

AN ORDINANCE OF THE CITY OF POUGHKEEPSIE, AMENDING CHAPTER 6 OF THE CODE OF ORDINANCE, ENTITLED "BUILDING AND UTILITY CODES" AND CHAPTER 14 OF THE CODE OF ORDINANCES ENTITLED "OFFENSES AND MISCELLANEOUS PROVISIONS"

(O-10-32)

INTRODUCED BY COUNCILMEMBER HERMAN:

WHEREAS, the City of Poughkeepsie has experienced an increase in the number of abandoned properties; and

WHEREAS, it is important for the City of Poughkeepsie to establish a process to address the abandoned properties throughout the City; and

WHEREAS, the presence of vacant and abandoned properties can lead to a decline in property value, create aesthetic nuisances, and lead to general decrease in neighborhood and community aesthetics; and

WHEREAS, the current conditions of vacant and abandoned properties present a serious threat to the public health and safety of the community; and

WHEREAS, the presence of vacant and abandoned properties discourage buyers from purchasing property within the City; and

WHEREAS, many vacant and abandoned properties are the responsibility of out-of-state lenders and trustees who fail to adequately secure and maintain such properties; and

WHEREAS, the City has a vested interest in protecting the City against the decay caused by vacant and abandoned properties and concludes that it is in the best interest of the residents to amend the Code of Ordinances and impose registration requirements on such properties located within the City.

SECTION 1- Chapter 6, Section 36 of the City of Poughkeepsie Code of Ordinances is hereby amended by the following additions and deletions:

**ABANDONED/ VACANT PROPERTY**

**Section 6-39 Abandoned/Vacant Property**

**(a) Purpose and Intent. It is the purpose and intent of the City to establish a process to address the number of abandoned properties located within the City. It is the City's further intent to specifically establish an abandoned residential property program as a mechanism to protect residential neighborhoods from becoming**

blighted through the lack of adequate maintenance and security of abandoned properties.

(1) Definitions. The following words, terms and phrases when used in this section shall have the meanings ascribed to them in the section except where the context clearly indicates a different meaning:

“Abandoned Real Property” shall have the meaning as defined in Section 14-48(h) of the City of Poughkeepsie Code of Ordinances.

“Building Inspector” shall mean the duly appointed Building Inspector or his Designees.

“City” means the City of Poughkeepsie.

“Days” means consecutive calendar days.

“Evidence of Vacancy” means 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” means the process by which a property, placed as security for a real estate loan, is sold at auction to satisfy the debt if the owner or borrower defaults.

“Mortgagee” means 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” means a recorded notice that a default has occurred under a mortgage and that the mortgagee intends to proceed with a foreclosure sale.

“Owner” means any person, co-partnership, association, corporation, entity, or fiduciary having a legal or equitable title or any interest in any real property.

“Owner of Record” means the person having title to the property as indicated upon the records of the Dutchess County Clerk.

“Property” means any improved residential real property, or portion thereof, situated in the City and includes all the buildings or structures located on the property.

"Vacant Structures" means a building or structure that is not legally occupied.

(2) Registration. Whenever the Building Inspector provides written notice to the owner of the existence of a vacant property, the owner shall within ten (10) days of such notice register said structure with the Building Department. This registration must be renewed at the end of each six months if the property is still vacant. The Common Council, by resolution, shall establish a fee schedule for the registering of such vacant building or dwelling.

(3) Form. The registration shall be submitted on forms provided by the Building Department and shall include the following information supplied by the owner:

- (1) A description of the premise;
- (2) The names and addresses of the owner or owners;
- (3) If the owner does not reside in Dutchess County, the name and address of any third party who the owner has entered into a contract or agreement with for property management;
- (4) The names and addresses of all known lien holders and all other parties with an ownership interest in the building;
- (5) A telephone number where a responsible party can be reached at all times during business and non-business hours; and
- (6) A vacant building plan described in Section 6-39(a)(4).

(4) Statement of Plan. At the time a vacant building or dwelling is registered as required above, the owner shall submit to the Building Department a Statement of Plan and obtain a vacant property permit pursuant to Section 6-39(a)(8). The plan shall include at least the following:

- (1) The length of time the owner expects the vacancy to continue;
- (2) The proposed rehabilitation or improvement to be made to the structure so as to make the structure suitable for its last use of record;
- (3) A form in which the owner grants permission to the Building Inspector, Police Chief or Fire Inspector to enter and inspect the property;
- (4) A description of what will be done to secure the structure so that it will not become open to the general public;
- (5) An open trespass complaint to be filed with the Police

Department.

(5) Failure to File a Statement of Plan and/or register. Should the owner fail to submit a plan or fail to comply with such plan after it has been approved by the Building Department, the Building Inspector, shall recommend to the Office of Corporation Counsel that a criminal information be filed in City Court and the property shall be deemed Abandoned pursuant to Section 6-39(10) of this Chapter.

