

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County
City of Lyndonville, Orleans County, New York
~~Town~~
Village

Local Law No. 4 of the year 2015.

A local law Regulating Unsafe Buildings in the Village of Lyndonville
and Repealing Local Law No. 1 of 1987
(Insert Title)

Be it enacted by the Village Board of the
(Name of Legislative Body)

County
City of Lyndonville, Orleans County, New York as follows:
~~Town~~
Village

Section 1. Title.

This chapter shall be known as “Local Law No. 4 of the Year 2015” entitled the “Local Law Regulating Unsafe Buildings in the Village of Lyndonville and Repealing Local Law No. 1 of 1987”.

Section 2. Finding; purpose.

- A. Unsafe buildings pose a threat to the health and safety of the residents of the Village of Lyndonville. Buildings may become unsafe by reason of fire, damage caused by other elements, age and/or general deterioration. Vacant buildings that are not properly secured serve as attractive nuisances for young children and provide a place for older children and transients to congregate unsupervised. A dilapidated building may also serve as a place of rodent or other infestation creating a health menace to the community. It is the purpose of this chapter to promote the public health, safety and general welfare of the residents of the Village of Lyndonville by providing for a procedure and process to deal with unsafe buildings by requiring that they be either repaired or demolished and removed.
- B. The provisions of this chapter shall be in addition to, and in furtherance of, the New York State Uniform Fire Prevention and Building Code, including, but limited to, Sections 108 and 109 of the Property Maintenance Code of New York State.

Section 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, agricultural, industrial or other use.

ENFORCEMENT OFFICER

The Code Enforcement Officer of the Village of Lyndonville or such other person appointed by the Village Board to enforce the provisions of this Local Law.

UNSAFE BUILDINGS

Any building or other structure which has any of the following defects:

- A. Those whose interior 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 of the middle third of its base.
- B. Those which, exclusive of the foundation, show 33% or more damage or deterioration of the supporting member or members or 50% of damage or deterioration of 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, snow load or other causes so as to have become dangerous to the life, safety and general welfare of the residents of the Village of Lyndonville.
- E. Those which have become or are so dilapidated, decayed, unsafe or unsanitary that they are unfit for occupation by humans or animals or for use for storage.
- F. Those buildings intended or used for human occupation that are inadequate to protect the health, safety and general welfare of human residents living therein.
- G. Those buildings that lack adequate facilities for ingress and egress in case of fire or other emergency or those having insufficient stairways, elevators, fire escapes or other means of escape.
- H. Those which have parts thereof which are so attached that they may fall and injure persons on the property or members of the general public or cause damage to other property.
- I. Those buildings which violate the provision of the New York State Uniform Fire Prevention and Building Code, the Zoning Law of the Village of Lyndonville and any other applicable laws of the State of New York, County of Orleans or Village of Lyndonville.

- J. Any building which remains vacant and unattended continuously for a period of one year or longer, without adequate safeguards to prevent unauthorized entry.

Section 4. Procedures after fire or explosion.

- A. When a building has been damaged by a fire or explosion, it shall be the obligation of the owner to notify the enforcement officer of such occurrence within 72 hours after such occurrence.
- B. If fire, explosion or other natural disaster shall render the building so damaged as to be incapable of being occupied or used in accordance with the New York State Uniform Fire Prevention and Building Code and/or the Zoning Law of the Village of Lyndonville, the owner of such building shall also, within 72 hours after such occurrence, seal said building against access by unauthorized persons and shall clear the site of debris incident to the occurrence within two weeks after the occurrence.
- C. Within 60 days after an occurrence as set forth in Subsection B above, the owner shall notify the enforcement officer in writing of his or her intent to either:
 - (1) Demolish the building and not rebuild; or
 - (2) Rebuild the building.
- D. If the owner notifies the enforcement officer of his intent to demolish the building and not rebuild, the owner must commence demolition within 30 days thereafter, and demolition must be completed and all debris removed within 30 days thereafter (60 days after notice of election to demolish).
- E. If the owner notifies the enforcement officer of his intent to rebuild or reconstruct the building, application for a building permit must be obtained within 60 days after notice of election to rebuild. The owner shall have a total of six months to complete the rebuilding or reconstruction of the building but shall have the right to request an extension if necessary to finish the reconstruction; provided, however, that during such period the building must remain secured as to not present a hazard to the public. The enforcement officer shall grant an extension if it appears that rebuilding or reconstruction is continuing and that during such rebuilding or reconstruction the building is secured so as not to create a hazard to the public. Any extension granted by the enforcement officer shall not extend beyond one year following the election to rebuild unless the consent of the Village Board to a further extension is granted.

