

Public Hearing \_\_\_\_\_

## **VILLAGE OF WILLIAMSVILLE**

### **LOCAL LAW NO. X of 2019**

#### **A Local Law Amending Chapter 12 (Buildings, Demolition of, Blasting) Regarding the Regulation of Building Demolitions**

##### **Section 1. Title**

A Local Law Amending Chapter 12 (Buildings, Demolition of; Blasting) Regarding the Regulation of Building Demolitions.

##### **Section 2. Enacting Clause**

Be it enacted by the Village Board of Trustees of the Village of Williamsville, as follows:

##### **Section 3.**

Chapter 12 (Buildings, Demolition of; Blasting) is repealed in its entirety and replaced with the following:

##### **§ 12-1. Definitions.**

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

**APPLICATION FOR DEMOLITION** — The application for a permit to demolish a building or structure.

**BASEMENT** — That portion of a building that is partly below grade and which has more than half of its height, measured from floor level to ceiling, above the average established curb level or finished grade of the ground adjoining the building.

**BUILDING** — A combination of any materials, whether portable or fixed, as a structure wholly or partially enclosed within exterior walls or within exterior or party walls and having a roof, affording shelter to persons, animals or property. The word "building" shall be construed, when used herein, as though followed by the words "or part or parts thereof."

**CELLAR** — That portion of a building that is partly or entirely below grade, which has more than half its height, measured from floor to ceiling, below the average established curb level or finished grade of the ground adjoining the building.

**CODE ENFORCEMENT OFFICER** — The Code Enforcement Officer for the Village of Williamsville.

CONTRACTOR — That person, firm or corporation employed by the owner of the property, empowered by written consent of the owner to perform the specific duty of demolition as may be specified in authorizing permits.

DEMOLITION or DEMOLISH — The alteration of an existing building or structure, the purpose of such alteration being the discontinuance of the existing building or structure or a portion thereof. "Demolition" shall not include the repairing, remodeling or extending of an existing building or structure where such is incidental to the improvement of that building or structure and the primary intent is shown to be that of repairing, remodeling or extending the existing building or structure.

DEMOLITION PERMIT — The permit for demolition of an existing building or structure.

HEAVY EQUIPMENT — Any large machinery employed to complete the proposed demolition work, including, but not limited to, backhoes, excavators, front-end loaders, tandem-axle dump trucks, tractor-trailers, dumpsters, and cranes.

HISTORIC PRESERVATION COMMISSION or COMMISSION — The Village of Williamsville Historic Preservation Commission as created pursuant to Chapter 47 of the Code.

OWNER and PROPERTY OWNER — The person who has the legal title to land together with ownership of the building or structure located thereon.

PUBLIC WAY or RIGHT OF WAY — A street, alley, sidewalk or other thoroughfare or easement permanently established for passage of persons or vehicles. The term "public way" shall be construed, when used herein, as though followed by the words "or part thereof."

SALVAGE — Component parts of a building or structure being demolished, removed or to be removed from said building or structure for reuse or resale.

SALVAGE CONTRACTOR — A person, firm or corporation identified in the application for demolition, authorized by the owner, in writing, to remove items of salvage from premises, which may or may not be the same person, firm or corporation designated by the owner as the demolition contractor.

SITE — The actual confines of the demolition. The site as described in the application for permit and as approved by the Code Enforcement Officer therein shall be the only area approved for the demolition.

STRUCTURE — A combination of materials, other than a building, to form a construction that is safe and stable, and includes, among other things, gazebos, trellises, decks, platforms, radio towers, sheds and storage bins. For purposes of this Chapter, a fence is not a structure.

