

PROPERTY MAINTENANCE, ETC.

Chapter 37

PROPERTY MAINTENANCE; UNSAFE OR ABANDONED BUILDINGS

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[HISTORY: Adopted by the Attica Village Board 11-30-1998 by L.L. No. 3-1998. Amendments noted where applicable.]

GENERAL REFERENCES

Brush, grass, weeds, garbage and rubbish-See Ch. 10.

Electrical code-See Ch. 18.

Refuse disposal-See Ch. 40.

Snow and ice removal-See Ch. 47.

37-1 Purpose

The purpose of this law is to promote and preserve the health, safety and welfare of the public and residents and/or owners of property located in the Village of Attica by providing a method for the removal or repair of buildings or conditions that form any cause may now be or shall hereafter become dangerous or unsafe to the public and residents and/or owners of property within the Village of Attica. Unsafe buildings serve as an attractive nuisance for young children, who may be injured therein; may be a point of congregation by vagrants and transients; may attract rodents or insects; may also attract illegal drug activity. The powers conferred upon the Village of Attica by this law shall be in addition to all other powers conferred upon the Village of Attica in relation to the same subject by state law.

37.2 Definitions

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

Building - Any building, structure or portion thereof used by residential, business or industry

Building inspector - The Building Inspector of the Village of Attica or such other person or persons appointed by the Board of Trustees of the Village of Attica to enforce the provisions of this local law.

Business - A building or combinations of buildings and structures, and the lot on which it is located, used wholly or in part for commercial purposes, including, but not limited to, offices, places of public assembly, shopping centers, supermarkets, retail stores, warehouses, manufacturing or fabrication plants, gasoline stations and other business uses.

Commercial - A building or combination of buildings and the lot on which it is located, used wholly or in part for retail or wholesale distribution of products or services.

Industrial - A building or combination of buildings and structures and the lot on which it is located, used wholly or in part for manufacturing, fabricating and/or procession of goods to make such goods ready for distribution.

Residential - A one, two or multiple family building or structure and the lot on which it is located, whose purpose is principally to house or occupy families or individuals.

Unsafe Building - Includes all buildings which have any or all of the following defects:

- A. Those whose interior walls or exterior bearing walls or other vertical structural members list, lean or buckle 10 to 15 degrees or to such an extent as to weaken the structural support that they provide.
- B. Those which, exclusive of the foundation, show 33% or more of damage to or deterioration of the supporting member or members or 50% of damage to or deterioration of the non supporting, enclosing or outside walls or covering.
- C. Those which have improperly distributed loads upon the floors or roofs or in which the same are overloaded or which have insufficient strength to be reasonably safe for the purpose used.
- D. Those of which have been damaged by fire, wind or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants or the people of the Village of Attica.
- E. 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 to those living therein or adjacent thereto.
- F. Those having light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live near or may line therein, with particular reference to the requirements of the New York State uniform Fire Prevention and Building Code as a determinant.

- G. Those having inadequate facilities for the egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication, again referencing the New York State uniform Fire Prevention and Building Code as a determinant.
- H. Those which have parts thereof which are so attached that they may fall and injure members of public or property.
- I. Those which consist of debris, rubble or parts of buildings left on the ground after demolition, reconstruction, fire or other casualty.
- J. Those which, because of their condition, are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of the Village of Attica.

37.3 Unsafe Buildings prohibited

No person, firm, corporation or association owning, possessing or controlling a building in the Village of Attica shall permit, suffer or allow said building now or hereafter to be or become unsafe to the public and/or residents from any cause whatsoever.

