

UNSAFE BUILDINGS

Chapter 77

UNSAFE BUILDINGS

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**[HISTORY: Adopted by the Village Board of the Village of Liberty 5-19-1986 by L.L No. 3-1986.<sup>1</sup> Amendments noted where applicable.]**

GENERAL REFERENCES

Building Code — See Ch. 14.  
Building administration — See Ch. 16.  
Housing standards — See Ch. 48.

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<sup>1</sup> Editor's Note: This local law also provided for the repeal of former Ch. 77, Unsafe Buildings, adopted 6-6-1966.

**§ 77-1. Title.**

This chapter shall be known as the "Unsafe Building Law of the Village of Liberty, New York."

**§ 77-2. Findings and purpose.**

The Village Board finds that unsafe buildings and structures pose a threat to life and property in the Village of Liberty. Buildings and structures may become unsafe by reason 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; and dilapidated buildings may also serve as a place of rodent infestation, thereby creating a health menace to the community. Debris, rubble or parts of buildings left on the ground and not removed constitute a dangerous, unhealthy and unsightly condition. It is the purpose of this chapter to provide for the safety, health, protection and general welfare of persons and property in the Village of Liberty by requiring such unsafe buildings to be repaired or demolished and removed.

**§ 77-3. Definitions.**

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

**BUILDING** — Any house, basement, cellar, wall, cottage, lot, shed, garage, well, fence, storage tank, underground container, pole, smokestack, excavation, building, structure or portion thereof used for residential, business, industrial, recreational or other purpose.

**BUILDING INSPECTOR** — The Code Enforcement Officer of the Village of Liberty or such other person appointed by the Village Board to enforce the provisions of this chapter.

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OWNER — The owners of record of the premises in fee or lesser estate therein, receiver, executor, administrator, trustee or any other person, firm, partnership or corporation in

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control of a building, or the duly authorized agent of any of the aforementioned.

**PORTION OF BUILDING OR STRUCTURE** — Any debris, rubble or parts of buildings or structures which remain on the ground or on the premises after demolition, reconstruction, fire or other casualty.

**PUBLIC NUISANCE** — All buildings or structures which, by reason of their condition, endanger or may endanger the health, life, limb or property or cause any hurt, harm, inconvenience, discomfort, damage or injury to the health, life, limb or property of the people of the Village of Liberty in any of the following ways:

- A. By reason of being detrimental to the general health of the community.
- B. By reason of being a fire hazard.
- C. By reason of being unsafe for occupancy or use on, in, upon, about or around the above-said premises.
- D. By reason of continued vacancy thereby resulting in lack of reasonable or adequate maintenance of structures and grounds and causing a deteriorating and blighting influence on nearby properties and thereby depreciating the enjoyment and use of the property in the immediate vicinity to such an extent that it is harmful to the community in which such structure is situated.

**UNSAFE AND UNSECURE BUILDING OR STRUCTURE** — Any building or structure or portion thereof which:

- A. Has any of the following defects:
  - (1) Those whose interior 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.
  - (2) Those which, exclusive of the foundation, show thirty-three percent (33%) or more of damage or deterioration of the supporting member or members or fifty percent (50%) of damage or deterioration of

the nonsupporting enclosing or outside walls or covering.

- (3) Those which have improperly distributed loads upon the floors or roof or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- (4) 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 Village of Liberty.
- (5) 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 or are likely to cause sickness or disease, so as to work injury to the health, morals, safety or general welfare of those living therein.
- (6) 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.
- (7) Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.
- (8) Those which have parts thereof which are so attached that they may fall and injure members of the public or property.
- (9) Those which because of their condition are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of the Village of Liberty.

(10) Those buildings existing in violation of any provision of the Building Code or any provision of the Fire Prevention Code<sup>2</sup> or other ordinance or local law of the Village of Liberty or the State of New York.

