

PUBLIC NOTICE

PLEASE TAKE NOTICE that the Board of Trustees of the Village of Head-of-the-Harbor will hold a public hearing on the 16th day of December, 2015, at 7:00 P.M., at Village Hall, 500 North Country Road, St. James, New York, to consider the adoption of a Local Law as follows:

LOCAL LAW (Intro) NO. 5 OF 2015

A LOCAL LAW ENTITLED PROPERTY MAINTENANCE

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF HEAD-OF-THE-HARBOR AS FOLLOWS:

SECTION 1. PURPOSE.

The purpose of this local law is to protect the public welfare by authorizing procedures to identify, address and abate blight upon properties within the Village.

SECTION 2. ENACTMENT OF VILLAGE CODE CHAPTER 4, PROPERTY MAINTENANCE.

Chapter 4, Property Maintenance, is enacted as follows:

Section 1. Scope.

- A. This chapter shall apply to all properties within the Village of Head-of-the-Harbor.
- B. This chapter shall supplement applicable state and local laws and regulations and shall not be construed to supersede or replace any other existing remedies under state and local law.
- C. This chapter shall regulate and prohibit the maintenance of any property which is blighted.

Section 2. Definitions.

For purposes of this chapter the following words shall have the following meanings:

Blighted Property: an improved or vacant property which meets or exceeds a point value of 100 points as set forth hereinbelow.

Code Enforcement Officer: the Building Inspector or other person designated as a Code Enforcement Officer by the Board of Trustees.

Owner: any person or entity who is an owner, manager, mortgagee, tenant, occupant or person in control.

Vacant: a period of sixty (60) days or longer during which a building is not legally occupied.

Section 3. Designation.

The following factors shall be evaluated in determining whether a property is blighted property:

- A. A determination by the Building Inspector or Code Enforcement Officer that the property is in a condition which poses a serious threat to the health, safety and/or general welfare of the community. (50 points)
- B. The property is vacant and unoccupied for a period of sixty (60) days or more and there is no evidence of day to day upkeep or management of the grounds or the premises. (50 points)
- C. The owner of the property has been issued notice(s) of violation and/or has been prosecuted for violation(s) of the New York State Property Maintenance Code on the property, and such violation(s) has not been corrected. (50 points)
- D. The property has attracted or been an instrument of illegal, noxious or deleterious activity as understood in common law. (50 points)
- E. A determination has been made by the Fire Marshal that the conditions upon the

property constitute a fire hazard or by the Building Inspector that the premises is not habitable. (50 points)

F. The property is determined by the Building Inspector or Code Enforcement Officer to be unmaintained based upon evidence of the persistent and continued existence of the following deleterious conditions:

- (1) Boarded windows, doors, entryways or exits. (10 points)
- (2) Broken or unsecured windows. (10 points)
- (3) Broken or unsecured doors, entryways or exits. (10 points)
- (4) Excessive litter and/or debris. (10 points)
- (5) Overgrown grass at least 12 inches and/or higher or other overgrown vegetation or shrubbery. (10 points)
- (6) Parking of one or more currently unregistered motor vehicles. (10 points)
- (7) Broken, unsecured and/or in disrepair:
 - (a) Roof. (10 points)
 - (b) Gutters. (5 points)
 - (c) Siding/Shingles. (10 points)
 - (d) Chimney. (10 points)
 - (e) Shutters. (5 points)
 - (f) Accessory structures, including, but not limited to: decks, sheds, porches, pools, pool houses or cabanas, garages, carports, storage units, front and rear porches. (15 points each structure)

- (8) Junk vehicles. (10 points per vehicle)
- (9) Damaged, unsightly, unsecured or unpermitted signage or awnings. (15 points)
- (10) Presence of graffiti. (10 points)
- (11) Broken, unsecured or in disrepair outdoor lighting fixtures. (5 points)
- (12) Broken, unsecured or in disrepair fencing and gates. (10 points)
- (13) Broken, exposed or hazardously utilized electrical wires, electrical equipment and/or extension cords. (15 points)
- (14) Unfinished construction. (20 points)
- (15) Damaged, dead or fallen trees and/or limbs. (10 points)
- (16) Evidence of fire damage to the property which has not been repaired or restored. (30 points)
- (17) Peeling or deteriorating paint. (5 points)
- (18) Presence of stagnant water. (10 points)
- (19) Open or unsecured wells, cesspools and/or cisterns. (10 points)
- (20) Presence of vermin, rodent harborage and infestations. (30 points)
- (21) Presence of and/or upon an outdoor area:
 - (a) Refrigerator, washing machine, sink, stove, heater, boiler, tank, other household appliances, boxes and/or indoor furniture for a period of in excess of 72 consecutive hours. (10 points)

- (b) Lumber, construction materials, dirt, debris, trash, and/or garbage. (10 points)

Section 4. Notice.

