

Town Copy.

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Text of law should be given as amended. Do not use brackets for matter to be eliminated and do not use italics for new matter.

~~County~~
~~City~~ of **Newport**
~~Town~~
~~Village~~

Local Law No. **1** of the year 19 **82**

A local law **TO PROVIDE FOR THE ADMINISTRATION AND ENFORCEMENT OF THE NEW YORK STATE BUILDING CONSTRUCTION CODE.**
(Insert title)

Be it enacted by the **Town Board** of the
(Name of Legislative Body)

~~County~~
~~City~~ of **Newport**
~~Town~~
~~Village~~ as follows:

Copy of Local Law attached.

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LOCAL LAW NO. 1 - 1982

A LOCAL LAW TO PROVIDE FOR THE ADMINISTRATION AND ENFORCEMENT OF THE NEW YORK STATE BUILDING CONSTRUCTION CODE.

Be it enacted by the Town Board of the Town of Newport as follows:

Section 1. Designation of Building Official as Public Official

There is hereby designated in the Town of Newport a public official to be known as the building official, who shall be appointed by the Town Supervisor with the approval of the Town Board at a compensation to be fixed by it.

Section 2. Acting Building Official

In the absence of the building official, or in the case of his inability to act for any reason, the Town Supervisor shall have the power, with the consent of the Town Board to designate a person to act in behalf of the building official and to exercise all the powers conferred upon him by this ordinance.

Section 3. Appointment of Building Inspectors

The Town Supervisor with the approval of the Town Board may appoint one building inspector or more, as the need may appear, to act under the supervision and direction of the building official and to exercise any portion of the powers and duties of the building official as directed by him. The compensation of such building inspectors shall be fixed by the Town Board.

Section 4. Restrictions on Employees

A building official, building inspector or an officer or employee of the building department, shall not engage

in any activity inconsistent with his duties, or with the interests of the building department; nor shall he, during the term of his employment, be engaged directly or indirectly in any building business, 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 thereof within the Town of Newport, excepting 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 him for his own personal use and occupancy or for the use and occupancy of members of his immediate family, and not constructed for sale.

Section 5. Duties and Powers of Building Official

(a) Except as otherwise specifically provided by law, ordinance, rule or regulation, or except as herein otherwise provided, the building official 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.

(b) He shall promulgate rules and regulations subject to the approval of the Town Board 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.

(c) He 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 insuring compliance with laws, ordinances, rules and regulations governing building construction or alterations.

(d) He shall issue in writing 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, and such notices or orders may be served upon the property owner or his agent personally, or by sending by certified mail a copy of such order to the owner or his agent at the address set forth in the application for permission for the construction or alteration of such building, and by posting the same upon a conspicuous portion of the premises to which the notice applies. He shall make all inspections which are necessary or proper for the carrying out of his duties, except that he may accept written reports of inspection from building inspectors or other employees of the department of buildings or from generally recognized or authorita-

tive service and inspection bureaus or agencies, provided the same are certified by a responsible official thereof.

(e) Whenever the same may be appropriate to determine compliance with the provisions of applicable laws, ordinances, rules and regulations covering building construction or alteration, he may, in his 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) He shall issue a certificate of occupancy where appropriate for a building constructed or altered in accordance with the provisions of the state building construction code which such certificate shall certify that the building conforms to the requirements of the state building construction code.

Section 6. Department Records and Reports

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

(b) The building official 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.

Section 7. Penalties for Violation

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 regulation or rule promulgated by the building official in accordance with applicable laws, or to fail in any manner to comply with a notice, directive or order of the building official, 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 of the building official within the time fixed for compliance therewith, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or any other person taking part or assisting in the construction or use of any building who shall knowingly violate any of the applicable provisions of law, or any lawful order, notice,

directive, permit or certificate of the building official made thereunder shall be punishable by fine or imprisonment or both. Each day that a violation continues shall be deemed a separate offense.

