

PROPOSED LOCAL LAW NO. 4 OF 2019
A LOCAL LAW AMENDING CHAPTER 415 AS ESTABLISHED BY
LOCAL LAW #4 OF 2014
THE PORT JERVIS CITY CODE

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Chapter 415

PROPERTIES: ABANDONED, VACANT, BOARDED, AND

FORECLOSED

GENERAL REFERENCES

Dangerous buildings — See Ch. 234.

Rental property — See Ch. 430.

Property maintenance — See Ch. 417.

§ 415-1. Legislative findings and intent.

A. The Common Council of the City of Port Jervis, Orange County, New York, recognizes that there is a rising number of properties within the City that have become abandoned, vacant, or boarded up as the result of the mortgage foreclosure process under New York State law or for other reasons, including but not limited to the inability of the owner or owners of such property to make real property tax payments, insurance payments, property maintenance requirements as established by local, county, state or federal codes, or for various other reasons. The Common Council recognizes that buildings, both residential and commercial, have remained abandoned, vacant or boarded up for long periods of time, some for many years. As such, these buildings and the properties upon which they are constructed are unsightly and unsafe and have a negative effect on their surroundings and upon the community in general. The purpose of this chapter is to establish a program for identifying and registering abandoned and vacant buildings and properties; to determine the responsibility of the owners or mortgagees of these properties; to set forth the process for securing, maintaining and rehabilitating these properties and to require the registration of these properties with the Building Official/Code Enforcement Officer of the City of Port Jervis.

B. The Common Council of the City of Port Jervis intends that the provisions of this chapter are to prevent properties that have been abandoned, are vacant and/or may be involved in the mortgage

foreclosure process from becoming dangerous, blighted, overgrown, susceptible to vandalism and otherwise nuisances to the public in general and specifically to surrounding property owners. The Common Council recognizes that properties involved in the mortgage foreclosure process in particular are left abandoned, vacant, blighted and locations that might breed nuisance and criminal activity for months and often years. Accordingly, the Common Council believes that the provisions of this chapter requiring registration of properties; posting of properties; designation of local agents for properties;

the securing of properties; penalties for the failure to comply with the requirements of this chapter and other ordinances, sanitary codes, building codes, and other local regulations dealing with the external and internal maintenance of properties is in the best interests of the public health, safety and welfare.

§ 415-2. Definitions.

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

BUILDING OFFICIAL/CODE ENFORCEMENT OFFICER/INSPECTOR —

Duly authorized representative of the City of Port Jervis, Orange County, New York, holding the position of Building Official, Deputy Building Official, Code Enforcement Officer, Building or Fire Inspector.

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 not be limited to, overgrown and/or dead vegetation, accumulation of abandoned real property, as defined herein, statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

FORECLOSURE — The legal process by which any parcel, tract, lot or other defined area of real property, including the improvements located thereon, placed as security for a real estate loan, is sought to be sold by the lender/

mortgagee to satisfy the debt if the borrower/mortgagor defaults. This definition shall include all processes, activities, and actions by whatever name associated with the described process.

AGENT — The agent designated by the owner or mortgagee upon registration as required by this chapter. An agent does not have to reside or have an office within the County of Orange, New York.

MORTGAGE — 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 — A recorded notice that a default has occurred under a mortgage and that the mortgagee intends to proceed with a foreclosure sale.

OWNER — Owner or owners of record on the assessment rolls in the Office of the Assessor of the City of Port Jervis; those identified as owner or owners on a vacant building

registration form; a mortgagee in possession; a mortgagor in possession; a receiver or assignee of rents; an executor, trustee, or other person, firm, entity or corporation in control of the property or premises; persons or entities may have a joint and several obligations for compliance with the provisions of this chapter.

SECURING — Any measures that assist in making the property inaccessible to unauthorized persons.

VACANT OR ABANDONED BUILDING OR PROPERTY — A building or property or portion of same which is unoccupied and unsecured; unoccupied and secured by other than normal means; unoccupied and unsafe as determined by the Building Official/Code Enforcement Officer of the City of Port Jervis; unoccupied and has multiple housing or Building Code violations; illegally occupied; unoccupied and the subject of Code violation notices issued by the Building Official/Code Enforcement Officer of the City of Port Jervis. This shall not include individual condominium units or other individual units in a common-interest community where all exterior elements and common areas are jointly owned and maintained by a homeowners' or community association.

