

Regular Meeting of the Town Board of the Town of LeRoy held on Thursday, February 22, 2018 at 7:00 PM in the Boardroom of the Town Hall, 48 Main Street LeRoy, New York.

Members Present: Stephen Barbeau, Supervisor
John Armitage, Council
James Farnholz, Council
Thomas Stella, Council

Absent: David Paddock, Council
Eric Stauffer, Highway Supt.

Recording Secretary: Patricia A. Canfield, Town Clerk

Others Present: Jackie Whiting, Bob Taylor, Charles Hull,
Alisa Stauffer, Bonnie & Mark McAvoy,
Dave Luettike-Archbell

Supervisor Barbeau called the meeting to order at 7:00 PM followed by the pledge to the flag and approval of the minutes from the meeting of February 8, 2018 on **MOTION** by Councilman Farnholz and seconded by Councilman Stella and passed. Councilman Armitage – abstained.

OLD BUSINESS:

1. Local Law 1-2018 – Vacant Building Registry of LeRoy, New York –

On **MOTION** by Supervisor Barbeau and seconded by Councilman Armitage and passed unanimously with voting as follows: Council Armitage, Farnholz, Stella and Supervisor Barbeau – aye the following **RESOLUTION:** [13]

RESOLVED, the Town Board of the Town of LeRoy adopts the following language for Vacant Building Registry of LeRoy New York in its entirety and as written below with law becoming effective after filing with New York State Dept. of State.

"Vacant Building Registry of LeRoy, New York."

LEGISLATIVE FINDINGS AND PURPOSE - It is the finding of the LeRoy Town Board that vacant buildings are unsightly, unsafe, and have a negative effect on the community. Unfortunately, many buildings, once vacant, remain that way for years. The purpose of this is to establish a program for identifying and registering vacant buildings, to set forth the responsibilities of owners of vacant buildings, and to speed the rehabilitation of vacant buildings.

DEFINITIONS- Unless otherwise expressly stated, the following terms will, for the purpose of this chapter, have the meanings indicated in this section:

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.

Enforcement Officer: The duly authorized Code Enforcement Officer, or designated persons from that office.

Owner: The person, persons, or entity shown to be the owner or owners on the records of the LeRoy Assessor's office, those identified as the owner or owners on a vacant building registration form, a mortgagee in possession, 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.

Secured By Other Than Normal Means: A building secured by means other than those used in the design and approved plans for the building.

Unoccupied: A building or portion thereof which lacks the habitual presence of human beings who have a legal right to be on the premises, including buildings ordered vacated by a Code Enforcement Officer. In determining whether a building is unoccupied, the Code Enforcement Officer may consider these factors, among others:

- A. Whether lawful residential or business activity has ceased;
- B. The building is substantially devoid of contents or the minimal value of fixtures or personal property in the building;
- C. The building lacks utility services;
- D. The building is subject to a foreclosure action;
- E. Duration of vacancy; and/or
- F. The presence or reoccurrence of code violations.
- G. Nothing in this Vacant Building Registry is intended to require registration for an unoccupied property which meets codes and which is determined by the Code Enforcement Officer to be temporarily or seasonally vacant.
- H. A property MAY be considered "unoccupied" and therefore required to register as such by the Code Enforcement Officer, even if the property is for sale, if the unoccupied property contributes to a "negative effect on the community" as referred to in the purpose statement above.

Unsecured

A building or portion of a building which is open to entry by unauthorized persons without the use of tools or ladders.

Vacant Building

A building, a portion of a building, or a structure which is any one or more of the below (First floor must be occupied – if so, upper floors may be unoccupied):

- A. Unoccupied and unsecured;
- B. Unoccupied and secured by other than normal means;

- C. Unoccupied and unsafe building as determined by a Code Enforcement Officer;
- D. Unoccupied and a Code Enforcement Officer has issued an order to correct code violations;
- E. Illegally occupied
- F. Unoccupied for a period of over 30 days.
- G. Nothing in this Vacant Building Registry is intended to require registration for an unoccupied residence which meets codes and which is determined by the Code Enforcement Officer to be temporarily or seasonally vacant.
- H. A property MAY be considered "vacant" and therefore required to register as such by the Code Enforcement Officer, even if the property is for sale, if the unoccupied property contributes to a "negative effect on the community" as referred to in the purpose statement above.

