

*Local Law Filing*

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~~County~~  
~~City~~ of Rushville  
~~Town~~  
Village

Local Law No. 2 of the year 2005.

A local law to regulate unsafe buildings and structures.

Be it enacted by the Village Board of the

~~County~~  
~~City~~ of Rushville as follows:  
~~Town~~  
Village

PROPERTY NUISANCE ABATEMENT LAW

Section 1. Title

This chapter shall be known as the Property Nuisance Abatement Law of the Village of Rushville.

Section 2. Purpose

The purposes of this local law are to regulate dangerous and unsafe buildings, structures and premises that threaten the health, safety and welfare of the people of the Village of Rushville, Yates and Ontario Counties, New York. The purpose is to regulate and restrict premises, whether occupied or unoccupied, that are not structurally sound or where the structural integrity thereof has not been maintained; premises that lack proper sanitary facilities; premises that lack adequate lighting, ventilation or heat; premises that are not free from the accumulation of garbage and refuse; premises that have suffered fire damage, deterioration from age or neglect; premises that are in violation of state or local codes, laws, rules, regulations or any combination thereof. All such premises shall be deemed a public nuisance.

Section 3. Declaration as Public Nuisance

All Unsafe Premises within the terms of this law are hereby declared to be in violation of this Law and all codes and regulations set forth herein and are deemed to be Public Nuisances and shall be repaired, cured, cleaned, vacated or demolished as hereinafter provided.

Section 4. Definitions

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

**BUILDING** - Any building, structure or portion thereof used for any or no purpose, whether vacant or occupied, including but not limited to: residential, business, agricultural, land conservation or industrial purposes.

**CODE ENFORCEMENT OFFICER** - The Code Enforcement Officer of the Village of Rushville or such other persons appointed by the Village Board to enforce the provisions of this law.

**GARBAGE** - Any refuse from animal and vegetable matter, waste food or parts thereof, refuse from kitchen, market, store or house, floor sweepings, table waste or animal or vegetable matter, meats, fish, bones, fat and all of fat or organic waste substance or food substance capable of decay.

**REFUSE** - Plastics, combustible trash (that has not been packaged or is not part of a business operation), including but not limited to paper, cartons, boxes, barrels, wood, excelsior, tree limbs and branches, yard trimmings, wood furniture and bedding. Noncombustible trash, includes but is not limited to: tires, metals, cans, plastics, metal furniture, small quantities of rock, brick and concrete, glass, metal fixtures and street rubbish, street sweepings, dirt, ashes, dead animals, junked vehicles, solid market and industrial waste, cardboard, leaves, crockery and similar materials.

**STRUCTURAL INTEGRITY** - Any condition that threatens the safety of occupants, owners, general public; such as but not limited to: Sheathing falling off the side of a building, roofs that are falling in/large holes of 4 square feet or larger, walls that are separating away from the building, buildings that are leaning at an angle, buildings that have partially or completely collapsed, sagging support beams, floors that are falling in and are weak and or have holes, porch roofs dropping or pulling away from the building, chimneys that are leaning or falling apart, bricks that are missing and leave holes, steps that are rotted or coming apart, decks that are leaning or rotted and falling down or coming apart.

**THE VILLAGE** - The Village of Rushville.

**THE VILLAGE BOARD** - The Village Board of the Village of Rushville.

**UNSAFE PREMISES** - Real property and/or any improvements, buildings, structures, equipment thereon or installations therein, including electrical, gas, water, sewer or septic service, whether above or below ground surface, that are the property owners responsibility and that have become so dilapidated, decayed, unsafe, unsanitary, a fire hazard or are likely to cause injury, sickness or disease and therefore, are a danger to the health, safety or general welfare of those residing in or upon the property or adjacent to same or to the citizens of the Village of Rushville at large. "Unsafe Premises" are further defined as properties that, because of their condition, are otherwise unsafe, unsanitary or dangerous to the people of the Village of Rushville. "Unsafe Premises" shall also be those properties that are in violation of the New York State Uniform Fire Prevention and Building Code, New York State Property Maintenance Code, or the New York State Public Health Law, or the New York State Sanitary Code, or the Zoning Law of the Village of Rushville, Local Board of Health Law and other local law and ordinances. "Unsafe Premises" may include the whole or any portion of any real property described in a deed recorded in the Office of the Ontario County Clerk or on the tax rolls and tax maps to the Village of Rushville, Ontario County. "Unsafe Premises" may be improved or unimproved real property, containing buildings and/or consisting of vacant land.

**UNSAFE PROPERTIES** - See Unsafe Premises

## Section 5. Duties of the Code Enforcement Officer

It shall be the duty of the Code Enforcement Officer to enforce the provisions of this local law. In the fulfillment of the duties of the Code Enforcement Officer, he may enter any premises or building during reasonable hours in the course of his duties in accordance with state law. If the Code Enforcement Officer shall find that any provision of this local law has been violated, the Code Enforcement Officer may issue such orders and notices as may be required or authorized under this local law. To insure compliance with this local law, the Code Enforcement Officer shall have the authority to issue Orders and Notices, including but not limited to: order discontinuances of uses that do not conform to this local law, to order removal of noncompliant uses and structures, to issue orders for the demolition or removal of noncompliant Unsafe Premises. The Code Enforcement Officer shall make periodic reports to the Village Board regarding compliance and noncompliance with this local law. The Code Enforcement Officer shall maintain a permanent and current written record of all proceedings, investigations, reports, orders and other actions regarding enforcement of this local law.

