

Chapter 64. BUILDING INSPECTOR; BUILDING PERMITS

[**HISTORY: Adopted by the Town Board of the Town of Shandaken 3-6-2006 by L.L. No. 1-2006.** *Editor's Note: This local law was originally adopted as Ch. 11 but was renumbered to suit the organizational structure of the Code. Amendments noted where applicable.*]

GENERAL REFERENCES

Sewers — See Ch. 104.

Subdivision of land — See Ch. 105.

Zoning — See Ch. 116.

§ 64-1. Purpose.

The purpose of this chapter is to provide for enforcement procedures in the Town of Shandaken of the New York State Uniform Fire Prevention and Building Code (hereinafter "Uniform Code") and to regulate the construction and placement of buildings and mobile homes and to provide for a Building Inspector to enforce the application of such regulations in harmony with their general purpose and intent. Unless otherwise provided within this law, state law, or the Uniform Code, all premises, regardless of use, are subject to the provisions of this chapter.

§ 64-2. Designation of Building Inspector as public official.

There is hereby designated in the Town a public official to be known as the Building Inspector, who shall be appointed by the Town Board at a compensation to be fixed by it.

§ 64-3. Appointment of assistant.

The Town Board may appoint one or more assistants, as the need may appear, to act under the supervision of the Building Inspector and to exercise any portion of his or her powers and duties. The compensation of such assistants shall be fixed by the Town Board.

§ 64-4. Acting Building Inspector.

In the absence of the Building Inspector or in the case of his or her inability to act for any reason, the Supervisor shall have the power, with the consent of the Town Board, to designate one or more persons to act in his or her behalf and to exercise all of the powers conferred upon him or her by this chapter.

§ 64-5. Restrictions on officers and employees of Building Department.

No officer or employee of the Building Department shall engage in any activity inconsistent with his or her duties or with the interests of the Building Department, nor shall he or she during the term of his or her employment be engaged directly or indirectly in any building business or in the furnishing of labor, materials or appliances for the construction, alteration or maintenance of a building, or the preparation of plans or specifications thereof, within the Town of Shandaken, excepting only that this provision shall not prohibit any officer or employee from such activities in connection with the construction of a building or structure owned by him or her and not constructed for sale.

§ 64-6. Duties and powers of Building Inspector.

A. Except as otherwise specifically provided by law, ordinance, rule or regulation, or except as herein otherwise provided, the Building Inspector shall administer and enforce all provisions of the New York State Uniform Fire Prevention and Building Code and all other applicable laws, ordinances and regulations applicable to the construction, alteration, repair, removal, relocation and demolition of buildings and structures and the installation and use of materials and equipment therein and the location, use, occupancy and maintenance thereof.

B. He or she shall receive applications which shall be reviewed and, where appropriate, shall issue permits for the erection, alteration, removal, relocation and demolition of buildings or structures or parts thereof and shall examine the premises for which such applications have been received or such permits have been issued for the purpose of insuring compliance with the New York State Uniform Fire Prevention and Building Code and all other applicable laws, ordinances, rules and regulations governing building construction.

C. He or she 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 the New York State Uniform Fire Prevention and Building Code and such laws, ordinances, rules or regulations. He or she shall make all inspections that are necessary or proper for the carrying out of his or her duties, except that he or she may accept written reports of inspection from officers or employees of the Building Department or from generally recognized and authoritative service and inspection bureaus, provided that the same are certified by a reasonable official thereof.

D. Whenever the same may be necessary or appropriate to assure compliance with the provisions of the New York State Uniform Fire Prevention and Building Code, applicable laws, ordinances, rules or regulations covering building construction, he or she may require the performance of tests in the field by experienced, professional persons or by accredited and authoritative testing laboratories or service bureaus or agencies.

§ 64-7. Department records and reports.

A. The Building Inspector shall keep permanent official records on all transactions and activities conducted by him or her, including all applications received, permits and certificates issued, fees charged and collected, inspection reports, and notices and orders issued. All such records shall be public records open to public inspection during business hours.

B. The Building Inspector shall annually submit to the Town Board a written report and summary of all business conducted by the Building Inspector, including permits and certificates issued, fees collected, orders and notices promulgated, inspections and tests made, and appeals or litigation pending.

§ 64-8. Cooperation of other departments.

