

Appendix I
New York Model Vacant Property Registration Ordinance

(1) FINDINGS AND PURPOSE

ANNOTATIONS

(A) The [NAME OF MUNICIPALITY] contains many structures that are vacant in whole or large part, and in many cases the owners or other responsible parties of these structures are neglectful of them; are failing to maintain them or secure them to adequate standards; or to restore them to productive use; and many of these structures are in violation of state and local housing and property maintenance codes.

(B) It has been established that vacant and abandoned structures cause severe harm to the health, safety and general welfare of the community, including diminution of neighboring property values, loss of property tax revenues, accumulation of trash and debris, increased risk of fire, and potential increases in criminal activity and the [NAME OF MUNICIPALITY] incurs disproportionate costs when addressing problems associated with vacant and abandoned structures, including but not limited to police calls, fire calls and property inspections; and

(C) It is in the public interest for the [NAME OF MUNICIPALITY] to establish minimum standards of accountability for the owners and other responsible parties of vacant and abandoned structures to protect the health, safety and general welfare of the residents of the [NAME OF MUNICIPALITY]. It is in the public interest for the [NAME OF MUNICIPALITY] to impose a fee in conjunction with a registration ordinance for vacant and abandoned structures in light of the disproportionate costs imposed on the municipality by the presence of these structures.

Appendix I
New York Model Vacant Property Registration Ordinance

(2) DEFINITIONS

For purposes of this ordinance, the following terms are defined as set forth herein:

“Evidence of Vacancy” shall mean any and all condition(s) that would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to, overgrown or dead vegetation; accumulation of debris or abandoned personal property; and statements by neighbors, passers-by, delivery agents or government agents, among other evidence that the property is vacant.

“Municipal officer” shall mean the Director of the Department of [INSERT NAME OF DEPARTMENT], or such official within that department as may be designated by the Director in writing who is responsible to perform duties noted hereunder.

“Owner” shall include the title holder, any agent of the title holder having authority to act with respect to a vacant property, any foreclosing entity that has filed a notice with the municipal clerk pursuant to the provisions of RPAPL S. 1307, or any other entity determined by the municipal officer of the [NAME OF MUNICIPALITY] to have authority to act with respect to the property.

“Vacant Property” shall mean any building or structure that is not currently legally occupied or at which all lawful business or construction operations or residential uses or other occupancy have substantially ceased and which is in such condition that it cannot legally be re-occupied without repair or rehabilitation, including but not limited to any property

Section (2) “Owner”:

RPAPL S. 1307 imposes legal responsibility on lenders initiating foreclosure for maintaining properties in the foreclosure process if they become vacant at any point subsequent to the initial foreclosure filing.

Section (2) “Vacant Property”: New York law provides a detailed definition of an abandoned property, which can be found in New York Statutes Annotated (RPAPL) S. 1309 2(a) – 2(d). The law defines “vacant and abandoned residential property” as property at which three consecutive inspections found that (i) no occupant was present and

Appendix I
New York Model Vacant Property Registration Ordinance

meeting the definition of abandoned property in RPAPL S. 1309 2(a) – 2(d) provided, however, that any habitable property where all building systems are in sound working order, where the building and grounds are maintained in good condition, and [or] which is being actively marketed by its owner for sale or rental, shall not be deemed a vacant property for purposes of this ordinance.

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 New York property maintenance code. RPAPL 1309 2(a) – 2(d) also provides specific examples of when the premises is presumed to be abandoned and when it is not.

This definition excludes properties that are habitable, in sound working order, or actively marketed. The municipality may modify this definition to differentiate and exclude certain buildings based on building stock. (See Albany Code §133-78.3 K.) These properties are NOT subject to the registration requirement and are therefore exempt by definition. See below regarding exemptions from fees of registered properties.

