

***Local Law Filing***

Town of Oyster Bay

Local Law No. 2 of the year 2018

A local law ENTITLED "A LOCAL LAW TO AMEND THE CODE OF THE TOWN OF OYSTER BAY, NEW YORK, CHAPTER 96 – DANGEROUS BUILDINGS TO ADD SECTIONS AND PROVISIONS ADDRESSING VACANT AND ABANDONED BUILDINGS"

Be it enacted by the Town Board of the

Town of Oyster Bay as follows:

**Section 1.** Amend Chapter 96 – Dangerous Buildings to add sections and provisions addressing vacant and abandoned buildings, as follows:

**DELETE TITLE:**

**CHAPTER 96: Dangerous Buildings**

[HISTORY: Adopted by the Town Board of the Town of Oyster Bay 3-9-1993.[1] Amendments noted where applicable.]

**ADD TITLE:**

**CHAPTER 96: Dangerous Buildings and Abandoned Buildings**

[HISTORY: Adopted by the Town Board of the Town of Oyster Bay 3-9-1993.[1] Amendments noted where applicable.]

\*\*\*

**ADD TO SECTION 96-2 SUBDIVISION (A) Definitions and Word Usage:**

**BOARDED and BOARDING**

Clear, impact-resistant polycarbonate sheeting of a thickness in excess of 3/16", except as otherwise directed by the Commissioner.

\*\*\*

**DELETE:**

**SECTION 96-2 COMMISSIONER** in its entirety

**ADD:**

**SECTION 96-2**

**COMMISSIONER**

The Commissioner of the Department of Planning and Development or his/her designee.

\*\*\*

**DELETE:**

**SECTION 96-2 (A)(7)** in its entirety.

**ADD:**

**SECTION 96-2 (A)(7)** A vacant and abandoned building.

\*\*\*

**DELETE:**

**SECTION 96-2 OWNER** in its entirety.

**ADD:**

**SECTION 96-2 OWNER**

Includes the owner of record of any premises, a mortgagee, a tax lien purchaser, servicer, a lienor and any other person having a vested or contingent interest in said premises and anyone exercising rights of ownership therein as indicated by the records of the County Clerk of Nassau County or by the records of the Receiver of Taxes, the Office of the Public Administrator or Surrogates Court.

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**DELETE:**

**SECTION 96-2 SURVEY** in its entirety.

**ADD:**

**SECTION 96-2 SURVEY**

A written determination in a report, after an on-site inspection.

\*\*\*

**ADD:**

**SECTION 96-2 VACANT AND ABANDONED**

Real property which displays no evidence that any persons are residing there and is not maintained in a manner consistent with the standards set forth in New York property maintenance code chapter 3.

(A) Real property will also be deemed vacant and abandoned if:

- (i) A court or other appropriate state or local governmental entity has formally determined, following notice posted at the property address, that such residential real property is vacant and abandoned; or

(ii) The owner thereof has issued a sworn written statement, expressing his or her intent to vacate and abandon the property and an inspection of the property shows no evidence of occupancy to indicate that any persons are residing there.

(B) Evidence of lack of occupancy shall include but not be limited to the following conditions:

- (i) overgrown or dead vegetation;
- (ii) accumulation of newspapers, circulars, flyer or mail;
- (iii) past due utility notices, disconnected utilities, or utilities not in use;
- (iv) accumulation of trash, refuse or other debris;
- (v) absence of window coverings such as curtains, blinds, or shutters;
- (vi) one or more boarded, missing or broken windows;
- (vii) the property is open to casual entry or trespass; or
- (viii) the property has a building or structure that is or appears structurally unsound or has any other condition that presents a potential hazard or danger to the safety of persons.

(C) Residential real property will not be deemed vacant and abandoned if, on the property:

- (i) There is an unoccupied building that is undergoing construction, renovation, or rehabilitation that is proceeding diligently to completion;
- (ii) There is a building occupied on a seasonal basis, but otherwise secure;
- (iii) There is a building that is secure, but is the subject of a probate action, action to quiet title, or other ownership dispute of which the owner has actual notice;
- (iv) There is a building damaged by a natural disaster and one or more owners intend to repair and reoccupy the property; or
- (v) There is a building occupied by the mortgagor, a relative of the mortgagor or a tenant lawfully in possession.

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**DELETE:**

**SECTION 96-2(B)** in its entirety.

**ADD:**

**SECTION 96-2 (B)** The words "or" and "and" as used herein may be construed interchangeably where such meaning is necessary to effectuate the purpose of this chapter. Where necessary, the singular shall include the plural and the plural include the singular. The word "person" shall include a partnership, corporation, association or trustee. The words "persons interested," as used herein, shall be construed to include the owner as herein defined and all other persons interested in the property to which such words refer. The masculine gender shall include the feminine and neuter genders; and the neuter gender shall include the masculine and feminine genders.

