

Adopted: 9/8/2020

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Local Law No. 9, Year 2020

A local law to amend Chapter 48 of the Code of the Village of Sea Cliff, in relation to unsafe, dangerous and abandoned buildings.

Section one. Section 48-27 of the Code of the Village of Sea Cliff is hereby amended, to read:

Unsafe buildings are governed by Article XXI of this Chapter.

Section two. Chapter 48 of the Code of the Village of Sea Cliff, entitled "Building Construction" is hereby amended to add a new Article XXI – Unsafe and Abandoned Buildings", including sections 48-93 to 48-115, to read as follows:

Article XXI – Unsafe and Abandoned Buildings

§48-93. Legislative Findings.

The Board of Trustees of the Village of Sea Cliff declares and finds that it is imperative to establish reasonable and uniform standards of care and maintenance of all properties and buildings in the Village, for the safety, health and welfare of the Village and its residents, and to provide for reasonable safeguards and protection of buildings, building occupants and the character of the community.

§48-94. Definitions.

As used in this chapter, the following terms have the meanings indicated herein. The words "or" and "and" as used herein may be construed interchangeably where such meaning is necessary to effectuate the purpose in this Article. Where necessary, the singular shall include the plural and the plural shall include the singular.

CODE ENFORCEMENT OFFICER

The Superintendent of Buildings and any other Code Enforcement Officer appointed by the Village, by whatever other title known or designated.

NUISANCE

Interference with an owner's reasonable use and enjoyment of his property by means, including but not limited to, of smoke, odors, noise or vibration, obstruction of private easements and rights of support, interference with public

rights, such as free-passage long streams and highways and, in addition, activities and structures prohibited as statutory nuisances.

OWNER

Includes the owner of record of any premises, a mortgagee, a tax lien purchaser, servicer, a lienor and any other person having a vested or contingent interest in said premises and anyone exercising rights of ownership therein as indicated by the records of the County Clerk of Nassau County or by the records of the Receiver of Taxes, the Office of the Public Administrator or Surrogate's Court.

POSTING

The fastening, nailing, tacking or substantially securing by any other means of any notice, survey, order, directive or official decision on a building or structure.

PRIVATE NUISANCE

Includes any wrongful act which destroys or deteriorates the property of an individual or of a few persons or interferes with their lawful use or enjoyment thereof, or any act which unlawfully hinders them in the enjoyment of a common or public right and causes them a special injury different from that sustained by the general public.

PUBLIC NUISANCE

One which affects an indefinite number of persons or all the residents of a particular locality or all people coming within the extent of its range or operation, although the extent of the annoyance or damage inflicted upon individuals may be unequal. Maintaining a "public nuisance" is, by act or by failure to perform a legal duty, intentionally causing or permitting a condition to exist which injures or endangers the public health, safety or welfare.

REPAIR

Includes any alteration, structural change or the performance of any necessary or requisite work for the elimination of any hazardous, dangerous or unsafe condition of any dangerous building or structure, within the purview of this chapter.

SERVICE

The delivery of a pleading, notice or other paper in a lawsuit, to the opposite party, so as to charge him with the receipt of it, and subject to its legal effect.

SERVICE OF PROCESS

The communication of the substance of the process to the defendant, provided in the New York State Civil Practice Law and Rules, whereby the defendant/respondent is provided with reasonable notice of the proceedings against him to afford him opportunity to appear and be heard.

SURVEY

A written determination in a report, after an on-site inspection.

UNSAFE BUILDING

Any building or structure that has any or all of the following conditions:

- A. Where any interior wall or walls or other structural load-bearing members list, lean or buckle to such an extent that a plumb line, passing from any overhead supporting member through the center of gravity, falls outside the middle third of its base.
- B. Exclusive of the foundation, shows one-third or more of deterioration of the supporting member or members or one-half or more damage to or deterioration of the non-supporting, enclosing or exterior walls or covering.
- C. Improperly distributed loads upon the floor or roofs or in which the floors or roofs are overloaded or which have insufficient strength to be reasonably safe for the purpose used and which do not meet minimum standards prescribed by the New York State Uniform Fire Prevention and Building Code.
- D. Inadequate or insufficient facilities for ingress and egress in the event of fire, panic or other emergency or those having insufficient stairways, elevators, fire escapes, aisle, passageways, corridors or other means of access and which do not meet minimum standards prescribed by the New York State Fire Prevention and Building Code.
- E. Parts thereof that are so attached or connected in such a manner that they may fall, collapse or cause damage or injury to occupants thereof or other persons or property.
- F. In whole or in part, used for residential, commercial, mercantile, industrial, storage, assembly, institutional or any other purpose for want of repair, lack of sufficient fire escapes or exists or by reason of age, fire or dilapidated condition or from any other cause may now be or shall at any time hereafter become unsafe or dangerous structurally or a fire hazard or a nuisance to the general public.
- G. Those which, in whole or in part, used for residential, commercial, mercantile, industrial, storage, assembly, institutional or any other

