

LOCAL LAW NUMBER 3-09 OF THE TOWN OF LEWISBORO

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

Section 1. Chapter 91 of the Code of the Town of Lewisboro (the "Code"), entitled "Building Construction," is hereby repealed in its entirety.

Section 2. Chapter 92 of the Code, entitled "Building Code Administration," is hereby amended as follows:

1. Delete §92-1 in its entirety and insert as follows:

§ 92-1. Title; Purpose.

A. **Title.** This Chapter, together with the New York State Uniform Fire Prevention and Building Code, shall be known and cited as the "Lewisboro Building Code."

B. **Purpose.** This Chapter is hereby declared to be remedial and shall be construed to secure the beneficial interests and purposes thereof, which are the public good, safety, health and welfare, through sound design, structural stability, adequate means of ingress and egress, a reasonable measure of security to life and property from the hazards of fire, provision for adequate light, heat and ventilation, proper disposal of sewage and assurance of a potable water supply.

C. **Conformance required.** No building or other structure shall hereafter be enlarged, converted, altered, repaired, changed in elevation, removed or demolished, nor shall the equipment of any building, structure or premises hereafter be constructed, installed, altered, repaired, removed or demolished, except in full conformity with the provisions of this chapter and the State Uniform Fire Prevention and Building Code. It shall be unlawful to maintain, occupy or use any building, premises or structure, or part thereof, that has been erected or altered to move in violation of the provisions of this chapter and the State Uniform Fire Prevention and Building Code or changed in use or type of occupancy without compliance with its provisions.

D. **Applicability.** The provisions of this Chapter apply fully to buildings or structures whether on land or over water and to construction, such as retaining walls, swimming pools, boundary walls and fences, signs, poles, and radio masts.

2. Amend Section 92-2 "Definitions" to insert alphabetically the new definitions as follows:

BERM - A mound or bank of earth, used especially as a barrier or to provide insulation.

BUILDING INSPECTOR: the Town official appointed pursuant to Section 92-3 of this Chapter.

DEER FENCE – An open mesh –type fence constructed of a plastic or metallic threaded network or grid commonly used to protect gardens and shrubbery from deer and other large animals.

FENCE – A permanent artificially constructed barrier of any material or combination of materials erected to enclose, screen or separate areas. For the purposes of this Chapter, the term fence shall not be construed to mean split-rail fence, deer fence, wall, berm or hedge, as those terms are defined herein.

HEDGE – A row of bushes or small trees planted close together.

SPLIT-RAIL FENCE – A type of fence constructed out of timber logs split lengthwise into rails.

WALL – A permanent structure forming a physical barrier that is constructed so that the vertical surface is closed. The material of which a wall is constructed may be masonry, brick, concrete, metal, wood or similar materials. For the purposes of this Chapter, the term wall shall not be construed to mean fence, berm or hedge.

3. Delete Section 92-3 in its entirety and replace as follows:

§ 92-3. Building Inspector.

A. The office of Building Inspector is hereby created, and the Building Inspector shall be appointed by the Town Board in accordance with the regulations of the Civil Service Law subject to good behavior and competent service. To be eligible for appointment, the Building Inspector shall be informed with respect to the proper use of construction materials and shall have practical experience in construction. The appointee shall meet the standards for the position as established by the Codes Division of the New York State Department of State.

- (1) To receive, review, and approve or disapprove applications for building permits, certificates of occupancy and operating permits, and the plans, specifications and construction documents submitted with such applications.

- (2) Upon approval of such applications, to issue building permits, certificates of occupancy and operating permits, and to include in building permits, certificates of occupancy and operating permits such terms and conditions as the Building Inspector may determine to be appropriate.

- (3) To conduct construction inspections, inspections to be made prior to the issuance of certificates of occupancy and operating permits, firesafety and property maintenance inspections, inspections incidental to the investigation of complaints, and all other inspections required or permitted under any provision of this chapter.

- (4) To issue stop-work orders.

- (5) To review and investigate complaints.

- (6) To issue orders pursuant to §92-15(A), "Compliance orders," of this Chapter.

- (7) To maintain records.

- (8) To collect fees as set by the Town Board of this Town.

- (9) To pursue administrative enforcement actions and proceedings.

(10) In consultation with this Town's attorney, to pursue such legal actions and proceedings as may be necessary to enforce the Uniform Code, the Energy Code and this chapter, or to abate or correct conditions not in compliance with the Uniform Code, the Energy Code or this Chapter.

(11) To exercise all other powers and fulfill all other duties conferred upon the Building Inspector by this Chapter.

B. The Building Inspector shall be appointed by the Supervisor with the approval of the Town Board. The Building Inspector shall possess background experience related to building construction or fire prevention and shall within the time prescribed by law, obtain such basic training, in-service training, advance in-service training and other training as the State of New York shall require for code enforcement personnel, and the Building Inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

C. In the event that the Building Inspector is unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as Acting Building Inspector. The Building Inspector shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the Building Inspector by this Chapter.

D. One or more inspectors may be appointed by the Town Board to act under the supervision and direction of the Building Inspector and to assist the Building Inspector in the exercise of the powers and fulfillment of the duties conferred upon the Building Inspector by this Chapter. Such inspector shall, within the time prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York shall require for code enforcement personnel, and each inspector shall obtain certification from the State Fire Administrator pursuant to the Executive Law and the regulations promulgated thereunder.

E. The compensation for the Building Inspector and other inspectors shall be fixed from time to time by the Town Board.

4. Section 92-4(A) is hereby deleted in its entirety and replaced as follows:

92-4. Building permits.

