

Local Law Filing

NEW YORK STATE DEPARTMENT OF STATE
162 WASHINGTON AVENUE, 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

Town

Village

Russell

Local Law No. 1 of the year 1999.

A local law Providing for the repair and/or removal of unsafe buildings
(Name Title)

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

~~County~~

~~City~~

~~Town~~

~~Village~~

of Russell

as follows:

SECTION 1. Unsafe Buildings Prohibited: Definition

All buildings or structures which are structurally unsafe, unsanitary, or not provided with adequate egress, or which constitute a fire hazard, or are otherwise dangerous to human life, or which in relation to existing use constitute a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence, structural instability, or abandonment, are severally, for the purpose of this article, unsafe buildings. All such unsafe buildings are hereby declared to be illegal and shall be taken down, removed, repaired, or made safe and secure in compliance with the provision of this law.

SECTION 2. Definition:

1. The following shall constitute "unsafe building":

(a) any building, shed, fence, or other manmade structure which constitutes a hazard to public health or public safety because of its condition, inadequate maintenance, dilapidation, structural instability, obsolescence, decay, deterioration, or abandonment, and which may cause or aid in the spread of disease or injury to the health of its occupants or neighboring persons or structures.

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

(b) any building, shed, fence, or other manmade structure which, because of faulty construction, age, lack of proper repair, or any other cause, is especially liable to fire, and constitutes or creates a fire hazard, or is so deteriorated as to be a public hazard.

(c) any building, shed, fence, or other manmade structure which, by reason of faulty construction, or any other cause, is liable to cause injury or damage, by collapsing, to any part of such structure or to members of the public or other private property.

(d) any building, shed, or other manmade structure which, because of its condition, or because of a lack of doors or windows, is available to an frequented by malefactors, trespassers, or disorderly persons who are not lawful occupants of any such structure.

(e) any building, shed, or other manmade structure which is not properly secured at the doorways and windows and that may serve as an attractive nuisance for young children who may be injured therein.

(f) any building, shed, or other manmade structure that because of its condition may serve as a place of rodent infestation, thereby creating a health menace to the community.

2. Building Inspector: means the Code Enforcement Officer of the Town of Russell, or such other person appointed by the Russell Town Board to enforce the provisions of this local law.

SECTION 3. Jurisdiction:

This law shall be enforceable in the Town of Russell.

SECTION 4. Purpose:

It is the purpose of this local law to provide for the safety, health, protection, and general welfare of persons and property in the Town of Russell by requiring that such unsafe buildings be repaired, demolished, or removed.

SECTION 5. Prohibition Against Occupied and Unoccupied Unsafe Buildings:

It shall be unlawful for the owner (including corporations, associations and firms), occupant, or person in custody of any unsafe building to permit the same to become and/or remain in a dangerous or unsafe condition to the public and or residents or property from any cause whatsoever, regardless of whether the structure is occupied or vacant.

SECTION 6. Official Authorized to Investigate and Report Unsafe Buildings:

Whenever the building inspector is aware of or been advised and is of the reasonable

opinion that any manmade structure in the Town¹ of Russell constitutes an unsafe building he/she shall make an inspection thereof. At the conclusion of the inspection, the building inspector shall make a written report of the inspection and shall submit the report to the Town Board. The inspector's report shall provide a description of the premises, a statement of the practical reasons why the building or structure is unsafe or dangerous, and recommendations in regard to its repair or demolition and removal.

SECTION 7. Notice of Violation. Filing

Upon receiving such a report, the Russell Town Board shall review the building inspector's report and may, if the building inspector's report provides reasonable cause to believe that such building is unsafe and dangerous, authorize the building inspector to serve upon the owner(s), or the owner's legal representatives, agents, lessees, or any other person having a vested or contingent interest in such premises, a Notice of Violation.

SECTION 8. Notice of Violation. Contents:

The notice shall contain the following: (1) 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 that the securing or removal of such building shall commence within thirty (30) days of a hearing before the Town Board and shall be completed within sixty (60) days thereafter, unless, for good cause shown, such time shall be extended; (5) a date, time, and place for a hearing before the Town Board in relation to such dangerous or unsafe building, said hearing shall not be scheduled for less than five (5) business days from the date of service of the notice; and (6) 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 land on which it is located and to institute a special proceeding to collect the costs of demolition including legal expenses from the registered and/or lawful owner.

SECTION 9. Service of Notice:

The notice shall be served:

(1) by personal service of a copy thereof upon the owner, executor, administrator, agent, lessee, or any person having a vested or contingent interest in such unsafe building as shown by the records of the Tax Collector or of the County Clerk; if no such person can be reasonably found:

(2) by mailing to such owner by registered mail, a copy of such notice directed to his last known address as shown by the above records, and 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; or by securely affixing a copy of such notice upon the unsafe building.

Furthermore, a copy of the notice shall be¹ filed in the office of the St. Lawrence County Clerk which 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 as amended from time to time, and said notice shall have the same effect as a Notice of Pendency as therein provided, except as otherwise hereinafter provided. A Notice so filed shall be effective for a period of one (1) year from the date of the filing, provided, however, that it may be vacated upon the order of a judge or upon the consent of the Town Board acting through the Town Attorney.

SECTION 10. Hearing:

A hearing shall be conducted before the Town Board at either a regular or special meeting for the purpose of determining whether said structure constitutes an unsafe building and if so found, for the issuance of a written directive that it shall be repaired and secured and/or taken down and removed. The building inspector shall be present at the hearing and shall submit his/her finding in writing to the Town Board as well as present any other material and relevant evidence including oral testimony.

The owner/occupant or his/her representative, if present shall have a right to have an attorney present at all times, the right to call witnesses as he/she deems necessary. The Town Board shall make a finding of fact from the evidence offered and issue said finding, in writing, within five (5) business days.