(3)REGISTRATION

(A) Effective on [DATE], the owner of any vacant property as defined herein shall, within [INSERT NUMBER] days after the building becomes vacant property or within [INSERT NUMBER] days after assuming ownership of the vacant property, whichever is longer; or within [INSERT NUMBER] days of receipt of notice by the municipality, file a registration statement for such vacant property with the municipal officer on forms provided by the municipal officer, along with any fee required by this ordinance. Failure to receive notice by the municipality shall not constitute grounds for failing to register the property.

Section (3): This section sets forth the key procedural elements of the VPRO. Examples of the registration statement forms can be found at the following links: [City of Newburgh](#) and [City of Albany](#).

Section (3)(A): Municipalities require registration within ten to 90 days of the triggering event. Length of time varies depending on municipal factors. The standard requirement used by most municipalities is 30 days.

(B) Each property having a separate tax block and lot number shall be registered separately.

Appendix I

New York Model Vacant Property Registration Ordinance

(C) The registration shall include the information required under section (5) of this ordinance, the insurance certificate required under section (8) of this ordinance, and any additional information that the municipal officer may reasonably require.

(D) The registration shall remain valid for one year from the date of registration. The owner shall be required to renew the registration annually as long as the building remains vacant property and shall pay a registration or renewal fee in the amount prescribed in section (6) for each vacant property registered.

(E) For purposes of efficient administration, the municipal officer may require all registrations to be renewed by a single date in each year, which date shall be established by the municipal officer and in which case the initial registration fee shall be pro-rated for registration statements received less than 10 months prior to that date

(F)(i) Any owner of vacant property who plans to restore the property to productive use and occupancy during the twelve month period following the date of the initial registration of the property shall file a detailed statement of the owner's plans for restoration of the property with the registration statement and shall be exempt from payment of the registration fee but shall comply with all other provisions of this ordinance. The municipal officer may extend the waiver of the registration fee for not more than one additional year in response to a written request by the property owner where the municipal officer finds that compelling conditions outside

Section (3)(F)(i): This provision exempts properties with a detailed plan for restoration and reuse from the registration fee. It does NOT exempt them from the registration requirement because these properties must be included in the VPRO system for information purposes, whatever the owner's plans. In many cases where large or multiple properties are involved, difficulties associated with establishing financing and obtaining environmental clearances, etc., may delay rehabilitation. The ordinance provides flexibility to deal with these realities.

Appendix I

New York Model Vacant Property Registration Ordinance

the owner's control made it impossible for the owner to restore the property within the initial twelve month period. If the property has not been restored to productive use and occupancy at the end of the waiver period, the owner shall be liable for any fee waived.

(F)(ii) Where (a) the owner is an entity experienced in rehabilitation or redevelopment of vacant properties, (b) the property subject to this ordinance is being held for a project of rehabilitation or redevelopment consistent with municipal plans and ordinances, and (c) by virtue of financing, market or other conditions this project may require more than one year for realization, the municipal officer may extend the waiver of the registration fee on an annual basis without limitation upon written request by the owner as long as the municipal officer finds that the owner is making reasonable progress toward completion of the project. The owner shall provide municipal officer with such documentation, which may include plans, financing applications, applications for land use approval or other evidence of progress.

(G) The owner shall notify the municipal officer within 30 days of any change in the registration information by filing an amended registration statement on a form provided by the municipal officer for such purpose.

(H) The registration statement shall be deemed prima facie proof of the statements therein contained in any administrative enforcement proceeding or court proceeding instituted by the municipality against the owner or owners of the building.

The municipality may add the following optional provisions to assist in the rehabilitation process, track demolitions and ensure compliance with local codes:

(3)(F)(iii) The municipal officer shall provide the owner with a written referral to the [INSERT NAME OF DEPARTMENT] for information outlining programs available that may be useful in developing the owner's rehabilitation plan.

(3)(F)(iv) If the building is to be demolished, the owner's plans must include a demolition plan indicating the proposed time frame for demolition.

(3)(F)(v) Any repairs, improvements, or alterations to the property must comply with any applicable zoning, housing, historic preservation, or building codes and must be secured during the rehabilitation.

