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County City Town Village

(select one:)

of Brunswick

Introductory Local Law No. 3 of the year 2019

**A LOCAL LAW ESTABLISHING A REGISTRY FOR VACANT BUILDINGS AND
PROPERTY MAINTENANCE REQUIREMENTS FOR LOTS CONTAINING A
VACANT BUILDING.**

Be it enacted by the Town Board of the Town of Brunswick as follows:

See attached.

(If additional space is needed, attach pages the same size as this sheet, and number each.)

TOWN OF BRUNSWICK

**INTRODUCTORY LOCAL LAW NO. 3 OF THE YEAR 2019
A LOCAL LAW ESTABLISHING A REGISTRY FOR VACANT BUILDINGS
AND PROPERTY MAINTENANCE REQUIREMENTS FOR LOTS
CONTAINING A VACANT BUILDING**

Section 1. Title

This local law shall be referred to as “A Local Law Establishing a Registry for Vacant Buildings and Property Maintenance Requirements for Lots Containing a Vacant Building”.

Section 2. Purpose and Intent

It is the finding of the Town Board that buildings which remain vacant and are not properly secured and maintained are unsightly, unsafe and have a negative effect on the surrounding community. This is particularly troublesome in residential and commercial neighborhoods. Unfortunately, many buildings, once vacant, remain that way for years. The purpose of this local law is to establish a program for identifying and registering vacant and abandoned buildings, and to establish certain property maintenance requirements for lots containing vacant buildings to promote the health, safety, and welfare of the community.

Section 3. Definitions

BRUSH – Uncultivated woody shrubs and immature trees.

EMERGENCY SITUATION – Where the condition of a building, structure or any part thereof is an imminent, immediate and substantial danger to the health or safety of occupants, emergency responders and/or the general public. Such conditions include, but are not limited to, fire hazards, falling or dilapidated buildings, structures or any part thereof, loss of significant water, heat, ventilation or a lack of sanitary conditions.

CODE ENFORCEMENT OFFICER – The duly authorized Town of Brunswick Code Enforcement Officer, or designated persons from that office.

GRASS – Herbaceous ornamental plants intended to be periodically cut close to the ground for establishment of a lawn or ground covering. Grass may also be used for ground covering for the establishment of drainage swales, flood routes or water detention basins.

OWNER – The person, persons or entity shown to be the owner or owners on the records of the Assessor’s Office of the Town of Brunswick, those identified as the owner or owners on a vacant building registration form, a mortgagor in possession, or an assignee of rents, receiver, executor, administrator, trustee, lessee, other person, firm or corporation in control of the premises. Any such person will have joint and several obligations for compliance with the provisions of this chapter.

UNOCCUPIED – A building is considered unoccupied when it lacks the habitual presence of human beings. Evidence of a lack of occupancy may include, but shall not be limited to, one or more of the following conditions:

- A. Overgrown or dead vegetation;
- B. Accumulation of newspapers, circulars, flyers or mail;
- C. Past due utility notices, disconnected utilities or utilities not in use;
- D. Accumulation of trash, refuse or other debris;
- E. Absence of window coverings such as curtains, blinds or shutters;
- F. One or more boarded, missing or broken windows;
- G. The building is open to casual entry or trespass; and/or
- H. The building appears structurally unsound or has any other condition that presents a potential hazard or danger to the safety of persons.

A building shall not be deemed unoccupied if:

- A. It is undergoing construction, renovation or rehabilitation that is proceeding diligently to completion;
- B. It is occupied on a seasonal basis, but otherwise secure; and/or
- C. It is secure, but it is the subject of a probate action or other estate proceeding, action to quiet title or other ownership dispute.

VACANT BUILDING – A building that is unoccupied.

WEEDS – Wild, useless and generally undesirable plants growing wild at random and inappropriate locations, including growing on cultivated ground to the exclusion or injury of grass or a desired agricultural crop.

Section 4. Vacant Building Registry

A. Establishment of Registry

Pursuant to the provisions of this Local Law, the Town shall establish a registry cataloguing each registrable property within the Town, containing the information required by this Local Law.

