

LOCAL LAW 4 OF 2024 OF THE COMMON COUNCIL OF THE CITY OF KINGSTON, NEW YORK, AMENDING CHAPTER 179 – BUILDINGS, VACANT OF THE CODE OF THE CITY OF KINGSTON

Sponsored By: Laws & Rules Committee: Alderman:
Scott-Childress, Pasti, Mickens, Dennison

WHEREAS, Chapter 179 of the Code of the City of Kingston addresses Vacant Buildings; and

WHEREAS, request has been made to amend Chapter 179 of the Code of the City of Kingston; and

WHEREAS, the amendment of Chapter 179 of the Code is in the best interests of the City of Kingston.

NOW THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF KINGSTON, NEW YORK AS FOLLOWS:

SECTION 1. That the Common Council of the City of Kingston authorizes the amendment of Chapter 179 – Buildings, Vacant to read as attached hereto.

SECTION 2. If any provisions of this local law are held to be unconstitutional or otherwise invalid by any court of competent jurisdiction, the remaining provisions of the local law shall remain in effect.

SECTION 3. This local law shall take effect upon filing with the Secretary of State.

Submitted to the Mayor this ____ day of _____, 2024

Approved by the Mayor this ____ day of _____, 2024

Elisa Tinti, City Clerk

Steven T. Noble, Mayor

Adopted by Council on _____, 2024

LL4

THE CITY OF KINGSTON COMMON COUNCIL

LAWS & RULES
COMMITTEE REPORT

DEPARTMENT: _____ DATE: 3/4/24

Description:
A COMMON COUNCIL RESOLUTION AMENDING COK
ADMINISTRATIVE CODE CHAPTER 179 BUILDINGS, VACANT
AS PER ATTACHED,

Signature _____

Motion by RSC

Seconded by BD

Action Required:


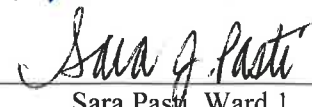
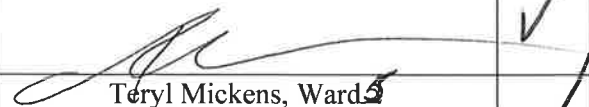
SEQRA Decision:
 Type I Action _____
 Type II Action _____
 Unlisted Action _____

Negative Declaration of Environmental Significance: _____

Conditioned Negative Declaration: _____

Seek Lead Agency Status: _____

Positive Declaration of Environmental Significance: _____

<u>Committee Vote</u>	<u>YES</u>	<u>NO</u>
Michele Hirsch, Chairman, Ward 9		
 Reynolds Scott Childress, Ward 3	✓	
 Sara Pash, Ward 1	✓	
 Teryl Mickens, Ward 5	✓	
Robert Dennison, Ward 6	✓	

Chapter 179 Buildings, Vacant

[HISTORY: Adopted by the Common Council of the City of Kingston 10-4-2016 by I.L. No. 6-2016, approved 10-19-2016. Amendments noted where applicable.]

§ 179-1 Legislative findings and intent.

- A. The Common Council of the City of Kingston, Ulster County, New York, recognizes that there is a rising number of properties within the City that have become vacant or abandoned as the result of the mortgage foreclosure process under New York State law or for other reasons. The Common Council recognizes that certain 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 can become 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 Kingston.
- B. The Common Council of the City of Kingston intends that the provisions of this chapter are to prevent properties that have been abandoned and/or vacant 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 vacant and/or abandoned and could breed nuisance and criminal activity for months and years after. Accordingly, the Common Council believes that the provisions of this chapter are in the best interests of the public health and safety.

§ 179-2 Definitions.

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

ABANDONED BUILDING OR PROPERTY

A building which is vacant and not properly maintained as set forth in § 179-5A and not properly secured as set forth in § 179-5D.

