

## Chapter 81

### BUILDINGS, UNSAFE

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[HISTORY: Adopted by the Board of Trustees of the Village of Alden 1-23-2003 by L.L. No. 7-2003. Amendments noted where applicable.]

#### GENERAL REFERENCES

Licenses and permits – See Ch. 125.  
Building construction and fire prevention – See Ch. 78.  
Zoning – See Ch. 210.

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#### § 81-1. Purpose.

This chapter is adopted in order to promote and protect public health, safety, comfort, convenience, prosperity and other aspects of the general welfare of the residents of the Village of Alden. Those general purposes include the following specific purposes: the protection of property, the preservation of property values and the elimination of fire, safety and health hazards.

#### § 81-2. Identification of unsafe buildings.

All buildings or structures which have any of the following defects shall be deemed unsafe buildings:

- A. Those whose exterior 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 walls which, exclusive of the foundation, show thirty-three percent (33%) or more damage or deterioration of the supporting member or members or fifty

percent (50%) or more of damage or deterioration of the 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 or other causes so as to have become dangerous to life, safety, morals or the general health and welfare of the occupants or the people of the Village of Alden.
- E. 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.
- F. Those having light, air and sanitation facilities which are inadequate to protect the health, morals, safety or general welfare of human beings who live or may live therein.
- G. Those having inadequate facilities for egress in case of fire or panic or those having insufficient stairways, elevators, fire escapes or other means of communication.
- H. Those which have parts thereof which are so attached that they may fall and injure members of the public or adjoining property.
- I. Those which because of their condition are unsafe, unsanitary or dangerous to the health, morals, safety or general welfare of the people of the village and/or any adjoining property.
- J. Those buildings existing in violation of any provision of Chapter 78, Building Construction and Fire Prevention, or any other provisions of the Code of the Village of Alden, any regulations promulgated thereunder, any federal laws or regulations or any laws or regulations of the State of New York.

**§ 81-3. Examination of buildings; notice of unsafe conditions.**

- A. The Code Enforcement Officer of the Village of Alden shall examine or cause to be examined any building reported or observed to be dangerous or unsafe under the provisions of the Code of the Village of Alden. A written record of such examination shall be filed with the Village of Alden Board of Trustees.

- B. A notice shall be served on the owner or at least one (1) of the owner's executors, legal representatives, agents, lessees or any other person, firm or corporation having a vested or contingent interest in the building or structure, either personally or by certified mail, return receipt requested, addressed to the last known address of such person, firm or corporation as shown by the records of the Receiver of Taxes and/or in the office of the County Clerk or County Register. If such service is made by certified mail, a copy of such notice shall be posted on the premises. Failure of the person or persons to receive the mailed notice shall not impede the continuance of the procedures hereby established.

**§ 81-4. Contents of notice.**

The notice referred to in § 81-3B above shall contain the following:

- A. A description of the premises.
- B. A statement of the particulars in which the building or structure is unsafe or dangerous.
- C. An order requiring the building or structure to be made safe and secure, repaired, demolished or removed.
- D. A statement that the securing, repair, demolition or removal of the building or structure shall commence within thirty (30) days from the date of the service of the notice and shall be completed within sixty (60) days thereafter unless the Village of Alden Board of Trustees shall specify a period or time other than sixty (60) days for such completion.
- E. The time and place designated for a hearing before the Village Board of Trustees on matters at issue in the notice.
- F. A statement that in the event the building or other structure shall be reported unsafe or dangerous and in the event of the neglect or refusal of the person served with notice to repair and secure or take down such building or other structure, an examination of the premises will be made by a qualified official of the Village of Alden and a practical builder, engineer or architect to be named by the Board of Trustees and by a practical builder, engineer or architect to be named by the person served with the notice as herein provided, and that in the event of the refusal or neglect of the person so notified to appoint such a practical builder, engineer or architect, the persons named or appointed by the Board of Trustees shall make the examination and report to the Board of Trustees as herein provided for.

- G. A statement that if the report of the examination made by a majority of the three (3) persons or by the two (2) persons, as the case may be, shall be that the building or structure is unsafe or dangerous to the public or to the tenants or occupants thereof, that an application will be made to a court of competent jurisdiction for an order determining the building or structure to be a public nuisance and directing that it shall be repaired and made secure or that it shall be demolished and removed.
- H. A statement that the land on which the building or other structure is located shall be assessed for all costs and expenses incurred by the Village of Alden in connection with the proceedings to repair and secure or take down and remove, including the cost of actually removing said building or structure and any legal costs, including attorney's fees and disbursements, relating to the enforcement of this Chapter.

#### **§ 81-5. Public hearing.**

The Village Board of Trustees shall conduct a public hearing at the time and place specified in the notice prescribed under § 81-4 of this chapter at which the owner and persons having an interest in the property or structure in question may respond to the matters at issue in the notice.

#### **§ 81-6. Emergencies. [Amended 10-25-2018 by L.L. No. 4-2018]**

If the Code Enforcement Officer determines that the building or structure is in such condition that there is an actual immediate danger of its falling or collapsing so as to endanger life and property, he/she may forthwith cause the necessary work to be done to render said building or structure temporarily safe, whether or not the procedure prescribed in this chapter has been instituted or not. Under such circumstances the Code Enforcement Officer may require all occupants or tenants of the building or structure to vacate the same forthwith, and, when necessary for the public safety, close and temporarily barricade sidewalks, streets, adjoining buildings or structures and prohibit the same from being used until the unsafe or dangerous condition has been removed. The procedure for notification as outlined in Sections 81-3, 81-4, and 81-5 of this chapter will be implemented as soon as practical after an emergency action has taken place.

#### **§ 81-7. Penalties for offenses.**

Any person who shall violate any provisions of this chapter, commit unauthorized removal of notices or interference with officials shall be guilty of an offense punishable by a fine not to exceed two hundred fifty dollars (\$250.00) or imprisonment for a period

not to exceed fifteen (15) days, or both. Each day's continued violation shall constitute a separate offense.

**§ 81-8. Severability.**

In any section, clause or provision of this chapter or the application thereof to any persons is adjudged invalid, the adjunction shall not effect other sections, clauses or provisions or the application thereof which can be sustained or given effect without the invalid section, clause or provision or application, and to this end the various sections, clauses or provisions of this chapter are declared to be severable.