

§ 75-1 Purpose.

This chapter is adopted to promote the protection, order, safety, health and well-being of persons and property within the Village by establishing a procedure for prior review and permitting of the demolition of buildings and structures within the Village for the purpose of avoiding or mitigating adverse health, safety, economic, traffic and aesthetic impacts associated with such demolitions.

§ 75-2 Applicability.

The requirements of this chapter shall apply to all demolitions on property located within the Village initiated on or after the effective date hereof.

§ 75-3 Definitions.

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

- BUILDING: As defined in § 160-8.
- CODE ENFORCEMENT OFFICER: As defined in § 62-2.
- COMMERCIAL STRUCTURE: Any building or structure other than a residential structure.
- DEMOLITION and DEMOLISH: The demolition, razing, dismantling or tearing down of an existing building or structure or any part thereof.
- DEMOLITION PERMIT: The permit required for demolition of an existing building or structure.
- HISTORIC BUILDING OR STRUCTURE:
 - A building or structure that is listed on the National Register of Historic Places, or that has been proposed by the New York State Board of Historic Preservation for a recommendation to the State Historic Preservation Officer for nomination for inclusion in said National Register, or that is listed on the State Register of Historic Places; or
 - Any building or structure contiguous to a building or structure described in Subsection A, such that demolition of such building or structure could materially impact such building or structure described in Subsection A.
- PLANNING BOARD: The Village of Montour Falls Planning Board.
- RESIDENTIAL STRUCTURE: A building consisting of a single-family or two-family dwelling, with no nonresidential use.
- STRUCTURE: As defined in § 160-8.
- ZONING BOARD OF APPEALS: As defined in § 160-87.

§ 75-4 Demolition permit; issuance, terms and conditions.

A No person shall demolish any building or structure having a gross floor area or use area of 751 square feet or more, or any historic building or structure regardless of size, or which adjoins or is within 20 feet of any building or structure owned by another person, without first obtaining a demolition permit, signed by the Code Enforcement Officer, allowing such demolition. If a question should arise in any particular instance as to whether a demolition permit is required pursuant to the foregoing sentence, determination of such question shall be made by the Code Enforcement Officer. Such permit shall be applied for by and issued to the owner of the property or his representative pursuant to the following procedures:

- (1) Written application for a demolition permit shall be on forms provided by the Village of Montour Falls.
- (2) Said application form shall require the name, address and telephone number of the owner; the names, addresses and telephone numbers of all contractors (general, special or salvage) authorized by the owner or his representative or employed by the Village to perform work; insurance coverage information, including the name of each insurance company and policy number, the date or expiration of the policy and the type of insurance and coverage limitations for the owner and every contractor involved in the demolition; a written description of the building or structure to be demolished; the identification of the presence of asbestos or any other hazardous material in the building or structure to be demolished and the names, addresses, telephone numbers and evidence of applicable licenses of the contractors that will perform the demolition and removal of such material; starting and estimated completion dates; provision for disposal of refuse, including a statement of any permits required for the transportation and disposal of hazardous materials, and including plans for the diversion of relevant waste materials or refuse from landfills or similar to appropriate recycling or reuse centers and/or processes; a descriptive statement as to security and/or barricades to safeguard premises from unauthorized entry and to provide for the protection of the general public; during demolition and cleanup work; and a plan detailing the proposed cleanup of all refuse and rubble incident to the demolition.

B Certificate of insurance; indemnification.

- (1) As part of the application for a demolition permit and prior to the issuance of any permit, a certificate of insurance for liability shall be delivered to the Code Enforcement Officer of the Village of Montour Falls for each contractor involved in the demolition or removal, including salvage and cleanup. The minimum limits of said liability for the demolition of buildings and structures for commercial general liability and commercial auto shall be no less than \$1,000,000 and also must meet the statutory limits for workers' compensation coverage. The Code Enforcement Officer shall have the authority to increase this minimum limit as a condition to the issuance of a permit and shall have the authority to increase the amount of insurance required after the permit is issued, at any time during the demolition or cleanup, if he/she deems such increase to be necessary. This minimum insurance requirement does not apply when the owner of an owner-occupied dwelling personally proposes to demolish an accessory building less than 751 square feet in size.
- (2) Insurance certificates or agreements on behalf of each contractor involved in the demolition, including salvage and cleanup, in a form approved by the Village Attorney, naming as additional insured Village of Montour Falls, its officers, employees and agents, shall be delivered to the Code Enforcement Officer as agent for the Village of Montour Falls prior to the commencement of demolition.
- (3) The permit holder shall indemnify, defend and hold harmless the Village of Montour Falls, its officers, employees and agents from all claims, costs, liabilities and expenses arising from any circumstance throughout the demolition process, from preparation to completion and cleanup, including the acts or omissions of contractors and subcontractors hired by the permit holder, and shall execute an agreement to this effect on a form prescribed by the Code Enforcement Officer as a condition to permit issuance.

