

Resolution No. 38 February 13, 2024 Regular Board Meeting

RESOLUTION INTRODUCING PROPOSED LOCAL LAW NO.1 OF 2024, ENTITLED
“UNSAFE STRUCTURE LAW OF THE TOWN OF CHESTERFIELD”

The following resolution was offered by Councilperson John Casey

BE IT RESOLVED, that the Town of Chesterfield hereby introduces proposed Local Law No. 1 of 2024, entitled “Unsafe Structure Law of the Town of Chesterfield”, reading and providing as follows:

**Town of Chesterfield Local Law No.1 of 2024
Unsafe Structure Law of the Town of Chesterfield**

TITLE. This local law shall be known and cited as "Unsafe Structure Law of the Town of Chesterfield" being Local Law number 1 of 2024.

SECTION 1. PURPOSE. Unsafe Structures pose a threat to life and property in the Town of Chesterfield. Buildings and structures may become unsafe because of damage by fire, the elements, age or general deterioration. Vacant buildings not properly secured at doorways and windows also serve as an attractive nuisance for young children who may be injured therein, as well as a point of congregation by vagrants and transients. A dilapidated building may also serve as a place of rodent infestation, thereby creating a health menace to the community. It is the purpose of this Local Law to provide for the safety, health, protection and general welfare of persons and property in the Town of Chesterfield by requiring such unsafe buildings be repaired or demolished and removed.

SECTION 2. AUTHORITY. This Local Law is enacted pursuant to the authority of the New York State Municipal Home Rule Law Section 10, of the Town Law.

SECTION 3. DEFINITIONS.

- a) STRUCTURE- Any building, construction, house, mobile home or partially completed construction of any kind, for any use, including but not limited to residential, commercial and industrial.
- b) CODE ENFORCEMENT OFFICER- The Code Enforcement Officer of the Town of Chesterfield, or such other person appointed by the Town Board to enforce the provisions of this local Law.
- c) OWNER- The Title Owner of any interest in real property including any Mortgage holder when such Mortgage holder is the Owner in possession. Where there are multiple Owners of any real property, notice to any one of them shall satisfy the requirements of this Local Law.
- d) UNSAFE BUILDING - All buildings or structures which have any or all of the

following defects shall be deemed dangerous or unsafe buildings:

- a. Those whose exterior walls or other vertical structural members list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle third of its base.
- b. Those which, exclusive of the foundation, show 33% or more of damage or deterioration of the supporting member or members or 50% of damage or deterioration of the non supporting enclosing or outside walls or covering.
- c. Those which have improperly distributed loads upon the floors or roofs or for which the floors have insufficient strength to be reasonably safe for the purpose used.
- d. Those which have been damaged by fire, wind 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 Town of Chesterfield.
- e. Those which have become, or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fail to provide the amenities essential to decent living that they are unfit for human habitation or are likely to cause sickness or disease, so as to threaten injury to the health, morals, safety or general welfare of occupants.
- f. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of occupants.
- g. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of evacuation.
- h. Those which have parts thereof which are so attached that they could fall and injure members of the public or property of others.
 - i. Those which, because of their condition, are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of the Town.
- j. Those which are open at the doorways or windows or walls, making them accessible to and an object of attraction to minors, as well as to vagrants and other trespassers.
- k. Those which are, or are likely to become, places of rodent infestation.
- l. Those which consist of debris, rubble or parts of buildings left on the ground after demolition, reconstruction, fire or another casualty.

SECTION 4. INSPECTION and REPORT. If the Code Enforcement Officer of the Town of Chesterfield receives a complaint or otherwise learns that a structure within the Town has potentially become unsafe or dangerous to the public, is open at the doorways and windows, making it accessible to and an object of attraction to minors, as well as to vagrants and other trespassers; is or may become a place of rodent infestation; or presents any other danger to the health, safety, morals and general welfare of the public, he or she shall make a formal inspection of the structure and report in writing to the Town Board of the Town of Chesterfield the findings and recommendations in regard to condition and its removal or repair. The Owner may also engage, at their own expense, an engineer to inspect the premises and provide information to the Code Enforcement Officer.

SECTION 5. TOWN BOARD ORDER. The Town Board shall thereafter consider such report and by resolution determine, if it its opinion the report so warrants, that such building is unsafe and dangerous and order its repair if the same can be safely repaired or its demolition and removal, and further order that a notice be served upon the persons and in the manner provided herein.

