

TOWN OF ALLEGANY

LOCAL LAW NO. 1 of the year 1989

A LOCAL LAW PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT of the NEW YORK STATE FIRE PREVENTION AND BUILDING CODE

Be it enacted by the TOWN BOARD of the TOWN OF ALLEGANY as follows:

SECTION 1, APPLICABILITY

This local law shall provide the basic method for administration and enforcement of the New York State Uniform Fire Prevention and Building Code in the Town of Allegany and shall establish powers, duties, and responsibilities in connection therewith.

SECTION 2, EFFECTIVE DATE

This local law shall take effect on the 1st day of February, 1990.

SECTION 3, ADMINISTRATION

The governing body shall designate an official Code Enforcement Officer hereinafter referred to as CEO for the inspection and enforcement of the New York State Uniform Fire Prevention and Building Code within the Town of Allegany.

SECTION 4, PARTIAL INVALIDITY

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder thereof.

SECTION 5, RULES AND REGULATIONS

The Town of Allegany shall by resolution promulgate rules and regulations to secure the intent and purposes of this ordinance and a proper enforcement of the laws, ordinances, rules and regulations governing building plans, specifications, construction, alteration or repairs.

SECTION 6, DUTIES OF CEO

- a) Except as otherwise specifically provided by law, ordinance, rule or regulation, or except as herein otherwise provided, the CEO shall administer and inspect according to the provisions of laws, ordinances, rules and regulations applicable to the plans, specifications, or permits for the construction, alteration and repair of buildings and structures, and the installation and use of materials and equipment therein, the location, use and occupancy thereof, and all elements of fire safety.
- b) The CEO shall receive applications for the erection and alteration of buildings and structures or parts thereof and shall examine the premises for which such application has been received, plans approved, or such permits have been issued for the purpose of insuring compliance with the laws, ordinances, rules and regulations governing building construction or alteration.
- c) The CEO shall issue all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to insure compliance during the entire course of construction with the requirements of such laws, ordinances, rules and regulations, as herein provided for the service of violation orders.
- d) Whenever the same may be appropriate to determine compliance with the provisions of applicable laws, ordinances, rules or regulations covering building construction or alteration, he may, in his discretion, accept and rely upon a written report of tests in the field by experienced, professional persons or by an accredited authoritative testing laboratories or service and inspection bureaus or agencies.
- e) The CEO shall issue a certificate of occupancy where appropriate for a building constructed or altered in accordance with the provisions of the New York State Uniform Fire Prevention and Building Code which such certificate shall certify that the building conforms to the requirements of the State Uniform Code.

SECTION 7, BUILDING PERMITS

- a) No person, firm or corporation shall commence the erection, construction, alteration, enlargement, improvement, conversion, or change the nature of the occupancy of any building or structure, or cause the same to be done, without first obtaining a separate building permit from the CEO for each such building or structure; except that no building permit shall be required for the performance of ordinary repairs which are not structural in nature.
- b) Application for a building permit shall be made to the CEO on forms provided by them and shall contain the following information:

- 1) A description of the land on which the proposed work is to be done;
 - 2) A statement of the use or occupancy of all parts of the land and the proposed building or structure;
 - 3) The valuation of the proposed work or the square footage of the proposed work, which ever may be appropriate.
 - 4) The signature of the applicant or agent;
 - 5) The full name and address of the owner and of the applicant, and the full names and addresses of their responsible officers if any of them are corporations, and the name and address of the owners authorized agent, if any;
 - 6) A brief description of the nature of work;
 - 7) Such other information as may reasonably be required by the CEO to establish complicity of the proposed work with the requirements of the applicable building laws, ordinances, rules and regulations.
 - 8) Copy of the zoning permit, if required.
- c) The application shall be made by the owner or by his agent, architect, engineer, or builder employed in connection with the proposed work. Where such application is made by a person other than the owner, it shall be accompanied by an affidavit of the owner that the proposed work is authorized by the owner and that the applicant is authorized to make such application, and the affidavit shall contain a statement that the owner authorizes the applicant to permit the inspector to enter upon the premises without a search warrant.
 - d) Each application for a building permit shall be accompanied by duplicate copies of specifications, including plot plan drawn to scale, showing location and size of all proposed new construction and all existing structures on the site, the nature and the character of the work to be performed and the materials to be incorporated, distance from lot lines, walks alleys, and, where required by the inspector, details of structural, mechanical, and electrical work including computations, stress diagrams and other essential data; plans and specifications, when required, shall bear the signature of the person responsible for the design and drawings.
 - e) Any residential dwelling consisting of 1500 square feet or more, any commercial business consisting of 3,500 square feet or more, and all industrial buildings, will require submitted plans including a professional engineers approval before a building permit will be issued.

