

Chapter 78
FIRE PREVENTION AND BUILDING CONSTRUCTION

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[HISTORY: Adopted by the Town Board of the Town of Rochester 4-25-1985 by L.L. No. 2-1985. Amendments noted where applicable.]

§ 78-1. Purpose and applicability.

This chapter shall provide for the administration of the New York State Uniform Fire Prevention and Building Code, hereinafter referred to as the "Uniform Code," in the Town of Rochester and mandated pursuant to the provisions of Chapter 707 of the Laws of 1981. This chapter shall establish powers, duties and responsibilities therewith.

§ 78-2. Designation of Code Enforcement Officer.¹

It is hereby designated in the Town of Rochester that the Code Enforcement Officer shall be the public official for the Town of Rochester to enforce this chapter. Said Code Enforcement Officer shall be appointed by the Town Board, for a term of one year, at a compensation to be fixed by said Town Board.

§ 78-3. Acting Code Enforcement Officer.

In the absence of the Code Enforcement Officer or in the case of said official's inability to act for any reason the Town Board shall have the power to designate a person to act in behalf of the Code Enforcement Officer and to exercise all the powers conferred upon said acting Code Enforcement Officer by this chapter. Compensation of the Acting Code Enforcement Officer shall be fixed by the Town Board. Any person so appointed must be qualified according to New York State law to hold this position.

§ 78-4. Appointment of building inspectors.

The Town Board may appoint one Building Inspector, or more, as the need may appear, to act under the supervision and direction of the Code Enforcement Officer and to exercise any

¹ Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

portion of the powers and duties of the Code Enforcement Officer as directed by him. The compensation of such building inspectors shall be fixed by the Town Board.

§ 78-5. Restrictions on employees.

- A. A Code Enforcement Officer, 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 Rochester, 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.
- B. Nothing herein shall be construed to prevent said Code Enforcement Officer or employee from engaging in the above prohibited activities in any other municipality.

§ 78-6. Duties and powers of Code Enforcement Officer.

- A. Except as otherwise specifically provided by law, ordinance, rule or regulation or except as herein otherwise provided, the Code Enforcement Officer 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 law and a proper enforcement of all 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 ensuring 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 ensure 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, via certified mail, a copy of such order to the owner or his agent at the address set forth in the application for permission to construct or alter 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 and authoritative service and inspection bureaus or agencies, provided that 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 of experienced, professional persons or by accredited and authoritative testing laboratories or service and inspection bureaus or agencies.
- F. He shall issue a certificate of compliance where appropriate for a building constructed or altered in accordance with the provisions of the Uniform Code, which such certificate shall certify that the building conforms to the requirements of said Uniform Code.
- G. The Code Enforcement Officer shall have the power to issue appearance tickets for violations of this chapter, returnable in the Town of Rochester Justice Court.

§ 78-7. Department records and reports.

- A. The Code Enforcement Officer 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 and open to public inspection during normal business hours.
- B. The Code Enforcement Officer shall, monthly, submit to the Town Board a written report and summary of all business conducted by his department, including approvals, permits and certificates issued, fees collected, orders and notices promulgated, inspections and tests made and appeals or litigation pending or concluded.

§ 78-8. Failure to comply; penalties for offenses.

- 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 Code Enforcement Officer in accordance with applicable laws, or to fail in any manner to comply with a notice, directive or order of the Code Enforcement Officer, 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 compliance.
- B. Any person who shall fail to comply with a written order of the Code Enforcement Officer 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 Code Enforcement Officer made thereunder shall be punishable by fine or imprisonment, or both. Each day that a violation continues shall be deemed a separate offense.

- C. The penalties for violation of this chapter shall be a misdemeanor, punishable by a fine not to exceed the sum of \$1,000 or one year imprisonment, or both, for each violation.²
- D. 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.

² Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).