BUILDING SAFETY OFFICER/AL/ CODE ENFORCEMENT OFFICER/INSPECTOR

A duly authorized representative of the City of Kingston, Ulster County, New York, holding the position of Building Safety Officer / ~~ial~~ Deputy Building Official, Code Enforcement Officer, appointed by the Mayor of the City of Kingston to direct the Building Department Building or Fire Inspector, ~~or a duly authorized representative of the City of Kingston Building Department.~~

[Amended 3-5-2019 by I.L. No. 1-2019, approved 3-19-2019]

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.

INSPECTOR

A duly authorized representative of the City of Kingston or City of Kingston Building & Safety Department empowered to inspect and enforce the Building, Housing, Plumbing, or Fire Code.

LOCAL AGENT

The agent designated by the owner or mortgagee upon registration as required by this chapter.

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 of the Office of the Assessor of the City of Kingston; those identified as the 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. Such persons or entities may have joint and several obligations for compliance with the provisions of this chapter.

SECURING

Any measures that assist in ~~making the property inaccessible to sealing the property such that it is inaccessible to unauthorized persons~~ as set forth in § 179-5DA below.

UNOCCUPIED

A building which is not being used for an occupancy authorized by the owner, the Kingston City Code, and all applicable building codes.

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VACANT BUILDING OR PROPERTY

A building or property or portion of same which is unoccupied for greater than 90 days out of the preceding six months.

§ 179-3 Registration.

- A. Within 10 days of the filing of a lis pendens and/or 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 Kingston, on forms provided by said official, all property in foreclosure within the City of Kingston. 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 has 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 a local individual or local 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 Kingston must provide a name, address and contact information of a local agent with whom the owner has entered into a contract or agreement for property management.

- C. All owners of vacant or abandoned properties shall register with the Building Official/Code Enforcement Officer of the City of Kingston 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 Kingston of the requirement to register. The Building Official/Code Enforcement Officer may identify vacant and/or abandoned 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 vacant and/or abandoned 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 Kingston.
- D. All owners and mortgagees must supply the following information to the Building Official/Code Enforcement Officer of the City of Kingston.
- (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 Kingston located in the Office of the Assessor of the City of Kingston.
 - (2) The names and addresses of the owner or owners, or mortgagee or mortgagees.
 - (3) Whether or not the owner or owners, or mortgagee or mortgagees, reside in the City of Kingston, the name and address for the owner, owners, mortgagee, or mortgagees, mailing address, telephone number, local agent's name, mailing address, telephone number and 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, or 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, or mortgagees as the 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. The agent for service of process must maintain an office or reside in Ulster 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 must maintain an office or reside within Ulster County, New York, and shall be available by telephone or in person on a twenty-four-hour-per-day, seven-days-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.

§ 179-4 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 Kingston in writing of a change of authorization or until the owner files a new annual registration statement.

- B. Any owner who fails to register a vacant or abandoned property under the provisions of this chapter shall further be deemed to consent to receive, by posting at the building and by regular mail at such owner's most recent address of record, any and all notices of code violation and all process of administrative or legal proceedings brought to enforce code provisions or other laws or regulations concerning the structure or property.

§ 179-5 Obligation of owners and/or mortgagees.

The owner or mortgagee of any structures that become vacant or abandoned 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 Ulster County Clerk, meet the following requirements:

- A. All vacant real property shall at all times be properly maintained. A vacant building or structure shall be considered properly maintained if the following requirements are met:
- (1) It has all doors and windows and other openings weathertight and secured against entry by the general public as well as animals.
 - (12) 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 Kingston. The Building Official shall have the discretion to determine how long boarding may be permitted.
 - (23) The building must be maintained in good repair and be structurally sound and free from rubbish, garbage, and other debris.
 - (34) 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.
 - (45) 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 elements by appropriate weather coating materials (paint or similar treatment).
 - (56) 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 also be protected from the elements and against rust or decay by appropriate application of paint or similar weather coating.
 - (67) Any accessories or appurtenant structures, including but not limited to garages, sheds, and other storage facilities, shall meet the same standards.
 - (78) All bushes must be trimmed so as to provide an unobstructed view of the front of the house from the public roadway.
 - (89) Sidewalks and gutters shall be cleaned pursuant to § 355-20 of the Kingston City Code.
 - (94) The property shall be maintained in accordance with Chapter 3 of the Property Maintenance Code of New York State.
 - (104) All combustibles must be removed from the interior of all buildings and the exterior of the property.

