

Chapter 66
BUILDINGS, UNSAFE

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[HISTORY: Adopted by the Town Board of the Town of Rochester 8-1-1985 by L.L. No. 4-1985; amended in its entirety at time of adoption of Code (see Ch. 1, General Provisions, Art. I). Amendments noted where applicable.]

§ 66-1. Title.

This chapter shall be known as the “Unsafe Building Law of the Town of Rochester, New York.”

§ 66-2. Purpose.

The Town Board finds that unsafe buildings and structures pose a threat to life and property in the Town of Rochester. Buildings and structures may become unsafe by reason of damage by fire, the elements, age or general deterioration, 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 Town of Rochester by requiring such unsafe buildings to be repaired or demolished and removed.

§ 66-3. 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 Town of Rochester or such other person appointed by the Town Board to enforce the provisions of this chapter.

OWNER — The owner(s) of record of the premises in fee or lesser estate therein, receiver, executor, administrator, trustee or any other person, firm, partnership or corporation in 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 or DANGEROUS BUILDING — 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 Town of Rochester in any of the following ways shall be deemed to be a public nuisance:

- 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 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.
- E. By reason of being an unsafe building or structure as defined in this chapter.

UNSAFE 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 33% or more of damage or deterioration of the supporting member or members or 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 become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the Town of Rochester.
 - (5) Those which have become or are so dilapidated, decayed, unsafe, 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 which have parts thereof which are so attached that they may fall and injure members of the public.

- (7) Those which, because of their condition, are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of the Town of Rochester.
 - (8) Those buildings existing in violation of any provisions of the building code or any provisions of the Fire Prevention Code or other ordinance or local law of the Town of Rochester or the State of New York.
- B. Because of its structural condition is or may become dangerous or unsafe to the public.
 - C. Is or may become a place of rodent infestation.
 - D. Consists of debris, rubble or parts of buildings left on the ground after demolition, reconstruction, fire or other casualty.
 - E. Presents any other danger to the health, safety, morals and general welfare of the public.

§ 66-4. Maintenance of buildings and structures.

It shall be unlawful for any owner, tenant or occupant of any building or structure or portion of any building or structure in the Town of Rochester 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 § 66-3 of this chapter.

§ 66-5. Public nuisance or dangerous building.

- 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 Town 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 town 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 and 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 Town of Rochester.

- C. Service of notice. Proper service of said notice shall be made in accordance with § 66-7 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 Town of Rochester 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 nuisance 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 Town Board. 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 findings 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 decision of the hearing officer shall be promptly served upon the owner and his attorney, if any, the Building Inspector and the Town Board and shall be filed with the Town Clerk. The Town Board 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 town; demolition of structure. Should the nuisance or danger not be abated at the expiration of the time stated in the notice or expiration of the time stated in the building permit or any extensions granted by the Building Inspector or such additional time as the Town Board may grant, the Building Inspector or his designee shall be authorized at any time thereafter to enter upon the premises, and the owner shall permit him entry, to abate the nuisance or danger by demolition and removal of the structure or by repair, replacement or removal, whichever shall be appropriate in the opinion of the Building Inspector if no appeal has been filed or in the opinion of the Town Board if a hearing has been deemed and held. In abating such nuisance or danger, the Building Inspector may request the Supervisor to provide whatever assistance may be necessary to abate such public nuisance or danger as aforesaid or may, by private contract, abate such public nuisance, and the cost of said contract may be paid for from town funds.
- G. Owner responsible for the cost of work. Whenever the town has eliminated a hazard or has paid any other person or corporation to perform said work, the actual cost thereof plus accrued interest at the rate of 12% per annum from the date of completion of said work shall be charged to the owner of said property. If the owner of said property does not pay said charges, they shall be included as a part of the next town tax bill, and said charge shall be due and payable by said owner at the time of payment of said bill.
- H. Statement constitutes lien. Where the full amount due the town is not paid by such owner within 10 days after the town has eliminated said hazard, then and in that case the Building Inspector shall file a sworn statement with the Town Clerk showing the cost and expense incurred for the work, the date the work was done and the location of the property on which said work was done. The recordation of such statement shall constitute a lien and privilege on the property and shall remain in full force for the amount due in principal and interest, plus court costs, if any, for collection until final payment is made. Said costs and expenses shall be collected by the manner fixed by law for the collection of taxes. Sworn statements recorded in accordance with the provisions hereof shall be prima facie evidence that all legal formalities have been complied with and that the work has been done 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.
- 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 demolished forthwith or within less than the designated period, and if the Building Inspector so determines or the Fire Chief so determines and notifies the Building Inspector, the Building Inspector may cause such building or structure to be secured or demolished

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 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.

§ 66-6. Service of notice.

Proper service of any notice required by this chapter shall be made by personal service or by certified mail upon this record owner or the person having control of said building or structure at his last known address and by posting a copy of the notice in a conspicuous place on the building or structure.

§ 66-7. 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. This fine shall be in addition to all other remedies available to the town, including those set forth herein.

§ 66-8. Limitations or restrictions.

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 town pursuant to any other ordinance, local law, statute or other enactment of the town or State of New York.

§ 66-9. 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.