

TOWN OF CONKLIN

LOCAL LAW NO. 2 OF THE YEAR 2019

A LOCAL LAW ENTITLED “CHAPTER 102 ENTITLED PROPERTY, VACANT”

Be it enacted by the Town Board of the Town Conklin as follows:

Section 1. The purpose of this local law is to add a new Chapter 102 entitled “Property, Vacant” as follows:

102-1. Purpose and intent; definitions; registration requirements; fees; maintenance; exemptions; inspections; annual reports; penalties for offenses.

- A. Legislative findings and purpose. It is the finding of the Town Board that vacant buildings are unsightly, unsafe, and have a negative effect on the community. Unfortunately, many buildings, once vacant, remain that way for years. The purpose of this chapter is to establish a program for identifying and registering vacant buildings, to set forth the responsibilities of owners of vacant buildings, and to encourage the rehabilitation of vacant buildings.
- B. Definitions. Unless otherwise expressly stated, the following terms will, for the purpose of this chapter, have the meanings indicated in this section:

CODE ENFORCEMENT OFFICER

The Code Enforcement Officer and any other duly authorized Town of Conklin employee of the Code Enforcement Office.

EMERGENCY SITUATION

Where the condition of a building, structure, or any part thereof is an imminent, immediate, and substantial danger to the health or safety of occupants, emergency responders, and/or the general public. Such conditions include, but are not limited to, fire hazards, falling or dilapidated buildings, structures, or any part thereof, loss of significant water, heat, ventilation, or a lack of sanitary conditions.

OWNER

The person, persons, or entity shown to be the owner or owners on the records of the County of Broome Real Property, those identified as the owner or owners on a vacant building registration form, a mortgagee in possession, a mortgagor in possession, assignee of rents, receiver, executor, administrator, trustee, lessee, other person, firm or corporation in control of the premises. Any such person will have joint and several obligations for compliance with the provisions of this chapter.

UNOCCUPIED

A building or portion thereof which lacks the habitual presence of human beings who have a legal right to be on the premises, including buildings ordered vacated by the Code Enforcement Officer. In determining whether a building is unoccupied, the Code Enforcement Officer may consider these factors, among others:

- (1) Whether lawful residential or business activity has ceased;
- (2) The percentage of the overall square footage of the occupied to unoccupied space or the overall number of occupied and unoccupied units;
- (3) The building is substantially devoid of contents or the minimal value of fixtures or personal property in the building;
- (4) The building lacks utility services;
- (5) The building is subject to a foreclosure action;
- (6) Duration of vacancy; and/or
- (7) The presence or reoccurrence of code violations.

UNSECURED

A building or portion of a building which is open to entry by unauthorized persons.

VACANT BUILDING

A building, a portion of a building, or a structure which is any one or more of the following:

- (1) Unoccupied and/or unsecured;
- (2) Unoccupied and/or secured by other than normal means;
- (3) Unoccupied and/or an unsafe building as determined by the Code Enforcement Officer;
- (4) Unoccupied and the Code Enforcement Officer has issued an order to correct code violations;
- (5) Illegally occupied; or
- (6) Unoccupied for a period of time over 120 days.

C. Vacant building registration.

- (1) The owner of a vacant building will register with the Code Enforcement Office no later than 60 days after any building becomes a "vacant building," as defined above, or not later than 30 days after being notified by the Code Enforcement Officer of the requirement to register. The Code Enforcement Officer may identify vacant buildings through his/her routine inspection process as well as through notification by residents, neighborhood associations and other community groups that a building may be eligible for inclusion on the registry. Notice will be served upon, or sent by mail to, the owner and/or any registered property manager. Notice will be deemed received by the owner, property manager, or an occupant, as the case may be, upon personal delivery, or three-day delivery in Broome County or five-day delivery for other locations after service by first-class mail. The Code Enforcement Officer shall post a notice or placard on the

property. The Town may also post notices on the Town's website to provide additional notice to the public. However, the Town's failure to post such violations on the Town's website will not constitute a defense to any enforcement proceeding or collection of fines.