- B. Because of its structural condition, is or may become dangerous or unsafe to the public.
- C. Is open at the doorways or windows or walls, making it accessible to and an object of attraction to minors under eighteen (18) years of age, as well as to vagrants and other trespassers.
- D. Is or may become a place of rodent infestation.
- E. Consists of debris, rubble or parts of buildings left on the ground after demolition, reconstruction, fire or other casualty.
- F. Presents any other danger to the health, safety, morals and general welfare of the public.

#### § 77-4. Maintenance.

It shall be unlawful for any owner, tenant or occupant of any building or structure or portion of any building or structure in the Village of Liberty to maintain such building or structure or portion of any building or structure in any condition or manner which shall be unsafe as defined in § 77-3 of this local law.

#### § 77-5. Notice to secure building or structure.

- A. Notice to secure building or structure. Whenever the Building Inspector determines that any building or structure is not adequately secured, locked or closed and is accessible to juveniles, transients or undesirables or is a health, fire or safety hazard to the adjacent community, he shall serve the owner with a notice to secure or close the same forthwith so as to prevent unauthorized persons from gaining access thereto.

<sup>2</sup> Editor's Note: See Ch. 14, Building Code, and Ch. 33, Fire Prevention, respectively.

- B. Contents of notice. Said notice shall inform the owner that:
- (1) He is the owner or person in possession as appears from tax, deed or other records.
  - (2) A description of the premises and its location.
  - (3) The premises are in violation of certain sections of this local law.
  - (4) He must forthwith secure or close said building or structure so as to prevent unauthorized persons from gaining access thereto.
  - (5) He may request a hearing within ten (10) days after receipt of the notice if he believes that the building or structure is adequately secured or closed.
  - (6) If the required work is not completed within ten (10) days after the serving of the notice and if a timely demand for a hearing is not made, the Village of Liberty may perform the work at the expense of the owner.
- C. Service of notice. Proper service of said notice shall be made in accordance with § 77-7 herein.
- D. Request for hearing. Within ten (10) days of service upon the owner or person having control of a building or structure of a notice, the owner or any other person deeming himself aggrieved by said notice, may request a hearing.
- E. Hearing. Upon receiving a request for a hearing, the Building Inspector shall forthwith inform the Mayor that a request for a hearing has been filed. The Mayor shall designate a hearing officer to hear and determine the matter and shall inform the Building Inspector of the person so designated. The Building Inspector shall inform the person requesting the hearing of the date and place of the hearing not less than five (5) days prior to the date of the hearing. The Hearing Officer shall, upon the presentation of relevant evidence, determine whether the building or structure is or is not adequately secured, locked or closed; whether the building or structure is accessible to juveniles, transients or undesirables; or is a health, fire or safety hazard to the adjacent community. The hearing officer shall promptly issue a report of the contentions of the parties,

the findings of fact and his determination to the person requesting the hearing and his attorney, if any, the Building Inspector and the Board of Trustees. The Board of Trustees shall review the evidence and determination and may accept, reject or modify the determination of the hearing officer. The Village Clerk shall notify the person requesting the hearing and his attorney, if any, and the Building Inspector, of the decision. Any person aggrieved by the decision may appeal said decision directly to the Supreme Court of the State of New York pursuant to Article 78 of the Civil Practice Law and Rules. Such a proceeding shall not stay further action pursuant to this local law unless the court so orders.

- F. Securing structures by the Village. If a person is properly served with a notice as provided by this section and he does not request a hearing, or, if a hearing is requested and held, and it is determined that said person is required to secure or close such building, and if said building is not so secured or closed within 10 days after service of the required notice or within 10 days after service of the decision, the Village of Liberty may cause the building to be secured and closed.
- G. Owner responsible for cost of work. In the event that the Board of Trustees has determined that a violation of this chapter existed or in the event that no hearing was requested, the Code Enforcement Officer shall file with the Village Clerk a sworn statement as to the actual cost to the Village of Liberty in remedying the violation of this chapter, plus interest at the rate of 9% per annum, which sums shall be added to and become and form part of the taxes next to be assessed and levied upon such lot of land and shall bear interest at the same rate as taxes. The filing of such sworn statement with the Village Clerk shall constitute a lien and privilege on the property and shall remain in full force for the amount due, together with principal and interest and penalties, until final payment has been made. Such sworn statement of the Code Enforcement Officer shall be



