

Clerk

From: Code Enforcement Officer <ceo@homerny.org>
Sent: Thursday, October 10, 2024 10:57 AM
To: Clerk; Dan Ellis
Subject: Parks Rd Violation
Attachments: 2140 Parks Rd Bennett-Notice of Violation 101024.doc; Section 1307 Town of Homer Storage and Dumping regs.pdf; Town of Homer Unsafe Building Law.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Folks,

I'm attaching a "library" of paperwork for the house on Parks Rd that has (to my knowledge) no living owner other than a minor that was supposedly removed by CPS earlier this year. I've also heard that there's a squatter there currently. My thoughts are to get this place posted and move forward with the new local law if it applies. I'll be composing the same thing for the house on Creal Rd and sending that along as well.

Thanks

Kevin

TOWN OF HOMER
Building and Zoning Department
31 N Main Street
Homer, NY 13077

Kevin McMahon
NYS Code Enforcement

Phone: 607-749-4581
Cell:607-745-0004

Order of Compliance- Notice of Violation

*As directed by the NYS Dept. of State Division of Code Enforcement Administration through
Title 19 NYCRR, Chapter XXXIII, Part 1203 Uniform Code:
Minimum Standards for Administration and Enforcement the following exists:

Date: 10/010/24

Property Owner: Joann C Bennett or Current Resident or Agent

Property Address: 2140 Parks Rd
Cortland, NY 13045

Tax Map Number: #77.00-02-32.200

Attention Owner or Resident:

It has come to my attention that there is an accumulation of garbage and trash on your property, the lawn is not mowed with weeds taking over and your septic system has failed and spilling onto the rear yard. You are now to clean up your place and bring your property into compliance in conjunction with Local Law Section 1307 (attached). This letter will be mailed and posted on the property, and you now have **30 days** from the postmarked date of this Notice to start removing all of the items stored outside on your property, repairs made, and lawn taken care of and **60 days** to complete in accordance with Section 6 of Local Law #1 of 2024.

VIOLATIONS:

Due to this, you have been found in Violation of: The 2020 NYS Property and Maintenance Code Section 302 & 308 Exterior Property Areas and The Town of Homer Local Law #1 of 2008 and Local Law #1 of 2024 (attached).

2020 Property Maintenance Code of NYS VIOLATION (S)

SECTION 302- EXTERIOR PROPERTY AREAS

302.1 Sanitation. All exterior property and premises shall be maintained in a clean, safe and sanitary condition. The occupant shall keep that part of the exterior property which such occupant occupies or controls in a clean and sanitary condition.

302.4 Weeds. All premises and immediate exterior property shall be maintained free from weeds or plant growth in excess of 10 inches (254 mm). All noxious weeds shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens.

302.8 Motor vehicles. Except as otherwise provided for in statute or other regulations, two or more inoperative or unlicensed motor vehicles shall not be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth.

SECTION 308- RUBBISH AND GARBAGE

308.1 Accumulation of rubbish or garbage. All exterior property and premises, and the interior of every structure, shall be free from any accumulation of rubbish or garbage.

REMEDIES:

The remedy to **the trash and accumulation of junk** is to either hire a trash removal or property maintenance service, arrange for vehicle removal by a scrap yard, and/or to rent a dumpster and do the removal of outdoor accumulation yourself.

PENALTIES / FINES:

(As stated in accordance with NYCRR 1203.5: Time Fixed for Compliance with Orders to Remedy issued 01/12/15 as a Technical Bulletin, the following rule is in effect):

Full compliance with this order to remedy is required within thirty (30) days after the postmarked date of this order. If the person or entity served with this order to remedy fails to comply in full with this order to remedy within the thirty (30) day period, **that person or entity will be subject to a fine of not more than \$1,000.00 per day of violation, or imprisonment not exceeding one year or both.**

APPEALS:

You also have the option to appeal any of these Violations to the Town Zoning Board of Appeals per Article I of Local Law #1 of 2008.

