

## ZONING OFFICER

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### *Definition*

A zoning officer, also called a zoning administrator, is the local government official in charge of implementing and enforcing the zoning ordinance. The zoning officer also serves as an advisor to the governing body and as the primary contact for the public on issues related to zoning. While the functions of a zoning officer are separate from those of building code officers or floodplain administrators, in some localities, the same individual may hold all of these positions simultaneously, if properly credentialed.

### *Enforcement*

After enacting a zoning ordinance, the local government must enforce the ordinance and should appoint an official or board to carry out enforcement. Governing bodies provide enforcement of the zoning ordinance in different ways.

- Many communities create a full-time or part-time, appointed employee position to administer the community's zoning ordinance.
- Local governments can also contract with a zoning officer on a part-time, as needed, basis. Some local governments partner with neighboring communities to share a zoning officer.
- Enforcing the zoning ordinance is typically an objective and straightforward application of the plain language of the ordinance.

### *Responsibilities of the Zoning Officer*

The zoning officer can have a variety of obligations and responsibilities prescribed by ordinance. These responsibilities generally fall into one of two categories: administration and enforcement.

1. **Administration:** The zoning officer is often the person with whom the public interacts related to zoning issues. To that extent, the zoning officer is often responsible for: issuing permits, maintaining zoning records and maps, drafting necessary forms and fee schedules for approval by the governing body, and setting rules of operation for the zoning office.
2. **Enforcement:** As the local government officer appointed to enforce the zoning ordinance, the zoning officer often receives complaints of zoning ordinance violations, conducts investigations and inspections for zoning ordinance compliance, issues notices of violation to property owners, and issues stop work orders to prohibit activity in violation of the zoning ordinance.

### *Who Can Be a Zoning Officer?*

In West Virginia, zoning officers cannot be members of the local government's board of zoning appeals (BZA). There are no other legal requirements for zoning officers.

To avoid potential conflicts, the zoning officer should not be a member of the governing body (town or city council or county commission) or its planning commission.

Although the state of West Virginia does not have a certification program for zoning officers, a background in land use planning or public administration is helpful.

### *How are Zoning Officer Positions Established?*

The position of zoning officer is created by the zoning ordinance, but local governments differ in the way that they appoint the zoning officer and the authority they vest in the position. The zoning officer is typically appointed by either the administrative head of government (mayor) or occasionally, the governing body in accordance with the charter.

## Enforcement Tools

In order to enforce the zoning ordinance, the zoning officer is given administrative tools, the most common of which is the ability to issue zoning permits, notices of violation, and cease and desist orders.

Some localities combine zoning compliance with the building code process, granting zoning officers the powers to deny or revoke building permits, issue cease and desist orders, and revoke occupancy permits. In order to enforce the building code or property maintenance code, zoning officers must also be certified through the West Virginia State Fire Commission as code enforcement officers.

If the property owner refuses to comply with a zoning officer's determination, and that action is not being appealed, the zoning officer typically refers the matter to the local government attorney. The local government attorney can then ask a court to issue an injunction or impose a fine.

## Addressing Violations: Typical Process

Zoning Officer (ZO) receives complaint or sees potential zoning violation



ZO conducts inspection



ZO determines whether violation has occurred



If violation is found, ZO issues notice of violation to property owner, which can be appealed to Board of Zoning Appeals (BZA).



Property Owner Appeals



BZA upholds or reverses ZO determination.  
BZA decision can be appealed to Circuit Court



Circuit Court upholds or reverses BZA decision.

Circuit Court decision can be appealed to Supreme Court



Property Owner Does Not Appeal



ZO refers matter to local government attorney to seek remedy, including injunction or fine