scale, showing the location and size of all proposed new construction and all existing structures on the site, the nature and character of the work to be performed and the materials to be incorporated, distance between structures, distance from plot lines, widths and grades of adjoining streets, walks and alleys and, where required by the Building Inspector, details of structural, mechanical and

electrical work, including computations, stress diagrams and other technical data and the location of any proposed well or septic system. Plans and specifications shall bear the signature and seal of the person responsible for the design and drawings and, if construction is over \$20,000 in value, the architect's or engineer's signature architect or engineer and his/her New York State license number, unless exempted by the Education Law.

AMEND SECTION 376-145 "Application Procedure" by adding a new paragraph "D"

to read as follows:

D. Town will (1) perform all construction inspections required by 19 NYCRR section 1203.3(b), (2) require that all work must remain accessible and exposed until inspected and accepted by the Town, (3) after each inspection, note the work as satisfactory as completed or notify the permit holder as to where the work fails to comply with the New York State Uniform Fire Prevention and Building Code and/or State Energy Conservation Construction Code, and (4) require that any work not in compliance with the New York State Uniform Fire Prevention and Building Code and/or State Energy Conservation Construction Code remain exposed until it has been brought into compliance with said codes, has been re-inspected by the Town, and has been found by the Town to be satisfactory as completed.

AMEND SECTION 376-147 "Revocation of Permits" to add a new paragraph "F"

to read as follows:

F. When a building permit has been issued in error because of incorrect, inaccurate, or incomplete information, or the work for which the permit was issued violates the New York State Uniform Fire Prevention and Building Code or the State Energy Conservation Construction Code, such permit shall be revoked or suspended until such time as the permit holder demonstrates that all work completed and all work proposed shall be in compliance with the applicable provisions of the code.

§ 376-149. Certificates of occupancy and/or use.

B. ~~Partial certificate of occupancy or use.~~ A ~~partial-temporary~~ certificate of occupancy ~~may be issued or use~~ for periods of 90 days, but not more than one year in the aggregate. A temporary certificate of occupancy will be issued only if the building (or portion of the building for which the temporary certificate is issued) may be occupied safely, any fire- and smoke-detecting or fire protection equipment which has been installed is operational, all required means of egress from the structure have been provided, and such temporary certificate of occupancy otherwise complies with all requirements of 19 NYCRR section 1203.3(d)(3). During the period that a temporary certificate of occupancy is in effect, the owner of the subject building is required to bring the

~~building into full compliance with the applicable provisions of the New York State Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code, for a building, structure or part thereof shall be issued before the entire work shall have been completed; provided, nonetheless, that such portion or portions for which the certificate is issued, may be occupied safely.~~ The Building Inspector shall require a cash deposit or an irrevocable letter of credit drawn on a bank and in a form satisfactory to the Town Attorney to ensure and guarantee the completion of the structure and site improvements. The Building Inspector shall determine the sum of said cash or letter of credit.

§ 376-1410. Issuance of certificates of occupancy and/or use.

(2) The Building Inspector shall examine or cause to be examined all buildings, structures and sites for which the application has been filed. Issuance of a certificate of occupancy or a certificate of compliance shall be preceded by an inspection of the building, structure, or work. A certificate of occupancy shall not be issued until all required construction inspections have been performed and the project passes such inspections. Where applicable, a written statement of structural observations and/or final report of special inspections, prepared in accordance with the provisions of the New York State Uniform Fire Prevention and Building Code, must be received prior to the issuance of the certificate. Also, where applicable, flood hazard certifications, prepared in accordance with the provisions of the New York State Uniform Fire Prevention and Building Code must be received prior to the issuance of the certificate.

**Article XV
Board of Appeals**

§ 376-151 Powers and duties.

The Board of Appeals shall have all the powers and duties prescribed by statute and by this chapter, which are more particularly specified as follows, provided that none of the following provisions shall be deemed to limit any power of the Board that is conferred by law.

C. Variances. On appeal from an order, requirement, decision or determination made by the Building Inspector, or on referral of an applicant to the Board by an approving agency acting pursuant to this chapter, the Board of Appeals is authorized to vary or modify the strict letter of this chapter as set forth below, except that in no case may a variance be granted from provisions of the New York State Uniform Fire Prevention and Building Code and the State Energy Conservation Construction Code.

AMEND THE ZONING LAW by adding a new section 376-1417 “Operating Permits”

to read as follows:

OPERATING PERMITS.

1) Operating permits shall be required for conducting the activities or using the categories of buildings listed below:

- 1) manufacturing, storing or handling hazardous materials in quantities exceeding those listed in tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3), or 2703.1.1(4), of the Fire Code of New York State,
- 2) hazardous processes and activities, including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling,
- 3) use of pyrotechnic devices in assembly occupancies,
- 4) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more, and
- 5) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by the government or agency charged with or accountable for administration and enforcement of the New York State Uniform Fire Prevention and Building Code.

