

Chapter 8

BUILDINGS AND CONSTRUCTION

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ARTICLE I. IN GENERAL**Sec. 8-1. Elevation of building openings to avoid flood hazard.**

In order to avoid hazards to persons and damage to property resulting from flooding, the lowest opening of all new buildings built in the village shall be one foot above the surface level of the nearest street.

(Code 1981, § 22-1; Ord. No. 604, 2-3-1987)

Secs. 8-2—8-20. Reserved.**ARTICLE II. DANGEROUS BUILDINGS****Sec. 8-21. Definitions; nuisances declared.**

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Dangerous buildings means and includes any structure that has any of the following characteristics, all of which are hereby declared to constitute public nuisances:

- (1) A building, shed, fence or other man-made structure which is dangerous to the public health because of its condition and which may cause or aid in the spread of disease or injury to the health of the occupants of it or neighboring structures;
- (2) A building, shed, fence or other man-made structure which, because of faulty construction, age, lack of proper repair or any other cause, is especially liable to fire and constitutes or creates a fire hazard;
- (3) A building, shed, fence or other man-made structure which, by reason of faulty construction or other cause, is liable to cause injury or damage by collapsing or by a collapse or fall of any part of such structure;
- (4) A building, shed, fence or other man-made structure which, because of its condition or because of lack of doors or windows, is available to and frequented by malefactors or disorderly persons who are not lawful occupants of such structure;
- (5) A building with a door, aisle, passageway, stairway or other means of exit is not of sufficient width or size, or is not so arranged as to provide safe and adequate means of exit in case of fire or panic for all persons housed or assembled therein who would be required to or might use such door, aisle, passageway, stairway or other means of exit;
- (6) A building that has a portion thereof damaged by wind, flood, fire or by any other cause in such a manner that the structural strength or stability thereof is appreciably less than it was before the catastrophe and is less than the minimum requirements of this article;

- (7) A building that has a portion thereof or member or appurtenance thereof that is likely to fail or to become detached or dislodged, or to collapse and thereby injure persons or damage property;
- (8) A building that has a portion thereof settled to such an extent that walls or other structural portions have materially less resistance to winds than is required in the case of new construction;
- (9) A building or structure or any part thereof, that, because of dilapidation, deterioration, decay, faulty construction, or because of the removal or movement of some portion of the ground necessary for the purpose of supporting such building or portion thereof, or for other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning is likely to fall or give away;
- (10) A building or portion of a building that, for any reason whatsoever, the building or structure or any portion thereof is manifestly unsafe for the purpose for which it is used;
- (11) A building or portion of a building that has been so damaged by fire, wind or flood, or has become so dilapidated or deteriorated as to become an attractive nuisance to children who might play in or about the building structure to their danger;
- (12) A building or portion of a building that has been so damaged by fire, wind or flood, or has become so dilapidated or deteriorated as to afford a harbor for vagrants, criminals, or immoral persons, or as to enable persons to resort thereto for the purpose of committing a nuisance or unlawful or immoral acts;
- (13) A building or portion of a building used or intended to be used for dwelling purposes, that because of dilapidation, decay, damage or faulty construction or arrangement is unsanitary or unfit for human habitation and is likely to work injury to the health, safety or general welfare of those living within. The term "unfit for human habitation" shall mean when a building or structure is damaged, decayed, dilapidated, unsanitary, unsafe, incomplete in construction, vermin-infested, lacks illumination, ventilation, or required sanitation facilities to such extent so as to create a clear and present danger to health, life and safety of occupants;
- (14) A building or portion of a building infested with rodents, insects, pests or other vermin, or is likely to cause sickness or disease when so determined by the county health department or by the police chief;
- (15) A building or portion of a building that has become and is vacant, dilapidated or open at door or window, leaving the interior of the building exposed to the elements or accessible to entrance by trespassers;
- (16) A building or portion of a building that is unoccupied and deemed a nuisance and the structure or building has been secured by the owner or his agents by covering up the windows and exits with lumber or materials other than glazing materials for a period of 30 days or more, thereby causing a blighting influence on a neighborhood; or

(17) A building or structure that becomes abandoned.
(Code 1981, § 18-2-1)

Sec. 8-22. General prohibition.

