

**Whereas,** from time to time there may exist in the Town of Ashford structures or buildings which are collapsed or which are in a condition dangerous and unsafe to the public and/or a public nuisance, and

**Whereas,** it is desirable that the Town have a local law to enable it to require that such structures and buildings be put in a good state of repair or that the same be removed, and

**Whereas,** it is desirable that the Town have the authority to remove collapsed, dangerous or unsafe buildings in the event the owner fails or refuses to repair or remove the same when required to do so by the Town,

**Now, Therefore,** that the Town of Ashford hereby enacts this local law providing for the removal or repair of structures and buildings in business, industrial and residential sections that, from time to time, may now be or shall hereafter become dangerous or unsafe to the public

**1. Appointment of Official to Make Inspection:**

A. The Town Board of the Town of Ashford hereby designates and appoints the Code Enforcement Officer of the Town of Ashford as the official to make an inspection and written report on any matter coming to his attention or referred to him regarding an unsafe building or collapsed structure in the Town of Ashford.

**2. Complaints:**

A. Complaints regarding unsafe or dangerous or collapsed buildings or structures shall be filed with the Town Clerk.

B. Complaints may be made in writing and submitted to the Town Clerk in which case the Town Clerk shall keep a record of same. Complaints may also be made verbally to the Town Clerk who shall make and maintain a Memorandum thereof. The Town Clerk shall endeavor to obtain the name, address and telephone number of the complainant so that they may be contacted for further information. Such personal information shall not be a requirement of the Complaint.

C. Any complaints filed with the Town Clerk shall be referred to the Code Enforcement Officer who shall make his inspection and file a report of same with all convenient speed as set forth hereafter.

**3. Inspection:**

A. The Code Enforcement Officer shall inspect any premises in a matter referred to him by the Town Board, or in a complaint referred to him by the Town Clerk regarding unsafe or dangerous or collapsed buildings or structures, or coming to his attention in any way.

**4. Reports:**

A. Following the inspection the Code Enforcement Officer shall make a written report which shall include:

(1)The location of the real property alleged to have upon it a collapsed or unsafe building or structure.

(2)Whether or not there is an unsafe building or structure, or collapsed building or structure, on the premises inspected by him, and its condition.

(3)A determination as to what person or persons, firm or firms, or other entities, is the owner of the real property upon which such building or collapsed structure is located.

(4)His recommendations as to whether the same shall be removed or repaired, and any reasons which he may wish to advance to support his findings.

**5. Filing of Reports - Referral to the Town Board:**

- A. The Code Enforcement Officer's report shall be filed with the Town Clerk.
- B. The Town Clerk shall present the report to the Town Board for consideration and action.
- C. A copy of the report shall be mailed or personally delivered to the property owner.

**6. Town Board Action; Notice:**

A. The Town Board, after review of a report of the Code Enforcement Officer, by appropriate Resolution shall determine whether or not action is to be taken requiring the removal or repair of an unsafe or collapsed building or structure and if the Town Board shall determine that action is to be taken, the Code Enforcement Officer shall be provided with a copy of said Resolution and proceed as follows:

B. The Code Enforcement Officer shall serve a Notice on the owner or some one of the owners, executors, legal representatives, agents, lessees or other persons having a vested or contingent interest in same, either personally or by registered mailed, addressed to the last known address, if any, of the owner or some one of the owners, executors, legal representatives, agents, lessees or other person having a vested or contingent interest in same, as shown by the records of the receiver of taxes and/or in the office of the County Clerk or County Treasurer's office, containing a description of the premises, a statement of the particulars in which the building or structure is unsafe or dangerous.

C. Upon a determination that there is an unsafe building or structure or collapsed structure on premises and a determination of the ownership thereof, the Code Enforcement Officer shall include with the Notice an Order requiring the same said building or structure to be made safe and secure, or that the same be removed.

D. If such service be made by registered mail, a copy of such Notice shall be posted on the premises.

E. The Notice and Order shall specify the time within which such person served with such Notice may commence the securing or removal of buildings or structures, and the time within such removal or repair shall be completed.

(1)The minimum time in which such person served with such Notice shall begin the securing or removal of the building shall be five (5) days after the receipt of the Notice.

(2)The maximum time which such person shall have to remove or repair and complete the same shall be thirty (30) days after the receipt of such notice and the granting of a building permit for repairs or a demolition permit or permits.

