

# Local Law Filing

(Use this form to file a local law with the Secretary of State.)

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  Village  
(Select one.)

of \_\_\_\_\_

FILED  
STATE RECORDS

OCT 06 2021

DEPARTMENT OF STATE

Local Law No. 3 of the year 2021

A local law Adding a New Chapter 79a to Part II of the Code of the Village of Nissequogue to Address  
(Insert Title)  
Registration and Maintenance of Vacant and Abandoned Properties with Foreclosed or  
Foreclosing Mortgages.

Be it enacted by the Board of Trustees of the  
(Name of Legislative Body)

County  City  Town  Village  
(Select one.)

of Nissequogue as follows:

SEE ATTACHED

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

(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 local law No. 3 of 2021 of the ~~(County)(City)(Town)(Village)~~ of Nissequoque was duly passed by the Board of Trustees (Name of Legislative Body) on September 21, 2021, in accordance with the applicable provisions of law.

~~**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 \_\_\_\_\_ (Name of Legislative Body) on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ (Elective Chief Executive Officer\*) and was deemed duly adopted on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.~~

**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 \_\_\_\_\_ (Name of Legislative Body) on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ (Elective Chief Executive Officer\*) on \_\_\_\_\_ 20\_\_\_\_.

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 \_\_\_\_\_ (Name of Legislative Body) on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) (repassed after disapproval) by the \_\_\_\_\_ (Elective Chief Executive Officer\*) on \_\_\_\_\_ 20\_\_\_\_. 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 cities of said county as a unit and 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.

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

Date: 9-28-21

(Seal)

Local Law No. 3 of the year 2021

Village of Nissequogue, County of Suffolk

**A local law adding a new Chapter 79a to Part II of the Code of the Village of Nissequogue to address registration and maintenance of vacant and abandoned property with foreclosed or foreclosing mortgages.**

**Be it enacted by the Board of Trustees of the Village of Nissequogue as follows:**

**SECTION 1. ADDITION OF A NEW CHAPTER 79A TO PART II  
OF THE CODE OF THE VILLAGE OF NISSEQUOGUE**

A new Chapter 79a “Registration and Maintenance of Vacant and Abandoned Property” is hereby added to the Code of the Village of Nissequogue and will read as follows:

**“§ 79a-1. Legislative Intent and Definitions.**

- A. It is the purpose and intent of the Village Board of Trustees to establish a process to address the deterioration of, crime in, and decline in value of Village neighborhoods caused by vacant and abandoned property with foreclosing or foreclosed mortgages located within the Village, and to identify, regulate, limit and reduce the number of these properties located within the Village. Vacant structures or structures owned by individuals who are economically strained and unable to meet their mortgage obligations are often not properly or diligently maintained, which contribute to blight, declined property values, and have a negative impact on social perception of the residential areas where they are located. It is the Village Board of Trustees’ further intent to establish a registration program as a mechanism to help protect neighborhoods from becoming blighted through the lack of adequate maintenance of properties that are vacant and abandoned, in foreclosure, or foreclosed, and to provide a mechanism to avert foreclosure actions through timely intervention, education, or counseling of property owners.
- B. For the purposes of this chapter, the following terms have the meanings as set forth herein:
- (1) **Default** means that the mortgagor has not complied with the terms of the mortgage on the property, or the promissory note, or other evidence of the debt, referred to in the mortgage.
  - (2) **Enforcement Officer** means any law enforcement officer, code enforcement officer, fire marshal, building inspector, or other person authorized by the Village to enforce the applicable code(s).
  - (3) **Evidence of Vacancy** includes, but is not limited to, the following conditions: (i) overgrown or dead vegetation; (ii) accumulation of newspapers, circulars, flyers, or mail; (iii) past due utility notices, disconnected utilities, or utilities not in use; (iv) accumulation of trash, refuse, or other debris; (v) absence of window coverings such as curtains, blinds, or shutters; (vi) one or more boarded, missing, or broken

windows; (vii) property that is open to casual entry or trespass; or (viii) property that has a building or structure that is, or appears, structurally unsound or has any other condition that presents a potential hazard or danger to the safety of persons.

