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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~~ of Clarendon, New York
~~Town~~
~~Village~~

Local Law No. 5 of the year 2020.

A local law Adding Chapter 169 to the Clarendon Town Code
Concerning Vacant Building Registry
(Insert Title)

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

~~County~~
~~City~~ of Clarendon, Orleans County, New York as follows:
~~Town~~
~~Village~~

**A Local Law Adding Chapter 169 to the Clarendon Town Code
Concerning Vacant Building Registry**

Be it enacted by the Clarendon Town Board, County of Orleans, and State of New York (hereinafter referred to as the Board), as follows:

SECTION 1. - TITLE (§169-1)

This Local law shall be referred to as "Local Law No. 5 of 2020 adding Chapter 169 to the Clarendon Town Code concerning Vacant Building Registry".

SECTION 2. AUTHORIZATION (§169-2)

This Local Law is adopted pursuant to the legislative authority in Municipal Home Rule Law §10 and Town Law §261-§264.

SECTION 3. PURPOSE AND INTENT (§169-3)

The Town of Clarendon (sometimes hereinafter referred to as Clarendon) finds 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 Chapter is to establish rules for identifying and registering vacant buildings, to set forth the

various responsibilities of vacant building title holders and to enhance the rehabilitation of said vacant buildings.

SECTION 4. DEFINITIONS (§169-4)

As used in this Chapter, the following terms shall have the meanings indicated herein below:

1. EMERGENCY SITUATION: The condition of a building, structure, or any part thereof that is an imminent, immediate and/or substantial danger to the health, safety or welfare of occupants, emergency responders and/or the general public, said conditions to include, but not be limited to, fire hazards, structural deficiencies, falling or dilapidated buildings, lack of sanitary conditions and/or loss of significant water, heat and/or ventilation.

2. ENFORCEMENT OFFICER: The Clarendon Town Ordinance Inspection Officer or other designated individual(s) from the Clarendon Town Building Department.

3. OWNER: The person or entity identified as the record title holder in the Orleans County Clerk's Office and/or the Clarendon Town Assessor's Office, the person or entity shown to be the owner on a vacant building registration form, a mortgagee in possession, a mortgagor of record and/or in possession, an assignee of rents, a receiver, an executor, an administrator, a trustee, a lessee, or any other person or entity in control or possession of the subject premises, such person or entity having joint and several obligation for compliance with the provisions of this Chapter.

4. SECURED BY OTHER THAN NORMAL MEANS: A building, structure or property secured by means other than those used in the designed and approved plans for same.

5. UNOCCUPIED: Any building, structure (or portion thereof) lacking the habitual presence of a human being having legal authority to occupy or possess said building or structure, including a building or structure ordered vacated by the Clarendon Town Building Department. The Clarendon Ordinance Inspection Officer may consider, among other things, the following facts and circumstances in making a determination that a building or structure is unoccupied:

- A) If lawful residential or business activity has ceased;
- B) Comparison of the percentage of the overall square footage of occupied to unoccupied space or comparison of the overall number of occupied to unoccupied units;
- C) If the building or structure is substantially devoid of contents and/or the minimal value of fixtures and/or personal property in said building or structure;
- D) If the building or structure lacks utility services;
- E) If the building or structure is subject to a foreclosure action;
- F) If the building or structure is subject to a bankruptcy action;
- G) The duration of the vacancy;
- H) The presence or reoccurrence of code violations.

6. UNSECURED: A building or structure or portion thereof, open to entry by any unauthorized person without the use of tools or ladders.

7. VACANT BUILDING: A building or structure, or portion thereof, which any one or more of the following apply:

- A) Unoccupied and/or unsecured;
- B) Unoccupied and/or unsecured by other than normal means;
- C) Unoccupied and unsafe as determined by the Clarendon Ordinance

Inspection Officer;

D) Unoccupied subject to a prior Court Order(s) and/or an Order (s) from the Clarendon Ordinance Inspection Officer;

E) Illegally occupied;

F) Unoccupied for a period of time of over ninety (90) days, except where an owner maintains residency in another location during winter months or otherwise is absent for an extended period of time due to travel, illness or other exigent circumstances.