C Terms and conditions of permit.

- (1) Prior to issuing a demolition permit, the Code Enforcement Officer must be satisfied that the work will conform to all applicable state and local laws, rules and regulations, including but not limited to laws pertaining to preservation of historic structures and that the work will be executed in a safe and expeditious manner. An applicant for a demolition permit may be required to submit to the Code Enforcement Officer appropriate plans or certifications prepared by a licensed structural engineer, at the applicant's sole expense.
- (2) Prior to a demolition, the owner or contractor will erect a system of barricades around the construction site and have all utility services, including but not limited to cable television, electric, gas, water and telephone services, disconnected by the respective utility companies and provide proof of said disconnection to the Code Enforcement Officer.
- (3) In the case of the demolition of an existing building or structure which has a common or party wall with one or more adjoining buildings or structure, the owner of the building or structure to be demolished shall be responsible for and bear all costs in relation to the safeguarding of said adjacent walls.
- (4) Where beams, girders and joists are removed from party walls, the resulting pockets in said walls shall be cleaned out and filled with suitable materials. Necessary repairs shall be made to put the party wall in a safe condition. This work shall be done at the expense of the property owner having said demolition performed.
- (5) Where such demolition work is to be made and no immediate new construction is intended at the site, the adjacent-party type walls shall be in an acceptable condition as far as appearance is concerned. Such maintenance shall consist of painting, installation or repairs of walls, copings and flashings, waterproofing of joints, waterproof coatings, installation or repair to termite shields, treatment of soil or other suitable means. In addition to the repair of all joists, pockets and similar openings, the owner of the demolished building will be required to remove all old plaster, wallpaper and other decorative material in addition to any loose work, trim or other unrecorded material, subject to the approval of the Village of Montour Falls Code Enforcement Officer.
- (6) During the demolition work, debris must be systematically and regularly removed from the site and not be allowed to accumulate or cause any obstruction that would prevent movement within the property or the blocking of means, egress and ingress from the property. At least 25%, as appropriately estimated given project scope and costs, of demolition waste materials, taken here to mean rubble, debris, or other refuse, from an applicable project shall be diverted from a landfill or similar to appropriate recycling or reuse processes or centers. The Code Officer retains discretion in determining feasibility, scope, cost, and other factors related to recycling and reuse plans. The Code Officer may also choose to waive or edit the minimum requirement when assessing a Demolition Permit Application if they deem it to be infeasible, unnecessarily restrictive, or otherwise unnecessary for a given project. After demolition and no new immediate construction is intended, the site shall be backfilled to normal grade and the surface left in an aesthetically acceptable condition and barricades removed.
 - (a) Demolition waste materials here shall only mean feasibly recycled or reused materials, and shall not refer to unusable materials including those that are rotting or otherwise corrupted, or hazardous materials, for which separate provisions are made herein.

- (7) 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. The bearing or foundation wall shall be removed up to a depth of at least 24 inches below any future grade to be established.
 - (8) Demolition of any building or structure shall be carried on only during daylight hours.
 - (9) In-ground storage tanks on the demolition site shall be removed from the demolition area in accordance with all applicable federal, state, county and Village governmental regulations.
 - (10) The use of explosives in connection with demolition of buildings or structures in the Village of Montour Falls is prohibited.
 - (11) In the event that the building or structure to be demolished contains asbestos or any other hazardous material, the owner and/or contractor shall notify the Code Enforcement Officer of its presence prior to any demolition. The asbestos or other hazardous material shall be removed from the building in an environmentally sound manner by a contractor licensed (to the extent licensure is required by applicable law) to perform such removal and in strict compliance with all federal, state, county and Village regulations governing removal of such materials.
- D In addition to the foregoing provisions, in the event that any application for a demolition permit shall pertain to the demolition of an historic building or structure, the following provisions shall apply:
- (1) All applications for a demolition permit pertaining to the demolition of an historic structure or building shall be subject to review by the Planning Board, as herein provided.
 - (2) The Code Enforcement Officer shall determine that all conditions to the approval of the demolition permit, including but not limited to the requirements of Subsections A and B above, have been satisfied, and shall issue a written determination of such satisfaction. Within five days following the issuance of such written determination, the Code Enforcement Officer shall refer the application to the Planning Board, and shall include such written determination with such referral.
 - (3) Upon the Planning Board's receipt of the application, the Planning Board shall review the issuance of the application, and shall conclude such review within 30 days following its receipt of the referral of the application from the Code Enforcement Officer.
 - (4) Following conclusion of the review required by Subsection D(3) above, the Planning Board shall refer the application back to the Code Enforcement Officer, together with a notice that such review has concluded.
 - (5) Upon receipt of the application from the Planning Board following the referral described in Subsection D(4) above, the Code Enforcement Officer may proceed to issue the demolition permit, provided that all conditions for such issuance remain satisfied.
- E The Code Enforcement Officer is empowered to make periodic inspections throughout the course of a demolition and issue a stop-work order at any point if, in his/her judgment, the work is not being performed in a safe and conforming manner.

