

CHAPTER 19

LOCAL LAW NO. 6 OF 2016

A LOCAL LAW ENTITLED
PROPERTY MAINTENANCE

BE IT ENACTED BY THE BOARD OF TRUSTEES OF THE VILLAGE OF SHOREHAM, 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 located in the Village and to correct dangerous conditions existing on such properties.

SECTION 2. ENACTMENT.

A **Chapter 19 of the Village Code entitled Property**

Maintenance is enacted, as follows:

§ **19-1. Legislative Intent.**

The purpose of this Chapter 19, entitled a Property Maintenance Law, is to preserve the aesthetic integrity of Village neighborhoods, prevent and correct neighborhood blight and dangerous conditions, protect property values, encourage property maintenance and enhance the quality of life in the Village.

§ **19-2. Definitions.**

As used in this Chapter 19, each of the following defined terms shall have the meaning indicated:

(1) **blight** - any condition set forth in § 19-5 of this Chapter 19.

(2) **blighted property** - any property having a condition thereon meeting or exceeding a rating of one hundred (100) points as set forth in § 19-5 of this Chapter 19.

(3) **Code Enforcement Officer** - the Building Commissioner or Building Inspector, or any other person designated as a code enforcement officer by the Village Board.

(4) **dangerous condition** - any condition set forth in § 19-6 of this Chapter 19.

(5) **dangerous property** - any property having a dangerous condition thereon.

(6) **owner** - any person or entity being a fee owner, manager, mortgagee, occupant, tenant, or person or entity otherwise in control of any property, including any of such owner's agents, executors, legal representatives, or other person or entity having a vested or contingent interest in such property.

(7) **remedial work** - any work or other activity required to remediate any blight or dangerous condition, including any alteration, construction, demolition, erection, installation, reconstruction, relocation or removal of any structure, or any site work, including any landscaping or clearing of vegetation.

§ 19-3. Word Usage.

For purposes of this Chapter 19:

(1) The words "expire on the date", or words of such nature, shall be deemed to be referring to the expiration of the period running through the end of such date.

(2) Unless otherwise indicated to the contrary, the concept of including something on a list of things shall be deemed to embody the concept of including those things by way of illustration and not limitation.

(3) Wording in the disjunctive form shall be deemed to be preceded or followed by the words "as applicable" or "as the case may be".

(4) The word "shall" shall be mandatory.

(5) The present tense shall include the future tense.

(6) The singular shall include the plural and vice versa.

(7) Any adjective modifying a defined term, or part of a defined term, including the words, "a", "any", "the", "this", "said" and "such", shall not affect the meaning of the defined term it modifies, and any defined term used as an adjective or verb, or reordered but carrying the intent of such defined term, or capitalized or pluralized, or put in the possessive form, shall carry the same meaning as such definition is expressed in § 19-2 of this Chapter 19, with the understanding that any defined term having initial capitalization shall only carry the intended

definition if so capitalized, unless otherwise indicated in context.

(8) Undefined terms shall be interpreted so as to give them the meaning they have in common or lawful usage, so as to give this Chapter 19 its most reasonable interpretation.

(9) Captions and headings shall be deemed to be inserted for convenience and reference only, and shall in no way be deemed to define, describe or limit the intent, meaning or scope of this Chapter 19.

§ 19-4. Scope.

This Chapter 19 shall:

- (1) Apply to all properties located in the Village.
- (2) Supplement applicable state and local laws and regulations.

§ 19-5. Designation of Blighted Properties/Point Ratings.