The Building Inspector may request and shall receive, so far as may be necessary in the discharge of his or her duties, the assistance and cooperation of the Police Department and of all other municipal officials exercising any jurisdiction over the construction, use or occupancy of buildings or the installation of equipment therein.

§ 64-9. Building permits.

A. Permit required; exceptions.

(1) Except as hereinafter provided, no person, firm, corporation, association or partnership shall commence the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure, or any portion thereof, or install a solid-fuel-burning heating appliance, chimney or flue in any dwelling unit, without first having obtained a permit from the Building Inspector.

(2) No permit shall be required for:

(a) Necessary repairs that do not materially affect structural features as determined by the Building Inspector;

(b) Alterations to existing buildings, provided that the alterations:

[1] Cost less than \$10,000; and

[2] Do not materially affect structural features; and

[3] Do not affect firesafety features such as smoke detectors, sprinklers, required fire separations and exits; and

[4] Do not involve the installation or extension of electrical systems; and

[5] Do not include the installation of solid-fuel-burning heating appliances and associated chimneys and flues.

(c) Residential storage sheds and other small noncommercial structures less than 140 square feet which are not intended for use and are not used by one or more persons as quarters for living, sleeping, eating or cooking, for example, a small storage building.

B. Application for a permit.

(1) The application for a building permit and its accompanying documents shall contain sufficient information to permit a determination that the intended work accords with the requirements of the Uniform Code.

(2) The form of the permit and application therefor shall be prescribed by the Building Inspector. The application shall be signed by the owner (or his or her authorized agent) of the building and shall contain all of the following:

(a) The full name and address of the owner, and if by a corporation, the names and addresses of the responsible officials;

(b) Identification and/or description of the land on which the work is to be done;

(c) A description of use or occupancy of the land and the existing or proposed building;

(d) A description of the proposed work;

(e) Three sets of plans and specifications for the proposed work, prepared by a licensed architect or professional engineer;

(f) The required fee.

(3) The Building Inspector may waive the requirement of plans and specifications when the work to be done involves minor alterations or is otherwise unnecessary.

(4) The applicant shall notify the Building Inspector of any changes in the information contained in the application during the period for which the permit is in effect. A permit will be issued when the application has been determined to be complete and when the proposed work has been determined to conform to the requirements of the Uniform Code. The authority conferred by such permit may be limited by conditions, if any, contained therein. Amendments, if any, to the application or to the plans and specifications accompanying the same shall be filed with the Building Inspector, and approval shall be received from the Building Inspector prior to the commencement of such change of work.

C. General requirements.

(1) A building permit issued pursuant to this chapter shall be prominently displayed on the property or premises to which it pertains.

(2) A building permit issued pursuant to this chapter may be suspended or revoked if it is determined that the work to which it pertains is not proceeding in conformance with the Uniform Code or with any condition attached to such permit or if there has been misrepresentation or falsification of a material fact in connection with the application for the permit.

(3) A building permit issued pursuant to this chapter shall expire one year from the date of issuance or upon the issuance of a certificate of occupancy (other than a temporary certificate of occupancy), whichever occurs first. The permit may, upon written request and good cause shown, be renewed for a period not to exceed one year, provided that:

(a) The permit has not been revoked or suspended at the time the application for renewal is made; and

(b) The relevant information in the application is up-to-date; and

(c) The renewal fee is paid.

§ 64-10. Revocation of permit.

The Building Inspector may revoke a building permit theretofore issued and approved in the following instances:

A. Where he or she 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 or she finds that the building permit was issued in error and should not have been issued in accordance with the applicable law.

C. Where he or she 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 Building Inspector.

§ 64-11. Inspection.

A. Inspections during construction.

(1) Work for which a building permit has been issued hereunder shall be inspected for approval by the Building Inspector:

(a) Prior to enclosing or covering any portion thereof; and

(b) Upon completion of each stage of construction, including but not limited to building location, site preparation, excavation, foundation, framing, superstructure, waterproofing, footing, drains, electrical, plumbing, heating, air conditioning, fire protection and detection systems; and

(c) Final inspection.

(2) It shall be the responsibility of the owner, applicant, or his or her agent to inform the Building Inspector that the work is ready for inspection and to schedule such inspection.