Kevin McMahon

NYS Code Enforcement Officer

cc: Homer Town Clerk, Town Supervisor, and Town Attorney

				the construction details of the sign and showing the colors, lettering and/or pictorial matter composing the sign; position of lighting and other extraneous devices; and a location plan showing the position of the sign on any building or land and its position in relation to nearby buildings, structures or existing signs and to any private or public street or highway.
			4.	Written consent of the owner of the building, structure or land to which or upon which the sign is to be erected, in the event that the applicant is not the owner thereof.
			5.	A copy of any required or necessary electrical permit issued for said sign or a copy of the application thereof.
			6.	The Code Enforcement Officer or other designated Town of Homer official shall issue a permit number for each sign which shall be permanently attached to or displayed on each sign, billboard, bulletin board or structure so that it may be readily ascertained that a permit has been issued for each use.
			7.	A fee shall be charged, pursuant to the Town of Homer fee schedule.
		I.		Existing Non-conforming signs. All existing signs which conform the current regulations are permitted to continue, provided that there are no changes in size and/or use.
SECTION 1307 STORAGE AND DUMPING.				
		A.		On a primarily residential lot or plot, no storage of rubbish, junk or other waste material of any nature shall be permitted.
		B.		Dumping of refuse, waste materials and other similar substances at other than the county landfill or other government approved facility is absolutely prohibited in all districts in the town. Disposal of nontoxic waste materials resulting from the operation of a farm and deposited on a farmers own land at a distance of one hundred (100) feet from all highways and two hundred (200) feet from streams and residences shall not be deemed a violation of this chapter.
		C.		All spaces between buildings and structures shall be kept sufficiently free and clear of materials of every nature for the purpose of providing adequate fire protection, light

			and air.
		D.	Not more than one (1) motor vehicle, automobile, automobile trailer or other vehicle shall remain outside upon any property within any district of the town when such vehicle, automobile, automobile trailer or other vehicle does not have a current and valid registration and inspection, or has been so dismantled or parts removed therefrom so as to be incapable of operation or use. Any such vehicles shall be removed from the premises within thirty (30) days of the date when they became inoperable.
		E.	Machinery or equipment no longer in use shall be stored out of sight of roadways and neighboring properties.
		F.	Motorhomes, travel trailers or camping trailers not used for dwelling purposes may be stored in rear or side yards when not in use. Such motorhomes and trailers stored in a side yard may not occupy any required side yard area.
SECTION 1308	SWIMMING POOLS.		
		A.	A building permit shall be required for the construction of all types of swimming pools.
		B.	All pools shall be erected in the rear yard except in the case of a corner lot or a double lot, a side yard may be used, provided that all other Town Law requirements are met.
		C.	All pools shall be chemically treated in a manner sufficient to maintain bacterial standards established by the Cortland County and New York State Sanitary Code pertaining to public swimming pools.

LOCAL LAW #1 OF 2024. A LOCAL LAW TO ENACT AN UNSAFE BUILDINGS AND STRUCTURES LAW FOR THE TOWN OF HOMER.

SECTION 1. LEGISLATIVE PURPOSE AND INTENT.

Unsafe buildings, collapsed structures, and the associated property pose a threat to life, health, and property in the Town of Homer. Buildings, structures, and properties may become unsafe or unsanitary by reason of damage by fire, or other casualty damage, the elements, age or general deterioration. Vacant buildings not properly secured at doorways and windows are nuisances and serve as a congregation area for vagrants, the homeless, mentally incompetent, and children who may be injured therein. A dilapidated building or collapsed structure may also serve as a place of rodent infestation and thereby create a health risk to the community. Debris, waste, sewage, rubble, or parts of buildings left on the ground or in disrepair and not removed constitute a dangerous, unhealthy, and unsightly condition. It is the purpose of this Local Law to provide for the safety, health, protection, and general welfare of people and property in the Town of Homer by requiring such unsafe buildings, structures and/or premises to be secured, repaired, removed and/or demolished.

SECTION 2. AUTHORITY.