Residential Real Property will not be deemed vacant and abandoned if, on the property: (i) there is an unoccupied building that is undergoing construction, renovation, or rehabilitation that is proceeding diligently to completion; (ii) there is a building occupied on a seasonal basis, but otherwise secure; (iii) there is a building that is secure, but is the subject of a probate action, action to quiet title, or other ownership dispute of which the servicer has actual notice; (iv) there is a building damaged by a natural disaster and one or more owners intend to repair and reoccupy the property; or (v) there is a building occupied by the mortgagor, a relative of the mortgagor, or a tenant lawfully in possession.

- (4) **Foreclosure or Foreclosure Action** means the legal process by which a Mortgagee, or other lien holder, terminates or attempts to terminate a property owner's equitable right of redemption to obtain legal and equitable title to the Real Property pledged as security for a debt or the Real Property subject to the lien. The legal process is not concluded until the property obtained by the Mortgagee, lien holder, or their designee, by certificate of title, or any other means, is sold to a non-related bona fide purchaser in an arm's length transaction to satisfy the debt or lien.
- (5) **Mortgagee** means the creditor, including but not limited to, trustees, mortgage servicing companies, lenders in a mortgage agreement, any agent, servant, or employee of the creditor, any successor in interest, or any assignee of the creditor's rights, interests or obligations under the mortgage agreement; or any other person or entity with the legal right to foreclose on the Real Property, excluding governmental entities.
- (6) **Property Manager** means any party designated by the Mortgagee as responsible for inspecting, maintaining and securing the property as required in this Chapter.
- (7) **Real Property** means any land and/or buildings, leasehold improvements and anything affixed to the land, or portion thereof identified by a property parcel identification number, located in the Village limits.
- (8) **Registrable Property** means any Real Property located in the Village that is vacant and abandoned and encumbered by a mortgage subject to an ongoing Foreclosure Action by the Mortgagee or Trustee, has been the subject of a Foreclosure Action by a Mortgagee or Trustee and a Judgment has been entered, or has been the subject of a 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. The designation of a "foreclosure" property as "registrable" will remain in place until such time as the property is sold to a non-related bona fide purchaser in an arm's length transaction or the Foreclosure Action has been dismissed.

- (9) **Registry** means a web-based electronic database of searchable Real Property records, used by the Village to allow Mortgagees the opportunity to register properties and pay applicable fees as required in this Chapter.
- (10) **Semi-Annual Registration** means six (6) months from the date of the first action that requires registration, as determined by the Village, or its designee, and every subsequent six (6) months. The date of the initial registration may be different than the date of the first action that required registration.
- (11) **Utilities and Services** means any utility and/or service that is essential for a building to be habitable and/or perform a service necessary to comply with all Village codes. This includes, but is not limited to, electrical, gas, water, sewer, lawn maintenance, pool maintenance, and snow removal.
- (12) **Vacant and Abandoned Residential Real Property** is defined as residential Real Property that has been inspected on at least three (3) consecutive occasions, with each inspection conducted twenty-five (25) to thirty-five (35) days apart, and at different times of the day, and at each inspection: (i) no occupant was present and there was no evidence of occupancy on the property to indicate that any persons are residing there; and (ii) the residential Real Property was not being maintained in a manner consistent with the standards set forth in this Chapter. Residential Real Property will also be deemed vacant and abandoned if: (i) a court or appropriate State or local governmental entity has formally determined, following due notice to the borrower or owner at the property address and any other known addresses, that such residential property is vacant and abandoned; or (ii) each borrower and owner has separately issued a sworn statement, expressing his or her intent to vacate and abandon the property, and an inspection of the property shows no evidence of occupancy to indicate that any persons are residing there.