**§ 12-2. Permit requirements; fees.**

- A. Except for emergency demolitions ordered pursuant to Chapter 15 of the Village Code, no person shall demolish an existing building or structure having a gross floor area of 500 square feet or more without first obtaining a demolition permit issued by the Code Enforcement Officer pursuant to this Chapter, allowing such demolition. Such permit shall be applied for and issued to the owner of the property or the duly authorized agent thereof.
- B. Form; contents.
- (1) An application for demolition permit shall be in writing on the form(s) provided by the Code Enforcement Officer and shall include the following information:
- (a) name, address and telephone number of the owner;
  - (b) names, addresses and telephone numbers of all contractors (general, special or salvage) authorized by the owner to perform work;
  - (c) insurance coverage information as required by Section 12-5, including the name of each insurance company, policy number and date of expiration of policy;
  - (d) a written description and two photographs of each building or structure to be demolished;
  - (e) a current survey showing the location of the building(s) or structure(s) to be demolished, complete with property and public ways, adjacent on-site buildings and locations of all utilities and easements;
  - (f) A survey or inspection report with photographs noting the condition of any public way adjacent to the site;
  - (g) a survey or drawing indicating the proposed new grades and type of fill to be used, if any;
  - (h) an asbestos survey and/or inspection letter for any building(s) or structure(s) to be demolished that was constructed before January 1, 1974, and, if such survey indicates the presence of asbestos, an asbestos abatement plan prepared and certified by a licensed asbestos abatement contractor;
  - (i) Identification of the source of any fill material and certification that such material will meet the specifications set forth in Section 12-7(k) herein;
  - (j) expected start and completion dates for all proposed work, which dates must comply with the time limitations set for in Section 12-8 herein;
  - (k) list of materials to be salvaged, if any;
  - (l) provision for disposal of refuse;
  - (m) a statement as to security and/or barricades to safeguard premises from unauthorized entry during the demolition work as well as the protection of the general public, and a diagram of such barricades or other security measures;

- (n) a proposed redevelopment plan for approval by the Planning and Architectural Review Board;
  - (o) an estimate of the cost to complete all work to be authorized by the demolition permit; and
  - (p) any other information deemed necessary by the Code Enforcement Officer.
- (2) The application shall be accompanied by:
- (a) an application and permit fee in an amount established from time to time by the Board of Trustees; and
  - (b) a bond or other financial assurance acceptable to the Village in an amount sufficient to complete the work authorized by the requested demolition permit or required by this Chapter.
- C. Posted Notice.
- (1) Within five (5) days of submission of an application for demolition, the owner shall post one sign for each public way upon which the subject property abuts, identifying the building(s) or structure(s) proposed to be demolished, and securely placed so as to be clearly visible from each public way or street upon which the property abuts.
  - (2) Each sign required to be posted shall measure 2 feet by 3 feet in area, with a white background and black letters of sufficient size to be legible from the public way to which the sign relates, and shall list: (i) the name and telephone number of an authorized representative of the applicant who can provide information regarding the proposed demolition; (ii) the expected date of completion; and (iii) the telephone number for the Village Building Department. In the event that the application is subject to referral to the Historic Preservation Commission as provided in Section 12-3, each sign shall also include the date of the meeting of the Commission at which the application is scheduled to be reviewed.
  - (3) Once a demolition permit has been issued, the expiration date of the permit shall be added to the sign(s), which shall remain erected on the site until all work required under the demolition permit is completed.

**§ 12-3. Referral of Certain Applications to Historic Preservation Commission.**

- A. If an application for demolition relates to a building or structure that is 50 or more years old, the Code Enforcement Officer shall refer the application to the Village of Williamsville Historic Preservation Commission before making a decision. The Commission shall review the possible historic significance of such building or structure pursuant to Chapter 47 of the Village Code no later than its next regularly scheduled meeting.
- B. In the event the Commission recommends that the building or structure proposed to be demolished be designated as a Landmark pursuant to Chapter 47 of the Code,

pursuant to Section 47-\_, no demolition permit may be issued until a final decision is made with respect to such nomination.

- C. If the Commission declines to recommend that the subject building or structure be nominated as a Landmark, it shall promptly notify the Code Enforcement Officer of that determination, and the Code Enforcement Officer may proceed with reviewing and acting upon the application as provided in this Chapter. If the Commission takes no action with respect to the application within 30 days after receiving the referral required by subsection A, the Code Enforcement Officer shall proceed with reviewing and acting upon the application as provided in this Chapter.

#### **§ 12-4. Redevelopment Plan.**

- A. No demolition permit shall be issued pursuant to this Chapter until a redevelopment plan has been submitted for review by the Planning and Architectural Review Board.
- B. With respect to any property zoned MU, NMU, M-1 or R-3M, an interim landscaping plan may be approved by the Code Enforcement Officer for period of no more than 1-year from the date of demolition. Such interim landscaping shall be in place and stabilized no later than 30 days after demolition occurs. Any damage to public sidewalks shall be repaired. Within a period of 30 days following completion of the interim landscaping, all construction debris, fencing, toilets, etc shall be removed from the site until such time as construction begins anew on the proposed future development.

#### **§ 12-5. Certificate of insurance.**

- A. As part of the application for a demolition permit, a certificate of insurance for liability shall be delivered to the Code Enforcement Officer, as agent for the Village. The minimum limits of said liability for the demolition of buildings and structures, whether in a homeowner's insurance policy or separate liability policy, shall be in an amount as required by the Village.
- B. All insurance certificates shall include the Village as an additional named insured.