Subject to the provisions of this Chapter 19, the Code Enforcement Officer shall have the power to designate any property as a blighted property, based on the following factors and point ratings:

- (1) Such property has been unoccupied for a period of sixty (60) consecutive days or more and there is no evidence of day-to-day upkeep or maintenance of same (fifty (50) points).
- (2) The owner of such property has been issued a notice of violation or has been prosecuted for any violation of the New York State Property Maintenance Code related to such property not otherwise governed under § 19-6 of this Chapter 19, and such violation has not been corrected (fifty (50) points).
- (3) Except as otherwise governed under § 19-6(b) of this Chapter 19, such property attracts, or is an instrument of, illegal, noxious or deleterious activity as understood in common law (fifty (50) points).
- (4) Such property is not habitable as determined by the Building Inspector (fifty (50) points).
- (5) Such property is unmaintained based upon evidence of a persistent and continued existence of the following deleterious conditions:
 - (a) Boarded windows, doors, entryways or exits (ten (10) points).

- (b) Excessive litter or debris (ten (10) points).
- (c) Excessive amounts of fallen branches, limbs or trees, or infestation of vines (twenty (20) points).
- (d) Parking of one (1) or more unregistered motor vehicles or junk vehicles (ten (10) points for each vehicle).
- (e) Parking or storage of vehicles or boats on plots in violation of Chapter 19 of the Village Code (ten (10) points for each vehicle or boat)
- (f) Any broken, unsecured or damaged:
 - (i) Roofs (ten (10) points).
 - (ii) Gutters (five (5) points).
 - (iii) Siding or shingles (ten (10) points).
 - (iv) Chimneys (ten (10) points).
 - (v) Shutters (five (5) points).
 - (vi) Windows (ten (10) points).
 - (vii) Doors, entryway or exits (ten (10) points).
 - (viii) Outdoor lighting fixtures (five (5) points).
 - (ix) Fencing or gates (ten (10) points).
 - (x) Accessory structures, including, but not limited to cabanas, carports, decks, garages, poolhouses, porches, sheds, storage units, or other such structures (fifteen (15) points for each structure).
- (g) Damaged, unsightly or unsecured signage or awnings (fifteen (15) points for each structure).
- (h) Presence of graffiti (ten (10) points).
- (i) Unfinished construction (twenty (20) points).
- (j) Evidence of fire damage not having been restored (thirty (30) points).
- (k) Peeling or deteriorating paint (five (5) points).
- (l) Presence of stagnant water (ten (10) points).
- (m) Presence of vermin, rodent harborage and infestations (fifty (50) points).

(n) Presence in any outdoor area of any:

(i) Boiler, heater, refrigerator, sink, stove, tank, washing machine, other household appliance, boxes or indoor furniture for a period in excess of seventy-two (72) consecutive hours (ten (10) points).

(ii) Construction materials, debris, dirt, garbage, lumber, trash or garbage (ten (10) points).

§ 19-6. Designation of Dangerous Properties.

Subject to the provisions of this Chapter 19, the Code Enforcement Officer shall have the power to designate any property as a dangerous property, if such property has any condition existing thereon being, or having the potential of becoming, dangerous to the health, safety and welfare of any person, or causing or having the potential of causing damage to the subject property, or any personal or other real property, including any such condition arising out of or from any:

(a) Damage caused by fire, flood, precipitation, wind, or other such cause.

(b) Hazardous materials.

(c) Anything of a physical nature causing an unhealthy condition.

(d) Performance of work.

(e) Structure having:

(i) Any wall leaning or buckling to such extent as to be unstable.

(ii) Material deterioration of a structural member.

(iii) Improperly distributed loads upon floors or roofs.

(iv) Any part so installed so as to be at risk of collapsing or falling.

(v) Inadequate or insufficient facilities for ingress and egress in case of fire, panic or other emergency.

(vi) Defective or inadequate electrical, heating, ventilation or sanitation facilities.

(vii) Broken, exposed or hazardously utilized electrical wires.

(viii) Become dilapidated, decayed, unsafe, insanitary, or otherwise unkempt to the detriment of the Village.

(ix) Any plot thereof constituting a fire hazard as determined by the Village Fire Commissioner.