- f) Amendments, if any, to the application or to the plans and specifications accompanying the same shall be filed with the CEO and approval shall be received from the CEO prior to the commencement of such change of work.
- g) The CEO shall examine or cause to be examined all applications for permits and the documents filed therewith. He shall then approve or disapprove the application.
- h) Upon approval of the application and upon receipt of the fees therefore, the CEO shall issue a building permit to the applicant upon forms prescribed by them.
- i) If the application together with the other documents filed there with describe work which does not conform to all of the requirements of the applicable building regulations, CEO shall cause the refusal, together with the reasons therefore, to be transmitted to the applicant in writing.
- j) A building permit shall be effective to authorize the commencing of work for a period of twelve (12) months after the date of its issuance. For good causes the inspector may allow a maximum of two extensions for periods not exceeding three (3) months each. All work shall conform to the approved application, and shall be in accordance with applicable laws, ordinances, rules and regulations.
- k) A building permit shall be prominently displayed on the job site at all times during the progress of the work so as to be readily seen from adjacent thoroughfares.
- l) The CEO may revoke a permit in the following instances:
- 1) Where he finds that there has been any false statement or misrepresentation as to a material fact in the application, or other documents on which the building permit was based;
 - 2) Where he finds that the building permit was issued in error and should not have been issued in accordance with the applicable local and state laws.
 - 3) Where he finds that the work performed under the permit is not being prosecuted in accordance with the applicable law and provisions of the application;
 - 4) Where the party to whom a building permit has been issued fails or refuses to comply with a stop order issued by the inspector.

a) Before issuing a certificate of occupancy the CEO shall examine or cause to be examined all buildings, structures and sites for which an application has been filed for a building permit to construct, alter, enlarge, repair or change the use or nature of occupancy, and he may conduct such inspections as he deems appropriate from time to time during and upon completion of the work for which a building permit has been issued. There shall be maintained by the CEO a record of all such inspections and examinations together with a record of findings of violations of law.

b) Existing buildings not subject to inspection under subdivision "a" of this section shall be subject to periodic inspections for compliance with the Uniform Code. Such inspections may be made at any reasonable time.

c) If entrance to make an inspection is refused or cannot be obtained, the CEO may apply for a *ex parte* order to make such inspection, to any court of competent jurisdiction.

SECTION 9. VIOLATIONS

In accordance with Section 383 of Article 18 of the Executive Law of the State of New York:

a) It shall be unlawful for any person, firm or corporation, to construct, alter, repair, move, equip, use or occupy any building or structure or portion thereof in violation of any provision of law or ordinance, as well as any rule or regulation promulgated by the municipality in accordance with applicable laws, or fail in any manner to comply with a notice or directive or order of the municipality or to construct, alter, use or occupy any building or structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy.

b) Any person who shall fail to comply with a written order within the time fixed for compliance therewith, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendants or their agents or any person taking part or assisting in the construction or use of the building who shall knowingly violate any of the applicable provisions of law, or any lawful order, notice, directive, permit or certificate of the inspector made thereunder shall be punishable by fine or imprisonment or both. Each week that a violation continues shall be deemed a separate offense.

c) Whenever the CEO finds that there has been a violation of the State Uniform Code, this local law, or any rule or regulation adopted pursuant to this local law, a violation order shall be issued to the person or persons responsible by the local municipality or the issuing inspector.

d) Violation orders shall be in writing ; shall identify the property or premises, shall specify the violation and remedial action to be taken; shall provide a reasonable time limit for compliance; and shall state the time within which an appeal may be taken.

e) Violation orders may be served by personal service upon the owner, leasee, or their agent, or by mailing said order to the owner, leasee, or their agent by first class mail and by posting said order in a conspicuous place at the premises subject to the order.

f) In case the owner, lessor, occupant or the agent of any of them shall fail, neglect, or refuse to remove, eliminate or abate the violation within the time specified, The CEO may issue an appearance ticket, requiring the offending party to appear before the Town of Allegany Justice Court.

SECTION 10. Penalties

a) Failure to comply with any provision on the New York State Uniform Fire Prevention and Building Code, this local law, rules or regulations adopted pursuant to this local law, or a violation order shall be deemed a violation and the violator shall be liable for a fine of not to exceed \$350.00 dollars, or imprisonment not to exceed fifteen (15) days, or both, and each week such violation continues shall constitute a separate violation.

b) An action or proceeding in the name of the Town of Allegany, may be commenced in any court of competent jurisdiction to compel compliance with or restrain by injunction, the violation of any provision of the Uniform Code, this local law, any rules or regulations adopted pursuant to this local law, or a violation order, or to vacate the occupancy or building in the case of imminent danger to life or property. Such remedy shall be in addition to penalties otherwise described by law.

c) Except as otherwise provided by law, such violation shall not be a crime and the penalty or punishment imposed therefore shall not be deemed for any purpose, a penal or criminal penalty or punishment, and shall not impose any disability upon or affect or impair the credibility as a witness, or otherwise, of any person found guilty of such an offense.