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**DELETE:**

**SECTION 96-4 Jurisdiction.** the word "his".

**ADD:**

**SECTION 96-4 Jurisdiction.** replace "his" with "his/her".

\*\*\*

**DELETE:**

**SECTION 96-5(B)** in its entirety.

**ADD:**

**SECTION 96-5(B)**

After the report is filed in his/her office, and if the report shall confirm the existence of a dangerous building or structure, as defined within § 96-2 of this chapter, the Commissioner shall cause a notice to be served upon the owner or his executors, legal representatives, agents, lessee or any other person having a vested or contingent interest in the same, as specified and in compliance with §§ 96-6 and 96-7.

\*\*\*

**DELETE:**

**SECTION 96-6 Notice.** in its entirety.

**ADD:**

**SECTION 96-6 Notice.**

The notice shall contain a description of the premises, which shall include the section, block and lot number, a statement of the particulars in which the building or structure is unsafe or dangerous, and an order requiring the same to be vacated and/or made safe and secure or demolished and removed.

\*\*\*

**DELETE:**

**SECTION 96-7 Service of process and notice.** in its entirety.

**ADD:**

**SECTION 96-7 Service of process and notice.**

Service of process of the notice, as required in § 96-5, shall comply with the New York Civil Practice Law and Rules or the following:

A. Service of notice by personal service. Service may be made personally upon the owner or his executor, legal representative, agent, lessee or any other person having a vested or contingent interest in the same, as indicated by the records maintained by the Town of Oyster Bay Receiver

of Taxes, the Office of the Town Clerk, the Office of the County Clerk, the Office of the Public Administrator or the Surrogate's Court.

B. Service of notice by mail. Service may be made by certified or overnight mail, addressed to the last known address, if any, of the owner or his executor, legal representative, agent, lessee or any other person having a vested or contingent interest in the same, as indicated by the records maintained by the Town of Oyster Bay Receiver of Taxes, the Office of the Town Clerk, the Office of the County Clerk, the Office of the Public Administrator or the Surrogate's Court. A copy of said notice must also be posted on the dangerous building.

C. Service of notice by publication. In the event that the whereabouts of the owner of the premises or his executor, legal representative, agent, lessee or any other person having a vested or contingent interest in the same are unknown and cannot be ascertained after the exercise of reasonable diligence by the Commissioner or his/her authorized representative or designee, then service of the notice, as provided for in §§ 96-5 and 96-6 of this chapter, shall be made by publishing said notice, once a week, for two successive weeks, in the official newspaper of the Town, with proof of publication, to be filed in the office of the Department of Planning and Development and the office of the Town Clerk. A copy of the notice must also be posted on the dangerous building.

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**DELETE:**

**SECTION 96-8 Duty of person receiving notice.** in its entirety.

**ADD:**

**SECTION 96-8 Duty of person receiving notice.**

A person who receives the notice may certify his written acceptance or rejection of the particulars and order contained in the notice by either personal service or by overnight mail upon the Commissioner or a person designated by his/her to accept service on his/her behalf. Such acceptance or rejection shall be made within seven days of receipt of the notice if served upon the Commissioner personally, or within six days of receipt of the notice if served upon the Commissioner by overnight mail. Any failure on the part of the person receiving the notice to respond, as herein prescribed, shall constitute a rejection of the notice.

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**DELETE:**

**SECTION 96-10 Hearing procedure.** in its entirety.

**ADD:**

**SECTION 96-10 Hearing procedure.**

A. Any person entitled to notice, as provided in this chapter, may request and shall be granted a hearing before the Town Board. The entitlement to said hearing is contingent upon the requesting person's filing of a verified petition with the office of the Town Clerk and the Town Board or its designee within seven days after service of the notice. The petition must contain a brief statement setting forth the grounds for a hearing.

B. Upon receipt of said petition, the Town Board or his/her designee thereof shall set a time for the hearing and shall give the petitioner seven days' written notice thereof.

C. At the hearing, the petitioner shall be afforded an opportunity to be heard and to provide reasons why the proceeding for the vacating and/or securing or removal of the dangerous building or structure shall be modified or withdrawn.

D. The hearing shall be commenced not later than 14 days after the date on which the petition was filed. The Town Board or designee thereof may postpone the date of the hearing for any reasonable time.

