

Chapter 205. Zoning

§ 205-11. Zoning administration and enforcement.

A. Zoning Enforcement Officer.

- (1) The provisions of this chapter shall be administered and enforced by a person designated by the Town Board as the Zoning Enforcement Officer, who shall have the power to make inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter. No zoning permit or certificate of occupancy required hereunder shall be issued by the Zoning Enforcement Officer except in compliance with the provisions of this chapter or as directed by the Board of Appeals under the provisions of § 205-12.
- (2) The Zoning Enforcement Officer shall submit a monthly report which includes a list of all permits issued or denied, as well as a complete list of all cases which are, as of the report date, pending further action, to the Town Board, Planning Board and Zoning Board of Appeals. Said report shall be submitted on a form promulgated by the Town Board in cooperation with the Planning Board and Zoning Board of Appeals.
- (3) The Zoning Enforcement Officer and the Deputy Zoning Enforcement Officer, if the Town Board appoints a deputy, shall be appointed by the Town Board and shall receive such compensation as such Board shall determine.
- (4) Should the Zoning Enforcement Officer or deputy be in doubt as to the meaning or intent of any provision of this chapter or as to the location of any district boundary line on the Zoning Map or as to the propriety of issuing a zoning permit or a permit of occupancy in a particular case related to the provisions of this chapter, he shall address the matter to the Board of Appeals for interpretation.

B. Zoning permit.

- (1) No building shall be erected, moved, structurally altered, added to or enlarged, no use of land or buildings shall be established or changed and no excavation for any building shall begin unless and until a zoning permit has been issued by the Zoning Enforcement Officer.
- (2) Applications for zoning permits shall be submitted on a form or forms provided by the Zoning Enforcement Officer. The Planning Board, Assessor and Town Clerk shall maintain copies of all permits issued. Each application shall set forth the purpose for which the building or land is intended to be used and shall be accompanied by a plot plan showing the dimensions of the lot and building and dimensions of required and proposed yards. The Zoning Enforcement Officer may require additional information other than that called for on the application form, as may reasonably be needed for him to determine if the proposed building, its use and the use of the land are in conformity with the provisions of this chapter.
- (3) If the Zoning Enforcement Officer or deputy should mistakenly issue a zoning permit which violates the provisions of this chapter, such zoning permit shall be invalid.

- (4) Fees. Each application for a zoning permit shall be accompanied by a fee in accordance with the fee schedule set by the Town Board by resolution.
- C. Certificate of zoning compliance. A certificate of zoning compliance may be obtained from the Zoning Enforcement Officer. Such certificate shall be issued only if the proposed use of the building or land conforms to the provisions of this chapter. The Zoning Enforcement Officer shall make an inspection of each building or lot for which a zoning compliance certificate has been applied for before issuing such certificate. Such inspection shall be made within 10 business days from the date of application. Failure to make such inspection and determination within the specified period of time shall be deemed to be approval of the application for a certificate of zoning compliance.
- D. Violations and penalties.
- (1) Complaints.
 - (a) Any person may file a complaint with the Zoning Enforcement Officer regarding a violation of this chapter.
 - (b) All complaints shall be in writing and filed in person with the Zoning Enforcement Officer and/or Clerk.
 - (c) All such filed complaints shall be investigated by the Zoning Enforcement Officer and a report prepared thereon and action instituted where appropriate within 30 business days.
 - (2) Procedure with respect to violations.
 - (a) Where a violation of this chapter is determined to exist, the Zoning Enforcement Officer shall serve notice by certified mail, return receipt requested, on the owner, agent or contractor of the building, structure, or lot where such violation has been committed or exists, and on the lessee or tenant of the part of or of the entire building, structure or lot where such violation has been committed or exists; and on the agent, architect, contractor or any other such person who takes part or assists in such violation or who maintains any building, structure or lot in which any such violation exists.
 - (b) Such notice shall require the removal of the violation within 10 days after service of the notice.
 - (c) In such cases where removal of the violation within the 10 days would be manifestly impossible, the Zoning Enforcement Officer shall apply to the Town Board for a determination as to a reasonable period of time within which such violation shall be removed.
 - (d) If those persons notified shall fail to remove such violation within the allotted time period, the Zoning Enforcement Officer shall charge them with such violation of this chapter.
 - (e) The Zoning Enforcement Officer is hereby given the authority to issue appearance tickets directing any such person to appear in the Justice Court of the Town of New Lebanon at a designated future time in connection with that person's alleged commission of a violation of this chapter.
 - (3) Penalties.
 - (a) A person or corporation, whether as owner, lessee, agent or employee, who violates any of the provisions of this chapter or who fails to comply with any order or regulation made thereunder, or who erects, alters, moves or uses any building or uses any land in violation of any statements or plans submitted by him and approved under the provisions of this chapter, shall be guilty of an offense and upon conviction shall be punished by a fine not exceeding \$350 or imprisonment not to exceed six months, or both, for a conviction of a

first offense in accordance with the provisions of Article 16 of the Town Law, § 268, and amendments thereto, and any other article relating thereto. The penalty for a conviction of a second offense, both of which were committed within a period of five years, is punishable by a fine not less than \$350 nor more than \$700 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine not less than \$700 or more than \$1,000 or imprisonment for a period not to exceed six months, or both. Each week's continued violation shall constitute a separate additional violation.

- (b) In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained or any building, structure or land is used in violation of this chapter, the proper local authorities of the Town, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use, to restrain, correct or abate such violation to prevent the occupancy of said building, structure or land, or to prevent any illegal act, conduct, business or use in or about such building, structure or land.
- (c) If the Zoning Enforcement Officer fails or refuses to act upon or to refer a violation of this chapter to the Town Attorney for legal action in accordance with the provisions contained herein within a thirty-calendar-day period following written request by any resident or property owner to so proceed, then any three or more residents of the Town of New Lebanon, who are jointly or severally aggrieved by such violation, may institute appropriate legal action in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.