**(6) Vacant Building or Structure. All vacant real property shall at all times be properly maintained. A vacant building or structure shall be considered properly maintained if it:**

- (1) 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.**
- (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.**

**(7) Inspections. The building inspector, fire department, sanitation inspector and or/ police department shall have the authority to inspect properties subject to this Section for compliance with Section 6-39(a)(6) and to issue citations for any violations.**

**(8) Vacant Property Permit. The Building Inspector will issue a Vacant Building Permit upon being satisfied that the property is properly registered pursuant to Section 6-39(a)(2) and properly maintained pursuant to Section 6-39(a)(6). This**

permit shall be valid for a period of six (6) months, at the end of which the inspection process must again be carried out by the Building Inspector.

(9) Mortgagee's requirement to register. Any mortgagee who holds a mortgage on real property located within the City shall perform an inspection of the property that is the security for the mortgage, upon default by the mortgagor, prior to the issuance of a Notice of Default. If the property is found to be vacant or shows evidence of vacancy, it shall be deemed abandoned and the mortgagee shall, within ten (10) days of the inspection register the property in accordance with Section 6-39(a)(2) above and obtain a Vacant Property Permit in accordance with Section 6-39(a)(6) above.

a. If the property is occupied but remains in default, it shall be inspected by the mortgagee or mortgagee's designee on a monthly basis until:

(1) the mortgagor or other party remedies the default; or

(2) it is found to be vacant or shows evidence of vacancy at which time it is deemed abandoned, and the mortgagee shall within ten (10) days of the inspection, register the property in accordance with Section 6-39(a)(2) above.

(10) Certification of Abandonment. Upon the Building Inspector or his designee determining a property has been abandoned, he/she shall cause a Certification of Abandonment, to be filed with the building departments 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 Inspector filing a Certification of Abandonment, the Building Inspector, Sanitation Inspector, Police Department and/or Fire Department may, without further notice to the owner, take necessary steps to ensure the property and/or dwelling is properly maintained pursuant to Section 6-39(a)(6). Costs incurred under this section shall be paid out of the municipal treasury on certificate of the Building Inspector. 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 remove the certification of abandonment by providing proof to the Building Inspector that the basis of the certificate of abandonment no longer exists and the owner is in compliance with this Article.

**(11) Establishment of list. The Building Inspector is hereby directed to compile a list of all properties declared abandoned.**

**(12) Penalties. Any person, firm, corporation, or association violating the provisions of this chapter shall be subject to a penalty as provided in Section 6-11 and Section 6-12.**

**SECTION 2-** Chapter 14, Section 48(h) of the City of Poughkeepsie Code of Ordinances is hereby amended by the following additions and deletions:

(h) The building, structure, erection or place is deemed abandoned in that it [~~has been unoccupied for more than one year~~] **is a vacant structure** and one or more of the following criteria is present:

- (1) There are unpaid real property taxes or water and sewer charges against the property for one year or more.
- (2) Junk or debris has accumulated on the property or in the building or structure.
- (3) The building or structure has unsecured openings.
- (4) There is evidence of insect, vermin or rodent infestation.
- (5) The building or structure has a negative visual impact on the surrounding neighborhood and/or caused a substantial depreciation in property values in the immediate neighborhood.
- (6) The building or structure contains one or more violations of any state or local law, ordinance or regulation, and the owner has failed to remove or repair said building or structure for a period of one year or more.
- (7) **The Building Inspector is given written notice of the requirement to register pursuant to Section 6-39(a)(2) and more than thirty days have elapsed and the owner has failed to register the property as a vacant property.**

**SECTION 3-** Chapter 6, Section 36 of the City of Poughkeepsie Code of Ordinances is hereby amended by the following additions and deletions:

Section 6-36 Maintenance of vacant buildings or structures

Every person owning or having charge or control of any building which [~~has been~~] **is vacant shall maintain such building in conformance with Section 6-39(a)(6).** [~~vacated for over sixty (60) days shall be recruited to paint any wooden boards used to secure or barricade all windows, doors and other openings in the building in a color that is consistent with the exterior color of the building or structure. If the provisions of this section are not complied with after written notice is served upon the owner, agent or~~

operator of such building, by certified mail, the Building Inspector may arrange to have said boards painted by the city, and the actual cost to the city, plus a sum equal to five percent (5%) of such actual cost for inspection and other additional costs in connection therewith, shall be certified by the Building Inspector to the Commissioner of Finance. The amount thereof shall become a lien upon the property, and the total amount thereof shall be added to and become a part of the next annual assessment roll at the time and in the manner prescribed by the Charter Laws and/or Code of Ordinances of the city and subject to all the provisions thereof. (Ord. of 8-21-1995, § 1)

**SECTION 4-** This Ordinance shall take effect on January 1, 2011.

SECONDED BY COUNCILMEMBER PARISE.

<p>Submitted to Council: November 15, 2010 Council Action: Approved Roll call vote taken: Yes <u>X</u> No _____ Ayes 8 Nays 0 Abstain 0 Absent 0 Approved by Mayor on <u>11/17/10</u> Mayor's Signature <u><i>Jim C. [Signature]</i></u></p>	<p>I hereby certify the foregoing to be a true and correct copy of an <u>Ordinance</u> duly adopted at a regular meeting of the Common Council held <u>November 15, 2010</u> <u><i>Alette C. Wilks</i></u> Deputy City Chamberlain</p>
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