prima facie evidence that all legal formalities have been complied with and that the work has been performed properly and satisfactorily and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collectible as provided by law. The foregoing charges shall be collected and enforced by the same officers and in the same manner as taxes. **[Amended 1-25-2006 by L.L. No. 3-2006]**

- H. Notice. In the event that the Village decides to add such costs, plus interest, as aforesaid, to the taxes next to be assessed in the Village of Liberty upon such lot of land (See § 77-6.1), the Code Enforcement Officer shall serve a notice upon the person(s) or entity(ies) upon whom the prior notice was served, in the same manner as notice is required to be served pursuant to § 77-7, advising him, her or it of the amount of the actual costs of such securing and the amount that will be placed upon the tax bill unless such person or entity pays same in full or objects, in writing, within 10 days after the completion of service of such notice. In the event that the person(s) or entity(ies) so served such notice objects within such ten-day period, he, she or it shall be entitled to a hearing, which shall be scheduled, conducted and decided in the same manner as set forth in § 77-5E above. If there is no such timely objection, and same is not paid in full, as aforesaid, the foregoing charges shall be added to the next Village tax bill, as set forth above. **[Amended 1-25-2006 by L.L. No. 3-2006]**
- I. Emergency procedures. Whenever the conditions described in Subsection A of this section constitute such an immediate hazard that the building or structure must be secured or closed forthwith or within less than the designated period and if the Building Inspector so determines, or either the Police Chief or the Fire Chief so determines and notifies the Building Inspector, the Building Inspector shall request the Director of Public

Works to cause such building or structure to be secured after giving such notice to the owner or the person in charge as circumstances permit or without notice when, in the opinion of the Fire Chief, Police Chief or Building Inspector, immediate action is necessary. If notice cannot be given to the owner or person in charge prior to such action, notice shall be given to the owner or person in charge within seven days thereafter in accordance with the provisions of Subsections B and C herein.

**§ 77-6. Abatement of nuisance.**

- A. Whenever the Building Inspector suspects the existence of a public nuisance or dangerous building, he shall inspect the premises on which the suspected nuisance exists upon being granted permission by the owner or person in control of the premises or after having obtained an appropriate warrant, or, if sufficient, upon an inspection without entering the premises. A written report of the inspection and the findings with respect to the existence of a public nuisance or dangerous building shall be prepared by the Building Inspector and filed with the Village Clerk.
- B. If the Building Inspector determines that a public nuisance or dangerous building exists, he shall cause a written notice to be served on the owner setting forth the findings with respect to the premises, its ownership, the existence of a public nuisance or dangerous building, a description of the particulars and a statement of why it is either a nuisance or dangerous and stating that unless the owner thereof shall cause the abatement of the public nuisance or dangerous building by rehabilitation or by removal of the building, structure or nuisance, the same will be abated or removed by the Village at the expense of the owner. Said notice shall state that the owner must commence to comply with the order of the Building Inspector within 10 days after service of the notice or such other time as the Building Inspector

determines that it shall be completed within the time prescribed by the Building Inspector, and that a building permit must be obtained in accordance with the provisions of the Village of Liberty Code.