E. If no such written petition shall be so filed within the period specified by section 96-8 of this chapter or if the petition shall be rejected after the hearing, the Town Attorney is authorized to make application to the Supreme Court, at special term, as hereinafter provided.

F. If a hearing shall be requested and held in accordance with the provisions of this chapter, the hearing officer shall make written findings of fact as to whether the building in question is a dangerous building, within the definitions of § 96-2 hereof. A copy of said findings of fact shall be served upon the petitioner, occupant of the dangerous building or structure or any other person who shall have requested the same at the hearing.

G. If such findings of fact determine that the building or structure is dangerous, the person served with the findings of fact may immediately certify his assent to the vacating and/or repairing, securing or demolition and removal of the dangerous building or structure in question and shall be permitted 72 hours, after service of the findings of fact, within which to vacate and/or to commence abatement of the dangerous conditions affecting the building or structure and shall employ sufficient labor and assistance to repair, secure or demolish and remove such building or structure within a reasonable period of time thereafter.

\*\*\*

**DELETE:**

**SECTION 96-11(A)** in its entirety.

**ADD:**

**SECTION 96-11(A)**

Upon refusal, neglect or failure of the person or persons served with a notice and/or order of findings of fact pursuant to § 96-10 to comply with the requirements and specifications therein, within the periods of time as contained in §§ 96-9 or 96-10 herein, or upon his or their rejection of the same, a notice of survey shall be served upon them.

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**DELETE:**

**SECTION 96-12 Survey procedure.** in its entirety.

**ADD:**

**SECTION 96-12 Survey procedure.**

A. The survey shall be conducted by the Commissioner or his/her duly appointed designee.

B. Within a reasonable time after the survey is completed, the determination thereof shall be made in writing and filed within the office of the Department of Planning and Development.

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**DELETE:**

**SECTION 96-13 Reimbursement of survey costs. in its entirety.**

**ADD:**

**SECTION 96-13 Reimbursement of survey costs.**

The Town shall be reimbursed for costs incurred in conducting the survey by assessment levied against the parcels of land upon which the survey was performed in the manner provided for the assessment of the cost of public improvements in Article 15 of the Town Law.

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**DELETE:**

**SECTION 96-14 Comptroller invoice. in its entirety.**

**ADD:**

**SECTION 96-14 Comptroller invoice.**

The Comptroller shall render an invoice for the cost of services.

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**DELETE:**

**SECTION 96-18 Interference with Commissioner prohibited. the word "his".**

**ADD:**

**SECTION 96-18 Interference with Commissioner prohibited. replace "his" with "his/her".**

\*\*\*

**DELETE:**

**SECTION 96-21(A) \$250**

**ADD:**

**SECTION 96-21(A) \$500**

\*\*\*

**DELETE:**

**SECTION 96-21(B) \$250**

**ADD:**

**SECTION 96-21(B) \$500**

\*\*\*

**DELETE:**

**SECTION 96-21(C)** in its entirety.

**ADD:**

**SECTION 96-21(C)**

Any person or persons who shall create a dangerous building or allow a building to become a dangerous building or allow a dangerous building to continue to remain in a dangerous condition, in violation of this chapter, shall be guilty of an offense punishable by a fine not exceeding \$500 or imprisonment for a period not to exceed six months, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, punishable by a fine of not less than \$1,000 nor more than \$1,500 or imprisonment for a period not to exceed six months, or both; and upon conviction for a third or subsequent offense, all of which were committed within a period of five years, punishable by a fine of not less than \$1,500 nor more than \$2,500 or imprisonment for a period not to exceed six months, or both. However, for the purpose of conferring jurisdiction upon courts and judicial officers generally, violations of this chapter or of such ordinance or regulation shall be deemed misdemeanors and for such purpose only all provisions of law relating to misdemeanors shall apply to such violations. Each week's continued violation shall constitute a separate additional violation.

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**ADD:**

**SECTION 96-23 Foreclosures; undertaking.**

Legislative intent: When residential properties in the Town of Oyster Bay fall vacant and become the subject of foreclosure actions, they frequently become neglected and overgrown with grass, weeds and rubbish, creating an unsightly appearance in the surrounding residential area and detracting from the use, enjoyment and value of surrounding properties. The Town of Oyster Bay is committed to using all legal avenues to proactively address these adverse conditions, to alleviate the burden these vacant properties impose on neighboring residents. This §96-23 places the financial burden on any person, business, organization, bank or lender who commences a foreclosure action against any vacant residential property in the Town of Oyster Bay to deposit funds with the Town after the foreclosure action is commenced, for use in achieving prompt remediation, if or when it shall occur. This new section is clearly in the public interest. It will help deter violations by creating a financial disincentive against allowing the property to lie fallow and unmaintained. It will help to expedite remediation of overgrown grass, weeds and rubbish when they occur. It will also help avoid substantial outlays of public funds in accomplishing same.