#### **§ 79a-2. Applicability and Jurisdiction.**

This Chapter applies to vacant, abandoned, foreclosing or foreclosed property within the Village.

#### **§ 79a-3. Establishment of a Registry.**

The Village or its designee will establish a registry cataloging each Registrable Property within the Village, containing the information required by this Chapter.

#### **§ 79a-4. Inspection and Registration of Real Property.**

- A. Any Mortgagee who holds a mortgage on Real Property located within the Village will perform an exterior inspection of the Real Property within ninety (90) days of a borrower's delinquency to determine occupancy. Thereafter, throughout the delinquency of the loan, the Mortgagee must conduct an exterior inspection of the Real Property every twenty-five (25) to thirty-five days (35), at different times of the day.

- B. If the Mortgagee determines that that the Real Property may have become vacant and abandoned, the Mortgagee must, within seven (7) days, post a notice containing the Mortgagee or its designee's contact information, on an easily accessible part of the property that would be reasonably visible to the borrower, property owner, or occupant, and monitor the Real Property for any change in occupancy or contact with the borrower, property owner, or occupant, and monitor to ensure that the notice remains posted so long as the duty to maintain applies.
- C. If the posted notice is not responded to or seven (7) consecutive calendar days pass without contact with the borrower, owner, or occupant, indicating that the Real Property is not vacant or abandoned, the Mortgagee must register the Real Property with the Village Registry, and designate in writing a Property Manager to inspect, maintain, and secure the Real Property. A separate registration is required for each property that becomes Vacant and Abandoned.
- D. When a property subject to this Chapter becomes Vacant and Abandoned, it must be posted with the name and twenty-four (24)-hour contact telephone number of the Property Manager. The Property Manager must be available to be contacted by the Village Monday through Friday between 9:00 a.m. and 5:00 p.m., legal holidays excepted. The posting must be placed in a window facing the street and must be visible from the street. The posting must be no less than eighteen (18) inches by twenty-four (24) inches and must be of a font that is legible from a distance of forty-five (45) feet. The posting must contain the following language with supporting information:

**THIS PROPERTY IS MANAGED BY \_\_\_\_\_  
AND IS INSPECTED ON A REGULAR BASIS. THE PROPERTY MANAGER  
CAN BE CONTACTED BY TELEPHONE AT \_\_\_\_\_ OR BY  
EMAIL AT \_\_\_\_\_.**

- E. The posting required in subsection D above must be placed on the interior of a window facing the street to the front of the property so that it is visible from the street, or secured to the exterior of the building/structure facing the street to the front of the property so that it is visible from the street or, if no such area exists, on a stake of sufficient size to support the posting in a location that is at all times visible from the street to the front of the property but not readily accessible to vandals. Exterior posting will be constructed of and printed with weather- resistant materials.
- F. Initial registration pursuant to this section must contain, at a minimum, the name of the Mortgagee, the mailing address of the Mortgagee, email address, and telephone number.
- G. At the time of the initial registration, each registrant must pay a non-refundable Semi-Annual Registration fee of five hundred dollars (\$500.00) for each property. Subsequent non-refundable Semi-Annual renewal registrations of properties and fees in the amount of five hundred dollars (\$500.00) are due within ten (10) days of the expiration of the previous registration. Said fees will be used to offset the costs of: (1) registration and registration enforcement; (2) code enforcement and mitigation related to Defaulted properties; (3) post-



closing counseling and Foreclosure intervention limited to owner-occupied persons in Default, which may not include cash and mortgage modification assistance; and (4) for any related purposes as may be adopted in the policy set forth in this Chapter. Said fees must be deposited to a special account of the Village dedicated to the cost of implementation and enforcement of this Chapter and fulfilling the purpose and intent of this Chapter. None of the funds provided for in this section will be utilized for the legal defense of Foreclosure Actions.

