

**TOWN OF NORTH HEMPSTEAD
LOCAL LAW NO. OF 2023**

**A LOCAL LAW ESTABLISHING CHAPTER 9A OF THE TOWN CODE
ENTITLED “BUILDING AND SAFETY: OPERATING PERMITS”**

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

Section 1. Legislative Intent.

The Town Board of the Town of North Hempstead recognizes that the conduct of certain activities and/or the operation of certain types of facilities within the Town pose greater health and safety risks to the residents of the Town and therefor merit heightened overview and inspections, and that new regulations promulgated by the New York Secretary of State require greater oversight over certain uses and activities of facilities in the Town. In order to implement these changes, the Town Board finds it in the best interests of the Town to establish Chapter 9A of the Town Code entitled “Building and Safety: Operating Permits” to establish minimum standards for the administration and enforcement of the New York State Uniform Fire Prevention and Building Code and the New York State Energy Conservation Construction Code by requiring that operating permits be obtained for the conduct of certain activities or the operation of certain facilities within the Town.

Section 2.

Chapter 9A of the Town Code is hereby established to read as follows:

§ 9A-1. Definitions.

In addition to the definitions contained in §2-7 of Chapter 2 of the Code, the following definition shall apply to this chapter:

OPERATING PERMIT

A permit issued by the Town of North Hempstead Department of Building, Safety Enforcement and Inspection granting permission to conduct certain activities or to operate certain facilities within the Town.

§9A-2 Operating Permits

A. Operation Permits required. Operating Permits shall be required for conducting any process or activity or for operating any type of building, structure, or facility listed below:

(1) manufacturing, storing, or handling hazardous materials in quantities exceeding those listed in the applicable Maximum Allowable Quantity tables found in

Chapter 50 of the Fire Code;

(2) buildings, structures, facilities, processes, and/or activities that are within the scope and/or permit requirements of the chapter or section title of the Fire Code as follows:

- i. Chapter 22, “Combustible Dust-Producing Operations.” Facilities where the operation produces combustible dust;**
- ii. Chapter 24, “Flammable Finishes.” Operations utilizing flammable or combustible liquids, or the application of regulated combustible powders;**
- iii. Chapter 25, “Fruit and Crop Ripening.” Operating a fruit- or crop-ripening facility or conducting a fruit-ripening process using ethylene gas;**
- iv. Chapter 26, “Fumigation and Insecticidal Fogging.” Conducting fumigation or insecticidal fogging operations in buildings, structures, and spaces, except for fumigation or insecticidal fogging performed by the occupant of a detached one-family dwelling;**
- v. Chapter 31, “Tents, Temporary Special Event Structures, and Other Membrane Structures.” Operating an air-supported temporary membrane structure, a temporary special event structure, or a tent where approval is required pursuant to Chapter 31 of the Fire Code;**
- vi. Chapter 32, “High-Piled Combustible Storage.” High-piled combustible storage facilities with more than 500 square feet (including aisles) of high-piled storage;**
- vii. Chapter 34, “Tire Rebuilding and Tire Storage.” Operating a facility that stores in excess of 2,500 cubic feet of scrap tires or tire byproducts or operating a tire rebuilding plant;**

- viii. Chapter 35, “Welding and Other Hot Work.” Performing public exhibitions and demonstrations where hot work is conducted, use of hot work, welding, or cutting equipment, inside or on a structure, except an operating permit is not required wherework is conducted under the authorization of a building permit or where performed by the occupant of a detached one- or two-family dwelling;
- ix. Chapter 40, “Sugarhouse Alternative Activity Provisions.” Conducting an alternativeactivity at a sugarhouse;
- x. Chapter 56, “Explosives and Fireworks.” Possessing, manufacturing, storing, handling, selling, or using, explosives, fireworks, or other pyrotechnic special effects materials except the outdoor use of sparkling devices as defined by Penal Law section 270;
- xi. Section 307, “Open Burning, Recreational Fires and Portable Outdoor Fireplaces.” Conducting open burning, not including recreational fires and portable outdoor fireplaces;
- xii. Section 308, “Open Flames.” Removing paint with a torch, or using open flames, fire, and burning in connection with assembly areas or educational occupancies; and
- xiii. Section 319, “Mobile Food Preparation Vehicles.” Operating a mobile food preparation vehicle in accordance with the permitting requirements established by Office of the Town Clerk, as now in effect or as hereafter amended from time to time.