- (f) Unsecured pool.
- (g) Abandoned construction.
- (h) Open or unsecured cesspools, cisterns or wells.
- (i) Dead or leaning trees constituting a dangerous condition.
- (j) Any other condition posing a serious threat to the health, safety and welfare of any person, or that might cause damage to any personal or real property.

§ 19-7. Notice.

The Village Board shall have jurisdiction over the remediation of any blight or dangerous condition as set forth in this Chapter 19, with the understanding that any notice required to be sent under this Chapter 19 shall only be sent with written authorization of said board. If any property is determined to be a blighted property or dangerous property, the Village Attorney shall send notice thereof to the owner of such property, containing the following:

- (1) A copy of this Chapter 19.
- (2) A description of remedial work required.
- (3) The point rating of the subject blight if applicable.
- (4) An order:

(a) Directing such owner to perform remedial work as required and the date by which:

(i) Same shall be required to be commenced, which date shall be no more than thirty (30) days following the date of such notice.

(ii) Such work shall be required to be completed.

(b) Stating that if such work is not completed within the required period, a hearing on the matter shall be held before the Village Board on a date, and at a time and place, as set forth in such notice.

(c) Indicating that if such owner, or such owner's representative, does not appear at any required hearing, or does not complete remedial work as required as a result of such hearing, the Village shall undertake to enter the blighted property or dangerous property and perform remedial work as required, and assess the cost thereof against such property, and fines related thereto, as set forth in this Chapter 19.

§ 19-8. Hearing Procedures.

The procedure to be followed for the hearing referenced in § 19-7(4)(b) of this Chapter 19 shall be dictated by the response of the owner of the blighted property or dangerous property to the notice sent under § 19-7 of this Chapter 19, as follows:

(1) If in such hearing such owner agrees in writing to perform remedial work as required, such owner shall commence such work by the date [ten]([10]) days following the date of such hearing and complete same within the period set forth in such hearing.

(2) If in such hearing such owner does not agree to perform remedial work as required and the Village Board affirms the need therefor, the Village Attorney shall send notice to such owner of such determination. Such notice shall order such owner to commence such work by the date [ten]([10]) days following the date of such notice and complete same within the period set forth therein, and such owner shall commence such work within said ten (10)-day period and complete same within the period so required.

(3) If such owner does not appear and has no representative at such hearing, and shall not have theretofore agreed to perform remedial work as required, and the Village Board affirms the requirement therefor, the Village Attorney shall send notice thereof to such owner, indicating that such owner shall be subject to the provisions of § 19-12 of this Chapter 19.

§ 19-9. Performance of Remedial Work/Permitted Extension/ Failure to Perform Remedial Work.

A. Performance of Remedial Work/Permitted Extension. The owner of any blighted property or dangerous property shall diligently perform remedial work as required, and in accordance with a building permit as set forth in Chapter 5 of the Village Code, and if in the determination of the Code Enforcement Officer such owner is not diligently performing, or does not complete, same as so required, the Village Attorney shall send notice to such owner to show cause for not so performing such work and such owner shall so respond to the Village Attorney by the date five (5) days following the date of such notice. If such owner can show cause within said period, the Village Attorney shall send notice to such owner, extending the period in which such work shall be required to be completed as deemed appropriate by such officer, and such owner shall diligently perform and complete same as so required, with the understanding that no further extensions in which to complete such remediation shall be allowed.

B. Failure to Perform Remedial Work. If the owner of any blighted property or dangerous property does not respond within the [five] (5)-day period set forth in § 19-9A of this § 19-9, or in the determination of the Code Enforcement Officer does not show cause as required, or shows cause and thereafter does not diligently perform or complete remedial work as required, the Village Attorney shall send notice thereof to such owner, indicating that such owner shall be subject to the provisions of § 19-12 of this Chapter 19.

§ 19-10. Service of Notice.

