

THE TOWN OF DEERPARK, ORANGE COUNTY , NEW YORK

LOCAL LAW NO. 2 OF 2011

**A LOCAL LAW REPEALING CHAPTER 119 OF THE TOWN OF DEERPARK CODE
AND CREATING A PROCEDURE FOR THE REPAIR, VACATION, AND
DEMOLITION OF UNSAFE BUILDINGS IN THE TOWN OF DEERPARK**

Chapter 119, BUILDINGS, UNSAFE

§119-1. Purpose.

Unsafe buildings pose a threat to life and property in the Town of Deerpark. Buildings and structures may become unsafe by reason of damage by fire, the elements, age or general deterioration. Vacant buildings not properly secured at doorways and windows also serve as an attractive nuisance for young children who may be injured therein, as well as point of congregation by vagrants and transients. A dilapidated building may also serve as a place of rodent infestation thereby creating a health menace to the community. It is the purpose of this chapter to provide for the safety, health protection and general welfare of persons and property in the Town of Deerpark by requiring such unsafe buildings be repaired or demolished and removed.

§119-2. Title.

This chapter shall be known as the "Unsafe Buildings Law of the Town of Deerpark."

§119-3. Definitions.

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

BUILDING -- Any building, structure or portion thereof used for residential, business or industrial purpose.

BUILDING INSPECTOR/CODE ENFORCEMENT OFFICER -- The Building Inspector/Code Enforcement Officer of the Town of Deerpark or such other person appointed by the Town Board to enforce the provisions of this chapter.

UNSAFE BUILDINGS – All buildings or structures which have any or all of the following defects:

- A. Those which, exclusive of the foundation, show thirty-three-percent-or-more damage or deterioration of the supporting member or members, or fifty-percent damage or deterioration of the nonsupporting enclosing or outside walls or covering.

- B. Those which have 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.
- C. Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, morals, or the general welfare of the occupants or the people of the Town.
- D. Those which have been abandoned or which have become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease so as to work injury to the health, morals, safety or general welfare of those living therein.
- E. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.
- F. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.
- G. Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- H. Those which, because of their condition, are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of this Town.
- I. Those buildings existing in violation of any provision of the Building Code of this Town or any provision of the Fire Prevention Code or other ordinance of this Town.
- J. Those which are open at the doorways and windows making it accessible to and an object of attraction to minors under 18 years of age, as well as to vagrants and other trespassers.
- K. Those which may become a place of rodent infestation.
- L. Those which present any other danger to the health, safety, morals and general welfare of the public.

§119-4. Declaration as public nuisances.

All dangerous buildings within the terms of §119-3 are hereby declared to be public nuisances and shall be repaired, vacated or demolished as provided herein.

§119-5. Duties of the Building Inspector/Code Enforcement Officer.

- A. The Building Official shall inspect or cause to be inspected any building, wall or structure about which complaints are filed by any person to the effect that a building, wall or structure is or may be existing in violation of this chapter.
- B. When the Building Official/Code Enforcement Officer file a report in writing to the Town Board his findings and recommendations in regard to its repair or demolition and removal when in his own opinion or upon receipt of information that a building falls under any of the conditions set forth in §119-3 of this Chapter.

§119-6. Town Board order.

The Town Board shall thereafter consider such report and by resolution determine, if in its opinion the report so warrants, that such building is unsafe and dangerous and order its repair, if the same can be safely repaired, or its demolition and removal, and further order that a notice be served upon the persons and in the manner provided by §119-7 herein.

§ 119-7. Notice; contents.

The notice shall contain the following:

- A. A description of the premises;
- B. A statement of the particulars in which the building is unsafe or dangerous;
- C. An order outlining the manner in which the building is to be made safe and secure, or demolished and removed;
- D. A statement that the securing or removal of such building shall commence within 30 days of the service of the notice and shall be completed within 60 days thereafter, unless for good cause shown such time shall be extended;
- E. A date, time and place for a hearing before the Town Board in relation to such dangerous or unsafe building, which hearing shall be scheduled not less than five business days nor more than 30 business days from the date of service of the notice; and
- F. A statement that in the event of neglect or refusal to comply with the order to secure or demolish and remove the building, the Town Board is authorized to provide for its demolition and removal, to assess all expenses thereof against the land on which it is located and to institute a special proceeding to collect the costs of demolition, including legal expenses.

§119-8. Service of notice.

The said notice shall be served:

- A. By personal service of a copy thereof upon the owner, executor, administrator, agent, lessee or any person having a vested or contingent interest in such unsafe building; as shown by the records of the receiver of taxes (or Tax Collector) or of the County Clerk; or if no person can be reasonably found by mailing such owner by registered mail a copy of such notice directed to his last known address as shown by the above records; and
- B. By personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found; and
- C. By securely affixing a copy of such notice upon the unsafe building.

§119-9. Filing notice with County Clerk.

A copy of the notice served as provided herein shall be filed in the office of the County Clerk of the County of Orange.

§119-10. Standards for repair, vacation and demolition.

The following standards shall be followed in substance by the Building Official and Common Council in ordering repair, vacation or demolition:

- A. Repair. If the dangerous building can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered to be repaired.
- B. Vacation. If the dangerous building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated.
- C. Demolition. In any case where a dangerous building is fifty-percent damaged or decayed or deteriorated from its original value or structure, it shall be demolished, and in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be demolished.

§119-11. Failure to comply.

In the event of the refusal or neglect of the person so notified to comply with said order of the Town Board and after the hearing, the Town Board shall provide for the demolition and removal of such building or structure either by Town employees or by contract. Except in emergency as provided in § 119-13 hereof, any contract for demolition and removal of a building in excess of \$5,000 shall be awarded in accordance with the provision of the General Municipal Law of the State of New York.

§119-12. 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 but not limited to the cost of actually removing such building, legal fees and advertising appropriate public hearings, shall be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided in Article 15 of the Town Law for the levy and collection of a special ad valorem levy. Nothing contained herein shall prevent the Town from pursuing relief under §78-b of the General Municipal Law if the Town should decide such action is in its best interests.

§119-13. Emergency cases.

Where it reasonably appears that there is immediate danger to the life, safety or health of any person or property, unless an unsafe building 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. The expenses of such repair or demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected as provided in § 119-12 hereof.

§119-14. Administrative liability.

No officer, agent or employee of the Town shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter.

§119-15. Severability.

Each separate provision of this Local Law shall be deemed independent of all other provisions herein, and if any provisions shall be deemed invalid, all other provisions hereof shall remain valid and enforceable.

§119-16. Repealer.

This Local Law shall repeal and replace the existing Chapter 119 of the Town of Deerpark Code, and shall supersede all prior local laws, ordinances, rules and regulations relative to the repair or removal of unsafe buildings and collapsed structures within the Town of Deerpark and they shall be, upon the effective date of this ordinance, null and void.

§119-14. Effective date.

This Local Law shall take effect upon its being duly filed in the office of the Secretary of State of the State of New York as provided in section 27 of the Municipal Home Rule Law.