
POLICY 98-11-00 revised

TO: Select Board Members

CC: Town Manager, Town Treasurer, Town Engineer, Town Attorney, Zoning Administrator

From: Katherine Sonnicks, Planning Director

Be: Policy Memorandum #98-11-00 revised- Zoning Violation Enforcement Policy

Date: August 7, 2012

EFFECTIVE DATE- IMMEDIATELY

PURPOSE: This policy addresses the procedure for the Zoning Administrator to follow for zoning violations and enforcement procedures.

POLICY: The Zoning Administrator is required by state law to enforce all violations of the Town of Milton Zoning and Subdivision Regulations.

PROCEDURE: The following procedure shall be followed by the Zoning Administrator for all zoning enforcement.

1. Discover the Violation

The Zoning Administrator becomes aware of zoning violations usually by one of the following ways:

- a.) Direct observation-the Zoning Administrator becomes aware of a violation when he or she notices some building or development that is not permitted.
- b.) Complaints from a neighbor or other person either in writing by filling out a complaint form, or by providing information via Request Partner, the Town's online request software. Persons making complaints in person or via telephone will be asked to submit a complaint form.
- c.) Site visits to a property where the Zoning Administrator might discover a violation when doing an inspection for an issued Zoning Permit.
- d.) Notification by landowner or purchaser of property. This usually occurs when a title search is underway, and it is determined that there are conditions existing on the property that are not covered by a valid zoning permit.

2. Investigation, Confirmation of a Violation and Voluntary Compliance

When the Zoning Administrator discovers a violation, he shall conduct a site visit to verify the alleged zoning violation. When the Zoning Administrator goes into the field, he will keep a record of all violations.

When a property owner is unwilling to cooperate in the investigation of an alleged zoning violation, and when probable cause has been determined that there is a violation, a search warrant may be necessary. If a search warrant becomes necessary, the Zoning Administrator shall inform the Planning Director, the Town Manager and the Town Attorney before proceeding. All violations will be noted in the master list of zoning violations, which shall be kept by date of violation letter.

Within one business day of verification of the alleged violation, the Zoning Administrator shall make reasonable effort to contact the property owner by telephone to inform them of the alleged violation.

Within two business days of verification of an alleged violation, the Zoning Administrator shall issue a letter to the landowner requesting voluntary compliance. The letter shall include:

- a.) Description of the alleged violation with a reference to the particular section of the Zoning Regulations or Ordinances that are being violated.
- b.) Identification of how to correct the violation.
- c.) A request to reinspect the property to ensure that the violation has been corrected.

3. Violation Letter

If volunteer compliance is not achieved, the Zoning Administrator shall proceed with enforcement. The Zoning Administrator shall issue a formal violation letter to the landowner by certified letter (return receipt requested) and by first class mail identifying the alleged violation. This letter shall include the following:

- a.) Description of the alleged violation with a reference to the particular section of the Zoning Regulations or Ordinances that are being violated.
- b.) Notice to the violator that they have seven days to cure the violation before an action to enforce the violation.
- c.) That each day that the violation continues shall constitute a separate violation.
- d.) Identify the per day fine amount for the violation.
- e.) That enforcement action may be brought by the Zoning Administrator without a seven-day notice when the offender repeats the same offense after the original seven-day notice period and within the succeeding twelve months.
- f.) That the alleged violator has fifteen days to appeal a decision of the Zoning Administrator to the Development Review Board and how and with whom the appeal is to be filed.
- g.) Identification of how to correct the violation.

4. Resolution of Violation

When a violator discusses and reaches an agreement with the Zoning Administrator to take care of the noted violation which extend beyond the 7 days noted in the violation letter, the Zoning Administrator shall keep a record of where the property is located, what has been agreed upon, and by what date the violation shall be cured.

5. Enforcement Action

If the violation has not been corrected within 7 days of the issuance of a notice of violation, the notice of violation shall be recorded in the land records. A notice of violation shall include:

- a.) The date of the violation.
- b.) The name(s) of the property owner(s).
- c.) Tax map and parcel.
- d.) The property address.
- e.) The location in which the violation is recorded.
- f.) The hours in which the violation can be seen.
- g.) The deed reference of the violating property.
- h.) A brief description of the violation and its location on the property.
- i.) If the violation is being appealed, the date on which the appeal was filed.
- j.) The date of recording.

If a zoning violation is later corrected, a notice of discharge shall be recorded in the land records. A notice of discharge shall include:

- a.) The date of the violation.
- b.) The name(s) of the property owner(s).
- c.) Tax map and parcel.
- d.) The property address.
- e.) The deed reference of the violating property.
- f.) A brief description of the former violation and its location on the property.
- g.) The date of recording.

A list of violations shall be forwarded to the Select Board once per week. When a zoning violation is of a very serious nature is unresolved through administrative action it may be necessary to seek injunctive relief. In order to seek relief, the Zoning Administrator shall review the case with the Planning Director, the Town Manager and the Town Attorney prior to requesting the use of such relief from the Select Board. The Zoning Administrator shall then review the request with the Select Board.

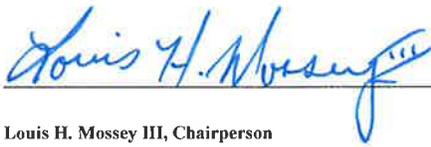
The order to proceed with enforcement shall be based on the severity of the violation. Enforcement remedies are as follows:

- a.) Environmental Court- Most zoning enforcement is brought to this court when a Town seeks to enjoin a property owner from continued violation and request that the court accesses a fine.

- b.) Judicial Bureau- To use this court system the municipality must classify their ordinances as criminal or civil ordinance violation. The municipality then may issue tickets to the violators who may pay a waiver fee to the Bureau or may contest the ticket and request a hearing. The Bureau's officer will hear contested civil ordinance cases and may issue civil penalties and cease and desist orders.

Dated at Milton, Vermont this 15 day of October, 2012

MILTON SELECTBOARD



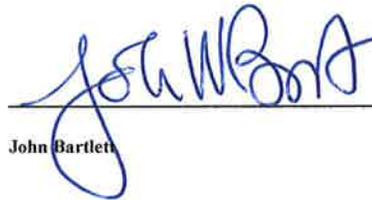
Louis H. Mossey III, Chairperson



Darren Adams, Vice-Chairperson



John Gifford, Clerk



John Bartlett

ABSENT

Todd Shephard

Filed with the Milton Town Clerk's Office this 14th day of August, 2013

Attest: 

 Milton ~~Assistant~~ Town Clerk