

Resolution to Require Owners of Vacant and Abandoned Properties within the Town of Guilderland to Register such Properties and Post Performance Bonds for the Continued Maintenance of Such Properties.

WHEREAS, the Town of Guilderland has experienced an increase in the number of vacant and abandoned properties; and

WHEREAS, it is important for the Town of Guilderland to establish a process to address the issues regarding vacant and abandoned properties throughout the Town; and

WHEREAS, the presence of vacant and abandoned properties can lead to a decline in property values, create aesthetic nuisances, and lead to a decrease in neighborhood and community aesthetics; and

WHEREAS, the current conditions of vacant and abandoned properties present a serious threat to the public health and safety of the community; and

WHEREAS, the presence of vacant and abandoned properties discourage buyers from purchasing property within the Town; and

WHEREAS, many vacant and abandoned properties are the responsibility of out-of-state lenders, trustees, and persons who fail to adequately secure and maintain such properties; and

WHEREAS, as a result of the increased number of vacant and abandoned properties attributed to persons who fail to secure and maintain such properties, and also the high number of foreclosed properties and foreclosing properties, the Town has suffered and continues to suffer from a decline in property values and a reduced tax base for the Town; and

WHEREAS, vacant and abandoned properties, foreclosed properties, and foreclosing properties present a danger to the safety and welfare of public safety officers, the public, abutters, and neighborhoods; and

WHEREAS, the Town has a vested interest in protecting the Town against the decay caused by vacant and abandoned properties and concludes that it is in the best interest of the Town to impose registration requirements on such properties located within the Town, and

WHEREAS, it is the purpose and intent of the Town to promote the health, safety and welfare of the public, to protect and preserve the quiet enjoyment of occupants, abutters, and neighborhoods, and to minimize hazards to public safety personnel inspecting or entering such properties by requiring the owners of vacant and abandoned properties including foreclosed properties or foreclosing, to post a cash bond to secure the continued maintenance of such properties throughout the Town for expenses incurred in inspecting, securing, marking, or making such properties safe.

NOW, THEREFORE, IT BE RESOLVED, that this Town Board hereby, requires owners of vacant and abandoned properties located within the Town Guilderland to register such properties with the Town. The Town also hereby requires owners of vacant and abandoned properties to post a cash bond to secure the continued maintenance of such properties. Further the Town Board appoints the Building Department, and/or any other Town Department that this Board deems necessary, to carry out the responsibilities of registering said properties with the Town, the collection and enforcement of the performance bonds, the inspection of said properties, and any other action deemed necessary by the Town Board to achieve the purpose of this Resolution as described herein.

Date Passed: _____

Certification: _____

LOCAL LAW FILING

TOWN OF GUILDERLAND

Joe P. Malachuk
385 Long Pine Rd How much?
No zoning!
LOCAL LAW NO. 2, OF 2015

A local law to Require Owners of Vacant and Abandoned Properties within the Town of Guilderland to Register such Properties and Post Performance Bonds for the Continued Maintenance of Such Properties.

SECTION 1.0: PURPOSE AND INTENT.

It is the purpose and intent of the Town to establish a process to address the number of vacant and abandoned properties, including foreclosed properties and properties in foreclosure, located with the Town. It is the Town's further intent to specifically establish a vacant and abandoned, foreclosed and foreclosing property program as a mechanism to protect residential neighborhoods and other zoning designations with the Town from becoming blighted through the lack of adequate maintenance and security of such properties.

SECTION 2.0: DEFINITIONS.

The following words, terms and phrases when used in this section shall have the meanings ascribed to them in the section except where the context clearly indicates a different meaning:

* "Abandoned Real Property" shall mean a property that has been left unattended for an unreasonable period of time, that is not legally occupied, and/or where it is evident that the owner of such property does not intend to return and/or has abandoned his/her rights to the property

"Buildings" shall mean any combination of materials having a roof and enclosed within exterior walls or firewalls, built to form a structure for the shelter of persons.

"Building inspector" shall mean the duly appointed Building Inspector or his Designees.

"Town" means the Town of Guilderland.

"Days" mean consecutive calendar days.

"Default" shall mean when the mortgagor is ninety (90) days past due of the mortgagor's obligation to make a scheduled payment under a mortgage or a mortgage note.

