

Chapter 12

BUILDINGS, UNSAFE AND COLLAPSED STRUCTURES

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[HISTORY: Adopted by the Board of Trustees of the Village of Walton 3-3-2003 by L.L. No. 1-2003; amended in its entirety 7-6-2009 by L.L. No. 6-2009.¹ Subsequent amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 22.
Zoning — See Ch. 53.

§ 12-1. Definitions.

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

1. Editor's Note: This local law also repealed former Ch. 12, Dangerous or Unsafe Buildings and Structures, adopted 3-15-1971.

DANGEROUS OR UNSAFE STRUCTURE — A structure is dangerous or unsafe to the public when:

- A. The walls are in poor structural condition, the floors are overloaded, or there are other major structural defects; or
- B. Buildings and structures become unsafe by reason of damage by fire, the elements, age or general deterioration; or
- C. Vacant buildings are not properly secured at doorways and windows such that they also serve as an attractive nuisance for young children who may be injured therein; or
- D. There are substantial and significant violations of the New York State Fire Prevention and Building Code, which violations constitute an endangerment of health, safety and public welfare; or
- E. There exist other conditions whereby the health, safety or welfare of the public is endangered.

STRUCTURE — Includes a building or other structure or part thereof used or intended for supporting or sheltering any use or occupancy. The term "structure" shall specifically include mobile homes and manufactured homes.

§ 12-2. Declaration of nuisance.

All unsafe buildings and structures as defined in this chapter are hereby declared to be a public nuisance and shall be secured, repaired, vacated or demolished as herein provided.

§ 12-3. Duties of Village Code Enforcement Officer; order to abate.

The Village Code Enforcement Officer shall:

- A. Inspect any structure, within the Village, which he has reason to believe exists in violation of this chapter. Such

inspection may arise from said officer's own observation or from complaints from any source, whether written or oral.

- B. If any structure is found by said officer to be an unsafe structure within the standards set forth in this chapter, said officer shall prepare and give notice of such unsafe condition, in writing, to the owner or some one of the owner's executors, legal representatives, agents, lessees or another person having a vested or contingent interest in the property, by registered mail, addressed to the last known address, if any, of the owner or some one of the owner's executors, legal representatives, agents, lessees or other person having a vested or contingent interest in the same, as shown by the records of the Assessor or in the office of the County Clerk, and order that the unsafe condition be removed.
- (1) Such order shall:
 - (a) Contain a description of the premises.
 - (b) Contain a statement of the particulars in which the structure is unsafe or dangerous.
 - (c) Require that the structure be repaired, removed, or otherwise cured of the dangerous or unsafe condition.
 - (d) State the time within which the owner shall commence and complete repair, removal or other curative action.
 - (e) State a time, place and date for a hearing to be held by the Village Board on all matters raised by the order, which shall not be less than 10 days from the date of the order.
 - (f) Require that the owner, or said owner's representative, attend the hearing.
 - (g) Inform all persons served that in the event that the owner fails or refuses after hearing to

repair, remove or otherwise cure the dangerous or unsafe structure, as required, or if the owner fails or refuses to attend the hearing, then the Village Board shall cause the structure to be repaired, removed or otherwise cured of the unsafe or dangerous structure, and assess the costs and expenses of the Village against the land and otherwise collect such costs and expenses as allowed by this statute and the laws of the State of New York.

- (2) Any person served with an order may, prior to the time of hearing, certify assent to the order. A certificate of assent shall be filed with the Village Clerk, in writing, and shall:
 - (a) Contain a detailed statement of all work to be done to comply with the order.
 - (b) Contain a time table for completion of all phases and aspects of the work.
 - (c) Contain a request for reinspection.
 - (d) Be signed under oath by the person served and be notarized.
- (3) Upon filing a certificate of assent with the Village Clerk, the hearing shall be postponed if the Code Enforcement Officer approves the detailed statement of work to be done and the time table for its completion. The person filing an approved certificate of assent shall timely and properly complete the work called for in the certificate of assent.
- (4) The hearing shall be rescheduled if the work is not properly and timely completed, if reinspection is refused or if, after reinspection, the conditions set forth in the order have not been properly remedied as required in the order or the certificate of assent.

