

NOTICE OF PUBLIC HEARING

Please take notice that the Town Board for the Town of Bolton shall conduct a public hearing concerning the enactment of Town Ordinance # 80 providing for the adoption of the property maintenance standards as specified in the New York State Property Maintenance Code for the Town of Bolton. A copy of the proposed Ordinance # 80 shall be available from the Town Clerk's Office. The public hearing shall be conducted at the Town of Bolton Town Hall at 4949 Lakeshore Drive, Bolton Landing New York by the Town Board on December 7, 2021 at 6:00 p.m. or as soon thereafter as may be practicable. At such public hearing all members of the public shall be entitled to be heard on the matter. Any written correspondence timely received by the Town Clerk's Office prior to the close of business on December 7, 2021 shall be read into the record. At the conclusion of the public hearing, the Town Board shall give consideration to the enactment of Ordinance # 80.

Jodi Petteys
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PROPOSAL FOR ENACTMENT

ORDINANCE # 80 TOWN OF BOLTON ADOPTION of the NEW YORK STATE PROPERTY MAINTENANCE CODE STANDARDS

**§ 80-1 Intent; Town of Bolton adoption of New York State
Property Maintenance Code.**

A.

The Property Maintenance Code of New York State which is intended to apply statewide and constitute regulations that are considered enforceable municipal requirements, when and as adopted by a municipality, shall apply to all existing residential and nonresidential structures and all existing premises, and shall constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards, and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; and the occupancy of existing structures and premises. The Property Maintenance Code is intended to provide minimum statewide requirements to safeguard public safety, health and general welfare insofar as they are affected by the occupancy, use and maintenance of structures and premises. The purpose of this ordinance is to adopt such statewide regulations and authorize local enforcement of such requirements in the Town of Bolton.

B.

The Town Board of the Town of Bolton finds that unkept, unsanitary, and otherwise improperly maintained premises and structures within the Town, in addition to the obvious hazards which these conditions pose to the public health, safety and welfare, adversely affect the value, utility and habitability of property within the Town as a whole and can potentially cause substantial damage as well as blight to adjoining and nearby properties. A property which is inadequately maintained may substantially reduce the value of adjoining properties and neighborhoods. If one or any number of properties are unkept, unsightly, unsanitary and/or dangerous, the habitability and economic well-being in the Town, as a whole, is also materially and adversely affected. This ordinance authorizes the Town of Bolton and its municipal administration all necessary and proper powers to remedy unkept, unsightly, unsanitary and improperly maintained or substandard structures or premises that may be found to exist within the Town, and to otherwise enforce the Property Maintenance Code and charge the costs and disbursements of such action in correcting violations to those responsible parties as a civil judgment and against the properties themselves as a special assessment. This ordinance is an exercise of the Town's inherent police powers, and it shall be liberally construed to effect a purpose to protect the health, welfare, and general wellbeing of inhabitants within the community.

C.

In order to protect the general health, welfare and safety of the residents and visitors in the Town of Bolton, and to promote the general welfare of the

community, the Town Board hereby adopts the Property Maintenance Code of the State of New York in its current version and as such statewide regulations may be amended from time to time. Copies of the provisions of the New York State Property Maintenance Code shall be on file with the Town Clerk and shall be made available to members of the general public upon request.

§ 80-2 Conflicts with other regulations.

Where differences may occur between any provisions of this ordinance and other referenced standards (e.g., the New York State Uniform Fire Prevention and Building Code), it is intended that in such instances the more stringent provisions shall apply. Any repairs, additions or alterations to a structure, changes of occupancy, changes in use or increase in intensities of use of properties and the general maintenance and occupancy of properties in the Town of Bolton shall be in accordance with the procedures and provisions of the New York State Uniform Fire Prevention and Building Code and National Fire Protection Association regulations or other referenced standards. This ordinance shall not impair the enforcement of any alleged violations of any other town ordinance, code, local law or other regulation existing prior to the effective date, and any such violations shall be governed and shall continue to be punishable to the full extent of the law under the provisions of those ordinances, codes, local laws or regulations in effect at the time any violation is alleged to have been committed.

§ 80-3 Enforcement; penalties for offenses.

A.

The Town Planning and Zoning Office, any designated Code Enforcement Officer of the Town as an agent for the Town Planning and Zoning Office or other officer duly authorized by the Town Board shall be authorized to ensure compliance with this ordinance.

B.

Such authorized person acting as Code Enforcement Officer, upon proper notification and with sufficient cause, shall be authorized upon probable cause to enter a structure or premises at reasonable times to inspect for a violation of this ordinance. Prior to entering into a space not otherwise open to the general public, the Code Enforcement Officer shall make a reasonable effort to locate the owner or other person having charge or control of the structure or premises, present

proper identification and request entry for inspection. If requested entry is refused or not obtained, the Code Enforcement Officer shall pursue other recourse for authorized inspection as provided by law.

C.

Notice of violation.

