

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. OF 2020**

**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 adjust the penalties for certain offenses in the Industrial zoning districts.

Section 2.

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

§ 70-235 Penalties for offenses; additional fees for certain nonconforming structures.
[Amended 11-19-1974 by L.L. No. 11-1974; 8-18-1987 by L.L. No. 13-1987; 5-25-1993 by L.L. No. 5-1993; 8-27-1996 by L.L. No. 21-1996; 12-16-1997 by L.L. No. 24-1997]

For any and every violation of the provisions of this chapter, the owner, general agent or contractor of a building or premises where such violation has been committed or shall exist, and the lessee or tenant of an entire building or entire premises where such violation has been committed or shall exist, and the owner, general agent, contractor, lessee or tenant of any part of a building or premises in which part such violation has been committed or shall exist, and the general agent, architect, builder, contractor or any other person who knowingly commits, takes part in, allows or assists in any such violation or who maintains any part or assists in any such violation or who maintains any building or premises in which any such violation shall exist shall be guilty of a violation against this chapter and shall be punished as follows:

- A. For a violation of § 70-212 or 70-213, by a fine of not less than \$50 nor more than \$250 for conviction of a first offense; by a fine of not less than \$250 nor more than \$500 for conviction of the second of two offenses, both of which were committed within a period of five years; and by a fine of not less than \$500 nor more than \$1,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of a third or subsequent offense of a series of offenses, all of which were committed within a period of five years. Each week's continued violation shall constitute a separate and distinct violation.
- B. For a violation of §§ 70-3.2, 70-3.3, 70-5, 70-5.1, 70-14, 70-15, 70-24, 70-25, 70-34, 70-35, 70-44, 70-45, 70-47, 70-54, 70-55, 70-57, 70-66, 70-67 or 70-69, by a fine of not less than \$1,000 nor more than \$2,500 or by imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense; by a fine of not less than \$2,500 nor more than \$5,000

or by imprisonment for a period not to exceed 15 days, or both, for conviction of the second of two offenses, both of which were committed within a period of five years; and by a fine of not less than \$5,000 nor more than \$10,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of a third or subsequent offense of a series of offenses, of which were committed within a period of five years. Each week's continued violation shall constitute a separate and distinct violation.

- C. For a violation of § 70-229, by a fine of not less than \$250 nor more than \$1,500 or by imprisonment for a period not to exceed 15 days, or by both, for conviction of a first offense; by a fine of not less than \$1,500 nor more than \$5,000 or by imprisonment for a period not to exceed 15 days, or by both, for conviction of the second of two offenses, both of which were committed within a period of five years; and by a fine of not less than \$5,000 nor more than \$10,000 or by imprisonment or a period not to exceed 15 days, or by both, for conviction of the third or subsequent offense of a series of offenses, all of which were committed within a period of five years. Each week's continued violation shall constitute a separate and distinct violation.
- D. For a violation of § 70-222 of this chapter or any rule or regulation made pursuant thereto shall be guilty of a misdemeanor punishable by a fine of up to \$1,000, or by imprisonment of up to one year, or by both fine and imprisonment as hereinbefore set forth in this Subsection D. Each week's continued violation shall constitute a separate and distinct violation of said section or any rule or regulation made pursuant thereto. [Added 5-15-2003 by L.L. No. 5-2003]
- E. For a violation of §§ 70-202.2 and 70-202.3 of this chapter or any rule or regulation made pursuant thereto shall be guilty of a misdemeanor punishable by a fine of up to \$1,000, or by imprisonment of up to one year, or by both fine and imprisonment as hereinbefore set forth in this Subsection E. Each week's continued violation shall constitute a separate and distinct violation of said section or any rule or regulation made pursuant thereto. [Added 4-12-2005 by L.L. No. 2-2005]
- F. For a violation of §§ 70-173, 70-186, 70-187, 70-188, by a fine of not less than \$2,500 nor more than \$10,000 or by imprisonment for a period not to exceed 15 days, or by both, for conviction of a first offense; by a fine of not less than \$10,000 nor more than \$20,000 or by imprisonment for a period not to exceed 15 days, or by both, for conviction of the second of two offenses, both of which were committed within a period of five years; and by a fine of not less than \$20,000 nor more than \$30,000 or by imprisonment or a period not to exceed 15 days, or by both, for conviction of the third or subsequent offense of a series of offenses, all of which were committed within a period of five years. Each week's continued violation shall constitute a separate and distinct violation.**

~~[F]~~G. For all other violations of this chapter, by a fine not exceeding \$1,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense; by a fine of not less than \$1,000 nor more than \$2,500 or by imprisonment for a period not to exceed 15 days, or both, for conviction of the second of two offenses, both of which were committed within a period of five years; and by a fine of not less than \$2,500 nor more than \$10,000 or by imprisonment for a period not to exceed 15 days, or both, for conviction of a third or subsequent offense of a series of offenses, all of which were committed within a period of five years. Each week's continued violation shall constitute a separate and distinct violation.

