

**VILLAGE OF HILLBURN
VILLAGE BOARD OF TRUSTEES
LOCAL LAW NO. 4 OF 2019
Adopted June 25, 2019**

A Local Law amending Chapter 88 of the Code of the Village of Hillburn.

BE IN ENACTED, by the Board of Trustees of the Village of Hillburn as follows:

Section 1. Chapter 88 of the Code of the Village of Hillburn is hereby amended to provide as follows:

88-1. Definitions. For the purpose of this chapter, the following words and phrases shall have the following meanings:

BUILDING INSPECTOR-The Building Inspector of the Village of Hillburn or any person authorized by the Board of Trustees to enforce the provisions of this chapter.

BUILDING or STRUCTURE-Any house, lot, building, shed, garage, wall, fence, storage tank, underground container, pole, smokestack, excavation, basement, cellar, well or cistern.

DANGEROUS BUILDING-All buildings or structures which have 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 of damage or deterioration of the supporting member or members or 50% of damage or deterioration of the nonsupporting enclosing or outside walls or covering.

C. Those which have improperly distributed loads upon the floors or roof 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, morals or the general health and welfare of the occupants or the people of the Village of Hillburn.

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 so as to work injury to the health, morals, safety or general welfare of those living therein.

F. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.

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.

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, because of their condition, are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of the Village of Hillburn.

J. Those buildings existing in violation of any provision of the Building Code or any provision of the Fire Prevention Code or other ordinance or local law of the Village of Hillburn.

OWNER-The owners of record of the premises in fee or lesser estate therein, receiver, executor, administrator, trustee or any other person, firm, partnership or corporation in control of a building or the duly authorized agent of any of the aforementioned.

PUBLIC NUISANCE-All buildings or structures which, by reason of their condition, endanger or may endanger the health, life, limb or property or cause any hurt, harm, inconvenience, discomfort, damage or injury to the health, life, limb or property of the people of the Village of Hillburn in any of the following ways:

A. By reason of being detrimental to the general health of the community.

B. By reason of being a fire hazard.

C. By reason of being unsafe for occupancy or use on, in, upon, about or around the above said premises.

D. By reason of continued vacancy thereby resulting in lack of reasonable or adequate maintenance of structures and grounds and causing a deteriorating and blighting influence on nearby properties and thereby depreciating the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community in which such structure is situated.

§ 88-2. Unoccupied buildings and structures.

A. Notice to secure building or structure. Whenever the Building Inspector determines that any building or structure is not adequately secured, locked or closed and is accessible to juveniles, transients or undesirables or is a health, fire or safety hazard to the adjacent community, he shall serve the owner with a notice to secure or close the same forthwith so as to prevent unauthorized persons from gaining access thereto.

B. Contents of notice. Said notice shall inform the owner that:

(1) He must forthwith secure or close said building or structure so as to prevent unauthorized persons from gaining access thereto.

(2) He may request a hearing within 10 days after receipt of the notice if he believes that the building or structure is adequately secured or closed.

(3) If the required work is not completed within 10 days after service of the notice and if a timely demand for a hearing is not made, the Village of Hillburn may perform the work at the expense of the owner.

C. Service of notice. Proper service of said notice shall be made in accordance with § 88-4 herein.

D. Request for hearing. Within 10 days of service upon the owner or person having control of a building or structure of a notice, the owner or any other person deeming himself aggrieved by said notice may request a hearing.

E. Hearing. Upon receiving a request for a hearing, the Building Inspector shall forthwith inform the Mayor that a request for a hearing has been filed. The Mayor shall designate a hearing officer to hear and determine the matter and shall inform the Building Inspector of the person so designated. The Building Inspector shall inform the person requesting the hearing of the date and place of the hearing not less than five days prior to the date of the hearing. The hearing officer shall, upon the presentation of relevant evidence, determine whether the building or structure is or is not adequately secured, locked or closed and whether the building or structure is accessible to juveniles, transients or undesirables or is a health, fire or safety hazard to the adjacent community. The hearing officer shall promptly issue a report of the contentions of the parties, the findings of fact and his determination to the person requesting the hearing and his attorney, if any, the Building Inspector and the Board of Trustees. The Board of Trustees shall review the evidence and determination and may accept, reject or modify the determination of the hearing officer. The Village Clerk shall notify the person requesting the hearing and his attorney, if any, and the Building Inspector of the decision. Any person aggrieved by the decision may appeal said decision directly to the Supreme Court of the State of New York pursuant to Article 78 of the Civil Practice Law and Rules. Such a proceeding shall not stay further action pursuant to this chapter unless the Court so orders.

