

## VACANT PROPERTY

### § 1. Purpose and Intent

The purpose and intent of this chapter is to prevent the deterioration and decline in value of neighborhoods in the Village of Fort Plain; deterioration of individual residences; and/or the deterioration or loss of significant architectural features caused by neglected vacant properties located within the Village. It is also the purpose of this chapter to identify, regulate, limit and reduce the number of these properties located within the Village. It is the further intent of this chapter to establish a registration requirement as a mechanism to protect neighborhoods from the negative impact and conditions that occur as a result of vacancy, absentee ownership, lack of adequate maintenance and security, and will provide a method to expeditiously identify multiple parties and their contact person(s) for each property responsible for this protection.

### § 2. Definitions.

As used in this chapter, the following terms shall have their meanings indicated:

#### **Registrable Property**

Any real property located in the Village that is vacant as defined herein, and any real property located in the Village, whether vacant or occupied, that is subject to an application for a tax deed or pending tax lien sale.

#### **Accessible Property/Structure**

A property that is accessible through a compromised or breached gate, fence, wall, etc. or a structure that is unsecured and/or breached in a such a way as to allow access to the interior space by unauthorized persons.

#### **Annual Registration**

Twelve (12) months from the date of the first action that required registration, as determined by the Village, or its designee, and every subsequent 12 months. The date of the initial registration may be different than the date of the first action that required registration.

#### **Applicable Codes**

Includes, but is not limited to the various local laws of the Village of Fort Plain including the Zoning Code, and the New York State Fire Prevention and Building Codes, as currently in effect and as may hereafter be amended from time to time.

#### **Blighted Property**

Properties that have broken or severely damaged windows, non-functional storm water disposal systems, doors, walls, roofs, or other architectural features which create hazardous conditions and encourage trespassing; or

properties whose maintenance is not in conformance with the maintenance of other neighboring properties causing a decrease in value of the neighboring properties; or properties cited for a public nuisance; or properties that endanger the public's health, safety, or welfare because the properties or improvements thereon are dilapidated, deteriorated, or properties where neglected maintenance and/or deterioration poses a threat to the structure or its significant architectural features, or violate minimum health and safety standards or lacks maintenance as required by the applicable codes.

**Enforcement Officer**

Shall be the Village of Fort Plain Code Enforcement Officer.

**Evidence of Vacancy**

Any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to: overgrown and/or dead vegetation; past due utility notices and/or disconnected utilities; accumulation of trash, junk or debris; abandoned vehicles, auto parts or materials; the absence of furnishings and/or personal items consistent with habitation or occupancy; the presence of an unsanitary, stagnant swimming pool; the accumulation of newspapers, circulars, flyers and/or mail, or statements by neighbors, passers-by, delivery agents or government agents; or the presence of boards over doors, windows or other openings in violation of applicable code.

**Local Property Management Company**

A property manager; property management company or similar entity responsible for the maintenance and security of registrable real property within 20 driving miles of the Village limits. Upon reviewing of credentials, the Village, or its designee, may allow a non-local manager to be listed.

**Owner**

Any person, firm, corporation, limited liability company or other legal entity who, individually or jointly or severally with others, holds the legal or beneficial title to any building, facilities, equipment or premises subject to the provisions of this chapter.

**Property Management Company**

A property manager, property maintenance company or similar entity responsible for the maintenance of registrable real property.

**Real Property**

Any improved residential or commercial land, building, leasehold improvements and anything affixed to the land, or portion thereof

identified by a property parcel identification number, located in the Village limits. Developed lots are considered improved land.

**Rental Property**

Property that contains a single-family rental dwelling units or multi-family rental dwelling units for use by residential tenants including but not limited to the following: mobile homes, mobile home spaces, Village homes and condominium unit(s). A rental dwelling unit includes property that is provided to an individual or entity for residential purposes upon payment of rent or any other consideration in lieu of rent, regardless of relationship between lessor and lessee.

**Vacant**

Any parcel of land in the Village that contains any building or structure that is not lawfully occupied or inhabited by human beings as evidenced by the conditions set forth in the definition of "Evidence of Vacancy" above which is without lawful tenant, or lawful occupant or without a certificate of occupancy. Notwithstanding anything to the contrary which may appear to be set forth herein, residential real property shall not be deemed vacant or abandoned where there is a building:

- a. undergoing construction, renovation or rehabilitation that is proceeding diligently, or
- b. used on a seasonable basis but is otherwise secure, or
- c. subject of an administration or probate proceeding, or
- d. damaged by a natural disaster but where the owner intends to repair and reoccupy the property and is actively taking steps to do so.

