

LOCAL LAW # 2 of 2015
April 16, 2015

A LOCAL LAW OF THE TOWN OF ANCRAM, NY ALLOWING FOR THE REPAIR OR REMOVAL OF UNSAFE BUILDINGS AND STRUCTURES THAT ARE ALSO A DANGER TO PUBLIC HEALTH, SAFETY AND WELFARE OR ADJACENT PROPERTIES

BE IT ENACTED by the Town Board of the Town of Ancram in the County of Columbia as follows:

1. Statutory Authority

This Local Law is enacted pursuant to section 10 of the New York Municipal Home Rule Law and section 130 of the New York Town Law.

2. Intent

The intent of this law is to permit the Town of Ancram to take actions to protect the public from unsafe buildings and structures in the Town of Ancram which are in a state of disrepair to the point that they pose a danger to the health, safety, and welfare of members of the general public, or to adjacent properties. Characteristics of unsafe buildings are defined in section 6 below.

This law also allows the Town of Ancram to recover any costs it incurs to repair or demolish and remove any buildings or structures which the Town must repair or demolish and remove because they have become unsafe and a danger to public health, safety and welfare or to adjacent properties.

Any building or structure or part of a building or structure that from any cause becomes unsafe *and* also a danger to public health, safety or welfare or to adjacent properties shall be demolished and removed or made safe and secure.

Any building or structure that is deemed to be unsafe for occupants or unlawful under the provisions of NYS Property Maintenance Code Section 107.1, but which does not pose a threat and danger to public health, safety and welfare or to adjacent properties shall be condemned in accordance with NYS Property Maintenance Code Section 107.1 or other applicable laws and regulations of New York State or Columbia County.

This law is not intended to be used to remedy the visual appeal of any buildings or structures, or to require that lawns be mowed, houses be painted, or yards be kept neat.

3. Enforcement Process

The Code Enforcement Officer will identify buildings and structures which in his judgment are in a state of disrepair and unsafe to the point that they pose a danger to the health, safety and welfare of the public or adjacent properties, and will notify the owners of the buildings or structures of the concerning conditions which should be corrected. The Code enforcement officer will also notify any adjacent property owners whose property may be affected by any building or structure identified as a danger to public health, safety and welfare or to adjacent properties.

If after 60 days following the Notice, the owners of the identified unsafe buildings and structures and the Code Enforcement Officer fail to agree on a course of action to make the unsafe buildings and structures safe or to demolish and remove them, the Code Enforcement Officer shall advise the Ancram Town Board of the violations, and seek approval from the Town Board to retain an engineer to confirm that the identified building or structure is in fact unsafe, and also poses a danger to the health, safety and welfare of the public or adjacent properties.

If the engineering report confirms the Code Enforcement Officer's determination that the building or structure is unsafe and also poses a danger to the health, safety and welfare of the public or adjacent properties, the owners of the unsafe building or structure shall be so notified, and required to take action to cure the violations identified by the engineering report.

If the owner does not act to make the repairs or demolish the building within 60 days, the Town Board, following a public hearing as outlined in section 11 below, shall determine whether or not to authorize the necessary repairs to eliminate the risks identified by the Code Enforcement Officer and Town Engineer, or shall authorize the demolition and removal of the unsafe building or structure, and have the cost of repairs or removal become a lien against the Property according to the provisions of section 13 of this law.

4. Emergency Powers

Should any building or structure be damaged by wind, earthquake, falling trees, fire, or other cause to the point where it has collapsed or is likely to collapse and has caused or could cause a threat to the health or safety of the public, adjacent properties or adjacent roads, the Code Enforcement Officer, with the prior approval of the Town Board, shall notify the property owner to remove or repair the building or structure. If the building or structure is not removed or repaired by the owner within 30 days, the Town shall cause the building or structure to be removed, and charge the owner of the property for the costs of removal according to the provisions of section 13 of this law. At the request of the Owner, the Code Enforcement Officer or Town Board may extend the time period for removal or repair of the building or structure to accommodate insurance inspections, asbestos remediation if required, the retention of contractors to perform the work or other circumstances which may arise related to the repair or removal of the building or structure.