A. Except as otherwise provided by Law, any person, business, organization, bank or lender who commences a foreclosure action against a residential property (improved with a single family, two-family or multiple-family residence) that has become vacant shall provide to the Town of Oyster Bay an undertaking in the form of cash, a cash bond, or a letter of credit acceptable to the Town Attorney, in the sum of \$25,000, to secure the continued maintenance of the property free of any violations as provided for by Oyster Bay Town Code, during the entire time that vacancy



shall exist, as determined by the Commissioner. When the foreclosure action is finally discontinued, any unused funds shall be returned upon written request of the party which commenced foreclosure, which request shall be made in writing to the Town Attorney within 90 days of the action's discontinuance.

B. It shall be unlawful for any such person, business, organization, bank or lender to fail to properly deposit such cash, a cash bond, or a letter of credit within 45 calendar days after the foreclosure action is commenced.

C. In the event that the Commissioner determines that any property referenced in Subsection A above is being maintained in violation of § 96-23 of this chapter, then, in addition to or in lieu of any other enforcement remedy at his/her disposal, the Commissioner may utilize the deposited funds to pay the full and actual cost of actions necessary to eliminate the violation.

D. In the event that any such funds are utilized as set forth above, such person, business, organization, bank or lender shall restore it to the full amount referenced in Subsection A above, within 15 calendar days after written demand by the Town of Oyster Bay, sent by regular mail and certified mail, return receipt requested to such person, business, organization, bank or lender at an address designated by them for service of notices, or else to their last known address. It shall be unlawful for such person business, organization, bank or lender to fail to timely restore funds as required herein.

E. In the event that the Commissioner determines that any property referenced in Subsection A above is being maintained in violation of § 96-23 of this chapter and no cash, cash bond, or letter of credit acceptable to the Town Attorney has been provided or replenished as required by Subsection A or D above, then, in addition to or in lieu of any other enforcement remedy at his/her disposal, the Commissioner may serve a written demand upon such person, business, organization, bank or lender to provide the required cash, cash bond, or letter of credit acceptable to the Town Attorney, within 10 days after the date of such written demand, subject to the following:

- (1) The forty-five-day time allotment of Subsection B hereof is superseded;
- (2) The written demand shall be served in any manner authorized to obtain personal service under Article 3 of the Civil Practice Law and Rules of the State of New York, or otherwise at applicable law; and
- (3) In the event that no cash, cash bond, or letter of credit acceptable to the Town Attorney has been provided or replenished as required by Subsection A or D above, within 10 days after the date of such written demand, then such person, business, organization, bank or lender shall be subject to fines of up to triple the maximum amount set forth under § 96-21(C) of this chapter, with each calendar day of failure to timely provide same constituting a separate additional offense, as set forth under § 96-21(B) of this chapter.

F. If any provision of this § 96-23 is declared unenforceable for any reason by a court of competent jurisdiction, such declaration shall affect only that provision, and shall not affect the remainder of this section, which shall remain in full force and effect.

G. This § 96-23 shall apply to all foreclosures commencing after the effective date of this section. It is to be considered remedial legislation and shall be liberally construed so that substantial justice is done.

**§ 96-24 Nonresidential foreclosures; undertaking.**

Legislative intent: When nonresidential properties in the Town of Oyster Bay fall vacant and become the subject of foreclosure actions, they frequently become neglected and overgrown with grass, weeds and rubbish, creating an unsightly appearance in the surrounding area and detract from the use, enjoyment and value of surrounding properties and impair the ability for people to, among other things, shop, conduct commerce, attend meetings or go to school in a safe, clear, and aesthetic environment. The Town of Oyster Bay is committed to using all legal avenues to proactively address these adverse conditions, to alleviate the burden these vacant properties impose on a neighborhood. This § 96-24 places the financial burden on any person, business, organization, bank or lender who commences a foreclosure action against any vacant property in the Town of Oyster Bay not subject to the provisions of § 96-23 of this chapter to deposit funds with the Town after the foreclosure action is commenced, for use in achieving prompt remediation, if or when it shall occur. This section is clearly in the public interest. It will help deter violations by creating a financial disincentive against allowing the property to lie fallow and unmaintained. It will help to expedite remediation of overgrown grass, weeds and rubbish, when they occur. It will also help avoid substantial outlays of public funds in accomplishing same.

