

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 Plattsburgh

~~TOWN~~

~~VILLAGE~~

Local Law No. 2 of the year 2003

A local law UNSAFE BUILDINGS AND DANGEROUS STRUCTURES
(Insert Title)

Be it enacted by the Common Council of the
(Name of Legislative Body)

~~COUNTY~~

City of Plattsburgh as follows:

~~TOWN~~

~~VILLAGE~~

1. Authorization.

Pursuant to sec. 20, Subdivision 35, of the General City Law of the State of New York and the powers of the City of Plattsburgh, this article establishes the procedures for the removal or repair of any building, structure or staging which endangers or will endanger the health, safety or welfare of the public from any cause.

2. Report by Building Inspector; docket of unsafe buildings.

A. The Building Inspector shall inspect any building, staging or structure which may be unsafe or dangerous and submit a written report to the Mayor and Common Council, and file a copy in the office of the City Clerk, setting forth in detail the condition of the building, structure or staging at the time of inspection.

B. Whenever a building or part of a building, staging or structure is found to be in an unsafe or dangerous condition, the Building Inspector shall cause the same to be entered upon a docket of unsafe buildings, to be kept by the Building Inspector.

3. Removal or repair.

Any building or part of a building, staging or other structure which is a danger to life and safety as a result of structural instability, fire, explosion or other hazardous situation or that, from any cause, may now be or shall at any time hereafter become dangerous or unsafe, in the judgment of the Building Inspector, shall be taken down, demolished or removed or made safe and secure.

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

4. Order to repair or remove; certificate of assent.

A. If the Building Inspector shall find that a building, structure or staging is or will be dangerous to the health, safety or welfare of the public, he shall issue an order requiring the repair, removal or other remedial action concerning the building, staging or structure.

B. The order shall be served upon the owner, mortgagee, lienholders and all other persons of record having an interest in such property or structure, by personal service, or by registered or certified mail, or by any other method authorized by the New York Civil Practice Law and Rules. Service by registered mail or certified mail shall be at the last known address as shown by the records of the City Assessor and/or in the office of the County Clerk.

C. The order shall:

- (1) Contain a description of the premises.
- (2) Contain a statement of the particulars in which the building, staging or structure is unsafe or dangerous.
- (3) Require that the building, staging or structure be repaired, removed or otherwise cured of the dangerous or unsafe condition.
- (4) State the time within which the owner shall commence and complete repair, removal or other curative action.
- (5) State the time, place and date of a hearing to be held on all matters raised by the order.
- (6) Require that the owner of the building, staging or structure attend the hearing.
- (7) Inform all persons served that in the event that the owner fails or refuses after hearing to repair, remove or otherwise cure the dangerous or unsafe building, staging or structure as required by the Building Inspector or if the owner fails or refuses to attend the hearing, then the Building Inspector shall cause the city to repair, remove or otherwise cure the unsafe or dangerous building, staging or structure and assess the costs and expenses of the city against the land and otherwise collect such costs and expenses as allowed by the Code of the City of Plattsburgh and the laws of the State of New York.

D. Any person served with an order may, prior to the time of hearing, certify assent to the order. A certificate of assent shall be filed with the Building Inspector, in writing, and shall:

- (1) Contain a detailed statement of all work to be done to comply with the order.
- (2) Contain a timetable for completion of all phases and aspects of the work.
- (3) Contain a request for reinspection.
- (4) Be signed under oath by the person served and be notarized.

E. Upon filing a certificate of assent with the Building Inspector, the hearing shall be postponed if the Building Inspector approves the detailed statement of work to be done and the timetable for its completion. The person filing an approved certificate of assent shall timely and properly complete the work called for in the certificate of assent.

F. The hearing shall be rescheduled if the work is not properly and timely completed, if re-inspection is refused or if after re-inspection the conditions set forth in the order have not been properly remedied as required in the order or the certificate of assent.

G. If after re-inspection all work required in the order and certificate of assent has been properly and completely performed, the Building Inspector shall quash the order and the Corporation Counsel shall consent to vacation of the order.

5. Filing of order.

A copy of said order shall be filed in the County Clerk's office. The order 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 hereinafter provided in this section. An order so filed shall be effective for a period of one (1) year from the date of filing, provided that it is not vacated upon the order of a Judge or Justice of a court of record or upon consent of the Corporation Counsel. The Clerk of the County shall mark such order and any record or docket thereof as canceled of record upon the presentation and filing of such consent or of a certified copy of a court order.

6. Hearing.

A. The hearing authorized by this article shall be held before a person designated by the Mayor who may be the Building Inspector (except where civil penalties are sought to be imposed), another City officer, or a person who is not a City officer or employee, at which time any interested party may be heard in regard to the matter contained in the order.

B. Such a hearing may be set without need of any request for hearing. Unless notice of the hearing was provided when the administrative code enforcement process was commenced, ten days written notice of the hearing shall be provided by first class mail, registered or certified mail, return receipt requested, delivery to the person to be served or by any other method authorized by the New York Civil Practice Law and Rules.

C. Hearings may be consolidated on one (1) or more notices or orders. Hearings may be rescheduled for good cause shown.

D. At the hearing, persons, including city employees and representatives of the Building Inspector's office, may present testimony and other information regarding the matters raised in the notice or order. The rules of evidence shall not apply.

E. Subpoenas may be issued, upon the prior approval of the Corporation Counsel, to compel attendance and testimony of witnesses and production of documents or other information or records. A subpoena shall be served and enforced as provided in the New York Civil Practice Law and Rules relating to enforcement of a subpoena issued by a board or committee.