- H. If the mortgage and/or servicing on a Registrable Property is sold or transferred, the new Mortgagee is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the new Mortgagee must register the property or update the existing registration. The previous Mortgagee(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that Mortgagee's involvement with the Registrable Property.
- I. If the Mortgagee sells or transfers the Registrable Property in a non-arm's length transaction to a related entity or person, the transferee is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the transferee must register the property or update the existing registration. Any and all previous unpaid fees, fines, and penalties, regardless of who the Mortgagee was at the time registration was required, including, but not limited to, unregistered periods during the Foreclosure process, are the responsibility of the transferee and are due and payable with the updated registration. The previous Mortgagee will not be released from the responsibility of paying all previous unpaid fees, fines and penalties accrued during that Mortgagee's involvement with the Foreclosed Property.
- J. If the Vacant and Abandoned Property is not registered, or the registration fee is not paid within thirty (30) days of when the registration or renewal is required pursuant to this section, a late fee equivalent to ten percent (10%) of the Semi-Annual Registration fee will be charged for every thirty (30) day period, or portion thereof, that the property is not registered and will be due and payable with the registration.
- K. This section also applies to properties that have been the subject of a Foreclosure sale where title is transferred to the Mortgagee as well as any properties transferred to the Mortgagee under a deed in lieu of Foreclosure or by any other legal means.
- L. Properties subject to this section will remain subject to the Semi-Annual Registration requirement, and the inspection, security, and maintenance standards of this section as long as the property remains a Registrable Property.
- M. Failure of the Mortgagee to properly register or to modify the registration to reflect a change of circumstances as required is a violation of this Chapter and will be subject to enforcement by any of the enforcement means available to the Village.
- N. If any property is in violation of this Chapter, the Village may take the necessary action to ensure compliance with and/or place a lien on the property for the cost of the outstanding



obligation and any additional cost incurred to bring the property into compliance.

**§ 79a-5. Maintenance Requirements.**

- A. Properties subject to this chapter must be kept free of weeds, overgrown brush, dead vegetation, trash, junk, debris, building materials, any accumulation of newspaper 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.
- B. Registrable Property must be maintained free of graffiti or similar markings by removal or painting over with an exterior grade paint that matches the color of the exterior structure.
- C. Front, side, and rear yards, including landscaping, of Registrable Property must be maintained in accordance with the applicable code(s).
- D. Registrable Property yard maintenance must include, but not be limited to, grass, ground covers, bushes, shrubs, hedges or similar plantings, decorative rock or bark, or artificial turf/sod. Acceptable maintenance of yards and/or landscape does not allow for weeds, gravel, broken concrete, asphalt, or similar material.
- E. Maintenance includes, but is not limited to, watering, irrigation, cutting and mowing of required ground cover, and/or landscape and removal of all trimmings.
- F. Pools and spas must be maintained so the water remains free and clear of pollutants and debris and must comply with the regulations set forth in the applicable code(s).
- G. Failure of the Mortgagee and transferees to properly maintain the property as required by this Chapter may result in a violation of the applicable code(s) and issuance of a citation or notice of violation in accordance with the applicable code of the Village.
- H. In addition to the above, the property is required to be maintained in accordance with all applicable code(s) of the Village and all requirements of New York Real Property Actions & Proceedings Law § 1308.

**§ 79a-6. Security requirements.**

- A. Properties subject to this Chapter must be maintained in a secure manner so as not to be accessible to unauthorized persons.
- B. A “secure manner” includes, but is not limited to, the following:
  - (1) Windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure must be closed and locked.