VACANT STRUCTURES — A building or structure that is not legally occupied.

§ 415-3. Registration.

A. Within 10 days of the filing of a lis pendens with the Orange County, New York, Clerk's Office and/or other legal documentation commencing an action to foreclose upon a mortgage or similar security instrument, all mortgagees must register with the Building Official/Code Enforcement Officer of the City of Port Jervis, on forms provided by said official, all property in foreclosure within the City of Port Jervis. For properties for which a lis pendens and/or action for foreclosure upon a mortgage or a similar security instrument has been instituted prior to the effective date of this chapter and which have not yet been registered pursuant to this chapter, all mortgagees must register such properties within 60 days of the effective date of this chapter.

B. Mortgagees must designate and retain an individual or agent or property management company as the local agent responsible for the security and maintenance of the property. Owners of property that do not reside in the City of Port Jervis must provide a name, address and contact information of an agent with whom the owner has entered into a contract or agreement for property management.

C. All owners of abandoned and vacant properties shall register with the Building Official/Code Enforcement Officer of the City of Port Jervis not later than 10 days after any building in the City becomes an abandoned or vacant building and not later than 20 days after being notified by the Building Official/Code Enforcement Officer of the City of Port Jervis of the requirement to register. The Building Official/Code Enforcement Officer may identify vacant buildings through his/her routine inspection process as well as through

notification by residents, neighbors, neighborhood groups or other community groups that a building may be abandoned or vacant and eligible for inclusion on the required registry. Registration by owners shall be submitted on forms provided by the Building Official/Code Enforcement Officer of the City of Port Jervis.

D. All owners and mortgagees must supply the following information to the Building Official/Code Enforcement Officer of the City of Port Jervis: (1) A description of the premises, including the property address as well as the section, block and lot number of the property as set forth in the tax records of the City of Port Jervis located in the Office of the Assessor of the City of Port Jervis.

(2) The names and addresses of the owner or owners, or mortgagee or mortgagees.

(3) Whether or not the owner or owners, mortgagee or mortgagees reside in the City of Port Jervis, the name and address for the owner, owners, mortgagee, or mortgagees, mailing address,

telephone number, local agent's name, mailing address, telephone number, e-mail address for the owner, owners, mortgagee or

mortgagees. Mailing addresses may not be a post office box but must be an actual street address where the owner, owners,

mortgagee, mortgagees reside or do business.

(4) The name, street address, telephone number and e-mail address of a natural person 21 years of age or older designated by the owner, owners, mortgagee, mortgagees as an authorized agent for receiving notices of Code violations and/or receiving process in any Court proceeding or administrative enforcement proceeding on behalf of such owner, owners, mortgagee or mortgagees in connection with the enforcement of any applicable code, ordinance, local law, regulation or statute. This authorized agent for service of process must maintain an office or reside in Orange County, New York.

(5) The name, street address, telephone number and e-mail address of the firm or individual responsible for maintaining the property. The individual or representative of the firm responsible for maintaining the property shall be available by telephone or in person on a twenty-four-hour per day, seven day per week basis.

(6) A statement or plan as to what will be done to secure the structure and property so that it will not become open to the general public.

(7) The status of water, sewer, natural gas and electric utilities winterization of pipes at the structure and property.

§ 415-4. Notices.

A. By designating an authorized agent as set forth above under the provisions of this chapter, the owner and/or mortgagee consents to receive any and all notices of Code violations concerning the registered abandoned or vacant property and all process in any Court proceeding or administrative enforcement proceeding brought to enforce Code provisions concerning the registered building or property by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the owner's designation for the purpose of this section until the owner notifies the Building Official/Code Enforcement Officer of the City of Port Jervis in writing of a change of authorization or until the owner files a new annual registration statement.

B. Any owner who fails to register an abandoned or vacant property under the provisions of this chapter shall further be deemed to consent to receive, by posting at the building, any and all notices of Code violation and all processing of administrative or legal proceedings brought to enforce Code provisions or other laws or regulations concerning the structure or property.