F. Securing structures by the Village. If a person is properly served with a notice as provided by this section and he does not request a hearing or if a hearing is requested and held and it is determined that said person is required to secure or close such building and if said building is not so secured or closed within 10 days after service of the required notice or within 10 days after service of the decision, the Village of Hillburn may cause the building to be secured and closed.

G. Owner responsible for cost of work. Whenever the Village has secured or closed any building or structure or has paid any other person or corporation to perform said work, the actual cost thereof, plus accrued interest at the rate of 12% per annum from the date of the completion of said work, shall be charged to the owner of said property. If the owner of said property does not pay said charges, they shall be included as a part of the next Village tax bill, and said charges shall be due and payable by said owner at the time of payment of said bill.

H. Statement constitutes lien. Where the full amount due the Village is not paid by such owner within 10 days after securing or closing a building, then and in that case the Building Inspector shall file a sworn statement with the Village Clerk showing the cost and expense incurred for the work, the date the work was done and the location of the property on which said work was done. The recordation of such sworn statement shall constitute a lien and privilege on the property and shall remain in full force for the amount due in principal and interest, plus costs of court, if any, for collection, until final payment has been made. Said costs and expenses shall be collected in the manner fixed by law for the collection of taxes. Sworn statements recorded in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been done properly and satisfactorily and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collectible as provided by law.

I. Emergency procedures. Whenever the conditions described in Subsection A constitute such an immediate hazard that the building or structure must be secured or closed forthwith or within less than the designated period and if the Building Inspector so determines, the Building Inspector shall request the Director of Public Works to cause such building or structure to be secured after giving such notice to the owner or the person in charge as circumstances permit or without notice when, in the opinion of the Building Inspector, immediate action is necessary. If notice cannot be given to the

owner or person in charge prior to such action, notice shall be given to the owner or person in charge within seven days thereafter in accordance with the provisions of Subsections B and C.

§ 88-3. Abatement of public nuisance or dangerous building.

A. Whenever the Building Inspector suspects the existence of a public nuisance or dangerous building, he shall inspect the premises on which the suspected nuisance exists upon being granted permission by the owner or person in control of the premises or after having obtained an appropriate warrant or, if sufficient, upon an inspection without entering the premises. A written report of the inspection and the findings with respect to the existence of a public nuisance or dangerous building shall be prepared by the Building Inspector and filed with the Village Clerk.

B. If the Building Inspector determines that a public nuisance or dangerous building exists, he shall cause a written notice to be served on the owner setting forth the findings with respect to the existence of a public nuisance or dangerous building and stating that, unless the owner thereof shall cause the abatement of the public nuisance or dangerous building by rehabilitation or by removal of the building, structure or nuisance, the same will be abated or removed by the Village at the expense of the owner. Said notice shall state that the owner must commence to comply with the order of the Building Inspector within 10 days after service of the notice or such other time as the Building Inspector determines and be completed within the time prescribed by the Building Inspector and that a building permit must be obtained in accordance with the provisions of the Village of Hillburn Zoning Local Law.

C. Service of notice. Proper service of said notice shall be made in accordance with § 88-4 herein.

D. Abatement of public nuisances or dangerous building.

(1) Upon being served notice, the owner may, within 10 days after receipt of notice, make application to the Building Inspector to undertake the repairs or replacement of items found to constitute a public nuisance or danger.

(2) Adequate plans and specifications, as required by the Building Inspector and by the Village of Hillburn Zoning Local Law and Building Code, covering said repairs or replacements shall be furnished by the owner to the Building Inspector within 10 days after receipt of notice or such additional time, not to exceed 90 days, as the Building Inspector may deem necessary to complete plans and specifications.

(3) The Building Inspector shall, upon approval of the plans and specifications and upon site plan approval if required by the Zoning Local Law, cause a building permit to be issued to the owner. The building permit shall be valid for a period of 90 days, and within that time the owner shall effect and complete the repairs and/or replacements. The Building Inspector may grant an extension of the building permit if the owner shows reason or cause for the requested extension.