- (12) Smoke and carbon monoxide detectors shall be installed and maintained in operable condition at all times.
- (13) The Building Official/Code Enforcement Officer of the City of Kingston shall be provided with proof of inspection of the premises by the agent or responsible party at least every 30 days after the abandonment commences.
- (14) The grounds of the structure, including yards, fences, sidewalks, walks and driveways, shall be well maintained and kept free from trash or debris.

B. In addition to the requirements set forth in Subsection A above, in the case of an abandoned building:

- (1) The owner and/or mortgagee shall post a sign affixed to the structure with a name, address and telephone number of the owner and/or mortgagee and the owner's and/or mortgagee's 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.
- (2) The building shall be maintained in a secured and closed condition, keeping the grounds in a clean and well-maintained condition and ensuring 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.

C. Any property which is determined by the Building Safety Officer to be an unsafe building within the meaning of Chapter 178 of this Code shall not be considered properly maintained.

D. All vacant real property shall at all times be properly secured. A vacant building or structure shall be considered properly secured if the following requirements are met:

- (1) Except for one locked exterior door, all openings shall be boarded up in accordance with Subsection E below when deemed by the Building Safety Officer to be necessary for the protection of the public health, safety and welfare.
- (2) Where the Building Safety Officer does not deem it necessary to board up windows or other openings in vacant buildings, such buildings shall maintain doors and glass windows in weathertight condition, secured against entry by the general public as well as animals in a manner appropriate to the architecture of the building, and shall provide appropriate window dressings where the Building Safety Officer deems necessary to shield the public's view into the vacant building. Appropriate window dressings shall not include newspaper, white window paint or other similar means of concealing views into the vacant building.
- (3) Where any door, window or other means of ingress into or egress from a vacant building or structure has become broken or open, the property owner shall promptly make repairs and the Building Safety Officer may order the building or structure repaired so as to comply with the requirements of securing or boarding up as set forth in Subsection E below.

E. The method used in boarding up any building or structure when deemed necessary by the Building Safety Officer, regardless of use or height, shall be as follows:

- (1) All broken glass shall be removed from doors or windows of said building or structure.
- (2) All openings shall be fitted with boards cut to actual size with new material of either plywood or pressboard having a minimum thickness of 1/2 inch and retained in place by affixing two inches by four

inches top, bottom and center on the exterior in a neat and workmanlike manner.

- (3). All plywood or pressboard used in boarding up shall be painted in a color and quality of paint subject to the approval of the Building Safety Officer.

§ 179-6 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.

§ 179-7 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 (owners') 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 for the certificate of abandonment no longer exists and the owner is in compliance with this chapter.

§ 179-8 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-to-two-unit residential use and not less than \$1,000,000 for any other building, including but not limited to buildings designated 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 Kingston 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 is that the owner and/or mortgagee must supply a cash bond acceptable in form to the Building Official/Code Enforcement Officer of the City of Kingston 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 Kingston for any expenses incurred in inspecting, securing, marketing or making such building safe.

§ 179-9 Registry.

- A. The City of Kingston 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 Officer through electronic means with information on unregistered properties that may be subject to this chapter.
- B. New owners shall register or reregister 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 Ulster County Clerk.

- C. Failure or refusal of the owner to register a property does not preclude the property from the registry. The certificate of abandonment shall be used as the means to add the said property to the registry, making all requirements set forth in this Chapter 179 enforceable.

§ 179-10 Fees.

A. First year.

- (1) The owner/mortgagee of an abandoned building or property shall pay an annual fee of \$1 per square footage of the building \$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 abandoned building or property and the cost for the City in monitoring the abandoned property or building. The fee shall be paid upon filing of the registration form as required by this chapter.
- (2) Failure to pay the fee shall result in said fee to 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. Second year.