SECTION 5. VACANT BUILDING REGISTRATION (§169-5)

1. The owner of a vacant building or structure will register with the Clarendon Building Department no later than thirty (30) days after any building or structure becomes a "vacant building" as defined herein and/or not later than thirty (30) days after being notified by a the Clarendon Ordinance Inspection Officer of the requirement to do so. The Clarendon Ordinance Inspection Officer may identify vacant buildings or structures through any routine inspection process or through notification by residents, neighborhood associations and other community groups that same may be eligible for inclusion on the registry. Notice will be deemed received by the owner, property manager, or any occupant three (3) days after personal delivery or five (5) days by first class mail. Clarendon may also post notices on Clarendon's website to provide additional notice to the public. However, Clarendon's failure to post such violations on Clarendon's website will not constitute a defense to any enforcement proceeding or collection of fines.

2. The registration will be submitted on forms provided by the Clarendon Ordinance Inspection Officer and will include the following information:

A) A description of the premises, including square footage, number of stories, age of the building or structure, and most recent use of the building or structure;

B) The names, addresses and telephone numbers of all owners. If the owner is a corporation, limited liability company or partnership, the address for each director, manager and/or partner. The address of the owners must include a street address and mailing address, if different;

C) If the owner does not reside in the County of Orleans or any adjoining county, the name and address of a property manager who does reside in Orleans Country or any adjoining county. The address must include a street address and mailing address, if different;

D) The names and address of all known lienholders and anyone with an ownership interest in the building or structure. The address must include a street address and mailing address, if different;

E) 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 and mailing address, if different;

F) A vacant building plan or structure plan as described in Subsection 3 below.

3. The owner will submit a vacant building or structure plan subject to the approval of the Clarendon Ordinance Inspection Officer. The plan must contain information from one of the following:

A) If the building or structure is to be demolished, demolition plans indicating the proposed time frame for demolition;

B) If the building or structure is to remain vacant, a plan for the securing of the building or structure in accordance with standards provided below, with the procedure to be used to maintain the property and a statement of the reason(s) why the building or structure will be left vacant;

C) If the building or structure is to be returned to appropriate occupancy or use, rehabilitation plans for the building or structure must be submitted to the Clarendon Ordinance Inspection Officer. The time frame for rehabilitation plans will not exceed three hundred sixty five (365) days from the date of submission and will include progress benchmarks at least every four (4) months, unless the Clarendon Ordinance Inspection 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 applicable zoning, housing, historic preservation and/or building codes. The building or structure must be secured in accordance with this Chapter. Any building or structure that is vacant longer than three hundred sixty five (365) days will lose its current Certificate of Occupancy and must have a new Certificate of Occupancy issued before the building or structure can be occupied.

4. The owner will comply with all applicable laws and codes. The owner will notify the Clarendon Ordinance Inspection Officer of any change in information supplied as part of the vacant building or structure registration within thirty (30) days of said change. If the plan or timetable for the vacant building or structure is revised, the said revision must be in writing and must meet the approval of the Clarendon Ordinance Inspection Officer.

5. The owner will keep the building or structure secured, safe and properly maintained as provided by both the New York State Property Maintenance Code and this Chapter.

6. Failure of the owner to maintain the building, structure and/or premises as required herein will constitute the basis for Clarendon to remediate the building, structure or premises with the cost of same to be incurred by said owner, and/or all rehabilitation plans and/or fees and penalties as provided herein.

7. The owner will notify the Clarendon Ordinance Inspection Officer of any transfer of ownership within fifteen (15) days of such a transfer. The new owner will comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and approved by the Clarendon Ordinance Inspection Officer.