SECTION 11. RIGHT OF ENTRY

The CEO, upon showing of proper credentials and in discharge of his duties, shall be permitted to enter upon any building, structure, or premises without interference, during reasonable working hours.

SECTION 12. FEES

- a) A copy of the fee schedule will be kept on file with the Town Clerk and a copy will be part of the application packet.
- b) When applicable the cost for any engineering approvals and services will be assumed by the applicant.
- c) In the event that an application for a building permit is not approved, the applicant shall be entitled to a refund of 50% of the fee paid, provided no work has commenced. If work has been started and the application is not approved the fees paid shall not be refunded.
- d) The attached fee schedule is hereby adopted as part of this Local Law. The Town Board by resolution, may at any time revise said fee schedule.

SECTION 13. STOP ORDERS

Whenever the CEO has reasonable grounds to believe that the work in any building or structure is proceeding in violation of the provision of the applicable building laws, ordinances, rules or regulations, or not in conformity with the provisions of an application, or in an unsafe and dangerous manner, he shall notify the owner of the property, or the owners agent, to suspend all work and suspend all building activities until the stop order has been rescinded. Such order and notice shall appear in writing, shall state the conditions under which the work may be resumed and may be served upon a person to whom it is directed either by delivering it personally to him, or by posting the same upon a conspicuous portion of the building where the work is being performed and sending a copy of the same to him by First Class mail at the address set forth in the application for the permission for the construction of such building.

SECTION 14. CERTIFICATE OF OCCUPANCY

- a) No building hereafter erected shall be used or occupied in whole or in part until a certificate of occupancy shall have been issued by the CEO.
- b) No building hereafter enlarged, extended or altered or upon which work has been performed which required the issuance of a building permit shall be occupied or used for more than thirty (30) days after the completion of the alteration or work unless a certificate of occupancy shall have been issued.
- c) No change shall be made in the occupancy of an existing building unless a certificate of occupancy authorizing such change shall have been issued.
- d) When, after final inspection, it is found that the proposed work has been completed in accordance with the applicable law, ordinances, rules or regulations, and also in accordance with the application, the CEO shall issue a certificate of occupancy

upon forms provided if it is found the proposed work has not been properly completed, the CEO shall not issue a certificate of occupancy and shall order the work completed in conformity with the building permit and in conformity with the applicable building regulations.

e) A certificate of occupancy shall be issued where appropriate, within thirty (30) days after written application therefore is made.

f) The certificate of occupancy shall certify that the work has been completed, and that the proposed use and occupancy is in conformity with the provisions of the applicable laws, ordinances, rules and regulations, and shall specify the use or uses and the extent therefore to which the building or structure or its several parts may be put to use.

g) Upon request, the CEO may issue a temporary certificate of occupancy for building or structure, or part thereof, before the entire work covered by the building permit shall have been completed provided such portions as have been completed may be occupied safely without endangering life or the public health and welfare. A temporary certificate of occupancy shall remain effective for a period not exceeding three (3) months from its date of issuance. For good causes the CEO may allow a maximum of two extensions for periods not exceeding three (3) months each.

SECTION 15. DEPARTMENT RECORDS AND REPORTS

a) The CEO shall keep permanent official records of all transactions and activities conducted by them including all applications received, plans approved, permits and certificates issued, fees charged and collected, inspection reports, all rules and regulations promulgated by the municipality, and notices and orders issued. All such reports shall be public information open to public inspection during normal business hours.

b) The CEO shall monthly submit to the Town of Allegany a written report of all business conducted.

SECTION 16. BOARD OF REVIEW

a) A Board of Review has been established for the purpose of granting variances where enforcement of any provision or requirement of the New York State Uniform Fire Prevention and Building Code results in practical difficulties or unnecessary hardships. Any such variation shall be consistent with the spirit of the Code and shall not be inconsistent with subdivision two of section three hundred ninety one of the Executive Law.

b) The Board of Review is composed of five members, one of whom is a registered architect licensed to practice in this state, one of whom is a professional engineer licensed to practice in this state, one of whom has a background in building code

enforcement, one of whom has a background in fire prevention, and one of whom is a businessman or a lawyer. One of the five (5) members, in addition, is a local government official.