purpose for want of repair, lack of sufficient fire escapes or exits or by reason of age, fire or dilapidated condition or from any other cause may now be or shall at any time hereafter become unsafe or dangerous structurally or a fire hazard or a nuisance to the general public.

- H. A vacant and abandoned building.
- I. Those which have been damaged by fire, wind, act of vandalism or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the Village of Sea Cliff.
- J. Those which have become or are so dilapidated, decayed, unsafe or unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation, as are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein or to the people of the Village of Sea Cliff.
- K. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.
- L. Those buildings or structures in which there exist violations of any provision of any code of the Village of Sea Cliff, so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the Village of Sea Cliff.
- M. Those which, in whole or in part, have an electrical wiring system which is defective, or is an improper type of wiring for the purpose intended, or which fails to meet ventilation requirements as prescribed by applicable provisions of law, or which have plumbing, sewage or drainage facilities that are not in conformity with applicable building and plumbing codes.
- N. Those buildings or structures which have a bulkhead, dock or similar structure which, in whole or in part, has become or is so deteriorated, dilapidated, decayed and/or unsafe, as if likely to cause injury to the health safety or general welfare of the occupants, owners or residents of the area.
- O. Those buildings or structures which have been declared dangerous, unsafe or uninhabitable by the Nassau County Health Department, Nassau County Fire Marshal, New York State Department of Environmental Control, United States Environmental Protection Agency, Occupational Safety and Health Administration or any

agency having such independent or concurrent jurisdiction over such health and environmental matters.

VACANT AND ABANDONED

Real property which displays no evidence that any persons are residing there and is not maintained in a manner consistent with the standards set forth in New York Property Maintenance Code.

1. Real property will also be deemed vacant and abandoned if:
 1. A court or other appropriate state or local governmental entity has formally determined, following notice posted at the property address, that such residential real property is vacant and abandoned; or
 2. The owner thereof has issued a sworn written statement, expressing his or her intent to vacate and abandon the property, and an inspection of the property shows no evidence of occupancy to indicate that any persons are residing there.
- P. Evidence of lack of occupancy shall include but not be limited to the following conditions:
 1. Overgrown or dead vegetation;
 2. Accumulation of newspapers, circulars, flyer or mail;
 3. Past-due utility notices, disconnected utilities, or utilities not in use;
 4. Accumulation of trash, refuse or other debris;
 5. Absence of window coverings such as curtains, blinds or shutters;
 6. One or more boarded, missing or broken windows;
 7. The property is open to casual entry or trespass; or
 8. The property has a building or structure that is or appears structurally unsound or has any other condition that presents a potential hazard or danger to the safety of persons.
- Q. Residential real property will not be deemed vacant and abandoned if, on the property:

1. There is an unoccupied building that is undergoing construction, renovation, or rehabilitation that is proceeding diligently to completion;
 2. There is a building occupied on a seasonal basis, but otherwise secure;
 3. There is a building that is secure, but is the subject of a probate action, action to quiet title, or other ownership dispute of which the owner has actual notice;
 4. There is a building damaged by a natural disaster and one or more owners intend to repair and reoccupy the property; or
 5. There is a building occupied by the mortgagor, a relative of the mortgagor or a tenant lawfully in possession.
- R. "Person" shall include a partnership, corporation, association or trustee. The words "persons interested" as used herein, shall be construed to include the owner as herein defined and all other persons interested in the property to which such words refer.

§48-95. Declaration of nuisances.

All unsafe buildings, as defined by §48-94 of this Chapter, are hereby declared to be public nuisances and shall be sealed, boarded up, vacated and/or repaired, secured, demolished and removed as hereinafter provided.