- (2) The registration will be submitted on forms provided by the Code Enforcement Office and will include the following information:
 - (a) A description of the premises, i.e., square footage, number of stories, age of the building, and most recent use of the building.
 - (b) The names, addresses, and telephone numbers of the owner or owners. If the owner is a corporation, limited liability company or partnership, the address for each director, manager, or partner, as the case may be. The address must include a street address; a post office box is not acceptable.
 - (c) If the owner does not reside in Broome County, the name and address of the registered property manager. The address must include a street address; a post office box is not acceptable.
 - (d) The names and addresses of all known lien holders and all other parties with an ownership interest in the building. Each address must include a street address; a post office box is not acceptable.
 - (e) A name, address, and telephone number of a responsible natural person (not a corporation, partnership, or limited liability company) who can be reached at all times during business and non-business hours. The address must include a street address; a post office box is not acceptable.
 - (f) A vacant building plan as described in Subsection C(3) below.
- (3) The owner will submit a vacant building plan which must meet the approval of the Code Enforcement Office. The plan, at a minimum, must contain information from one of the following three plans for the property:
 - (a) If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition;
 - (b) If the building is to remain vacant, a plan for the securing of the building, along with the procedure that will be used to maintain the property, and a statement of the reason(s) why the building will be left vacant; or
 - (c) If the building is to be returned to appropriate occupancy or use, rehabilitation plans for the building are required. The rehabilitation plans will not exceed 365 days from the date of submission and will include progress benchmarks at least every four months, unless the Code Enforcement Office grants an extension for good cause shown upon receipt of a written statement from the owner detailing the reasons for the extension. Any repairs, improvements or alterations to the property must comply with any applicable zoning and building codes, and building permit requirements.

- (4) The owner will comply with all applicable laws and codes. The owner will notify the Code Enforcement Office of any changes in information supplied as part of the vacant building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must be in writing and must meet the approval of the Code Enforcement Officer.
- (5) The owner and any subsequent owner will keep the building secured and safe and the building and grounds properly maintained.
- (6) Failure of the owner or any subsequent owner to maintain the building and premises as required herein will be grounds for the Town:
 - (a) To remediate the building and bill the costs of same to the owner;
 - (b) To revoke the rehabilitation plans; and
 - (c) The owner will be subject to fees and penalties as provided herein.
- (7) The owner will notify the Code Enforcement Officer of any transfer of ownership within 15 days of transfer. The new owner will comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and approved by the Code Enforcement Officer.
- (8) Vacant building registration fees.
 - (a) The owner of a vacant building will pay a registration fee of \$50. The fifty-dollar registration fee is due and payable upon registration; to wit: no later than 30 days after any building becomes a "vacant building," as defined above, or no later than 30 days after being notified by an Enforcement Officer of the requirement to register.
 - (b) If the building is to remain vacant for four months or is in foreclosure, then the owner will also pay an annual vacant building fee of \$500. The five-hundred-dollar annual vacant building fee is due and payable together with the fifty-dollar registration fee and on each anniversary thereafter until the building is demolished, rehabilitated or occupied following foreclosure. Such fee may be refundable by an application to the Town Board and upon recommendation of the Code Enforcement Officer and a showing of compliance with Chapters 62 and 63. In a foreclosure situation, if the property is properly secured, maintained and mowed, then in the discretion of the Code Enforcement Officer, some or all of the annual fee may be refunded.
 - (c) If the building is to be returned to a permitted use, the rehabilitation plan will not exceed 365 days and will include progress benchmarks at least every four months, unless the Code Enforcement Officer grants an extension for good cause shown upon receipt of a written statement from the owner detailing the reasons for the extension. If the rehabilitation has not been completed or extended by the Enforcement Officer, then the owner will pay an annual vacant building fee of \$500 until the building is properly demolished or rehabilitated. The five-hundred-

dollar annual vacant building fee is payable either on each anniversary of the payment of the fifty-dollar registration fee in Subsection C(8)(a) above or no later than 15 days after being notified by the Code Enforcement Officer that the owner has failed to meet a required benchmark, whichever date is earlier, and on each anniversary thereafter until the building is demolished or rehabilitated.

