

**Town of Ashford, Cattaraugus County, New York  
Local Law #2 of the year 2006**

**A Local Law Providing for the  
Administration and Enforcement of the  
New York State Uniform Prevention and Building Code**

**SECTION 1: PURPOSE AND INTENT**

This local law shall provide for administration and enforcement of the New York State Uniform Fire Protection and Building Code (Uniform Code) in the Town of Ashford. This local law is adopted pursuant to Section 10 of Article 2 of the Municipal Home Rule Law. Except as otherwise provided within this law, state law, or within the Uniform Code, all premises regardless of use, are subject to the provisions which follow.

**SECTION 2: INTERMUNICIPAL CONTRACTS**

The Town Board may, by resolution, authorize the Supervisor to enter into a contract with other governments to carry out the terms of this local law.

**SECTION 3: PARTIAL INVALIDITY**

If any section of this local law shall be held unconstitutional, invalid, or ineffective, in whole or in part, such determination shall not be deemed to affect, impair, or invalidate the remainder thereof.

**SECTION 4: CODE ENFORCEMENT OFFICER, DUTIES AND POWERS**

**A.** The office of Code Enforcement Officer is hereby created and shall be administered by an appointee of the Town Board. The Code Enforcement Official shall possess background experience related to building, construction or fire prevention and shall, within the time constraints proscribed by law, obtain such training as the State of New York shall require for code enforcement officials.

**B.** In the absence of the Code Enforcement Officer, or in the case of his inability to act for any reason, the Town Supervisor shall have the power, with the consent of the Town Board, to designate a person to act in behalf of the Code Enforcement Officer and to exercise all the powers conferred upon him by this ordinance.

**C.** The Town Supervisor, with the approval of the Town Board, may appoint one inspector or more, as the need may appear, to act under the supervision and direction of the Code Enforcement Officer and to exercise any portion of the powers and duties of the Code Enforcement Officer as directed by him.

**D.** The compensation for the Code Enforcement Officer, acting Code Enforcement Official and Inspectors shall be fixed and adjusted as needed by the Town Board.

**E.** The Code Enforcement Officer shall administer and enforce all the provisions of the Uniform Code and the provisions of this local law, including receiving building permit applications, reviewing plans and specifications, conducting inspections, issuing permits for the erection, alteration, relocation, addition, repair and/or demolition of buildings and structures, issuing certificates of occupancy, collecting fees as set forth by the Town Board and maintaining and filing all records necessary for the administration of the office to the satisfaction of the Town Board. The Code Enforcement Officer is authorized to pursue administrative actions and in consultation with the attorney for the Town, legal action as necessary to abate conditions not in compliance with the New York State Uniform Fire Prevention and Building Code, this local law, or other laws, rules or regulations of the Town of Ashford or of the State of New York.

**F.** The Code Enforcement Officer shall have the authority to issue appearance tickets in accordance with Section 150 of the Criminal Procedure Law of New York State.

## **SECTION 5: BUILDING PERMIT**

### **A. Permits Required.**

**1.** Except as hereinafter provided, no person, firm, corporation, association, or partnership shall commence the construction, enlargement, alteration, improvement, removal, relocation or demolition of any building or structure or any portion thereof, or install a solid fuel burning heating appliance, chimney or flue in any dwelling unit, without first having obtained a permit from the Code Enforcement Officer.

**2.** No permit shall be required for:

- a)** construction or installation of one story detached structures associated with one- or two-family dwellings or multiple single-family dwellings (townhouses) which are used for tool and storage sheds, playhouses or similar uses, provided the gross floor area does not exceed 100 square feet;
- b)** installation of fences which are not part of an enclosure surrounding a swimming pool;
- c)** construction of retaining walls unless such walls support a surcharge or impound Class I, II, IIIA liquids;
- d)** installation of window awnings supported by an exterior wall of a one- or two-family dwelling or multiple single-family dwellings (townhouses);
- e)** installation of partitions or movable cases less than 5'-9" in height;
- f)** painting, wallpapering, tiling, carpeting, or other similar finish work;
- g)** installation of listed portable electrical, plumbing, heating, ventilation or cooling equipment or appliances;
- h)** replacement of any equipment provided the replacement does not alter the equipment's listing or render it inconsistent with the equipment's original specifications;
- i)** repairs; provided that such repairs do not involve:
  - (1)** the removal or cutting away of a load bearing wall, partition, portion thereof, or portion thereof, or of any structural beam or load bearing component;
  - (2)** the removal or change of any required means of egress, or the rearrangement of parts of a structure in a manner which affects egress;
  - (3)** the enlargement, alteration, replacement or relocation of any building system;
  - (4)** the removal from service of all or part of a fire protection system for any period of time.
- j)** nonresidential farm buildings, including barns, sheds, poultry houses and other buildings used directly and solely for agricultural purposes.