37.4 Appointment of official to make inspections.

The board of trustees of the Village of Attica shall appoint

37.5 Duties of appointed official

The appointed official or officials shall:

- A. Inspect any building, wall, structure or condition about which complaints are filed by any persons to the effect that a building, wall, structure or condition is or may be existing in violation of this chapter.
- B. Inspect any building, wall, structure or condition reported by the Attica Fire Department or any officer or member thereof or reported by the Police Department of the Village of Attica or any officer thereof to either the appointed official or to the Board of Trustees as probably existing in violation of the terms of this chapter or reported, as aforesaid, to be suspected to be existing in violation of the terms of this chapter.
- C. Inspect any building, wall, structure or condition concerning which he or she has reasonable grounds to suspect that the same is or may be existing in violation of this chapter.
- D. As expeditiously as possible and not later than 30 days immediately following his or her examination and inspection, report in writing and file such report with the Village Clerk, stating the date of his or her inspection and stating the particulars in which the building, wall, structure or condition is unsafe or dangerous or in violation of this chapter.
- E. Serve or cause to be served, in the manner and upon such person or persons as prescribed by 37-9 of this chapter, all notices and orders hereafter specified in 37-9 hereof and attend to the posting of all notices and orders provided for by this chapter.
- F. Perform such other and further duties as may lawfully be delegated by the Board of Trustees.

37.6 Maintenance of buildings and structures

- A. No owner or occupant of a lot or building shall allow any building or part of a building to have improperly or unsecured objects or materials about it, which objects or materials could fall or be blown from the building into any public area.
- B. No owner or occupant of a lot or building shall allow a building or structure to be maintained with graffiti or other defacing materials on it, and owners or occupants shall promptly remove such graffiti or other defacing materials from the building or structure.
- C. No owner or occupant of a lot or building shall allow any fence, shed or other accessory building or structure to be in a state of disrepair, and owners or occupants shall either remove or repair such accessory building or structure within a reasonable time.
- D. All exterior exposed surfaces not inherently resistant to deterioration shall be repaired, coated, treated, or sealed.
- E. Each owner and occupant of a lot shall provide for proper drainage and grading on a lot to protect buildings and structures and to prevent the development of stagnant ponding of water and to prevent unsafe or dangerous runoff onto adjoining public or private properties.

S 37-7. Business premises; special requirements.

- A. No shopping baskets, carts or wagons shall be left unattended or standing in open areas. All such items shall be collected at the close of each business day and removed to the interior of the building or arranged neatly against the building.
- B. No mobile refrigeration unit shall be operated on any business premises after the closing of the business unless such mobile refrigeration unit is electrically operated.
- C. All businesses shall maintain dumpsters or other large receptacles for garbage, litter and rubbish in an area shielded from public view by appropriate landscaping or architectural screening.
- D. Shopping centers, supermarkets and other similar business shall provide permanent trash receptacles on the premises for public use.
- E. Any business requiring the storage of junked cars or cars for parts must have the storage area enclosed by a non-see-through eight-foot-high fence.

S 37-8. Determination of unsafe buildings; notice to repair or demolish.

- A. The Board of Trustees of the Village of Attica shall consider the report of the appointed inspection official and, if in their opinion the report so warrants, shall determine that the building is unsafe and order its demolition or repair, if the same can be safely repaired, and further order that a notice shall be given to the owner as follows.
- B. The notice shall contain the following:

- (1) A description of the premises.
- (2) A statement of the particulars in which the building is unsafe or the condition that needs correcting.
- (3) An order requiring the building to be repaired or demolished or condition corrected.
- (4) That the correcting of the condition, repairing or demolition of the building shall commence within 30 days of the serving of the notice, as hereinafter provided, and shall be completed within 60 days thereafter.
- (5) A date, time and place for a hearing before the Board of Trustees in relation to such unsafe building or condition, which hearing shall be scheduled not less than five business days from the day of service of the notice.
- (6) A statement that in the event of neglect or refusal to comply with the order to correct a condition that exists, or to repair or demolish the building, the Board of Trustees is authorized to provide for correcting the existing condition, the repair or demolition, to assess all expenses thereof against the land on which it is located and to institute a special proceeding to collect the costs of demolition, including legal expenses.

S 37-9. Service of notice.

