

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

~~TOWNSHIP~~

of DELAWARE

Local Law No. 2 of the year 19 95

A local law providing for the repair or removal of unsafe buildings and collapsed structures. (Insert Title)

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

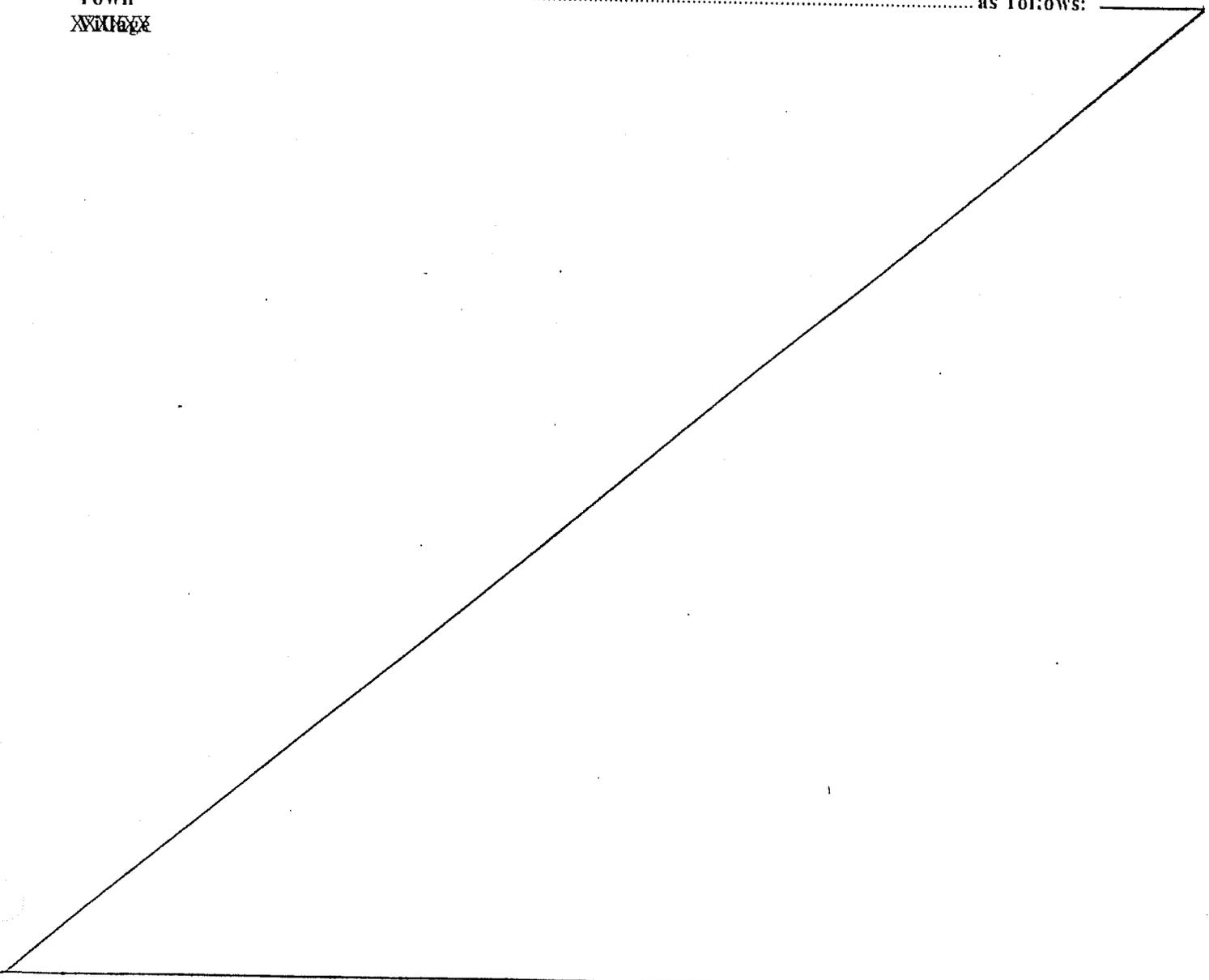
~~COUNTY~~

~~CITY~~

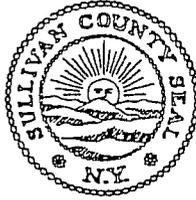
Town

~~TOWNSHIP~~

of DELAWARE as follows:



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



OFFICE OF THE SULLIVAN COUNTY CLERK

GEORGE L. COOKE, COUNTY CLERK

MONTICELLO, NEW YORK 12701

TO: All Sullivan County Town Building Dept. Code Enforcement Officers
FROM: Sullivan County Clerk's Office
REGARDING: Demolition Procedure
DATE: June 13, 2000

The Sullivan County Attorney's Office has been in the process of reviewing the Condemnation Notices filed in our office by the Towns. The current Condemnation Procedure was inherited from previous administrations and must be changed. The Towns have the ability to remove or repair structures pursuant to Section 130(16) of the Town Law. We have been advised by our County Attorney's Office as follows:

- The Town must file a Notice with the County Clerk's Office in the same manner in which a Notice of Pendency would be filed pursuant to Article 65 of the Civil Practice Laws and Rules. The form of this Notice shall conform to that of any other Notice of Pendency filed under this Section. We have provided a form which may be used.
- The fees must also be the same as those required under Section 6511 of the Civil Practice Laws and Rules. The fees are \$170.00 for the purchase of the Index Number, and \$20.00 for the Notice of Pendency.
- Pursuant to Section 6511 the Notice must contain a Legal Description or have a schedule A annexed.
- Please include a copy of the Complaint or Petition.

