

# *Local Law Filing*

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**(Use this form to file a local law with the Secretary of State.)**

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County   City   Town   Village  
(select one:)

**of New Lebanon**

**Introductory Local Law No. 3 of the year 2020**

**A LOCAL LAW TO UPDATE AND AMEND CHAPTER 81 OF THE CODE OF THE TOWN OF NEW LEBANON.**

**Be it enacted by the Town Board of the Town of New Lebanon as follows:**

See attached.

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**(If additional space is needed, attach pages the same size as this sheet, and number each.)**

**TOWN OF NEW LEBANON**

**INTRODUCTORY LOCAL LAW NO. 3 OF THE YEAR 2020**

**A LOCAL LAW TO UPDATE AND AMEND CHAPTER 81 OF THE CODE OF THE TOWN OF NEW LEBANON.**

**SECTION 1**

This local law shall be referred to as “A Local Law to Update and Amend Chapter 81 of the Code of the Town of New Lebanon”.

**SECTION 2**

Chapter 81 of the Code of the Town of New Lebanon, entitled “Building Code Administration”, is hereby amended as follows:

A. Paragraph B of Section 81-4, entitled “Building permits”, is hereby amended to read in its entirety as follows:

B. Exemptions. No building permit shall be required for work in any of the following categories:

- (1) Construction or installation of one-story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 144 square feet (13.38 square meters);
- (2) Installation of swings and other playground equipment associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (3) Installation of swimming pools associated with a one- or two-family dwelling or multiple single-family dwellings (townhouses) where such pools are designed for a water depth of less than 24 inches and are installed entirely above ground;
- (4) Installation of fences which are not part of an enclosure surrounding a swimming pool;

- (5) Construction of retaining walls, unless such walls support a surcharge or impound Class I, II or IIIA liquids;
- (6) Construction of temporary motion-picture, television and theater stage sets and scenery;
- (7) Installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- (8) Installation of partitions or movable cases less than five feet nine inches in height;
- (9) Painting, wallpapering, tiling, carpeting, or other similar finish work;
- (10) Installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
- (11) Replacement of any equipment, provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications; or
- (12) Repairs, provided that such repairs do not involve:
  - (a) The removal or cutting away of a load-bearing wall, partition, or portion thereof, or of any structural beam or load-bearing component;
  - (b) The removal or change of any required means of egress; or the rearrangement of parts of a structure in a manner which affects egress;
  - (c) The enlargement, alteration, replacement or relocation of any building system; or
  - (d) The removal from service of all or part of a fire protection system for any period of time.

B. Paragraph C of Section 81-6, entitled "Stop-work orders", is hereby amended to read in its entirety as follows:

C. Service of stop-work orders. The Code Enforcement Officer 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 certified mail. Where service is made by certified mail, service shall be deemed effective three days after mailing, without regard

to whether the intended recipient accepts delivery. The Code Enforcement Officer 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 certified mail; provided, however, that failure to serve any person mentioned in this sentence shall not affect the efficacy of the stop-work order.

C. Section 81-10, entitled “Operating permits”, is hereby amended to read in its entirety as follows:

A. Operating permits required.

- (1) Operating permits shall be required for conducting the activities or using any type of building or structure listed below:
  - (a) Manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Table 5003.1.1(1), 5003.1.1(2), 5003.1.1(3) or 5003.1.1(4) in the publication entitled "Fire Code of New York State" and incorporated by reference in 19 NYCRR 1225.1;
  - (b) Hazardous processes and activities, including but not limited to commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;
  - (c) Use of pyrotechnic devices in assembly occupancies;
  - (d) Buildings containing one or more areas of public assembly with an occupant load of 100 persons or more;
  - (e) Parking garages as defined in section 81-11.1 of this Chapter; and
  - (f) Buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by resolution adopted by the Town Board of this Town.
- (2) Any person who proposes to undertake any activity or to operate any type of building listed in this Subsection 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 in writing on a form provided by or otherwise acceptable to the Code Enforcement Officer. Such application shall include such information

as the Code Enforcement Officer deems sufficient to permit a determination by the Code Enforcement Officer that quantities, materials, and activities conform to the requirements of the Uniform Code. If the Code Enforcement Officer 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 Code Enforcement Officer, at the expense of the applicant.