(c) Except as provided otherwise by law, such a violation shall not be a crime and the penalty or punishment imposed therefor 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 8. 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.

SUGGESTED RULES FOR PROMULGATION BY THE BUILDING OFFICIAL

WITH THE CONSENT OF THE TOWN BOARD

Rule No. 1. 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 building official 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 building official on forms provided by him 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;
- (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 brief description of the nature of the proposed work;
- (6) If the construction is to be in accordance with the provisions of the state building code, a statement that the application is made for permission to construct in accordance with the provisions of such code;
- (7) A statement that the applicant consents to permit the building official, any building inspector and any officer or employee of the building department to enter upon

the premises without a search warrant in the manner prescribed in Rule No. 7.

(8) Such other information as may reasonably be required by the building official to establish compliance of the proposed work with the requirements of the applicable building laws, ordinances, rules and regulations.

(c) The application shall be signed by the owner or his 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 building official, any building inspector and any officer or employee of the building department to enter upon the premises without a search warrant in the manner prescribed in Rule No. 7.

(e) Each application for a building permit shall be accompanied by duplicate copies of plans and specifications, including 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, widths and grades of adjoining streets, walks and alleys, and, where required by the building official, details of 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 Sections 7202 or 7302, as amended, of Article 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 building official may waive the requirements for filing plans and specifications for minor alterations and issue a building permit so stating.

(f) Amendments, if any, to the application or to the plans and specifications accompanying the same shall be filed with the building official and approval received from the building official prior to the commencement of such change of work.

Rule No. 2. Fees

(a) Upon the filing of an application for a building permit, a fee shall be payable, which fee shall be determined by resolution of the Town Board of the Town of Newport.

(b) In the event that an application for a building permit is not approved, the applicant shall be entitled to a refund of fifty percent (50%) of the fee paid, provided no work has been commenced. If work has been started and the applica-

tion is not approved, the fees paid shall not be refunded.

Rule No. 3. Issuance of Building Permit or Disapproval of Application

(a) The building official shall examine or cause to be examined all applications for permits and the plans, specifications and documents filed therewith. He shall approve or disapprove the application within sixty (60) days from the date of submission of the application.

(b) Upon approval of the application and upon receipt of the legal fees therefor, the building official shall issue a building permit to the applicant upon the form prescribed by the building official and shall affix his signature or cause his signature to be affixed thereto.

(c) Upon approval of the application, both 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 kept by the applicant at the building site open to inspection by the building official or his authorized representative at all reasonable times.

(d) If the application together with plans, specifications and other documents filed therewith describe proposed work which does not conform to all of the requirements of the applicable building regulations, the building official shall

disapprove the same and shall return the plans and specifications to the applicant. Upon the request of the applicant, the building official shall cause such refusal, together with the reasons therefor, to be transmitted to the applicant in writing.

Rule No. 4. Performance of Work Under Building Permit

(a) A building permit shall be effective to authorize the commencing of work for a period of six months after the date of its issuance. For good cause the building official may allow a maximum of two extensions for periods not exceeding three months each. All work shall conform to the approved application, plans and specifications and shall be in accordance with applicable building laws, ordinances, rules and regulations.

(b) Building permits 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.

Rule No. 5. Revocation of Building Permit

The building official may revoke a building permit theretofore issued in the following instances:

(a) Where he 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 he finds that the building permit was issued in error and should not have been issued in accordance

with the applicable law;

(c) Where he finds that the work performed under the permit is not being prosecuted in accordance with the provisions of the application, plans or specifications; or

(d) Where the person to whom a building permit has been issued fails or refuses to comply with a stop order issued by the building official.

Rule No. 6. Stop Orders

Whenever the building official has reasonable grounds to believe that work on any building or structure is being prosecuted in violation of the provisions of the applicable building laws, ordinances, 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, he 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 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 certified mail at the address set forth in the application for permission for the construction of such building.

