

PART II – GENERAL LEGISLATION

Chapter 47 Unsafe Buildings

[Adopted as Local Law #4 of 1989, Amended and Adopted, December 27, 2012, as Chapter 47 of the Code]

Article I – Unsafe Buildings

Section 47-1 – 47-15

Article I – Unsafe Buildings

Section 47-1 – Short Title and Applicability – This Chapter shall be known as the Unsafe Buildings Chapter of the Village of Marcellus.

Section 47-2 – Legislative Declaration

(a) Unsafe buildings and structures pose a threat to life and property in the Village of Marcellus. 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.

(b) It is the purpose of this Chapter to provide for the safety, health protection and general welfare of persons and property in the Village of Marcellus by requiring such unsafe buildings be secured or repaired or demolished and removed.

Section 47-3 – Definitions – Unless otherwise expressly stated, the following terms for the purpose of this Chapter have the meanings indicated in this section.

Building: Any building, structure or portion thereof used for residential, commercial, industrial or any other purpose.

Unsafe Building: Any building or structure that has its roof, siding or any other surface breached to the interior, such that water, vermin, other pests or persons can enter. It shall also include any building with structural damage or failure, system failure, structural misalignment, uneven settling or collapse either partial or total. Such buildings or structures shall be considered uninhabitable and unstable, and be demolished and removed. Any certificate of occupancy or compliance and any variances shall be rescinded immediately and permanently.

Repairable Building: Any building or structure which has: an intact outer surface and roof that prevents the intrusion of water, pests or persons; has structural integrity and alignment; has its systems safely operational; has no water infiltration or basement flooding; lacks only cosmetic and/or routine maintenance to meet code.

Abandoned Building: Any building or structure that has been vacant or used for some other purpose than its approved use for a period of two years or more, shall be considered abandoned and unsafe and shall have any Certificates of Occupancy or Compliance, and any

variances obtained, permanently rescinded. Such buildings shall be condemned, demolished and removed within 60 days of the second anniversary of occupant vacancy.

Code Enforcement Officer (CEO): A person so designated, employed by the Village board who has received the approved training from the New York State Department of State (Codes Division) to perform such duties and who shall be eligible to be a Public Officer.

Structure: A static construction of building materials set upon or affixed to the ground or set upon or affixed to another structure. Some examples of the types of construction under consideration are: a building, dam, display stand, tower or pylon with or without transmission or monitoring equipment included or attached, gasoline pump including tanks, installed mobile home or trailer, reviewing stand, shed, shelter, sign stadium, pavilion, storage bin, fence, beam or other permanent static construction whether listed or unlisted.

Section 47-4 – Investigation Report

(a) When the Code Enforcement Officer (CEO) shall, on the basis of information received or upon the CEO's own investigation, be of the opinion that a building or structure is or may become dangerous or unsafe to the general public; is open at the weather or is an accessible attractive nuisance to minor children as well as to vagrants and other trespassers; is or may become a place of vermin infestation; presents any other danger to the health, safety, morals and general welfare of the public; lowers the value of local properties, or is unfit for the purpose for which it may be lawfully used; the CEO shall cause or make an inspection thereof and make a report, in writing to its repair or demolition and removal.

(b) In the event that the CEO was acting upon a complaint from a resident, a copy of the findings and recommendations shall also be made to the complainants receipt. Complainants shall also be made aware of any enforcement actions instituted.

Section 47-5 – Action by the Village Board – The Village Board shall thereafter consider such report, and if by the findings and recommendations that the building is unsafe and dangerous and should be ordered demolished and removed, the Board shall confirm such findings and order by resolution. They shall further order that a notice of such resolution be served upon the owner or other representative of the property in the manner provided in Section 47-7 herein.

Section 47-6 – Contents of the Notice

(a) The notice shall contain the following:

- 1. A description of the premises upon which the building is located;
- 2. A statement of the particulars in which the building or structure is unsafe or dangerous or otherwise in violation of the code;
- 3. An order outlining how the building is to be made safe, or demolished and removed;
- 4. A statement that the repair or demolition and removal of such building or structure shall commence within thirty days of the service of the notice and shall be completed

within sixty days thereafter, unless for good cause shown, such time limit may be extended for up to thirty days. No more than one thirty-day extension shall be granted;

5. A date, time and place for a hearing before the Village Board in relation to such dangerous or unsafe building, which hearing shall be scheduled no less than seven calendar days nor more than fourteen calendar days from the date of service of the notice; and

(b) The description of the premises in the notice shall be adequate if it is substantially the same as the description of the premises contained on the Village tax assessment rolls.

Section 47-7 – Service of Notice – The notice shall be served:

(a) By personal service, within the Village of Marcellus, of a copy thereof upon the owner, executor, administrator, agent or any other person having a vested or contingent interest in such building as shown by the records of the Village Assessor or of the County Clerk; or by mailing to any such persons by certified or registered mail (return receipt) to their last known address as shown by the records of the Village Assessor; or,

(b) If the owner, executor, administrator, agent or other person cannot be reasonably contacted by means of (a) above, by mailing to any such person by regular mail to their last known address and by securely affixing a copy of such notice upon the unsafe building or structure.

Section 47-8 – Filing of Notice – A copy of the notice served as provided herein shall be filed in the office of the County Clerk of the County of Onondaga.

Section 47-9 – Penalties – Any person who violates any provision of this chapter shall be guilty of an offense against this chapter and shall be subject to a fine for the first week's continuation of such violation following service of notice as provided herein, or for any portion of that week, of not less than one hundred dollars (\$100) nor more than two hundred fifty dollars (\$250) or to imprisonment for a period of not more than fifteen (15) days or both such fine and imprisonment. In addition, any person who violates any of the provisions of this chapter or who shall omit, neglect or refuse to do any act required by this chapters shall severally, for each and every such violation, forfeit and pay a civil penalty of one hundred dollars (\$100) a day for each day of continued violation in excess of the first week following service of notice as provided herein. The imposition of penalties for any violation of this chapter shall not excuse the violation or permit it to continue. The application of the above penalty or penalties for any violation shall not preclude the enforced removal of conditions prohibited by this chapter.

Section 47-10 – Assessment of Expenses – all expenses incurred by the Village in connection with the proceedings to repair and secure or demolish and remove an unsafe building, including the cost of actually removing such building, shall be assessed against the land on which such building is located and shall be levied and collected in the same manner as other Village property taxes.

Section 47-11 – Emergency Provisions – 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 is immediately repaired or demolished and removed, the Village Board may, by resolution, authorize the Code Enforcement Officer to immediately cause demolition of such unsafe building or structure. The expense of such demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected.

Sections 47-12 – 47-15 - Reserved