

Section 1: TITLE

This local law shall be known as the “Unsafe Buildings, Collapsed Structures and Burned Out Buildings” law.

Section 2: PURPOSE

The Town Board of the Town of Westerlo recognizes that unsafe and/or burned out buildings, and collapsed structures pose a threat to life and property. Buildings and other structures may become unsafe by damage from fire, flood, the elements, age or general deterioration. Vacant buildings not properly secured at doorways and windows also serve as an attractive nuisance. Garbage, rubble or parts of buildings left on the ground and removed can be dangerous, unhealthy and/or unsightly. The purpose of this law is to protect the health, safety and welfare of the residents of the Town of Westerlo by providing a mechanism by which the Town of Westerlo can require such unsafe and/or burned out buildings and collapsed structures to be repaired, demolished or removed. That law is also intended to ensure that all property owners are in compliance with the Property Maintenance Code of New York State, which was developed by the State of New York to provide minimum requirements to safeguard public safety, health and general welfare insofar as they are affected by the occupancy and maintenance of structure and premises. The law shall also provide a mechanism by which the Town can recover any costs expended by the Town to repair, demolish and/or remove unsafe and/or burned out buildings or collapsed structures, when the property owner or mortgagee refuses to remedy the condition of the property.

Section 3: DEFINITIONS

The following definitions shall be applicable to the provisions of this law:

BUILDINGS: any principal or accessory building, structure or portion thereof used for residential, business, industrial, recreational or other purpose. For the purposes of this law, any debris, rubble, or parts of buildings which remain on the ground or on the premises after demolition, reconstruction, fire or other casualty are considered to be a part of the building or structure.

BUILDING INSPECTOR: The building inspector of the Town of Westerlo and his duly appointed assistants or deputies, or such other person appointed by the Town Board to enforce the provisions of this law.

For the purpose of this law, the building inspector is also referred to as the Code Enforcement Officer.

TOWN: The Town of Westerlo, Albany County, New York

TOWN BOARD: The duly elected Town Board of the Town of Westerlo.

UNSAFE BUILDING OR STRUCTURE: Any building or structure which has any one or more of the following:

- a. interior or exterior walls or other vertical structural members which list, lean or buckle to such an extent that the building is in imminent danger of failure by collapse
- b. improperly distributed loads upon the floors or roofs or in which the same are overloaded or have insufficient strength to be reasonably safe for the purposes used.
- c. Damage by fire, wind or other causes so as to have become dangerous to life, safety, and welfare of the occupants or the people of the Town.
- d. Parts which are precariously attached insofar as they may fall and injure members of the public or property
- e. A condition which makes the building a danger to the health, safety or general welfare of the residents of the Town.
- f. Unintended openings at the doorways or windows or walls
- g. substantial debris, rubble or parts of buildings left on the ground which is unsightly or unsafe after demolition, reconstruction, fire or other casualty.

Section 4: PROHIBITION

- A. It shall be unlawful for any owner, tenant or occupancy of any building or structure or portion of any building or structure in the Town to maintain such building or structure or portion thereof in any condition or manner which shall be unsafe as defined in Section 3 herein.
- B. Any owner, occupancy or person in custody of real property located within the Town who allows or permits a building to continue as a dangerous building after due notice as provided hereinafter shall be guilty of a violation of this local law and shall be punished as set forth hereinafter.

Section 5: INVESTIGATION AND REPORT

When in the opinion of the Building Inspector any building or structure located in the Town is believed to be unsafe or dangerous to the public, whether based on the Building Inspector's own observation, a written complaint filed by a resident of the

Town, or an official similarly tasked with oversight of property conditions including but not limited to the Albany County Department of Health and/or fire department, the Building Inspector shall make a formal inspection thereof, and report in writing to the Town Board of the Town his findings and recommendation in regard to its removal or repair.