- (1) The owner/mortgagee of a vacant and/or abandoned building or property shall pay an annual fee of \$1 per square footage of the building \$1,200 for the second year the building remains abandoned and/or vacant. 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.
- (2) Failure to pay the fee shall result in said fee to 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.

C. Subsequent annual fees shall be:

- (1) For the third year the building remains vacant or abandoned: \$1 per square footage of the building or buildings that remain vacant or abandoned ,200.
- (2) For the fourth year the building remains vacant or abandoned: \$1 per square footage of the building\$1,200.
- (3) For the fifth year the building remains vacant or abandoned: \$3 per square footage of the building\$5,200.
- (4) For the sixth year the building remains vacant or abandoned: \$3 per square footage of the building\$6,200.
- (5) For the seventh year the building remains vacant or abandoned: \$3 per square footage of the building\$7,200.
- (6) For the eighth year the building remains vacant or abandoned: \$3 per square footage of the building\$8,200.

- (7) For the ninth year the building remains vacant or abandoned: \$3 per square footage of the building~~\$9,200.~~
- (8) For the 10th year, and any years thereafter, the building remains vacant or abandoned: \$5 per square footage of the building~~\$10,200.~~
- D. For ownership interest in any vacant or abandoned property, whether or not the deed has been recorded with the Ulster County Clerk, the owners shall be responsible for any unpaid fees.

§ 179-11 **Exceptions.**

- A. Any building exempted from registration pursuant to the provisions of the New York State Real Property Actions and Proceedings Law or other controlling federal or New York State law.
- B. A building which has been vacant for longer than one year, but less than two years, may request waiver or reduction of the fees set forth above upon submission of satisfactory proof of reasonable attempts to secure appropriate occupants or tenants for the building. The decision regarding said waiver shall rest in the discretion of the ~~Deputy Chief of the Building Department~~Building Safety Officer/Code Enforcement Officer, ~~and may be appealed in writing within 30 days to the Mayor of the City of Kingston.~~ **[Amended 3-5-2019 by L.L. No. 1-2019, approved 3-19-2019]**
- C. 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 ~~Deputy Chief of the Building Department~~Building Safety Officer/Code Enforcement Officer. This request shall include a description of the property; the names and addresses of the owner and/or mortgagee; and a statement of intent to repair and re-occupy the building in an expedient manner or intent to demolish the building. **[Amended 3-5-2019 by L.L. No. 1-2019, approved 3-19-2019]**
- D. Additional exceptions to this chapter or waivers and reductions of fees shall be if in the sole and reasonable discretion of the ~~Deputy Chief of the Building Department~~Building Safety Officer/Code Enforcement Officer the property is subject to any one or more of the following: **[Amended 3-5-2019 by L.L. No. 1-2019, approved 3-19-2019]**
 - (1) A valid open building permit being pursued with diligence, not to exceed 12 months from the time the property became vacant or abandoned;
 - (2) A pending land use application, including site plan, subdivision or special permit application, being pursued with diligence, not to exceed 12 months from the time the property became vacant or abandoned;
 - (3) A pending application to a governmental body being pursued with diligence for an approval pertaining to the physical improvement of the property, not to exceed 12 months from the time the property became vacant or abandoned;
 - (4) Utilization of the building by the City of Kingston, on a temporary basis not to exceed 12 months, for City purposes, including but not limited to fire training;
 - (5) The current owner/occupier is absent from the property while receiving health-related care as an inpatient of a residential health-care facility, not to exceed 12 months;
- E. The discretionary decision of the Building Official/Code Enforcement Officer as provided in Subsection A, B and C above may be appealed by the property owner/mortgagee in writing, within 30 days, to the

Mayor of the City of Kingston.

§ 179-12 Penalties for offenses.

If an owner and/or mortgagee shall violate any portion of this chapter, such person 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.