## Section 6. Contents of Notice

The Notice shall contain the following:

- A. A description of the premises.
- B. A statement of the manner in which the building or property is unsafe or dangerous.
- C. A statement that sets forth the manner in which the building or property is to be made safe and secure or demolished and removed.
- D. An order that the repair, vacating, securing or removal of such building or condition (nuisance) shall commence within thirty (30) days of service of the notice and shall be completed within sixty (60) days thereafter, unless for good cause shown at such time shall be extended to a specified date.
- E. A date, time and place for a public hearing before the Village Board in relation to such dangerous or unsafe premises, which hearing shall be scheduled not less than five (5) business days from the date of service of the Notice. Emergency notices shall be displayed in the window at the Village Clerk's Office identifying the property and status of action being taken.
- F. A statement that, in the event of neglect or refusal to comply with the order to secure or demolish and remove or correct such condition (nuisance), the Village Board is authorized to provide for its repair, securing or its demolition and removal as the case may be, to assess all expenses thereof against the land on which it is located and/or institute a special proceeding to collect the cost of removal, demolition or repair, including legal and engineering expenses.

## Section 7. Service of Notice

The notice required under this law shall be served upon the owner, as shown by the records of the Town Assessor or of the Yates or Ontario County Clerk. Service shall be made either personally or by registered or certified mail, addressed to the last known address, if any, of the owner of such Unsafe Premises or buildings as identified. If service is made by registered or certified mail, a copy of the Notice shall be posted on the premises.

Section 8. Filing a Notice

A copy of the Notice shall be filed in the office of the Village Clerk.

Section 9. Village Board Review

Any person aggrieved by an Order of the Code Enforcement Officer or where it is alleged that there is an error in any order, notice, requirement, decision or determination made by the Code Enforcement Officer, may appeal such order, error, decision, requirement, notice or determination to the Village Board of Trustees. Such appeal must be filed in writing with the Village Clerk within 30 days after a copy of the ordered appealed from as provided in Section 8 above. The Notice of Appeal must state in detail the manner in which it is alleged that the Order or Notice of the Code Enforcement Officer is erroneous or unlawful. The Village Board shall hold a public hearing on the appeal within 45 days of the date of receipt of the Notice of Appeal. The Village Board may establish such rules and regulations for the transaction of its business in hearing any such appeal and may amend, modify and repeal any such rules and regulations.

Section 10. Conduct of Public Hearing.

- A. The public hearing shall be conducted before at least a quorum of the Village Board.
- B. The Mayor or his or her designee shall preside over the public hearing.
- C. The owner of the premises may be represented by counsel at the public hearing and shall have the right to call witnesses and present evidence in his or her behalf.
- D. The rules of evidence shall not apply to the public hearing. The Village must prove its case by a preponderance of the evidence.
- E. That after both parties have presented their respective cases, the Village Board shall decide the case. Such decision shall be in writing and shall be filed with Village Clerk and mailed to the property owner at his or her last known residence address within five (5) days of the date of the public hearing. The decision shall be made by simple majority of the Village Board.
- F. Failure of the property owner to appear either in person or by representative, at the date and time specified for a public hearing, shall not prevent the Village from rendering a decision.

Section 11. Failure to Comply

In the event of the refusal or neglect of the person so notified to comply with said Order or Notice of the Code Enforcement Officer or Decision of the Village Board after the public hearing following an appeal as above provided, the Village Board shall provide for the repair, vacating, securing or demolition and removal, as the case may be, of such building or property, either by Village employees or by contract. Except in emergency cases as provided for herein, any contract for repair, securing or demolition and removal, as the case may be, shall be awarded in accordance with the provisions of the General Municipal Law of the State of New York.

Section 12. Fines

In the event of the refusal or neglect of the owner to comply with any order or notice, the property owner or owners shall be subject to fines in the amount of Two Hundred Fifty Dollars (\$250.00) per week per violation until the property has been brought into compliance. Any unpaid fines within a 12 month period shall be levied on to the property taxes.

Section 13. Assessment of Expenses

All expenses incurred by the Village in connection with the proceedings to repair and secure or demolish and remove the unsafe building or property including the cost of actually removing such building or correcting such condition or nuisance or repairing the same shall be levied and collected in the same manner as provided for in the Village Law for the levy and collection of village taxes or special ad valorem levies.

Section 14. Emergency Cases

Where it reasonably appears that there is present, clear and imminent danger to life, safety or health of any person or property, unless an unsafe building or condition or nuisance is immediately repaired and secured or demolished, the Village Board may, by resolution authorize the Code Enforcement Officer to order immediately the repair, vacating, securing or demolition of such unsafe building or correction of such condition (nuisance). The expenses of such repair, vacating, securing or demolition or correction of such condition (nuisance) shall be charged against the land on which it is located and shall be assessed, levied and collected as provided for under Section 13 of this chapter.

Section 15. Administrative Liability; Defense by the Village Attorney.

No officer, agent or employee of the Village shall render himself personally liable for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter. Any suit brought against any officer or employee of the Village as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the Village until the final determination of the proceedings thereon.

Section 16. Saving Clause

Any part of this law that shall be determined invalid or unconstitutional shall not affect the rest of the law which shall remain in effect.

Section 17.

This law is effective this \_\_\_\_\_ day of \_\_\_\_\_, Local Law # \_\_\_\_\_ was filed on \_\_\_\_\_.