

TOWN OF WEST SENECA
LOCAL LAW NO. 1 OF THE YEAR 2018

A Local Law of the Town of West Seneca to add a new
Chapter 58 of Part II to the Town Code, Point of Sale Inspections, as follows:

Be it enacted by the Town Board of the Town of West Seneca:

Chapter 58: Point of Sale Inspections – Vacant and Abandoned Residential Real Property

§58-1 Purpose.

The Town of West Seneca has determined that it is in the interest of protecting the public health, safety and welfare to maintain, preserve and improve residential housing by requiring point of sale inspection of all vacant and abandoned residential property as a condition of the sale of housing.

§58-2 Definitions.

As used in this chapter, the following terms shall have the meanings indicated:

MORTGAGEE

Mortgagee means the holder of a mortgage and/or note secured by residential real property, including, as applicable, the original lender under a mortgage, its successors and assigns, and the holders of credit instruments issued under a trust indenture, mortgage or deed of trust pursuant to which such holders act by and through a trustee therein named.

RESIDENTIAL REAL PROPERTY

Residential real property shall mean real property located within the Town of West Seneca improved by any building or structure that is or may be used, in whole or in part, as the home or residence of one or more persons, and shall include any building or structure used for both residential and commercial purposes.

VACANT AND ABANDONED RESIDENTIAL REAL PROPERTY

Vacant and abandoned residential real property shall be defined pursuant to section thirteen hundred nine of New York Real Property Actions and Proceedings Law or if such property was listed on the statewide vacant and abandoned property electronic registry pursuant to thirteen hundred ten of the New York Real Property Actions and Proceedings Law one (1) year prior to sale or transfer.

§58-3 Inspection officials.

The Town Code Enforcement Officials are hereby designated as officials to inspect any property subject to this chapter.

§58-4 Duty of owner or mortgagee or purchaser or transferee.

- A. No owner or agent or mortgagee of any vacant and abandoned residential real property shall sell, transfer or otherwise convey an interest or enter into an agreement to sell, transfer or otherwise convey an interest in such property, including by land installment contract or a transfer from a mortgagor to a mortgagee in lieu of foreclosure, or similar transaction, without first presenting the prospective purchaser or grantee with a copy of a point of sale inspection certificate issued by the Town of West Seneca inspection officials.
- B. The owner or agent or mortgagee shall arrange to have all properties subject to the requirements of this chapter inspected by the Town of West Seneca inspection officials within ten (10) business days of publication of the notice of judicial sale. For all other transfers, the owner or agent or mortgagee shall arrange to have the property inspected by Town of West Seneca inspection officials not more than thirty (30) days prior to transfer.
- C. In the event that the vacant and abandoned residential real property is sold or transferred or conveyed and no point of sale inspection certificate has been issued within thirty (30) days prior to such sale, the purchaser or transferee shall have the duty to apply in writing to the Town of West Seneca Code Inspection Bureau within thirty (30) days of the date of sale or transfer for an inspection of the property and shall otherwise comply with the requirements of this Chapter.
- D. Where the purchaser or transferee has the duty to obtain the point of sale inspection because the owner or agent or mortgagee failed to do so, any such building code or other violations subsequently found shall be the joint and several liability of the owner or agent or mortgagee or purchaser or transferee.
- E. If the owner or agent or mortgagee or purchaser or transferee fails to arrange for an inspection, the property shall be inspected by the inspection officials pursuant to Chapter 57 of the Town of West Seneca Code.

§58-5 Fees.

- A. The fee charged for the point of sale inspection certificate shall be:
 - (1) Two hundred dollars (\$200.00) for a single-family dwelling;
 - (2) Three hundred dollars (\$300.00) for a two-family dwelling;
 - (3) Two hundred dollars (\$200.00) for the first dwelling unit in a multi-family dwelling structure and an additional fifty dollars (\$50.00) for each additional unit in a multi-family structure.
- B. A re-inspection fee of twenty-five dollars (\$25.00) shall be charged for each re-inspection.

§58-6 Point of Sale Inspection Certificates.

- A. Upon successful inspection, the Town of West Seneca Inspection Officials will issue of point of sale inspection certificate indicating compliance with Building, Fire and Safety Codes. Such certificate will expire after a period of thirty (30) days.
- B. If, as a result of the inspection, the Inspection Officials determine that health code violations, housing code violations, hazards, or structural defects exist on the property, the Inspection Officials shall provide written notice either personally or by registered mail addressed to the address listed in the application for the inspection, of the owner or agent or mortgagee or the purchaser or transferee, informing the parties of the following:
 - (1) The need to repair and correct the violations, hazards, or structural defects prior to sale or transfer;
 - (2) If the property is not brought into compliance within ninety (90) calendar days of the issuance of the notice of violation, the Town of West Seneca may correct or repair some or all of the violations;
 - (3) If the Town of West Seneca corrects or repairs some or all of the violations, either with Town employees or outside contractors, the cost and expenses shall be assessed against the land on which the building or structure is located.
 - (4) In addition to the cost or expense of such work ordered by the Inspection Officials, there shall be a fee of \$200 for administrative costs for each occurrence.
- C. Waiver of Point of Sale Inspection. The Town's Code Enforcement Official may temporarily waive the requirement of Point of Sale Inspection Certificate as a prerequisite to transfer of title, provided that, no later than ten (10) business days prior to the expected closing for such transfer or judicial sale:
 - (1) The owner or agent or mortgagee makes a written request to the Town's Code Enforcement Officer and such request includes a written, itemized quote by a licensed contractor approved by the Town of West Seneca, which provides for correction of all violations listed;
 - (2) The purchaser or transferee file with the Town's Code Enforcement Officer a written guaranty to correct all violations within ninety (90) days after the closing or a period of time specified by the Town's Code Enforcement Officer;
 - (3) The owner or agent or mortgagee or purchaser or transferee provides a sum equal to one hundred fifty percent (150%) of the estimated costs contained in the itemized quote above. Such sum shall be payable by certified check or bank draft to the Town of West Seneca at closing and held in escrow by the Town of West Seneca; such sum will be returned to the purchaser or transferee if the corrections are completed within the time specified in the guaranty, but which sum will be forfeited to the Town of West Seneca if needed corrections are not completed within the time frame specified in the written guaranty.

D. Violations. The following types of violations are of particular concern to the Town of West Seneca's vital interest in maintaining property values include, but are not limited to:

(1) Exterior

- Roof – chimney
- Paint – all related carpentry repairs (house and/or garage)
- Porch and step repair
- Downspouts to storm sewers
- Replacement of deteriorated windows and/or doors
- Concrete replacement or major repair
- Garage replacement or major repair
- Dead tree removal
- Fences

(2) Interior

- Major electrical repair
- Major plumbing repair
- HVAC
- Foundation – support post, block wall bowed or collapsed
- Major breach of ceilings, walls or floor
- Mold remediation

E. An owner or agent or mortgagee or purchaser or transferee aggrieved by a notice of violation may appeal from the action to the Town Board, which shall make a ruling on the appeal.