Section 5. Investigation and report.

Upon receipt of a report filed with the enforcement officer in accordance with section 4 above or when, in the opinion of the enforcement officer or upon receipt of information from another source that, a building or structure is or may be an unsafe building as defined in Section 3 hereof, the enforcement officer shall cause to be made or make an inspection of the same and report in writing to the Village Board his findings and any recommendations in regard to its repair or demolition and removal. The enforcement officer is authorized to enter onto the property for the purpose of inspecting the building and shall be required to identify himself to any reputed owner or occupant thereof. If, in the opinion of

the enforcement officer, an interior inspection is warranted, the enforcement officer shall have the authority to obtain an administrative search warrant. It shall be a violation of this Local Law to fail to cooperate with the enforcement officer or in any way prevent the enforcement officer from conducting the required inspection under this chapter.

Section 6. Village Board order.

The Village Board shall review the report submitted by the enforcement officer and by resolution determine if, in its opinion, based solely upon the report, it is indicated that the building is an unsafe building, as defined herein, and if it so finds, order that a hearing be held before the Village Board to determine whether the building is an unsafe building, as defined herein, with notice to owner of the building.

Section 7. Notice; contents.

The notice shall contain the following:

- A. A description of the premises, including tax account number and street address.
- 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 following a further decision of the Village Board rendered following the hearing specified hereafter in Subsection E and which shall be completed within 60 days thereafter, unless, for good cause shown, the Village Board shall extend such time.
- E. A date, time and place for a hearing set by the Village Board before the Village Board in relation to such dangerous or unsafe building, which hearing shall be scheduled not less than 15 business days from the date of service of the notice.
- F. The notice shall further state that in the event of the refusal or neglect of the person so notified to comply with the order of the Village Board following the hearing, the Village Board may provide for the repairing and securing or demolition and removal of such building either by Village employees or by contract and that the expenses of such repairing and securing or demolition and removal will be assessed back against the owner on the owner's Village tax bill.
- G. As an alternative, the Village Board may, in its discretion, elect to direct the enforcement officer to apply to the Supreme Court of the State of New York for an order directing that the building be repaired and secured or demolished and removed.

Section 8. Service of notice.

The notice shall be served personally upon the owner as shown by the records of the Town Assessor of the Town of Yates or Orleans County Clerk's Office. In the event that the reputed owner is deceased, service shall be made upon the owner's executors, legal representatives, agents, lessees, heirs or

distributees as determined after review of Surrogate's Court or other relevant records. If no such person can be reasonably found, such notice shall be served by mailing both by regular and certified mail, addressed to the last known address, if any, of the owner or the owner's executors, legal representatives, agents, lessees, heirs or distributees. If such notice is served by regular and certified mail, a copy of such notice shall be posted on the premises.

In addition to the owner, the Village shall serve the notice by mailing, both by regular mail and certified mail, to the mortgagee of any publicly-recorded mortgage in the Orleans County Clerk's Office secured by the real property if the Village intends to maintain, repair or demolish the property. In the event, the Village is faced with emergency circumstances that necessitate the immediate demolition or remediation of an unsafe building to protect the public from imminent danger, the Village will not have time to, and need not, provide advance notice to the mortgagee.

Section 9. Filing of notices.

A copy of the notice served as provided herein shall be filed in the Orleans County Clerk's Office in the same manner as provided for in the case of a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules of the State of New York and shall have the same effect as the filing of a notice of pendency as provided therein. 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 an order of a judge or justice of a court of record or upon the consent of the Attorney for the Village. The County Clerk shall mark such notice and record or docket thereof as canceled of record upon the presentation and filing of such consent or a certified copy of such order. In addition, a copy of said notice shall be filed in the office of the Lyndonville Village Clerk.

Section 10. Hearing, determination and order.