Rule No. 7. Right of Entry

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

Rule No. 8. 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 building official.

(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 by the building official.

(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 building official.

(d) The owner or his agent shall make application for a certificate of occupancy. Accompanying this application and before the issuance of a certificate of occupancy, there shall be filed with the building official an affidavit of the registered architect or licensed professional engineer who filed 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 his experience, is qualified to superintend the work for which the certificate of occupancy is sought. This affidavit shall state that the deponent has examined the approved plans of the structure for which a certificate of occupancy is sought, that the structure has been erected in accordance with approved plans, and as erected complies with the law 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.

Rule No. 9. Inspection Prior to Issuance of Certificate of Occupancy

Before issuing a certificate of occupancy, the building official 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 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 in the building department a record of all such examinations and inspections together with a record of findings of violations of the law.

Rule No. 10. Issuance of Certificate of Occupancy

(a) When, after final inspection, it is found that the proposed work has been completed in accordance with the applicable building laws, ordinances, rules and regulations; and also in accordance with the application, plans and specifications filed in connection with the issuance of the building permit, the building official shall issue a certificate of occupancy upon the form provided by him. If it is found that the proposed work has not been properly completed, the building official 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.

(b) A certificate of occupancy shall be issued, where appropriate, within thirty (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, 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.

Rule No. 11. Temporary Certificate of Occupancy

Upon request, the building official 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 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 (3) months from its date of issuance. For good cause the building official may allow a maximum of two (2) extensions for periods not exceeding three (3) months each.

(Complete the certification in the paragraph which applies to the filing of this local law and strike out the matter therein which is not applicable.)

(Final adoption by local legislative body only.)

1. I hereby certify that the local law annexed hereto, designated as local law No. 1 of 1982

County
of the City of Newport was duly passed by the Town Board
Town
Village (Name of Legislative Body)

on March 8, 1982 in accordance with the applicable provisions of law.

(Passage by local legislative body with approval or no disapproval by Elective Chief Executive Officer or repassage after disapproval.)

2. I hereby certify that the local law annexed hereto, designated as local law No. of 19.....

County
of the City of was duly passed by
Town
Village (Name of Legislative Body)

on 19..... and was approved not disapproved by the
repassed after disapproval Elective Chief Executive Officer

and was deemed duly adopted on 19....., in accordance with the applicable provisions of law.

(Final adoption by referendum.)

3. I hereby certify that the local law annexed hereto, designated as local law No. of 19.....

County
of the City of was duly passed by the
Town
Village (Name of Legislative Body)

on 19..... and was approved not disapproved by the
repassed after disapproval Elective Chief Executive Officer

on 19..... Such local law was submitted to the people by reason of a mandatory referendum and received the affirmative vote of a majority of the qualified electors voting permissive general thereon at the special election held on 19....., in accordance with the applicable provisions of law.

(Subject to permissive referendum and final adoption because no valid petition filed requesting referendum.)

4. I hereby certify that the local law annexed hereto, designated as local law No. of 19.....

County
of the City of was duly passed by the on
Town
Village (Name of Legislative Body)

..... 19..... and was approved not disapproved by the on
repassed after disapproval Elective Chief Executive Officer

(City local law concerning Charter revision proposed by petition.)

5. I hereby certify that the local law annexed hereto, designated as local law No. of 19..... of the City of..... having been submitted to referendum pursuant to the provisions of § 36 of the Municipal Home Rule Law and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the special election held on the 19 became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1 above.

Patricia A. McKerron

Clerk of the Board of Supervisors, City, Town or Village Clerk or Officer designated by Local Legislative Body

Town Clerk - Town of Newport

Date: March 8, 1982.

(Seal)

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized Attorney of locality.)

STATE OF NEW YORK
ONSEIDA
COUNTY OF

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

Stephen W. Higgins
..... Attorney for the

(Title of Officer)
County Newport
City of ..
Town
Village

Dated: March 8, 1982.