(4) Upon being served notice, the owner may, within 10 days, make application to the Building Inspector for a demolition permit to abate the nuisance completely by demolition and removal of the structure. The demolition permit shall be valid for a period of 30 days, and within that time the owner shall completely demolish and remove the building and, if required by the Building Inspector, fill in open pits and enclose the lot with a fence at least six feet in height, approved by the Building Inspector. The Building Inspector may grant an extension of the demolition permit if the owner shows reason or cause for the requested extension.

(5) In determining whether to apply the provisions of § 88-3 to the following enumerated portions of the definitions of "dangerous building" or "public nuisance" for any property for which a building permit has been secured, the Building Inspector shall consider the intention of the owner to rebuild or repair the structure, the proposed and realistic time within which such work can be accomplished, the circumstances giving rise to the condition, whether the condition giving rise to the potential classification as a dangerous building or public nuisance implicates public health or safety or aesthetics and any other factor which equitably is relevant. This provision shall apply to the following provisions of the term "dangerous building:" Subsections A, B, F and J; and to the

following provisions of the term "public nuisance:" Subsections A and D. This provision shall not apply to any property for which a building permit presently is in effect. The appeal provisions set forth in § 88-3E of this chapter shall apply to any determination made hereunder.

E. Appeal hearing of public nuisances structures.

(1) The owner may, within 10 days after receipt of notice, make a demand, in writing, to the Building Inspector for a hearing on the question of whether in fact a public nuisance or dangerous building exists. The hearing shall be held within a reasonable time, not to exceed 30 days following receipt of the written demand, and at least five days' notice, in writing, of the hearing shall be given to the owner. The hearing shall be conducted by a hearing officer appointed by the Mayor. The hearing officer may:

(a) Sustain the finding that a public nuisance or dangerous building exists on the property and order the abatement thereof by repair or replacement of the items found to constitute a public nuisance or danger or order the abatement thereof by demolition;

(b) Reject or modify the finding of the Building Inspector; or

(c) Take such other action and render such other orders as he deems appropriate within the authority conferred by this chapter.

(2) A copy of the findings of fact and decision of the hearing officer shall be promptly served upon the owner and his attorney, if any, the Building Inspector and the Board of Trustees and shall be filed with the Village Clerk. The Board of Trustees shall review the evidence and determination and may accept, reject or modify the determination of the hearing officer. Any person aggrieved by the decision may appeal said decision directly to the Supreme Court of the State of New York pursuant to Article 78 of the Civil Practice Law and Rules. Such a proceeding shall not stay further action pursuant to this chapter unless the Court so orders.

F. Abatement of nuisance or dangerous building by Village; demolition of structure. Should the nuisance or danger not be abated at the expiration of the time stated in the notice or expiration of

the time stated in the building permit or any extensions granted by the Building Inspector or such additional time as the Board of Trustees may grant, the Building Inspector or his designee shall be authorized at any time thereafter to enter upon the premises, and the owner shall permit him entry to abate the nuisance or danger by demolition and removal of the structure or by repair, replacement or removal, whichever shall be appropriate in the opinion of the Building Inspector if no appeal has been filed or in the opinion of the Board of Trustees if a hearing has been deemed and held.

§ 88-4. Service of notice.

Proper service of any notice required by this chapter shall be made by personal service or by certified mail upon the record owner or the person having control of said building or structure at his last known address and upon any person having a recorded interest or lien in the property and by posting a copy of the notice in a conspicuous place on the building or structure. If the owner or person in charge cannot be personally served and if the notice mailed by certified mail is returned unserved, proper notice shall be accomplished by publication of the required notice in the official newspaper of the Village of Hillburn and by posting a copy of the notice in a conspicuous place on the building. An affidavit of service in accordance with this section shall be filed with the Village Clerk and shall set forth the name and address of the person served, the manner and place of service and the date thereof.

§ 88-5. Scope.

The provisions of this chapter shall not be deemed to be a limitation or restriction on the authority of any department, official or employee of the Village pursuant to any other ordinance, local law, statute or other enactment of the Village or State of New York.

§ 88-6. Penalties for offenses.

The owner or person in charge of a building or structure who shall fail to comply with any notice or order herein shall, upon conviction thereof, be punished by a fine up to \$2,500. Each week's continued violation shall constitute a separate additional violation hereunder.

Section 2. Enactment of this local law shall not affect the authorization for or validity of any action or proceeding instituted pursuant to the terms of the former version of Chapter 88.

Section 3. This local law shall take effect immediately upon filing with the Secretary of State.