B. Registration Procedure and Requirements

1. Within ninety (90) days after the effective date of this Local Law, the owner of any vacant building on the effective date of this Local Law shall file with the Code Enforcement Officer a registration form and pay the required registration fee set forth in Section 4.C, of this Local Law. The owner of any building which becomes vacant after the effective date of this Local Law shall file with the Town a registration form and pay the required registration fee set forth in Section 4.C. of this Local Law within thirty (30) days after the building becomes a vacant building. Such

registration form shall be furnished by the Town and shall set forth the following information, in addition to other information required by the Code Enforcement Officer:

- i. Name, principal residence address, principal business address, telephone number and e-mail address of all owners of the vacant building.
- ii. If the owner is other than a natural person, the information required by this Section for the individual(s) who are vested with the day-to-day control of the management and operations of the owner.
- iii. The address, including street name and number, of the vacant building.
- iv. Descriptive information about the vacant building.
- v. If applicable, the name of owner's agent, with the agent's principal residence address, principal business address, phone number(s) and e-mail address.
- vi. The type(s) of any fire protection system(s) located in the building.
- vii. The type and amount of material in the building considered hazardous by the New York State Department of Environmental Conservation, New York State Department of Transportation, United States Environmental Protection Agency, and/or the National Fire Protection Association.
- viii. The name of the person or entity responsible for maintaining the building and parcel upon which building is located, including responsibility for compliance with the NYS Property Maintenance Code.

2. It shall be the responsibility of the owner to register any change of address, agent or any other registration information, which occurs after the filing of the registration form, within sixty (60) days of the date of change by filing written notice of such change with the Code Enforcement Officer. For purposes of this section, a post office box shall not be accepted as the owner's or agent's address. The vacant building intended to be registered shall not be accepted as the owner's or agent's address. The owner shall specify the address to which all notices, violations and invoices for fees are to be delivered.

3. If an owner's principal place of business is not located within Rensselaer County, or the owner's principal place of residence is not located in Rensselaer County, the owner must designate on the registration form an agent who resides in Rensselaer County. Such agent shall have all necessary authority to make decisions on the owner's behalf regarding the management and maintenance of any vacant building owned by owner, and by designating such agent on the registration form, owner shall be estopped from denying such authority. The registration form shall further designate the owner's agent as the agent upon whom service of legal process and all notices may be served or delivered.

4. Within thirty (30) days following the date of transfer of the legal or equitable title to any vacant building required to be registered by this Local Law, the new owner shall file with the Code Enforcement Officer a new registration form.

C. Fees for Vacant Building Registration

The fee schedule set forth below shall apply for vacant building registrations as required herein. The fee schedule may hereafter be amended from time to time by resolution of the Town of Brunswick Town Board.

FEE SCHEDULE:

Properties shall have an annual registration fee of \$250, plus the following additional fee to be determined by building square footage:

| Property Type | Year 1 | Year 2 | Year 3 | Year 4 | Further Years |
|------------------------------------|---------|---------|---------|---------|---------------|
| Building Under 5,000 sq. ft. | \$1,000 | \$1,500 | \$2,500 | \$3,500 | \$5,000 |
| Building of 5,000 sq. ft. and over | \$2,000 | \$3,000 | \$5,000 | \$7,000 | \$10,000 |

D. Assessment of Unpaid Registration Fees

The Code Enforcement Officer shall file annually, on or before the first day of September, with the Town Board a statement showing the unpaid registration fees for any vacant building with a brief description of the property upon which the fees were incurred and the name of the property owner. Such unpaid fees shall be reported by the Town Board to the Assessor of the Town as an amount to be liened and assessed against each such parcel on which a vacant building is located, and such amount so assessed shall constitute a lien and charge on the property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and subject to the same rules, penalties and charges as apply to the collection of real property taxes of the Town.

E. Exemptions

A building which has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement period for a period of ninety (90) days after the date of the fire or extreme weather event if the property owner submits a request for exemption in writing to the Enforcement Officer. This request shall include the following information supplied by the owner:

1. A description of the premises;
2. The names and addresses of the owner or owners;
3. A statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building.