"Evidence of Vacancy" shall mean any condition that on its own, or combined with other conditions present, would lead the reasonable person to believe that the property is vacant. Such conditions may include, but not be limited to, overgrown and/or dead vegetation, unkempt walkways and/or driveways, accumulation of abandoned real property, as defined herein, statements by neighbors, passers-by, delivery agents or government agents, building inspections, among other evidence that the property is vacant.

"Foreclosed" described a property for which a new deed has been recorded with the county clerk following the foreclosure process and is recorded in the name of a

"Foreclosing" describes a property that is in the process of foreclosure.

"Initiation of foreclosure proceedings" shall mean commencing a foreclosure action on a property in any court of competent jurisdiction pursuant to RPAPL section 1301 et seq.

"Mortgagee" means the creditor, including but not limited to, service companies, lenders in a mortgage agreement and any agent, servant, or employee of the mortgagee, or any successor in interest, and/or assignee of the mortgagee's rights, interests or obligations under the mortgage agreement.

"Notice of Default" means a recorded notice that a default has occurred under a mortgage and that the mortgagee intends to initiate foreclosure proceedings.

"Owner" means any person, entity, or service company, alone or severally with others:

- Has legal title to any real property, including but not limited to a dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park;
- Has care, charge or control of real property, including but not limited to any dwelling, dwelling unit, mobile dwelling unit, or parcel of land, vacant or otherwise, including a mobile home park, or any administrator, administratrix, executor, trustee or guardian of the estate of the holder of legal title;
- Is the mortgagee of any such property who has initiated foreclosure proceedings as defined in this section;
- In an agent, trustee or other person appointed by the courts and vested with possession or control of any such property
- Is an officer or trustee of the association of unit owners of a condominium. Each such person is bound to comply with the provisions of these minimum standards as if he were the owner. However, "owner" shall not mean a condominium association pursuant to Article 9-B of the Condominium Act, to the extent that such association forecloses on or initiates the foreclosure process for unpaid assessments due or owing to the association.
- Every person who operates a rooming house;
- Is a trustee who holds, owns or controls mortgage loans for the mortgage-backed securities transactions and has initiated the foreclosure process; or
- Has initiated foreclosure proceedings against a property pursuant to N.Y. RPAPL section 1301 et sec.

"Owner of Record" means the person having title to the property as indicated upon the records of the Albany County Clerk.

"Property" means any improved real property, or portion thereof, situated in the Town and includes all the buildings or structures located on the property.

"Vacant Structures" means a building or structure that is not legally or otherwise occupied.

SECTION 3.1: REGISTRATION.

All vacant real property shall be registered with the Town as provided below:

- The owner of properties with vacant structures, within ten (10) days of the date on which a structure becomes vacant, or within ten (10) days of being provided notices from the Building Inspector of the existence of a vacant structure that has not been registered, shall register said property with the Building Department on a form provided by the Department.
- Foreclosed and foreclosing properties. Within ten (10) days of the effective date of this Ordinance or within ten (10) days of the initiation of foreclosure proceedings, whichever is later, the owner of any foreclosed or foreclosing property shall register said property with the Building Department on a form provided by the Building Department.
- Any mortgagee who holds a mortgage on real property located with the Town shall perform an inspection of the property that is the security for the mortgage, upon default by the mortgagor, prior to the issuance of a Notice of Default. If the property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned and the mortgagee shall, within ten (10) days of the inspection should register same pursuant to this section. If the property is occupied but remains in default, it shall be inspected by the mortgagee or mortgagee's designee on a monthly basis until the mortgagor or other party remedies the default; or until it is found to be vacant or shows evidence of vacancy. Such determination may be made by communication with the mortgagor, a visual inspection of the real estate, or other means reasonably calculated to determine if the structure is vacant. The property shall be deemed abandoned upon such time as it is found to be vacant or shows evidence of vacancy, and the mortgagee shall

within ten (10) days of the inspection register the property in accordance with this Paragraph.

- The owner shall notify the Building Inspector within ten (10) days of any change in the registration information, including the sale or transfer of the property, by filing an amended registration statement on a form provided for such purposes.

3.2: REGISTRATION FEE.

The Town Board, by resolution, shall establish a fee schedule for the registering of vacant structures and foreclosed or foreclosing properties but shall not require that an owner pay more than one registration fee per parcel per six (6) month period.

3.3: RENEWAL OF REGISTRATION.

Registration pursuant to this Paragraph must be renewed at the end of each six (6) months if the property is still in foreclosure and/or is vacant.

