

## CHAPTER 60: BUILDINGS, UNSAFE

### GENERAL REFERENCES

Building Code and Fire Prevention — See Ch. 70.

#### § 60-1. Legislative intent.

It is the intent of this chapter to provide for a rapid and efficient means of removal or securing or repair of unsafe structures after examination, notice and hearing. Unsafe buildings pose a threat to life and property in the Village of South Blooming Grove. 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. A dilapidated building 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 South Blooming Grove by requiring such unsafe buildings to be repaired or demolished or removed.

#### § 60-2. Definitions.

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

**BUILDING** — Any building, structure or portion thereof used for residential, business, industrial, recreational or other purpose.

**BUILDING INSPECTOR** — The Building Inspector of the Village of South Blooming Grove or the Building Inspector who is empowered by the Village Board of Trustees to act on its behalf, and his/her duly appointed assistants or deputies or such other person appointed by the Village Board of Trustees to enforce the provisions of this chapter.

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

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

- A. Has interior walls or other vertical structural members, which list, lean or buckle to such an extent that a plumb line passing through the center of gravity falls outside of the middle 1/3 of its base.
- B. Exclusive of the foundation, shows 33% or more of damage to or deterioration of the supporting member or members or 50% damage to or deterioration of the nonsupporting enclosing or outside walls or covering.
- C. Has improperly distributed loads upon the floors or roofs or in which the same are overloaded or have insufficient strength to be reasonably safe for the purpose used.
- D. Has been damaged by fire, wind or other causes so as to become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the Village of South Blooming Grove.
- E. Has become or are so dilapidated, decayed, unsafe, unsanitary or which so utterly fails to provide the amenities essential to decent living that it is 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.
- F. Has light, air and sanitation facility, which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.
- G. Have inadequate facilities for egress in case of fire or panic or insufficient stairways,

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elevators, fire escapes or other means of communication.

- H. Have parts thereof, which are so attached that they may fall and injure members of the public or property.
- I. Because of its condition, is unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of the Village of South Blooming Grove.
- J. Is open at the doorways or windows or walls, making it accessible to and an object of attraction to minors less than 18 years of age, as well as to vagrants and other trespassers.
- K. Is or may become a place of rodent infestation.
- L. Consists of debris, rubble or parts of buildings left on the ground after demolition, reconstruction, fire or other casualty.

### **§ 60-3. Maintenance of buildings and structures; prohibition.**

- A. 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 South Blooming Grove to maintain such building or structure or portion of such building or structure in any condition or manner which shall be unsafe as defined in § 60-2 of this chapter.
- B. Any owner, occupant or person in custody of real property located within the Village of South Blooming Grove who allows or permits a building to continue as a dangerous building after due notice as provided in § 60-5 below shall be guilty of a violation of this chapter and shall be punished as provided in § 60-11 below.

### **§ 60-4. Investigation and report.**

When, in the opinion of the Building Inspector, any building or structure located in the Village of South Blooming Grove shall be deemed to be dangerous or unsafe to the public as defined in § 60-2, the Building Inspector shall make a formal inspection thereof and report in writing to the Village Board of Trustees his/her findings and recommendations in regard to the building's or structure's removal or repair.

### **§ 60-5. Order to repair; hearing to be scheduled.**

The Village Board of Trustees shall thereupon consider said report, and, if it finds that such building or structure is dangerous and unsafe to the public, it shall, by resolution, order its repair if the same can be safely repaired, and, if not, its removal and demolition, and shall further order that a hearing be held before the Village Board of Trustees at a time and place therein specified and on at least five days' notice to the owner of the building or structure or persons having an interest therein to determine whether said order to repair or remove shall be affirmed or modified or vacated and, in the event of modification or affirmance, to assess all costs and expenses incurred by the Village in the repair or removal of such building or structure against the owner and or the land on which said building or structure is located.

### **§ 60-6. Trespass prohibited.**

In addition to serving the notice as provided in § 60-5 above, the Village Board of Trustees may, if it determines that the purposes of this chapter will be further effectuated, order that no person other than the owner or his agent shall enter upon the property and shall post on such property signs indicating no trespassing. When such a determination is made, notice of such fact shall be

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included in the notice referred to in § 60-5 above. Anyone found trespassing in violation of this section shall be liable for a fine not to exceed \$150 for each offense.