VACANT BUILDING REGISTRATION

- A. The owner of a vacant building shall register with the Code Enforcement Officer no later than 30 days after any building becomes a "vacant building," as defined above, or not later than 30 days after being notified by a Code Enforcement Officer of the requirement to register, whichever is sooner. A Code Enforcement Officer may identify vacant buildings through his/her routine inspection process, as well as through notification by residents, neighborhood associations, and other community groups that a building may be eligible for inclusion on the registry. Notice shall be served upon, or sent by certified mail to, the owner, and any registered property manager, and to the property address. Notice shall be deemed received by the owner, property manager, or an occupant, upon personal delivery or three days in Genesee County or five days for other locations after service by certified mail. The Village or Town may also post notices on the Village or Town website to provide additional notice to the public. However, the Village or Town's failure to post such violations on their website shall not constitute a defense to any enforcement proceeding or collection of fines.
- B. The registration shall be submitted on forms provided by the Code Enforcement Officer, or designated persons from that office, and shall include the following information:
 - (1) A description of the premises, i.e., square footage, number of stories, age of the building, and most recent use of the building.
 - (2) The names, addresses, and telephone numbers of the owner or owners; if the owner is a corporation, limited-liability company, or partnership, the address for each director, manager, or partner, as the case may be. The address must include a street address; a post office box is not acceptable.
 - (3) If the owner does not reside in Genesee County or any adjoining New York county, the name and address of a responsible party who does not reside in Genesee County or any adjoining county. The address must include a street address; a post office box is not acceptable.
 - (4) The names and addresses of all known lienholders and all other parties with an ownership interest in the building. Each address must include a street address; a post office box is not acceptable. A name, address, and telephone number of a responsible natural person (not a corporation, partnership, or limited-liability company) who can be reached at all times during business and nonbusiness hours. The address must include a street address; a post office box is not acceptable.
 - (5) A vacant building as described in Subsection C below.
- C. The owner shall submit a vacant building plan which must meet the approval of the Code Enforcement Officer, or designated person. The plan, at a minimum, must contain information and appropriate permits from one of the following three proposals for the property:
 - (1) If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition;
 - (2) If the building is to remain vacant, a plan for the securing of the building in accordance with standards provided below, along with the procedure that will be used to maintain the property, and a statement of the reason(s) why the building will be left vacant; or
 - (3) If the building is to be returned to appropriate occupancy or use, rehabilitation plans for the building must be submitted to the Code Enforcement Officer. The rehabilitation plans shall not exceed 365 days from the date of submission and shall include progress benchmarks at least every four months, unless the Code Enforcement Officer grants an extension for good cause shown, upon receipt of a written statement from the owner detailing the reasons for the extension. Any repairs, improvements or alterations to the property must comply with any applicable zoning, housing, historic preservation or building codes. The building must be secured in accordance with this chapter.
- D. The owner shall comply with all applicable laws and codes. The owner shall notify the Code Enforcement Officer of any changes in information supplied as part of the vacant building registration within 30 days of the change. If the plan or timetable for the vacant building is revised in any way, the revisions must be in writing and must meet the approval of the Code Enforcement Officer.
- E. The owner and any subsequent owner shall keep the building secured and safe and the building and grounds properly maintained as provided in the NYS Property Maintenance Code and this chapter.
- F. Failure of the owner or any subsequent owner to maintain the building and premises as required herein shall be grounds for the Town:
 - (1) To remediate the building and bill the costs of same to the owner;
 - (2) To revoke the rehabilitation plans; and
 - (3) The owner shall be subject to fees and penalties as provided herein.
- G. The owner shall notify the Code Enforcement Officer of any transfer of ownership within 15 days of transfer. The new owner shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and approved by the Code Enforcement Officer, or designated person.
- H. Vacant building registration fees.
 - (1) The owner of a vacant building shall pay a registration fee as determined by the fee schedule adopted by the Town. The registration fee is due and payable upon registration; to wit: no later than 30 days after any building becomes a "vacant building," as defined above, or no later than 30 days after being notified by a Code Enforcement Officer of the requirement to register.
 - (2) If the building is to remain vacant, then the owner shall also pay an annual vacant building fee. The amount of said fee shall be determined pursuant to the fee schedule adopted by the LeRoy Town Board. Said fee schedule shall provide for differing amounts dependent upon the number of years that the building is vacant.
 - (3) If the building is to be returned to a permitted use, the rehabilitation plan shall not exceed 365 days from date of issue and shall include progress benchmarks at least every four months, unless the Code Enforcement Officer grants an extension for good cause shown upon receipt of a written statement from the owner detailing the reasons for the extension. If the rehabilitation has not been completed or extended, then the owner shall pay an annual vacant building fee, as determined by the Town Board under the Vacant Building Registry Fee Schedule, until the building is properly demolished or rehabilitated.
 - (4) If the owner of a vacant building fails to register and pay the fees within thirty (30) days, then the owner shall be subject to the penalty set forth in the fee schedule adopted by the Town Board.
 - (5) All delinquent fees shall be paid by the owner prior to any transfer of an ownership interest in any vacant building. The owner shall give a purchaser written notice that the building in question is a vacant building under this section.
 - (6) The vacant building registration fees and annual vacant building fees as set forth in the fee schedule or by separate resolution are to be delivered, by mail or in person, to the Town Clerk's Office.
- I. Code Enforcement Officer shall include in the file any property-specific written statements from community organizations, other interested parties or citizens regarding the history, problems, status or blighting influence of a vacant building.

