

Amendment to the Zoning Ordinance of the Town of Ancram, New York

The “Zoning Ordinance of the Town of Ancram, New York,” is hereby amended by deleting in its entirety old Section VII entitled “Administration” and substituting in lieu thereof the following new section which shall be designated as Section VII and entitled “Administration and Enforcement”:

Section VII Administration and Enforcement

A. Creation and duties of Zoning Enforcement Officer.

The Office of Zoning Enforcement Officer is hereby created. The Zoning Enforcement Officer (ZEO) shall administer and enforce all provisions of this Zoning Ordinance. The Town Board may assign the duties of the Zoning Enforcement Officer to the Building Inspector or Code Enforcement Officer.

Reader Aid Box: Towns are empowered to create any or all of three different enforcement officers. The Zoning Enforcement Officer is authorized to issue zoning permits, inspect, and enforce this zoning ordinance. The Building Inspector is authorized to issue building permits, inspect, and enforce the New York State Uniform Fire Prevention and Building Code and the New York State Energy Conservation Construction Code. The Code Enforcement Officer is similar to the Building Inspector but could have broader duties and is often tasked with the enforcement of the Building Code of New York State and other local laws and ordinances dealing with building construction, renovations (interior and exterior), and building demolition and removal. These duties may be held by individual staff or combined into one staff position. This explanation is a reader’s aid only and not a part of the Zoning Ordinance.

The ZEO shall have the following powers and duties:

1. To receive and review for Zoning Ordinance compliance and for clerical completeness all applications for a special use permit, site plan review and subdivision review pursuant to the provisions of this Zoning Ordinance. If the Zoning Enforcement Officer determines that the application meets all requirements of the Zoning Ordinance, the ZEO shall forward the application to the Planning Board for further review in accordance with the provisions of the Zoning Ordinance and/or Land Subdivision Regulations. If the ZEO finds that the application does not comply in one or more respects with the provisions of the Zoning Ordinance, the ZEO shall deny the application and notify the applicant that he/she may appeal the ZEO's determination to the Zoning Board of Appeals in accordance with the provisions of Section VIII of this Zoning Ordinance.

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2. Upon approval of any application by the Planning Board for a special use permit, site plan approval, or for any other change in use requiring the issuance of a building permit, the ZEO is authorized to issue a zoning permit without additional application by the project sponsor. A zoning permit is a document that acknowledges that a proposed use or structure complies with the Ancram Zoning Ordinance or authorized variance thereof. Such zoning permit shall include all standards and conditions imposed by the Planning Board.
3. To conduct inspections necessary to the investigation of complaints and all other inspections required or permitted under any provision of this Zoning Ordinance.
4. To issue stop work orders, notices of violations and compliance orders.
5. To accept complaints of violations from citizens and public officials, to document and follow up on violations encountered during the course of inspections or through general observation in the community, to investigate potential violations, and where necessary in the discretion of the Town, to commence enforcement of the Zoning Ordinance.
6. To issue orders pursuant to Section VII (L) of this Zoning Ordinance ("Violations").
7. To maintain records.
8. To collect fees set by the Town Board.
9. To pursue administrative and civil enforcement actions and proceedings and/or criminal proceedings to enforce the provisions of this Zoning Ordinance.
10. To consult with the Town Attorney about pursuing such legal actions and proceedings as may be necessary to enforce the provisions of the Zoning Ordinance.
11. To exercise all other powers and fulfill all other duties conferred upon the Zoning Enforcement Officer by this Zoning Ordinance.

B. Appointment and qualifications.

The Zoning Enforcement Officer shall be appointed by the Town Board. The Zoning Enforcement Officer shall possess background, skills, training and experience relating to the interpretation, application and enforcement of zoning ordinances and laws commensurate with the responsibilities of the position and shall, within the time period prescribed by law, obtain such basic training, in-service training, advanced in-service training and other training as the State of New York and the Town shall require for Zoning Enforcement personnel. The Town Board may also appoint a Deputy Zoning Enforcement Officer who shall have the same duties and authority as those conferred upon the ZEO by the Town Board. Such Deputy shall also have the qualifications,

training, and skills commensurate with the responsibilities of the Zoning Enforcement Officer position.