§48-96. Jurisdiction.

Under this Chapter, the Code Enforcement Officer or his/her duly appointed designee shall have jurisdiction for the purpose of sealing, boarding up, fencing in, demolishing, taking down or removing any hazardous, dangerous or unsafe building or structure or for taking remedial action toward making any of said buildings or structures to be vacated by its occupants.

§48-97. Investigation and report.

1. Upon receipt of information that a building or structure may be unsafe, the Code Enforcement Officer shall cause an investigation of the premises to be made and an inspection report submitted and filed in the office of said Code Enforcement Officer.
2. After the report is filed in his/her office, and if the report shall confirm the existence of an Unsafe Building, as defined within §48-94 of this Chapter, the Code Enforcement Officer shall cause a notice to be served upon the owner or his/her executors, legal representatives, agents, lessee or any other person having a vested or contingent

interest in the same, as specified and in compliance with §§48-98 and 48-99.

§48-98. Notice.

The notice shall contain a description of the premises, which shall include the Tax Map designation, a statement of the particulars in which the building or structure is unsafe, and an order requiring the same to be vacated and/or made safe and secure or demolished and removed.

§48-99. Service of process of notice.

Service of process of the notice, as required in §48-97 shall comply with the New York Civil Practice Law and Rules or the following:

1. Service of notice by personal service. Service may be made personally upon the owner or his/her executor, legal representative, agent, lessee or any other person having a vested or contingent interest in the same, as indicated by the records maintained by the Village of Sea Cliff Treasurer Receiver of Taxes, the Office of the Village Clerk, the Office of the County Clerk, the Office of the Public Administrator or the Surrogate's Court.
2. Service of notice by mail. Service may be made by certified or overnight mail, addressed to the last known address, if any, of the owner or his/her executor, legal representative, agent, lessee or any other person having a vested or contingent interest in the same, as indicated by the records maintained by the Town of Oyster Bay Receiver of Taxes, the Office of the Town Clerk, the Office of the County Clerk, the Office of the Public Administrator or the Surrogate's Court. A copy of said notice must also be posted on the dangerous building.
3. Service of notice by publication. In the event that the whereabouts of the owner of the premises or his/her executor, legal representative, agent, lessee or any other person having a vested or contingent interest in the same are unknown and cannot be ascertained after the exercise of reasonable diligence by the Commission or his/her authorized representative or designee, then service of the notice, as provided for in §§48-97 and 48-98 of this Article shall be made by publishing said notice, once a week, for two successive weeks, in the official newspaper of the Village with proof of publication, to be filed in the Building Department and the office of the Village Clerk. A copy of the notice must also be posted on the unsafe building.

§48-100. Duty of person receiving notice.

A person who receives the notice may certify his/her written acceptance or rejection of the particulars and order contained in the notice by either personal service or by overnight mail upon the Code Enforcement Officer. Such acceptance or rejection shall be made within seven (7) days of receipt of the notice if served upon the Code Enforcement Officer personally, or within (6) six days of receipt of the notice if served upon the Code Enforcement Officer by overnight mail. Any failure on the part of the person receiving the notice to respond, as herein prescribed, shall constitute a rejection of the notice.

§48-101. Compliance with notice and order.

If the person served with the notice shall immediately certify his assent to the securing or demolition and removal of the dangerous building or structure in question, he shall be permitted 72 hours within which to commence the abatement of the unsafe conditions affecting the building or structure and shall employ sufficient labor and assistance to secure or demolish, repair and remove such building or structure within a reasonable period of time thereafter.

§48-102. Hearing procedure.

1. Any person entitled to notice, as provided in this Article, may request and shall be granted a hearing before the Village Board of Trustees. The entitlement to said hearing is contingent upon the requesting person's filing of a verified petition with the office of the Village Clerk and the Village Board of Trustees or its designee within seven (7) days' after service of the notice. The petition must contain a brief statement setting forth the grounds for a hearing.
2. Upon receipt of said petition, the Board of Trustees or its designee thereof shall set a time for the hearing and shall give the petitioner seven (7) days' written notice thereof.
3. At the hearing, the petitioner shall be afforded an opportunity to be heard and to provide reasons why the proceeding for the vacating and/or securing or removal of the dangerous building or structure shall be modified or withdrawn.
4. The hearing shall be commenced not later than 14 days after the date on which the petition was filed. The Board of Trustees or designee thereof may postpone the date of the hearing for any reasonable time.
5. If no such written petition shall be so filed within the period specified by §48-100 of this Article or if the petition shall be rejected after the hearing, the Village Attorney is authorized to make application to the Supreme Court, at special term, as hereinafter provided.