5. Definitions

- a. **Owner.** An “Owner” is the record title holder of a parcel of land on which is located a Building, the Owner’s executor, legal representative, agent, or lessee or any other person having a vested or contingent interest in the parcel of land. An Owner may be one or more persons.
- b. **Building.** “Building” means a building or a structure as defined in the New York State Uniform Fire and Building Code.
- c. **Property.** The “Property” is the parcel of land on which the Building is located. If there is more than one parcel of land, then Property refers to all parcels.
- d. **Lien Holder.** A “lien holder” is any person or entity holding a recorded mortgage on the “Property” or “Building.”

6. Characteristics of Unsafe Buildings and Structures

Unsafe structures may have any or all of the following defects:

- a) does not have a valid Certificate of Occupancy.
- b) exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity falls outside the middle third of its base.
- c) the supporting member or members show 33% deterioration or damage (exclusive of the foundation).
- d) the non-supporting enclosing or outside walls, covering, or roof show 50% deterioration or damage.
- e) improperly distributed loads lie upon the floor(s) or roof(s), or the floor(s) or roof(s) are overloaded or have insufficient strength to be reasonably safe for the purpose used.
- ƒ) have deteriorated to the point where portions of the buildings or structures have collapsed or are likely to collapse, and have caused or could cause debris to affect adjacent properties and roads.
- g) are close enough to adjacent roads, buildings or structures to pose a danger to these adjacent roads, buildings or structures from wind born debris.
- h) have attracted rats, vermin, wildlife or other threats to public health.

7. Inspection

The Town Code Enforcement Officer shall inspect any Building he or she believes is unsafe and dangerous. He or she will endeavor to notify the Owner prior to conducting the inspection. The inspection may include the exterior of the Building and the interior of the Building, provided that the interior inspection is either on consent of a Building occupant or

limited to common areas of the Building. If the Code Enforcement Officer reasonably believes that the Owner of the Building has abandoned the Building, the Code Enforcement Officer may inspect the interior portions of the Building without the Owner's consent. Nothing in this paragraph shall limit the Code Enforcement Officer's right to apply for an administrative search warrant under applicable law if required to conduct an inspection of a Building. The Town may retain the services of a licensed engineer to assist the Code Enforcement Officer in his or her inspection and to prepare an inspection report for and on behalf of the Code Enforcement Officer.

8. Notices

If the Code Enforcement Officer wishes to gain access to a building or structure to determine if that Building is unsafe or dangerous, he or she shall notify the Owners of such request by serving a written notice ("Notice") by certified mail, return receipt requested, and by first class mail, or by personal service. If the Code Enforcement Officer subsequently determines that the Building is unsafe or dangerous, he or she shall notify the Owners of such determination by serving a written notice ("Notice") by certified mail, return receipt requested, and by first class mail, or by personal service. If the Notices are sent certified and by first class mail, they shall be served on the Owner at his or her last known mailing address as determined by the Code Enforcement Officer, and shall also be posted on the Property that is the subject of the Notice. For purposes of providing Notice, an address on file with the Town assessor or County Real Property Tax Agency for the Owner's receipt of real property tax information is presumptively a last known address. Service of the Notice by mail shall be complete upon depositing the mailing with the United States Postal Service. If the Notice is personally served upon the Owner, service shall be complete by personally serving the Owner with the Notice or by serving the Notice at the Owner's residence or place of business upon a person who is of suitable age and discretion as that term is used in CPLR § 308(2). No further actions need to be taken to complete service of the Notice. Notice shall also be given to all recorded lien holders by certified mail, return receipt requested, and by first class mail at least 60 days prior to the Town taking any action to demolish and remove any unsafe structure.