8. Vacant building or structure registration fees.

A) The owner of a vacant building or structure will pay a registration fee as determined by the fee schedule adopted by Clarendon at any time during the course of a fiscal year. The registration fee is due and payable upon registration no later than thirty (30) days after any building or structure becomes vacant as defined above, or no later than thirty (30) days after being notified by the Clarendon Ordinance Inspection Officer of the requirement to register;

B) If the building or structure is to remain vacant, then the owner will also pay an annual vacant building fee, amount to be determined by the fee schedule adopted by

Clarendon. The fee schedule shall provide for differing amounts dependent upon the number of years that the building or structure is vacant;

C) If the building or structure is to be returned to appropriate occupancy or use, rehabilitation plans for the building or structure must be submitted to the Clarendon Ordinance Inspection Officer. The time frame for rehabilitation plans will not exceed three hundred sixty five (365) days from the date of submission and will include progress benchmarks at least every four (4) months, unless the Clarendon Ordinance Inspection 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 applicable zoning, housing, historic preservation and/or building codes. The building or structure must be secured in accordance with this Chapter. Any building or structure that is vacant longer than three hundred sixty five (365) days will lose its current Certificate of Occupancy and must have a new Certificate of Occupancy issued before the building or structure can be occupied;

D) If the owner of a vacant building or structure fails to register and pay the fees in a timely manner said owner will be subject to penalty set forth in the fee schedule adopted by Clarendon;

E) All delinquent fees will be paid by the owner prior to any transfer ownership interest in any vacant building or structure. The current owner will give any new written notice that the building or structure in question is a vacant building or structure under this Chapter;

F) Fees are to be delivered, by mail or in person, to the Clarendon Town Clerk's Office located at 16385 Church Street in Clarendon, NY or mailed to PO Box 145, Clarendon, NY 14429. A late charge of two percent (2%) per month, or any part thereof, will be assessed on any invoice which is unpaid after thirty (30) days from the date of either payment demand or invoice. A processing fee will be charged for each check returned by the bank. A replacement payment must be made in cash, money order, bank check or certified check and must include the processing fee and any applicable late charges. All invoices and/or any additional fees remaining unpaid will be added to the property owner's tax bill including all necessary additional fees.

9. The Clarendon Ordinance Inspection Officer will include in the property file written statements from community organizations, interested parties and/or citizens regarding the history, problems, status or blighting influence of a vacant building.

SECTION 6. MAINTENANCE (§169-6)

1. The owner of a vacant building or structure will take such steps and perform such acts as may be required to ensure that same remains safe, secure and does not present a hazard to any adjoining property. The owner will be responsible for maintaining the building and structure so it does not become an unoccupied hazard. In any building, structure or floor area that is vacant, or about to become vacant, there will be at least one (1) access which meets the approval of the Clarendon Ordinance Inspection Officer.

2. The owner will protect and maintain the exterior of the building or structure as follows:

A) All exterior walls, including foundations, will 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;

B) All exterior doors, windows, skylights and similar openings will be maintained weather-tight;

C) All exterior stairs, porches, entrance platforms, fire escapes and railings thereon shall be maintained in good repair and in safe condition;

D) Roofs shall be maintained in a weather-tight condition;

E) All 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;

F) All coverings for windows, doors and enclosures shall be properly fitted and of such material surface so that they are not unsightly and/or will not detract from the general appearance of the building, structure or neighborhood;

G) All coverings 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 Clarendon Ordinance Inspection Officer. The materials will be of such design and color so as to blend in with the finish of the building or structure;

H) All windows that are not cracked or broken may be covered with interior blinds, curtains, shades or decorative paper;

I) Building or structure will be kept free of insects, vermin and/or rodent harborage and will be treated;

J) All excavations, swimming pools, or other nuisances must be filled in or properly closed.

3. In addition to the standards prescribed hereinabove, vacant commercial and retail buildings or structures shall comply with the following standards:

A) All damaged first floor windows will be replaced by glass, Plexiglas, or an approved material;

B) All exterior signs, awnings and lighting systems, if not removed, shall be maintained in a non-deteriorated and safe condition.

4. The owner will protect and maintain the exterior of the building or structure as follows:

A) The structure will be maintained to resist and prevent deterioration;

B) Unheated attics, spaces below flat roofs, and crawl spaces will be ventilated to minimize deterioration;

C) Ceiling, walls, floors and stairways will be maintained in a safe and sound condition.