Appendix I
New York Model Vacant Property Registration Ordinance

(4) RENEWAL

At any time after filing a registration statement or a renewal of a registration statement, the owner of any vacant property shall provide access to the municipality to conduct exterior and interior inspections of the building to determine compliance with municipal codes, on reasonable notice to the property owner or the designated agent.

Section (4): Town Law § 138 states that the “. . . inspector shall have charge of the enforcement of such codes, ordinances, rules and regulations of the town and of the zoning ordinance of the town, if there be one, and for such purposes such inspector, and his assistants, if any, shall have the right to enter and inspect at any time any building, structure or premises and to perform any other act necessary for the enforcement of such codes, ordinances, rules or regulations, or any of them.”

(5) REGISTRATION REQUIREMENTS

(A) The registration statement shall include:

(i) the name, street address, e-mail address and telephone number of a natural person 18 years of age or older who is designated by the owner or owners as the authorized agent for receiving notices of code violations and for receiving process in any court proceeding or administrative enforcement proceeding on behalf of such owner or owners in connection with the enforcement of any applicable code; and

(A)(ii) the name, street address, e-mail address and telephone number of the firm or individual responsible for maintaining the property. The individual or a representative of the firm responsible for maintaining the property shall be available by telephone or in person on a 24 hour per day, seven day per week basis. The two entities may be the same or different persons. Both entities shown on the statement must maintain offices in the state of New York or reside within the state of New York.

Section (5)(A) and (B) are designed to reduce the problems that municipal code officials experience in serving notice on absent property owners.

The municipality may add the following optional provisions for the authorized agent and property maintenance firm:

(5)(A)(ii): replace last sentence with: “The authorized agent must maintain offices in the state of New York, and the individual or a representative of the firm responsible for maintaining the property must maintain offices within 45 miles of the municipality.”

(A)(iii) A description of the premises, including street address, section, block and lot, and type of building;

Appendix I
New York Model Vacant Property Registration Ordinance

(B) An owner who is a natural person and who maintains offices in the state of New York or resides within the state of New York may designate him or herself as agent or as the individual responsible for maintaining the property.

(C) By designating an authorized agent under the provisions of this section, the owner consents to receive any and all notices of code violations concerning the registered vacant property and all process in any court proceeding or administrative enforcement proceeding brought to enforce code provisions concerning the registered building by service of the notice or process on the authorized agent. Any owner who has designated an authorized agent under the provisions of this section shall be deemed to consent to the continuation of the agent's designation for the purposes of this section until the owner notifies the municipal officer in writing of a change of authorized agent or until the owner files a new annual registration statement.

(D) Any owner who fails to register a vacant property under the provisions of this ordinance shall further be deemed to consent to receive, by posting at the building, any and all notices of code violations and all process in an administrative proceeding brought to enforce code provisions concerning the building.

(6) FEES

(A) The registration and renewal fee for each building shall be as follows:

Initial Registration	[INSERT FEE AMOUNT]
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(A)(iv) The date the building became vacant and the period of time the building is expected to remain vacant;

(A)(v) A description of what will be done to secure the structure so that it will not become open to the general public; and

(A)(vi) The status of water, sewer, natural gas, and electric utilities.

Section (6): Considerable variation in annual fee amounts exists between municipalities. When setting fees, municipalities should avoid imposing high fees designed to be punitive because a clear nexus must exist between collected municipal fees and actual costs incurred by the municipality. Fee amounts should not be established to

Appendix I
New York Model Vacant Property Registration Ordinance

Renewal	[INSERT FEE AMOUNT]
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(B) All funds collected from registration and renewal fees under this section shall be deposited in a dedicated trust fund to be used exclusively for municipal activities with respect to vacant and problem properties in the municipality, including but not limited to inspection, nuisance abatement, securing and boarding, maintaining property information systems, and reasonable administrative and legal costs associated with any of the above.