### **B. Application for a permit.**

**1.** An application for a building permit shall request sufficient information to permit a determination that the intended work accords with the requirements of the Uniform Code and shall require submission of the following information and documentation:

- a)** a description of the proposed work;
- b)** the tax map number and the street address;
- c)** the occupancy classification of any building or structure;
- d)** where applicable, a statement of special inspection prepared in accordance with the provisions of the Uniform Code; and
- e)** at least 2 sets of construction documents (drawings and/or specifications) that define the scope of the proposed work.
- f)** certification from Cattaraugus County Health Department for sewage disposal systems where required by the Health Department and applicable codes and laws.

**2.** Construction documents shall not be accepted as part of an application for a building permit

unless such documents:

- a) are prepared by a New York State registered architect or licensed professional engineer where so required by the Education Law;
- b) indicate with sufficient clarity and detail the nature and extent of the work proposed;
- c) substantiate the proposed work will comply with the Uniform Code and the State Energy Conservation Construction Code.
- d) where applicable, include a site plan that shows any existing and proposed structures on the site, the location of any existing or proposed well or septic system, the location of the intended work, and the distances between the structures and the lot lines.

3. Applications for a building permit or for an amendment thereto shall be examined to ascertain whether the proposed construction is in substantial conformance with the requirements of the Uniform Code.

a) the Code Enforcement Officer shall stamp, sign and date all accepted construction documents. One set of accepted construction documents shall be retained by the Code Enforcement Officer. One set shall be returned to the applicant to be kept at the work site so as to be available for use by the Code Enforcement Officer.

4. The building permit shall contain a statement directing that all work shall be performed in accordance with the construction documents submitted and accepted as part of the application and shall include the directive that the Code Enforcement Officer shall be notified immediately in the event of changes occurring during construction,

5. Building permits shall expire 12 months from the date of issuance. Permits shall become invalid unless the work authorized is commenced within 12 months following the date of issuance. Building permits may be renewed provided that the work has commenced in such a manner as to be ongoing and upon payment of the appropriate fee.

6. Building permits which are issued in error because of incorrect, inaccurate or incomplete information, or when the work for which the permit was issued violates the Uniform Code, shall be revoked or suspended until such time as the permit holder demonstrates that all work completed and all work proposed shall be in compliance with the applicable provisions of the code.

7. Building permits shall be visibly displayed at the work site and to remain visible until the project has been completed.

## **SECTION 6: FEES**

A. A fee schedule shall be established, and changed as needed, by resolution of the Town Board. Such fees may be charged for the issuance of permits, permit renewals, certificates of Occupancy, certificates of compliance, temporary certificates of occupancy, operating permits and for fire safety inspections.

## **SECTION 7: CONSTRUCTION INSPECTIONS**

A. Permitted work shall remain accessible and exposed until inspected and accepted by the Code Enforcement Officer. It shall be the responsibility of the owner, applicant, or his agent to notify the Code Enforcement Officer when construction work is ready for inspection.

1. If entrance to make an inspection is refused or cannot be obtained, the Town Board, after being notified by the inspector of the situation, may apply for an order to make an inspection to any court of competent jurisdiction.

B. The following elements of the construction process shall be inspected as determined by the Code Enforcement Officer to be applicable:

- 1. work site prior to the issuance of a permit;
- 2. footing and foundation;

3. preparation for concrete slab;
  4. framing;
  5. building systems, including underground and rough-in;
  6. fire resistant construction;
  7. fire resistant penetrations;
  8. solid fuel burning heating appliances, chimneys, flues or gas vents;
  9. certificate of compliance with Cattaraugus County Health Dept. for water and sewage disposal;
  10. energy code compliance; and
  11. a final inspection after all work authorized by the building permit has been completed
- C. After inspection, the work or a portion thereof shall be noted as satisfactory as completed, or the permit holder shall be notified as to where the work fails to comply with the Uniform Code. Construction work not in compliance with code provision shall be required to remain exposed until it has been brought into compliance with the code, been reinspected, and been found satisfactory as completed.

### **SECTION 8: STOP WORK ORDERS**

A. The Code Enforcement Officer is authorized to issue stop work orders to halt work that is determined to be contrary to provisions of the Uniform Code, or is being conducted in a dangerous or unsafe manner, or is being performed without obtaining a required permit. A stop work order shall state the reason for its issuance and the conditions which must be satisfied before work shall be permitted to resume.

### **SECTION 9: CERTIFICATE OF OCCUPANCY, CERTIFICATE OF COMPLIANCE AND TEMPORARY CERTIFICATE.**

A. No building erected subject to the New York State Uniform Fire and Building Code shall be used or occupied, except to the extent authorized hereunder until a certificate of occupancy has been issued.