F. Registry Exempt from Disclosure

Under New York State Public Officers Law § 87, the vacant property registry (as established by this Local Law) and all vacant property registration forms shall be exempt from disclosure under the Freedom of Information Law on the grounds that such disclosure would constitute an unwarranted invasion of personal privacy. The Town Clerk shall institute strict policies to ensure that such information is available only to Town personnel engaged in the enforcement of the provisions of this Local Law and, in emergency situations, to members of law enforcement, the fire service, emergency medical services, and public utility companies.

Section 5. Property Maintenance Requirements for Lots Containing Vacant Building(s)

A. Duty to Keep Properties Containing a Vacant Building Free of Brush, Grass and Weeds and Town's Authority to Remove

1. The owner of any lot containing a vacant building located in the Town of Brunswick shall cut, trim or remove brush, grass or weeds upon said property. Specifically, brush, grass or weeds shall not be permitted to grow to a length of ten (10) or more inches within fifty (50) feet of a public road (whether a road by dedication or use), or within fifty (50) feet of any vacant building or other structure located upon such lot. The requirement to cut, trim or remove brush, grass or weeds shall include all dead, damaged or diseased trees or shrubs which present any hazard to life or property, but shall not otherwise include:

- A. Mature trees;
- B. Cultivated shrubs; and/or
- C. Brush growing in areas of land that is heavily forested.

2. In the event that the owner of a lot containing a vacant building shall fail to cut, trim or remove brush, grass or weeds from said property as provided herein, the Town shall have the authority, as provided for herein, to enter upon such property and cut, trim or remove said brush, grass or weeds. The cost and expense of such action shall be assessed against the property and a lien established in the manner provided hereinbelow.

B. Notice to Maintain Property

1. If the Code Enforcement Officer shall find brush, grass or weeds upon property containing a vacant building located in the Town of Brunswick in excess of the height restrictions listed above, the Code Enforcement Officer may make an order, directing notice to be served upon the owner of said property as shown by the records of the Office of the Assessor of the Town.

2. The Notice shall contain a general description of the property containing a vacant building, a statement of the particulars with regards to the condition of the property and an order requiring the cutting, trimming or removal of brush, grass or weeds. The Notice shall specify a time, not less than ten (10) days after the service thereof, within which the owner served with such Notice must complete the cutting, trimming or removal of brush, grass or weeds from the property as specified in the notice. The Notice shall state that, in the event that the condition on the property is not

eliminated within the time specified in the Notice, the Town shall undertake to enter the property to cut, trim or remove brush, grass or weeds and assess the cost of same against the property.

3. The Notice may be served either personally or by regular and certified mail, addressed to the property containing a vacant building where the brush, grass or weeds are located as shown by the records of the Office of the Assessor of the Town. Service of the Notice by mail shall be deemed completed on the day on which the mailing will have been accomplished.

C. Failure to Comply with Maintenance Notice

Upon failure of the owner of the property containing a vacant building to comply with the Notice within the time provided therein, the Code Enforcement Officer, or other such official of the Town as may be designated by the Code Enforcement Officer, shall provide such labor and materials as are necessary for cutting, trimming or removal of brush, grass or weeds and shall cause such work to be performed to complete the cutting, trimming and removal of such brush, grass or weeds from the property. The Town shall keep records of the cost of such work.

D. Billing Notice

Should the cutting, trimming and removal of brush, grass or weeds from the property be performed by the Town or the Town's contractor, the Town shall serve a billing notice on the owner of such property, as identified on the Town's most recent assessment roll, setting forth the cost of such work together with an additional administrative fee of \$100 for costs of inspection and other incidental costs associated with abating the condition, to be added to the total costs of the work.

