

LOCAL LAW NO. 5 OF 2020

Replace Chapter 74

(Adopted July 9, 2020)

Title.

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

Purpose.

A. The purpose of this chapter is to promote and preserve the health, safety and welfare of the public and residents and/or owners of property located within the Town of Coeymans by providing a method for the removal or repair 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 Town of Coeymans. 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 rodent or insects; and may also attract illegal drug activity.

B. The powers conferred upon the Town of Coeymans by this chapter shall be in addition to all other powers conferred upon the Town of Coeymans in relation to the same subject by state law.

Authority

The Town Board of the Town of Coeymans as Legislative Body for the Town of Coeymans hereby enacts this Local Law pursuant to authority conferred by New York State Town Law Article 16, New York State Municipal Home Rule Law, and the New York State Constitution.

Stricter standards to prevail.

In any case where the provisions of this chapter impose a stricter standard than that set forth in any law of the Town or under the laws of the State of New York, then the standards as set forth herein shall prevail; but if the provisions of this chapter impose a less stringent standard than any law of the Town or of the laws of the State of New York, then the stricter standard contained in any such other ordinance or law shall prevail.

Definitions.

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

BUILDING INSPECTOR

The Building Inspector of the Town of Coeymans or such other person appointed by the Town Board to enforce the provisions of this chapter.

UNSAFE BUILDING

Includes all buildings which have any or all of the following defects:

- A.** Those whose interior walls or exterior bearing walls or other vertical structural members list, lean or buckle to such an extent as to weaken the structural support they provide;
- B.** Those which, exclusive of the foundation, show 33% or more of damage to or deterioration of the supporting member or members or 50% of damage to or deterioration of the nonsupporting, enclosing or outside walls or covering;
- C.** 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;
- D.** Those which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants or the people of this Town of Coeymans;
- E.** Those which have become or are so dilapidated, decayed, unsafe or 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 to those living therein or adjacent thereto;
- F.** Those having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or 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 egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication, again referencing the New York State Uniform Fire Prevention and Building Code as a determinant;
- H.** Those which have parts thereof which are so attached that they may fall and injure members of the public or property;
- I.** Those which consist 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 Town of Coeymans.

Unsafe buildings prohibited.

No person, firm, corporation or association owning, possessing or controlling a building in this Town 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 Building Inspector shall make inspections of all unsafe buildings within the Town of Coeymans and report to the Town Board all unsafe buildings which from time to time may be found within the limits of the Town of Coeymans.

Determination; notice to repair or demolish.

A. The Town Board shall consider the report of the Building Inspector and, if in its opinion the report so warrants, shall determine that the building is unsafe and order its demolition or repair, if the same can be safely repaired, and further order that a notice shall be given to the owner as follows.

B. 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 of the building shall commence within 30 days of the serving of the notice, as hereinafter provided, and shall be completed within 60 days thereafter;
- (5) A date, time and place for a hearing before the Town Board in relation to such unsafe building, which hearing shall be scheduled not less than five business days from the day 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 Town Board is authorized to provide for its repair or demolition, 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.

Service of notice; filing.

A. Said notice shall be served in the following manner:

- (1) By personal service of a copy thereof upon the owner or some one of the owners, 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 Town of Coeymans, or of the County Clerk, such service to be complete and the thirty-day time period recited in said notice to commence upon service; or
- (2) By mailing a copy of said notice to such owner as aforesaid by registered mail, return receipt requested, addressed to the last known address of the owner and by affixing a copy of said notice to the premises, such service to be complete and the thirty-day time period recited in said notice to commence 10 days after the filing of the return receipt.

B. A copy of the notice shall also be filed in the office of the County Clerk of the county within which such building is located, which notice 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, except as otherwise hereinafter 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 Town Attorney.

Hearing; repair by owner or Town.

A. The hearing shall be conducted before the Town Board. The Building Inspector shall present his or her report to the Town Board in writing. The owner or his or her representative, if present,

shall call such witnesses as he or she deems necessary. The Town Board shall make written findings of fact from the testimony offered as to whether or not the building in question is an unsafe building.

B. If such owner shall neglect, fail or refuse to comply and, after said hearing, the Town Board finds that the building is a public nuisance and directs its repair or demolition, the owner shall repair or demolish said building within the time prescribed by the Town Board.

C. If the owner fails or neglects to repair or demolish said building as directed by the Town Board following the hearing, and then the Town Board shall direct the repair or demolition of same forthwith.

Demolition and removal by Town upon noncompliance.

In the event of neglect or refusal of the persons so notified to comply with said order of the Town Board, the Town Board shall provide for the demolition and removal of such building either by Town employees or by contract. Except in an emergency, any contract subject to the requirements of General Municipal Law 103(1) or other applicable law shall be awarded by competitive bidding.

Emergency work; notice.

A. In case there shall be, in the opinion of the Building Inspector, actual and immediate danger of the falling of a building so as to endanger public safety, life or property or actual or immediate menace to health or public welfare as a result of the conditions present in or about a building, he or she shall cause the necessary work to be done to render such a building temporarily safe, whether the procedure prescribed in this chapter for unsafe buildings has been instituted or not.

B. When emergency work is to be performed under this section, the Building Inspector shall cause the owner thereof to be served personally or by registered mail, return receipt requested, and, if served by registered 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 which constitute an emergency within a specified period, not to exceed three days from actual or constructive receipt of the notice.

C. In the event that the emergency does not permit any delay in correction, the notice shall state that the Town has corrected the emergency condition.

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 chapter.

Application to Supreme Court for order to repair, secure or demolish.

In addition to the remedies provided by this chapter, the Town Board may request the Town Attorney to make an application to the Supreme Court for an order determining the building to be a public nuisance and directing that it shall be repaired and secured or demolished.

Assessment of costs; collection.

A. All costs and expenses incurred by the Town in connection with the proceedings to repair, secure, demolish or remove the unsafe building, including all costs of work performed or services rendered, including and any fees incurred by the Town for engineering, legal or other professional services, shall be chargeable to the owner of the premises and shall be assessed against the land on which said building is located. The expense so assessed shall constitute a lien and charge on the real property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and at the same time as other Town taxes and charges.

B. The Town of Coeymans may commence a special proceeding pursuant to § 78-b of the General Municipal Law to collect the costs of repairing, securing, demolition or removal of the unsafe building, including reasonable and necessary expenses for engineering, legal or other professional services.

Penalties for Offenses.

Civil penalties. Any person/owner who violates any provision of this chapter shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subsection shall be recoverable in an action instituted in the name of this Town.

Effective Date.

This chapter shall take effect immediately.
