

## Chapter 60

### BUILDING CONSTRUCTION AND FIRE PREVENTION ADMINISTRATION

**[HISTORY: Adopted by the Town Board of the Town of Liberty 1-16-2007 by L.L. No. 1-2007.<sup>1</sup> Amendments noted where applicable.]**

#### GENERAL REFERENCES

Numbering of buildings — See Ch. 62.  
Unsafe buildings — See Ch. 64.  
Electrical inspections — See Ch. 74.  
Subdivision of land — See Ch. 130.  
Zoning — See Ch. 147.

#### ARTICLE I

##### Administration and Enforcement

###### **§ 60-1. Designation of Code Enforcement Officer.**

The office of Code Enforcement Officer is hereby established in and for the Town of Liberty, Sullivan County, New York, who shall be appointed by the Town Board of the Town of Liberty at a compensation to be fixed and determined from time to time by the Town Board.

###### **§ 60-2. Acting Code Enforcement Officer.**

In the absence of the Code Enforcement Officer or in case of the Code Enforcement Officer's inability to act for any reason, the Town Board may designate a person to act on behalf of the Code Enforcement Officer and to exercise all the powers conferred upon the Code Enforcement Officer by this chapter and any other law, ordinance, code, rule or regulation.

###### **§ 60-3. Appointment of other code enforcement officers.** [Amended 9-2-2014 by L.L. No. 2-2014]

The Town Board may appoint one or more additional code enforcement officers, as and when the Town Board deems appropriate, and in the event more than one code enforcement officer has been appointed, each code enforcement officer so appointed shall exercise and perform only such portion or portions of the duties of the office of Code Enforcement Officer as the Town Board may specifically delegate to him or her. The compensation of each code enforcement officer shall be fixed by the Town Board.

###### **§ 60-4. Restrictions upon employment.**

A Code Enforcement Officer or an officer or employee of the Building Department shall not engage in any activity inconsistent with the Code Enforcement Officer's duties or with the interests of the Building Department, nor shall the Code Enforcement Officer, during the term of

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<sup>1</sup> Editor's Note: This local law also repealed former Ch. 60, Building Construction and Fire Prevention Administration, consisting of Art. I, Building Permits and Certificates of Occupancy, adopted 7-30-1969, and Art. II, Administration and Enforcement, adopted 7-30-1969, as amended.

his or her employment, be engaged directly or indirectly in any building business or in the furnishing of labor, materials, supplies or appliances for, or the supervision of, the construction, alteration, demolition or maintenance of a building or the preparation of plans or specifications therefor within the Town of Liberty, except that this provision shall not prohibit any employee from engaging in any such activities in connection with the construction of a building or structure owned by the employee for the employee's own personal use and occupancy or for the use and occupancy of members of the employee's immediate family and not constructed for sale.

**§ 60-5. Powers and duties of Code Enforcement Officer.**

- A. Except as otherwise specifically provided by law, ordinance, rule or regulation, or except as herein otherwise provided, the Code Enforcement Officer shall administer and enforce all of 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, and the location, use and occupancy thereof, including but not limited to the New York State Uniform Fire Prevention and Building Code ("the Uniform Code").
- B. The Code Enforcement Officer shall promulgate policies and procedures, subject to the approval of the Town Board, to secure the intent and purposes of this chapter and proper enforcement of the Uniform Code and all laws, ordinances, rules and regulations governing building plans, specifications, construction, alteration or repairs.
- C. The Code Enforcement Officer shall receive applications, approve plans and specifications and issue permits for the erection and alteration of buildings or structures or parts thereof and shall examine the premises for which such applications have been received, plans approved or such permits have been issued for the purpose of ensuring compliance with the Uniform Code and all laws, ordinances, rules and regulations governing building construction or alterations.
- D. The Code Enforcement Officer shall issue, in writing, all appropriate notices or orders to remove illegal or unsafe conditions, to require the necessary safeguards during construction and to ensure compliance during the entire course of construction with the requirements of the Uniform Code and such laws, ordinances, rules and regulations, and such notices or orders may be served upon the property owner or the owner's agent personally or by sending by certified mail a copy of such order to the owner or the owner's agent at the address set forth in the application for a building permit and by posting the same upon a conspicuous portion of the premises to which the notice applies. The Code Enforcement Officer shall make all inspections which are necessary or proper for the carrying out of his or her duties, except that the Code Enforcement Officer may accept written reports of inspection from other employees of the Department of Buildings or from generally recognized and authoritative service and inspection bureaus or agencies, provided that the same are certified by a responsible official thereof.
- E. Whenever the same may be appropriate to determine compliance with the provisions of the Uniform Code and all applicable laws, ordinances, codes, rules and regulations covering building construction or alteration, the Code Enforcement Officer may, in his or her discretion, accept and rely upon written reports of tests in the field by experienced