Service of the notice shall be sufficient if directed to the owner of the building in question. Service of said notice shall be made personally or by registered mail upon the owner, executor, administrator, agent, lessee or any person having a vested or contingent interest in said condition or unsafe building as shown by the records of the Village Tax Collector (Village Clerk-Treasurer) or of the Genesee or Wyoming County Clerk, if possible; otherwise, service shall be sufficient if the notice is served by delivering the same to a person of suitable age or discretion at the building found to be in violation and mailing, by registered mail, the notice to the owner at his or her last known residence or business address; or, where service cannot otherwise be made with due diligence, by affixing said notice to the door of said building and by mailing said notice to the owner at his or her last known residence or business address. Verified affidavits of service and a copy of the notice shall be filed with the Village Clerk within five days of service being made.

S 37-10. Hearing.

Within seven days after a hearing has been held pursuant to the notice served in accordance with S 37-8 of this local law, the Village Board shall either confirm, amend or rescind its original order and shall immediately communicate its decision to the owner of said building, in writing.

S 37-11. Filing of notice.

A copy of the notice served as provided herein shall be filed in the office of the County Clerk of the County in which the notice was served.

S 37-12. Noncompliance.

In the event of neglect or refusal of the persons so notified to comply with said order of the Board of Trustees, the Board of Trustees shall provide for the demolition and removal of such building either by Village of Attica employees or by contract, which in excess of \$20,000 shall be awarded by competitive bidding.

S 37-13. Emergency work.

- A. In case there shall be, in the opinion of the inspecting official, actual and immediate danger of the falling of a building so as to endanger public safety, life or property or actual or immediate menace to health or public welfare as a result of the conditions present in or about a building, he or she shall cause the necessary work to be done to render such a building temporarily safe, whether the procedure prescribed in this law for unsafe building has been instituted or not.
- B. When emergency work is to be performed under this section, the inspecting official shall cause the owner thereof to be served personally or by registered mail, return receipt requested, and if served by registered mail, shall post on the premises a notice to comply, containing a description of the premises, a statement of the facts in which the building is unsafe or dangerous and orders and directions to correct the conditions which constitute an emergency within a specified period not to exceed three days from actual or constructive receipt of the notice.
- C. In the event that the emergency does not permit any delay in correction, the notice shall state that the Village of Attica has corrected the emergency condition.
- D. In both cases, the notice shall state that the corrective costs of the emergency will be assessed against the owner pursuant to the provisions of this law.

S 37-14. Assessment and collection of expenses.

All expenses incurred by the village in connection with its actions to correct conditions, repair and secure or demolish and remove the unsafe building, including the cost of actually removing such building is located and shall be levied and collected in the same manner as provided by law for the levy and collection of village real property taxes. The village is further authorized to institute special proceedings against the owner of the building to collect the costs of demolition, including reasonable legal expenses.

S 37-15. Penalties for offenses.

- A. It shall be unlawful for any person or corporation to knowingly maintain or cause to be maintained, or to knowingly allow or permit any other person or corporation or agent, lessee or otherwise to maintain, any dangerous, unsafe or hazardous

building, residence or structure, as herein defined, and any owner, occupant, lessee or other person or corporation who shall knowingly maintain or cause to be maintained or knowingly allow or permit to be maintained any such dangerous, unsafe or hazardous building, residence or structure and who shall fail to comply with any order or any provisions of any order of the Board of Trustees of the Village of Attica, obtained as herein set forth, directing that such unsafe building, residence or structure be demolished or repaired or condition corrected shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by imprisonment for not more than 15 days, or both, and each and every day such failure to comply continues beyond the date fixed for such compliance shall constitute a separate offense.

- B. Any person removing any notice provided for in this chapter shall be guilty of a violation and, upon conviction thereof, shall be punishable by a maximum fine of \$250 or by imprisonment for not more than 15 days, or both, for each offense.

S 37-16. Severability.

If any part of this law is deemed or found to be unenforceable, illegal, unconstitutional or otherwise void, such judgment shall not affect or impair the validity of the remainder of the law or the application thereof to other persons or circumstances.

S 37-17. When effective.

This law shall take effect immediately upon filing.