- C. Inspections. The Code Enforcement Officer or an inspector authorized by the Code Enforcement Officer shall inspect the subject premises prior to the issuance of an operating permit.
- D. Multiple activities. In any circumstance in which more than one activity listed in Subsection A of this section is to be conducted at a location, the Code Enforcement Officer may require a separate operating permit for each such activity, or the Code Enforcement Officer may, in his or her discretion, issue a single operating permit to apply to all such activities.
- E. Duration of operating permits. Operating permits may remain in effect until reissued, renewed, revoked or suspended, or, in the discretion of the Code Enforcement Officer, may be issued for a specified period of time consistent with local conditions.
- F. Revocation or suspension of operating permits. If the Code Enforcement Officer 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.
- G. Fee. The fee specified in or determined in accordance with the provisions set forth in § 81-16, Fees, of this chapter must be paid at the time of submission of an application for an operating permit, for an amended operating permit, or for reissue or renewal of an operating permit.

**D.** A new section, Section 81-11.1, entitled “Condition assessment of parking garages”, is hereby added to read in its entirety as follows:

- A. Purpose. The purpose of this section is to provide for condition assessments of parking garages as required by state regulations governing minimum features of local municipal programs for administration and enforcement of the Uniform Code.
- B. Definitions. For purposes of this section only:
  - (1) The term “condition assessment” means an on-site inspection and evaluation of a parking garage for evidence of deterioration of any

structural element or building component of such parking garage, evidence of the existence of any unsafe condition in such parking garage, and evidence indicating that such parking garage is an unsafe structure.

- (2) The term “deterioration” means the weakening, disintegration, corrosion, rust, or decay of any structural element or building component, or any other loss of effectiveness of a structural element or building component.
- (3) The term “parking garage” means any building or structure, or part thereof, in which all or any part of any structural level or levels is used for parking or storage of motor vehicles, excluding:
  - (a) Buildings in which the only level used for parking or storage of motor vehicles is on grade;
  - (b) An attached or accessory structure providing parking exclusively for a detached one- or two-family dwelling; and
  - (c) A townhouse unit with attached parking exclusively for such unit;
- (4) The term “professional engineer” means an individual who is licensed or otherwise authorized under Article 145 of the Education Law of the State of New York to practice the profession of engineering in the State of New York and who has at least three years of experience performing structural evaluations.
- (5) The term “responsible professional engineer” means the professional engineer who performs a condition assessment, or under whose supervision a condition assessment is performed, and who seals and signs the condition assessment report. The use of such term in this section shall not be construed as limiting the professional responsibility or liability of any professional engineer, or of any other licensed professional, who participates in the preparation of a condition assessment without being the responsible professional engineer for such condition assessment.
- (6) The term “unsafe structure” means a structure that is so damaged, decayed, dilapidated, or structurally unsafe, or is of such faulty construction or unstable foundation, that partial or complete collapse is possible.

C. Condition Assessments – General Requirements. The owner or operator of each parking garage shall cause such parking garage to undergo an initial condition assessment as described in paragraph (D) of this section, periodic

condition assessments as described in paragraph (E) of this section, and such additional condition assessments as may be required under paragraph (F) of this section. Each condition assessment shall be conducted by or under the direct supervision of a professional engineer. A written report of each condition assessment shall be prepared, and provided to the authority having jurisdiction, in accordance with the requirements of paragraph (G) of this section. Before performing a condition assessment (other than the initial condition assessment) of a parking garage, the responsible professional engineer for such condition assessment shall review all available previous condition assessment reports for such parking garage.

