

**LOCAL LAW TO BE ENACTED BY
THE BOSTON TOWN BOARD
TOWN OF BOSTON, NEW YORK**

2020 LOCAL LAW NO. 2

A LOCAL LAW Amending Chapter 47, Unsafe Buildings.

**BE IT ENACTED BY THE TOWN BOARD OF THE TOWN OF BOSTON AS
FOLLOWS:**

Section 1. Legislative Intent.

Unsafe buildings and structures pose a threat to life, health, and property in the Town of Boston. This Local Law amends the Town Code's Unsafe Buildings law to address procedures when a Town Code Enforcement Officer is not available, to provide for a special proceeding to recover costs of securing, repairing, or demolishing and removing unsafe buildings and structures from the property owner, and to add a procedure for emergency demolition of unsafe buildings or structures.

Section 2. Amend Article XXX of the Boston Town Code, Site Plan Review.

Section 47 of the Boston Town Code, Buildings, Unsafe, is hereby amended to read as follows:

Chapter 47 BUILDINGS, UNSAFE

§ 47-1. Declaration of nuisance.

Any building or structure located within the Town which may now be or which may hereafter become dangerous or unsafe to the public is hereby declared to be a nuisance.

§ 47-2. Inspection; filing of report.

Any building or structure alleged to be dangerous or unsafe to the public shall be inspected by the Code Enforcement Officer, Deputy Code Enforcement Officer, or in the event a Town of Boston Code Enforcement official is not available when the inspection is requested, then with the prior authorization of the Town Supervisor the inspection may be performed by the Town Engineer or a New York State Certified Code Enforcement Official employed by another New York municipality or Erie County, and the report of the inspector shall be filed with the Town Board. Any building constructed without a building permit or any building for which a building permit has expired and which has not been renewed is hereby declared to be an unsafe building.

§ 47-3. Service of notice.

The Town Board may cause a notice to be served on the owner of a dangerous or unsafe building or some one of the owner's executors, legal representatives, agents, lessees or any other person having a vested or contingent interest in the same, either personally or by registered mail, addressed to the last known address, if any, of the owner or some one of the owner's executors, legal representatives, agents, lessees or other person having a vested or contingent interest in the same, as shown by the records of the receiver of taxes and/or in the office of the County Clerk. If such service be made by registered mail, a copy of such notice shall also be posted on the premises.

§ 47-4. Contents of notice.

The notice provided for in § 47-3 shall contain a description of the premises, a statement of the particulars in which the building or structure is unsafe or dangerous and an order requiring the same to be made safe and secure or removed.

§ 47-5. Time limit to commence work.

The Town Board shall provide, in the notice provided for in §§ 47-3 and 47-4, for a period of time within which the person so served with such notice may commence the securing or removal of such building or structure.

§ 47-6. Filing of notice of pendency.

The Town Board shall provide for the filing of a copy of a notice in the office of the Erie County Clerk, which notice 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. 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 Erie County Clerk shall mark such notice and any record or docket thereof as canceled of record upon the presentation and filing of such consent or of a certified copy of such order.

§ 47-7. Hearing.

There shall be a hearing before the Town Board, notice of which and the time and place thereof to be specified in the notice to repair or demolish.

§ 47-8. Notice of hearing.

The notice of the hearing referred to in § 47-7 shall be served set forth in § 47-3 upon the owners and such person having an interest in the property or structure as is described in the notice.

§ 47-9. Removal of structure.

The Town Board shall provide for the removal of such building or structure by the Town in the event that such owner fails or refuses to repair or remove the same within the time provided.

§ 47-10. Assessment of costs; special proceeding against owner.

The Town Board may assess all the costs and expenses incurred by the Town in connection with the proceedings to remove or secure a dangerous or unsafe building or structure, including the costs of actually removing said building or structure, against the land on which said building or structure is located.

In addition to any other remedies herein, the Town may commence a special proceeding in a court of competent jurisdiction to collect the costs of demolition, including reasonable and necessary legal expenses incidental to obtaining an order to demolish, from the owner of any building or structure that may now be or shall hereafter become dangerous or unsafe to the public. Should the Town recover and be paid said costs through such a proceeding after those costs have been added to the assessment rolls, the assessment roll and tax records shall be adjusted accordingly to properly credit amounts so paid and recovered.

§ 47-11. Emergency demolition of unsafe buildings or structures.

Where it reasonably appears to the person performing the inspection pursuant to § 47-2 that there is present a clear and imminent danger to the life, safety, or health of any person or property unless an unsafe building or structure is immediately repaired, secured, or demolished and removed, the Town Board may, by resolution, authorize and immediately cause the securing, repair, or demolition and removal of such unsafe building or structure. Notwithstanding the foregoing, in an emergency situation requiring the immediate securing, repair, or demolition and removal of an unsafe building or structure and when it is not feasible to obtain such Town Board authorization, for example because of the need for the constant presence of law enforcement or fire personnel to secure the scene until the securing, repair, or demolition and removal work is underway, the person performing the inspection pursuant to § 47-2 is authorized to immediately cause the securing, repair or demolition and removal of such unsafe building or structure provided such person first obtains authorization from the Town Supervisor or Deputy Town Supervisor to incur any associated charges if the person performing the inspection was not the Code Enforcement Officer or Deputy Code Enforcement Officer. The expenses of such securing, repair, or demolition and removal shall be recovered as provided in this chapter.

Section 3. Authority.

This Local Law is enacted pursuant to New York State Constitution Article 9, § 2(c)(10), Town Law § 130 (16), General Municipal Law § 78-b , Executive Law § 381, Article 16 of the Town Law of the State of New York, and the Municipal Home Rule Law.

Section 4. Severability.

A. This Local Law shall be deemed to supersede and repeal any other Local Laws to the extent therein inconsistent herewith.

B. If any part of this Local Law shall be judicially declared invalid void unconstitutional or unenforceable all unaffected provisions hereof shall survive such declaration and this Local Law shall remain in full force and effect as if the invalidated portion had not been enacted.

C. Nothing herein shall be deemed to be a waiver or restriction upon any rights and powers available to the Town of Boston to further regulate the subject matter of this Local Law.

Section 5. Effective Date.

This Local Law shall become effective upon filing with the Secretary of State of the State of New York as required by the Municipal Home Rule Law.

Sponsors: Supervisor Keding and Councilmember Cartechine