3.4: REGISTRATION FORM:

The registration shall be submitted on forms provided by the Building Department and shall include the following information supplied by the owner:

- (1) A description of the premise;
- (2) The names and addresses of the owner or owners;
- (3) The name and address of any third party who the owner has entered into a contract or agreement with for property management, if any;
- (4) The names and addresses of all known lien holders and all other parties with an ownership interest in the building;
- (5) A telephone number where a responsible party can be reached at all times during business and non-business hours; and
- (6) A plan of action specifying the owner's future plans with the vacant property including the length of time that the property is expected to be vacant.

SECTION 4.0: MAINTAINING AND SECURING VACANT STRUCTURES.

All vacant real property shall at all times be properly maintained. A vacant structure shall be considered properly maintained if it:

- Has all doors and windows and other openings weather-tight and secured against entry by the general public as well as animals.
- All roof and roof flashings shall be sound and tight such that no rain will penetrate the structure and must allow for appropriate drainage so as to prevent deterioration of the interior walls or other interior portions of the building.
- The building must be maintained in good repair, be structurally sound and free from overgrown vegetation, rubbish, garbage, and other debris. *autos*
- Structured members of the building shall be capable of bearing both live and dead loads and the foundation walls likewise shall be capable of supporting an appropriate load.
- The exterior of the structure shall be free of loose or rotten materials as well as holes. Any exposed metal, wood or other surface shall be protected from the element by appropriate weather-coating materials (paint or similar treatment).
- Any balconies, canopies, signs, metal awnings, stairways, fire escapes or other overhanging extensions shall be in good repair, appropriately anchored. The exposed metal and wood surface of such overhanging extensions shall also be protected from the element against rust or decay by appropriate application of paint or similar weather-coating.
- Any accessories or appurtenant structures, including but not limited to garages, sheds and other storage facilities shall meet the same standards.
- The Property contains a posting with the name and twenty-four hour contact phone number of the local individual or property management company responsible for the maintenance. This sign must be posted on the front of the property so it is clearly visible from the street. ?
- All bushes must be trimmed so as to provide an unobstructed view of the front of the house from the public roadway.
- The owner shall comply with all other relevant state and local regulations concerning the maintenance of property.

SECTION 5.0: INSPECTION:

The building inspector, fire department, sanitation inspector and or/ police department shall have the authority to inspect properties subject to this Section for compliance and to issue citations for any violations with directions to remedy the violation within ten (10) days of the date of the citation.

SECTION 6.0: VACANT PROPERTY PERMIT.

The Building Inspector will issue a Vacant Building Permit upon being satisfied that the property is properly registered pursuant to Section 3 of as indicated above and properly maintained pursuant Section 4 as indicated above. This permit shall be valid for a period of six (6) months, at the end of which the inspection process must again be carried out by the Building Inspector.

SECTION 7.1: CASH BOND.

Within ten (10) days of the date on which the registration form is required under Section 3, the owner of any vacant and/or foreclosing or foreclosed property shall provide a cash bond in the amount of five thousand dollars (\$5,000.00), to the Building Inspector as security in the event the Building Inspector is authorized pursuant to Section 4, to secure the continued maintenance of the property until such time as the property is again legally occupied, sold, or transferred and to remunerate the Town for any expenses incurred in inspecting, securing, marking, maintaining, or making such property safe.

SECTION 7.2: ADMINISTRATIVE FEE.

A portion of said bond, in an amount to be determined by the Building Inspector, not to exceed ten percent (10%) of the total bond value, shall be retained by the Town as an administrative fee to fund an account for expenses incurred in inspecting, securing, maintaining and marking other vacant and/or foreclosed or foreclosing properties that are not in compliance with this Section. Any owner of a vacant and/or foreclosed or foreclosing property providing a bond pursuant to this Paragraph must also provide bonds for all other vacant and foreclosed or foreclosing properties it owns in the Town.

SECTION 7.3: REPLENISH OF CASH BOND.

If the Building Inspector draws down a cash bond as provided above, he or she shall forthwith notify the owner of the amount by which the cash bond has been drawn down, and the owner shall have ten (10) days from the date of said notice to replenish the bond to the five thousand dollar (\$5,000) minimum required above.

SECTION 8.0: LIABILITY INSURANCE.

Within ten (10) days of the date on which the registration form is required under Section 3, the owner of any vacant and/or foreclosed or foreclosing property shall procure liability insurance for the property with a coverage amount to exceed \$150,000 and shall furnish the building Inspector with a copy of said certificate of insurance.

