

PART II – GENERAL LEGISLATION

Chapter 63 – Demolition

[Adopted, December 27, 2012, as Chapter 63 of the Code]

Article I Demolition of Buildings

Sections 63-1 – 63-10

General References:

Building Code, NYS Fire Prevention and – see Ch 44

Building, Unsafe – see Ch 47

Property Maintenance – see Ch 182

Zoning – see Ch 250

Article I Demolition of Buildings

Section 63-1 – Definitions – As used in this chapter, the following terms shall have the meanings indicated:

APPLICATION FOR DEMOLITION — The application for a permit to demolish a building or structure.

BASEMENT — That portion of a building that is partly below grade and which has more than half of its height, measured from floor level to ceiling, above the average established curb level or finished grade of the ground adjoining the building.

BUILDING — A combination of any materials, whether portable or fixed, as a structure wholly or partially enclosed within exterior walls or within exterior or party walls and having a roof, affording shelter to persons, animals or property. The word "building" shall be construed, when used herein, as though followed by the words "or part or parts thereof."

CELLAR — That portion of a building that is partly or entirely below grade, which has more than half its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.

CODE ENFORCEMENT OFFICER — The Code Enforcement Officer of the Village of Marcellus.

CONTRACTOR — That person, firm or corporation employed by the owner of the property, empowered by written consent of the owner to perform the specific duty of demolition as may be specified in authorizing permits.

DEMOLITION or DEMOLISH — The alteration of an existing building or structure, the purpose of such alteration being the discontinuance of the existing building or structure or a portion thereof. Demolition shall not include the repairing, remodeling or extending of an existing building or structure where such is incidental to the improvement of that building or structure, and the primary intent is shown to be that of repairing, remodeling or extending the existing building or structure.

DEMOLITION PERMIT — The permit for demolition of an existing building or structure.

LOCATION — The actual confines of the demolition. The location, as described in the application for permit and as approved by the Code Enforcement Officer therein, shall be the only area approved for the demolition.

MAYOR — The Mayor of the Village of Marcellus.

OWNER and PROPERTY OWNER — The person who has the legal title to land, together with ownership of the building or structure location thereon, whose name appears on the most recent tax assessment rolls of the Village of Hamburg.

PUBLIC WAY — A street, alley, sidewalk or other thoroughfare or easement permanently established for passage of persons or vehicles. The term "public way" shall be construed, when used herein, as though followed by the words "or part thereof."

SALVAGE — Component parts of a building or structure being demolished, removed or to be removed from said building or structure for reuse or resale.

SALVAGE CONTRACTOR — A person, firm or corporation identified in the application for demolition, authorized by the owner, in writing, to remove items of salvage from premises, which may or may not be the same person, firm or corporation designated by the owner as the demolition contractor.

STRUCTURE — A combination of materials, other than a building, to form a construction that is safe and stable, and includes, among other things, stadiums, platforms, radio towers, sheds and storage bins.

Section 63-2 – Permit requirements; fees

A. No person shall demolish an existing building or structure within the Village of Marcellus without first obtaining a demolition permit, signed by the Code Enforcement Officer and the Mayor, allowing such demolition. Such permit shall be applied for and issued to the owner of the property. Except in emergency situations (**see Chapter 44**), no demolition permit shall be issued in less than eight business days from the date the application is received by the Code Enforcement Officer.

B. No demolition permit will be issued for demolition of a historically designated landmark or a structure identified as eligible for inclusion on the National Register of Historic Places or any structure, property or landmark located within the Village Center District, without the applicant first obtaining a certificate of appropriateness, as required by the Village Zoning Code.

C. Form; contents.

(1) Written application for a demolition permit shall be on the forms provided by the Village of Marcellus Code Enforcement Officer's office.

(2) Said application shall require the name, address and telephone number of the owner; the names, addresses and telephone numbers of all contractors (general, special or salvage) authorized by the owner to perform work; insurance coverage information, including the name of each insurance company, policy number and date of expiration of policy; a written description of the building or structure to be removed; starting and completion dates; a written list of materials to be salvaged; provisions for disposal of refuse; and a statement to security

and/or barricades to safeguard premises from unauthorized entry during the demolition work, as well as the protection of the general public.

(3) Each application shall be accompanied by preliminary plans for the replacement structure and/or any intended improvement of the property.

D. A filing fee shall accompany all demolition permit applications. Said filing fee shall be paid to the Village Clerk and is nonrefundable in the event that the permit applied for is denied. The fee for a demolition permit shall be established by the Board of Trustees of the Village of Marcellus. Editor's Note: See Ch. 84, Fees.

E. Within 24 hours of the receipt of an application for a demolition permit, the Code Enforcement Officer shall deliver a copy of the application to the Village Clerk and the Village Board.

Section 63-3 – Certificate of insurance

A. As part of the application for a demolition permit, a certificate of insurance for liability shall be delivered to the Code Enforcement Officer of the Village of Marcellus, as agent for the Village of Marcellus. The minimum limits of said liability for the demolition of buildings and structures, whether in a homeowner's insurance policy or separate liability policy, shall be a combined single limit of \$1,000,000 or equivalent.

B. All insurance certificates shall include the Village of Marcellus as an additional named insured.

C. Insurance certificates or agreements in a form approved by the Village Attorney, holding the Village of Marcellus, its officers and employees from liability resulting from work allowed by a demolition permit, shall be delivered to the Code Enforcement Officer as agent for the Village of Marcellus.