- (d) If the owner of a vacant building fails to register and pay the fees in a timely manner, then the owner will be subject to the penalty set forth below.
 - (e) All delinquent fees will be paid by the owner prior to any transfer of an ownership interest in any vacant building. The owner will give a purchaser written notice that the building in question is a vacant building under this section.
 - (f) The vacant building registration fees and annual vacant building fees as set forth above are to be delivered, by mail or in person, to the Code Enforcement Office, Town of Conklin, 1271 Conklin Road, Conklin, New York 13748. A late charge of 1 1/2% per month or any part thereof will be assessed on any invoice which is unpaid after 30 days from the date of the demand for payment or an invoice. A processing fee of \$25 will be charged for each check returned by the bank due to insufficient funds or other reason. A replacement payment must be made in cash, money order, bank or certified check, and must include the twenty-five-dollar fee and any applicable late charges. Invoices and any additional fees that remain unpaid will be added to the property owner's tax bill, and will include an additional penalty of \$200.
- (9) The Code Enforcement Office will include in the file any property-specific written statements from community organizations, other interested parties or citizens regarding the history, problems, status or blighting influence of a vacant building.

D. Maintenance.

- (1) The owner of a vacant building will take such steps and perform such acts as may be required from time to time to ensure that the building and its grounds remain safe and secure and do not present a hazard to the adjoining property or the public. Owners will be responsible for maintaining their buildings and structures so that they do not become an unoccupied hazard. In any building or floor area that is vacant or about to become vacant, there will be at least one access which meets the approval of the Code Enforcement Officer.
- (2) The owner will protect and maintain the exterior of the building as follows:
 - (a) Exterior walls, including foundations, will be maintained so that water does not penetrate into basements, cellars, or other interior areas. All exterior walls and foundations must be free of holes and crevices.
 - (b) Exterior doors, windows, skylights and similar opening will be maintained weathertight.
 - (c) Exterior stairs, porches, entrance platforms, fire escapes and the railings thereon shall be maintained in a safe and sound condition.

- (d) Roofs shall be maintained in a weathertight condition.
 - (e) Exterior surfaces shall be maintained in good condition. Surfaces not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative.
 - (f) The coverings for windows and doors with glass may not consist of any substance sprayed onto the glass doors or windows. All enclosures shall be properly fitted and be of such material and surface that they are neither unsightly nor will materially detract from the general appearance of the building or the neighborhood and, when possible, secured by normal means.
 - (g) The covering for broken doors and cracked or broken windows may consist of replacement glass, plexiglass, boards, plywood or similar materials finished and maintained in a manner recommended and approved by the Code Enforcement Officer. The materials will be designed and of such color to blend in with the finish of the building.
 - (h) Windows that are not cracked or broken may be covered with interior blinds, curtains, shades, or decorative paper.
 - (i) The premises will be kept free of insects and vermin, and will be treated if necessary.
 - (j) Any excavations, swimming pools, or other attractive nuisance must be filled in or properly closed.
- (3) In addition to the standards prescribed above, vacant commercial and retail buildings shall comply with the following standards:
- (a) Any and all first floor windows will be replaced by glass, plexiglass, an approved mural, or announcement sign. Such coverings must be maintained.
 - (b) All exterior signs, awnings and lighting systems, if not removed, shall be maintained in a non-deteriorated and safe condition.
- (4) The owner will protect and maintain the interior of the building as follows:
- (a) Structural members will be maintained to resist and prevent deterioration.
 - (b) Unheated attics, spaces below flat roofs, and crawl spaces will be ventilated to minimize deterioration.
 - (c) Ceilings, walls, floors and stairways will be maintained in a safe and sound condition.
- (5) The owner will maintain the premises as follows:
- (a) The owner will not permit garbage and refuse to accumulate.
 - (b) Buildings and structures will be maintained free of insects, vermin and rodent harborage and infestation.