It is unlawful to maintain or permit the existence of any dangerous building in the village; and it is unlawful for the owner, occupant or person in custody of any dangerous building to permit the same to remain in a dangerous condition, or to occupy such building or permit the same to be occupied while it is or remains in a dangerous condition. The board of trustees shall have full power to pass any question arising under the provisions of this article.
(Code 1981, § 18-2-2)

Sec. 8-23. Abatement procedure.

(a) The board of trustees of the village, upon recommendation by the police chief or other village employee, is authorized, by resolution duly adopted at a regular meeting, to determine whether a building or structure within the village is a dangerous building and to seek the demolition or repair of dangerous, uncompleted or abandoned buildings within the territorial limits of the village.

(b) When a building or structure within the village is found to be a dangerous building or contains an unsafe condition determined by the board of trustees, the clerk shall issue and serve a notice thereof upon all owners of record or persons having an interest therein as shown by documents recorded in the office of the county recorder of deeds and upon persons in apparent possession of the premises.

(c) The notice shall briefly and concisely specify the conditions and factors of the building or structure which render it dangerous or unsafe. The notice shall further specify that the owners make the building safe (by complete elimination of any unsafe conditions) or commence demolition at owner's costs within 15 days of the notice. The notice shall further specify that demolition shall commence no later than 15 days of the notice and a date for completion of demolition. The date for completion shall be reasonably set in light of the nature of the building, weather conditions, and other related factors. The 15-day time period shall commence upon receipt of the notice.

(d) The notice authorized by this section shall be served by either personal service or by certified mail with return receipt requested. Personal service may be made by either the police chief or by the county sheriff or deputy sheriff.

(e) When, upon diligent search, the identity or whereabouts of the owner of any such building, including the lienholders of record is not ascertainable, notice mailed to the person in whose name such real estate was last assessed for general real estate taxes is sufficient notice under this section.

(f) In the event the owner fails to comply with any time period set forth in the notice, the corporation counsel is authorized, in addition to any other remedies provided by law or village ordinances, to commence a civil action in the county circuit court seeking an

injunction or a court order authorizing demolition or repair of the building or structure subject to the notice provided by this section and to create the lien described in section 8-27. It shall not be a defense to this cause of action that the building is boarded up or otherwise enclosed. It further shall not be a defense that the building is put in a safe condition during the pendency of the civil action.

(g) Joined as defendants in the cause shall be the owner of record and other parties having an interest in the property as shown by documents recorded in the office of the county recorder of deeds on the date of filing of the complaint for demolition.
(Code 1981, § 18-2-3)

Sec. 8-24. Buildings damaged by fire or decay.

(a) Any frame building or structure within the fire limits of the village which has or may be damaged by fire, decay or other causes to the extent of 50 percent of its value shall be torn down and removed, or rebuilt with nonflammable walls.

(b) Upon written finding by the police chief filed with the clerk to the effect that such building has been so damaged, the clerk shall notify the president and board of trustees of the receipt of such notice.

(c) The president and board of trustees shall then appoint three persons to determine whether or not such building or structure has been damaged to the extent of 50 percent of its value.

(d) A copy of the notice of the appointment of this board of three people to determine the damage shall be served upon the owner of the premises by personal service or by certified mail, return receipt requested, at his last known address.

(e) If this finding is verified by the board of three members determining that the building in question has been damaged to the extent of 50 percent of its value, the verified finding shall be reported to the board of trustees. The board of trustees is authorized by resolution duly adopted at a regular meeting to seek the demolition or repair of such building or structures so damaged to the extent of 50 percent of its value, at the owner's cost. If such a resolution is adopted by the board of trustees, notice thereof shall be given to the owners of record or persons having an interest therein as shown by documents recorded at the office of the county recorder of deeds and upon persons in apparent possession of the premises.