enhance the municipal general fund. The findings and purpose in Section (1) above are designed to help establish the required nexus. Some municipalities increase fees on an annual basis if the property remains vacant, an approach pioneered by Wilmington, Delaware. Municipalities must justify why the fee is increasing and show how the increase is related to additional expenses incurred by the municipality in administering the program. See, e.g., Walton v. New York State Dept. of Correctional Services, 13 N.Y.3d 475 (2009). For example, Newburgh’s VPRO has ascending fees that are funneled to a dedicated trust fund to ensure proceeds are used exclusively for municipal activities associated with vacant and problem properties. See City of Newburgh, NY, Code § 121-3. Beacon’s VPRO imposes flat fees that vary depending on building type, and the City uses these fees to offset the increased cost of inspections and enforcement related to vacant buildings. See City of Beacon, NY Code § 92-8. Albany uses an ascending fee schedule that varies depending on building type and applies registration fees toward the cost of any building permit fees otherwise owed for work proposed at the building for which the vacant building registration fee was paid. See City of Albany, NY Code § 133-78.3.

Municipalities should avoid increasing rehabilitation costs and should consider including the following optional provision:

(6)(C) The municipal officer shall apply the registration or renewal fee toward the cost of any building permit fees otherwise owed for work proposed at the building for which the registration or renewal fee was paid.

Appendix I New York Model Vacant Property Registration Ordinance

(7) PROPERTY CONDITION REQUIREMENTS

The owner of any structure that has become vacant property, and any person responsible for maintaining any such building that has become vacant, shall within 30 days of the structure becoming vacant or 30 days of the owner taking title to the property:

(A) Enclose and secure the structure as provided in the applicable codes of the [NAME OF MUNICIPALITY] or as set forth in rules and regulations adopted by the municipal officer to supplement those codes.

(B) Ensure that the grounds of the structure, including yards, fences, sidewalks, walks and driveways are well-maintained and kept free from trash or debris.

(C) Post a sign affixed to the structure with the name, address and telephone number of the owner and the owner's authorized agent for the purpose of service of process, and the name, address and telephone number of the entity responsible for maintenance of the property, which may be the same as the owner or authorized agent. If the structure is set back from the street the sign may be posted on a well-secured post or stake in the front yard of the property. The sign shall be at least 18 inches x 24 inches in dimension but no more than 24 inches x 36 inches, in compliance with local sign regulations pursuant to [INSERT SECTION OF CODE], and shall include the words "to report problems with this building, call...", and shall be placed in a location where it is clearly legible from the nearest public street or sidewalk, whichever is nearer; and

Section 7 sets forth property maintenance obligations imposed on owners and gives the responsible municipal official the authority to expand on these obligations by adopting rules and regulations.

Section (7)(C): Some municipalities opt not to require a posted sign to protect the public interest. A sign may draw trespassers onto the property, causing more vandalism and graffiti and imposing a further burden on the property owner. In addition, any sign must comply with the local sign code, so this provision should be amended accordingly.

Appendix I
New York Model Vacant Property Registration Ordinance

(D) Maintain the structure in a secure and closed condition, keep the grounds in a clean and well-maintained condition, and ensure that the sign is visible and intact until the building is again occupied or demolished or until repair or rehabilitation of the building is complete.

(E) At the sole, reasonable discretion of the Building Inspector of the [NAME OF MUNICIPALITY], all utilities are to be disconnected or service discontinued at the curb or property line.

(8) INSURANCE REQUIREMENTS

The owner of any vacant property shall acquire or otherwise maintain liability insurance, in an amount of not less than \$[INSERT AMOUNT] for buildings designed primarily for one-to four-unit residential use and not less than \$[INSERT AMOUNT] for any other building, including, but not limited to, buildings designed for multifamily, manufacturing, storage or commercial uses, covering any damage to any person or any property caused by any physical condition of or in the building. Any insurance policy acquired or renewed after the building has become vacant shall provide for written notice to the municipal officer within 30 days of any lapse, cancellation or change in coverage, and the owner shall provide such written notice of any lapse, cancellation or change in coverage to the municipal officer. The owner shall attach evidence of the insurance to the owner's registration statement. Any registration statement submitted that does not include such evidence shall not be deemed to be a valid registration.