This Local Law is enacted pursuant to the New York State Constitution and New York Municipal Home Rule Law § 10 and NYS Town Law Section 130(16).

SECTION 3. DEFINITIONS.

As used in this Local Law, the following terms shall have the meanings indicated.

BUILDING - Any building, structure or portion thereof used for residential, business, industrial, recreational or any other purpose.

CODE ENFORCEMENT OFFICER - The Code Enforcement Officer of the Town of Homer or such other person appointed by the Town Board to enforce the provisions of this Local Law.

PORTION OF BUILDING OR STRUCTURE - Any debris, rubble, septic, or other parts of buildings which remain on the ground or on the premises after demolition, reconstruction, fire, or other casualty.

UNSAFE BUILDING OR STRUCTURE - Any building or structure or portion thereof that endangers the health, safety or welfare of the public, and may include, without limitation, buildings or structures with any or all of the following:

- A. Open at the doorways or accessible by and a source of attraction to minors under 18 years of age, as well as to vagrants and other trespassers;
- B. Which may become a place of rodent infestation, or infestation by other insects or pests;

C. Those which are so dilapidated, decayed, unsafe and/or unsanitary that they are unfit for human habitation in accordance with normally accepted standards set for human habitability;

D. Parts thereof which are so inadequately attached or supported that they may fall and injure members of the public or property;

E. Consisting of debris, rubble, or parts of buildings left on the ground after demolition, reconstruction, fire or other casualty;

F. Discharge of sewage or waste from a defective sanitation system; and/or

G. Presenting any other danger to the health, safety, morals and general welfare of the public.

SECTION 4. MAINTENANCE OF BUILDINGS AND STRUCTURES.

It shall be unlawful for any owner, tenant, or occupant of any building or structure or portion of any building or structure in the Town of Homer to maintain an unsafe building or structure as defined herein.

SECTION 5. INVESTIGATION AND REPORT.

When, in the opinion of the Code Enforcement Officer or Town Engineer, any building or structure located in the Town of Homer shall be deemed to be an unsafe building or structure as defined herein, the Code Enforcement Officer or Town Engineer shall make a formal inspection thereof and report in writing to the Town Board their findings and recommendations with regard to the building or structure.

SECTION 6. ORDER TO SECURE, REPAIR OR REMOVE; HEARING; COSTS AND EXPENSES; TIME LIMITS.

The Town Board shall thereupon consider said report from the Codes Enforcement Officer or Town Engineer, and if it finds that such building or structure is dangerous and unsafe to the public, it shall, by resolution, order its repair if the same can be safely secured and/or repaired, if not, its removal and demolition, and shall further order that a hearing be held before the Town Board at a time and place therein specified and on at least ten days' notice to the owner of the building or structure or persons having an interest therein to determine whether said order to repair or remove shall be affirmed or modified or vacated and, in the event of modification or affirmance, to assess all costs and expenses incurred by the Town in the repair or removal of such building or structure against the land on which said building or structure is located. The order shall also provide that the repair or removal of the building or structure shall be commenced within 30 days after receipt of the notice and shall be completed within 60 days of receipt.

SECTION 7. CONTENTS OF NOTICE.

The notice shall contain the following statements:

A. The name of the owner or person in possession as appears from the tax and deed records.

B. A brief description of the premises and its location.

C. A description of the building or structure which is unsafe or dangerous and a statement of the particular ways in which it is unsafe or dangerous.

D. An order requiring the same to be secured and/or repaired to a safe and secure condition or to be removed.

E. An order that the securing, repairing and/or removing of the building or structure shall be commenced within 30 days of the service of the notice and shall be completed within 60 days thereafter.

F. The time and place of the hearing to be held before the Town Board, at which hearing the owner or occupant shall have the right to contest the order and findings of the Town Board. The hearing shall take place no less than ten days after the service of the notice.

G. That in the event that such owner, occupant or other person having an interest in said premises shall fail to contest such order and fail to comply with the same, the Town Board may order the repair or removal of such building or structure by the Town or its designee contractor and that the Town will assess all costs and expenses incurred in such repair or removal against the land on which such building or structure is located.