(3) energy storage systems, where the system exceeds the values shown in Table 1206.1 of the Fire Code or exceeds the permitted aggregate ratings in section R327.5 of the Residential Code;

(4) buildings containing one or more assembly areas;

(5) outdoor events where the planned attendance exceeds 1,000 persons;

(6) facilities that store, handle or use hazardous production materials;

(7) parking garages as defined in subdivision (U) of Article I of Chapter 2 of the Town Code;

(8) buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Building Commissioner; or

(9) other processes or activities or for operating any type of building, structure, or facility at the discretion of the Building Commissioner.

Any person who proposes to undertake any activity or to operate any type of building listed in this subdivision (a) shall be required to obtain an Operating Permit prior to commencing such activity or operation.

B. Applications for Operating Permits.

An application for an Operating Permit shall be submitted electronically, via the Building Department online portal, on a form provided by the Building Commissioner. Such application shall include such information as the Building Commissioner deems sufficient to permit a determination by the Building Commissioner that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Building Commissioner determines that tests or reports are necessary to verify conformance, such tests or reports shall be performed or provided by such person or persons as may be designated by or otherwise acceptable to the Building Commissioner, at the expense of the applicant.

C. Exemptions.

Operating permits shall not be required for processes or activities, or the buildings, structures, or facilities listed in paragraphs (1) through (9) of subdivision (A) of this section, provided that the use is expressly authorized by a certificate of occupancy or certificate of approval or completion, fire safety and property maintenance inspections are performed in accordance with Article VIII of Chapter 2 of this Code (Fire Safety and Property Maintenance Inspections), and condition assessments are performed in compliance with subsection U of Section 2-9 of this Code (Condition Assessments of Parking Garages).

D. Inspections

The Building Commissioner shall inspect the subject premises prior to the issuance of an Operating Permit. Such inspections shall be performed in-person. After inspection, the premises shall be noted as satisfactory and the operating permit shall be issued, or the operating permit holder shall be notified as to the manner in which the premises fail to comply with either or both of the Uniform Code and the code enforcement program,

including a citation to the specific provision or provisions that have not been met.

E. Multiple Activities.

In any circumstance in which more than one activity listed in subdivision (a) of this section is to be conducted at a location, the Building Commissioner shall require a separate operating permit for each such activity.

F. Duration of Operating Permits.

Operating permits shall be issued for a specified period of time consistent with local conditions, but in no event to exceed as follows:

- (1) 180 days for tents, special event structures, and other membrane structures;
- (2) 60 days for alternative activities at a sugarhouse;
- (3) three (3) years for the activities, structures, and operations determined per subsection (A)(9) of this section;
- (4) one (1) year for all other activities, structures, and operations identified in subsection (A) of this section.

The effective period of each operating permit shall be specified in the operating permit. An operating permit may be reissued or renewed upon application to the Building Commissioner, inspection, payment of the applicable fee, and approval of such application by the Building Commissioner.

G. Revocation or Suspension of Operating Permits.

If the Building Commissioner determines that any activity or building for which an operating permit was issued does not comply with any applicable provision of the Uniform Code, such operating permit shall be revoked or suspended.

§ 9A-3. Penalties for Offenses

The provisions of §2-75 of this Code shall govern violations of this Chapter.

Section 3. Severability.

If any clause, sentence, paragraph subdivision, section, or part of this chapter or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, imperil, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph subdivision, section or part of this chapter or in its application to the person, individual, corporation, fund, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

Section 4. When Effective

This law shall be immediately effective upon filing with the Secretary of State.