**§ 3. Applicability**

These sections shall be considered cumulative and not superseding or subject to any other law or provision for same, but rather shall be an additional remedy available to the Village above and beyond any other State, County, or Village provision for same. The provisions of this chapter are in addition to and are not intended to replace Article II "Building Registration and Posting" of Chapter 75 entitled "Building, Numbering and Registration of".

**§ 4. Establishment of Registry.**

These sections shall be considered cumulative and not superseding or subject to any other law or provision for same, but rather be an additional remedy available to the Village above and beyond any other State, County, or Village provisions for same. The registration requirement established herein shall not apply to any State or Federally chartered bank or other financial institution which is subject to the provisions of the

Zombie Property and Foreclosure Prevention Law of the State of New York, but shall apply to bank owned properties.

**§ 5. Registration of Vacant and/or Defaulted Mortgage Real Property.**

- A. Any owner of any vacant residential structure located within the Village shall, within forty-five (45) days of the structure becoming vacant, register said residential structure with the Code Enforcement Officer, or his/her designee, on forms or in such other manner as directed. A separate registration is required for each vacant residential structure.
- B. Registration pursuant to this section shall contain the name, direct mailing address, telephone number, and any e-mail address for the owner of the vacant residential structure, and the name and twenty-four (24) hour contact number of the local property management company responsible for the security and maintenance of the property who has the authority to make decisions concerning the abatement of nuisance conditions at the property, as well as any expenditure in connection therewith.
- C. Owners who have existing registrable property on the effective date of this local law have thirty (30) calendar days from the effective date to register the property with the Code Enforcement Officer, or his/her designee, on forms or in such other manner as directed. A separate registration is required for each registrable property.
- D. As long as the property is registrable it shall be inspected by the owner or designee, monthly. If an inspection shows a change in the property's occupancy status, the owner shall, with ten (10) days of that inspection, update the occupancy status of the property registration.
- E. A non-refundable annual registration fee pursuant to a fee schedule established by resolution of the Village Board shall accompany each registration pursuant to this section.
- F. All registration fees must be paid directly by the owner. Third party registration fees are not allowed without the consent of the Village and/or its authorized designee.
- G. Properties subject to this section shall remain under the annual registration requirement, and the inspection, security and maintenance standards of this section as long as they are registrable.
- H. Any person or legal entity that has registered a property under this section must report any change of information contained in the registration within ten (10) days of the change.

- I. Failure of an owner to properly register or to modify the registration form from time to time to reflect a change of circumstances as required by this section is a violation of this chapter and shall be subject to enforcement and any resulting monetary penalties. Such modification of the registration form must be made within thirty (30) days of any such change of circumstances.
- J. Pursuant to any administrative or judicial finding and determination that any property is in violation of this chapter, the Village may take the necessary action to ensure compliance with and place a lien on the property for the cost of the work performed to benefit the property and to bring it into compliance.

**§ 6. Maintenance Requirements**

- A. Properties subject to this chapter shall, at all times, comply with all provisions of the Village's Property Maintenance Code and all other applicable codes.
- B. All vacant buildings shall be kept secured or shall be kept boarded up.
- C. The term "secured," for the purposes of this section, shall mean that all means of ingress and egress, including but not limited to all doorways and windows, shall be in good state of repair, without any broken glass or other damage that might allow entry or create an eyesore, and shall be securely locked. Any building that is not so secured shall be promptly "boarded up," meaning that all means of ingress and egress at all floor levels shall be covered over, as specified hereinafter, so as to ensure the continued security of the building and to reduce the negative impact on the neighborhood. Boarding up shall be done by utilizing the materials and methods as approved by the Code Enforcement Officer.
- D. In addition to securing or boarding up the building, the following minimum requirements shall be met for all vacant buildings:
  - (1) The roof shall be structurally sound and weathertight. Any damaged or missing rafters, decking or roofing materials shall be repaired or replaced with equivalent material, but in all cases so as to meet or exceed the standards for such building type so as to be in compliance with the provisions of the New York State Fire Prevention and Building Codes, all installed in a workmanlike manner.