SECTION 8. SERVICE AND FILING OF NOTICE.

A. A copy of the notice issued by the Town Board shall be personally served upon the owner or some one of the owners' executors, legal representatives, agents, lessees or other person having a vested interest or contingent interest in the premises as shown by the collector of taxes and in the office of the Cortland County Clerk.

B. If no such person can be reasonably found for personal service, then a copy of the notice shall be mailed to such person by certified mail addressed to the last known address as shown on said records and by personally serving a copy of said notice upon any adult person residing in or occupying the premises or by securely affixing a copy of said notice upon the building or structure.

C. A copy of the notice served as provided herein shall be filed in the office of the County Clerk of the County of Cortland.

SECTION 9. HEARING.

The Town Board shall conduct the hearing at the time and place specified in the notice to secure, repair and/or remove, and may adjourn the hearing from time to time until the hearing is completed. If the interested party is duly served as described herein, the hearing

may continue if the interested party fails to appear. At the conclusion of the hearing, the Town Board shall determine by resolution to:

A. Revoke the order to repair or remove;

B. Modify the order; or

C. Continue and affirm said order and direct the owner or other persons to complete the work within the time specified in the order or by such other time as shall be determined by the Town Board.

SECTION 10. FAILURE TO COMPLY.

If the owner or person so notified fails or neglects to comply with the order of the Town Board within the time specified in the order made following the hearing, or fails to appear at the hearing, the Town Board may provide by resolution that such buildings or structure be made safe and secure or removed and demolished by Town employees, by independent contractors, or by other lawful means available to the Town.

SECTION 11 COSTS ASSESSED; COLLECTION; SPECIAL PROCEEDING.

A. All costs incurred by the Town in enforcing this Local Law shall be recoverable from the owner of the premises deemed unsafe or dangerous hereunder. Such costs hereunder shall include, but not be limited to the following:

- 1) Actual attorney fees and disbursements for services rendered with or without the commencement of litigation;
- 2) Actual engineering fees or disbursements, including the costs of the Town's Code Enforcement Officer;
- 3) Actual costs of securing, repairing, removing and/or demolishing the building or structure deemed dangerous or unsafe;
- 4) Costs of serving and/or publishing notices; and
- 5) Costs of title and tax searches.

B. The costs incurred in enforcing this Local Law shall be added to the next assessment roll for Town taxes against the tax parcel(s) which include the unsafe or dangerous building or structure involved and shall be collected and enforced in the same manner as other taxes for that parcel(s).

C. In addition to any other remedies herein, the Town may commence a special proceeding under Article 4 of the Civil Practice Law and Rules or General Municipal Law Section 78-b in a court of competent jurisdiction to collect the costs incurred by the Town in enforcing this Local Law. Should the Town recover and be paid said costs through such a proceeding (and

after costs have been added to the assessment rolls), the assessment roll and tax records shall be adjusted accordingly to properly credit amounts so paid and recovered.

SECTION 12. SUPERCESSION.

This Local Law shall supersede in part Town Law §130(16).

SECTION 13. EMERGENCY CASES.

Where it reasonably appears that a building or structure presents a clear and imminent danger to the life, safety or health of any person or property, unless such building or structure is immediately secured and repaired or demolished by its owner or occupant, the Town Board may by resolution authorize the Code Enforcement Officer or Town Engineer to immediately cause the repair or demolition of such unsafe building or structure. The expenses of such repair or demolition shall be a charge against the land on which it is located and shall be assessed, levied, and collected as provided in Section 11 hereof.

SECTION 14. SEVERABILITY.

If the provisions of any article, section, subsection, paragraph, subdivision, or clause of this Local Law shall be judged invalid by a court of competent jurisdiction, such order of judgment shall not affect or invalidate the remainder of any article, section, subsection, paragraph, subdivision or clause of this Local Law.

SECTION 15. EFFECTIVE DATE.

This Local Law shall be effective upon filing with the office of the Secretary of State.