

## Village of Wellsville

### Local Law # \_\_\_\_\_ of 2015

Be it enacted by the Village Board of Trustees of the Village of Wellsville as follows:

#### **Title.**

This local law shall be known as the "Village of Wellsville Unsafe Building Law."

#### **Purpose, Justification and Purpose and Interpretation.**

- A. The purpose of this law is to promote and preserve the health, safety and welfare of the public and residents and/or owners of property located within the Village of Wellsville by providing a method for the repair or removal of buildings that, from any cause, may now be or shall hereafter become dangerous or unsafe to the public and residents and/or owners of property within the Village of Wellsville.
- B. Unsafe buildings serve as an attractive nuisance for young children, who may be injured therein; may be a point of congregation by vagrants and transients; may attract rodents or insects; and may also attract illegal drug activity.
- C. This law shall be in addition to all other powers conferred upon the Village of Wellsville in relation to the same subject by state law.

#### **Definitions.**

As used in this law, the following terms shall have the meanings indicated:

##### **BUILDING**

Any building, structure or portion thereof used for residential, business or industrial purposes.

##### **CODE ENFORCEMENT OFFICER**

Person appointed by Village government and/or Mayor to enforce the provisions of this law and any applicable state laws.

##### **UNSAFE BUILDINGS**

Includes all buildings that have any or all of the following:

- A. Interior or exterior bearing walls or other vertical structural members that list, lean or buckle to such an extent as to weaken the structural support they provide.
- B. Thirty-three percent or more damage to or deterioration of the supporting member or members or 50% damage to or deterioration of the non-supporting, enclosing or outside walls or covering.
- C. Improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- D. Those which have been damaged by any cause so as to have become dangerous to life, safety of the general health and welfare of the occupants of people of the Village of Wellsville.

- E. Those which are so dilapidated, decayed, unsafe and/or unsanitary that they are unfit for human habitation in accordance with normally accepted standards set for humanity habitability.
- F. Light, air and sanitation facilities inadequate to protect the health, safety or general welfare of human beings who may live therein, with particular reference to the requirements of the New York State Uniform Fire Prevention and Building Code as a determinant.
- G. Those having inadequate facilities for exit in case of fire or other emergency or those having insufficient stairways, elevators or fire escapes, again referencing the New York State Uniform Fire Prevention and Building Code as a determinant.
- H. Parts thereof which are so inadequately attached that they may fall and injure members of the public or property.
- I. Those which consist in the main of debris, rubble or parts of buildings left on the ground after demolition, reconstruction, fire or other casualty.
- J. Those which, because of their condition, are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of the Village of Wellsville.

### **Unsafe buildings prohibited.**

No person, firm, corporation or association owning, possessing or controlling a building in the Village of Wellsville shall permit, suffer or allow said building now or hereafter to be or become unsafe to the public and/or residents from any cause whatsoever.

### **Inspections.**

The Village Code Enforcement Officer shall make inspections of all unsafe buildings within the Village of Wellsville and report to the Village Board of Trustees an unsafe buildings which be found within the limits of the Village of Wellsville.

### **Determination of unsafe buildings: notice to repair or demolish.**

The Village Board of Trustees shall consider the reports of the Code Enforcement Officer and, if the opinion of the Village Board the report so warrants, shall determine that the building is unsafe and order its repair or demolition, if the same cannot be safely repaired, and further order that a notice shall be given to the owner as follows:

- A. The notice shall contain the following:
  - (1) A Description of the premises.
  - (2) A statement of the particulars in which the building is unsafe.
  - (3) An order requiring the building to be repaired or demolished.
  - (4) That the repairing or demolition pf the building shall commence within 10 days of the serving of the notice, as hereinafter provided, and shall be completed within 30 days thereafter. The Code Enforcement Officer may extend the time of compliance specified in the notice where there is evidence of intent to comply within the time specified and conditions exist that prevent immediate compliance. In granting any such extension of time, the Code Enforcement Officer may impose such conditions as they feel appropriate.
  - (5) A date, time and place for a hearing before the Village Board of Trustees in relation to such unsafe building. Such hearing shall be scheduled not less than five business days from the date of service of the notice.

- (6) A statement that, in the event of neglect or refusal to comply with the order to repair or demolish the building, the Village Board of Trustees is authorized to:
- a) Provide for its repair or demolition.
  - b) Assess all expenses thereof against:
    - [1] The land on which it is located;
    - [2] Any insurance proceeds of the property damaged in an insured event;
    - [3] The owner of the property; or
    - [4] Any combination of the above.
  - c) Institute a special proceeding to collect the costs of demolition, including legal expenses.

