

**PROPOSED AMENDMENT OF  
LOCAL LAW NO. 2 OF 2015  
(Article 220)**

**§220-1. Purpose.** The purpose of this Article is to remedy problems caused by abandoned and vacant buildings, foreclosed properties and properties in foreclosure including a decline in property values and tax base, and negative impacts on the quality of life for neighboring residents and businesses. This Article establishes regulations for the registration, inspection, maintenance, and securing of such buildings and properties.

**§220-2. Definitions.**

**ABANDONED BUILDING** - Any Building for which a Certificate of Abandonment has been issued under §220-5.

**BUILDING** - Any structure that is permanently affixed to the land, has one or more floors and a roof, and is intended for the shelter, housing or enclosure of persons, animals or chattels.

**BUILDING INSPECTOR** - An appointed Building Inspector of the Town of Guilderland.

**DEFAULT** - When mortgagor is ninety (90) days past due of the mortgagor's obligation to make a scheduled payment under a mortgage or a mortgage note.

**FORECLOSED PROPERTY** - Property for which a new deed has been recorded with the Albany County Clerk following the foreclosure process.

**FORECLOSING PROPERTY** - Property that is in the process of foreclosure pursuant to RPARL §1301 et seq.

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

**NOTICE OF DEFAULT** - A recorded notice that a Default has occurred under a mortgage and the Mortgagee intends to initiate foreclosure proceedings under RPARL §1301 et seq.

**OWNER** - The owner of Property as shown in the records of the Town of Guilderland Tax Assessor's Office.

**PROPERTY** - Any improved real property or portion thereof, including all Buildings or structures located on the property.

**REGISTRATION FORM** - The registration form that is available in the Building Department.

**RPAPL** - New York State Real Property Actions and Proceedings Law.

**VACANT BUILDING** - A Building that is deemed a Vacant Building under §220-4.

**ZONING INSPECTOR** - The appointed Building and Zoning Inspector of the Town of Guilderland.

**§220-3. Registration requirements.**

**A. Properties.** The following Property shall be registered under this Article:

- 1. Vacant Building.** Within ten (10) days of the date on which a Building is deemed a Vacant Building as provided in §220-4, the Owner and/or Mortgagee of the Property with a Vacant Building shall register the Property by filing a Registration Form with the Building Department.
- 2. Abandoned Building.** Within ten (10) days of being provided with Notice of a Certificate of Abandonment by a Building Inspector as provided in §220-5(B), the Owner and/or Mortgagee of the Property shall register the Property by filing a Registration Form with the Building Department.
- 3. Foreclosing Property.** Within (10) days of commencing a foreclosure action on Property has been initiated pursuant to RPAPL §1301 et seq., the Mortgagee shall comply with the requirements of §220-6 and register the Property by filing a Registration Form with the Building Department.
- 4. Foreclosed Property.** Within ten (10) days of receipt of a deed for a Foreclosed Property, the new Owner of the Property shall register the Property by filing a Registration Form with the Building Department.

**B. Registration Fee and Renewal.** The Town Board shall establish a fee for the filing of a Registration Form. Each registration shall last six months and shall be renewed if necessary.

**C. Liability Insurance.** Within ten (10) days of the date on which the Registration Form is required, the Owner and/or Mortgagee shall procure liability insurance for the Property with a coverage amount to exceed \$150,000.00 and shall furnish the Building Department with a copy of the certificate of insurance.

**D. Escrow.** Within ten (10) days of the date on which the Registration Form is required, the Owner and/or Mortgagee shall provide a cash escrow, if any, in an amount to be determined by the Building Inspector but not to exceed five thousand dollars (\$5,000.00) unless approved by the Town Board. The escrow may be used to reimburse the Town if the Building Department incurs expenses under §220-7(B) to inspect, secure, and maintain the Property. The Building Inspector shall notify the Owner and/or Mortgagee of the amount by which the escrow has been drawn down, and the Owner and/or Mortgagee shall have ten (10) days from the date of the Notice to replenish the escrow to the amount determined by the Building Inspector.

- E. **Administrative Fee.** Ten percent (10%) of the escrow shall be retained by the Town as an administrative fee to fund an account for expenses incurred in inspecting, securing, and maintaining Properties that are not in compliance with this Article.
- F. **Local Agent.** If the Owner and/or Mortgagee is not a resident of New York State, the Owner and/or Mortgagee shall provide the name and address of a person who resides in Albany County and who is authorized to accept service of process upon behalf of the Owner and/or Mortgagee and who shall be designated as the responsible agent for any Notice under this Article and notification of an emergency or affecting the safety, health or welfare of residents or property.
- G. **Notice.** Notice required under this Article shall be by: (1) personal service on the Owner and/or Mortgagee; or (2) left at the last and usual place of abode of an Owner, if such place of abode is known and sent by certified mail, return receipt requested.

**§220-4. Vacant Building.**

- A. **Evidence of Vacancy.** A Building shall be deemed a Vacant Building if no person is conducting a permitted or allowed use or lawfully resides in any part of the Building.
- B. **Applicability.** This Article shall be applicable to each Property with a Vacant Building for more than thirty (30) consecutive days.