6. If a hearing shall be requested and held in accordance with the provisions of this Article, the Board of Trustees or its designee shall make written findings of fact as to whether the building in question is and Unsafe Building, as defined in §48-94 hereof. A copy of said findings of fact shall be served upon the petitioner, occupant of the Unsafe Building or structure or any other person who shall have requested the same at the hearing.
7. If such findings of fact determine that the building or structure is unsafe, the person served with the findings of fact may immediately certify his/her assent to the vacating and/or repairing, securing or demolition and removal of the dangerous building or structure in question and shall be permitted 72 hours, after service of the findings of fact, within which to vacate and/or to commence abatement of the dangerous conditions affecting the building or structure and shall employ sufficient labor and assistance to repair, secure or demolish and remove such building or structure within a reasonable period of time thereafter.

§48-103. Noncompliance; notice of survey.

1. Upon refusal, neglect or failure of the person or persons served with a notice and/or order of findings of fact pursuant to §48-102 to comply with the requirements and specifications therein, within the periods of time as contained in §48-101 or §48-102 herein, or upon his, her, or their rejection of the same, the Village may take such action, as authorized by law, to obtain a Survey of the building or structure, and thereupon shall serve a notice of Survey upon them.
2. The notice of Survey shall state the date, time and place where the Survey will be made and that, if the report of such Survey indicates that such building or structure is unsafe, an application shall be made at a special term of the Supreme Court, Nassau County, for an order determining the building or structure to be a public nuisance and directing that it shall be vacated and/or repaired and secured or demolished and/or repaired, taken down and removed.

§48-104. Survey procedure.

1. The Survey shall be conducted by the Code Enforcement Officer or his/her duly appointed designee.
2. Within a reasonable time after the Survey is completed, the determination thereof shall be made in writing and filed within the office of the Building Department.

§48-105. Reimbursement of costs.

All costs and expenses incurred by the Village in connection with the proceedings in this Article, including any attorneys' fees incurred and the cost of actually removing said building or securing the same, shall be assessed by the Board of Trustees upon the real property in question. The owner, agent or person in control of the building shall be served with a written notice by the Village Clerk, sent by certified mail, of the total costs and expenses incurred by the Village in connection with such proceedings. If such owner or other person shall fail to pay such costs and expenses within 10 days of the postmark date of such notice, the Village Clerk shall thereupon notify the Village Assessor, who shall immediately fix and determine a special assessment against the real property involved in the amount of such costs and expenses, and present such assessment to the Board of Trustees for confirmation. A lien shall attach to the property as of the time such assessment is confirmed, which lien shall have the same priority as a Village tax. Collection and cancellation of such special assessment shall be in accordance with the provisions of the Village Law. This remedy shall be in addition to any other penalty provided for under this Code.

§48-106. Repair and demolition standards.

The following standards shall be followed in substance by the Code Enforcement Officer in ordering repair or demolition or vacation:

1. If the Unsafe Building can reasonably be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be ordered repaired.
2. In any case where an Unsafe Building is 50% damaged or decayed or deteriorated from its original value or structure or where the owner refuses or fails to make ordered repairs, it shall be demolished, and, in all cases where a building cannot be repaired so that it will no longer exist in violation of the terms of this chapter, it shall be demolished. In all cases, where an Unsafe Building is a fire hazard, existing or erected in violation of the terms of this Article or any Village Code provision or law or regulation of the State of New York, it shall be demolished and/or repaired.
3. If the Unsafe Building is in such condition as to make it dangerous to the health, morals, safety or general welfare of its occupants, it shall be ordered to be vacated.

§48-107. Application to Supreme Court.

1. To access the premises to obtain a Survey and whenever a Survey shall determine that the building or structure surveyed is unsafe, the Village Attorney may apply to the Supreme Court, Nassau County, at special term, for an order determining the building or structure to be a public nuisance and directing either that it shall be repaired and

secured or that it shall be demolished, taken down and removed and/or that the occupants be ordered to forthwith vacate the premises.