D. Initial Condition Assessment. Each parking garage shall undergo an initial condition assessment as follows:

- (1) New parking garages shall undergo an initial condition assessment following construction and prior to a certificate of occupancy or certificate of compliance being issued for the structure,
- (2) Existing parking garages shall undergo an initial condition assessment as follows:
  - (a) if originally constructed prior to January 1, 1984, then prior to October 1, 2019;
  - (b) if originally constructed between January 1, 1984 and December 31, 2002, then prior to October 1, 2020; and
  - (c) if originally constructed between January 1, 2003 and the effective date of the rule adding this subdivision to 19 NYCRR section 1203.3, then prior to October 1, 2021.

E. Periodic Condition Assessments. Following the initial condition assessment of a parking garage, such parking garage shall undergo periodic condition assessments at intervals not to exceed three years.

F. Additional condition assessments.

- (1) If the latest condition assessment report for a parking garage includes a recommendation by the responsible professional engineer that an additional condition assessment of such parking garage, or any portion of such parking garage, be performed before the date by which the next periodic condition assessment would be required under paragraph (E) of this section, the owner or operator of such parking garage shall cause such parking garage (or, if applicable, the portion of such parking garage identified by the responsible professional engineer) to undergo an

additional condition assessment no later than the date recommended in such condition assessment report.

- (2) If the Code Enforcement Officer becomes aware of any new or increased deterioration which, in the judgment of the Code Enforcement Officer, indicates that an additional condition assessment of the entire parking garage, or of the portion of the parking garage affected by such new or increased deterioration, should be performed before the date by which the next periodic condition assessment would be required under paragraph (E) of this section, the Code Enforcement Officer shall require the owner or operator of such parking garage to cause such parking garage (or, if applicable, the portion of the parking garage affected by such new or increased deterioration) to undergo an additional condition assessment no later than the date determined by the Code Enforcement Officer to be appropriate.

G. Condition assessment reports. The responsible professional engineer shall prepare, or directly supervise the preparation of, a written report of each condition assessment, and shall submit such condition assessment report to the Code Enforcement Officer within such time period as fixed under this section. Such condition assessment report shall be sealed and signed by the responsible professional engineer, and shall include:

- (1) an evaluation and description of the extent of deterioration and conditions that cause deterioration that could result in an unsafe condition or unsafe structure;
- (2) an evaluation and description of the extent of deterioration and conditions that cause deterioration that, in the opinion of the responsible professional engineer, should be remedied immediately to prevent an unsafe condition or unsafe structure;
- (3) an evaluation and description of the unsafe conditions;
- (4) an evaluation and description of the problems associated with the deterioration, conditions that cause deterioration, and unsafe conditions;
- (5) an evaluation and description of the corrective options available, including the recommended timeframe for remedying the deterioration, conditions that cause deterioration, and unsafe conditions;
- (6) an evaluation and description of the risks associated with not addressing the deterioration, conditions that cause deterioration, and unsafe conditions;

- (7) the responsible professional engineer's recommendation regarding preventative maintenance;
- (8) except in the case of the report of the initial condition assessment, the responsible professional engineer's attestation that he or she reviewed all previously prepared condition assessment reports available for such parking garage, and considered the information in the previously prepared reports while performing the current condition assessment and while preparing the current report; and
- (9) the responsible professional engineer's recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed. In making the recommendation regarding the time within which the next condition assessment of the parking garage or portion thereof should be performed, the responsible professional engineer shall consider the parking garage's age, maintenance history, structural condition, construction materials, frequency and intensity of use, location, exposure to the elements, and any other factors deemed relevant by the responsible professional engineer in his or her professional judgment.

