

**TOWN OF NORTH HEMPSTEAD  
LOCAL LAW NO. OF 2022**

**A LOCAL LAW AMENDING CHAPTER 70 OF THE TOWN CODE  
ENTITLED “ZONING”**

**BE IT ENACTED** by the Town Board of the Town of North Hempstead, as follows:

**Section 1. Legislative Intent.**

The Board finds that it is in the best interest of the Town of North Hempstead to amend Chapter 70 of the Town Code entitled “Zoning” in order to allow the Commissioner of Building Safety, Inspection and Enforcement to revoke a certificate of occupancy or a certificate of existing use for commercial properties.

**Section 2.**

Chapter 70 of the Town Code is hereby amended as follows:

**§ 70-223.1 Procedure for revoking certificate of occupancy or certificate of existing use.**

**A. Residential Properties**

**1.** Upon acquiring information that a residential building may be occupied in violation of the certificate of occupancy or certificate of existing use issued therefor, the Commissioner of Building and Safety Inspection and Enforcement shall cause an investigation of the premises to be made and an inspection report to be prepared containing the following:

~~[(1)]~~ **a.** A description of the premises.

~~[(2)]~~ **b.** A statement of the particulars, if any, in which the residence is being used in violation of the certificate of occupancy or certificate of existing use.

~~[(3)]~~ **c.** A description of how such illegal occupancy is creating a hazard to public health and/or safety.

~~[B-]~~ **2.** Said report shall be filed in the office of the Department of Building and Safety Inspection and Enforcement.

~~[C-]~~ **3.** If the investigation performed pursuant to Subsection ~~[A]~~ **1** above confirms that there is violation of the certificate of occupancy or certificate of existing use, the Commissioner of Building and Safety Inspection and Enforcement may cause a written notice to be prepared, which shall contain the following:

~~[(1)]~~ **a.** A description of the premises.

~~[(2)]~~ **b.** A statement of the particulars in which the building is being occupied in violation of the certificate of occupancy or certificate of existing use.

~~[(3)]~~ **c.** An order directing that the occupancy of the building be brought into conformity with the certificate of occupancy or certificate of existing use.

~~[(4)]~~ **d.** An order directing that legal action be commenced by the service of a summary proceeding petition to remove all illegal occupants of the premises within 10 days of the date of personal service or within 15 days of mailing of the written notice and that proof of same be filed with the Commissioner of Building and Safety Inspection and Enforcement not later than five days after the date of such commencement.

~~[(5)]~~ **e.** The date, time and place of a hearing before the Town Board relative to the subject residence being illegally occupied, which hearing shall be scheduled not less than 30 days from the date of personal service or mailing of the written notice.

~~[(6)]~~ **f.** A statement that in the event legal action to remove all illegal occupants is not commenced within the required period, the Town Board is empowered and authorized to direct the Commissioner of Building and Safety Inspection and Enforcement to revoke the certificate of occupancy or certificate of existing use and that, if the Town Board takes such action, it will seek a court order removing all persons from occupancy of the residence. In such event, all expenses thereof shall be assessed against the land on which the building is located and the Town shall institute legal action to recover the costs of removing said occupants as well as legal fees and expenses.

~~[D.]~~ **4.** The aforementioned written notice shall be served on the owner of record or the owner's executor, legal representative, agent, lessee, or any other person having a vested or contingent interest in the subject property, either personally or by certified mail addressed to the intended recipient's last known address as shown by the records of the Town's Receiver of Taxes or the records in the office of the Nassau County Clerk. In addition, a copy of said notice shall be securely posted on the subject building in a conspicuous location.

~~[E.]~~ **5.** In the event that the whereabouts of the owner of the subject property and any other person having an interest therein, as defined in Subsection ~~[D.]~~ **4** above, are unknown and cannot be ascertained after the exercise of reasonable diligence by the Commissioner of Building and Safety Inspection and Enforcement, the Commissioner of Building and Safety Inspection and Enforcement shall execute an affidavit to that effect, which shall be filed in the office of the Town Clerk. In such a case, service shall be deemed to have been accomplished by the posting required in Subsection ~~[D.]~~ **4** above.

~~[F.]~~ **6.** In the event that the owner of the illegally occupied residential building fails or refuses to comply with the order to bring the building into conformity with the certificate of occupancy or certificate of existing use, The Town Board may, after a public hearing, direct the Commissioner of Building and Safety Inspection and Enforcement to revoke the certificate of occupancy or certificate of existing use for said premises and further direct that legal action be commenced to remove all persons occupying said premises therefrom.