We thank you for your cooperation with this matter. If you have any questions or concerns you may contact Bridget Hurwitz at the County Clerk's Office. This new procedure will be in effect immediately.

State of New York
(Court Name)
Sullivan County

Town of _____

against

Index #301/90

Owner's Name

NOTICE IS HEREBY GIVEN, that an action has been commenced and is now pending in the Town of _____ against the above named individual(s) to remove Unsafe Building(s) or Structure(s) pursuant to Town Law Section 130(16).

AND NOTICE IS FURTHER GIVEN, that the premises affected by said action at the commencement of this action, and at the time of filing of this notice, are situated in the Town of _____, County of Sullivan, State of New York, (Description of Property or you may annex the description).

TO THE CLERK OF THE COUNTY OF SULLIVAN: You are hereby directed to file this Notice in the same manner as a Notice of Pendency pursuant to Article 65 of the Civil Practice Law and Rules to the following name(s)

Dated: _____

Person Signing

Title

Town of _____

Section 1. Purpose. Unsafe buildings pose a threat to life and property in the Town of Delaware. 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 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. 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 Delaware by requiring that such unsafe buildings be repaired or demolished and removed.

Section 2. This local law shall be known as "Unsafe Buildings Law" of the Town of Delaware.

Section 3. Definitions. (1) "Building" means any building, structure or portion thereof used for residential, business or industrial purpose. (2) "Building Inspector" means the building inspector of the Town of Delaware or such other person appointed by the Town Board to enforce the provisions of this local law. (3) "Town" means the Town of Delaware.

Section 4. Investigation and Report. When in his own opinion or upon receipt of information that a building (1) is or may become dangerous or unsafe to the general public; (2) is open at the doorways and windows making it accessible to and an object of attraction to minors under eighteen years of age, as well as to vagrants and other trespassers; (3) is or may become a place of rodent infestation; (4) presents any other danger to the health, safety and general welfare of the public; or (5) is unfit for the purposes for which it may lawfully be used, the building inspector shall cause or make an inspection thereof and report in writing to the Town Board of the Town his findings and recommendations in regard to its repair or demolition and removal.

Section 5. Town Board Order. The Town Board shall thereafter consider such report and by resolution determine, if in its opinion the report so warrants, that such building is unsafe and dangerous and order its repair if the same can be safely repaired or its demolition and removal, and further order that a notice be served upon the persons and in the manner provided herein.

Section 6. Notice; Contents. The notice shall contain the following: (1) a 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 30 days of the service of the notice and shall be completed within 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, which hearing shall be scheduled not less than five 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.

Section 7. Service of Notice. The said 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 receiver of taxes (or tax collector) or of the county clerk; or if no such person can be reasonably found, by mailing such owner by registered mail a copy of such notice directed to his last known address as shown by the above records; and (2) by personal service of a copy of such notice upon any adult person residing in or occupying said premises if such person can be reasonably found; and (3) by securely affixing a copy of such notice upon the unsafe building.

Section 8. A copy of the notice served as provided herein shall be filed in the office of the County Clerk of the County of Sullivan.

Section 9. Refusal to Comply. In the event of the refusal or neglect of a person so notified to comply with said order of the Town Board and after the hearing, the Town Board shall provide for the demolition and removal of such building or structure either by Town employees or by contract. Except in emergency as provided in Section 11 hereof, any contract for demolition and removal of a building in excess of \$20,000.00 shall be awarded through competitive bidding.

Section 10. 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, either:

- (1) Be assessed against the land on which such building is located and shall be levied and collected in the same manner as provided in Article 15 of the Town Law for the levy and collection of a special ad valorem levy, or
- (2) Be collected by commencement of a special proceeding against the owner of said unsafe or dangerous building or structure pursuant to General Municipal Law Section 78-b.

Section 11. Emergency Cases. 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 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. The expenses of such repair or demolition shall be a charge against the land on which it is located and shall be assessed, levied and collected as provided in Section 10 hereof.

Section 12. Separability. Each separate provision 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 enforceable.

Section 13. Repealer. This local law shall supersede all prior local laws, ordinances, rules and regulations relative to the repair or removal of unsafe buildings and collapsed structures within the Town and they shall be, upon the effective date of this ordinance, null and void.

Section 14. Effective date. This local law shall take effect upon its being duly filed in the office of the Secretary of State of the State of New York as provided in Section 27 of the Municipal Home Rule Law.

llaw2sec.doc

(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. 2 of 1995 of the ~~(County)(City)(Town)(Village)~~ of Delaware was duly passed by the Town Board on March 15, 1995, 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 _____ (Name of Legislative Body) on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ (Elective Chief Executive Officer*) and was deemed duly adopted on _____ 19____, 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 19____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ (Name of Legislative Body) on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ (Elective Chief Executive Officer*) 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.

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 _____ (Name of Legislative Body) on _____ 19____, and was (approved)(not disapproved)(repassed after disapproval) by the _____ (Elective Chief Executive Officer*) 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.

*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 chairman 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 of 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.

Lillian Bauernfeind
Clerk of the County legislative body, City, Town or Village Clerk
or officer designated by local legislative body
LILLIAN BAUERNFEIND, Town Clerk
Date: March 15 1995

(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 SULLIVAN

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.

Kenneth C. Klein
Signature KENNETH C. KLEIN
Title Town Attorney

~~County~~
~~City~~ of Delaware
~~Town~~
~~Village~~

Date: 3/15/95