MAINTENANCE

- A. The owner of a vacant building shall take such steps and perform such acts as may be required of him or her from time to time to ensure that the building and its grounds remain safe and secure and do not present a hazard to any adjoining property or the public. Owners shall be responsible for maintaining their buildings and structures so that they do not become an unoccupied

hazard. In any building or floor area that is vacant or about to become vacant, there shall be at least one access which meets the approval of the Code Enforcement Officer.

- B. The owner shall protect and maintain the exterior of the building according to NYS Building Codes and including (but not limited to) the following:
- (1) Exterior walls, including foundations, shall be maintained so that water does not penetrate into basements, cellars, or other interior areas. All exterior walls and foundations must be free of holes and crevices.
 - (2) Exterior doors, windows, skylights and similar openings shall be maintained weathertight.
 - (3) Exterior stairs, porches, entrance platforms, fire escapes and the railings thereon shall be maintained in good repair and a safe and sound condition.
 - (4) Roofs shall be maintained in a weathertight condition.
 - (5) Exterior surfaces shall be maintained in good condition. Surfaces not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative.
 - (6) The coverings for windows and doors with glass may not consist of any substance sprayed onto the glass doors or windows. All enclosures shall be properly fitted and be of such material and surface that they are neither unsightly nor will materially detract from the general appearance of the building or the neighborhood and, when possible, secured by normal means.
 - (7) The covering for broken doors and cracked or broken windows may consist of replacement glass, Plexiglas, boards, plywood or similar materials finished and maintained in a manner recommended and approved by the Code Enforcement Officer. The materials shall be designed and of such color to blend in with the finish of the building.
 - (8) The premises shall be kept free of insects and vermin and will be treated if necessary.
 - (9) Any excavations, swimming pools, or other attractive nuisances must be filled in or properly closed.
- C. In addition to the standards prescribed above, vacant commercial and retail buildings shall comply with the following standards:
- (1) Any and all damaged first-floor windows shall be replaced by glass, Plexiglas, or an approved material.
 - (2) All exterior signs, awnings and lighting systems, if not removed, shall be maintained in a non-deteriorated and safe condition.
- D. The owner shall protect and maintain the interior of the building as follows:
- (1) Structural members shall be maintained to resist and prevent deterioration.
 - (2) Unheated attics, spaces below flat roofs, and crawl spaces shall be ventilated to minimize deterioration.
 - (3) Ceilings, walls, floors and stairways shall be maintained in a safe and sound condition.
- E. The owner shall maintain the premises as follows:
- (1) The owner shall not permit garbage and refuse to accumulate.
 - (2) Buildings and structures shall be maintained free of insects, vermin and rodent harborage and infestation.
 - (3) Refrigerators and similar equipment with locking mechanisms shall will not be discarded, abandoned or stored without first removing the locking devices or the hinges of the doors.
 - (4) Junked vehicles shall not be stored at the premises.
 - (5) Chimneys, smokestacks, flues, gas vents, smoke pipes and connectors shall be maintained structurally safe and smoke tight.
 - (6) If the building is to be demolished or remain vacant, then, within 10 days of registering the building as a vacant building, all fuel gas, water, and utilities must be disconnected at the mains and water pipes drained. If the building is going to be rehabilitated, then the building must be heated to avoid freezing pipes, fuel gas pipe systems must be maintained gastight, in a safe and operative condition, and water pipes must be maintained to avoid leaks and/or breakage.
 - (7) Fuel tanks shall be maintained so as not to be a hazard or shall be discontinued in a manner consistent with Chapter C of the State Uniform Fire Prevention and Building Code (9 NYCRR).
 - (8) The domestic water supply system of the building shall be connected to an approved source, shall not be subject to contamination and shall not be connected to unsafe water supplies, or the system shall be disconnected at the main and completely drained.
 - (9) Storm water drainage systems shall be maintained so as to function properly and be kept free from obstructions, leaks and defects. Sewage systems shall be similarly maintained or shall be sealed so as to prevent accumulation of sewage gases in buildings.
 - (10) Electrical fixtures, devices, wiring and systems shall be maintained in safe working condition in a manner which shall avoid a potential source of ignition or shock, or service shall be discontinued at the supply.
 - (11) The owner shall provide for snow removal.
 - (12) The owner shall maintain yards and vacant lots trimmed and mowed, with the height of grass and weeds being no more than 6 inches, and clean and free of physical hazards, rodent harborage and infestation.
- F. Whenever the owner of a vacant building fails to comply with a notice from a Code Enforcement Officer to take steps and perform acts as are required of him or her to ensure that a building and its adjoining yards remain safe and secure and do not present a hazard to adjoining property in violation of Subsection B above, the Town may enter onto the building and the property and take steps and perform acts to render the building and its adjoining yards safe, secure and free from hazards to adjoining property and the public. These acts shall include, but not be limited to, removal of dangerous conditions, properly replacing or boarding up windows and doors, shutting off utilities, capping plumbing to prevent leakage of water or sewer gas, or removing flammable or otherwise hazardous material and debris. A bill for the expenses incurred above shall be presented to the owners of the building.