9. Notice Content

The Notice shall inform the Owner of the date(s) of inspection, a description of the Property, and the particulars of conditions on the Property which gave rise to the Code Enforcement Officer's determination that the Building is unsafe or dangerous. The Notice shall further inform the Owner of actions required of the Owner to remedy the unsafe or dangerous condition, a date by which such remedial work shall commence, and a date by which it shall be completed. If the Code Enforcement Officer has determined that the Building must be demolished, the Notice shall inform the Owner of the date by which the Owner shall complete the demolition and removal of the Building. The Notice shall also inform the Owner of the time, date, and place, not prior to 30 days from service of the Notice, when the Owner can be heard by the Town Board concerning the matters set forth in the Notice. The Notice shall not require the Owner to commence any remedial action until after the hearing date.

10. Filing with the County Clerk

The Town shall file the Notice with the Columbia County Clerk in the same manner as a Notice of Pendency pursuant to Article 65 of the Civil Practice Law and Rules. The failure of the Town to file the Notice pursuant to this paragraph shall not invalidate any proceedings under this Local Law.

11. Town Board Hearing

The Owner may appear at the Town Board hearing either in person or through his or her legal representative and may be assisted at the hearing by his or her own engineering consultant. The purpose of the hearing is to allow the Owner an opportunity to be heard about the contents of the Notice. The hearing shall be informal and shall not involve the taking of sworn testimony or the cross examination of witnesses. Upon conclusion of the hearing, the Town Board shall determine, by a vote of at least four Board members, whether to affirm the Building Inspector/Code Enforcement Officer's determination that the Owner's building is unsafe and also a danger to public health, safety or welfare or to adjacent properties in whole or in part, or whether to overrule the determination. The Town Board's determination shall be a final decision.

12. Demolition and Removal of Unsafe Buildings that are a Danger to Public Health, Safety and Welfare or to Adjacent Properties

If the final decision of the Town Board wholly or in part affirms the Building Inspector/Code Enforcement Officer's determination that a building is unsafe and also a danger to public health, safety and welfare or to adjacent properties, the Owner shall commence and complete remedial work or demolition within the time periods set forth in the Notice. If the Owner fails to comply with the repair or demolition requirements of the Notice, the Town, or its authorized representative, without further notice to the Owner, may enter upon the Owner's Property and either complete the remedial work or demolish the Building and remove demolition debris.

13. Cost of demolition and removal is a charge against the Property

The Town in its sole discretion may use Town equipment and employees to demolish and remove an unsafe and dangerous Building or may retain the services of a private contractor to perform the demolition and removal. If the Town uses Town equipment and employees the cost of removal shall be determined by calculating the hours worked by Town employees and applying the hourly salary rate for those employees including benefits. The cost of using town equipment shall be determined by applying the market rental rate for the same or similar equipment. Any expenses incidental to the demolition and removal of the Building, including legal or consultant fees, shall be included in the cost of demolition and removal. The Town shall notify the Owner by certified mail with return receipt requested and by first class mail of the cost of demolition and removal. If the Owner within 30 days of the Town's mailing fails to pay the cost in full, the Town Clerk shall file, prior to the time for completing the levy of annual town taxes, a statement of the cost of demolition and removal with the Town Board. The Town in the

preparation of the next succeeding tax levy of general town taxes shall levy the cost of demolition and removal upon the Property and the cost of demolition and removal shall be a charge against the Property and included as an itemized charge in the next Town and County tax bill.

14. Pre-existing Emergency Powers

Nothing in this Local Law is intended to limit the Town or any other municipal or State entity from exercising existing emergency powers concerning the removal or securing of a Building in the event the Building is an immediate danger to its occupants or to the public.

15. Repeal of Existing Provisions

This Local Law supersedes any inconsistent provisions in the local laws and ordinances of the Town.

16. Severability

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

17. Effective Date

This Local Law shall take effect immediately upon filing in the office of the Secretary of State in accordance with Municipal Home Rule Law § 27.