

Chapter 90

BUILDINGS, UNSAFE

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[HISTORY: Adopted by the Town Board of the Town of Westmoreland 5-28-1985 by L.L. No. 2-1985. Amendments noted where applicable.]

GENERAL REFERENCES

Building code administration and enforcement — See
Ch. 86.

Zoning — See Ch. 180.

§ 90-1. Purpose.

Unsafe buildings pose a threat to the life and property in the Town of Westmoreland. Buildings and structures may become unsafe by reason of damage by fire, the elements, age or general deterioration. Vacant buildings not properly secured at the doorways and windows also serve as an attractive nuisance for young children who may be injured therein, as well as 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. 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 Westmoreland by requiring such unsafe buildings be repaired or demolished and removed.

§ 90-2. Fire Prevention and Building Code.¹

The provisions of this chapter shall be in addition to, and in furtherance of, the New York State Uniform Fire Prevention and Building Code, including, but not limited to, Sections 107 and 108 of the Property Maintenance Code of New York State.

§ 90-3. Title.

This chapter shall be known as the "Unsafe Buildings Law" of the Town of Westmoreland.

1. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 90-4. 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 or industrial purposes.

BUILDING INSPECTOR — The Building Inspector of the Town of Westmoreland or such other person appointed by the Town Board to enforce the provisions of this chapter.

UNSAFE BUILDING — Any building or other structure which has any of the following defects: ²

- A. 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.
- B. 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 nonsupporting 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 which have been damaged by fire, wind, snow load or other causes so as to have become dangerous to the life, safety and general welfare of the residents of the Town of Westmoreland.
- E. Those which have become or are so dilapidated, decayed, unsafe or unsanitary that they are unfit for occupation by humans or animals or for use for storage.
- F. Those buildings intended or used for human occupation that are inadequate to protect the health, safety and general welfare of human residents living therein.
- G. Those buildings that lack adequate facilities for ingress and egress in case of fire or other emergency or those having insufficient stairways, elevators, fire escapes or other means of escape.
- H. Those which have parts thereof which are so attached that they may fall and injure persons on the property or members of the general public or cause damage to other property.
- I. Those buildings which violate the provision of the New York State Uniform Fire Prevention and Building Code, Chapter 180, Zoning, of the Code of the Town of Westmoreland and any other applicable laws of the State of New York, County of Oneida or Town of Westmoreland.
- J. Any building which remains vacant and unattended continuously for a period of one year or longer, without adequate safeguards to prevent unauthorized entry.

2. Editor's Note: Added at time of adoption of Code (see Ch. 1, General Provisions, Art. I).

§ 90-5. Investigation and report.

The Building Inspector, when in his own opinion or upon receipt of information that a building: is or may become dangerous or unsafe to the general public; is open at the doorways and windows making it accessible to and object of attraction to minors under 18 years of age as well as to vagrants and other trespassers; is or may become a place of rodent infestation; presents any other danger to the health, safety, morals and general welfare of the public; or is unfit for the purposes for which it may lawfully be used, shall cause or make an inspection thereof and report, in writing, to the Town Board his findings and recommendations in regard to its repair or demolition and removal.

§ 90-6. Town Board order.

The Town Board shall thereafter consider such report and by resolution determine, if in its opinion the report so warrants, that such building is unsafe and dangerous, and order its repair if the same can be safely repaired or its demolition and removal, and further order that a notice be served upon the persons and in the same manner provided herein.

§ 90-7. Contents of notice.

The notice shall contain the following:

- A. A description of the premises;
- B. A statement of the particulars in which the building is unsafe or dangerous;
- C. A report outlining the manner in which the building is to be made safe and secure, or demolished and removed;
- D. A statement that the securing or removal of such building shall commence within 30 days of the service of the notice and shall be completed within 60 days thereafter, unless for good cause shown such time shall be extended;
- E. A date, time and place for a hearing before the Town Board in relation to such dangerous or unsafe building, which hearing shall be scheduled not less than five business days from the date of service of the notice; and
- F. A statement that in the event of neglect or refusal to comply with the order to secure or demolish and remove the building, the Town Board is authorized to provide for its demolition and removal, to assess all expenses thereof against the owner and to institute a special proceeding to collect the costs of the demolition, including legal costs.

§ 90-8. Service of notice.

The said notice shall be served:

- A. By personal service of a copy thereof upon the owner, executor, administrator, agent, lessee, or any person having a vested interest or contingent interest in such unsafe building as shown by the records of the Tax Collector or of the County Clerk; or if no such person can be reasonably found by mailing such owner by registered mail a copy of such notice directed to his last known address as shown by the above records; and
- B. By personal service of a copy of such notice upon any adult person residing in or occupying such premises if such person can be reasonably found; and
- C. By securely affixing a copy of such notice upon the unsafe building.

§ 90-9. Filing of notice.

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

§ 90-10. Refusal to comply.

In the event of the refusal or neglect of the person so notified to comply with said order of the Town Board after the hearing the Town Board shall provide for the demolition and removal of such building or structure either by Town employees or by contract. Except in the emergency as provided in § 90-12 thereof, any contract for demolition and removal of a building in excess of \$5,000 shall be awarded through competitive bidding.

§ 90-11. Recovery of costs.

The Town Board may commence a special proceeding in a court of competent jurisdiction to collect the cost of demolition, removal or repair of such building, including reasonable and necessary expenses or incidental to obtaining an order to demolish, from the owner of any building that may now be or shall heretofore become dangerous or unsafe to the public. The provisions of Article 4 of the Civil Practice Law and Rules shall govern any special proceeding commenced under this section.

§ 90-12. Emergency cases.

Where it reasonably appears that there is present clear and imminent danger to the life, safety or health of any person or property unless an unsafe building is immediately repaired and secured or demolished, the Town Board may by resolution authorize the Building Inspector to immediately cause repair or demolition of such said building. The expenses of such repair or demolition shall be recovered as provided in § 90-11 hereof.

§ 90-13. Compensation of surveyor.

The surveyor appointed as provided herein shall be paid reasonable compensation as shall be affixed by the Town Board.