F. If the building or structure is to be repaired or removed, the owner thereof shall secure from the Town a proper building permit or demolition permit as the case may be before commencing work on the structure. The owner shall have five (5) days from receipt of the Notice to obtain the proper permit.

**7. Filing of Notice:**

A. A copy of such Notice and Order shall be filed in the office of the Cattaraugus County Clerk and the County Clerk shall file the same in the same manner as a Notice of Pendency pursuant to Article 65 of the Civil Practice Law and Rules, and it shall have the same effect as a Notice of Pendency as therein provided, except as otherwise hereinafter provided in this paragraph.

B. A Notice so filed shall be effective for a period of one year from the date of filing, provided, however, that it may be vacated upon the Order of a judge or justice of a court of record or upon the consent of the Town Attorney. The Clerk of the County where such Notice is filed 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.

**8. Damaged Buildings – Repaired or Demolished:** Every building which may hereafter be damaged by fire or otherwise to an amount not greater than one-half of its value may be repaired or rebuilt; but if such damage shall amount to more than one-half of the value thereof, exclusive of the foundation, then such building shall not be repaired or rebuilt but must be taken down. The amount and extent of such damage shall be determined by (1) a surveyor appointed by the Town Board; and (2) a surveyor appointed by the owner or owners of said premises, and in the case these two do not agree, they shall appoint a third party and a decision of a majority of them, reduced to writing and sworn to shall be conclusive. Such building shall in no manner be repaired or rebuilt until after such decision shall have been rendered, and in case of refusal of the owner to submit to such appraisal, no building or demolition permit shall be granted.

**9. Removal of such Building or Structure by the Town in the Event Such Owner Fails or Refuses to Repair or Remove the same within the time provided:**

A. In the event such person shall neglect or refuse to comply with the foregoing with respect to repair or removal, a survey of the premises shall be made by an inspector, architect or engineer appointed by the said Town Board, and by a practical building, engineer or architect to be appointed by the owner or responsible entity, and then in the event of their failure to appoint such a person or in the event of the failure of the person appointed to act, the survey shall be made by the persons first named; that the practical building, engineer or architect to act for the owner shall be designated by same within forty days after receipt of the Notice issued pursuant to paragraph 6 and the owner shall within such time notify the undersigned Town Clerk of the name of the person so appointed and such person appointed shall be expected at all times to cooperate with the inspector or architect named by the Town Board as aforesaid.

**B.** The inspector and architect named as aforesaid, and the building, engineer or architect named by the person served with the Notice, if named and acting, shall upon completion of such survey report in writing.

(1)The report of the survey on the building, signed by the persons making the report, and setting forth in full their findings with respect to the building and the compensation of such surveyors shall be posted by the Town Clerk and upon the said building within five days after the receipt of such report by the Town Clerk.

(2)In the event that said building or structure is reported unsafe and dangerous, or collapsed, by said persons or a majority of them, an application will be made to the Supreme Court at a time and place later to be determined, in the judicial district in which the property is located, for an Order determining that the said building is a public nuisance and directing that it be repaired and secured or taken down or removed as the Court may determine.

(3)Any person or entity having an interest of record in the premises prior to the filing of the Notice and order in the Cattaraugus County Clerk's office as shown by a search of the records of the Cattaraugus County Clerk's office shall be served as a party defendant or respondent in the application made to the Supreme Court and the person served with this Notice will be given notice of the time and place of making such application to the Supreme Court.

**C.** All costs and expenses incurred by the Town in connection with the proceedings to remove or secure said building, including the compensation of the surveyors and the cost of repair or removal, reasonable attorney's fees and disbursements shall be assessed upon the land upon which the same stands.

**D.** That notice of all of the foregoing shall be given in writing by the Town Clerk to the said owner or responsible entity.

**E.** That in the granting of an Order in that said building is a public nuisance and directing that it be repaired and secured or taken down or removed as the Court may determine, the Town Board shall forthwith take the action with respect to the property as ordered by the Court.

## **10. Effective Date**

**A Adoption:** This Local Law was adopted by the Town Board of the Town of Ashford at its regular meeting August 11, 2010, as Local Law #1 of the year 2010.

**B.** This Local Law shall take effect immediately upon filing in the office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.