Once a property has been determined to be blighted, the Village Attorney or his/her designee shall prepare and serve notification upon the owner or some one of the owner's executors, legal representatives, agents, lessees, mortgagee or any other person having a vested or contingent interest in the property.

Section 5. Contents of Notice.

- A. Such notice shall contain a description and address of the property, a copy of this chapter, a statement of the particulars and specific nature in which the property is blighted, the point rating review of the property and an order requiring the same to be corrected. Said notice shall specify a time not less than 30 days after the service thereof within which the owner or some one of the owner's executors, legal representatives, agents, lessees, mortgagee or other person having a vested or contingent interest in the premises as hereinbefore specified served with such notice must commence correction of the violation(s).
- B. If said violations are not remedied within the time period allotted, the notice shall state a date when a hearing will be held wherein the owner or some one of the owner's executors, legal representatives, agents, lessees, mortgagee or other person having a vested or contingent interest in the premises as hereinbefore specified will be given an opportunity to be heard.
- C. The notice shall state that in the event the owner or some one of the owner's executors, legal representatives, agents, lessees, mortgagee or other person having a vested or contingent interest in the premises as hereinbefore specified fails to appear and

contest the blight determination, the Village shall undertake to enter the property, remove and/or repair the violations and assess the cost of such removal or repair against the property.

Section 6. Service of Notice.

Such notice may be served either personally or by registered mail addressed to the last known address, if any, of the owner or some one of the owner's executors, legal representatives, agents, lessees, mortgagee or other person having a vested or contingent interest in the premises as hereinbefore specified, provided, however, that if such service be made by registered mail, a copy thereof shall also be posted on the premises where the specified blight is located.

Section 7. Filing of Copy of Notice.

A copy of the notice referred to in §§ 5 and 6 hereof may be filed in the office of the County Clerk of the county within which such building or structure and/or blighted condition on the property is located, which notice shall be filed by such Clerk in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules, and shall have the same effect as a notice of pendency as therein provided, except as otherwise hereinafter provided in this section. 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 the order of a Judge or Justice of a court of record or upon the consent of the Village Attorney. The Clerk of the county where such notice is filed shall mark such notice and any record or docket thereof as canceled of record upon the presentation and filing of such consent or of a certified copy of such order.

Section 8. Penalties for Offenses.

- A. Failure to abate violations. In the event an owner or some one of the owner's executors, legal representatives, agents, lessees, mortgagee or other person having a vested or contingent interest in the premises as hereinbefore specified shall fail to comply with a notice to abate any

violation(s) as described in the notice, after an opportunity to be heard, the Village or its designee shall have the authority to enter onto such premises where such violation exists, and abate, repair or remove such violations and charge the cost or expenses of such remediation against the owner and establish a lien in the matter provided herein.

- B. All costs and expenses incurred by the Village in connection with any proceeding or any work done to remove the danger or in connection with the removal of any blighted or dangerous condition on the property shall be assessed against the land on which such building or structure or blight is located, and a statement of such expenses shall be presented to the owner of the property, or if the owner cannot be ascertained or located, then such statement shall be posted in a conspicuous place on the premises. Such assessment shall be and constitute a lien upon such land. If the owner shall fail to pay such expenses within 10 days after the statement is presented or posted, an action may be brought to collect such assessment or to foreclose such lien. As an alternative to the maintenance of any such action, the Building Inspector or Code Enforcement Officer may file a certificate of the actual expenses incurred as aforesaid, together with a statement identifying the property in connection with which the expenses were incurred, and the owner thereof, with the assessor, who shall in the preparation of the next assessment roll, assess such amount upon such property. Such amount shall be included in the levy against such property, shall constitute a lien and shall be collected and enforced in the same manner, by the same proceedings, at the same time and under the same penalties as is provided by law for the collection and enforcement of real property taxes in the Village.

SECTION 3. SUPERSESSSION.

This Local Law shall supersede any inconsistent law, state or local. This declaration of supersession is made by authority of the Village's municipal home rule law powers, pursuant to §§10(1)(ii)(a)(14) and 10(1)(ii)(e)(3) of the Municipal Home Rule Law, §10(6) of the Statute of Local Governments, and Article 9, §2(b)(3) of the New York State Constitution.

SECTION 4. SEQRA.

This is a Type II action under 6 NYCRR §§ 617.5(C)(1) and (20).

SECTION 5. SEVERABILITY.

Should any part or provision of this local law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the local law as a whole nor any part thereof other than the part so decided to be unconstitutional or invalid.

SECTION 6. EFFECTIVE DATE.

This local law shall take effect immediately upon filing with the Secretary of State as provided by law.

All persons in interest will be heard by the Board of Trustees at the public hearing to be held as aforesaid and may appear in person or by representative. The Village Hall is accessible to handicapped persons.

Dated: October 21, 2015

BY ORDER OF THE BOARD OF TRUSTEES
OF THE VILLAGE OF HEAD-OF-THE-
HARBOR

BY: Margaret O'Keefe,
Village Clerk