H. The Code Enforcement Officer shall review each condition assessment report. The Code Enforcement Officer shall take such enforcement action or actions in response to the information in such condition assessment report as may be necessary or appropriate to protect the public from the hazards that may result from the conditions described in such report. In particular, but not by way of limitation, the Code Enforcement Officer shall, by Order to Remedy or such other means of enforcement as he or she may deem appropriate, require the owner or operator of the parking garage to repair or otherwise remedy all deterioration, all conditions that cause deterioration, and all unsafe conditions identified in such condition assessment report pursuant to paragraph (G)(2) and (3) of this subdivision. All repairs and remedies shall comply with the applicable provisions of the Uniform Code. Nothing herein shall be deemed to limit or impair the right of the Code Enforcement Officer to take any other enforcement action, including but not limited to suspension or revocation of a parking garage's operating permit, as may be necessary or appropriate in response to the information in a condition assessment report.

I. All condition assessment reports for the life of each parking garage shall be retained in the office of the Code Enforcement Officer. Upon request by a professional engineer who has been engaged to perform a condition assessment of a parking garage, and who provides a written statement attesting to the fact that he or she has been so engaged, the Code Enforcement Officer shall make the previously prepared condition assessment reports for such parking garage (or copies of such reports)

available to such professional engineer. The Code Enforcement Officer shall be permitted to require the owner or operator of the subject parking garage to pay all costs and expenses associated with making such previously prepared condition assessment reports (or copies thereof) available to the professional engineer.

- J. Nothing in this section shall be construed as limiting or impairing the right or obligation of the Code Enforcement Officer to perform such construction inspections as are otherwise required, to perform such fire safety and property maintenance inspections as are otherwise required, or to take such enforcement action or actions as may be necessary or appropriate to respond to any condition that comes to the attention of the Code Enforcement Officer by means of inspection, observation, complaint, or otherwise.
- K. The owner or operator of any parking garage governed by this section shall be responsible for all costs and fees incurred by the Town related to the reviews and inspections set forth in this section for such parking garage and, upon a determination by the Code Enforcement Officer, shall establish an escrow account with the Town to pay the costs and fees incurred by the Town. The amount of the initial deposit to the escrow account shall be based upon a good faith estimate made by the Code Enforcement Officer of the costs and fees likely to be incurred for the particular matter, and shall be subject to replenishment as deemed necessary or appropriate by the Code Enforcement Officer.
- L. Fee. The fee specified in or determined in accordance with the provisions set forth in § 81-16, Fees, of this chapter must be paid prior to or at the time each condition assessment report is submitted pursuant to this section.

### **SECTION 3**

If any word, phrase, sentence, part, section, subsection, or other portion of this Law or any application thereof to any person or circumstance is declared void, unconstitutional, or invalid for any reason, then such word, phrase, sentence, part, section, subsection, or other portion, or the proscribed application thereof, shall be severable, and the remaining provisions of this Law, and all applications thereof, not having been declared void, unconstitutional, or invalid, shall remain in full force and effect.

#### **SECTION 4**

This Law shall become effective upon filing with the New York Secretary of State.

#### **SECTION 5**

This Local Law is enacted pursuant to the New York Municipal Home Rule Law.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as Local Law No. \_\_\_ of 2020 of the (County)(City)(Town)(Village) of New Lebanon was duly passed by the Town Board of the Town of New Lebanon on \_\_\_\_\_, 2020 in accordance with the applicable provisions of law.

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_ in accordance with the applicable provisions of law.~~

~~**3. (Final adoption by referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.~~

~~Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.~~

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_.~~

~~Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.~~

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)** \_\_\_\_\_

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)** \_\_\_\_\_

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_ of 20\_\_\_\_ of the County of \_\_\_\_\_, State of New York, having been submitted to the electors at the General Election of \_\_\_\_\_ 20\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

\_\_\_\_\_  
Marcie Robertson, Town of New Lebanon Town Clerk  
Clerk of the county legislative body, City, Town or Village  
Clerk or officer designated by local legislative body

(Seal)

Date: \_\_\_\_\_