- c) Each member of the Board of Review has been appointed by the Secretary of State and shall serve a term of three (3) years.
- d) The Board of Review shall have the power (1) to vary or modify, in whole or in part, any provision or requirement of the Uniform Code in cases where strict compliance with such provision or requirement would entail practical difficulties or unnecessary hardship or would otherwise be unwarranted provided, however, that any such variance or modification will not substantially adversely affect provisions for health, safety, and security and that equally safe and proper alternatives are prescribed; and (2) to hear and decide appeals from and review any order or determination, or the failure within a reasonable time to make any such order or determination, by an administrative official charged with the enforcement of or purporting to enforce the Uniform Code.
- e) The Town of Allegany and the CEO shall obtain a copy of the Board or Review's decision for its records.

SECTION 17 RECISION OF LOCAL LAW #3 OF 1985

The Town Board of the Town of Allegany hereby rescinds Local Law #3 of 1985, effective February 1, 1990.

Daniel F. Eaton, Sr, Supervisor
Charles J. Fortuna, Councilman
Raymond Jonak, Councilman
Kenneth A. King, Councilman
M. Kathryn Grandusky, Councilwoman
Carol G. Livingston, Town Clerk



Michael L. Menno, Town Attorney
Lee S. Edwards, PE, Town Engineer
John R. Mosher, Highway Supt.
Rosemary Ryan, Comptroller
Kathleen Pikulski, Receiver of Taxes
Norman Fleming, Assessor

To : Allegany Town Board

Date: December 15, 1989

From: Zoning Inspector

Re : Town Law #1 1989

A. Building permit fees shall be based on the following fee schedule and shall accompany the application for a building permit.

B. The following permit fees shall be applicable:

1. Permit Fees
 - a. Residential Structures
 1. \$.07 per square foot of all floor areas except crawl spaces or cellars.
 2. \$.04 per square foot of all floor areas except crawl spaces or cellars.
 3. \$.04 per square foot if built under same building permit for new residential structure; otherwise, \$10.00 plus \$.04 per square foot.
 - b. Garages, carports, porches, covered patios, decks
 - c. Business, Commercial, Industrial Structures
 1. \$10.00 plus \$.07 per square foot of all floor areas up to 2,000 sq. ft. excluding crawl spaces or cellars.
 2. \$.04 per square foot all area over 2,000 sq. ft.
 3. Minimum permit fee \$30.00
 - d. Residential Storage Buildings and Agricultural Buildings, Sheds and Barns
 1. 25 to 100 sq. ft. \$10.00
 2. Over 100 sq. ft. \$10.00 plus \$.02 per sq. ft.
 3. Maximum height of sheds under 200 sq. ft. will be 15 ft.
 - e. Residential additions (vertical or horizontal) Structural Changes, Chimneys, Fireplaces, Woodburning Stoves.
 1. \$10.00 plus \$.07 per sq. ft.
 2. \$15.00 chimneys, fireplaces and woodburning stoves.
 - f. Swimming Pools
 1. \$15.00 above ground pools
 2. \$30.00 in ground pools
 3. \$100.00 commercial pools

g. Fences Residential

1. \$10.00 plus \$.01 linear foot. 54 inches in height or less
2. \$20.00 plus \$.02 linear foot. 55 inches or more up to 72 inches

h. Miscellaneous Structures, ie: Wind energy systems, silos, grain dryers, sun or rain roof shelters, satellite antennas

1. \$25.00
2. \$50.00 Excavations

i. Demolition of Structures

1. \$15.00 Residential or Agricultural, each building
2. \$30.00 Commercial, each building

j. Building Permit Renewal

1. 1st renewal \$20.00 or 20 percent of original permit fee, whichever is greater.
2. Second renewal and subsequent renewals, \$100 or 70 percent of original permit fee, whichever is greater.

k. Building Permits obtained after construction has started

1. Surcharge of \$25.00 to be added to the normal cost of a permit
2. The above surcharge may be waived by the Building Inspector or Town Board.

l. Certificate of Occupancy and Temporary Certificate of Occupancy

1. \$25.00, if issued in connection with and as a conclusion to a current building permit.
2. \$25.00 plus \$15.00 per hour (minimum of one hour) for all others,
3. \$25.00 plus \$15.00 per hour (minimum of one hour) for temporary C of O's.

m. Follow-up inspections to check for compliance with comments on original inspection

1. \$15.00 plus \$15.00 per hour - 1st follow up (minimum one hour)
2. \$25.00 plus \$15.00 per hour - 2nd and subsequent follow up (minimum one hour)

n. Certificate of Conformity or Compliance

1. \$25.00 for Certificate plus \$15.00 per hour (minimum one hour) for each inspection

o. Special Use Permit Inspection

1. \$10.00 for initial inspection
2. \$15.00 for each follow-up inspection for compliance with comments or original inspection or by direction of the Zoning Board of Appeals