SECTION 9.0: EXPIRATION OF OBLIGATIONS.

An owner's obligations under Section 4, shall expire at such time as (1) a property in foreclosure is sold or transferred, or (2) a vacant property that is not in foreclosure becomes legally occupied again

SECTION 10.0: CERTIFICATION OF ABANDONMENT.

- Upon the Building Inspector's determining a property has been abandoned and/or is otherwise vacant and not in compliance with this section as provided above, the Building Inspector shall cause a Certification of Abandonment to be filed with the building department's records and such certification shall be served upon the owner of the premises either personally or by posting a copy of the Certification in a conspicuous place on the property and by mailing a copy by certified mail to the owner(s') last known address.
- Upon the Building Inspector's filing a Certification of Abandonment, the Building Inspector, Sanitation Inspector, Police Department and/or Fire Department may, without further notice to the owner, take necessary steps to ensure the property is properly maintained as provided above. The Building Inspector shall then provide the owner with a written statement of all costs associated with inspecting, securing, and maintaining the property. If the owner fails to reimburse the City within five (5) days of receiving said written statement of costs, the Town shall draw down upon the bond paid by the owner as provided above. If there is no bond available, the costs incurred to ensure the property and/or dwelling is properly maintained shall be paid out of the municipal treasury on the certificate of the Building Inspector. Such costs shall be charged against the land on which the building existed, as a municipal lien, or shall be added to the tax roll as an assessment or shall be levied as a special tax against the land upon which the building stands or stood or shall be recovered in a suit at law against the owner.
- The owner of a property declared abandoned may petition the Building Department remove the certification of abandonment by providing proof to the Building Inspector that the basis of the certificate of abandonment no longer exists and the owner is in compliance with this Article.

SECTION 11.0: ESTABLISHMENT LIST.

The Building Inspector is hereby directed to compile a list of all properties declared abandoned.

SECTION 12.0: PENALTIES.

Any person, firm, corporation, or association violating the provisions of this Section shall be subject to a penalty of one hundred dollars (\$100) per day, per property for the following violations, which shall constitute distinct and separately chargeable violations:

- Failure to register a property as provided above. The first date on which a penalty for failure to register may be imposed is the latter of the following:
 - The eleventh (11th) day after the owner is provided with written notice the existence of a vacant property;
 - The eleventh (11th) day after the initiation of foreclosure proceedings; or
 - The eleventh (11th) day after the effective date of this Ordinance.
- Failure to provide a cash bond as provided above. The first date on which a penalty for failure to provide a cash bond may be imposed is the latter of the following:
 - The twenty-first (21st) day after the owner is provided with written notice of the existence of a vacant property;
 - The twenty-first (21st) day after the initiation of foreclosure proceedings; or
 - The twenty-first (21st) day after the effective date of this Ordinance.
- Failure to replenish a cash bond that the Building Inspector has drawn down as provided above. The first date on which a penalty for failure to provide a cash bond may be imposed is the eleventh (11th) day after the Building Inspector notifies the owner of the obligation to replenish the bond to the ten thousand dollar (\$5,000) minimum.

- Failure to provide proof of liability insurance as provided above. The first date on which a penalty for failure to provide a cash bond may be imposed is the latter of the following:
 - The twenty-first (21st) day after the owner is provided with written notice of the existence of a vacant property;
 - The twenty-first (21st) day after the initiation of foreclosure proceedings; or
 - The twenty-first (21st) day after the effective date of this Ordinance.
- Failure to rectify violations. An owner who fails to remedy violation as provided e within ten (10) days of the date of a citation issued pursuant to shall be subject to civil penalties for each day the violation is unremedied or until the Building Inspector exercises his or her authority under take necessary steps to ensure the property is properly maintained as provided above.

SECTION 13.0: PROCEDURE FOR SERVING NOTICES.

Notices required pursuant to this Section shall be served in the following manner:

- Personally on any owner as defined in this Section;
- Left at the last and usual place of abode of any owner, if such place of abode is known and is within or without the State; and sent by certified or registered mail, return receipt requested.

SECTION 2- This Ordinance shall take effect immediately upon adoption.

Be it enacted this _____ day of _____, 2015, by the Guilderland

Town Board of the Town of Guilderland, Albany County, New York, to be effective _____.

SEAL

ATTEST _____ CLERK