

TOWN OF DURHAM
AMENDING LOCAL LAW #2 OF 2015 WHICH AMENDED THE ADMINISTRATION AND
ENFORCEMENT OF THE NYS UNIFORM FIRE PREVENTION AND BUILDING CODE
KNOWN AS LOCAL LAW #3 OF 2009
LOCAL LAW #1 OF 2017

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

Section 1. Purpose and Scope

1.1 Purpose

This law is intended to minimize hazards to public safety and health resulting from building construction activity in the Town of Durham, New York. Further purposes are to eliminate inconsistencies in the current Building Law, to distinguish between requirements for existing buildings and new construction, to define, separate, and clarify the roles of Building Inspector and Code Enforcement Officer, and to ensure consistency in the application of the Law to different construction projects. The single subject of this law is municipal regulation of buildings.

1.2 Scope

This law amends all previous Building Codes and Regulations in the Town of Durham, New York. In the event of any conflict between any provision of this law and previous laws and regulations as amended, the provisions of this law shall prevail.

1.21 This law defines the role of the Town with respect to permitting, inspection, and enforcement of requirements for building construction. This law is adopted for the purpose set forth in the Town Law of the State of New York and is intended to supplement the 2015 International Building Code of the State of New York, the 2015 International Existing Building Code of the State of New York, and the 2015 International Residential Code of the State of New York, including Appendix J (Existing Buildings) of the International Residential Code, as they may be subsequently amended or superseded, hereinafter referred to collectively as the International Codes. In case of conflict, the 2015 International Codes shall prevail over any previous Codes.

1.22 Notwithstanding any provision of this law or of any previous laws or regulations of the Town of Durham, no person is exempted from compliance with the International Codes.

1.23 This local law shall take effect twenty days after it is filed, as provided in section 27 of the Municipal Home Rule Law.

Section 2. Building Permits

2.1 Building Permits Required

2.11 Except as otherwise provided in the Exemptions of this section, a Building Permit shall be required for any work which must conform to the International Codes, including, but not limited to, the

construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, and the installation of a solid fuel burning heating appliance, chimney or flue in or attached to 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.

2.12 Exemptions

No Building Permit shall be required for work in any of the following categories:

- (1) construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.88 square meters);
- (2) installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (3) installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
- (4) installation of fences which are not part of an enclosure surrounding a swimming pool;
- (5) construction of retaining walls unless such walls support a surcharge or impound hazardous materials as listed in 49CFR 172.101;
- (6) construction of temporary motion picture, television and theater stage sets or scenery;
- (7) installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (8) installation of partitions or movable cases less than 5'-9" in height;
- (9) painting, wallpapering, tiling, carpeting, or other similar finish work;
- (10) installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
- (11) replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications;
- (12) repairs, provided that such repairs do not involve i) a load bearing element, the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress; (iii) the enlargement, alteration, replacement or relocation of any building system; or (iv) the removal from service of all or part of a fire protection system for any period of time.

2.2 Applications for Building Permits.

Applications for a Building Permit shall be made in writing on a form provided by or otherwise acceptable to the Building Inspector. The application shall be signed by the owner of the property where

the work is to be performed or an authorized agent of the owner. The application shall include such information as the Building Inspector deems sufficient to permit a determination by the Building Inspector that the intended work complies with all applicable Building Code Requirements and shall include the following information and documentation:

- (1) a description of the proposed work;
- (2) the tax map number and the street address of the premises where the work is to be performed;

The Building Inspector will determine the occupancy classification of the building referenced in the permit application.

2.3 A building permit shall expire at the end of 1 year unless renewed by the property owner for an additional year.

Section 3. New Construction and Existing Buildings

3.1 Alterations of or additions to existing buildings constructed before this law was enacted shall be considered in compliance with the 2015 International building code, as referenced in regards to buildings built prior to 1950. The building inspector is authorized to determine compliance with standard building practices before 1950.

3.2 The building inspector is authorized to interpret subjective or undefined terms in the International Codes based on experience and judgment.

3.3 All requirements set forth in the Greene County Local Law #2 of 1988; "Local Law on Examination, Licensing, and Regulation of Electricians" shall be strictly adhered to.

Section 4. Consistent Practice

4.1 Code Enforcement Priorities

4.11 The Code Enforcement Officer shall maintain a priority list of the most important pending or contemplated enforcement actions relating to this law based on hazards to public safety, and a similar priority list relating to the Unsafe Buildings Ordinance. The Code Enforcement Officer shall maintain a priority list of the most serious violations of the Property Maintenance Law.