(1)

Under circumstances where the Code Enforcement Officer determines that there have been one or more violations of this ordinance and there are sufficient grounds to believe that a violation has occurred, notification shall be provided to the owner and to any occupant person or persons alleged to be responsible. Such notice shall:

(a)

Be in writing;

(b)

Include a description of the property sufficient for identification;

(c)

Include a statement of the conditions and reason or reasons upon which the notice is being issued with a specification of the provision, rule, regulation or statutory requirement(s) alleged to be violated; and

(d)

Include a description of the requirements to remedy the alleged violation(s) specifying the repairs, improvements, or other actions necessary to bring the structure and/or premises into compliance within the provisions of this ordinance and a reasonable deadline within which to accomplish satisfactory compliance.

(2)

Such written notification shall be deemed to be properly served when a copy is either delivered to the owner personally or, in the absence of personal service, sent by certified mail in a postpaid sealed envelope addressed to the owner at the owner's address of record. Under circumstances where the certified mailing is returned as refused or it is determined to be undeliverable to the indicated addressee, a copy of the notification shall be posted in a conspicuous place in or about the structure or premises affected by such notice. Where service of process cannot reasonably be peacefully accomplished in any manner provided herein, the Code Enforcement Official shall be authorized to effectuate service of process of the notification through

use of any uniformed law enforcement person in any manner permitted by the New York State Civil Practice Laws and Rules. Service of the specified notice in any of the foregoing methods upon the owner, the owner's agent, upon an occupant or upon any person responsible for the structure or premises shall constitute satisfactory service of notification of violation upon the owner.

D.

In addition to such sanctions or penalties prescribed by state law for violations of the New York State Uniform Fire Prevention and Building Code, or for violations of any other provisions of Town Code or any term or condition of any building permit, certificate of occupancy/compliance, temporary certificate, stop-work order, operating permit or other notice or order issued by the Town pursuant to any provision of Town Code or ordinance, any violations of this ordinance shall provide for a sanction to be imposed by a court of competent jurisdiction by any of the following civil remedies or any combination thereof:

(1)

A civil monetary penalty in an amount up to \$1,000 per violation **for each day or part thereof during which such violation or violations continue; and/or**

(2)

Such order by a court of competent jurisdiction requiring a violator to remedy or remediate such violation(s) within a court designated period of time to bring the property into compliance.

E.

Each day that a violation of this ordinance continues after due notice has been served shall be deemed a separate offense and the alleged circumstances shall be considered a continuing violation until the violation is corrected, and such violator shall be subject to any of the above civil remedies, or any combination thereof, for each day that the property, structure, or premises remains in violation.

F.

In the event that any owner fails to comply in a timely manner with any order of the Code Enforcement Officer requiring remediation of the alleged violation, in addition to any remedy to which the Town may otherwise be entitled to by the provisions of this ordinance, the Town shall be authorized to engage the services of a private

contractor to perform whatever actions are necessary to bring the structure or premises into compliance with the provisions of this ordinance . Prior to engaging a private contractor for said purpose, the Code Enforcement Officer shall provide written notice to the owner advising of the Code Enforcement Officer's intent to engage a private contractor for said purpose. The owner shall have a period of ten (10) days from the date of the mailing of said notice to either arrange to perform the required work or actions to bring the structure or premises into compliance, or, in the alternative, the owner shall be afforded an opportunity to file an “appeal” letter with the Town Clerk appealing the decision of the Code Enforcement Officer. The Town Board shall process said appeal by giving written acknowledgement to the property owner and written notification to all property owners within five hundred feet (500') of the subject premises concerning such appeal and the Town Board shall forthwith schedule a public hearing within sixty (60) days of receipt of the owner’s appeal for the purpose of considering whether to either uphold the decision of the Code Enforcement Officer or to vacate or modify the decision of the Code Enforcement Officer with respect to the alleged violation of this ordinance and requirements imposed to remedy the alleged violation. At such public hearing the owner shall be entitled to be represented by legal counsel, the owner shall be entitled to a full “due process” hearing on such appeal and the Town Board shall consider all aspects of the alleged violation and orders to remedy and members of the public shall also be afforded an opportunity to be heard on the matter. Within ten (10) days after the conclusion of such hearing on appeal, the Town Board shall render a written decision. The owner/appellant shall thereafter fully comply with the Town Board’s decision or such owner/appellant may appeal the Town’s “final determination” as provided in state statute.

G.

Under such circumstances where the Town incurs costs and expenses in order to bring an alleged violator or their structure or premises into compliance with this ordinance, the Town shall have the authority to assess all expended costs and disbursements incurred against such property and recover same as a civil judgment against the owner(s) or occupant(s) found to be in violation hereof. Such assessment of costs and disbursements, which shall be considered in addition to any civil monetary penalty or sanction imposed by a court of competent jurisdiction, shall be collected in the same manner as a civil judgment and may also be added to the premises’ real property taxes and may be collected as provided by law.

H.

Nothing contained in this ordinance shall prevent the Town from seeking judicial or equitable relief from a court of competent jurisdiction to abate violations of this ordinance. No remedy or penalty specified in this ordinance shall be considered an exclusive remedy and the town shall have available all methods or remedy available in law or equity to address any violation described in this ordinance. Each remedy or penalty specified herein shall be in addition to, and not in substitution or limitation of, any other remedies or civil penalties specified in this ordinance or in any other applicable law.

§ 80-4 **Effective Date**

This ordinance shall be deemed in full force and effect upon enactment and in accordance with the requirements of law.