§ 415-5. Obligation of owners and/or mortgagees.

The owner or mortgagee of any structures that become abandoned or vacant property, and any person designated as an agent or responsible for maintaining such structure or vacant property, shall within 30 days of the structure becoming abandoned or vacant, or 30 days of the owner or mortgagee taking title to the property, whether or not the deed for said property has been recorded with the Orange County Clerk:

A. Close and secure the structures owned by or mortgaged to the applicant as imposed by this chapter and/or the State of New York or as set forth in the rules and regulations provided by the Building Official/Code Enforcement Officer of the City of Port Jervis.

B. Insure that the grounds of the structure, including yards, fences, sidewalks, walks and driveways, are well maintained and kept free from trash or debris.

C. Post a sign affixed to the structure with a name, address and telephone number of the owner and/or mortgagee and the owner and/or mortgagees' authorized agent for the purposes of service of process and the name, address and telephone number of the entity responsible for the maintenance of the property. The sign shall be at least 18 inches by 24 inches in dimension and shall include the words "To Report Problems with this Building/Property Call and/or E-mail" and shall be placed in a location where it is clearly legible from the nearest public street or sidewalk, whichever is nearer.

D. Maintain the structure in a secured and closed condition, keep the grounds in a clean and well maintained condition and insure that the sign is visible and intact until the building is again occupied or demolished or until repair or rehabilitation of the building is complete.

E. New owners shall register or re-register the abandoned or vacant building or properties with the Building Official/Code Enforcement Officer within 30 days of any transfer of ownership interest in the abandoned or vacant building or property whether or not the deed to said property has been recorded with the Orange County Clerk.

F. All vacant real property shall at all times be properly maintained. A vacant building or structure shall be considered properly maintained if: (1) It has all doors and windows and other openings weather-tight and secured against entry by the general public as well as animals.

(2) 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. No temporary measures shall be permitted such as tarps, canvas, plastic, boards, etc. Temporary boarding of windows may be permitted upon application and consent by the Building Official of the City of Port Jervis. The Building Official shall have the discretion to determine how long boarding may be permitted.

(3) The building must be maintained in good repair, be structurally sound and free from rubbish, garbage, and other debris.

(4) 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.

(5) 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).

(6) 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.

(7) Any accessories or appurtenant structures, including but not limited to garages, sheds, and other storage facilities, shall meet the same standards.

(8) 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.

- (9) All bushes must be trimmed so as to provide an unobstructed view of the front of the house from the public roadway.
- (10) Snow removal pursuant to § 464-43A and B of the Port Jervis City Code.
- (11) Grass and weeds compliance pursuant to § 417-1A and B of the Port Jervis City Code.
- (12) Yards and lawns requirements pursuant to § 319-12B(8) of the Port Jervis City Code.
- (13) All combustibles must be removed from the interior of all buildings and the exterior of the property.
- (14) Smoke and carbon monoxide detectors are installed and maintained in operable condition at all times.
- (15) The Building Official/Code Enforcement Officer of the City of Port Jervis is provided with proof of inspection of the premises by the agent or responsible party at least every 30 days after the abandonment commences.

§ 415-6. Inspections.

The Building Official/Code Enforcement Officer, fire inspector and/or Police Department shall have the authority to inspect properties subject to this statute for compliance with same and to issue citations for any violations.

§ 415-7. Certification of abandonment.

Upon the Building Official/Code Enforcement Officer or his/her designee determining a property has been abandoned, he/she 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.

A. Upon the Building Official/Code Enforcement Officer filing a certification of abandonment, the Building Official/Code Enforcement Officer, Police Department and/or Fire Inspector may, without further notice to the owner, take necessary steps to ensure the property and/or dwelling is properly maintained pursuant to this chapter. Costs incurred under this section shall be paid out of the municipal treasury on certificate of the Building Official/Code Enforcement Officer. 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.

B. The owner of a property declared abandoned may petition the Building Department to remove the certification of abandonment by providing proof to the Building Official/Code Enforcement Officer that the basis of the certificate of abandonment no longer exists and the owner is in compliance with this chapter.

§ 415-8. Insurance.

