

Chapter 203, BUILDINGS, UNSAFE

[HISTORY: Adopted by the City Council of the City of Binghamton 10-5-1970 (Sub-Part XXXII of the 1970 Code). Amendments noted where applicable.]

GENERAL REFERENCES

Powers of Superintendent of Buildings as to removal or repair of dangerous buildings -- See Charter, § C-232.

Building construction -- See Ch. 200.

Electrical standards -- See Ch. 225.

Fire prevention -- See Ch. 235.

Plumbing -- See Ch. 310.

§ 203-1. Repair or removal required.

Pursuant to and in accordance with the provisions of § 20, Subdivision 35, of the General City Law of the State of New York, the repair or removal of any building or structure within the City of Binghamton that, from any cause, endangers the health, safety, or welfare of the public, is hereby compelled, in accordance with the procedures set forth herein.

§ 203-2. Procedure for repair or removal. [Amended by L.L. No. 1-1990]

A. Authorities to supervise. All determinations relative to this procedure shall be made jointly by the Supervisor of the Division of Building Inspection and Construction (hereinafter referred to as "Supervisor"), the Code Enforcement Director (hereinafter referred to as "Director"), the Corporation Counsel (hereinafter referred to as "Counsel"), and, in cases involving fire, the Fire Marshal (hereinafter referred to as the "Marshal"). The above-named individuals shall meet within one business day of any incident or fire which results in a damaged building.

B. Inspection; report of dangerous condition. The Director, the Supervisor, and, in case of a fire, the Marshal shall each inspect the property and provide a report of their findings. The final determination of condition by the Director, Supervisor, Marshal and Counsel shall be in writing, based upon the various reports.

C. Service of notice of dangerous condition. If the Director, Supervisor, Marshal and Counsel shall find said building or structure endangers the health, safety or welfare of the public, there shall be served upon the owner, and all persons having legal interest in such property or structure, either personally or by registered/certified mail, addressed to his or her last known address as shown by the records of the Department of Assessment of the City of Binghamton or the Office of the Treasurer of the City of Binghamton and/or in the office of the County Clerk of Broome County, a notice containing a description of the premises, a statement of the particulars in which the building or structure is unsafe or dangerous and an order of the Counsel requiring the same to be repaired or removed. If the service is by registered or certified mail, a copy of such notice shall be posted on the premises in a conspicuous location.

D. Time within which repair/removal to be made. The order shall provide for repair or removal based upon the following time table:

(1) Imminent danger: Any building or structure which is an imminent danger to life or safety as a result of structural instability, fire, explosion or other hazardous situations shall be repaired/removed in compliance with the terms of Charter § C-232.

(2) Totally destroyed building: Any property which is deemed to have sustained damage in an amount greater than 50% shall be deemed to be beyond repair. In such a case, an order shall be issued requiring that the building immediately be secured in the manner deemed necessary by the Director, Supervisor, Marshal and Counsel and that within 30 days the building and all debris be removed. The order shall further provide that said building shall not be occupied pending removal. [Amended 12-4-2006 by L.L. No. 2-2006]

(3) Damaged, possibly repairable: Any property which is deemed to have sustained damage in an amount greater than 25% but no more than 50% shall be deemed to be possibly repairable. In such a

case, an order shall be issued requiring that the building immediately be secured in the manner deemed necessary by the Director, Supervisor, Marshal and Counsel. The order shall further provide that within 30 days of the order, the property owner shall either remove the building and debris or commence repairs pursuant to a plan submitted to and deemed acceptable by the Director, Supervisor, Marshal and Counsel. The order shall additionally provide that the building shall not be occupied until and unless repairs are made pursuant to a plan, as set forth above, and until and unless consent for occupation is granted by the Director, Supervisor, Marshal and Counsel. [Amended 12-4-2006 by L.L. No. 2-2006]

(4) Repairable structure: Any property which is deemed to have sustained damage of 25% or less shall be deemed to be repairable. In such a case, an order shall be issued requiring that the building immediately be secured in the manner deemed necessary by the Director, Supervisor, Marshal and Counsel and that within 45 days repairs be commenced pursuant to a plan submitted to and deemed acceptable by the Director, Supervisor, Marshal and Counsel. The order shall additionally provide that the building shall not be occupied until and unless repairs are made pursuant to a plan, as set forth above, and until and unless consent for occupation is granted by the Director, Supervisor, Marshal and Counsel. [Amended 12-4-2006 by L.L. No. 2-2006]

E. Filing of notice. The Corporation Counsel shall file a copy of the notice provided for under § 203-2C hereof in the Office of the County Clerk of the County of Broome within seven days after service under Subsection C is complete. Such notice shall be filed by such Clerk 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 as therein provided, except as otherwise provided in this subsection. A notice so filed shall be effective for a period of one year from the date of filing; provided, however, that it may be vacated upon the order of a judge or justice of a court of record or upon the consent of the Corporation Counsel of the City of Binghamton. The Clerk of the County of Broome 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.

F. Hearing; notice. There shall be a hearing before the Director, Supervisor, Marshal and Counsel, notice of which and the time and place thereof shall be specified in the notice to repair or remove, served upon the owner and such persons having an interest in the property or structure as is herein prescribed.

G. Removal by City. In the event that the owner fails or refuses to repair or remove such building or structure within the time provided, the City of Binghamton, with the approval of the Common Council of the City of Binghamton, may enter upon such property and cause the same to be removed. This procedure shall not be required prior to action by the City pursuant to Subsection D(1).

H. Recovery of costs and expenses. All costs and expenses incurred by the City of Binghamton in connection with the proceedings to secure, repair or remove such building or structure, including the cost of actually removing the same, shall be assessed against the land on which such building or structure is located. Said assessment shall be and shall constitute a lien upon the land so affected. The City of Binghamton may bring and maintain an action as upon contract for such assessment, or to foreclose such lien or liens. As an alternative to the maintenance of any such action, the Council of the City of Binghamton may annually cause a statement to be prepared setting forth the amount of each lien or any such assessment in arrears, the real property affected thereby and the name of the person in whose name such real property is assessed. Such statement shall be presented to the Council of the City of Binghamton on or before October 20 of each year. The Common Council of the City of Binghamton shall levy the amounts contained in such statement against the real property liable at the same time and in the same manner as the City of Binghamton taxes, and such amounts shall be set forth in a separate column in the annual tax rolls of the City of Binghamton. The amounts so levied shall be collected and enforced in the same manner and at the same time as is provided by law for the collection and enforcement of the City of Binghamton taxes.

I. Applicability. The provisions of this section shall be applicable to all properties within the City of Binghamton for which a formal repair and removal proceeding pursuant to prior provisions of the Charter and Code has not yet been commenced.