2. Said application shall be in the form of a special proceeding, with notice upon the owner as prescribed by the provisions of Article 4 of the Civil Practice Law and Rules.
3. Whenever an application for said order is made to the Supreme Court of the State of New York, the Village Attorney shall file a notice of pendency of a proceeding against an unsafe building or structure in the office of the County Clerk of the County of Nassau which shall set forth the following information:
 1. The title of the proceedings, including the name of the Code Enforcement Officer, the Village and the owner, as defined herein, or the person described within §48-99.
 2. The property affected.
 3. A description of the unsafe building or structure, with particulars which set forth the manner in which the building or structure is dangerous and the manner in which the building or structure is to be made safe and secure or demolished and removed.

§48-108. Execution of Supreme Court orders.

Upon receipt of the order of the Supreme Court, the Code Enforcement Officer shall immediately proceed to execute the provisions therein contained and may employ and furnish whatever labor, assistance and materials which may be necessary for that purpose.

§48-109. Interference with Code Enforcement Officer prohibited.

It shall be unlawful for any person, whether interested or not in the property affected by this Article, to interfere, obstruct or hinder the Code Enforcement Officer or his/her representatives or any person acting on his/her behalf in the performing of the work directed by the determination of the Supreme Court, as herein provided or ordered by the Code Enforcement Officer under the terms and provisions of such determination as hereinabove described.

§48-110. Emergencies.

Any provision of this Article to the contrary notwithstanding, where it reasonably appears that there is imminent danger to the life, health, safety and/or welfare of any person unless a dangerous building or structure, as defined herein, is immediately sealed, boarded up, repaired, vacated or demolished, the Code

Enforcement Officer may cause the immediate sealing, boarding up, fencing in, reparation, vacation and/or demolition of such dangerous building or structure. The cost of such emergency repair, vacation or demolition of such dangerous building or structure shall be collected in the same manner as provided in §48-105 hereof.

§48-111. Penalties for offenses.

1. Any person or persons other than those duly authorized by the Code Enforcement Officer shall remove from a building or structure any notice prescribed by this Article prior to compliance with the orders contained in the notice or committing any offense against the provisions of this Article is guilty of a violation punishable by a fine not exceeding \$500 or imprisonment for a period not exceeding 15 days for each offense or by both such fine and imprisonment.
2. Any owner, occupant or lessee of any dangerous building or structure who shall fail to comply with any notice or administrative order to vacate shall be guilty of a violation punishable by a fine not exceeding \$500 or imprisonment for a period not exceeding 15 days for each such offense, or by both such fine or imprisonment.
3. Any person or persons who shall create an Unsafe Building or allow a building to become an Unsafe Building or allow a dangerous building to continue to remain in an unsafe or dangerous condition, in violation of this Article, shall be guilty of an offense punishable by a fine not exceeding \$500 or imprisonment for a period not to exceed 15 days, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$1,000 nor more than \$1,500 or imprisonment for a period not to exceed 15 days, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$1,500 nor more than \$2,500 or imprisonment for a period not to exceed 15 days, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this Article or of such ordinance or regulation shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.
4. The above penalties may be exacted in addition to and without reference to any other charges made or expenditures made pursuant to other sections of this chapter.

§48-112. Violation of directives.

In addition to and notwithstanding any other remedy for an offense against this article, any person violating a directive issued by the Code Enforcement Officer or his/her duly authorized representative, made pursuant to the provisions of this Article, shall be guilty of a violation punishable by a fine not exceeding \$900 or imprisonment for a period not to exceed 15 days, or both.

§48-113. Severability.

If any provision of this Article or the application thereof is held invalid for any reason, the remainder of this Article and the application thereof shall not be affected thereby.

§48-114. Foreclosures; undertaking.