- (2) Broken windows, doors, gates, and other openings of such size that may allow a child to access the interior of the property or structure must be secured, boarded up, or repaired.
  - (3) Any part of the property that may be deemed an attractive nuisance, including, but not limited to, water features, refrigerator or freezer units, outbuildings, wells, or septic tanks must be secured.
- C. If a property is Registrable Property, and the property has become blighted, the Property Manager must perform the work necessary to bring the property into compliance with the applicable code(s), and the Property Manager must perform regular inspections to verify compliance with the requirements of this Chapter, and any other applicable laws.
  - D. In addition to the above, the property is required to be secured in accordance with the applicable code(s) of the Village and all requirements of New York Real Property Actions & Proceedings Law § 1308.
  - E. Failure of the Mortgagee of record to properly inspect and secure a property subject to this Chapter, and post and maintain the required signage, is a violation and will be subject to enforcement by any of the enforcement means available to the Village. The Village may take the necessary action to ensure compliance with this section and recover costs and expenses in support thereof.

**§ 79a-7. Provisions supplemental.**

The provisions of this Chapter are cumulative with and in addition to other available remedies. Nothing contained in this Chapter prohibits the Village from collecting fees, fines, and penalties in any lawful manner; or enforcing its codes by any other means, including, but not limited to, injunction, abatement, or as otherwise provided by law or ordinance.

**§ 79a-8. Public nuisance.**

All Registrable Property is at risk of being a public nuisance and, if blighted, can constitute a public nuisance, the abatement of which pursuant to the police power is hereby declared to be necessary for the health, welfare, and safety of the residents of the Village.

**§ 79a-9. Additional authority.**

- A. If the Enforcement Officer has reason to believe that a property subject to the provisions of this Chapter is posing a serious threat to the public health, safety, and welfare, the Enforcement Officer may temporarily secure the property at the expense of the Mortgagee and may bring the violations before the Village Board of Trustees as soon as possible to address the conditions of the property. Nothing herein will limit the Village from abating any nuisance or unsafe condition by any other legal means available to it.
- B. The Village Board of Trustees has the authority to require the Mortgagee 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 help prevent further decline of the property.

- C. If there is a finding that the condition of the property is posing a serious threat to the public health, safety, and welfare, then the Village Board of Trustees may direct the Village to abate the violations and charge the Mortgagee with the cost of the abatement.
- D. If the Mortgagee does not reimburse the Village for the cost of temporarily securing the property, or of any abatement directed by the Village Board of Trustees, within thirty (30) days of the Village sending the Mortgagee the invoice, then the Village may lien the property with such cost, along with an administrative fee to be established by resolution of the Village Board of Trustees, to recover the administrative personnel services. In addition to filing a lien, the Village may pursue financial penalties against the Mortgagee.
- E. The Village may contract with an entity to implement this Chapter, and, if so, any reference to the Enforcement Officer herein must include the entity the Village contracts with for that purpose.

**§ 79a-10. Opposing, Obstructing Enforcement Officer; Penalty.**

Whoever opposes, obstructs, or resists any Enforcement Officer or any person authorized by the Enforcement Officer in the discharge of duties as provided in this Chapter, will be subject to punishment as provided in the applicable code(s) or a court of competent jurisdiction.

**§ 79a-11. Immunity of Enforcement Officer.**

Any Enforcement Officer or any person authorized by the Village to enforce the sections here within will be immune from prosecution, civil or criminal, for reasonable, good faith entry upon Real Property while in the discharge of duties imposed by this Chapter.

**§ 79a-12. Penalties.**

Unless otherwise provided for in this Chapter, a violation of this Chapter is declared unlawful and is punishable by a fine of up to \$5,000 per day for each day that the violation continues.

**§ 79a-13. Amendments.**

Registration fees and penalties outlined in this Chapter may be modified by resolution or an amendment to this Chapter, passed and adopted by the Village Board of Trustees.

**§ 79a-14. Severability.**

It is hereby declared to be the intention of the Village that the sections, paragraphs, sentences, clauses, and phrases of this Chapter are severable, and if any phrase, clause, sentence, paragraph, or section of this Chapter is declared unconstitutional by the valid judgment or decree of a court