The owner or mortgagee of any abandoned or vacant property shall acquire or otherwise maintain liability insurance in the amount of not less than \$300,000 for buildings designated primarily for a one- or two-unit residential use and not less than \$1,000,000 for any other building including but not limited to buildings designed for multifamily, manufacturing, storage or commercial uses covering any damage to any person or any property caused by any physical condition of or in the building. The City of Port Jervis shall be named as an additional insured and shall be entitled to notification of any renewal or lapse of coverage in writing of said policy.

The owner and/or mortgagee shall attach evidence of insurance to the registration statement required by this chapter. Failure to attach the insurance statement to the registration form submitted to the City shall cause the registration form to be invalid. The alternative to insurance, the owner and/or mortgagee must supply a cash bond acceptable in form to the Building Official/Code Enforcement Officer of the City of Port Jervis in a sum of \$10,000 to secure the continued maintenance of the property throughout its abandoned or vacant state and to remunerate the City of Port Jervis for any expenses incurred in inspecting, securing, marketing or making such building safe.

§ 415-9. Registry.

The City of Port Jervis shall establish an online registry of all properties registered with the City under this chapter and shall include a procedure by which citizens can provide the Building Official/Code Enforcement through electronic means with information on unregistered properties that may be subject to this chapter.

§ 415-10. Fees For Vacant or Abandoned Properties

[Amended 8-11-2014]

A. The owner/mortgagee of a vacant or abandoned building or property shall pay an annual fee of \$1,200 for the first year the building remains vacant or abandoned or any portion of said year. The fee shall cover the administrative costs for registering and processing the vacant or abandoned building or property and the cost for the City in monitoring the abandoned or vacant property or building. The fee shall be paid upon filing of the registration form as required by this chapter.

Subsequent annual fees shall be:

(1) For the second year the building remains abandoned or vacant: \$2,200.

(2) For the third year the building remains abandoned or vacant: \$3,200.

(3) For the fourth year the building remains abandoned or vacant: \$4,200.

(4) For the fifth year the building remains abandoned or vacant: \$5,200.

(5) For the sixth year the building remains abandoned or vacant: \$6,200.

(6) For the seventh year the building remains abandoned or vacant: \$7,200.

(7) For the eighth year the building remains abandoned or vacant: \$8,200.

(8) For the ninth year the building remains abandoned or vacant: \$9,200.

(9) For the tenth year the building remains abandoned or vacant: \$10,200.

B. For ownership interest in any abandoned or vacant property whether or not the deed has been recorded with the Orange County Clerk. The owners shall be responsible for any unpaid fees.

§ 415-11. Exceptions.

A. A building or property which has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement for a period of 180 days after the date of the fire or extreme weather event if the property owner/mortgagee submits a request for exemption in writing to the Building Official/Code Enforcement Officer of the City of Port Jervis. This request shall include a description of the property; the

names and addresses of the owner and/or mortgagee; a statement of intent to repair and re-occupy the building in an expedient manner or intent to demolish the building.

B. Additional exceptions to this statute shall be if in the sole and reasonable discretion of the Building Official/Code Enforcement Officer the property is subject to any one or more of the following:

(1) A valid open building permit being pursued with diligence; (2) A pending land use application including site plan, subdivision or special permit application being pursued with diligence;

(3) A pending application to a governmental body being pursued with diligence for an approval pertaining to the physical improvement of the property;

(4) Utilization of the building by the City of Port Jervis on a temporary basis not to exceed 12 months for City purposes including but not limited to fire training.

§ 415-12. Penalties for offenses.

If an owner and/or mortgagee shall violate any portion of this chapter, they shall be subject to a fine of not more than \$500 or 30 days in jail, or both, with the understanding that each day a violation continues shall be deemed a separate offense. Any unpaid fees, charges or penalties shall be levied on City tax bills annually.

§ 415-13. Occupied Properties in Foreclosure or Foreclosed.

Owners and/or Mortgagees shall not pay a fee but must register a property that is in the process of foreclosure or foreclosed. If occupants change after a property is registered, a new registration form must be filed by the Owner/Mortgagee with the new occupant information included. In the event that the property becomes unoccupied, the Sections of this Chapter relating to unoccupied properties shall apply.