professional persons or by accredited and authoritative testing laboratories or service and inspection bureaus or agencies.

- F. The Code Enforcement Officer shall issue a certificate of occupancy, where appropriate, for a building constructed or altered in accordance with the provisions of the Uniform Code and all applicable laws, ordinances, codes, rules and regulations covering building construction or alteration, which such certificate shall certify that the building conforms to the requirements of the Uniform Code and all applicable laws, ordinances, codes, rules and regulations covering building construction or alteration.
- G. In addition thereto, the Code Enforcement Officer shall have all of the duties, powers and authorizations provided in or pursuant to § 381 of Article 18 of the Executive Law, as the same shall be from time to time amended.

**§ 60-6. Records and reports.**

- A. The Code Enforcement Officer shall keep permanent official records of all transactions and activities conducted by him or her, including all applications received, plans approved, permits and certificates issued, fees charged and collected, inspection reports, all policies and procedures promulgated by him or her with the consent of the Town Board and all notices and orders issued. All such records shall be public records open to public inspection during normal business hours.
- B. The Code Enforcement Officer shall annually submit to the Town Board a written report and summary of all business conducted by the Department of Buildings, including approvals, permits and certificates issued, fees collected, orders and notices promulgated, inspections and tests made and appeals or litigation pending or concluded.

ARTICLE II

**Building Permits and Certificates of Occupancy**

**§ 60-7. Application for building permit.**

- A. No person, firm or corporation shall commence the erection, construction, enlargement, alteration, improvement, conversion or change in 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 Code Enforcement Officer for each such building or structure. No building permit shall be required for:
  - (1) Necessary repairs which do not materially affect structural features.
  - (2) Alterations to existing buildings, provided that the alterations:
    - (a) Cost less than \$10,000;
    - (b) Do not materially affect structural features;
    - (c) Do not affect firesafety features such as smoke detectors, sprinklers, required fire separations and exits;
    - (d) Do not involve the installation or extension of electrical systems;

- (e) Do not include the installation of solid-fuel-burning heating appliances and associated chimneys and flues.
  - (3) Residential storage sheds and other small noncommercial structures less than 140 square feet which are not intended for use by one or more persons as quarters for living, sleeping, eating or cooking, for example, a small storage building.
  - (4) Nonresidential farm buildings, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes.
- B. Application for a building permit shall be made to the Code Enforcement Officer on forms provided by the Code Enforcement Officer and shall contain the following information:
  - (1) Identification and/or description of the land on which the proposed work is to be done.
  - (2) Description of the use or occupancy of all parts of the land and the existing or proposed building.
  - (3) Description of the proposed work.
  - (4) The full name and address of the owner and of the applicant, and the names and addresses of their responsible officers, if any of them are corporations, and the name and address of the owner's authorized agent, if any.
  - (5) A statement that the applicant consents to permit the Code Enforcement Officer and any officer or employee of the Building Department to enter upon the premises without a search warrant in the manner prescribed in § 60-6.
  - (6) Such other information as may reasonably be required by the Code Enforcement Officer to establish compliance of the proposed work with the requirements of the applicable building laws, ordinances, codes, rules and regulations.
  - (7) The required fee.
- C. The application shall be signed by the owner or the owner's authorized agent.
- D. The application shall be made by the owner or by the 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 consent to permit the Code Enforcement Officer and any officer or employee of the Building Department to enter upon the premises without a search warrant in the manner prescribed in § 60-6.
- E. Each application for a building permit shall be accompanied by two copies of building plans and specifications that include all design criteria, together with four copies of a plot plan, 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 from lot lines, the relationship of structures on adjoining property, and widths and grades of adjoining streets, walks and alleys. One of