- C. Service of notice. Proper service of said notice shall be made in accordance with § 77-7 herein.
- D. Abatement of public nuisance or dangerous building.
  - (1) Upon being served notice, the owner may, within 10 days after receipt of notice, make application to the Building Inspector to undertake the repairs or replacement of items found to constitute a public nuisance or danger.
  - (2) Adequate plans and specifications, as required by the Building inspector and by the Village of Liberty Code, covering said repairs or replacements shall be furnished by the owner to the Building Inspector within 10 days after receipt of notice or such additional time, not to exceed 90 days, as the Building Inspector may deem necessary to complete plans and specifications.
  - (3) The Building Inspector shall, upon approval of the plans and specifications and upon site plan approval if required by local law, cause a building permit to be issued to the owner. The building permit shall be valid for a period of 90 days, and within that time the owner shall effect and complete the repairs and/or replacements. The Building Inspector may grant an extension of the building permit, if the owner shows reason or cause for the requested extension.
  - (4) Upon being served notice, the owner may, within 10 days, make application to the Building Inspector for a demolition permit to abate the nuisance completely by demolition and removal of the structure. The demolition permit shall be valid for a period of 30 days, and within that time the owner

shall completely demolish and remove the building and, if required by the Building Inspector, fill in open pits and enclose the lot with a fence at least six feet in height, approved by the Building Inspector. The Building Inspector may grant an extension of the demolition permit if the owner shows reason or cause for the requested extension.

E. Appeal hearing of public nuisances structures.

- (1) The owner may, within 10 days after receipt of notice, make a demand, in writing, to the Building Inspector for a hearing on the question of whether in fact a public nuisance or dangerous building exists. The hearing shall be held within a reasonable time, not to exceed 30 days following receipt of the written demand; and at least five days' notice in writing of the hearing shall be given to the owner. The hearing shall be conducted by a hearing officer appointed by the Mayor. The hearing officer may:
  - (a) Sustain the finding that a public nuisance or dangerous building exists on the property and order the abatement thereof by repair or replacement of the items found to constitute a public nuisance or danger or order the abatement thereof by demolition;
  - (b) Reject or modify the finding of the Building Inspector; or
  - (c) Take such other action and render such other orders as he deems appropriate within the authority conferred by this chapter.
- (2) A copy of the findings of fact and the decision of the hearing officer shall be promptly served upon the owner and his attorney, if any, the Building Inspector and the Board of Trustees and shall be filed with the Village Clerk. The Board of Trustees shall review the evidence and determination and may accept, reject or modify the determination of

the hearing officer. Any person aggrieved by the decision may appeal said decision directly to the Supreme Court of the State of New York pursuant to Article 78 of the Civil Practice Law and Rules. Such a proceeding shall not stay further action pursuant to this chapter unless the court so orders.

F. Abatement of nuisance or dangerous building by Village; demolition of structure. **[Amended 1-25-2006 by L.L. No. 3-2006]**

- (1) If the person or entity upon whom the notice is served fails, neglects or refuses to abate the public nuisance or dangerous building within 10 days after the completion of service of such notice, or fails to remedy the violation within 10 days of the completion of service of the decision of the Board of Trustees (to be served as set forth in § 77-7, without the requirement of any posting) making findings as set forth in § 77-6E after a hearing, the Code Enforcement Officer shall cause the nuisance to be abated, including demolition if required. The Code Enforcement Officer, together with any necessary agents or contractors, shall be entitled to enter upon the premises to effectuate the foregoing.
- (2) In the event that the Board of Trustees has determined that a nuisance exists or in the event that no hearing was requested, the Code Enforcement Officer shall file with the Village Clerk a sworn statement as to the actual cost to the Village of Liberty in abating the public nuisance or dangerous building, plus interest at the rate of 9% per annum, which sums shall be added to and become and form part of the taxes next to be assessed and levied upon such lot of land and shall bear interest at the same rate as taxes. The following such sworn statement with the Village Clerk shall constitute a lien and privilege on the property and shall remain in full force for the amount due, together with principal and interest

and penalties, until final payment has been made. Such sworn statement of the Code Enforcement Officer shall be prima facie evidence that all legal formalities have been complied with and that the work has been performed properly and satisfactorily and shall be full notice to every person concerned that the amount of the statement, plus interest, constitutes a charge against the property designated or described in the statement and that the same is due and collectible as provided by law. The foregoing charges shall be collected and enforced by the same officers and in the same manner as taxes.