F. If no person against whom enforcement is sought appears at the hearing, the hearing may proceed solely on information and evidence submitted by the Building Inspector.

G. The hearing officer shall preside over the hearing, shall determine what evidence and testimony shall be considered, shall cause a stenographic recording of the hearing to be made and shall issue recommended findings of fact and conclusions of law. Such recommended findings and conclusions shall be delivered to the Building Inspector. Based upon the findings and recommendations of the hearing officer, appropriate enforcement shall be ordered by the Building Inspector in writing. Such an order may mandate appropriate corrective or curative action; impose civil penalties; and address such other matters as are necessary to properly conclude the administrative enforcement proceeding.

H. For good cause shown, the time to complete corrective or remedial action or code compliance may be extended.

I. All orders shall be mailed or otherwise delivered to the parties who appeared at the hearing.

J. In each decision or order, the appeal rights of those persons aggrieved shall be stated.

7. Enforcement by city; recovery of costs.

A. In the event that the owner and other parties served fail or refuse to attend the hearing, fail or refuse to timely and properly complete all work to be done pursuant to an approved certificate of assent, or fail or refuse to repair, remove or cure as directed in the order, within the time indicated therein, the City of Plattsburgh may, at any time thereafter, in addition to any other remedies available, including but not limited to prosecution for violation of this article, enter upon such building, staging or structure to perform all work required under the order.

B. All costs and expenses incurred by the City of Plattsburgh in connection therewith, including but not limited to the cost of actually repairing, removing or curing the same and the cost of title searches and reasonable and necessary legal expenses shall forthwith be paid by the property owner.

C. If such costs are not paid, they shall become and be a lien upon and against the property or premises so affected.

D. The costs and expenses may also be collected by one (1) or more of the following means:

(1) In an action at law, by assessment and collection in the same manner as general city taxes as provided by law.

(2) By any remedy authorized by sec. 78-b of the General Municipal Law.

(3) By any other method within the powers of the City of Plattsburgh.

E. Notice of costs and expenses and of enforcement pursuant to Subsection C or D of this section shall be given to all recorded owners, mortgagees and lienholders by registered or certified mail, return receipt requested, at the last known address as shown by the records of the City Assessor and/or in the office of the County Clerk.

8. Emergency actions; collection of costs.

A. If the Building Inspector finds that a building, staging or structure is in imminent danger of collapse, is an immediate peril to the public health and safety or requires immediate action to protect the public's health and safety, then the Building Inspector may order that the City of Plattsburgh or its contractors make repairs, remove or take other appropriate curative action regarding such building, staging or structure.

B. No notice of any action authorized in Subsection A of this section need be given to any person.

C. After completion of the work ordered by the Building Inspector, the Building Inspector shall notify all recorded owners, mortgagees and lienholders of the costs and expenses incurred by the City of Plattsburgh in connection therewith, including but not limited to the cost of actually repairing, removing and curing and the cost of title searches. Such costs and expenses shall be paid by the owner.

D. The Building Inspector shall notify the owners, mortgagees and lienholders of record of costs and expenses at their last known addresses as shown by the records of the City Assessor and/or in the office of the County Clerk. Notice shall be given by any of the methods of service authorized in section 4 B supra.

E. If such costs and expenses are not paid, then they may be collected by any one (1) or more of the means authorized in section 7 supra.

9. Temporary safeguards for dangerous buildings; costs.

In case there shall be, in the opinion of the Building Inspector, imminent danger of the falling of any building, structure or staging or part thereof so as to immediately endanger life or property and require immediate action to protect the public's health and safety, the Bureau shall, without prior notice, cause the necessary work to be done to render such building or part thereof temporarily safe. Powers authorized herein are in addition to any action which may be undertaken pursuant to this chapter. Costs of temporary safeguards shall be paid by the owner, with notice and methods of collection as provided in section 7 supra.

10. Civil penalties.

A. Civil penalties may be assessed by the Building Inspector after a hearing.

B. An action for civil penalties may also be commenced in a court of competent jurisdiction by itself or in conjunction with any other civil remedy available to the city. The city's action may seek an award for attorney's fees, costs, expenses and disbursements.

C. When the city obtains a judgment in an action for civil penalties as authorized in this section, in addition to the appropriate methods of enforcement of the judgment established in the New York Civil Practice Law and Rules, such judgment for penalties may be filed in the office of the County Clerk as a lien against the property affected and may be enforced against the premises and upon the rents and compensation due or then maturing for any tenant or occupant of the premises and may be collected from such rents or compensation without further proceedings.

D. Notwithstanding any other provision of the City Code, whenever any action, omission or conduct is in violation of the City Code and such action, omission or conduct causes a danger to the health, safety or welfare of one (1) or more persons or the public generally, then such a violation shall be punishable as an offense and shall be subject to a civil penalty of not less than two hundred fifty dollars (\$250.) nor more than five thousand dollars (\$5,000.).

D. Each day an unlawful act, omission or conduct continues shall be considered a separate offense.

(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. _____2_____ of 2003... of the ~~(County)~~(City)(~~Town~~)(~~Village~~) of _____Plattsburgh_____ was duly passed by the _____Common Council_____ on _____30 Jan_____ 20 03, and was (approved)(~~not approved~~)(~~repassed after disapproval~~) by the _____Mayor_____ and was deemed duly adopted on _____7 Feb_____ 2003, 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 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 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.
(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 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 permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, 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 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 Keith A. Herkalo, City Clerk

(Seal)

Date: 7 Feb 2003

(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 Clinton

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 John E. Clute

Corporation Counsel
Title

~~County~~
City of Plattsburgh
~~Town~~
~~Village~~

Date: _____