(3) Work that requires special inspections during construction shall be the responsibility of the owner, applicant, or his or her agent to provide a list of, 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 Building Inspector for the permit application file. The reports of such special inspections shall be provided to the Building Inspector for the permanent record.

B. Fire prevention and property maintenance inspections.

(1) 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.

(2) Fire safety 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.

(3) All other buildings, uses and occupancies (except one- or two-family dwellings) shall be inspected at least once in every 24 months.

(4) An inspection of a building or dwelling unit may also be performed at any time upon:

(a) The request of the owner, authorized agent, or tenant;

(b) Receipt of a written statement alleging that conditions or activities failing to comply with the Uniform Code exist; or

(c) Other reasonable and reliable information that such a violation exists.

§ 64-12. Right of entry.

A. Any Building Inspector shall be authorized, in the performance of his or her duties, to conduct inspections of premises, or parts of premises, at such times and in such manner as the Building Inspector may find convenient or necessary, with the consent of the person in possession or occupancy.

B. If admission is refused or cannot be obtained from the person in possession or occupancy, the Building Inspector shall be authorized to obtain a warrant to make an inspection, provided that reasonable or probable cause is shown.

C. In case of an emergency, the Building Inspector may, without a warrant, enter any premises, or parts of premises, to inspect the same, at any time, without the permission of the person in possession or occupancy.

§ 64-13. Stop orders.

Whenever the Building Inspector has reasonable grounds to believe that work on any building or structure is being prosecuted in violation of the provisions of the New York State Uniform Fire Prevention and Building Code, 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, or in the event that the Building Inspector is refused admission to the premises to inspect the work, he or she shall notify the owner of the property, the owner's agent or the person performing the work 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 her or by posting the same upon a conspicuous portion of the building under construction and sending a copy of the same by certified mail to the address set forth in the application for the building permit.

§ 64-14. Inspection prior to issuance of certificate.

A. Before issuing a certificate of occupancy, the Building Inspector 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, remove, demolish or change the use or occupancy, and he or she may conduct such inspections as he or she deems appropriate from time to time during and upon completion of the work for which a building permit has been issued.

B. 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.

§ 64-15. Issuance of certificate of occupancy.

A. When, after final inspection, it is found that the proposed work has been completed in accordance with the New York State Uniform Fire Prevention and Building Code, applicable building laws, ordinances and rules or regulations and also in accordance with the application, plans and specifications filed in connection with the issuance of a building permit, the Building Inspector shall issue a certificate of occupancy upon the form provided by him or her. If it is found that the proposed work has not been properly completed, the Building Inspector shall refuse to 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 45 days after application therefor is made. Failure to act upon such application within 45 days shall constitute approval of such application, and the building or portion thereof may thereafter be occupied as though a certificate of occupancy had been issued.

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 New York State Uniform Fire Prevention and Building Code, applicable building laws, ordinances and rules or 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.

§ 64-16. Proof of compliance.

Whenever there are reasonable grounds to believe that any material, construction, equipment or assembly does not conform to the requirements of the applicable building laws, ordinances, rules or regulations, the Building Inspector may require the same to be subjected to tests in order to furnish proof of such compliance.

§ 64-17. Penalties for offenses.

A. It shall be unlawful for any person, firm or corporation to construct, alter, repair, move, demolish, equip, use, occupy or maintain any building or structure or portion thereof in violation of any provision of this chapter or to fail in any manner to comply with a notice, directive or order of the Building Inspector or to construct, alter or use and 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 Inspector within the time fixed for compliance therewith and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent, or his or her agents, or any other person taking part or assisting in the construction or use of any building who shall violate any of the applicable provisions of this chapter or any lawful order, notice, directive, permit or certificate of the Building Inspector made thereunder shall be punishable by a fine of not more than \$250 or 15 days in jail, or both. Each day that a violation continues shall be deemed a separate offense.

§ 64-18. Abatement of violation.

Appropriate actions 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, or the conducting of a business in or about any premises, and these remedies are in addition to the penalties prescribed in the preceding section. The Attorney for the Town is authorized to initiate said actions and proceedings.

§ 64-19. Conflict with other legislation.

In the event that any other portion of the Code of the Town of Shandaken is in conflict with the provisions of this chapter, the provisions of this chapter shall supersede said other provisions of the Code.

§ 64-20. When effective.

This chapter shall take effect upon filing with the Secretary of State.