4.12 The Town Board shall periodically review and approve the Code Enforcement Priorities and changes thereto.

4.13 The Code Enforcement Officer shall maintain a list of active building permits and their expiration dates.

4.2 Second Opinions

4.21 Any finding by the Building Inspector or Code Enforcement Officer of non-compliance with the International Codes, Hazardous Building Ordinances, or any Property Maintenance Law, will be

confirmed with the Town Board before action is taken. Any findings by the Building Inspector or Code Enforcement Officer of non-compliance with any applicable code that relates to the endangerment to public health, public safety, or risk of injury will be dealt with immediately. The violations will then be brought before the Town Board to review.

4.22 Any confirmed finding of non-compliance may be appealed by the affected property owner or designated representative to the Town Board for reversal or waiver.

Section 5. Roles of Building Department Officials

5.1 This section supersedes Section 3 of Local Law #3 of 2009

5.2 The offices of the Town Building Inspector and the Code Enforcement Officer are hereby created.

5.3 The Building Inspector and the Code Enforcement Officer shall be appointed by the Town Board. In the event that the Building Inspector or Code Enforcement Officer are unable to serve as such for any reason, an individual shall be appointed by the Town Board to serve as the Acting official.

5.4 The Building Inspector and the Code Enforcement Officer shall not be the same person.

5.5 Building Inspector

5.51 The Building Inspector shall receive and review applications for building permits and issue building permits for satisfactory applications. If an application is not sufficient the Building Inspector will notify the applicant what further information is required. If necessary the applicant or Building Inspector may consult with a design professional at the applicant's expense.

5.52 The Building Inspector shall determine the occupancy classification for the completed work.

5.53 The Building Inspector shall periodically visit the premises to review ongoing work at all necessary stages to determine compliance with this law. Each visit shall be documented with respect to date, time, location, and a description or photograph of the inspected work. The visit documentation shall be filed electronically in the office of the Town Clerk. A finding of non-compliance shall be confirmed as specified in Section 4.21 and communicated to the owner and to the Code Enforcement Officer. When non-compliant work has been corrected and found compliant as documented in a subsequent visit by the Building Inspector, the Code Enforcement Officer will be so notified.

5.54 The Building Inspector shall be permitted to issue a Temporary Certificate allowing the temporary occupancy of a building or structure, or a portion thereof, prior to completion of the work which is the subject of a Building Permit. However, in no event shall the Building Inspector issue a Temporary Certificate unless the Building Inspector determines (1) that the building or structure, or the portion thereof covered by the Temporary Certificate, may be occupied safely, (2) that any fire- and smoke-detecting or fire protection equipment which has been installed is operational, and (3) that all required means of egress from the building or structure have been provided. The Building Inspector may include in a Temporary Certificate such terms and conditions as he or she deems necessary or appropriate to ensure safety or to further the purposes and intent of the International Codes. A Temporary Certificate shall be effective for a period of time not to exceed the term of the building permit. During the specified period of effectiveness of the Temporary Certificate, the Permit Holder shall undertake to bring the building or structure into full compliance with all applicable provisions of the International Codes.

5.55 On satisfactory completion of the work, the Building Inspector shall issue a Certificate of Completion and an unrestricted Certificate of Occupancy.

5.56 The completed file shall consist of the Building Permit Application, including all necessary documents needed for the building permit, as required by the Building Inspector, to verify the projects compliance with the 2015 International Code, Building Permit, visit documentation specified in Section 5.53, Certificate of Completion, and Certificate of Occupancy.

5.57 The Building Inspector reports to the Town Supervisor.

5.6 Code Enforcement Officer

5.61 The Code Enforcement Officer shall maintain a database of building permits and their expiration dates and prioritization of actions as specified in Section 4 herein.

5.62 The Code Enforcement Officer shall issue a Stop Work Order within 30 days of the expiration of a building permit after notifying the property owner of the expiration.

5.63 The Code Enforcement Officer shall issue a Stop Work Order within 30 days of notification of non-compliance specified in Section 5.53 unless the referenced work has been corrected and found in compliance by the Building Inspector.

5.64 The Code Enforcement Officer implements the Unsafe Building Ordinance consistent with the Priority List specified in Section 4 herein.

5.65 The Code Enforcement Officer implements the Property Maintenance Law consistent with the Priority List specified in Section 4 herein.

5.66 The Code Enforcement Officer performs scheduled Fire Safety Inspections as provided in Local Law #3 of 2009.

5.67 For unlawful occupancy, the Code Enforcement Officer issues appearance tickets, orders compliance, or seeks injunctive relief, or other remedy in consultation with the Town Attorney.

5.68 The Code Enforcement Officer reports to the Town Supervisor.

Section 6. Severability:

If any section or part of this Local Law is declared invalid or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other section of this Local Law.

Section 7. Effective Date:

This Local Law shall take effect immediately.