Section 6: NOTICE AND HEARING

- a. After receiving and considering the Building Inspector's report, the Town Board members may, at their sole discretion, within 10 days of receipt of the report, individually or jointly conduct a site visit of the subject location. After the expiration of 10 days or a site visit by the members of the Board, whichever comes first, the Board shall schedule a special meeting to issue a determination whether it finds the subject building or structure to be dangerous and unsafe to the public, and if it so finds, shall, by resolution, order its repair if the same can be safely repaired, and if not, its removal and demolition, and shall further order that a hearing be held before the Town Board at a time and place therein specified and on at least fourteen (14) days notice to the owner of the building or structure or persons having an interest therein to determine whether said Order to remove or repair shall be affirmed or modified or vacated and, in the event of modification or affirmance, to assess all costs and expenses incurred by the Town in the repair or removal of such building or structure against the land on which said building structure is located.
- b. The notice shall contain the following statements:
 - i. The name of the owner or person in possession as appears from the tax and deed records
 - ii. A brief description of the premises and its location
 - iii. A description of the building or structure which is unsafe or dangerous and a statement of the particulars in which it is unsafe or dangerous.
 - iv. An order requiring the same to be made safe and secure or to be removed.
 - v. That the securing or removal of said building or structure shall commence within a specified number of days of the service of the notice (not to be less than 30 days) and shall be completed within a specified number of days thereafter (not to be less than 60 days).
 - vi. The time and place of the hearing to be held before the Town Board, at which hearing the owner or occupant shall have the right to contest the order and findings of the Town Board
 - vii. That in the event such owner, occupant or other person having an interest in said premises shall fail to contest such order and fail to comply with the same, the Town Board will order the repair or removal of such building by the town, and that the Town will assess all

costs and expenses incurred in such removal against the land on which such building or structure is located.

- viii. The failure to commence the necessary repairs, improvements or demolition within the time specified in the notice will constitute a violation of the law subjecting the violators to a fine not to exceed two hundred fifty dollars for each week of such violation.
- c. Notice shall be personally served upon the owner, executors, legal representatives, agents lessees or other person having a vested interest in the premises as shown on the Town tax records, or in the records of deeds and mortgages in the Albany County Clerk's Office. If no such person can be reasonably found for personal service, then a copy of said notice shall be mailed to such person by registered mail addressed to the last known address as shown on the Town tax records and by serving a copy of said notice upon any adult person residing in or occupying said premises or by securely affixing a copy of said notice upon building or structure.
- d. The Town may file a copy of the notice in the Albany County Clerk's Office, which notice shall be filed 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 (1) year from the date of filing. It may be vacated upon an order of a Judge or Justice of a Court of record or upon the written consent of the Town Attorney. The Albany County Clerk shall mark such notice and any record upon the presentation and filing of such consent or of a certified copy of such Order.

Section 7: HEARING

The Town Board shall conduct the public hearing at the time and place specified in the notice to repair or demolish, and such hearing shall take place no later than 30 days from the date of the Town Board's initial determination as set forth in Section 6(a) herein. At the conclusion of the hearing, the Town Board shall determine, by resolution, to revoke the Order to repair, remove or demolish the unsafe building or structure in question, revise said Order or continue and affirm said Order to direct the owner or other persons to complete the work within the time specified in the Order or such other time as shall be determined by the Town Board.

Section 8: FAILURE TO COMPLY

- a. In the event of the refusal, failure or neglect of the owner or person so notified to comply with said Order of the Town Board within the time specified in said Order and after the public hearing, the Town Board shall provide that such building or structure be made safe and secure or removed and demolished by Town employees or by independent contractors. Except in emergency cases as herein provided, a contract for

repair or demolishing and removal of a building or structure in excess of five thousand dollars (\$5,000.00) shall be awarded to the lowest responsible bidder after the Town secures three bids for necessary work.

- b. In the event of the refusal, failure or neglect of the owner or person so notified to comply with said Order of the Town Board within the time specified in said Order and after the public hearing such owner or person shall be guilty of a violation under the penal law.

SECTION 9: PENALTIES

Any person found guilty of violating this Local Law shall be liable for a fine not to exceed two hundred fifty dollars for each violation. Each week such violation continues shall constitute a separate violation.

SECTION 10: ASSESSMENT OF EXPENSES

All expenses incurred by the Town in connection with the proceedings to repair and secure or demolish and remove the unsafe building, including the cost of actually removing such building, and attorney's fees, shall be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided for the levy and collection of real property taxes.

SECTION 11: EMERGENCY SITUATIONS.

Where it reasonably appears that there is present a clear and imminent danger to the life, safety or health of any person or property unless an unsafe building or structure is immediately repaired and secured or demolished, the Town Board may, by resolution, authorize the Building Inspector to immediately cause the repair or demolition of such unsafe building or structure. The expenses of such repair or demolition shall be charged against the land on which it is located and shall be assessed, levied and collected as provided in Section 10 hereof.

SECTION 12: APPLICATION FOR COURT ORDER

The Town Board, in its discretion, may elect to apply to the Supreme Court of the State of New York for an order directing that the building be repaired and secured or demolished and removed.

SECTION 13: SPECIAL PROCEEDING FOR COSTS

The Town Board may commence a special proceeding pursuant to section 78b of the General Municipal Law to collect the costs of demolition, including reasonable and necessary legal expenses.

SECTION 14: SEVERABILITY

Each separate provision of this local law shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

SECTION 15: EFFECTIVE DATE.

This Local law shall take effect upon filing with the New York State Secretary of State.