EXEMPTIONS

"Nonresidential buildings located within an historic district shall be exempt from this code."

A building which has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement for a period of sixty (60) days after the date of the fire or extreme weather event if the property owner submits a request for exemption in writing to the Code Enforcement Officer. This request shall include the following information supplied by the owner:

- A. A description of the premises.
- B. The reason for an exemption.
- C. The names and addresses of the owner or owners. A post office box is not acceptable.
- D. A statement of intent to repair and reoccupy the building in an expedient manner or the intent to demolish the building.

INSPECTIONS

By registering a vacant building, an owner consents to a Code Enforcement Officer inspecting the premises for the purpose of enforcing and assuring compliance with the provisions of this chapter. Upon the request of the Code Enforcement Officer, an owner shall provide access to all interior portions of a vacant building in order to permit a complete inspection. Nothing contained herein, however, will diminish the owner's right to insist upon the procurement of a search warrant from a court of competent jurisdiction by the Code Enforcement Officer, or his or her designee, in order to enable such inspection, and the Code Enforcement Officer shall be required to obtain a search warrant whenever an owner refuses to permit a warrantless inspection of the premises after having been advised of his or her constitutional right to refuse entry without same. In the case of an emergency, this section shall not apply.

PENALTIES FOR OFFENSES

Any person violating any provision of this vacant building registry or providing false information to the Code Enforcement Officer shall be subject to the following fines:

- A. Such person shall be subject to a fine of \$1,000 or imprisonment not exceeding thirty (30) days, or both such fine and imprisonment.
- B. The term "person," as used in this section, shall include the owner, occupant, mortgagee or vendee in possession, assignee of rents, receiver, executor, administrator, trustee, lessee, agent or any other person, firm or corporation directly or indirectly in control of the building or part thereof.

- C. Each day of violation shall be deemed to constitute a separate offense.
- D. Fines levied shall constitute civil forfeitures to the Town of LeRoy.
- E. Unpaid bills, fees, etc. shall be added to the tax bill.