#### **§ 12-6. Permit Issuance.**

Upon a determination that an application for demolition is complete as provided herein, the Code Enforcement Officer shall issue a demolition permit as authorized by this Chapter. In addition to the requirements expressly set forth in this Chapter, the Code Enforcement Officer may impose additional conditions or restrictions regularly determined to be necessary to protect public health and safety and the general welfare of the Village.

#### **§ 12-7. Demolition Procedures and Standards.**

- A. Upon the request of the Code Enforcement Officer, the person making the application for a permit to demolish a building or structure shall submit to the Code Enforcement Officer a written report from a licensed exterminator regarding

extermination of the building or structure prior to the issuance of a demolition permit.

- B. The owner or contractor shall give notice to the Code Enforcement Officer no less than 24 hours prior to the start of the demolition work. The Code Enforcement Officer shall inspect the demolition regularly and shall be empowered to halt any such demolition that, in the judgment of the Code Enforcement Officer, is not being performed in a safe and sanitary manner or in accordance with the approved permit.
- C. Prior to demolition, the contractor will erect a system of barricades (as approved by the Code Enforcement Officer) around the site which shall remain in place, and properly secured during all phases of demolition of the site. Such barricades shall not be placed so as to obstruct any public way unless determined by the Code Enforcement Officer to be necessary for public safety or operational necessity. All barricades or fencing shall be maintained in an upright and secure position at all times. Upon notification of any violation of this requirement, the owner shall have three days to properly secure the site, and upon the failure of the owner to correct any violation within such time, the Code Enforcement Officer may, through the use of Village employees or private contractor(s), take such steps as are necessary to correct such violation(s), with the cost of such corrective actions assessed to the owner. If the owner fails to reimburse the Village of the costs within 30 days of being billed therefore, the charge shall be added to the Village tax assessed against the property.
  - (1) At the discretion of the Code Enforcement Official and in the interest of the health, safety, and welfare of the general public, a sidewalk may be closed for a period of time during demolition/construction. Such closure shall be accompanied by a drawing indicating a detour plan, complete with signage, that will be maintained in good condition, upright, and secure for the duration of the closure as well as the proposed length of the closure. Certain conditions may be imposed on the applicant's plan by the Code Enforcement Officer to facilitate special events or other public interests which would otherwise be inconvenienced by the sidewalk closure.
- D. Prior to demolition, the owner or contractor shall have all utilities service properly disconnected at the owner's expense.
- E. The contractor shall obtain appropriate approval for the water use on the site from the head of the Department of Public Works and/or the Erie County Water Authority for dust control and have sufficient lengths of one-and-one-half-inch and/or two-and-one-half-inch hose for this purpose. Dust from all activities associated with the demolition work shall be controlled so as not to impact neighboring properties or public ways by watering down the site or other dust control measures approved by the Code Enforcement Officer.
- F. The contractor shall provide a flagman for traffic control when necessary, and should a street have to be closed, he shall obtain permission from the head of the Department of Public Works, the Chief of Police and the Fire Chief.
- G. In the case of the demolition of an existing building which has a common or party wall with one or more adjoining buildings, the owner of the building to be

demolished shall be responsible for and bear all costs in relation to the safeguarding of said adjacent wall.

- H. Where beams, girders and joists are removed from party walls, the resulting pockets in said walls shall be cleaned out and filled with solid masonry. Necessary repairs shall be made to put the party wall in a safe condition. This work shall be done by the contractor at the expense of the property owner having said demolition performed.
- I. During the demolition work, debris must be systematically removed from the site and not allowed to pile up or cause any obstruction, hazard or attractive nuisance.
- J. When a building to be demolished contains a cellar or basement, the contractor shall remove all debris and organic material from the cellar or basement and then break up and/or perforate the cellar floor. The bearing or foundation wall shall be removed to a depth of at least 24 inches below the present grade or at least 24 inches below any future grade to be established. The material resulting from the cellar or foundation wall demolition may remain in the excavation, provided that the material is crushed and compacted and the overall mix of fill conforms to the standards set forth in subsection (I).
- K. In filling excavations, voids and/or other depressions, fill material must conform to the following standards: a minimum of 66% clay materials over a compactable, well-graded, engineered fill (e.g., general fill or crusher run) compacted in lifts with not less than 90% compaction. The fill shall have no particles greater than 6 inches (216 cubic inches) in dimension and shall be free of organics and asphaltic materials. The final grade shall be of 12 inches of 100% soil content free of all aggregate materials, sod, roots, stumps, trees, brush, stone and asphaltic or bituminous materials. Documentation of sources and custody of the fill materials shall be provided to the Code Enforcement Officer.
- L. Where there is no cellar or basement, the bearing or foundation wall shall be removed to a depth of at least 24 inches below any future grade to be established.
- M. The final grade must also provide for proper drainage and prevent the accumulation of standing water.
- N. Demolition of any building or structure shall be carried on during daylight hours only on normal Village workdays.
- O. Salvage materials that are a structural part of the building or structure shall not be removed except as part of the actual demolition of said building or structure. Removal of salvage shall be by the owner or salvage contractor only.
- P. In-ground storage tanks shall be removed from the demolition site.
- Q. No explosives may be used in connection with demolition of buildings or structures in the Village unless a special permit is first obtained from the Village Board of Trustees pursuant to Section 12-11.

