

Local Law #2 of 2012

Repair or Removal of Unsafe Buildings,
Collapsed Structures, Unsafe Equipment,
Refuse and Debris for the
Town of Winfield

A local law regulating the repair or removal of unsafe buildings, collapsed structures, unsafe equipment, refuse and debris located on property within the territorial jurisdiction of the Town of Winfield, and the real property owner's liability for the expense of removal of the same. Be it enacted by the Town Board of Winfield, Town of Winfield, as follows:

Section 1. The owner or person having any interest in any wall, building, structure, foundation, unsafe equipment, refuse or debris in the Town of Winfield which for any reason shall have become unsafe, dangerous or unsightly in any way or in any way endangers the health, safety or welfare of the public shall, upon being directed thereto by the Town Board, forthwith repair or remove the same.

Section 2. Whenever any wall, building or other structure has in any manner become unfit for occupancy or shall be unsafe, detrimental or dangerous to the public health, safety or general welfare, upon inspection and report by the Town Codes Officer, and/or Health Officer to the Town Board and hearing held thereon, as hereinafter set forth, the Town Board may declare the premises a public nuisance and order the owner, and/or person or persons having an interest therein, to repair or remove said wall, building, structure, foundation, refuse or debris and to clear away any and all debris caused thereby and to fill in the excavation to the lot level, requiring the same to be made safe and secure. After having received and placed on file the report of the Town Codes Officer and/or Health Officer, if it appears that a nuisance exists, shall hold a hearing thereon and shall serve notice upon the owner and all others having an interest therein of the unsafe condition and the time and place of said hearing. The service of said notice shall be either by personal service or by registered mail, addressed to the last known address as shown by the records of the Town Assessor's office. Said notice shall contain a description of the premises and a clear and concise statement of the particulars in which the building or structure is unsafe or dangerous; shall set forth the date, time and place for a hearing thereon before the Town Board; and shall be served at least ten (10) days prior to said hearing. If such service is by registered mail, a copy of said notice shall also be posted by firmly affixing a copy thereof on said premises. If it appears upon said hearing that an unsafe condition does in fact exist, then the Town Board shall declare it to be a nuisance and order the repair or removal at or before a time to be fixed by it. Notice of said determination and the order of the Town Board shall be served upon the owner and other persons having an interest therein in the same manner as the original notice hereinbefore set forth.

Section 3. A copy of said original notice shall be filed in the office of the County Clerk of the County of Herkimer 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 subsection. A notice so filed shall be effective for a period of one (1) year from the date of filing; provided, however, that it may be vacated on the order of the Judge or Justice of a court of record or upon the consent of the Town Attorney.

Section 4. Where the identity and/or whereabouts of the owner of said building are unknown, then the notice shall be published in two newspapers, at least one in the English language, designated by the Town Board as most likely to give notice to the person to be served at least once in each of four (4) successive weeks. Service shall be complete on the 28th day after the day of first publication, and the hearing shall be held not less than ten (10) days after service is complete nor later than thirty (30) days thereafter. Proof of said publication shall be filed with the Town Board.

Section 5. In the event that such owner or other interested person fails or refuses to repair or remove said building, structure, refuse and/or debris within the time period provided, the Town Board may cause the repair or removal of said building, wall, structure, refuse or debris, fill in any excavation, level the property and assess the cost thereof against said property, and said cost shall thereupon become a lien against the property and be collectible in the same manner as taxes levied thereon and/or by civil action.

Section 6. If any part, clause, sentence, paragraph, section or other provision of this Local Law shall be adjudged invalid by any Court of competent jurisdiction, such judgment shall not affect the remainder of this Local Law or its application thereof.

Section 7. The provisions of this Local Law shall take effect upon filing of this Local Law with the Secretary of State of the State of New York as provided by law.