

INCORPORATED VILLAGE OF AMITYVILLE: LOCAL LAW #6 OF YEAR 2016

A local law to amend Chapter 51- Buildings, of the Code of the Village of Amityville (CVA), by adding new §51-2.1, §51-13, §51-14, §51-15, §51-16 §51-17 and §51-18 and amending §51-5, §51-6, §51-8, §51-9(A) and §51-10 thereof, to better define unsafe structures and to promote accelerated action taken by the Board of Trustees to safeguard the public.

BE IT ENACTED by the Board of Trustees of the Inc. Village of Amityville as follows:

Section 1. Purpose and Intent.

The purpose of this article is to provide better administration and enforcement of that part of the Fire Prevention and Building Codes of the State of New York and the Village Code, as such codes relate to unsafe structures and equipment and to clarify procedures to address threats to public safety and the general welfare posed by the existence of vacant, abandoned or unsafe buildings, structures or equipment within the Village of Amityville.

Section 2. Add a new §51-2.1. Unsafe structures and equipment.

- A. When a structure or equipment is found to be unsafe, or unfit for human occupancy, or is found unlawful, such structure shall be condemned pursuant to the provisions of this code.
- B. Unsafe structures. An unsafe structure is one that is found to be dangerous to the life, health, property or safety of the public or the occupants of the structure, by not providing minimum safeguards to protect or warn occupants in the event of fire; or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe; or of such faulty construction or unstable foundation that partial or complete collapse is possible. Structures which may be unsafe include but are not limited to the following:
 - (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, and/or 50% damage or deterioration of the nonsupporting enclosing or outside walls or covering.
 - (3) Those which have improperly distributed loads upon the floors or roofs or which the same are overloaded or have insufficient strength to be reasonably safe for the purpose used.
 - (4) Those which have been damaged by fire, flood, wind or other causes so as to have become dangerous to life, safety or the general health and welfare of the occupants, surrounding residents or the public.
 - (5) Those having 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.

- (6) Those having inadequate facilities for egress in cases of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.
- (7) Those which have parts thereof which are so attached that they may collapse and injure members of the public or the property.
- (8) 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, safety or general welfare of those living therein or nearby.
- (9) A swimming pool shall further be deemed to be an unsafe structure which has any of the following additional conditions:
 - (a) Absence of enclosures and/or covers required pursuant to the New York State Building Code, or water causing hazardous conditions.
 - (b) Deterioration of the pool piping, filtration or water treatment equipment, creating an unsanitary condition in pool waters.
 - (c) Deterioration or damage to the pool piping, equipment, pool walls or floors, causing excessive leaching of pool water into the surrounding ground area.
 - (d) Improper electrical, water supply or waste removal connections to the swimming pool or pool equipment creating hazardous conditions.
 - (e) Improper storage of pool chemicals causing hazardous conditions.
 - (f) Improper installation of pool heating equipment causing hazardous conditions.
- (10) Those elements which, because of their condition, are unsafe, unsanitary or dangerous to the health, safety or general welfare of the people of this Village.

C. Unsafe equipment. Unsafe equipment includes any boiler, fixture, heating equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure, which is in such disrepair or in a condition that such equipment is a hazard to life, health, property or safety of the public or occupants of the premises or structure.

D. Structure unfit for human occupancy. A structure is unfit for human occupancy whenever such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary or heating facilities or other essential equipment required by this code, or because the location of the structure constitutes a hazard to the occupants of the structure or the public.

E. Unlawful structure. An unlawful structure is one found in whole or in part to be occupied by more persons than permitted under this code, or which was erected, altered or occupied contrary to law.

Section 3. Repeal existing CVA §51-5 and replace a new §51-5. Contents of Notice, as follows:

- A. Such notice shall contain a description of the premises, a statement of the particulars in which the building or structure or equipment is unsafe and an order requiring the same to be made safe and secure or removed. Said notice shall specify:
- (1) A description of the premises.
 - (2) A statement of the particulars in which the building is unsafe or dangerous.
 - (3) An order outlining the manner in which the building is to be made safe and secure or demolished and removed.
 - (4) A statement within which the person served with such notice shall commence the securing or removal of such building or equipment, as may be necessary to protect the life, safety or health of any person or property.
 - (5) The date, time and place at which a hearing shall be held before the Board of Trustees, at which hearing the owner or other persons having an interest in the structure or equipment may be heard with respect to the condition of the building, structure or equipment and the actions necessary to secure or remove same.
 - (6) Said notice shall further state that after such hearing the Board of Trustees may provide for the securing or removal of such building or structure or equipment by the Village in the event such owner fails or refuses to secure or remove the same within the time provided.