SECTION 6. NOTICE; CONTENTS. The Code Enforcement Officer of the Town of Chesterfield shall prepare a Notice which shall include (1) a description of the premises; (2) a statement of the particulars in which the building or structure is unsafe or dangerous; (3) an order outlining the manner in which the structure is to be made safe and secure, or demolished and removed; (4) a statement that the securing or removal of such structure shall commence within a period of not more than ten (10) days to thirty (30) days of the service of the notice, and shall be completed not more than thirty (30) days to ninety (90) days thereafter, the exact time frame for such commencement and completion to be determined in each instance by the Town Board, unless for good cause shown such time shall not be extended; (5) the date, time and place of a hearing before the Town Board in relation to such dangerous or unsafe structure, which hearing shall be scheduled no less than five (5) business days from the date of service of the notice and which any interested party may present evidence or argument regarding the condition of the structure; and (6) a statement that in the event of neglect or refusal to comply with the order to secure or demolish and remove the building, the Town Board is authorized to provide for its demolition and removal, to assess all expenses thereof against the land on which it is located or to institute a special proceeding to collect the costs of demolition, including legal expenses.

SECTION 7. SERVICE OF NOTICE. The Notice shall be served by (1) personal service on the Owner or the Owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the structure as shown by the records of the receiver of taxes or that of the County Clerk. If no such person can be reasonably found then by mailing such owner by registered mail, the Notice shall be addressed to the last known address of the owner or the owner's executors, legal representatives, agents, lessees or other person having a vested or contingent interest in same, as shown by the records of the receiver of taxes; (2) by personal service of a copy of such notice upon any adult person residing in or occupying said structure if such person can be reasonably found; and (3) a copy of the notice shall be posted on the premises.

SECTION 8. FILING OF NOTICE. A copy of the Notice shall be filed in the Office of the Essex County Clerk of the County of Essex.

SECTION 9. HEARING. The hearing shall be conducted before the Town Board. The Code Enforcement Officer shall present his or her report to the Town Board in writing. The owner or his or her representative, if present, shall call such witnesses as he or she deems necessary. The Town Board shall make written findings of fact from the testimony offered as to whether or not the structure in question is an unsafe building. If the owner shall neglect, fail or refuse to comply and shall fail to appear at said hearing, then the Town Board shall direct the repair or demolition

of the building forthwith. If such owner shall neglect, fail or refuse to comply and after appearing at said hearing, the Town Board finds that the building is a public nuisance and directs its repair or demolition, the owner shall repair or demolish said building within the time prescribed by the Town Board.

SECTION 10. REFUSAL TO COMPLY. Should the Owner fail or refuse to repair or remove the structure within the time provided, the Town Board may make such repairs as the Town Board deems necessary in order to make the structure safe to the public including removal of such structure.

SECTION 11. ASSESSMENT OF EXPENSES. All expenses incurred by the Town in connection with the proceedings to repair and secure or demolish and remove the unsafe building, including the cost of actually removing such building, shall be assessed against the land on which such building is located or be collected by commencement of a special proceeding against the owner of said unsafe or dangerous building or structure.

SECTION 12. EMERGENCY CASES. Where it reasonably appears that there is a present a clear and imminent danger to the life, safety or health of any person or property, unless an unsafe building is immediately repaired and secured or demolished, the Town Board may by resolution authorize the building inspector to immediately cause the repair or demolition of such unsafe building. 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 10 above.

SECTION 13. PENALTIES. Any violation of this Law shall be punishable by a fine of not more than \$250 or imprisonment for not more than 15 days, or both. Each day's continued violation shall constitute a separate offense.

SECTION 14. Each separate provision of this local law shall be deemed independent of all other provisions herein, and if any provision shall be deemed invalid, all other provisions hereof shall remain valid and enforceable.

SECTION 15. All ordinances, local laws and parts thereof inconsistent with this local law and parts hereof are hereby repealed.

SECTION 16. EFFECTIVE DATE. This Local law shall take effect immediately upon filing in the office of the New York State Secretary of State.

BE IT FURTHER RESOLVED that the Town Board of the Town of Chesterfield will hold and conduct a public hearing on the foregoing proposed local law on the 13th day of February, 2024 at 5:45 pm.

BE IT FURTHER RESOLVED that the Clerk of the Town Board of the Town of Chesterfield will publish a notice of such hearing in the designated Town newspaper at least five (5) days prior to said hearing.

This resolution was duly seconded by Councilperson Billy Mitchell, and adopted upon a roll-call vote as follows:

AYES: Councilman Casey, Councilman Mitchell, Councilman Gload and Supervisor Barber

NOES:

ABSENT: Councilman Klages