Section (8): The appropriate amount of liability insurance must be reasonable based on the value of the property. The municipality may include ranges but must be flexible based on what a reasonable insurer would provide for the specific registered property. Generally, insurance limits for vacant properties range from \$300,000 to \$1,000,000, but it is within the municipality's discretion to decide.

Appendix I

New York Model Vacant Property Registration Ordinance

(9) ONLINE REGISTRATION

The [NAME OF MUNICIPALITY] shall establish an online registry of all properties registered with the municipality under this ordinance. The registry shall include a procedure by which citizens can provide the municipal officer, through electronic means, with information on unregistered properties that may be subject to this ordinance.

Section (9) is designed to ensure all vacant properties are registered by enlisting citizens, non-profit organizations, and neighborhood associations to help the municipality identify unregistered vacant properties. If an online registry is not feasible, the municipality may revise Section 9 to require an online list of all properties declared vacant under the VPRO instead, but should also provide another way for citizens to report unregistered vacant properties.

(10) MUNICIPAL OFFICER AUTHORITY

The municipal officer may issue rules and regulations for the administration of the provisions of this ordinance.

(11) PENALTIES FOR VIOLATION

(A) Any person who violates any provision of this ordinance or of the rules and regulations issued hereunder shall be fined not less than \$[INSERT AMOUNT] and not more than \$[INSERT AMOUNT] for each offense. Every day that a violation continues shall constitute a separate and distinct offense. Fines assessed under this chapter shall be recoverable from the owner and shall be a lien on the property.

Section (11) includes fines chosen by the municipality for violations of the ordinance. Fines generally range from \$100 to \$1,000 but may vary based on the municipality's discretion.

(B) For purposes of this section, failure to file a registration statement within 30 days after a building becomes vacant property or within 30 days after assuming ownership of a vacant property, whichever is later; or within 10 days of receipt of notice by the municipality, failure to provide correct information on the registration statement, failure to comply with the provisions of sections (7) or (8) of this ordinance, or such other matters as may be established by the

Appendix I
New York Model Vacant Property Registration Ordinance

rules and regulations of the municipal, shall be deemed to be violations of this ordinance.

(12) EFFECTIVE DATE

This ordinance shall become effective upon publication as provided by law.

(13) SEVERABILITY

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

OPTIONAL PROVISIONS

The municipality may add the following optional provisions for quarterly reports (Albany) and cash bonds (Newburgh):

Quarterly Reports

Municipalities can add a provision requiring the municipal officer to submit quarterly reports to the chief elected official and local legislative body. At a minimum, quarterly reports should state the current number of declared vacant properties and the current number of vacant property registrations filed or renewed. See the Albany VPRO for an example quarterly report provision.

Cash Bonds

Appendix I

New York Model Vacant Property Registration Ordinance

Some communities require the owner of a vacant property to provide a cash bond within a certain amount of time, often 10 days from the date on the registration form. A cash bond provides security if the municipal officer becomes authorized to secure and continue property maintenance until a property is legally occupied, sold, or transferred and remunerates the municipality for any expenses incurred. The provision may allow the municipality to retain an amount of the cash bond (typically not more than ten percent of its total value) as an administrative fee to fund an account for expenses incurred in inspecting, securing, maintaining, and marking other noncompliant vacant properties. Cash bond provisions typically require a separate bond for each of an owner's vacant properties.

Often, cash bonds are set at \$10,000 for vacant property owners; however, municipalities should customize the amount based on what is appropriate locally and should ensure that the amount reflects the actual costs the municipality will incur. See the [Newburgh](#) VPRO for an example cash bond provision.