such copies of the plot plan shall have attached thereto a completed driveway permit application, and one of such copies of the plot plan shall have attached thereto a completed 911 numbering application. The application shall also include details of energy, structural, mechanical and electrical work, including computations, stress diagrams and other essential technical data. Plans and specifications shall bear the signature of the person responsible for the design and drawings and, where required by § 7202 or § 7302, as amended, of Articles 145 or 147 of the Education Law of the State of New York, the seal of a licensed architect or a licensed professional engineer. The Code Enforcement Officer may waive the requirement for filing plans and specifications when the work to be done involves minor alterations or is otherwise unnecessary and issue a building permit so stating.

- F. The applicant shall notify the Code Enforcement Officer of any changes in the information contained in the application during the period for which the permit is in effect. Amendments, if any, to the application or to the plans and specifications accompanying the same shall be filed with the Code Enforcement Officer, and approval must be received from the Code Enforcement Officer prior to the commencement of such change of work.

**§ 60-8. Issuance or denial of permit.**

- A. The Code Enforcement Officer shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith. The Code Enforcement Officer shall approve or disapprove the application within 60 days from the date of submission of the application. If the property for which the permit application is submitted has any violations existing at the time the application is made, the application shall be disapproved unless the application is being submitted to obtain a permit for work required to correct the violation. When a permit is issued under such circumstances, the fees associated therewith shall be twice the otherwise required amount.
- B. Upon approval of the application and upon receipt of the required fees therefor, the Code Enforcement Officer shall issue a building permit to the applicant upon the form prescribed by the Code Enforcement Officer and shall affix his or her signature or cause his or her signature to be affixed thereto.
- C. Upon approval of the application, two sets of plans and specifications shall be endorsed with the word "approved." One set of such approved plans and specifications shall be retained in the files of the Building Department and the other set shall be returned to the applicant, together with the building permit, and shall be prominently displayed by the applicant at the building site or premises to which it pertains in a Doc-Box® or an equivalent approved by the Code Enforcement Officer.
- D. If the application, together with plans, specifications and other documents filed therewith, describes proposed work which does not conform to all of the requirements of the applicable building codes and/or regulations, the Code Enforcement Officer shall disapprove the same and shall return the plans and specifications to the applicant. Upon the request of the applicant, the Code Enforcement Officer shall cause such refusal, together with the reasons therefor, to be transmitted to the applicant, in writing.

**§ 60-9. Performance of work under permit.**

- A. A building permit shall become invalid unless the authorized work is commenced within six months following the date of issuance. Building permits shall expire 12 months after the date of issuance. For good cause, and/or following a performance work schedule that is submitted with the original permit application, and upon payment of the applicable fees as may be established pursuant to § 60-18 of this chapter, the Code Enforcement Officer may allow a maximum of two extensions for successive periods not exceeding one year each. All work shall conform to the approved application, plans and specifications and shall be in accordance with applicable building laws, ordinances, codes, rules and regulations in effect at the time of issuance of the certificate of occupancy or certificate of compliance. [Amended 9-2-2008 by L.L. No. 3-2008]
- B. Building permits and approved plans and documents, with the inspection schedule, 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 in a Doc-Box® or an equivalent approved by the Code Enforcement Officer. Projects with multiple permits require multiple boxes.
- C. Inspections during construction.
  - (1) Work for which a building permit has been issued hereunder shall be inspected for approval prior to enclosing or covering any portion thereof and upon completion of each stage of construction, including but not limited to building location, site preparation, excavation, foundation, framing, superstructure, electrical, plumbing and heating, and air conditioning. It shall be the responsibility of the owner, applicant, or his agent to inform the Code Enforcement Officer that the work is ready for inspection and to schedule such an inspection 48 hours in advance.
  - (2) For work which requires special inspections during construction, it shall be the responsibility of the owner, applicant, or his agent to provide a list at his or her expense. A statement of the special inspections, including a complete list of materials and work requiring such inspections, and a list of the individuals and approved agencies shall be provided to the Code Enforcement Officer for the permit application file. The reports of such special inspections shall be provided to the Code Enforcement Officer for the permanent record.
  - (3) If entrance to make an inspection is refused or cannot be obtained, the Town Board, after being notified by the Code Enforcement Officer of the situation, may apply to any court of competent jurisdiction for an order to make an inspection.
- D. All locations where work is being performed shall have suitable containers on site at all times to accommodate any and all construction debris. These containers shall be covered when not attended. No outside storage of construction or project related debris shall be permitted to accumulate, and all outside areas of the work site must remain free of debris, trash and garbage and regularly cleaned. Upon request, documentation establishing lawful disposal of construction debris shall be produced to the Code Enforcement Officer.