B. No building similarly enlarged, extended, or altered, or upon which work has been performed which requires the issuance of a building permit shall be occupied or used after the completion of the alteration or work unless a certificate of occupancy or a certificate of compliance has been issued.

C. No change shall be made in the nature of the occupancy of an existing building unless a certificate of occupancy authorizing the change has been issued.

D. A certificate of occupancy or a certificate of compliance shall be preceded by an inspection of the building, structure or work. Where applicable, the Code Enforcement Officer may require a written statement of structural observation and/or a final report of special inspection, prepared in accordance with the provisions of the Uniform Code, to be received prior to the issuance of the certificate. Also, where applicable, flood hazard certifications, prepared in accordance with the provisions of the Uniform Code shall be received prior to the issuance of the certificate.

E. A certificate of occupancy or certificate of compliance shall contain the following information:

1. the building permit number, if any;
2. the date of issuance of the permit, if any;
3. the name, address and tax map number of the property;
4. if the certificate is not applicable to an entire structure, a description of that portion of the structure for which the certificate is issued;
5. the use and occupancy classification of the structure;
6. the type of construction of the structure;
7. the assembly occupant load of the structure, if any;
8. if an automatic sprinkler system is provided, a notation as to whether the sprinkler system is

required;

9. certification of any electrical installation by a certified electrical inspection agency that meets the approval of the Code Enforcement Officer;

10. any special conditions imposed in connection with the issuance of the building permit; and

11. the signature of the official issuing the certificate and the date of issuance.

**F.** A temporary certificate of occupancy may be issued if the building or structure or a designated portion of a building or structure is sufficiently complete that it may be put to the use for which it is intended.

1. A temporary certificate shall not be issued unless:

a) the structure or portions thereof may be occupied safely

b) any fire – and smoke – detecting or fire protection equipment which has been installed is operational; and certification of any electrical installation by a certified electrical agency that meets the approval of the Code Enforcement Officer;

c) all required means of egress from the structure have been provided.

2. A temporary certificate shall list the items which remain uncompleted. The Code Enforcement Officer may place special conditions on temporary certificates as necessary to insure safety and to protect the interest of the Town.

3. The effectiveness of a temporary certificate shall be limited to a specified period of time as determined by the Code Enforcement Officer, but in no event last longer than 2 months, during which the permit holder shall undertake to bring the structure into full compliance with applicable provisions of the Uniform Code.

4. A temporary certificate may, at the discretion of the Code Enforcement Officer and upon payment of an additional fee as specified for a temporary certificate of occupancy, be renewed.

**G.** A certificate of occupancy or certificate of compliance issued in error or on the basis of incorrect information shall be suspended or revoked if the relevant deficiencies are not corrected within period of time specified by the Code Enforcement Officer.

## **SECTION 10: OPERATING PERMITS**

**A.** The Code Enforcement Officer shall issue operating permits for conducting the activities or using the categories of buildings listed below:

1. manufacturing, storing or handling hazardous materials in quantities exceeding those listed in Tables 2703.1.1(1), 2703.1.1(2), 2703.1.1(3), or 2703.1.1(4), of the Fire Code of New York State (see 19 NYCRR Part 1225);

2. hazardous processes and activities including but not limited to, commercial and industrial operations which produce combustible dust as a byproduct, fruit and crop ripening, and waste handling;

3. use of pyrotechnic devices in assembly occupancies;

4. buildings containing one or more areas of public assembly with an occupant load of 100 persons or more; and

5. buildings whose use or occupancy classification may pose a substantial potential hazard to public safety, as determined by the Town Board by resolution.

**B.** Parties who propose to undertake the types of activities or operate the types of buildings listed in paragraph (A) of this subdivision shall be required to obtain an operating permit prior to commencing such operation. An application for an operating permit shall be provided by the Code Enforcement Officer and shall contain sufficient information to permit a determination that quantities, materials, and activities conform to the requirements of the Uniform Code. Tests or reports necessary to verify conformance shall be required as determined by the Code Enforcement Officer.

- C. An inspection of the premises shall be conducted prior to the issuance of an operating permit.
- D. A single operating permit may apply to more than one hazardous activity as determined by the Code Enforcement Officer.
- E. Operating permits for areas of public assembly shall be limited to one year. Operating permits for all other occupancies as noted in paragraph A shall be for not more than three years or shall coincide with the schedule of inspections as required by Section 11 of this law.
- F. Where activities do not comply with applicable provisions of the Uniform Code, an operating permit shall be revoked or suspended.