- (2) All combustible trash and debris shall be removed from the building. Any portions of the exterior of the main building or accessory buildings, including but not limited to walls, porches, stairs, parapet walls and chimneys, that are deteriorated so as to be in danger of collapse or to otherwise constitute a hazard or allow penetration of water into the building shall be repaired or replaced or otherwise made safe and weathertight.
  - (3) The grounds surrounding the building shall be cleared and kept cleared of all litter, rubble, debris, trash and junk and of all grass or weeds in excess of six inches in height.
- E. Whenever the Code Enforcement Officer shall find a building or structure or a portion thereof to be an unsafe or vacant building, he/she shall give the owner, agent or person in control of such building or structure written notice stating the defects thereof. This notice shall require the owner within a stated time either to complete specified repairs or improvements, or to demolish and remove the building or structure or portion thereof.
- F. If the Code Enforcement Officer finds that there is actual and immediate danger of failure or collapse so as to endanger life, such notice shall require the building, structure or portion thereof to be vacated forthwith and not reoccupied until the specified repairs and improvements are completed, inspected and approved by the Code Enforcement Officer. The Code Enforcement Officer shall cause to be posted at each entrance of such building, a notice which includes the statement that, **THIS BUILDING IS UNSAFE AND ITS USE OR OCCUPANCY HAS BEEN PROHIBITED BY THE CODE ENFORCEMENT OFFICER, VILLAGE OF FORT PLAIN.** Such notice shall remain posted until the required repairs or demolition is completed. It shall be unlawful for any person, firm or corporation or their agents or other servants to remove such notice without written permission of the Code Enforcement Officer or for any person to enter the building except for the purpose of making the required repairs or of demolishing the same.

## **§ 7. Re-occupancy**

A vacant or unoccupied building or structure shall not be occupied until (1) a certificate of occupancy has been issued by the Code enforcement Officer after all violations have been corrected in accordance with the applicable requirements of the New York State Fire Prevention and building Codes and any other codes that are enforced by the Village, including the village's property maintenance code (2) all mechanical, electrical, plumbing and structural systems have been determined by the Code Enforcement Officer to be in compliance, or at the option and expense of the property owner same is certified to by a licensed contractor as being in good repair and (3) all assessments and liens owed to the Village have been paid in full.

**§ 8. Administration, Enforcement and Penalties**

- A. This chapter shall be administered and enforced by the Code Enforcement Officer.
- B. The Code Enforcement Officer or his/her designee shall have the following remedies for enforcement of this chapter:
  - (1) Appearance tickets. The Code Enforcement Officer or his/her designee shall have the authority, pursuant to New York State Criminal Procedure Law, to issue an appearance ticket subscribed by him/her, directing a designated person to appear in the Minden Town Court at a designated future time in connection with the alleged commission of a designated violation of this chapter or any order made thereunder.
  - (2) Penalties for offenses. Any person who fails to comply with any provision of this chapter or fails to comply with any notice, order or directive of the Code Enforcement Officer or his/her representative after expiration of the time for compliance established in accordance with this chapter shall, upon conviction, be punished by a fine of not more than \$1,000 or by imprisonment not to exceed 15 days, or both, for such violation. In the event of any failure to so comply, each week that such violation continues shall constitute a separate offense, and the penalties prescribed above shall be applicable to each such separate offense.

**§ 9. Immunity of Enforcement Officer.**

Any enforcement officer or any person or any person authorized by the Village to enforce the sections of this local law shall be immune from prosecution, civil or criminal, for reasonable, good faith entry upon real property while in the discharge, of duties imposed by this chapter.

**§ 10. Severability.**

If any section, sentence, clause or phrase of this chapter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this local law.

**§ 11. Inconsistent laws repealed**

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

**§ 12. Effective Date**

This Local law shall take effect upon filing with the New York State Secretary of State.

**§ 13. Numerical/Lettering Designations:**

The chapter designation and numerical/lettering designations of the section and article(s) included in the Local Law shall be delegated to the discretion of General Code Publishers, which may remember the chapter, sections and Article(s) included in this Local Law as necessary to accommodate incorporation of this Local Law in the Code of the Village of Fort Plain.