A. Building permits required. Except as otherwise provided in Subsection B of this section, a building permit shall be required for any work which must conform to the Uniform Code and/or Energy Code, including, but not limited to, the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure, including retaining walls, swimming pools, boundary walls and fences, signs, poles, radio masts, and the installation of a solid-fuel-burning heating appliance, chimney or flue in any dwelling unit. No person shall commence any work for which a building permit is required without first having obtained a building permit from the Building Inspector.

5. Section 92-4(B)(4) and (5) are hereby deleted in their entirety.

6. The first two sentences of Section 92-4(I) are deleted and replaced as follows:

- I. **Time limits.** Building permits shall become invalid unless the authorized work is commenced within three months following the date of issuance. Building permits shall expire eighteen (18) months after the date of issuance, except that certain projects may receive a six (6) month extension, if reasonable, in the sole discretion of the Building Inspector.

7. Section 92-4(L) is hereby added as follows:

L. Hours of operation. No person shall conduct any operations under a permit issued pursuant to the this Chapter or under the New York State Uniform Fire Prevention and Building Code between the hours of 7:00 p.m. and 7:00 a.m., nor at any time on Sunday, except in an emergency and then only under authority of a special approval issued by the Building Inspector, unless such operations are conducted within an entirely closed structure and in such manner as not to become objectionable or deleterious to the health or welfare of the community or surrounding property owners. The owner of the property and any contractor, agent, person or corporation engaged in connection with a violation of this section shall each be guilty of a separate offense. Violation of this section may also be considered grounds for suspension or revocation of the permit for the premises involved by the Building Inspector under other sections of this Chapter or of the New York State Uniform Fire Prevention and Building Code.

8. Section 92-16 is deleted in its entirety and replaced as follows:

§ 92-16. Fees.

A. Fees shall be in accordance with the Fee Schedule adopted by the Town Board of the Town of Lewisboro.

B. Permits are required for bona fide nonprofit groups, such as religious, charitable and educational organizations. Where exemptions are consistent with provisions applicable to taxes generally, no fee is required.

C. The fact that an organization is merely nonprofit does not necessarily exempt it from payment of fees.

9. Section 92-18 is hereby added as follows:

§ 92-18. Blasting Permits.

A. It shall be unlawful to conduct any blasting operations without having first obtained a permit for the same from the Building Inspector. Persons securing permits for blasting shall use the utmost care and caution to prevent excessive shock waves or stones or debris other material from flying and endangering life and property. Immediately after loading and tamping each hole, and before firing the blast, except in the case of authorized ditching or drainage operations, the material to be blasted shall be covered completely on all exposed surfaces with a strong woven matting or rope or wire and timber cribbing, held securely together by chains or steel wire cables. After the material has been thus covered, the blast shall be fired without unnecessary delay. All blasting shall be done by means of approved detonators. No person shall conduct such blasting operations between 7 p.m. and 7 a.m. nor at any time on Sunday, except in an emergency and then only under authority of a special approval issued by the Building Inspector. The blasting of material contiguous to any building or other structure or pipeline shall be conducted so as not to cause any damage thereto. All blasting shall be under the direct supervision of persons approved and licensed by New York State.

B. The Building Inspector shall not issue a permit for blasting unless the applicant has filed with the Building Inspector a certificate of insurance evidencing comprehensive general liability insurance on an occurrence basis insuring against bodily injury and property damage in the amount of at least \$1,000,000.00 by an insurance carrier licensed by the Insurance Department of the State of New York, said certificate to include the Town of Lewisboro as an additional named insured. The applicant shall also file evidence of payment of the premium for said insurance coverage.

10. Section 92-19 is hereby added as follows:

§ 92-19. Requirements prior to commencement of work; basis for permit fee.

It shall be unlawful to start any work under a permit issued pursuant to the provisions of this chapter until the prescribed fees for the same shall have been paid and before the full name and correct address of the owner has been filed. The fee to be charged for a building permit shall be based upon the estimated cost of the work and materials for the new building or other structure to be erected or of the repairs, alterations or additions to an existing building or other structure, and shall include the costs of all mechanical equipment, plumbing, heating, air conditioning, electrical work, water supply, sewerage and sewage disposal plants appurtenant thereto and the cost of excavation, filing and grading and shall include the value of all labor. In the event of an appreciably discrepancy between the estimate cost and the actual construction costs, the latter shall apply, and the amount of fee charges shall be adjusted when a certificate of occupancy is issued.

9. Section 92-20 is hereby added as follows:

§ 92-20. Changes to lot area.

It shall be unlawful to reduce or diminish the area of a lot or plot, a diagram of which has been filed and used as the basis for a permit, unless a new or revised plot diagram clearly showing all new boundary lines and existing structures and the proposed changes in all conditions shall have been filed and formally approved by the Planning Board; provided, however, that this shall not apply

when the lot area or plot is reduced by reasons of a street extension or widening or other public improvement.

11. Section 92-21 is hereby added as follows:

§ 92-21. Conflict with other provisions.

All other laws, ordinances, resolutions and regulations, or parts of laws, ordinances, resolutions and regulations, less restrictive in their provisions or otherwise in conflict or in duplication of the provisions or this Chapter are hereby superseded.

SECTION 3. SEVARABILITY.

If any provision of this Local Law is declared illegal, the remainder of this Local Law shall be declared to have been separately adopted and shall remain in full force and effect.

SECTION 4. EFFECTIVE DATE.

This Local Law shall take effect immediately upon filing in the Office of the Secretary of State of New York.