

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
41 STATE STREET, ALBANY, NY 12231

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County

City of Livingston

Town

Village

Local Law No. # 1 of the year 20 08.

A local law "Town of York Unsafe Buildings Law"
(Insert Title)

Be it enacted by the York Town Board of the
(Name of Legislative Body)

County

City

Town

Village

of York as follows:

(If additional space is needed, attach pages the same size as this sheet, and number each.)

TOWN OF YORK UNSAFE BUILDINGS LAW

Section 1. Purpose

Unsafe buildings pose a threat to life and property in the Town of York. 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, as well as a 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. 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 York by requiring such unsafe buildings be repaired or demolished or removed.

Section 2. 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, industrial, recreational or other purpose.

Building Inspector - The building inspector of the Town of York and his/her duly appointed assistants, deputies, or such other person appointed by the Town Board to enforce the provisions of this chapter, such as the Code Enforcement Officer.

Portion of Building - Any debris, rubble, or other parts of buildings 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 more than 1/3 the width of the wall.
- B. Exclusive of the foundation, shows thirty three percent (33%) or more of damage to or deterioration of the supporting member or members or fifty percent (50%) damage to or deterioration of the non-supporting 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, safety, morals or the general health and welfare of the occupants or the people of the Town of York.

E. Has become or are 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 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. Has 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. Has inadequate facilities for egress in case of fire or panic or insufficient stairways, elevators, fire escapes or other means of communication.

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, morals, safety or general welfare of the people of the Town of York.

J. Is open at the doorways or windows or walls, making it accessible to and an object of attraction to minors under eighteen (18) years of age, as well as to vagrants and other trespassers.

K. Is or may become a place of rodent infestation.

L. Consists of debris, rubble or parts of buildings left on the ground after demolition, reconstruction, fire or other casualty.

Section 3. Maintenance of Buildings and Structures; Prohibition

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 York to maintain such building or structure or portion of such buildings or structures in any condition or manner which shall be unsafe as defined in Section 2 of this chapter.

B. Any owner, occupant or person in custody of real property located within the Town of York who allows or permits a building to continue as a dangerous building after due notice as provided in Section 5 below shall be guilty of a violation of this local law and shall be punished as provided in Section 11 below.

Section 4. Investigation and Report

When, in the opinion of the Building Inspector, any building or structure located in the Town of York shall be deemed to be dangerous or unsafe to the public as defined in Section 2, the Building Inspector shall make a formal inspection thereof and report in writing to the Town Board his/her findings and recommendations in regard to the building's or structure's removal or repair.

Section 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 shall be held before the Town Board at a time and place therein specified and on a least five (5) 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 and, in the event of modification or affirmance, to assess all costs and expenses incurred by the Village in the repair or removal of such building or structure against the land on which said building or structure is located.

Section 6. Trespass Prohibited.

In addition to serving the notice as provide in Section 5 above, the Town Board may, if it determines that the purposes of this local law 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 Section 5 above. Anyone found trespassing in violation of this section shall be liable for a fine not to exceed One Hundred Fifty (\$150.00) for each offense.

Section 7. Contents of Notice.

The notice shall contain the following statements:

- A. The name of the owner or person in possession as appears from the tax and deed Records.
- 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 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 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 that the Town will assess all costs and expenses incurred in such repair or removal against the land 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 the law subjecting the violators to a fine not to exceed two hundred fifty dollars (\$250.00) for each week of such violation.

Section 8. Service and Filing of Notice.

- A. A copy of said notice shall be personally served upon the owner or one of the owners, executors, legal representatives, agents, lessees or other person having a vested interest in the premises as shown on the Town tax records or in the records in the Livingston County Clerk's Office.
- 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 personally serving a copy of said notice upon any adult person residing in or occupying said premises or by securely affixing a copy of said notice upon building or structure.
- C. A copy of said notice may be filed with the Livingston 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 as therein provided. A notice so filed shall be effective for a period of one (1) 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 the Town Attorney or Attorney for the Town. The Livingston County Clerk shall mark such notice and any record or docket thereof as cancelled of record upon the presentation and filing of such consent or of a certified copy of such order.

Section 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 all 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, modify said order or 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.

Section 10. Failure to Comply

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 ten thousand dollars (\$10,000.00) shall be awarded through competitive bidding.

Section 11. Alternate Procedure upon Refusal, Failure or Neglect of Owner or Person Notified to Comply.

In the event of the neglect or refusal of the person so served with the said notice to comply with the same, a survey of the premises shall be made by and inspector or architect to be named by the Town Board and an inspector or architect appointed by the person notified as above. In the event of the refusal or neglect of the person so notified to appoint such an inspector or architect, two such inspectors or architects shall be appointed by the Town Board and the two inspectors or architects shall make the survey and report. The notice shall further provide that in the event the building or other structure is reported dangerous or unsafe under such survey, an application shall be made at a special term of the Supreme Court, Livingston County, for an order determining the building or other structure to be a public nuisance and directing that it shall be repaired and secured or taken down and removed. Surveyors appointed by the Town Board shall be compensated by the Town.

Posting of the Survey Report. A signed copy of the report of the surveyors shall be posted on the building.

Section 12. Penalties

Except as provided in Section 6 above, any person found guilty of violating this local law shall be liable for a fine not to exceed two hundred fifty dollars (\$250.00) for each violation. Each week such violation shall continue shall constitute a separate violation.

Section 13. 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 costs of notice and the cost of actually removing such building, and attorney'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.

Section 14. Emergency Situations

Where it reasonably appears that there is present a clear and imminent danger to the 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 Building Inspector to immediately cause the repair or demolition of such unsafe building or structure. The expense of such repair or demolition shall be charged against the land on which it is located and shall be assessed, levied and collected as provided in Section 10 hereof.

Section 15. Special Proceeding for Costs.

The Town Board may commence a special proceeding pursuant to Section 78b of the General Municipal Law to collect the costs of demolition, including reasonable and necessary legal expenses.

Section 16. Separability.

Each separate provision of this local law shall be deemed independent of all other provisions herein, and if any provisions shall be deemed or declared invalid, all other provisions hereof shall remain valid and enforceable.

Section 17. Effective Date.

This local law shall take effect upon filing with the New York State Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. # 1 _____ of 20⁰⁸ of the (County)(City)(Town)(Village) of ^{York} _____ was duly passed by the Town Board on January 10, 20⁰⁸, and was approved (not approved)(repassed after disapproval) by the Supervisor _____ and was deemed duly adopted on January 10, 20⁰⁸, *(Elective Chief Executive Officer*)* in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was submitted *(Elective Chief Executive Officer*)* to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to *(Elective Chief Executive Officer*)* permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 2, above.



Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body

(Seal)

Date: January 11, 2008

(Certification to be executed by County Attorney, Corporation Counsel, Town Attorney, Village Attorney or other authorized attorney of locality.)

STATE OF NEW YORK
COUNTY OF Livingston

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.



Signature

Town Attorney
Title

County _____
City of York
Town _____
Village _____

Date: January 11, 2008