Legislative intent: When residential properties in the Village of Sea Cliff fall vacant and become the subject of foreclosure actions, they frequently become neglected and overgrown with grass, weeds and rubbish, creating an unsightly appearance in the surrounding residential area and detracting from the use, enjoyment and value of surrounding properties. The Village of Sea Cliff is committed to using all legal avenues to proactively address these adverse conditions, to alleviate the burden these vacant properties impose on neighboring residents. This section places the financial burden on any person, business, organization, servicer, bank or lender who commences a foreclosure action against any vacant residential property in the Village of Sea Cliff to deposit funds with the Village after the foreclosure action is commenced, for use in achieving prompt remediation, if or when it shall occur. This new section is clearly in the public interest. It will help deter violations by creating a financial disincentive against allowing the property to lie fallow and unmaintained. It will help to expedite remediation of overgrown grass, weeds and rubbish when they occur. It will also help avoid substantial outlays of public funds in accomplishing same.

1. Except as otherwise provided by law, any person, business, organization, bank or lender who commences a foreclosure action against a residential property (improved with a single-family, two-family or multiple-family residence) that has become vacant shall provide to the Village of Sea Cliff an undertaking in the form of cash, a cash bond, or a letter of credit acceptable to the Village Attorney, in the sum of \$25,000 to secure the continued maintenance of the property free of any violation as provided by Sea Cliff Village Code, during the entire time that vacancy shall exist, as determined by the Code Enforcement Officer. When the foreclosure action is finally discontinued, any unused funds shall be returned upon written request of the party which commenced foreclosure, which request shall be made in writing to the Village Attorney within 90 days of the action's discontinuance.

2. It shall be unlawful for any such person, business, organization, bank or lender to fail to properly deposit such cash, a cash bond, or a letter of credit within 45 calendar days after the foreclosure action is commenced.
3. If the Code Enforcement Officer determines that any property referenced in Subsection A above is being maintained in violation of this Article, then, in addition to or in lieu of any other enforcement remedy at his/her disposal, the Code Enforcement Officer may utilize the deposited funds to pay the full and actual cost of actions necessary to eliminate the violation.
4. If any such funds are utilized as set forth above, such person, business, organization, bank or lender shall restore such funds to the full amount referenced in Subsection A above, within 15 calendar days after written demand by the Village of Sea Cliff, sent by regular mail and certified mail, return receipt requested, to such person, business organization, bank or lender at an address designated by them for service of notices, or else to their last known address. It shall be unlawful for such person, business, organization, bank or lender to fail to timely restore funds as required herein.
5. If the Code Enforcement Officer determines that any property referenced in Subsection A above is being maintained in violation of this section, and no cash, cash bond, or letter of credit acceptable to the Village Attorney has been provided or replenished as required by Subsection A or D above, then, in addition to or in lieu of any other enforcement remedy at his/her disposal, the Code Enforcement Officer may serve a written demand upon such person, business, organization, bank or lender to provide the required cash, cash bond, or letter of credit acceptable to the Village Attorney, within 10 days after the date of such written demand, subject to the following:
 4. The forty-five-day time allotment of Subsection B hereof is superseded;
 5. The written demand shall be served in any manner authorized to obtain personal service under Article 3 of the Civil Practice Law and Rules of the State of New York, or otherwise at applicable law; and
 6. If no cash, cash bond, or letter of credit acceptable to the Village Attorney has been provided or replenished as required by Subsection A or D above, within 10 days after the date of such written demand, then such person, business, organization, bank or lender shall be subject to fines of up to triple the maximum amount set forth under §48-111(C) of this

chapter, with each calendar day of failure to timely provide same constituting a separate additional offense, as set forth under §48-111 of this chapter.

- S. If any provision of this section is declared unenforceable for any reason by a court of competent jurisdiction, such declaration shall affect only that provision, and shall not affect the remainder of this section, which shall remain in full force and effect.
- T. This section shall apply to all foreclosures commenced after the effective date of this section. It is to be considered remedial legislation and shall be liberally construed so that substantial justice is done.

§48-115. Nonresidential foreclosures; undertaking.

Legislative intent: When nonresidential properties in the Village of Sea Cliff fall vacant and become the subject of foreclosure actions, they frequently become neglected and overgrown with grass, weeds and rubbish, creating an unsightly appearance in the surrounding area and detract from the use, enjoyment and value of surrounding properties and impair the ability for people to, among other things, shop, conduct commerce, attend meetings or go to school in a safe, clear, and aesthetic environment. The Village is committed to using all legal avenues to proactively address these adverse conditions to alleviate the burden these vacant properties impose on a neighborhood. This section places the financial burden on any person, business, organization, bank or lender who commences a foreclosure action against any vacant property in the Village of Sea Cliff not subject to the provisions of §48-114 of this chapter to deposit funds with the Village after the foreclosure action is commenced, for use in achieving prompt remediation, if or when it shall occur. This section is clearly in the public interest. It will help deter violations by creating a financial disincentive against allowing the property to lie fallow and unmaintained. It will help to expedite remediation of overgrown grass, weeds and rubbish, when they occur. It will also help avoid substantial outlays of public funds in accomplishing same.