### **Service of Notice.**

- A. Said notice shall be served in the following manner:
- (1) By personal service of a copy of the notice upon the owner or some one of the owner's, executors, legal representative, agents, lessees or any other person having a vested or contingent interest in the premises as shown by the last preceding completed assessment roll of the Village of Wellsville or records of the County Clerk, such service to be complete and the thirty day time period recited in the notice to commence upon personal service, or
  - (2) By mailing a copy of the notice to such owner or other person as above described, by certified mail, return receipt requested, addressed to the last known address of such person and by affixing a copy of the notice to the premises, such service to be completed and the thirty day time period recited in the notice to commence 10 days after the return receipt is received by the Village and filed in the Allegany County Clerk's office; or
  - (3) In such manner as the Court, upon motion without notice, directs, if service is impracticable under Subsection A (1) or (2), and in any manner authorized by the Civil Practice Law and Rules of New York State.
- B. A Copy of the notice shall be filed in the office of the Allegany County Clerk, which shall be filed by such Clerk in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules, and shall have the same effect as a notice of pendency as therein provided. A notice so filed shall be effective for a period of one year from the date of filing; provided, however, that it may be vacated upon the order of a judge or upon the consent of the Village Attorney.

### **Hearing; remedies imposed.**

- A. The hearing shall be conducted before the Village Board. The Code Enforcement Officer shall present his or her report to the Village Board in writing. The owner or his representative, if present, shall call such witnesses as he or she deems necessary. The Village Board shall make written findings of fact from the testimony offered as to whether or not the buildings in question in an unsafe building.

- B. If such owner shall neglect, fail or refuse to comply and shall fail to appear at said hearing, then the Village Board of Trustees shall direct the repair or demolition of the building forthwith.
- C. If such owner shall neglect, fail or refuse to comply, and after appearing at said hearing the Village Board finds that the building is an unsafe building and directs its repair or demolition, the owner shall repair or demolish said building within the time prescribed by law.
- D. If the owner fails or neglects to repair or demolish said building as directed by the Village Board following the hearing, then the Village Board shall direct the repair or demolition of same forthwith.

### **Noncompliance with order.**

In the event of neglect or refusal of the persons so notified to comply with said order of the Village Board of Trustees, the Village Board shall provide for demolition and removal of such building either by Village employees or by contract. Except in an emergency, any contract in excess of \$20,000 shall be awarded by competitive bidding.

### **Emergency Work.**

- A. In case there shall be, in the opinion of the Village Board, actual and immediate danger of the falling of the building so as to endanger public safety, life or property so as to be actual or immediate menace to health or public welfare as a result of the conditions present in or about a building, the Village Board of Trustees shall cause the necessary work to be done to render such building temporarily safe, whether the procedure prescribed in this local law for unsafe buildings has been instituted or not.
- B. When emergency work is to be performed under this section, the Village Board of Trustees shall cause the owner of the premises to be served personally or by certified mail, return receipt requested, and if served by certified mail, shall post on the premises a notice to comply containing a description of the premises, a statement of the facts in which the building is unsafe or dangerous and orders and directions to correct the conditions that constitute an emergency within a specified period not to exceed three days from the actual or constructive notice of the condition.
- C. In the event that the emergency does not permit any delay in correction, the notice shall state that the Village has corrected the emergency situation.
- D. In both cases, the notice shall state that the corrective costs of the emergency will be assessed against the owner pursuant to the provisions of this local law.

### **Application to Supreme Court for Order.**

In addition to the remedies provided by this local law, the Village Board of Trustees may request the Village Attorney make an application to the Supreme Court for an order determining the building to be an unsafe building and directing that it shall be repaired and secured or demolished.

## **Assessment of Costs.**

- A. All costs and expenses incurred by the Village of Wellsville in connection with the administratively and/or judicially substantiated proceedings to remove or secure, including the cost of actually removing the building in question, and any cost incurred by the Village in the consult of engineers or other experts shall be assessed against the landowner of the land on which said building is located, any insurance proceeds of the property damaged in an insured event, the owner of the property or any combination of the above. Such assessment shall be and constitute a lien upon such land. If the owner shall fail to pay such expenses with 10 days after the statement is presented and posted, a legal action may be brought to collect such assessment or to foreclose such lien. As an alternative, the Code Enforcement Officer may file a certificate of actual expenses incurred as aforesaid, together with a statement identifying the property in connection with the Assessor, who shall, in the preparation of the next assessment roll, assess such amount upon such property. Such amount shall be included in the levy against such property, shall constitute a lien and shall be collected and enforced in the same manner, by the same proceedings, at the same time and under the same penalties as are provided by law for the collection and enforcement of real property tax in the Village of Wellsville.
- B. The Village of Wellsville may commence a special proceeding pursuant to §78-b of the General Municipal Law to collect the cost of demolition, including reasonable and necessary legal expenses.