E. Assessment of Costs and Expenses

Should the owner of the property containing a vacant building fail to comply with the billing notice within the time provided therein, all costs and expenses incurred by the Town in connection with the cutting, trimming and removal of brush, grass or weeds from the property, plus an administrative fee of \$100, shall be assessed against the land on which said brush, grass or weeds were located. An itemization of such costs shall be provided to the Town Board by the Code Enforcement Officer. The total costs and expenses shall then be determined by the Town Board, plus an administrative fee of \$100, and shall be reported by the Town Board to the Assessor of the Town as an amount to be liened and assessed against the property, and the expense so assessed shall constitute a lien and charge on the property on which it is levied until paid or otherwise satisfied or discharged and shall be collected in the same manner and subject to the same rules, penalties and charges as apply to the collection of real property taxes of the Town. That portion of said collected funds which shall represent costs and expenses incurred by any department of the Town with regard to alleviating the condition shall be returned to that department's operational budget.

F. Property Maintenance Requirement Not Exclusive

The property maintenance requirements set forth in this Local Law are in addition to all other property maintenance requirements imposed by any other State or local law, code, rule or regulation, and shall not be deemed to replace or amend any such other law, code, rule or regulation be in lieu thereof.

Section 6. Penalties for Offenses

A. A violation of any provision of this Local Law shall be an offense punishable by a fine not to exceed \$1,000 and an imprisonment for a term not to exceed 15 days, or both. For purposes of this Local Law, each week's continued existence of a violation shall constitute a separate violation. For purposes of the proceeding sentence, a "week" shall constitute any period of seven consecutive days.

B. The Code Enforcement Officer or a representative designated by the Code Enforcement Officer, as the case may be, is hereby authorized to issue appearance tickets pursuant to the Criminal Procedure Law in the enforcement of this Local Law.

C. No remedy or penalty specified in this section shall be the exclusive remedy or remedy available to address any violation of this Local Law, and each remedy or penalty specified in this section shall be in addition to, and not in substitution for or limitation of, any other remedies or penalties otherwise available under applicable law. Any remedy or penalty specified in this section may be pursued at any time, whether prior to, simultaneously with, or after the pursuit of any other remedy or penalty specified in any other applicable law.

Section 7. Applicability in Relation to Sections 1308 and 1310 of the New York Real Property Actions and Proceedings Law

This Local Law shall not apply to impose duties, liabilities or obligations upon any state or federally chartered bank, savings bank, saving and loan association or credit union (collectively referred to in this section as a "lending institution") which is covered by preemptions of local regulations stated within Sections 1308 and 1310 of the New York Real Property Actions and Proceedings Law. However, the provisions of this Local Law shall apply to such lending institutions to the extent not expressly preempted by Sections 1308 and 1310 of the Real Property Actions and Proceedings Law. This Local Law shall be reconciled with, and applied consistent with, Sections 1308, 1309 and 1310 of the Real Property Actions and Proceedings Law to the fullest extent possible, including, but not limited to, the cumulative exercise of rights and remedies by the Town against lending institutions to the extent allowed by those statutory sections, and this Local Law shall not be viewed as, or deemed to be, an election of remedies in lieu of rights afforded to the Town under those statutory sections.

Section 8. Severability

If any clause, phrase, sentence, paragraph, section, or part of this Local Law is adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Local Law, but shall instead be confined in its operation to the clause, phrase, sentence, paragraph, section, or part directly involved in the controversy in which such judgment shall have been rendered.

Section 9. Effective Date

This Local Law shall take effect upon its filing with the Secretary of State.

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as Introductory Local Law No. 3 of 2019 of the (County)(City)(Town)(Village) of Brunswick was duly passed by the _____ on _____, 2019, in accordance with the applicable provisions of law.
(Name of Legislative body)

~~**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ and was deemed duly adopted on _____ 20____ in accordance with the applicable provisions of law.
(Name of Legislative body)
(Elective Chief Executive Officer)*~~

~~**3. (Final adoption by referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.
(Name of Legislative body)
(Elective Chief Executive Officer)*
Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.~~

~~**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**~~

~~I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) (repassed after disapproval) by the _____ on _____ 20____.
(Name of Legislative body)
(Elective Chief Executive Officer)*
Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.~~

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. ~~(City local law concerning Charter revision proposed by petition.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. ~~(County local law concerning adoption of Charter.)~~

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph 1, above.

Clerk of the county legislative body, City, Town or Village
Clerk or officer designated by local legislative body

(Seal)

Date: _____