Section 4. Repeal existing CVA §51-6 and replace a new §51-6. Service of Notice, as follows:

Such notice, together with the report prepared pursuant to §51-3, shall be posted on the premises, and shall be filed in the office of the Suffolk County Clerk in the same manner as a notice of pendency pursuant to Article sixty-five of the Civil Practice Law and Rules, and shall be served upon the owner, or one of the owner's executors, legal representatives, agents, lessees or other person having a vested interest in the premises, either personally or by registered mail addressed to their last known address, if any, as shown by the records of the Village Clerk and/or in the office of the Suffolk County Clerk.

Section 5. Amend CVA §51-8. Hearing by removing the last sentence thereof and substituting a new last sentence as follows:

The owner, any occupant and such other interested persons shall receive written notice of such determination and any resulting Order in accordance with the requirement of §51-5 hereof.

Section 6. Repeal existing Section A. of CVA §51-9 and replace with a new §51-9(A). Refusal to comply; contracts for demolition, as follows:

- A. In the event of the refusal or neglect of the person or entity so notified to comply with said Order of the Board of Trustees within seven (7) days, or earlier if conditions require, the Board of Trustees shall direct that such building or structure be secured, repaired or demolished and removed, either by Village employees or by contract, unless such conditions require emergency or immediate remedial action, whereupon the Village shall take such action as may be necessary.

Section 7. Repeal existing CVA §51-10 and replace a new §51-10. Assessment of costs; assessment to constitute lien, as follows:

All costs and expenses incurred by the Village of Amityville in connection with the proceedings to remove or secure an unsafe building, unsafe equipment or collapsed structure, including the cost of actually removing said building, equipment or structure, shall be assessed against the land on which said buildings or structures are located. The amount of such cost and expense shall be determined and audited by the Board of Trustees and shall be reported to the Village Assessor as an amount to be levied and assessed against said premises as an assessment for an improvement to be included in the next succeeding assessment roll of the Village of Amityville to be thereafter prepared.

Section 8. Add a new CVA §51-13. Order to vacate premises, as follows:

When there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the occupants shall vacate the premises forthwith. There shall be posted at each entrance to such structure a notice reading as follows: This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the Code Enforcement Official.” It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or demolishing the same.

Section 9. Add a new CVA §51-14. Corrective action by the Village, as follows:

When there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the Building Inspector may take such immediate action as is necessary to protect life and alleviate the danger presented, including emergency repair or removal of all or part of the building or structure, without notice or hearing to the property owner.

Section 10. Add a new CVA §51-15. Further action, as follows:

Following action taken pursuant to §51-13. - Order to Vacate Premises, or under §51-14. - Corrective Action by the Village, the Building Inspector shall prepare and deliver a report of such action to the Board of Trustees, and, if the building or structure remains unsafe, to cause said building or structure to be rendered safe pursuant to §51-9 hereof. The Building Inspector shall notify the property owner of the emergency actions taken pursuant to the provisions of §51-6 hereof.

Section 11. Add a new CVA §51-16. Assessment and lien, as follows:

All costs and expenses incurred by the Village of Amityville in connection with emergency measures taken pursuant to an Order to Vacate Premises or Corrective Action by the Village under §51-13 or §51-14, shall be assessed against the land on which said buildings or structures are located. The amount of such cost and expense shall be determined and audited by the Board of Trustees and shall be reported to the Village Assessor as an amount to be levied and assessed against said premises as an assessment for an improvement to be included in the next succeeding assessment roll of the Village of Amityville to be thereafter prepared.

Section 12. Add a new CVA §51-17. Transfer of title, as follows:

The transfer of title by an owner of the premises upon which an unsafe building or structure or excavation is cated shall be no defense to any proceeding or actions already commenced under this chapter.

Section 13. Add a new CVA §51-18. Penalties for Offenses, as follows:

Any owner, upon whom a notice as provided in this article, has been personally served, who fails, neglects or refuses to place such unsafe building or structure or hazard in a safe condition as designated in such notice, or who shall violate any of the provisions of this article or Orders given pursuant thereto, or who shall resist or obstruct the Building Inspector in carrying out the provisions of this article, shall be guilty of a violation and shall, upon conviction thereof, be subject to a fine of not more than \$15,000. Each week in which such violation continues shall constitute a separate offense.

Section 14. Effective Date.

This local law shall take effect immediately upon adoption, subject to filing with the Secretary of State.