**SECTION 11: FIRE PREVENTION, PROPERTY MAINTENANCE INSPECTIONS**

- A. Fire Prevention and Property Maintenance Inspections
  - 1. Fire safety inspections of buildings or structures having areas of public assembly shall performed at least once in every (12) months.
  - 2. Fire safety inspections of buildings or structures being occupied as dormitories shall be performed at least once in every (12) months.
  - 3. Fire safety inspections of all other buildings, uses and occupancies (except one or two family dwellings) shall be inspected at least once in every thirty-six (36) months.
  - 4. An inspection of a building or dwelling unit may also be performed at any other time upon:
    - a) The request of the owner, authorized agent, or tenant.
    - b) Receipt of a written statement alleging that conditions or activities failing to comply with the Uniform Code exists; or
    - c) Other reasonable and reliable information that such a violation exists.
- B. All such inspections shall be performed by the Code Enforcement Officer or his duly authorized deputies.

**SECTION 12: NOTIFICATION REGARDING FIRE OR EXPLOSION**

- A. The chief of any fire department providing fire fighting services for a property within the Town of Ashford, shall notify the code enforcement official of any fire or explosion involving any structural damage, fuel burning appliance, chimney or gas vent, or any fire the origin of which has been traced to the electrical system of any building or structure.

**SECTION 13: UNSAFE BUILDINGS OR STRUCTURES**

- A. The Town of Ashford, has made provisions for the restoration, demolition or removal of unsafe buildings and structures in Local Law # 2 of 2006.

**SECTION 14: COMPLAINTS**

- A. Bona fide complaints which assert that conditions or activities fail to comply with the Uniform Code or with local laws, ordinances or regulations adopted for administration and enforcement of the Uniform Code, shall be investigated by the Code Enforcement Officer. The process for responding to such complaints shall include:
  - 1. provisions for inspection of the conditions and/or activities alleged to be in violation of the code or this law;
  - 2. written notification to any offending party and the property owner of any violation with a period of time as determined by the Code Enforcement Officer to cause any such violations to be corrected;
  - 3. written notice to the Town Board that a complaint has been received and a violation notice has been issued;

4. upon abatement of a violation, an inspection shall be performed by the Code Enforcement Officer to ensure that the violation has been corrected, and a final written report shall be filed with the complaint.

**SECTION 15: VIOLATIONS**

A. Upon determining that a violation of the Uniform Code or this local law exists in, on, or about any building or premises, the Code Enforcement Officer shall order in writing the remedying of the condition. Such order shall state the specific provision of the Uniform Code which the particular condition violates and shall grant such time as may be reasonably necessary for achieving compliance before proceedings to compel compliance shall be instituted. Such order shall be served personally or by notification by registered mail.

B. In addition to those penalties proscribed by State law, any person, firm or corporation who violates any provision of the Uniform Code or any rule or regulation of this local law, or the terms or conditions of any Certificate of Occupancy issues by the Code Enforcement Officer, shall be liable to a civil penalty of not more than \$200 for each day or part thereof during which such violation continues. The civil penalties provided by this subdivision shall be recoverable in an action instituted in the name of the Town Board on its own initiative or at the request of the Code Enforcement Officer.

C. Alternatively or in addition to an action to recover the civil penalties provided by subsection (b), the Town Board may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct or abate any violation of, or to enforce any provision of the Uniform Code or the terms or conditions of any Certificate of Occupancy issued by the Code Enforcement Officer.

**SECTION 16: DEPARTMENT RECORDS AND REPORTS**

A. The Code Enforcement Officer shall keep permanent records of all transactions and activities conducted by him, including all applications received, plans approved, permits and certificates issued, fees charged and collected, inspection reports, all rules and regulations promulgated by him with the consent of the Town Board, and noticed and orders issued. All such records shall be public record open for public inspection during normal business hours. All plans and records pertaining to buildings or structures, or appurtenances thereto, shall be retained for at least the minimum time period so required by State law and regulation.

B. The Code Enforcement Officer shall monthly submit to the Town Board a written report and summary of all business conducted by the Building Department, including approvals, permits and certificates issued, fees collected, orders and notices promulgated, inspections and tests made, and appeals or litigation pending or concluded.

C. The Code Enforcement Officer shall annually submit to the Secretary of State on behalf of the Town Board, on a form prescribed by the Secretary, a report of its activities relative to the administration and enforcement of the Uniform Code.

**SECTION 17: REPEAL OF LOCAL LAW NO. 2 OF THE YEAR 1990**

Town of Ashford Local Law No. 2 of the year 1990, “A Local Law Administering and Enforcing the New York State Uniform Fire Prevention and Building Code within the Town of Ashford”, is hereby repealed, to be effective upon Local Law No. 2 of 2006 taking effect.

**SECTION 18: ADOPTION AND EFFECTIVE DATE**

A. Adoption: This Local Law was adopted by the Town Board of the Town of Ashford at its regular meeting on December 27, 2006, as Local Law No. 2 of the year 2006.

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