### **§ 60-7. Contents of notice.**

The notice shall contain the following statements:

- A. The name of the owner or person in possession as appears from the tax and deed records.
- B. A brief description of the premises and its location.
- C. A description of the building or structure which is unsafe or dangerous and a statement of the particulars in which it are unsafe or dangerous.
- D. An order requiring the same to be made safe and secure or to be removed.
- E. That the securing or removal of said building or structure shall commence within a specified number of days of the service of the notice and shall be completed within a specified number of days thereafter.
- F. The time and place of the hearing to be held before the Village Board of Trustees, at which hearing the owner or occupant shall have the right to contest the order and findings of the Village Board of Trustees.
- G. That in the event that such owner, occupant or other person having an interest in said premises shall fail to contest such order and fail to comply with the same, the Village Board of Trustees will order the repair or removal of such building by the Village, and the Village will assess all costs and expenses incurred in such removal against the land on which such building or structure is located.
- H. That in any case where a building which is required to be made safe and secure under this chapter is made safe by the boarding up thereof, the material for such boarding shall be painted, as near as practicable, the same color as the building.
- I. The failure to commence the necessary repairs, improvements or demolition within the time specified in the notice will constitute a violation of the law subjecting the violators to a fine not to exceed \$450 for each week of such violation.

### **§ 60-8. Service and filing of notice.**

- A. A copy of said notice shall be personally served upon the owner or one of the owners, executors, legal representatives, agents, lessees or other person having a vested interest in the premises as shown on the Village tax records or in the records in the Orange County Clerk's Office.
- B. If no such person can be reasonably found for personal service, then a copy of said notice shall be mailed to such person by registered mail addressed to his last known address as shown on said records and by personally serving a copy of said notice upon any adult person residing in or occupying said premises or by securely affixing a copy of said notice upon building or structure.
- C. A copy of said notice may be filed in the Orange 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 the written consent of the Village Attorney or Attorney for the Village. The Orange 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.

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### **§ 60-9. Hearing.**

The Village Board of Trustees shall conduct the public hearing at the time and place specified in the notice to repair or demolish. It may adjourn the hearing from time to time until all interested parties are heard and until the hearing is completed. At the conclusion of the hearing, the Village Board of Trustees shall determine by resolution to revoke the order to repair or remove, modify said order or continue and affirm said order to direct the owner or other persons to complete the work within the time specified in the order or such other time as shall be determined by the Village Board of Trustees.

### **§ 60-10. Failure to comply.**

- A. In the event of the refusal, failure or neglect of the owner or person so notified to comply with said order of the Village Board of Trustees within the time specified in said order and after the public hearing, the Village Board of Trustees shall provide that such building or structure be made safe and secure or removed and demolished by Village employees or by independent contractors. Except in emergency cases as herein provided, all contract for repair or demolishing and removal of a building or structure in excess of \$10,000 shall be awarded through competitive bidding.
- B. In the event of the refusal, failure or neglect of the owner or person so notified to comply with said order of the Village Board of Trustees within the time specified in said order and after the public hearing such owner or person shall be guilty of a violation under the penal law.

### **§ 60-11. Penalties for offenses.**

Except as provided in § 60-6 above, any person found guilty of violating this chapter shall be liable for a fine not to exceed \$450 for each violation. Each week or a part thereof such violation shall continue shall constitute a separate violation.

### **§ 60-12. Assessment of expenses.**

All expenses incurred by the Village in connection with the proceedings to repair and secure or demolish and remove the unsafe building, including the cost of actually removing such building, and attorney's fees, shall be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided for the levy and collection of real property taxes.

### **§ 60-13. Emergency situations.**

Where it reasonably appears that there is present a clear and imminent danger to the life, safety or health of any person or property unless an unsafe building or structure is immediately repaired and secured or demolished, the Village Board of Trustees may, by resolution, authorize the Building Inspector to immediately cause the repair or demolition of such unsafe building or structure. The expenses of such repair or demolition shall be a charge against the owner or the land on which it is located and shall be assessed, levied and collected as provided in § 60-10 hereof.

### **§ 60-14. Application for court order.**

The Village Board of Trustees, in its discretion, may elect to apply to the Supreme Court of the State of New York **or a Local Court with jurisdiction** for an order directing that the building be repaired and secured or demolished and removed. All expenses related to the Court order shall

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be a charge against the owner or the land on which it is located and shall be assessed, levied and collected as provided in § 60-10 hereof.

### **§ 60-15. Special proceeding for costs.**

The Village Board of Trustees may commence a special proceeding pursuant to § 78-b of the General Municipal Law to collect the costs of demolition, including reasonable and necessary legal expenses.

### **§ 60-16. Supersession of other laws; authority.**

This chapter supersedes, and is in derogation of, Chapter 96 of the Code of the Town of Blooming Grove, County of Orange, and State of New York. This chapter is enacted by authority of § 20, Subdivision 5, of the Municipal Home Rule Law and any other law referenced herein as authority herefor.

### **§ 60-17. Repeal.**

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

### **§ 60-18. Effective Date.**

This local law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.