

**VILLAGE OF HIGHLAND FALLS
INTRODUCTORY LOCAL LAW
AMENDMENT TO THE PROPERTY MAINTENANCE LAW**

BE IT ENACTED by the Board of Trustees of the Village of Highland Falls, County of Orange, State of New York, as follows:

Section 1. Section 170-5, titled “Definitions,” of Article II, titled “Property Standards,” of Chapter 170, titled “Property Maintenance,” of the Code of the Village of Highland Falls, is amended as follows.

The definition of “PERSON” is deleted in its entirety and replaced by the following definition:

PERSON - A natural person, corporation, partnership, limited liability company, unincorporated association, or any other business organization of two or more persons.

The title “VACANT BUILDING OR STORE” is replaced with “VACANT COMMERCIAL SPACE OR STORE”.

The following definitions are added:

ABANDONED PROPERTY - A building, structure, dwelling unit or lot that is vacant for a period in excess of thirty (30) consecutive days.

FORECLOSED PROPERTY - A building, structure, dwelling unit or lot that is vacant for a period in excess of thirty (30) consecutive days as a result of a foreclosure action.

PROPERTY or PREMISES - Land, buildings and other permanent attachments to the land.

PROPERTY MANAGER - Any person who is authorized by the owner to repair, maintain, oversee, sell, or lease property or otherwise act on behalf of the owner of property.

OWNER - Any record owner, mortgagee, vendee in possession, assignee of rents, receiver, executor, trustee, administrator, lessee, agent or other person having control, directly or indirectly, of property or a building, structure or area.

TENANT or LESSEE - Any person who uses or occupies property, other than the owner, and who occupies the same pursuant to a written or oral lease agreement, or otherwise with the consent and permission of the owner thereof.

VACANT RESIDENTIAL BUILDING - A building containing one or more dwelling units in which no occupant(s) have resided for 30 or more consecutive days. Vacancy of some of

the dwelling units within two-family or multiple-dwelling building shall not be considered to be a vacant residential building.

Section 2. Section 170-6, titled “Regulations,” of Article II, titled “Property Standards,” of Chapter 170, titled “Property Maintenance,” of the Code of the Village of Highland Falls, shall be amended as follows:

Subsection B(5) is deleted in its entirety and replaced with a new subsection B(5) to read as follows:

- B(5) Any building or structure, including, but not limited to residential dwellings, commercial tenant space and stores, that is vacant for more than 30 consecutive days or is deemed by the Building Inspector or Code Enforcement Officer to be dangerous or likely to attract trespassers or squatters shall be boarded up, at least to the second floor level, and the responsible person for such structure shall conform to this article such structure and all of its adjoining yards, courts or open spaces.

The title of subsection C, titled “Vacant buildings and stores,” is hereby amended to be titled “Vacant commercial space or store.”

Subsection C(1) is deleted in its entirety and replaced with a new subsection C(1) to read as follows:

- C(1) Whenever a building or store is vacant for a period in excess of 30 days, which period of days need not be successive, the property owner, lessee, occupant and other responsible persons shall place a covering in the storefront to block public view of the interior of the premises. The covering shall be flame retardant or meet with the Building Inspector’s/Code Enforcement Officer’s approval regarding fire-safety. The covering shall not consist of any substance sprayed onto storefront windows, but shall consist of plain, earth-tone, Venetian or similar blind, drapes, curtains or shades.

New subsections E and F are adopted to read as follows:

- E. Vacant structures and their adjoining yards. Vacant structures and their adjoining yards shall be maintained in compliance with all provisions of this chapter.
- F. The owner of any residential building or commercial space/store that is vacant for more than 30 consecutive days shall notify the Building Department or the Village Clerk of the name, address, phone number and emergency contact phone number of the owner and/or the property manager of the property.

Section 3. Subsections B, C and D of §170-7, titled “Enforcement,” of Chapter 170, titled “Property Maintenance,” of the Code of the Village of Highlands Falls, shall be deleted and new subsections B, C, D, E, F, G and H shall be adopted to read as follows:

- B. Notice of Violation and Order to Remedy. Any enforcement official shall have the authority to issue a Notice of Violation and Order to Remedy directing the person, owner, lessee, property manager, tenant, occupant or other person having control, directly or indirectly, of any property, to bring such property into compliance with the provisions of this chapter within a period of time deemed sufficient by the enforcement official.
- C. Appearance before the Board of Trustees. The Notice of Violation and Order to Remedy may specify a date and time a hearing to be held before the Board of Trustees. If the hearing date and time is not specified in the Notice of Violation and Order to Remedy, then a subsequent notice may specify the date and time of a hearing to be held before the Board of Trustees. Except in the event of an emergency, the date of the hearing before the Board of Trustees specified on the Notice of Violation and Order to Remedy shall be at least seven (7) days after the date of issuance of the Notice of Violation and Order to Remedy.
- D. At that hearing, the Board may consider the violations cited in the Notice of Violation and may adopt a resolution and order that orders the owner to comply with the enforcement officer’s Order to Remedy. The owner and/or his or her attorney or other representative may appear before the Board of Trustees for the opportunity to contest the enforcement officer’s order before any further action is taken by the Village.
- E. Appearance Ticket. If the violation is not remedied within the time set forth in the Notice of Violation and Order to Remedy, the enforcement official may issue an Appearance Ticket requiring the person, owner, lessee, property manager, tenant, occupant or other person having charge of any property, to appear in Justice Court for a determination by the Justice Court of claimed violations and to impose penalties as set forth in section 170-8 below.
- F. Service of Notice. Service of a Notice of Violation and Order to Remedy or Appearance Ticket shall be served personally on the owner or owners of the property. Service on the person, owner, lessee, property manager, tenant, occupant or other person having charge of any property, shall be considered service on the owner. Where personal service cannot be made with due diligence, service shall be by certified mail, return receipt requested, and posting on the property.
- G. If the owner(s) serviced with a Notice of Violation fails to comply with the Order to Remedy, as affirmed or modified by the Board of Trustees pursuant to §170-7(D), the Village, through its officers, employees, contractors or agents, may enter

upon the property and correct and remedy the violation. All costs incurred by the Village, including the cost of correction and remedy and the cost of the proceeding, including but not limited to reasonable attorney's fees, shall be billed to the property owner and, if not paid, shall be assessed and levied against the property and shall constitute a lien against the property and may be collected in the same manner as real property taxes.

- H. In addition to establishing a lien, the Village may recover such costs and expenses by bringing an action against the owner(s) of the property. The institution of such action shall not suspend or bar the right to pursue any other remedy provided by law for the recovery of such costs and expenses.
- I. Other Remedies Available. Nothing contained in this section shall be construed to restrict the authority to provide for the abatement of a public nuisance conferred upon any agency of the Village by any other provision of law.

Section 4. Section 170-8, titled "Penalties for Offenses," of Article II, titled "Property Standards," of Chapter 170, titled "Property Maintenance," of the Code of the Village of Highland Falls, is deleted in its entirety and a new section 170-8 is adopted to read as follows:

§170-8. Penalties for Offenses.

- A. In addition to and not in lieu of any other remedies, any person who violates any provision of this chapter or who violates or fails to comply with any lawful order promulgated hereunder shall be guilty of a violation and, for a first conviction thereof, shall be subject to a fine in an amount not less than \$300 nor more than \$500 per day of violation or a maximum of fifteen (15) days imprisonment or both; for conviction of a second violation committed within twelve (12) months of the first violation, such person shall be subject to a fine in an amount not less than \$400 and not more than \$800 per day of violation or a maximum of fifteen (15) days imprisonment or both; for conviction of a third violation committed within twelve (12) months of the first violation, such person shall be subject to a fine in an amount not less than \$600 and not more than \$1500 per day of violation or a maximum of fifteen (15) days imprisonment or both; for conviction of a fourth violation and for each subsequent violation committed within twelve (12) months of any prior violation, such person shall be subject to a fine in an amount not less than \$1000 and not more than \$2500 per day of violation or a maximum of fifteen (15) days imprisonment or both.
- B. Civil penalties and injunction. In addition to and not in lieu of any other remedies, the Village Board may also maintain an action or proceeding in the name of the Village in a court of competent jurisdiction to obtain civil monetary penalties and compel compliance with or to restrain, by injunction, the violation of this chapter or any order promulgated hereunder. The civil monetary penalties shall be in accordance with and not exceed the monetary penalties set forth in Section 170-8A of this Chapter.

- C. Each calendar day a violation occurs or continues shall constitute and be deemed a separate and distinct violation.

Section 5. Line 15 of section 170-10, titled “Inspections and investigations; report,” of Article II, titled “Property Standards,” of Chapter 170, titled “Property Maintenance,” of the Code of the Village of Highland Falls, is amended to delete the words “referred under §170-9.”

Section 6. Severability. If any section, provision or term of this local law is adjudged by a court of competent jurisdiction to be illegal or inapplicable, such illegality or inapplicability shall be limited to that particular section, provision or term, and the remainder of this local law shall remain in full force and effect and interpreted to advance the intent of this local law.

Section 7. Effective Date. This local law shall take effect immediately upon filing of the New York State Secretary of State.