- (c) Refrigerators and similar equipment with locking mechanisms will not be discarded, abandoned or store without first removing the locking devices or the hinges of the doors.
 - (d) Juked vehicles, equipment, or materials will not be stored at the premises.
 - (e) Chimneys, smokestacks, flues, gas vents, smoke pipes and connectors will be maintained structurally safe and smoke-tight.
 - (f) If the building is to be demolished or remain vacant, then, within 10 days of registering the building as a vacant building, all fuel gas, water, and utilities must be disconnected at the mains and water pipes drained. If the building is going to be rehabilitated, then the building must be heated to avoid freezing pipes, fuel gas pipe systems must be maintained gastight, safe and operative condition, and water pipes must be maintained to avoid leaks and/or breakage.
 - (g) Fuel tanks will be maintained so as not to be a hazard or will be discontinued in a manner consistent with the State Uniform Fire Prevention and Building Code.
 - (h) The domestic water supply system of the building will be connected to an approved source, will not be subject to contamination and will not be connected to unsafe water supplies or the system will be disconnected at the main and completely drained.
 - (i) Storm water drainage systems will be maintained so as to function properly and be kept free from obstructions, leaks and defects. Sewage systems will be similarly maintained or will be sealed so as to prevent accumulation of sewage gases in buildings.
 - (j) Electrical fixtures, devices, wiring and systems will be maintained in safe working condition in a manner which will avoid a potential source of ignition or shock or service will be discontinued at the supply.
 - (k) Elevators, dumbwaiters and escalators will be maintained or taken out of service.
 - (l) The owner will provide for snow removal.
 - (m) The owner will maintain lawns, yards and vacant lots trimmed and mowed, with the height of grass and weeds being no more than six inches, and clean and free of physical hazards, rodent harborage and infestation.
- (6) Whenever the owner of a vacant building fails to comply with a notice from the Code Enforcement Officer to take steps and perform acts as are required of him or her to ensure that a building and its adjoining yards remain safe and secure and do not present a hazard to adjoining property in violation of Subsection D(2) above, the Town may enter onto the building and the property and take steps and perform acts to render the building and its adjoining yards safe, secure and free from hazards to adjoining property and public. These acts will include but not be limited to removal of dangerous conditions, properly replacing or boarding up windows and doors, shutting off utilities, capping plumbing to prevent leakage of water or sewer gas, or removing flammable or otherwise hazardous materials and debris and anything else required in Subsection D(5) above. A bill for the expenses incurred above will be presented to the owners of the building consistent with

the provisions of this chapter. If the bill is unpaid, the Town can file the charges as a lien against the property and assessed on the real property tax bills.

- E. Exemptions. A building which has suffered fire damage or damage caused by extreme weather conditions will be exempt from the registration requirement for a period of 90 days after the date of the fire or extreme weather event if the property owner submits a request for exemption in writing to the Code Enforcement Office. This request will include the following information supplied by the owner:
- (1) A description of the premises.
 - (2) The reason for an exemption.
 - (3) The names and addresses of the owner or owners. A post office box is not acceptable.
 - (4) A statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building.
- F. Inspections. By registering a vacant building, an owner consents to the Code Enforcement Officer inspecting the premises for the purpose of enforcing and assuring compliance with the provisions of this chapter. Upon the request of the Enforcement Officer, an owner will provide access to all interior portions of a vacant building in order to permit a complete inspection.
- G. Annual reports. Once a year, the Code Enforcement Officer will send to the Supervisor and to the Town Board a list of all buildings in the Town declared vacant under the provisions of this chapter, as well as a list of all previously declared vacant buildings which are no longer subject to the provisions of this chapter.
- H. Penalties for offenses. Any owner or person violating any provision of this chapter, including failure to register, or providing false information to the Code Enforcement Officer will be subject to the following fines and/or penalties:
- (1) A fine of \$25.00 with a cap of \$1,000 in any calendar year.
 - (2) Each day of violation will be deemed to constitute a separate offense.
 - (3) Fines can be liened against any subject property.
 - (4) The provisions of this section shall be in addition to and shall not preclude the enforcement of this chapter by application to the New York State Supreme Court for injunction or by any other lawful means.

Section 2. Severability

If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 3. Repealer

All Ordinances, Local Laws and parts thereof inconsistent with this Local Law are hereby repealed.

Section 4. Effective Date

This Local Law shall take effect upon the filing with the Office of the Secretary of State in accordance with the applicable provisions of law.