Section 63-4 – Procedures

A. Upon the request of the Code Enforcement Officer, the person making the application for a permit to demolish a building or structure shall submit to the Code Enforcement Officer a written report from a licensed exterminator regarding extermination of the building or structure prior to the issuance of a demolition permit. A written report from a licensed professional shall be submitted for asbestos removal/abatement and lead removal/investigation. An approved mitigation/abatement/removal plan is required prior to issuance of a demolition permit. A written report from a licensed professional shall be submitted for asbestos removal/abatement and lead removal/mitigation. An approved mitigation/abatement/removal plan is required prior to issuance of a demolition permit.

B. Prior to demolition, the contractor will erect a system of barricades around the construction site and have the electric, gas and telephone services removed by the respective utility companies. Water service and sewer laterals to the building or structure being demolished shall be disconnected and removed back to the edge of the property line and capped, unless there is an approved site plan by the Planning Board stating that the existing utility line will be reused. All utilities, water and sewer disconnection shall be inspected and approved by the Code Enforcement Officer prior to demolition.

C. The contractor shall obtain appropriate approval for the water use on the site from the Code Enforcement Officer for dust control and have sufficient lengths of one-and-one-half-inch and/or two-and-one-half-inch hose for this purpose. The contractor shall provide a flagman for traffic control when necessary, and should a street have to be closed, he shall obtain written permission from the Superintendent of Highway, the Chief of Police and the Fire Chief.

D. In the case of the demolition of an existing building which has a common or party wall with one or more adjoining buildings, the owner of the building to be demolished shall be responsible for and bear all costs in relation to the safeguarding of said adjacent wall.

E. Where beams, girders and joists are removed from party walls, the resulting pockets in said walls shall be cleaned out and filled with solid masonry. Necessary repairs shall be made to put the party wall in a safe and weather-tight condition. This work shall be done by the contractor at the expense of the property owner having said demolition performed.

F. Where such demolition work is to be made and no immediate new construction is intended at the site, the adjacent wall, whether of the party type or otherwise, shall be left in an acceptable condition so far as appearance is concerned. In addition to the repair of all joists, pockets and similar openings, the owner of the demolished building will be required to remove all old plaster, wallpaper and other decorative material, in addition to any loose wood, trim or other unrequired material, subject to the approval of the Code Enforcement Officer.

G. During the demolition work, debris must be systematically removed from the site and not allowed to pile up or cause any obstruction.

H. When a building to be demolished contains a cellar or basement, the contractor shall remove all debris and organic material from the cellar or basement and then break up and/or perforate the cellar floor. The bearing or foundation wall shall be removed to a depth of at least 24 inches below the present grade or at least 24 inches below any future grade to be established. The material resulting from the cellar or foundation wall demolition may remain in the excavation, provided that the material is crushed and compacted.

I. Where there is no cellar or basement, the bearing or foundation wall shall be removed to a depth of at least 24 inches below any future grade to be established.

J. The Code Enforcement Officer shall inspect the demolition of any building or structure in the Village regularly and shall be empowered to halt any such demolition that, in the judgment of the Code Enforcement Officer, is not being performed in a safe and sanitary manner.

K. Demolition of any building or structure shall not be carried out before 7 a.m. and only on normal Village workdays.

L. Salvage materials that are a structural part of the building or structure shall not be removed, except as part of the actual demolition of said building or structure. Removal of salvage shall be by the owner or salvage contractor only.

M. In-ground storage tanks on the demolition site shall be removed from the demolition site.

N. No explosives may be used in connection with demolitions of buildings or structures in the Village of Marcellus unless a special permit is first obtained from the Village Board of

Trustees of the Village of Marcellus, issued after a public hearing has been held by such Village Board of Trustees on the application for such permit.

Section 63-5 – Time limit on permit validity – A demolition permit shall be valid for a period of 30 days. One additional extension of 10 working days may be granted by the Code Enforcement Officer in the event that unusual circumstances prevent completion of the work. No work shall continue after the time limits stated above, except upon application and issuance of a renewal permit, subject to the term and conditions of this chapter and any additional terms or conditions as may be required by the Code Enforcement Officer and the Mayor.

Section 63-6 – Restoration of site; procedure upon owner neglecting to restore

A. All cellars and basements of demolished buildings or structures shall be filled in and made safe by filling such basement or cellar with noncombustible materials and causing the surface of the location to be on a level with the surrounding premises. No materials will be permitted as fill which may corrode, rot, decay or collapse. All barricades, guardrails and temporary structures erected during demolition shall be removed prior to completion approval by the Code Enforcement Officer.

B. In the event that the owner refuses or neglects to fill in and make safe such cellar or basement, or refuses or neglects to dismantle and remove any barricades, guardrails or temporary structures erected during demolition, the Village of Marcellus may do the necessary work involved, either with Village employees or outside contractors, and the cost of making the location safe shall be assessed against such property and shall be a lien thereon.

C. The property shall be restored to grass.

Section 63-7 – Notification of completion – Immediately after said demolition, the Code Enforcement Officer shall notify the Village Clerk and the property owner, in writing, that said demolition for which a permit was issued has been completed.

Section 63-8 – Penalties for offenses – Any person committing an offense against any provisions of this chapter shall be guilty of a violation, punishable as follows: by imprisonment for a term not exceeding 15 days or by a fine not exceeding \$250, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

Sections 63-9 – 63-10 – Reserved

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