**§ 12-8. Time limit on permit validity.**

- A. Unless different time frames are approved in writing by the Code Enforcement Officer based upon conditions unique to the particular application, demolition permits shall be valid as follows:
  - (1) For structures not exceeding 2 and one-half stories in height above grade: 30 days;
  - (2) For structures more than two and one-half stories and less than five stories in height above-grade: 45 days;
  - (3) For all structures in excess of five stories in height above grade: 60 days.
- B. At the discretion of the Code Enforcement Officer, the applicable time periods provided in Section 12-8(A) may be extended once for a period not to exceed 10, 20 or 30 days, respectively, upon good cause shown by the owner. Any request for an extension shall be in writing and submitted to the Code Enforcement Officer at least 10 days prior to the applicable expiration date.
- C. All work authorized by the demolition permit or otherwise required by this Chapter must be completed within the time frames provided herein. Each day that such work remains incomplete beyond the applicable expiration date shall constitute a separate violation of this Chapter.

**§ 12-9. Final Inspection of Certification of Completion.**

- A. Upon notification by the owner that the demolition work has been completed, or upon the expiration of such permit, the Code Enforcement Officer shall inspect the site to ensure compliance with all applicable requirements. Any damage to existing sidewalks, curbs or streets caused in the performance of demolition work shall be replaced in kind and/or repaired in accordance with Village specifications. All remedial work shall be done by the contractor (or owner, in the case of work done by owner) at his own expense, bearing the cost of restoring affected streets and curbs to a good and satisfactory condition
- B. If any fill material utilized at the site is found to be contaminated or unsuitable in any way, the Code Enforcement Officer may order its removal from the site and the replacement with suitable fill at the owner's expense.
- C. Upon determination that the owner has fully complied with all applicable requirements, the Code Enforcement Officer shall issue a certificate of completion to the owner and file such certificate in the office of the Building Department.
- D. Upon a determination that the owner has failed to comply with all applicable requirements or that the site is otherwise in violation of any applicable provision of the Code, the Code Enforcement Officer shall issue an order requiring immediate action to cure such non-compliance or Code violation.
- E. In the event that the owner fails or refuses to cure such non-compliance or Code violations within 15 days of receipt of such order, the Village may perform or contract for the necessary work to bring said property into compliance, with the cost



of making the site safe being assessed against such property and shall be a lien thereon; or may seek any other available legal remedies to ensure compliance.

**F. § 112-10. Penalties for offenses.**

In addition to any other remedies available to the Village, any person committing an offense against any provisions of this Chapter shall be guilty of a violation, punishable as follows: by imprisonment for a term not exceeding 15 days or by a fine not exceeding \$500, or by both such fine and imprisonment. The continuation of an offense against the provisions of this chapter shall constitute, for each day the offense is continued, a separate and distinct offense hereunder.

**§ 112-11. Explosives, Blasting.**

- A. No person shall employ the use of powder, dynamite or other explosive for any purpose within 800 feet of any building or structure with the Village without a permit issued by the Board of Trustees.
- B. A preblast survey of all buildings or structures within a radius of 600 feet of the blast site shall be required prior to issuance of a permit, unless such survey is waived by the Board of Trustees upon satisfactory evidence supplied by the applicant that such survey is not necessary under the circumstances.
- C. No charge shall be used larger than is necessary to achieve the purpose of the blasting or use of explosives.

**Section 4. Effective Date**

This Local Law shall take effect immediately and shall be filed in the Office of the Secretary of State.