C. Acting Zoning Enforcement Officer.

In the event the ZEO is unable to serve for any reason, the Deputy ZEO shall be appointed by the Town Board to serve as Acting Zoning Enforcement Officer. The Acting Zoning Enforcement Officer shall possess background and experience relating to the interpretation, application and enforcement of zoning ordinances and laws and shall, after being appointed by the Town Board, obtain such basic training, in service training, advanced in service training and other training as the State of New York and the Town shall require for Zoning Enforcement personnel. The Acting Zoning Enforcement Officer shall, during the term of his or her appointment, exercise all powers and fulfill all duties conferred upon the ZEO by this Zoning Ordinance.

D. Compensation.

Compensation of the Zoning Enforcement Officer shall be reviewed annually by the Town Board.

E. Authority to issue Stop Work Orders.

The Zoning Enforcement Officer is authorized to issue stop work orders pursuant to this section for any work that is determined by the Zoning Enforcement Officer to be conducted in violation of the Zoning Ordinance, including, but not limited to, work being conducted on land and/or work being conducted on a building or structure for which a special use permit or site plan approval is required but has not been obtained.

F. Content of stop work order.

A stop work order shall:

1. Be in writing;
2. Be dated and signed by issuing Officer;
3. State the reason or reasons for issuance; and
4. If applicable, state the conditions that must be satisfied before work will be permitted to resume.

G. Service of stop work order.

The ZEO shall cause the stop work order, or a copy thereof, to be served on the owner of the affected property (and, if the owner is not the permit holder, on the permit holder) personally or by registered or certified mail. The ZEO shall be permitted, but not required, to cause the stop work order, or a copy thereof, to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work affected by the stop work order, personally or by registered or certified mail; provided, however, that failure to serve any

person mentioned in this sentence shall not affect the efficacy of the stop work order.

H. Effect of stop work order.

When a stop work order is issued, the owner of the affected property, the permit holder and any other person performing, taking part in or assisting in the work shall immediately cease all work that is the subject of the stop work order.

I. Complaints.

The ZEO shall review and investigate complaints that allege or assert the existence of conditions or activities that fail to comply with this Zoning Ordinance. The process for responding to a complaint shall include any of the following steps the ZEO may deem to be appropriate:

1. Performing an inspection of the property, conditions and/or activities alleged to be in violation, and documenting the results of such inspection;
2. If a violation is found to exist, providing the owner of the affected property, and any other person who may be responsible for the violation, with notice of the violation and opportunity to abate, correct or cure the violation, or otherwise proceeding in the manner authorized in Section VII, subsection (L) (Violations) of this Zoning Ordinance;
3. If appropriate, issuing a stop work order and/or compliance order;
4. If a violation that was found to exist is abated or corrected, performing an inspection to ensure that the violation has been abated or corrected, preparing a final written report reflecting such abatement or correction, and filing the report with the complaint; and
5. Notify the complainant about the outcome of any investigation initiated as a result of their complaint.

J. Recordkeeping.

The ZEO shall keep permanent official records of all transactions and activities that he/she conducts and those conducted by members of his office, including records of:

1. All applications received, reviewed and approved or denied;
2. All plans, specifications and construction documents approved;
3. All zoning permits, temporary certificates, stop work orders, operating permits, and certificates of use issued;

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4. All inspections and tests, including all third party inspections and tests, required and performed;
5. All statements and reports issued and a master list of all reports to be received;
6. All complaints received;
7. All investigations conducted;
8. All other features and activities specified in or contemplated by this Section of the Zoning Ordinance; and
9. All fees charged and collected.

All records shall be public records open for public inspection during normal business hours, except for records exempted from disclosure under the New York State Public Officers Law (Freedom of Information Law) or documents which are protected by attorney-client privilege. All records maintained by the ZEO shall be kept in an organized manner calculated to allow easy and efficient review by Town officials or the public. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation. The ZEO shall periodically check all reports and plans to ensure that appropriate action, if needed, is taken.