**§ 60-10. Revocation of permit.**

The Code Enforcement Officer may revoke a building permit theretofore issued in any of the following instances:

- A. Where the Code Enforcement Officer finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or specifications on which the building permit was based.
- B. Where the Code Enforcement Officer finds that the building permit was issued in error and should not have been issued in accordance with the applicable law.
- C. Where the Code Enforcement Officer finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications.
- D. Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the Code Enforcement Officer.

**§ 60-11. Stop orders.**

Whenever the Code Enforcement Officer has reason to believe that the work on any building or structure is being performed in violation of the provisions of the applicable building laws, ordinances, codes, rules or regulations, or not in conformity with the provisions of an application, plans or specifications on the basis of which a building permit was issued, or in an unsafe and dangerous manner, the Code Enforcement Officer shall notify the owner of the property or the owner's agent to suspend all work, and any such persons shall forthwith stop such work and suspend all building activities until the stop order has been rescinded. Such order and notice shall be 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 the person 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 the person by certified mail at the address set forth in the application for the building permit.

**§ 60-12. Right of entry.**

The Code Enforcement Officer, upon the showing of proper credentials and in the discharge of the Code Enforcement Officer's duties, shall be permitted to enter upon any building, structure or premises without interference during reasonable working hours.

**§ 60-13. Certificate of occupancy required.**

- 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 Code Enforcement Officer.
- 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 30 days after the completion of the alteration or work unless a certificate of occupancy shall have been issued by the Code Enforcement Officer.
- C. No change shall be made in the nature of the occupancy of an existing building unless a certificate of occupancy authorizing such change shall have been issued by the Code Enforcement Officer.
- D. The owner or the owner's agent shall make application for a certificate of occupancy.

Accompanying such application and before the issuance of a certificate of occupancy, there shall be filed with the Code Enforcement Officer an affidavit of the registered architect or licensed professional engineer who prepared the original plans, or of the registered architect or licensed professional engineer who supervised the construction of the work, or of the superintendent of construction who supervised the work and who, by reason of the person's experience, is qualified to supervise the work for which the certificate of occupancy is sought. Such affidavit shall state that the deponent has examined the approved plans of the structure for which a certificate of occupancy is sought and that the structure has been erected in accordance with approved plans and, as erected, complies with the laws, ordinances, codes, rules and regulations governing building construction or as varied by a variance which has been legally authorized. Such variances and qualifying conditions imposed therewith, if any, shall be specified in the affidavit.

**§ 60-14. Inspection prior to issuance of certificate.**

Before issuing a certificate of occupancy, the Code Enforcement Officer 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, enlarge, alter, repair or change the use or nature of occupancy, and the Code Enforcement Officer may conduct such inspections as the Code Enforcement Officer 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 in the Building Department a record of all such examinations and inspections, together with a record of findings of violations of the law.

**§ 60-15. Issuance of certificate.**

- A. When, after final inspection, it is found that the proposed work has been completed in accordance with the applicable building laws, ordinances, codes, rules and regulations, and also in accordance with the application, plans and specifications filed in connection with the issuance of the building permit, the Code Enforcement Officer shall issue a certificate of occupancy upon the form provided by the Code Enforcement Officer. If it is found that the proposed work has not been properly completed, the Code Enforcement Officer 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 laws, ordinances, codes, rules and regulations and also in accordance with the application, plans and specifications filed in connection with the issuance of the building permit.
- B. A certificate of occupancy shall be issued, where appropriate, within 30 days after written application therefor is made.
- C. 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 building laws, ordinances, codes, rules and regulations and shall specify the use or uses and the extent thereof to which the building or structure or its several parts may be put.