**B. Commercial Properties**

**1. As used in this Subsection B, the term “commercial premises” shall mean any premises classified as “class four” pursuant to Section 1802 of the Real Property Tax Law.**

**2. Upon acquiring information that a commercial premises may be used in violation of the certificate of occupancy or certificate of existing use issued therefor, the Commissioner of Building and Safety Inspection and Enforcement shall cause an investigation of the premises to be made and an inspection report to be prepared containing the following:**

**a. A description of the premises.**

**b. A statement of the particulars, if any, in which the premises is being used in violation of the certificate of occupancy or certificate of existing use, which shall be limited to the premises being used for a use, other than a preexisting non-conforming use permitted by Section 70-208 of this Chapter, that is either (i) a prohibited use in the zoning district in which the premises is located, (ii) a conditional use in the zoning district in which the premises is located, which use has not been approved for the premises by the Town Board or the Board of Zoning and Appeals or (iii) a use that requires a special permit from the Town Board in the zoning district in which the premises is located, which the Town Board has not granted for the premises.**

**c. A description of how such use in violation of the certificate of occupancy or certificate of existing use is creating a hazard to public health and/or safety.**

**3. Said report shall be filed in the office of the Department of Building and Safety Inspection and Enforcement.**

**4. If the investigation performed pursuant to Subsection 1 above confirms that there is violation of the certificate of occupancy or certificate of existing use, the Commissioner of Building and Safety Inspection and Enforcement may cause a written notice to be prepared, which shall contain the following:**

**a. A description of the premises.**

**b. A statement of the particulars in which the premises is being used in violation of the certificate of occupancy or certificate of existing use, which shall be limited to the premises being used for a use, other than a preexisting non-conforming use permitted by Section 70-208 of this Chapter, that is either (i) a prohibited use in the zoning district in which the premises is located, (ii) a conditional use in the zoning district in which the premises is located, which use has not been approved for the premises by the Town Board or the Board of Zoning and Appeals or (iii) a use that requires a special permit from the Town Board in the zoning district in which the premises is located, which the Town Board has not granted for the premises.**

c. A description of how such use in violation of the certificate of occupancy or certificate of existing use is creating a hazard to public health and/or safety.

d. An order directing that the use of the premises be brought into conformity with the certificate of occupancy or certificate of existing use within 30 days of the date of personal service or within 35 days of mailing of the written notice, as described in Subsection 4 below.

e. A statement that in the event the use of the premises is not brought into conformity with the certificate of occupancy or certificate of existing use within the required period, a public hearing may be held to consider the revocation of the certificate of occupancy.

5. The aforementioned written notice shall be served on the owner of record or the owner's executor, legal representative, agent, lessee, or any other person having a vested or contingent interest in the subject property, either personally or by certified mail addressed to the intended recipient's last known address as shown by the records of the Town's Receiver of Taxes or the records in the office of the Nassau County Clerk. In addition, a copy of said notice shall be securely posted on the subject premises in a conspicuous location.

6. In the event that the whereabouts of the owner of the subject property and any other person having an interest therein, as defined in Subsection 4 above, are unknown and cannot be ascertained after the exercise of reasonable diligence by the Commissioner of Building and Safety Inspection and Enforcement, the Commissioner of Building and Safety Inspection and Enforcement shall execute an affidavit to that effect, which shall be filed in the office of the Town Clerk. In such a case, service shall be deemed to have been accomplished by the posting required in Subsection 4 above.

7. In the event that the owner of the commercial premises being used in violation of the certificate of occupancy or certificate of existing use in accordance with this Subsection B fails or refuses to comply with the order to bring the premises into conformity with the certificate of occupancy or certificate of existing use within the required period, the Commissioner of Building and Safety Inspection and Enforcement shall send a separate notice bearing the date, time and place of a hearing before the Town Board relative to the subject premises being used in violation of the certificate of occupancy or certificate of existing use. Such hearing notice shall be served pursuant to Subsection 4 or 5 above, as the case may be. The hearing shall be scheduled not more than 20 and not less than 10 days from the date of personal service or certified mailing of the hearing notice or posting. The Town Board may, after a public hearing and upon the basis of substantial evidence presented at the public hearing, direct the Commissioner of Building and Safety Inspection and Enforcement to revoke the certificate of occupancy or certificate of existing use for said premises.

### Section 3.

This Local Law shall take effect immediately upon filing with the Secretary of State.