2) Parties who propose to undertake the types of activities or operate the types of buildings listed in paragraph (1) of this subdivision shall be required to obtain an operating permit prior to commencing such operation. An application for an operating permit shall contain sufficient information to permit a determination that quantities, materials, and activities conform to the requirements of the New York State Uniform Fire Prevention and Building Code. Tests or reports necessary to verify conformance shall be required.

3) An inspection of the premises shall be conducted prior to the issuance of an operating permit.

4) A single operating permit may apply to more than one hazardous activity.

5) Operating permits may remain in effect until reissued, renewed or revoked or may be issued for a specified period of time consistent with local conditions.

6) Where activities do not comply with applicable provisions of the New York State Uniform Fire Prevention and Building Code, an operating permit shall be revoked or suspended.

AMEND Section 376-5 “Definitions”

by adding new definitions as follows:

Operating Permit – A permit is required to conduct activities or to use a category of buildings as set forth in 19 NYCRR, Section 1703.3(g) as may be amended.

Order to Remedy – Means an order to remedy any condition found to exist in, on, or about any building in violation of the New York State Uniform Fire Prevention and Building Code and the provisions of this chapter.

AMEND Article XIV “Administration and Enforcement”

to read as follows:

Administration and Code Enforcement

AMEND Section 376-140 “Enforcement Officials: Powers and Duties of Building Inspector” by adding a new Paragraph “I”

to read as follows:

I. Complaints

The Building Inspector shall review and investigate complaints which allege or assert the existence of conditions or activities that fail to comply with the New York State Uniform Fire Prevention and Building Code, the Energy Conservation Construction Code, the zoning law, or any other local law or regulation adopted for administration and enforcement of the New York State Uniform Fire Prevention and Building Code or the State Energy Conservation Construction Code. The process for responding to a complaint shall include such of the following steps as the Building Inspector may deem to be appropriate:

- 1) Performing an inspection of the conditions and/or activities alleged to be in violation, and documenting the results of such inspection.
- 2) If a violation is found to exist, providing the owner of the affected property and any other person who may be responsible for the violation with notice of the violation and opportunity to abate, correct or cure the violation.
- 3) If appropriate, issuing a Stop Work order.
- 4) If a violation which was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing such report with the complaint.

AMEND Section 376-140 “Enforcement Officials: Powers and Duties of Building Inspector” by adding a new Paragraph “H”

to read as follows:

H. Order to Remedy

1) The time within which a person or entity served with an Order to Remedy is required to comply with such Order to Remedy is fixed at 30 days following the date of such Order to Remedy. An Order to Remedy shall include a statement substantially similar to the following: “The person or entity served with this Order to Remedy must completely remedy each violation described in this Order to Remedy by _____ (specify date), which is thirty (30) days after the date of this Order to Remedy.” The Order to Remedy shall be served personally or by certified or registered mail within five days of the date of the order.

2) Service. An Order to Remedy shall be served personally or by certified or registered mail within five days of the date of the order. For purposes of this section:

a) if an Order to Remedy is served personally by any authorized means that requires more than one action by the person effecting service (such as service by “delivery and mail,” similar to that authorized by CPLR 308(2)), the Order to Remedy shall be deemed to be served on the date on which the last required action is taken, and

b) an Order to Remedy served by certified or registered mail shall be deemed to be served on the date it is mailed.

3) Requiring immediate commencement of corrective action. Nothing in this section shall be construed as prohibiting such Order to Remedy from including provisions ordering the person or entity served with such Order to remedy:

a) to begin to remedy the violations described in the Order to Remedy immediately, or within some other specified period of time which may be less than 30 days; to continue diligently to remedy such violations until each such violation is fully remedied; and, in any event, to complete the remedying of all such violations within 30 days of the date of such Order to Remedy and/or

b) to take such other protective actions (such as vacating the building or barricading the area where the violations exist) which are authorized by the code enforcement program of the Town or by any other applicable statute, regulation, rule, local law, or ordinance, and which the Town may deem appropriate, during the period while such violations are being remedied.

AMEND Section 376-140 “Enforcement Officials: Powers and Duties of Building Inspector” by adding a new Paragraph “J”

to read as follows:

Title: J. Record Keeping

1. The Building Inspector shall keep permanent official records of all transactions and activities conducted by all Code Enforcement Personnel, including records of:

- a) all applications received, reviewed and approved or denied,
- b) all plans, specifications and construction documents approved,
- c) all Building Permits, Certificates of Occupancy, Certificates of Compliance, Temporary Certificates, Stop Work Orders, and Operating Permits issued,
- d) all inspections and tests performed,
- e) all statements and reports issued,
- f) all complaints received,
- g) all investigations conducted,
- h) all other features and activities specified in or contemplated by this local law, and
- i) all fees charged and collected,

2. All such records shall be public records open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period as required by State law and regulation.