Any notice sent under this Chapter 5 shall be served personally or by Certified or Registered Mail/Return Receipt Requested, addressed to the last known address, if any, of the owner of the blighted property or dangerous property, and the Code Enforcement Officer shall post a copy thereof on the blighted property or dangerous property as set forth in § 19-11A of this Chapter 19.

§ 19-11. Posting and Filing of Notices.

A. Posting of Notices. A copy of any notice set under this Chapter 19 shall be conspicuously posted by the Code Enforcement Officer on the blighted property or dangerous property, with the date of such posting being duly recorded by such officer on such notice.

B. Filing of Notices. A copy of any notice sent under this Chapter 19 may be filed in the office of the County Clerk of Suffolk County, which notice shall be filed by said clerk in the same manner as that for 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. A notice so filed shall be effective for a period of one (1) 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 Suffolk County Clerk shall mark such notice and any record or docket thereof as canceled of record upon the presentation and filing of such consent, or a certified copy of any such order.

§ 19-12. Penalties for Failure to Perform Remedial Work/Reimburse Cost.

A. Failure to Perform Remedial Work/Blighted Properties. If the owner of any blighted property fails to comply with any notice sent to such owner under this Chapter 19, after an opportunity to be heard:

(1) Such owner shall be subject to a minimum fine of fifty dollars but not to exceed three hundred and fifty (350) dollars for the first offense, a minimum fine of one hundred fifty (150) dollars but not to exceed seven hundred and fifty (750) dollars for a second offense, and a minimum fine of three hundred (300) dollars but not to exceed one thousand (1,000) dollars for a third offense.

(2) All fines on all penalties authorized in § 19-12A(1) of this § 19-12A shall increase, as follows:

(a) At thirty (30) days from issuance, minimum fine shall be doubled.

(b) At sixty (60) days from issuance, minimum fine shall be tripled from original amount.

B. Failure to Perform Remedial Work/Dangerous Properties. If the owner of any dangerous property fails to comply with any notice sent to such owner under this Chapter 19, after opportunity to be heard, such owner shall be subject to a fine of one thousand (1,000) dollars.

C. Right of Entry. If the owner of any blighted property or dangerous property fails to comply with any notice sent to such owner under this Chapter 19, after an opportunity to be heard, the Village or its designee shall have the authority to:

(1) Enter onto the blighted property or dangerous property and remediate the blight or dangerous condition being the subject of such notice.

(2) Charge the owner for the cost of the subject remediation.

(3) If necessary for failure of such owner to pay any monies payable to the Village under this Chapter 19, establish a lien in the matter as provided in § 19-12D of this Chapter 19.

D. Failure to Reimburse. All unreimbursed costs incurred by the Village in connection with any proceeding or remediation permitted or required under this Chapter 19, and any unpaid fines payable under § 19-12A or B of this § 19-12, shall be assessed against the blighted property or dangerous property, and a notice summarizing such amount shall be sent by the Village Attorney to the owner of the blighted property or dangerous property. Such assessment shall be and constitute a lien upon such property. If such owner shall fail to pay such assessed amount within ten (10) days of the date of such notice, an action may be brought to collect such amount or to foreclose such lien. As an alternative to any such action, the Code Enforcement Officer may file a certificate of the costs and fines

incurred as aforesaid, together with a statement identifying the blighted property or dangerous property the owner of same, with the Village 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 provided by law for the collection and enforcement of real property taxes in the Village.

§ 19-12. Severability.

If any provision of this Chapter 19 is ruled unconstitutional or invalid, such ruling shall not affect the validity of any other provision of said chapter or said chapter as a whole.

SECTION 3. SUPERSESSON.

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.S(C)(1) and (20).

SECTION 5. EFFECTIVE DATE.

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

Dated: March 30, 2016

BY ORDER OF THE BOARD OF TRUSTEES
OF THE VILLAGE OF SHOREHAM

BY: Cathy Donahue-Spier,
Village Clerk

Effective Date: April 19, 2016