

# Local Law Filing

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Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

**County City Town x Village**

*(Select One)*

of Island Park

Local Law No. 13 of the year 2018

A local law to create a mortgage-in-default registry

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Be it enacted by the BOARD OF TRUSTEES of the  
*(Name of Legislative Body)*

**County City Town x Village**

*(Select One)*

of Island Park as follows:

Mortgage-in-Default Registry

## **SECTION 1. LEGISLATIVE INTENT**

It is the purpose and intent of this Section to establish a process to limit and reduce the number of deteriorating and/or dilapidated properties located within the Village of Island Park, specifically when a property is subject to a mortgage which is in default. It is the Village's further intent to specifically establish a defaulted mortgage registration program as a mechanism to protect neighborhoods from blight due to lack of adequate maintenance and security of abandoned properties which are in default.

## **SECTION 2. DEFINITIONS**

**Abandoned Real Property in Default.** Any real property that is under a current notice of default and/or notice of mortgagee's sale, pending tax assessor's lien sale and/or properties that have been the subject of a foreclosure sale where the title was retained by the beneficiary of a mortgage involved in the foreclosure and any properties transferred under a deed in lieu of foreclosure or sale.

**Enforcement Officer.** Shall mean the Chief Building Inspector or his/her designee.

**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, electricity, water or other utilities turned off, stagnant swimming pool, statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

**Foreclosure.** The process by which a property, placed as security for a mortgage loan, after a judicial process is to be sold at an auction to satisfy a debt upon which the borrower has defaulted.

**Vacant.** Any building or structure shall be deemed to be vacant if no person or persons actually currently conducts a lawfully licensed business, or lawfully resides or lives in any part of the building as the legal or equitable owner(s) or tenant-occupant(s), or owner-occupant(s), or tenant(s) on a permanent, non-transient basis.

## **SECTION 3. APPLICABILITY**

This Section shall be considered cumulative and not superseding or subject to any other law or provision for same, but shall rather be an additional remedy available to the Village above and beyond any other state, county and/or local provisions for same. This Section relates to property subject to a mortgage which has been determined by the mortgagee to be in default.

## **SECTION 4. REGISTRATION OF REAL PROPERTY WITH MORTGAGE-IN-DEFAULT**

A. If the property is occupied but remains in default, it shall be inspected by the mortgagee, or said mortgagee's designee, monthly until the mortgagor or other party remedies the default.

B. Within ten (10) days of the date that the mortgagee declares its mortgage on a particular parcel of real property to be in default, the mortgagee shall inspect and register the real

property with the Village's mortgage-in-default registry. The mortgagee shall include in the registration if the property is vacant or occupied.

C. Mortgage-in-default registration. Registration pursuant to this Section shall contain the name of the mortgagee and mortgage servicer; the direct mailing address of the mortgagee and servicer, e-mail address and telephone number; the name and address, e-mail and telephone number of a local property manager who shall be responsible for the inspection, security and maintenance of the property. The local property manager named in the registration shall be available Monday through Friday between 9:00 a.m. and 5:00 p.m., as the Village's primary contact.

D. A semi-annual non-refundable registration fee in the amount of \$250 per property shall accompany the mortgage-in-default registration form(s). Subsequent semi-annual registrations of defaulted properties and fees in the amount of \$250 are due within ten (10) days of the expiration of the previous registration.

E. This Section shall also apply to properties that have been the subject of foreclosure sale where the title was transferred to the beneficiary of a mortgage involved in the foreclosure, and any properties transferred under a deed in lieu of foreclosure/sale.

F. Properties subject to this section shall remain under the semi-annual mortgage-in-default registration requirement, inspection, security and maintenance standards of this Section as long as they remain in default.

G. Any person or other legal entity that has registered a property under this section must report any change of information contained in the registration within ten (10) days of the change.

H. Failure of the mortgagee and/or property owner of record to properly register or to revise from time to time the registration to reflect a change of circumstances as required by the Section is a violation of the Village's Code, and subject to the penalties as set forth herein.

#### **SECTION FIVE. MAINTENANCE REQUIREMENTS**

A. Properties subject to this Section shall be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building and construction materials left idle for an unreasonable period of time, any accumulation of newspapers, circulars, flyers, notices, except those required by federal, state, or local law, discarded personal items, including, but not limited to, furniture, clothing, large and small appliances, printed material or any other items that give the appearance that the property is abandoned or not being properly maintained.

B. The property shall be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that substantially matches the color of the exterior structure,

or by replacement with substantially similar materials in substantially similar colors and/or designs.

C. Yards shall be landscaped and maintained pursuant to the standards previously established in the Village Code.

D. Pools and spas shall be kept in working order so that pool and spa water remains free and clear of algae, pollutants and debris. Pools and spas shall comply with the enclosure requirements and any other requirements of this Code and the New York State Building Code and New York State Property Maintenance Code, as amended from time to time.

E. Failure of the mortgagee and/or property owner of record to properly maintain the property is a violation of the Village's Code, and subject to the penalties as set forth herein.

#### **SECTION 6. SECURITY REQUIREMENTS**

A. Properties subject to this Section shall be maintained in a "secure manner" so as not to be accessible to unauthorized persons.

B. A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property and/or structure. Broken windows shall be secured by re-glazing or boarding of the window.

C. If a mortgage on property is in default and has become vacant, the local property manager or mortgagee must perform weekly inspections to verify compliance with the requirements of this section and any other applicable laws and Village ordinances.

D. Failure of the mortgagee and/or the property owner of record to properly inspect and secure the property, and post and maintain the signage noted in this Section, is a violation of this Code, and subject to the penalties as set forth herein.

#### **SECTION 7. OPPOSING, OBSTRUCTING ENFORCEMENT OFFICER; PENALTY**

Whoever opposes, obstructs or resists any enforcement officer, building inspector, fire marshal or any person authorized by the Building Department, in the discharged of duties as provided in this Section, upon conviction may be punished as provided in New York State Penal Code § 195.05.

### **SECTION 8. IMMUNITY OF ENFORCEMENT OFFICER**

Any enforcement officer, or person authorized by the Building Department, shall be immune from prosecution, civil or criminal, for reasonable, good faith entrance upon real property while in the discharge of duties imposed by this Section.

### **SECTION 9. ADDITIONAL AUTHORITY**

The Code Enforcement Officer shall have authority to require the mortgagee and/or owner of record of any property affected by this section to implement additional maintenance and/or security measures, including, but not limited to, securing any and all doors, windows or other openings, employment of an on-site security guard, or other measures as may be reasonably required to prevent a decline of the property. Nothing contained in this Section shall prohibit the Village from enforcing its Code by any other means.

### **SECTION 10. VIOLATIONS AND PENALTIES**

Any person, corporation, or entity who shall violate any of the provisions of this Section or who shall fail to comply therewith or with any of the requirements shall be guilty of a violation and, upon conviction thereof, a fine of not less than \$250 nor more than \$1,000 must be imposed or a term of imprisonment for a period not to exceed 15 days may be imposed, or both, for conviction of a first offense; for conviction of a second offense, both of which were committed within a period of five years, shall be guilty of a violation, and upon conviction, a fine of not less than \$1,000 nor more than \$2,500 must be imposed or a term of imprisonment for a period not to exceed 15 days may be imposed, or both; and, upon conviction for a third or subsequent offense, all of which were committed within a period of five years, shall be guilty of a violation, and a fine of not less than \$2,500 nor more than \$5,000 must be imposed or a term of imprisonment for a period not to exceed 15 days may be imposed, or both.”

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