(f) The notice shall specify that the owners shall commence demolition at owner's cost within 15 days of receipt of notice with demolition to be complete by a date certain. The date for completion shall be reasonably set in light of the nature of the building, weather conditions, and other related factors.

(g) The notice authorized by this section shall be served by either personal service or by certified mail with return receipt requested. Personal service may be made by either the police chief or by the county sheriff or deputy sheriff.

(h) When, upon diligent search, the identity or whereabouts of the owner of any such building, including the lienholders of record, is not ascertainable, notice mailed to the person in whose name such real estate was last assessed for general real estate taxes is sufficient notice under this section.

(i) In the event the owner fails to comply with any time period set forth in the notice, the corporation counsel is authorized, in addition to any other remedies provided by law or village ordinances, to commence a civil action in the county circuit court seeking an injunction or a court order authorizing demolition or repair of the building or structure subject to the notice provided by this section and to create the lien described in section 8-27. It shall not be a defense to this cause of action that the building is boarded up or otherwise enclosed. It further shall not be a defense that the building is put in a safe condition during the pendency of the civil action.

(j) Joined as defendants in the cause shall be the owner of record and other parties having an interest in the property as shown by documents recorded in the office of the county recorder of deeds on the date of filing of the complaint for demolition.
(Code 1981, § 18-2-4)

Sec. 8-25. Lis pendens.

Upon commencement of the civil action set forth in section 8-23 or 8-24, a lis pendens designating the property upon which the subject building is located shall be filed with the county recorder of deeds. Failure to file or the improper filing of the lis pendens does not, however, affect the civil action for demolition. Any person obtaining or recording in the office an interest in the property after such filing may become a party to the civil action only if he intervenes by order of the court.
(Code 1981, § 18-2-5)

Sec. 8-26. Placarding of building or structure.

When any dwelling or building has been designated a dangerous building or contains unsafe conditions, or determined to be damaged by fire, decay or otherwise to the extent of 50 percent of its value by the board of trustees, the police chief shall placard the building indicating that the condition is dangerous and unsafe. It is unlawful for any person to remove, cause to be removed or cover up in any way any placard designating a building structure a dangerous building.
(Code 1981, § 18-2-6)

Sec. 8-27. Demolition lien; personal judgment.

(a) The cost of demolition or repair and attorney fees incurred by the village under this article shall be recoverable from the owner of the real estate and is a lien thereon, which lien shall be superior to all prior existing liens and encumbrances, except taxes; provided, however, that within 60 days after completion of the demolition or repair, the corporation counsel shall file a notice of lien for the cost and expense incurred by the village in the office

of the county recorder of deeds. Upon payment of the cost of demolition and fees and expenses by the owner or any person who has an interest in the property, the lien shall be released by the corporation counsel.

(b) The lien may be enforced by proceedings to foreclose as in cases of mortgages or mechanics' liens. Suit to foreclose this lien shall be commenced by the corporation counsel within three years after the date of filing the notice of lien.

(c) If payment of the village's cost of demolition is not paid to the village within 15 days of the filing of the notice of lien, the corporation counsel may commence proceedings in the circuit court seeking a personal judgment from the owner of the subject property at the time the complaint for demolition was filed with the circuit clerk in the amount of the costs, expenses and attorney fees. The action authorized by this subsection shall be in addition to, and without waiver of, any other remedies.

(Code 1981, § 18-2-7)

Sec. 8-28. Penalty.

In addition to the civil remedies provided in section 8-24, any person violating any provisions of this article, or permitting any dangerous building, or any building or structure to remain in a dangerous condition or to remain in the fire limits without remodeling, as provided for in section 8-24, after it has been damaged to the extent of 50 percent of its value, shall be fined not less than \$25.00 nor more than \$500.00 for each offense; and a separate offense shall be deemed committed on each day during on or which a violation occurs or continues.

(Code 1981, § 18-2-8; Ord. No. 624, 4-7-1992)