~~[G]~~H. Applications submitted prior to December 31, 2006. [Added 2-13-2008 by L.L. No. 3-2008; amended 3-8-2011 by L.L. No. 6-2011]

(1) All building permit applications submitted on or after January 1, 2000, through and including December 31, 2006, which have received approval or authorization by Building Department personnel, but are now deemed by the Building Department to be outside the scope of the Zoning Code, shall be hereby authorized for approval under the following circumstances and with the following conditions:

(a) Square footage, setback, sky plane and height.

[1] A structure not greater than 10% beyond the allowed square footage under the Zoning Code shall be deemed authorized on the condition that the applicant pay additional permit fees as set forth in the following schedule: \$170 per square foot, up to 6% beyond that allowed under the Zoning Code, plus an additional \$85 per square foot for each square foot greater than 6% and up to 10% of that allowed under the Zoning Code.

[2] Setback: A structure that is 10% or less beyond the allowed setback under the Zoning Code shall be deemed authorized on the condition that the applicant pay an additional permit fee of \$1,500 per inch beyond the setback authorized under the Zoning Code.

[3] Sky plane:

[a] A structure that is four feet or less beyond the allowed sky plane under the Zoning Code shall be deemed authorized on the condition that the applicant pay an additional permit fee of \$10,000 per foot beyond the sky plane authorized under the Zoning Code.

[b] A structure that is not greater than seven feet beyond the allowed sky plane under the Zoning Code and contains no height violation shall be deemed authorized on the condition that the applicant pay additional permit fees as set forth in the following schedule: \$10,000 per foot, up to six feet beyond the sky plane authorized under the Zoning Code, plus an additional \$5,000 per foot, or \$425 for each inch greater than six feet, but not exceeding

seven feet beyond the sky plane authorized under the Zoning Code.

- [4] Height: A structure that is not greater than 24 inches beyond the allowed height under the Zoning Code shall be deemed authorized on the condition that the applicant pay additional permit fees as set forth in the following schedule: \$5,000 per inch, up to 12 inches beyond the height authorized under the Zoning Code, plus an additional \$2,500 per inch for each inch greater than 12 inches and up to 24 inches beyond the height authorized under the Zoning Code.
- (b) All measurement calculations are to be set by the Building Department and shall be rounded upward for purposes of permit fee costs.
 - (c) The Commissioner of the Building Department or his designee is hereby authorized to serve or cause to be served a written notification by regular mail and certified mail, return receipt requested, to the last known residential owner(s) of all known properties where building permit applications were submitted on or after January 1, 2000, through and including December 31, 2006, and which were issued certificates of occupancy by Building Department personnel, but are now deemed by the Building Department to violate the Zoning Code. Such written notification shall advise said owner(s) of the provisions of § 70-235G and shall advise of a date and time to be heard and afford an opportunity to reconcile the status of any nonconforming dwelling by satisfying the conditions and criteria required therein. Nothing stated herein shall preclude the owner of any premises that meets the foregoing description from submitting, without prior notification from the Town, an application to the Building Department pursuant to this article.
 - (d) The Building Commissioner shall have the authority, after notice and an opportunity to be heard, to revoke any certificates of occupancy erroneously issued in connection with building permit applications submitted on or after January 1, 2000, through and including December 31, 2006, for properties now deemed by the Building Department to violate the Zoning Code. The Building Commissioner shall provide written notification to the owner prior to said revocation. Contemporaneously upon revocation, the Building Commissioner shall issue a restricted/limited certificate of occupancy that is annotated in such a manner as to provide any prospective purchaser with sufficient notice of the nonconforming zoning issues related to the subject property.
- (2) Property owners with building permit applications submitted prior to January 1, 2000, and subsequent to December 31, 2006, but are otherwise in conformance with the above-mentioned criteria, may apply to the Town Board to receive certification approval by requesting that the matter be heard by resolution before the Town Board. Such requests must be in writing and submitted to the Town's Building Commissioner. Matters that are presented to the Town Board pursuant to a resolution are subject to any conditions and/or additional fees set by the Town Board.

Section 3.

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