2. Vacant Building Registry Fee Schedule – Resolution –

On **MOTION** by Councilman Stella and seconded by Councilman Farnholz and passed unanimously with voting as follows: Council Armitage, Farnholz, Stella and Supervisor Barbeau – aye the following

RESOLUTION: [14]

RESOLVED, the Town Board of the Town of LeRoy adopts the following fee schedule for Vacant Building Registry as adopted by Local Law 1-2018 on February 22, 1018 and as written below:

VACANT BUILDING REGISTRY – FEE SCHEDULE – TOWN OF LEROY

Initial registration fee: \$50.

Annual vacant building fee:

Property Type	Year 1	Year 2	Year 3	Each Subsequent Year
Demolition plan or rehabilitation plan submitted	\$100	If no extension is granted, then the maximum fee for the relevant property type will be charged for each subsequent year.		
1 — 3 unit residential	\$1000	\$1500	\$2000	\$2500
4 — 6 unit residential	\$1000	\$2000	\$3000	\$4000
7+ unit residential	\$250/unit	\$500/unit	\$750/unit	\$1,000/unit
Commercial (whichever is greater)	\$1,000 or \$0.05/sq. ft.	\$2,000 or \$0.10/sq. ft.	\$3,000 or \$0.15/sq. ft.	\$4,000 or \$0.20/sq. ft.*

* = gross square footage

Late fee: initial registration and/or annual vacant building fee: \$50 plus 2% per month or part thereof assessed on any invoice which is unpaid after thirty (30) days from the date of the demand for payment.

Returned check processing fee: \$50.

Fee for unpaid charges added to the tax bill: \$250.

3. Proposed Water District – Harris Road –

Town Board will obtain clarification on voting process and assessed valuation for district formation from Association of Towns and will invite Attorney Whiting and Assessor Pike to meeting of March 8, 2018 to ensure correct process.

4. Code Enforcement Agreement – Town of Batavia/Town of LeRoy – Renewal –

On **MOTION** by Councilman Armitage and seconded by Councilman Stella and passed unanimously with voting as follows: Council Armitage, Farnholz, Stella and Supervisor Barbeau – aye the following

RESOLUTION: [15]

RESOLVED, the Town Board of the Town of LeRoy hereby approves the Agreement between Towns of LeRoy and Batavia in its entirety and approves for the Supervisor to sign the agreement with the Town of Batavia effective January 1, 2018 through June 30, 2018 to provide back-up code enforcement coverage in the event that either officer is absent due to illness, vacation or any other absence; and agreement shall remain in effect until June 30, 2108.

COMMITTEE REPORTS:

Code Enforcement:

Supervisor Barbeau reported a revised zoning code map was received from Genesee County Planning Dept.

Village:

Trustee Bob Taylor reported:

- Marker to be placed to represent the first woman to vote in 1918
- Waste Management received bid for curbside pickup
- Reorganizational meeting to be held April 11th

Parks & Recreation:

Recreation Director Jackie Whiting reported:

- Village DPW has cleared Oatka Creek for ice skating with supervision provided. Announcement was made at both schools.

Transfer:

Supervisor Barbeau reported there is one bid submitted to date with opening to be held on February 23rd at Noon.

GAM/Supervisor:

Supervisor Barbeau reported:

- Supervisor attended Association of Towns Conference on February 18-23 in NYC and reported back on the following classes: financial reports; use of fund balance; vacant and unsafe properties; zombie law, special use permits; collective bargaining; new tax reform law.

AUTHORIZATION TO PAY BILLS:

On **MOTION** by Councilman Stella and seconded by Councilman Armitage and passed unanimously the following bills were presented for payment:

Abstract # 3	2017 2018	Voucher #
General Fund A, DA, B & Cap Proj H:	\$23,623.07	93~106 Incl. prepay
Highway Fund DA & DB:	\$21,715.85	42~51
Water Fund SW:		

EXECUTIVE SESSION:

On **MOTION** by Councilman Armitage and seconded by Councilman Farnholz and passed unanimously to enter into executive session for the purpose of contract negotiations at 8:30 PM. On **MOTION** by Councilman Armitage and seconded by Councilman Farnholz and passed unanimously to come out of executive session at 9:20 PM with no action taken.

With no further business to come before the Board, on **MOTION** by Councilman Stella and seconded by Councilman Farnholz and passed unanimously to adjourn at 9:21 PM.

Respectfully Submitted, Patricia A. Canfield Town Clerk