- (5) If, after reinspection, all work required in the order and certificate of assent has been properly and completely performed, the Code Enforcement Officer shall consent to vacation of the order.
- C. Report to the Mayor and Village Board any noncompliance with the notice and order provided for herein.
- D. Appear at all hearings conducted by the Village Board and testify as to the condition of unsafe structures.
- E. Place a notice on any unsafe structure reading as follows:
"This structure has been found to be an unsafe structure by the Village of Walton Code Enforcement Officer. This notice is to remain on this structure until it is repaired, vacated or demolished in accordance with a notice issued by my office to the last known owner of record. It is unlawful to remove this notice until repaired or secured in compliance with that order. Removal of this notice may subject you to a fine or imprisonment."

§ 12-4. Duties of Village Board.

The Village Board shall:

- A. Accept the report of the Village Code Enforcement Officer.
- B. Hold a hearing if required and hear such testimony as the Village Code Enforcement Officer or the owner, or owner's representative, agents, lessees or any other person having a vested or contingent interest in the property as shown by the records of the Assessor or in the Office of the County Clerk shall offer relative to the unsafe structure.
- C. Make findings of fact from the documents and testimony offered at that hearing.
- D. Issue an order based upon findings of fact made pursuant to Subsection C of this section, either dismissing the order that the structure is unsafe, or commanding the owner, or some one of the owner's executors, legal representatives,

agents, lessees or any other person having a vested or contingent interest in the property as shown by the records of the Assessor or in the office of the County Clerk, to repair, vacate or demolish any structure found to be an unsafe structure within the terms of this chapter, at their own risk to prevent the acquiring of a lien against the land upon which said unsafe structure stands.

§ 12-5. Failure to comply; work completed by Village.

If such person or persons fail to attend the scheduled hearing as ordered or, after a hearing, fail to comply with the order within 10 days after the hearing, or within the time directed by the Village Board for compliance, the Code Enforcement Officer shall report such fact to the Village Board, which shall cause such structure to be repaired, vacated or demolished as the facts may warrant, under the standards hereinbefore provided for in § 12-2 of this chapter, and shall cause the costs of such securing, repair, vacation or demolition, together with an additional charge of 50% thereof for administration and supervision, to be charged against the land on which the structure existed as a municipal lien, or cause such costs to be added to the tax rolls as an assessment, or to be levied as a special tax against the land upon which the structure stands or did stand, or to be recovered in a suit at law against the owner as hereinafter set forth. In addition thereto, all costs, expenses, and reasonable attorney's fees incurred by the Village in the enforcement of this chapter through any action at law shall be charged against the land on which the structure exists or existed, as a municipal lien, or such costs shall be added to the tax rolls as an assessment, or be levied as a special tax against the land upon which the structure stands or did stand, and shall be entered as a judgment against the owner of said property.

§ 12-6. Access to structure; legal action to enforce compliance.

If for any reason the Code Enforcement Officer is denied access to any structure for inspection, securing, repairing, vacating or demolishing of the same under any provision of this chapter, or should deem it in the best interest of the Village to obtain a court order prior to going upon the premises where any structure is located, said officer may report that fact to the Board of Trustees, and the Board, at its discretion, may authorize the Village Attorney to take legal action to allow access to any such structure, or to compel the structure owner or agent to comply with the provisions of this chapter. In like manner, and at its discretion, the Board of Trustees may at any time direct the Village Attorney to commence an action at law in any court of competent jurisdiction against a structure owner or agent, to enforce any provision of this chapter; where such procedure is desirable and any delay thereby caused will not be dangerous to the health, morals, safety or general welfare of the people of this Village, the Village Board shall authorize the Village Attorney to take legal action to force the owner to comply with the provisions of this chapter.

§ 12-7. Emergency cases.

- A. In cases where it reasonably appears that there is immediate danger to the life or safety of any person unless an unsafe structure, as defined herein, is immediately repaired, vacated or demolished, the Village Code Enforcement Officer shall report such facts to the Village Board, and the Village Board shall cause the immediate securing, repairing, vacating, or demolition of such unsafe structure.
- B. The costs of such emergency actions upon such unsafe structure shall be collected in the same manner as provided in this chapter.

§ 12-8. Administrative liability.

No officer, agent or employee of the Village of Walton shall render himself personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of his duties under this chapter. Any suit brought against any officer, agent or employee of the Village of Walton as a result of any act required or permitted in the discharge of his duties under this chapter shall be defended by the Village until the final determination of the proceeding therein.

§ 12-9. Penalties for offenses.

Any person violating any provision of this chapter may, in addition to any other enforcement provision in this chapter, be punished with a fine no greater than \$250, or by imprisonment for no more than 15 days.