

Chapter 76
BUILDINGS, UNSAFE

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[HISTORY: Adopted by the Town Board of the Town of Henderson 9-5-1990 by L.L. No. 2-1990. Amendments noted where applicable.]

GENERAL REFERENCES

Fire prevention and building construction — See Ch. 90. Zoning — See Ch. 150.

§ 76-1. Purpose.

Unsafe buildings and structures pose a threat to life and property in the Town of Henderson. 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. 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 Town of Henderson by requiring such unsafe buildings to be repaired or demolished or removed.

§ 76-2. Definitions.

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

BUILDING — Any building, structure or portion thereof located on or affixed to the land.

ENFORCEMENT OFFICER — The Zoning Enforcement Officer of the Town of Henderson and his duly appointed assistants or deputies or such other person appointed by the Town Board to enforce the provisions of this chapter.

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.

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 $\frac{1}{3}$ 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 have become dangerous to life or safety or the general health and welfare of the occupants or the people of the Town of Henderson;
- E. Has become or is 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 is likely to cause sickness or disease, so as to work injury to the health, safety or general welfare of those living therein;
- F. Has light, air and sanitation facilities which are inadequate to protect the health, safety or general welfare of human beings who live or may live therein;
- G. Has inadequate facilities for egress in case of fire or panic or has insufficient stairways, elevators, fire escapes or other means of ingress and egress;
- H. Has 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, safety or general welfare of the people of the Town of Henderson;
- J. Is open at the doorways or windows or walls, making it accessible to and an object of attraction to minors and other trespassers;
- K. Is or may become a place of rodent infestation; or
- L. Consists of debris, rubble or parts or buildings left on the ground after demolition, reconstruction, fire or other casualty.

§ 76-3. Maintenance requirements.

- 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 Town of Henderson 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 § 76-2 of this chapter.

- B. Any owner, occupant or person in custody of real property located within the Town of Henderson who allows or permits a building to continue as a dangerous building after due notice as provided in § 76-5 shall be guilty of a violation of this chapter and shall be punished as provided in § 76-11.

§ 76-4. Investigation and report.

When, in the opinion of the Zoning Enforcement Officer, any building or structure located in the Town of Henderson shall be deemed to be dangerous or unsafe to the public, as defined in § 76-2, the Zoning Enforcement Officer shall make a formal inspection thereof and report in writing to the Town Board his findings and recommendations in regard to the building's or structure's removal or repair. Upon request by the Zoning Enforcement Officer, the Town Board may authorize the employment of an architect or engineer to assist the Zoning Enforcement Officer in performing such duties.

§ 76-5. Order to repair; hearing to be scheduled.

The Town Board 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 Town Board 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.

§ 76-6. Prohibition of trespassing; penalty.

In addition to serving the notice as provided in § 76-5, the Town Board 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 included in the notice referred to in § 76-5. Anyone found trespassing in violation of this section shall be liable for a fine not to exceed \$50 for each offense.

§ 76-7. Contents of notice.

The notice shall contain the following statements:

- A. The name of the owner or person in possession.
- 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 is 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 Town Board, at which hearing the owner or occupant shall have the right to contest the order and findings of the Town Board.
- 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 Town Board will order the repair or removal of such building by the town, and the town will assess all costs and expenses incurred in such removal against the owner and the tax parcel 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 this chapter subjecting the violators to a fine not to exceed \$250 for each week of such violation.

§ 76-8. Service and filing of notice.

- A. A copy of said notice shall be personally served upon the owner or some one of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the same as shown by the records of the receiver of taxes or in the office of the Jefferson County Clerk.
- 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 securely affixing a copy of said notice upon the building or structure.
- C. A copy of said notice may be filed in the Jefferson 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 pursuant to Article 65 of the Civil Practice Law and Rules. 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 an attorney for the town. The Jefferson 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.

§ 76-9. Hearing.

The Town Board 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 interested parties are heard and until the hearing is completed. At the conclusion of the hearing, the Town Board shall determine by resolution to revoke the order to repair or remove, to modify said order or to

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 Town Board.

§ 76-10. 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 Town Board within the time specified in said order and after the public hearing, the Town Board shall provide that such building or structure be made safe and secure or removed and demolished by town employees or by independent contractors. Except in emergency cases as herein provided, any contract for repair or demolishing and removal of a building or structure in excess of \$5,000 shall be awarded through competitive bidding pursuant to the General Municipal Law.
- B. In the event of the refusal, failure or neglect of the owner or person so notified to comply with said order of the Town Board within the time specified in said order and after the public hearing, such owner or person shall be guilty of a violation of this chapter.

§ 76-11. Penalties for offenses.

Except as provided in § 76-6, any person found guilty of violating this chapter shall be liable for a fine not to exceed \$250 for each violation. Each week such violation shall continue shall constitute a separate violation.

§ 76-12. Assessment of expenses.

All expenses incurred by the town 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, engineer's and architect'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.

§ 76-13. Emergency situations.

Where it reasonably appears that there is present a clear and imminent danger to life, safety or health of any person or property unless an unsafe building or structure is immediately repaired and secured or demolished, the Town Board may, by resolution, authorize the Zoning Enforcement Officer to immediately cause the repair or demolition of such unsafe building or structure. The expenses of such repair or demolition be a charge against the land on which it is located and shall be assessed, levied and collected as provided in § 76-12 hereof.

§ 76-14. Application for court order.

The Town Board may maintain an action or proceeding in the name of the town in a court of competent jurisdiction to compel compliance with this chapter or any order of the Town Board to repair, remove, improve or demolish any unsafe building, structure or condition.