**§ 60-16. Temporary certificate.**

Upon request, the Code Enforcement Officer may issue a temporary certificate of occupancy for

a building or structure or part thereof before the entire work covered by the building permit shall have been completed, provided that such portion or portions as have been completed may be occupied safely without endangering life or the public health or welfare. A temporary certificate of occupancy shall remain effective for a period not exceeding three months from its date of issuance. For good cause, the Code Enforcement Officer may allow a maximum of two extensions for periods not exceeding three months each.

ARTICLE III  
**Other Inspections**

**§ 60-17. Fire prevention and property maintenance inspections.**

- A. Multiple dwellings shall be inspected for the purpose of determining compliance with fire prevention and property maintenance requirements of the Uniform Code at least once in every 36 months. Inspections of such buildings shall include the common areas such as halls, foyers, staircases, etc., and vacant dwelling units. Where the tenants of occupied dwelling units allow, the inspection may include such units.
- B. Firesafety inspections of buildings or structures having areas of public assembly, defined as "all buildings or portions of buildings used for gathering together 50 or more persons for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social, or similar purposes, the entire fire area of which they are a part, and the means of egress therefrom," shall be performed at least once in every 12 months.
- C. All other buildings, uses and occupancies (except one- or two-family dwellings) shall be inspected at least once in every 24 months.
- D. An inspection of a building or dwelling unit may also be performed at any other time upon:
  - (1) The request of the owner, authorized agent, or tenant;
  - (2) Receipt of a written statement alleging that conditions or activities failing to comply with the Uniform Code exist; or
  - (3) Other reasonable and reliable information that such a violation exists.

ARTICLE IV  
**Fees**

**§ 60-18. Establishment of fee schedule.**

A fee schedule shall be established and may be changed from time to time by resolution of the Town Board. Such fees may be charged for issuance of building permits, issuance of certificates of occupancy, issuance of temporary certificates of occupancy, fire prevention and property maintenance inspections, fire inspections, Department of Buildings record searches and such other matters associated with activities of the Department of Buildings as may be determined from time to time by resolution of the Town Board.

ARTICLE V  
**Remedies**

**§ 60-19. Penalties for offenses.**

In accordance with § 382 of Article 18 of the Executive Law of the State of New York and as the same shall be amended from time to time:

- 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 or to maintain property, or allow the same, in violation of the Uniform Code and all applicable laws, ordinances, codes, rules and regulations covering building construction or alteration and/or property maintenance, including this chapter, or to fail in any manner to comply with a notice, directive or order of the Code Enforcement Officer or to construct, alter, use or occupy any building or structure or part thereof, or to allow the same, 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 of the Code Enforcement Officer within the time fixed for compliance therewith, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents or any other person allowing, taking part or assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of the Uniform Code and all applicable laws, ordinances, codes, rules and regulations covering building construction or alteration and/or property maintenance, including this chapter, or any lawful order, notice, directive, permit or certificate of the Code Enforcement Officer made thereunder shall be punishable by fine of not more than \$1,000 or imprisonment for not more than one year, or both. Each day that a violation continues shall be deemed a separate offense.

**§ 60-20. Abatement of violation.**

Appropriate action and proceedings may be taken at law or in equity to prevent unlawful construction or to restrain, correct or abate a violation or to prevent illegal occupancy of a building, structure or premises or to prevent illegal acts, conduct or business in or about any premises, and these remedies shall be in addition to penalties otherwise prescribed by law.

**§ 60-21. Civil penalties.**

Alternatively, or in addition to the foregoing remedies, any person who shall fail to comply with a written order of the Code Enforcement Officer within the time fixed for compliance therewith, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents or any other person allowing, taking part or assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of the Uniform Code and all applicable laws, ordinances, codes, rules and regulations covering building construction or alteration and/or property maintenance, including this chapter, or any lawful order, notice, directive, permit or certificate of the Code Enforcement Officer made thereunder shall be liable for a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this section shall be recoverable in an action instituted in the name of the Town of Liberty.