5. The owner will maintain the premises as follows:

A) The owner will not permit garbage and refuse to accumulate;

B) Same will be maintained free of insects, vermin and rodent harborage and infestation;

C) Refrigerators and similar equipment with locking mechanisms will not be discarded, abandoned or stored without first removing the locking devices or the hinges of all doors to same;

D) No unregistered vehicles will be stored on the premises;

E) Chimneys, smokestacks, flues, gas vents, smoke pipes and connectors will be maintained structurally safe and smoke tight;

F) If the building or structure is to be demolished or remain vacant, then, within fifteen (15) 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 or structure is going to be rehabilitated, then same 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;

G) Fuel tanks will be maintained so as not to be a hazard or will be discontinued in a manner consistent with Chapter C of the New York State Uniform Fire Prevention and Building Code (NYCRR);

H) The domestic water supply system of any building or structure will be connected to an approved source, will not be subject to contamination and will not be connected to unsafe water supplies, or the system will be disconnected at the main and completely drained;

I) Storm-water drainage systems will be maintained so as to function properly and kept free from obstructions, leaks and defects. Sewage systems will be similarly maintained or will be sealed so as to prevent accumulations of sewage gases in buildings or structures;

J) Electrical fixtures, devices, wiring and systems will be maintained in safe working condition in a manner which will avoid a potential ignition or shock, or service will be disconnected at the supply;

K) Elevators, dumbwaiters and escalators will be maintained or taken out of service;

L) The owner will provide for snow removal;

M) The owner will maintain yards and vacant lots trimmed and mowed, with the height of grass and weeds being no more than ten (10) inches and clean and free from physical hazards, rodents harborage and infestation.

6. Whenever the owner of a vacant building or structure fails to comply with a notice from the Clarendon Ordinance Inspection Officer to take steps and perform acts as are required of him or her to ensure that a building or structure and its adjoining yards remain safe and secure and do not present a hazard to adjoining property in violation of this Chapter, Clarendon may enter onto the building or structure and take steps and perform acts to render the building or structure and its adjoining yards safe, secure and free from hazards to adjoining property and the public. These acts will include but not 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. All expenses incurred above will be the responsibility of the owner to pay (or reimburse Clarendon) in a timely fashion.

SECTION 7. EXEMPTIONS (§169-7)

1. A building or structure which has suffered fire damage or damage caused by extreme weather conditions will be exempt from the registration requirements for a period of sixty (60) days after the date of said fire or weather event if the property owner submits a request for exemption in writing to the Clarendon Ordinance Inspection Officer. This request will include the following supplied by the owner:

A) A description of the building or structure;

B) The reason for exemption;

C) The name and street address of the owner and mailing address, if different;

D) A statement of intent to either repair and/or reoccupy same in an expedient manner or any intent to demolish same.

SECTION 8. INSPECTIONS (§169-8)

By registering a vacant building or structure, an owner is deemed to have consented to the Clarendon Ordinance Inspection Officer inspecting the premises for purposes of enforcing and assuring compliance with the provisions of this Chapter. Upon the request of the Clarendon Ordinance Inspection Officer an owner will provide access to all interior portions of a vacant building in order to permit the inspection. Nothing contained herein will diminish the owner's right to insist upon the procurement of a search warrant from a Court of competent jurisdiction by the Clarendon Ordinance Inspection Officer, or his or her designee, in order to enable such inspection. The Clarendon Ordinance Inspection Officer will 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 will not apply.

SECTION 9. PENALTIES FOR OFFENSES (§169-9)

1. Any owner violating any provision of this Chapter, or providing false information to the Clarendon Ordinance Inspection Officer, will be subject to the following fines:

A) One Thousand Dollars (\$1,000.00) or imprisonment not exceeding six (6) months, or both such fine and imprisonment;

B) Each day of violation will be deemed to constitute a separate offense without the necessity of the issuance of a new ticket or accusatory instrument;

C) Fines levied will constitute civil forfeitures to Clarendon.

SECTION 10. SEVERABILITY AND/OR VALIDITY (§169-10)

If any clause, sentence, paragraph, subdivision, section or part of this Local Law, or the application thereof to any person, individual, firm or corporation, or circumstance, shall be adjudged by a Court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Local law, or in its application to the person, individual, firm or corporation, or circumstance, directly involved in the controversy in which said order or judgment shall be rendered.

SECTION 11. EFFECTIVE DATE (§169-11)

This Local Law shall take effect upon the date it is filed in the Office of the New York State Secretary of State in accordance with the Municipal Home Rule Law §27.