K. Program review and reporting.

The ZEO along with the Deputy ZEO shall annually submit to the Town Board a written report and summary of all business conducted by the ZEO office, including a report and summary of all transactions and activities described in Section VII, subsection (J) (Record Keeping) of this Zoning Ordinance and a report and summary of all appeals or litigation pending or concluded.

L. Violations.

The ZEO is authorized to order in writing the remedying of any condition or activity found to exist in, on, or about any building, structure, property or premises in violation of this Zoning Ordinance.

Upon finding that any violation exists, the officer shall issue a compliance order. The compliance order shall:

1. be in writing;
2. be dated, shall identify the ZEO, and be signed by the ZEO;
3. specify the condition or activity that violates this Zoning Ordinance;

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4. specify the provision or provisions of this Zoning Ordinance that is/are violated by the specified condition or activity;
5. specify the period of time the ZEO believes is reasonably necessary for achieving compliance;
6. direct that compliance be achieved within the specified period of time; and
7. state that an action or proceeding to compel compliance may be instituted if compliance is not achieved within the specified period of time.

The ZEO shall cause the compliance order, or a copy thereof, to be served on the owner of the affected property personally or by registered or certified mail. The Officer shall be permitted, but not required, to cause the compliance order, or a copy thereof; to be served on any builder, architect, tenant, contractor, subcontractor, construction superintendent, or their agents, or any other person taking part or assisting in work being performed at the affected property personally or by registered or certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the compliance order.

M. Appearance tickets.

The ZEO is authorized to issue appearance tickets for any violation of the Zoning Ordinance.

N. Civil penalties.

In addition to those penalties authorized by State law, any person who violates any provision of this Zoning Ordinance 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 subdivision shall be recoverable in an action instituted by the Town of Ancram.

O. Criminal penalties and enforcement.

Any violation of the Zoning Ordinance is hereby declared to be an offense punishable by a fine not exceeding \$350 or imprisonment for a period not to exceed six (6) months, or both, for conviction of a first offense; upon conviction of a second offense, both of which were committed within a period of five (5) years, punishable by a fine not less than \$350, nor more than \$700, or imprisonment for a period not to exceed six (6) months, or both; and upon conviction of a third or subsequent offense, all of which were committed within a period of five (5) years, punishable by a fine not less than \$700, nor more than \$1,000, or imprisonment for a period not to exceed six (6) months, or both. For the purpose of conferring jurisdiction upon the Courts and judicial officers generally, violations of the Zoning Ordinance shall be deemed misdemeanors and for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional

violation.

P. Injunctive relief.

An action or proceeding may be instituted by the Town, in a court of competent jurisdiction, to prevent, restrain, enjoin, correct, or abate any violation of, or to enforce, any provision of this Zoning Ordinance. No court action or proceeding shall be commenced without the appropriate authorization from the Town Board. In particular, but not by way of limitation, where the construction or use of a building or structure is in violation of any provision of this Zoning Ordinance, or any Stop Work Order, Compliance Order or other order obtained under this Zoning Ordinance, an action or proceeding may be commenced in the name of the Town, in the Supreme Court or in any other court having the requisite jurisdiction, to obtain an order directing the removal of the building or structure or an abatement of the condition in violation of such provisions.

Q. Remedies not exclusive.

No remedy or penalty specified in this Section shall be the exclusive remedy or penalty available to address any violation described in this Section, and each remedy or penalty specified in this Section shall be in addition to, and not in substitution for or limitation of, the other remedies or penalties specified this Section or in any other applicable law. Any remedy or penalty specified in this Section, including stop work orders, may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in this Section or any other applicable law.

In particular, but not by way of limitation, each remedy and penalty specified in this section, including stop work orders, shall be in addition to, and not in substitution for or limitation of, the penalties specified in Subdivision (2) of Section 381 of the New York State Executive Law (Administration and Enforcement of the New York State Uniform Fire Prevention and Building Code and the New York State Energy Conservation and Construction Code), and any remedy or penalty specified in this Section, including stop work orders, may be pursued at any time, whether prior to, or simultaneously with, or after the pursuit of any penalty specified in Subdivision (2) of Section 381 of the New York State Executive Law.