**§220-5. Abandoned Building.**

- A. **Evidence of Abandonment.** The following may be considered evidence of an Abandoned Building:
  - 1. The failure to remedy a violation of the NYS Uniform Fire Prevention and Building Code issued by a Building Inspector.
  - 3. The failure to maintain regular business hours based upon past use of the Building or Property and/or industry standards.
  - 4. The failure to maintain equipment, supplies or merchandise that would be used for the active operation of an allowed or permitted use for the Building or Property.
  - 5. The failure to maintain utilities necessary for the operation of the Building or its allowed or permitted uses.
  - 6. The failure to maintain required local, state or federal licenses or approvals that would be required for an allowed or permitted use for the Building or Property.
  - 7. The existence of evidence of vacancy under §220-4(A).

8. An act indicating intent by the Owner and/or Mortgagee to abandon the Building or Property.
9. A written statement by the Owner and/or Mortgagee that the Building or Property is vacant or abandoned.

**B. Certificate of Abandonment.**

1. Upon a Building Inspector's determination that a Building has been abandoned after considering the evidence under §220-5(A), the Building Inspector shall file a Certificate of Abandonment with the Building Department. Notice of the Certificate of Abandonment shall be served upon the Owner of the Property.
2. Upon filing a Certificate of Abandonment, the Building Inspector may, without further notice to the Owner, take necessary steps to ensure that the Property and Building are properly maintained and secured as provided in §220-7. The Building Inspector shall provide the Owner with a written statement of all costs associated with inspecting, securing, and maintaining the Property and/or Building. If the Owner fails to reimburse the Town within five (5) days of receiving Notice of the statement of costs, the Town shall draw upon the escrow paid by the Owner. If there is no available escrow, the costs incurred to ensure the Property and/or Building is properly maintained and secured may be paid by the Town with such costs charged against the Property as a lien or added to the tax roll as an assessment or levied as a special tax against the Property.
3. The Owner may petition the Zoning Inspector to remove the Certificate of Abandonment by providing proof satisfactory to the Zoning Inspector that the reasons for the Certificate of Abandonment no longer exist and the Property is in compliance with this Article.
4. The Zoning Inspector shall maintain a list of each Property for which a Certificate of Abandonment was issued.

**§220-6. Foreclosing Property.**

- A. **Requirements.** Before the initiation of foreclosure proceedings under RPAPL §1301 et seq., the Mortgagee shall perform the following requirements:
1. Prior to the issuance of a Notice of Default, a Mortgagee shall perform an inspection of the Property that is security for the mortgage. If the Property shows that the Property has a Vacant Building, the Mortgagee shall, within ten (10) days of the inspection, register the Property pursuant to this Article. If the Property is occupied but remains in Default, it shall be inspected by the Mortgagee on a monthly basis until the mortgagor remedies the Default; or until it is found to be a Vacant Building and registered within ten (10) days of the inspection.

2. The Mortgagee shall notify the Building Department within ten (10) days of any change in the registration information, including the sale or transfer of the Property, by filing an amended Registration Form.

**§220-7. Maintaining and securing properties.**

**A. Owner and/or Mortgagee.** The Owner and/or Mortgagee of Property registered under this Article shall maintain and secure the Property and Building as follows:

1. All doors, windows and other openings are weather-tight and secured against entry by persons and animals.
2. All roof and flashings shall be sound and tight such that no rain will penetrate the Building and shall allow for drainage to prevent deterioration of the interior walls or other interior portions of the Building.
3. The Property and Building shall be maintained in good repair, be structurally sound and free from overgrown vegetation, rubbish, garbage, and other debris.
4. The Building shall be capable of bearing both live and dead loads and the foundation walls shall be capable of supporting an appropriate load.
5. The exterior of the Building 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).
6. Any balconies, canopies, signs, metal awnings, stairways, fire escapes or other overhanging extensions shall be in good repair and appropriately anchored. The exposed metal and wood surface of such overhanging extensions shall be protected against rust or decay by appropriate application of paint or similar weather-coating.
7. Any accessories or appurtenant structures, including but not limited to garages, sheds, storage facilities, and signs and supports shall meet this Section's requirements.
8. The Property shall contain a posting with the name and twenty-four hour contact phone number of the Owner, Mortgagee or local agent responsible for the maintenance. The sign shall be visible from the street.
9. All bushes, trees, and landscaping shall be trimmed so as to provide an unobstructed view of the front of the Building and 911 address from the street.
10. The Owner and/or Mortgagee shall comply with all state and local regulations concerning the maintenance and securing of the Property and Building.

**B. Failure to Maintain and/or Secure.** A Building Inspector shall have the authority to inspect any Property and Building, and may take the following actions if the Owner and/or Mortgagee fail to comply with this Article:

1. Issue citations for any violations with directions to remedy the violation within ten (10) days of the date of the citation;
2. Undertake actions, including using Town employees, retaining contractors, and engineers, to bring the Property and Building into compliance with this Article; and/or
3. The costs incurred by the Town to ensure that the Property and/or Building is maintained, secured and complies with this Article may be charged against the Property as a lien or shall be added to the tax roll as an assessment or shall be levied as a special tax against the Property. The Building Inspector shall provide the Owner and/or Mortgagee with Notice of a written statement for such costs.

**§220-8. Penalties.** The failure of any Owner, Mortgagee or Local Agent to register Property or perform any of the requirements under this Article shall constitute a violation punishable upon conviction by a fine of one hundred dollars (\$100) per each day of the violation for each Property. A fine may be imposed for each day the violation is not remedied.

**§220-9. Conflict with other provisions.** Nothing in this Article shall be construed as rendering any other applicable laws invalid, inapplicable or unenforceable.

**§220-10. Effective Date.** This Article shall become effective upon filing with the New York State Secretary of State.