A. Except as otherwise provided by law, any person, business, organization, bank or lender who commences a foreclosure action against a property not subject to the requirements of § 96-23 of this chapter (including, among other property, commercial properties) that has become vacant, or subsequent parties of such an action, shall provide to the Town of Oyster Bay an undertaking in the form of cash, a cash bond, or a letter of credit acceptable to the Town Attorney, in the sum of \$35,000, to secure the continued maintenance of the property free of any violations as provided for by Oyster Bay Town Code, during the entire time that vacancy shall exist, as determined by the Commissioner. When the foreclosure action is finally discontinued, any unused funds shall be returned upon written request of the party which commenced foreclosure, which request shall be made in writing to the Town Attorney within 90 days of the action's discontinuance.

B. It shall be unlawful for any such person, business, organization, bank or lender to fail to properly deposit such cash, a cash bond, or a letter of credit within 45 calendar days after the foreclosure action is commenced.

C. In the event that the Commissioner determines that any property referenced in Subsection A above is being maintained in violation of § 96-24 of this chapter, then, in addition to or in lieu of any other enforcement remedy at his/her disposal, the Commissioner may utilize the deposited funds to pay the full and actual cost of actions necessary to eliminate the violation.

D. In the event that any such funds are utilized as set forth above, such person, business, organization, bank or lender shall restore it to the full amount referenced in Subsection A above, within 15 calendar days after written demand by the Town of Oyster Bay, sent by regular mail and certified mail, return receipt requested to such person, business, organization, bank or lender at an address designated by them for service of notices, or else to their last known address. It shall be unlawful for such person, business, organization, bank or lender to fail to timely restore funds as required herein.

E. In the event that the Commissioner determines that any property referenced in Subsection A above is being maintained in violation of § 96-24 of this chapter and no cash, cash bond, or letter

of credit acceptable to the Town Attorney has been provided or replenished as required by Subsection A or D above, then in addition to or in lieu of any other enforcement remedy at his/her disposal, the Commissioner may serve a written demand upon such person, business, organization, bank or lender to provide the required cash, cash bond, or letter of credit acceptable to the Town Attorney, within 10 days after the date of such written demand, subject to the following:

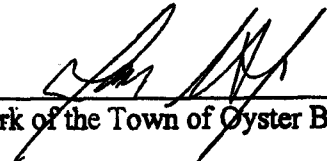
- (1) The forty-five-day time allotment of Subsection B hereof is superseded;
- (2) The written demand shall be served in any manner authorized to obtain personal service under Article 3 of the Civil Practice Law and Rules of the State of New York, or otherwise at applicable law; and
- (3) In the event that no cash, cash bond, or letter of credit acceptable to the Town Attorney has been provided or replenished as required by Subsection A or D above, within 10 days after the date of such written demand, then such person, business, organization, bank or lender shall be subject to fines of up to triple the maximum amount set forth under § 96-21(C) of this chapter and a minimum fine of \$500 for each day of the noncompliance until such time as that person or entity complies with the provisions of this section, or by imprisonment for not more than 15 days, or by both such fine and imprisonment, with each calendar day of failure to timely provide same constituting a separate additional offense, as set forth under § 96-21(B) of this chapter.

F. If any provision of this section is declared unenforceable for any reason by a court of competent jurisdiction, such declaration shall affect only that provision, and shall not affect the remainder of this section, which shall remain in full force and effect.

G. This section shall apply to all nonresidential foreclosures commencing after the effective date of this section. It is to be considered remedial legislation and shall be liberally construed so that substantial justice is done.

**Section 2. Effective Date.** This Local Law shall take effect immediately upon its adoption and filing with the Office of the Secretary of State.

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2018 of the Town of Oyster Bay was duly passed by the Town Board on January 9 2018, in accordance with the applicable provisions of law.

  
\_\_\_\_\_  
Clerk of the Town of Oyster Bay

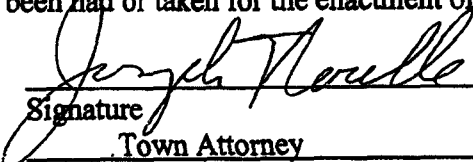
(Seal)

Date: January 9, 2018

(Certification to be executed by Town Attorney).

STATE OF NEW YORK  
COUNTY OF NASSAU

I, the undersigned, hereby certify that the foregoing local law contains the correct text and that all proper proceedings have been had or taken for the enactment of the local law annexed hereto.

  
\_\_\_\_\_  
Signature  
Town Attorney  
\_\_\_\_\_  
Title

Town of Oyster Bay

Date: January 9 2018