- (3) In the event that the Village decides to add such costs, plus interest as aforesaid, to the taxes next to be assessed in the Village of Liberty upon such lot of land, the Code Enforcement Officer shall serve a notice upon the person(s) or entity(ies) upon whom the prior notice was served, in the same manner as the notice was required to be served pursuant to § 77-7, advising him, her or it of the amount of the actual abatement of such removal and the amount that will be placed upon the tax bill unless such person or entity pays same in full or objects, in writing, within 10 days after the completion of service of such notice. In the event that the person(s) or entity(ies) so served such notice objects within such ten-day period, he, she or it shall be entitled to a hearing, which shall be scheduled, conducted and decided in the same manner as set forth in § 77-5E above. If there is no such timely objection, and same is not paid in full, as aforesaid, the foregoing charges shall be added to the next Village tax bill, as set forth above.

**§ 77-6.1. Alternate remedy. [Added 1-25-2006 by L.L. No. 3-2006]**

As an alternative to the remedies provided in § 77-5G and H and § 77-6F of this chapter, with respect to the ability of the Village of Liberty to include in the next Village tax bill charges incurred by the Village of Liberty in securing a building or structure or abating a nuisance, respectively, the Village of Liberty may instead commence an action in a court of competent jurisdiction to recover all such costs, fees and/or charges which it has incurred in connection with this chapter, plus interest at the rate of 9% per annum, in which action the Village shall be entitled to seek and obtain a monetary judgment therefor, together with all costs, disbursements and interest permitted by law.

**§ 77-7. Service of notice.**

- A. The proper service of any notice required by this chapter shall be made by personal service or certified mail upon the record owner and (if applicable) upon the lessee, occupant or person having care or control of said building or structure, at his, her or its last known address, and by posting a copy of the notice in a conspicuous place on the building or structure. Service shall be deemed complete upon the later of the personal service, mailing or posting, as aforesaid. **[Amended 1-25-2006 by L.L. No. 3-2006]**
- B. A copy of said notice shall be filed in the Sullivan County Clerk's office, which notice shall be filed in the same manner as a notice of pendency pursuant to Article 65 of the Civil Practice Law and Rules and shall have the same effect as a notice of pendency as therein provided. A notice so filed shall be effective for a period of one year from the date of filing. It may be vacated upon an order of a Judge or Justice of a court of record or upon written consent of the Attorney of the Village of Liberty. The Sullivan County Clerk shall mark such notice and any record or docket thereof as canceled of record upon the

presentation and filing of such consent or of a certified copy of such order.

**§ 77-8. Penalties for offenses.**

Any person upon whom a notice as provided in this chapter has been served, who fails, neglects or refuses to place such unsafe building or structure in a safe condition as designated in such notice or who shall violate any of the provisions of this chapter or orders given pursuant thereto or who shall resist or obstruct the Code Enforcement Officer in carrying out the provisions of this chapter shall, upon conviction thereof, be subject to a fine of not more than \$250. Each day in which such violation continues shall constitute a separate offense.

**§ 77-9. Construal of provisions.**

The provisions of this chapter shall not be deemed to be a limitation or restriction on the authority of any department, official or employee of the Village pursuant to any other ordinance, local law, statute or other enactment of the Village or State of New York.

**§ 77-10. Failure to comply.**

The owner or person in charge of a building or structure who shall fail to comply with any notice or order herein shall, upon conviction thereof, be fined an amount not to exceed \$250 for each offense. Each day of such failure to comply shall constitute a separate offense.

**§ 77-11. Severability.**

Each separate provision of this chapter shall be deemed independent of all other provisions of this chapter herein. If any provision of this chapter shall be declared invalid by a court of



competent jurisdiction, all other provisions shall remain valid and enforceable.

**§ 77-12. When effective.**

This chapter shall be effective upon filing with the Secretary of State.