The determination of whether a structure is dangerous shall be by a fair preponderance of the evidence.

A. If such owner or owner's representative shall fail or refuse to appear at said hearing then the Town Board may adjourn the hearing to another date or direct the repair or demolition of the structure after considering the evidence presented by the building inspector at said hearing.

B. If the Town Board determines that the structure is an unsafe building, and directs its repair, or demolition, the owner or custodian shall repair or demolish said building within the time prescribed by the Town Board.

C. In the event the owner/occupant or his/her representative fails to appear at the hearing, notice of the Town Board's decision shall be made in the same manner as provided for in Section 9 of this law.

SECTION 11. Failure to Comply:

If the owner or custodian fails or neglects to repair or demolish said building as directed by the Town Board following the hearing, then the Town Board shall direct and provide for the repair or demolition of the same forthwith either by the town employees or by contract. Except in emergency as provided in Section 15 hereof, any contract for demolition and removal of a

building in excess of \$20,000 shall be awarded through competitive bidding.

SECTION 12. 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 cost of actually removing such building, and all reasonable and necessary legal expenses incidental thereto, shall, at the option of the Town board,

A. Be levied and assessed against the land on which such building or structure is located and shall become a lien and a charge upon the real estate or until such time as said amount shall be paid or otherwise satisfied or discharged and shall be collected by the Town Treasurer in the manner provided by law for the collection of delinquent taxes, or

B. Be collected by commencement of a special proceeding against the owner of said unsafe building pursuant to general Municipal Law Section 78-b, or both

C. Both of the above.

SECTION 13. Other remedies:

In addition to the remedies provided by this local law the Town Board may request the Town Attorney make an application to the Supreme or County Court for an order determining the building to be a public nuisance or such other relief and directing that it shall be repaired and secured or demolished. All costs and expenses incurred by the Town in connection with an application to a Court as aforesaid shall be assessed in accordance with section 12 herein. In addition thereto, and at the Town Board's election, it may commence a special proceeding pursuant to Section 78-b of the General Municipal Law to collect the costs of the demolition including reasonable and necessary legal expenses.

SECTION 14. Penalties for Refusal to Comply With the Provisions of This Law:

(a) It shall be unlawful for any person, firm, corporation, or association to construct, alter, repair, move, remove, demolish, equip, use, occupy or maintain any building or structure or portion thereof in violation of this chapter, or to fail in any manner to comply with a notice, directive, or order of the Building Inspector or Town Board, or to construct, alter or use and occupy any building or structure or part thereof in a manner not permitted by an approved building permit or certificate of occupancy.

(b) Any person, firm, corporation, or association who shall fail to comply with a written order of the Building Inspector of Town Board, within the time fixed for compliance therewith, and any owner, builder, architect, tenant, contractor, subcontractor, construction superintendent or their agents, or any other person taking part or assisting in the construction or use of any

building, who shall knowingly violate any of the applicable provisions of this chapter or any lawful, order, notice, directive, permit or certificate of the Building Inspector or Town Board made thereunder, shall be punishable by a fine of not less than Fifty (\$50.00) Dollars and not more than Five Hundred (\$500.00) Dollars. Each day that violation continues shall be deemed a separate offense.

(c) Any person removing any notice provided for herein and found guilty thereof shall be fined a sum not exceeding One Hundred (\$100.00) Dollars for each offense.

(d) The Code Enforcement Officer may bring proceedings for violation of this local law in the Town Justice Court.

SECTION 15. Emergency Measures:

In cases of emergency which, in the opinion of the Town Board, involve imminent danger to human life, safety, or welfare, the building inspector shall promptly cause said unsafe building to be made safe or removed. For this purpose he may immediately enter such structure or land on which it stands, or abutting land or structure, which such assistance and at such costs as he may deem necessary. The building inspector may vacate adjacent structures and protect the public by appropriate barricades or such other measures as may be necessary and for this purpose he may close a public or private way. The expenses of such repair or demolition shall be charged against the land on which the unsafe building was located consistent with the provisions of Section 12 herein.

SECTION 16. Severability:

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

SECTION 17. Repealer:

This local law shall supersede all prior local laws, ordinances, rules, and all regulations relative to the repair or removal of unsafe buildings upon the effective date of this local law, are hereinafter null and void.

SECTION 18. Savings Clause:

If any part of this law is deemed or found to be unenforceable, illegal or unconstitutional or otherwise void, such judgment shall not effect or impair the validity of the remainder of the law or the application thereof to other persons or circumstances.

SECTION 19. Effective Date:

This local law shall take effect upon its being duly filed in the office of the Secretary of State of New York as provided in Section 27 of the Municipal Home Rule Law.

(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. 1 of 1999 of the ~~(County)~~(City)(Town)(Village) of RUSSELL was duly passed by the TOWN BOARD on JUNE 2 1999, 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. _____ of 19_____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19___, and was (approved)(not approved)(repassed after disapproval) by the _____ and was deemed duly adopted on _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 19_____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was submitted 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 _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

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 19_____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 19____, and was (approved)(not approved)(repassed after disapproval) by the _____ on _____ 19____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 19____, in accordance with the applicable provisions of law.
(Name of Legislative Body)
(Elective Chief Executive Officer*)

* 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 19_____ 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 _____ 19____, 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 19_____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 19____, 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...1....., above.

Susan C. Boyd

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

Date: 6-22-99

(Seal)

(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 ST. LAWRENCE

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.

Michael C. Crowe
Signature MICHAEL C CROWE

TOWN ATTORNEY, TOWN OF RUSSELL
Title

County
City of RUSSELL
Town
Village

Date: JUNE 22, 1999