- 1. Except as otherwise provided by law, any person, business, organization, bank or lender who commences a foreclosure action against a property not subject to the requirements of §48-114 of this chapter (including, among other property, commercial properties) that has become vacant or subsequent parties of such an action, shall provide to the Village of Sea Cliff an undertaking in the form of cash, a cash bond, or a letter of credit acceptable to the Village Attorney, in the sum of \$35,000 to secure the continued maintenance of the property free of any violations as provided for by the Village of Sea Cliff Code, during the entire time that vacancy shall exist, as determined by the Code Enforcement Officer. When the foreclosure action is finally discontinued, any unused funds shall be returned

upon written request of the party which commenced foreclosure, which request shall be made in writing to the Village Attorney within 90 days of the action's discontinuance.

2. It shall be unlawful for any such person, business, organization, bank or lender to fail to properly deposit such cash, a cash bond, or a letter of credit within 45 calendar days after the foreclosure action is commenced.
3. In the event that the Code Enforcement Officer determines that any property referenced in Subsection A above is being maintained in violation of this section, then, in addition to or in lieu of any other enforcement remedy at this/her disposal, the Commission may utilize the deposited funds to pay the full and actual cost of actions necessary to eliminate the violation.
4. In the event that any such funds are utilized as set forth above, such person, business, organization, bank or lender shall restore it to the full amount referenced in Subsection A above, within 15 calendar days after written demand by the Village of Sea Cliff sent by regular mail and certified mail, return receipt requested, to such person, business, organization, bank or lender at an address designated by them for service of notices, or else to their last known address. It shall be unlawful for such person, business, organization, bank or lender to fail to timely restore funds as required herein.
5. In the event that the Code Enforcement Officer determines that any property referenced in Subsection A above is being maintained in violation of this section of this chapter and no cash, cash bond, or letter of credit acceptable to the Village Attorney has been provided or replenished as required by Subsection A or D above, then in addition to or in lieu of any other enforcement remedy at his/her disposal, the Code Enforcement Officer may serve a written demand upon such person, business, organization, bank or lender to provide the required cash, cash bond, or letter of credit acceptable to the Village Attorney, within 10 days after the date of such written demand, subject to the following:
 1. The forty-five-day time allotment of Subsection B hereof is superseded;
 2. The written demand shall be served in any manner authorized to obtain personal service under Article 3 of the Civil Practice Law and Rules of the State of New York, or otherwise at applicable law; and

3. In the event that no cash, cash bond, or letter of credit acceptable to the Village Attorney has been provided or replenished as required by Section A or D above, within 10 days after the date of such written demand, then such person, business, organization, bank or lender shall be subject to fines of up to triple the maximum amount set forth under §48-111(C) of this chapter and a minimum fine of \$500 for each day of the noncompliance until such time as that person or entity complies with the provisions of this section, or by imprisonment for not more than 15 days, or by both such fine and imprisonment, with each calendar day of failure to timely provide same constituting a separate additional offense, as set forth under §48-111.
- U. If any provision of this section is declared unenforceable for any reason by a court of competent jurisdiction, such declaration shall affect only that provision, and shall not affect the remainder of this section, which shall remain in full force and effect.
 - V. This section shall apply to all nonresidential foreclosures commencing after the effective date of this section. It is to be considered remedial legislation and shall be liberally construed so that substantial justice is done.

Section two. Any local law, ordinance, or resolution of the Village of Sea Cliff in conflict with this local law is hereby repealed to the extent of such conflict, except that such repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of such local law, ordinance or resolution prior to the effective date of this local law.

Section three. If any clause, sentence, paragraph, section, article, or part of this local law shall be adjudged to be invalid by any court of competent jurisdiction, such judgment shall not affect, impair or invalidate any other part of this local law, or the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, article, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section four. This local law shall take effect immediately upon adoption and filing of such law pursuant to the Municipal Home Rule Law.