- A. At the time and place specified in the notice issued pursuant to section 7 of this chapter, the Village Board shall conduct a hearing to review the report prepared by the enforcement officer, the testimony of the enforcement officer and such other evidence as the owner or enforcement officer shall introduce having relevance to the proceedings. At such hearing, the owner, his executor, legal representative, agent, lessees, heirs or distributees shall be entitled to introduce evidence to rebut the report submitted by the enforcement officer and his testimony, including, but not limited to, the owner's own testimony, photographic evidence, reports of licensed Code Enforcement Officer/Building Inspectors and other relevant evidence. In addition, the owner shall have the right to request the Village Board to personally visit the building.
- B. At the close of the hearing, the Village Board shall, by resolution, affirm, modify or rescind its initial decision and order. If the initial order is affirmed or affirmed with modification, the Village Board shall issue an order directing that the owner shall, within 30 days following the service upon the owner of the Village Board's order following the hearing, commence with the repairing and securing of the building or the demolition and removal of the building in accordance with the order of the Village Board, and such repairing and securing or demolition and removal shall be completed within 60 days thereafter.

Section 11. Repair or demolition by Village.

- A. If the owner shall fail to commence repairing and securing or demolition and removal of the building within 30 days following service upon the owner of the order of the Village Board following the hearing or shall fail to complete said repairing and securing or demolition and removal within 60 days thereafter, the Village Board may provide for the repairing and securing of the building or the demolition and removal of the building by Village employees or by contract and that said expenses be assessed back against the owner in accordance with section 13 hereof. Except in the case of an emergency as provided in section 12 hereof, any contract for the repairing and securing or the demolition and removal of a building in excess of the monetary limits established in §103 of the General Municipal Law shall be awarded by the Village Board through competitive bidding.
- B. As an alternative, the Village Board may, in its discretion, elect to direct the enforcement officer to apply to the Supreme Court of the State of New York for an order directing that the building be repaired and secured or demolished and removed.

Section 12. Emergency cases.

Where the Village Board determines that there is a clear and imminent danger to the life, safety or health of persons and/or property unless an unsafe building is immediately repaired and secured or demolished and removed, the Village Board may, by resolution, authorize the enforcement officer to immediately cause the repair or demolition of such unsafe building. The expenses of any repair and securing or demolition and removal shall be a charge against the real property upon which such unsafe building is located and shall be assessed, levied and collected as provided in Article 5 of the Village Law.

Section 13. Assessment of expenses.

All expenses incurred by the Village in connection with proceedings to compel the repair and securing or demolition and removal of an unsafe building and any cost of the actual repair and securing or demolition and removal shall be assessed upon the real property upon which such unsafe building is located and shall be levied and collected in the same manner as provided for in Village Law section 5-518 for the levy and collection of special assessments. Any mortgagee served pursuant to section 8 shall be notified by regular mail and certified mail of the assessment and all expenses.

Section 14. Penalties for offenses.

In addition to assessment of costs provided for in section 13, any person, firm or corporation who shall violate any provision of this Local Law shall, upon conviction, be subject to a maximum fine of \$1,000 for each offense.

Section 15. Inconsistency.

Local No. 1 of 1987 and all other Local Laws and ordinances in the Village of Lyndonville that are inconsistent with the provisions of this Local Law are hereby repealed.

Section 16. Savings clause.

If any clause, sentence, paragraph, word, section or part of this Local Law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation of the clause, sentence, or paragraph thereof directly involved in the controversy in which judgment shall have been rendered.

Section 17. Effective Date.

This Local Law shall take effect immediately upon its filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 4 of 2015, of the ~~(County)~~ ~~(City)~~ ~~(Town)~~ (Village) of Lyndonville, Orleans County, New York was duly passed by the Village Board of Trustees on October 12, 2015, in accordance with the applicable provisions of law.

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County) ~~(City)~~ ~~(Town)~~ (Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved) (not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 2015, in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2015 of the (County) ~~(City)~~ ~~(Town)~~ (Village) of _____ was duly passed by the _____ on _____ 2015, and was (approved) (not approved) (repassed after disapproval) by the _____ on _____ 2015. Such local law was submitted to the people by reason of a (mandatory) (permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general) (special) (annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 2015 of the (County) ~~(City)~~ ~~(Town)~~ (Village) of _____ was duly passed by the _____ (Name of Legislative Body) on _____ 2015, and was (approved) ~~(not disapproved)~~ ~~(repassed after disapproval)~~ by the _____ on _____ 2015. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 2015, in accordance with the applicable provisions of law.

*** Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairman of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.**

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36) (37) of the Municipal Home Rule Law, and having received the affirmative

vote of a majority of the qualified electors of such city voting thereon at the (special) (general) election held on _____ 20____, became operative.

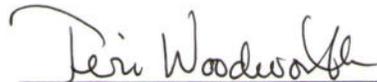
6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____, State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

(SEAL)



Teri Woodworth
Village Clerk, Village of Lyndonville

Date: October 13, 2015