§ 75-5 Permit time limit.

- A. All demolition permits shall provide for a time limit within which demolition and cleanup shall be completed, which shall not exceed 30 days. Such time limit shall take into account the time necessary to obtain a written acceptance of completion pursuant to Subsection B below. Said time limit may be extended for two periods of up to 20 days

each upon application to the Code Enforcement Officer. Failure to complete the demolition within the prescribed time limit, as extended, shall be a violation of this chapter punishable pursuant to § 75-9.

- B. Where a building or structure is designated as unsafe pursuant to Chapter 66 of this Code, that building or structure shall be demolished within 30 days of issuance of a permit with no extension of time. Failure to complete the demolition within the prescribed time limit shall be a violation of this chapter punishable pursuant to § 75-9.

§ 75-6 Restoration of site.

- A. All cellars and basements of demolished buildings or structures shall be made safe by filling and tamping such basement or cellar with fill materials approved by the Code Enforcement Officer until the surface is level with the surrounding premises. No materials can be used as fill that are hazardous or may corrode, rot, decay or collapse and the surface must be left in an aesthetically acceptable condition. All barricades, guardrails and temporary structures erected during demolition shall be removed on completion.
- B. In the event that the owner refuses or neglects to fill in and make safe such cellar or basement or refuses or neglects to dismantle and remove any barricades, guardrails or temporary structures erected during demolition, or neglects or refuses to satisfactorily repair adjacent buildings damaged by the demolition within the time limits specified at permit issuance, the Village may do the necessary work involved, either with Village employees or outside contractors, and the cost of bringing the location into compliance shall be assessed against such property. The owner shall have 20 days to pay the assessed costs. If the owner does not pay these costs within the twenty-day period, such costs shall constitute a lien against the premises and shall be levied and collected in the same way as provided in the Village Law for the levy and collection of real property taxes.

§ 75-7 Conduct demolition; notification of completion.

- A. All demolition and cleanup activities shall be conducted in accordance with the terms and conditions of the demolition permit and materials submitted in connection with the application therefor.
- B. Immediately after completion of demolition and cleanup, the property owner shall notify the Code Enforcement Officer, in writing, that demolition for which a permit was issued has been completed. The Code Enforcement Officer will then inspect the site and accept the completion in writing, or provide the property owner with written notice of actions necessary to be completed before the completion will be accepted, and the time remaining to complete said actions. Failure to obtain a written acceptance of completion from the Code Enforcement Officer prior to the expiration of the demolition permit shall be a violation of this chapter punishable pursuant to § 75-9 below.

§ 75-8 Fees.

- A. The fees to be charged for applications, permits and inspections conducted pursuant to this chapter shall be established by resolution of the Village Board. The current License and Fee Schedule is on file in the Village Clerk's office.
- B. Refunds. If an application for a demolition permit is withdrawn prior to the start of a review of the application, the applicant may receive a full refund. If a review of an

application has been commenced prior to its withdrawal or not approved after review; 50% of the fee paid will be refunded provided that no work has started.

- C. Waiver of fees. The Village Board may instruct the Code Enforcement Officer to waive any fee or a portion thereof if it is established that the waiver of the fee would be in the best interests of the Village.

§ 75-9 Penalties for offenses.

Any violations by a person, firm, association, or corporation of any of the provisions of this chapter shall be and hereby is declared to be a violation, and in conviction, such person, firm, association or corporation shall be subject to a weekly penalty until said violation is rectified as per the penalty schedule on file in the Village Clerk's office.

§ 75-10 Appeals.

The Zoning Board of Appeals is designated as the official body to which any order, requirement, decision, interpretation or determination made by the Code Enforcement Officer pursuant to this chapter may be appealed. Any such appeal shall be taken and considered pursuant to such rules as may be adopted by the Zoning Board of Appeals.

§ 75-11 Severability; conflict with other provisions.

If any section or provision of this chapter shall be held unconstitutional, invalid or ineffective, such determination shall not be deemed to affect, impair or invalidate the remainder of this chapter. In the event of any inconsistency or conflict between any provision of this chapter and any other local law or ordinance, the provisions of this chapter shall control.