

# Minutes

**To:** Code Review Committee Members  
Village Clerk  
**Date:** 24 October, 2012  
**Re:** meeting of 10/22/12

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Village hall, 6 pm

Members present: Appleby, Fox, Kristansen, CEO Zarnstorff, Trustee Hannan

Guest: Attorney Rob Leni

8/28/12 minutes approved: Trustee Hannan moved, CEO Zarnstorff seconded, all in favor.

Agenda: Chapter 36 attorney comments

Attorney Leni stated that any changes to this chapter need to be scrutinized in light of recent court cases. Although the challenges to this chapter as it now stands have not been successful, there have been other challenges that did not end in a court decision. Also, fees need to be commensurate with what they are levied for, and consistent. Other municipalities have rental registration fees in excess of \$100 per unit per year, while ours stands at \$50. We need to be sure this is fair for our village.

Trustee Hannan asked if it might be advisable to take the two or three major changes through the approval process and then go back for the rest. Attorney Leni stated that more time would be wasted that way while doubling the rigors of obtaining approvals. A- will take his recommendations in order, excepting grammatical changes.

Attorney Leni stated that the history of this LL does not belong in the body of the law, but at the top of the first page before the title.

Member Kristansen asked if General Code Publishers would notify us when something we have in our code is unusual or illegal. Attorney Leni stated yes, though there are several different rental registration LLs throughout the state.

In the Definitions section, CEO has been changed removing the term 'Police Officer.' Also, a definition has been added for FOIL.

Section 36-1-L (now K) clarifies the duties of the Codes Enforcement Officer and inspectors with respect to applicable state and local laws adequately without the need to specifically state the legislative authority for those duties. Proposed section 36-1-K, Legislative authority, is removed.

Attorney Leni added "public safety components" after "structural integrity" in 36-2-D-5-b.

Section 36-2-I now indicates that proposed changes to construction documents must be submitted to be CEO before they are instituted.

Concerning time limits for approved projects to apply for a building permit, Attorney Leni asked if CEO Zarnstorff gives them a deadline. Member Appleby stated that there is an unwritten rule of the Planning Board giving projects two years from approval in which to get started. CEO Zarnstorff expects that 90 days would work for most cases. Attorney Leni will look into the issue and then he and CEO Zarnstorff will put language into chapter 36. Attorney Leni stated that usually a one year limit is applied.

Attorney Leni has changed Section 36-2-L to make the fee payable when and applicant files for a building permit. However, since the fee varies upon the cost of what is being done, CEO Zarnstorff would like for the fee to be payable when the building permit is issued. This is because the building inspector must verify the applicant's estimate of cost.

In section 36-3-D, Attorney Leni has added 'Energy Code' to the first paragraph after 'Uniform Code'. CEO Zarnstorff says it is not necessary, but Attorney Leni suggests leaving it in anyway.

In section 36-3-D-(3) Attorney Leni has removed the word 'administrative' with respect to a search warrant.

In section 36-3-E, Attorney Leni removed the penalty for late payment of fee because fee must be paid at the time of filing the application.

Discussion re: section 36-4-A, Owners required to register their rental properties. Attorney Leni had reworded CEO Zarnstorff's original, but rental registrations are only based on the calendar year, regardless of when they are paid. Therefore, Attorney Leni and CEO Zarnstorff will rewrite subsection A.

In section 36-4-B-(1), Attorney Leni added 'or principal of each owner' in case of corporate owners.

In section 36-4-B-(3), changed to read "The name(s), telephone number(s) and email address(es) of any local property manager(s) or agent(s), if required, on behalf of the property owner."

Discussion re: absentee owners. What conditions are necessary in order for a local property manager to be required? Clarified that property managers are required if the owner lives farther away than 45 miles year-round, and that an owner or property manager must live within 45 miles of Brockport for at least 3 months of each calendar year.

In section 36-4-F, Attorney Leni has removed the penalty sentence (last sentence) because fees are to be paid at the time of filing a rental registration application.

Discussion re: section 36-4-H. Attorney Leni prefers a stand-alone penalties section for the entire chapter. Also, the actual penalties are at times excessive. For example, section 36-4-H specifies a penalty of up to \$250 per week or part thereof, while section 36-18-F specifies a penalty of up to \$350 per day or part thereof. Attorney Leni thinks these things should be standardized, and be reasonable, not excessive. Member Kristansen asked if the words 'up to' could be removed. Attorney Leni said no. The committee decided to remove subsection H.

Attorney Leni would like to write a final draft of the sections we have worked on so far and let us review it as a whole. He advises the committee to look carefully at the following sections for future discussion:

- 36-6 – CEO Zarnstorff wants to call a residential rental CofO a certificate of compliance (CofC) because a new CofO must be administered each year for a rental, whereas only once for a new residence. A different name would make it easier to differentiate.
- 36-7 – conditional CofO rather than a CofO with conditions.
- 36-7-C-(1) – suggests removal.
- 36-9-A – make managers, tenants, owners, etc. all responsible parties.
- 36-18 – make standard throughout using \$350 per week penalty fee.
- 36-22 – unsafe buildings section probably need to be beefed up, perhaps by adding references to the Uniform Fire Code and other local laws regarding unsafe properties, including reference to placarding rules, notifications and hearings.

The committee decided to meet next on 26 November at village hall conference room at 6 pm.

Meeting adjourned at 8 pm

Art Appleby