

TOWN BOARD MEETING OF JANUARY 21, 2020

A regular meeting was held on Tuesday January 21, 2020 at the Kent Town Hall, 25 Sybil's Crossing, Town of Kent, New York, 10512.

Resolution #60 - Adjourn to Executive Session

On a motion by Councilwoman McGlasson

Seconded by Supervisor Fleming

Resolved: The Town Board adjourned to Executive Session at 6:19 p.m. to discuss the medical, financial, credit or employment history of a particular person or corporation and current litigation.

Motion carried unanimously

Resolution #61 - Authorize Settlement Lawsuit – Executive Session Minutes taken by Jaime Spillane

On a motion by Councilman Denbaum

Seconded by Supervisor Fleming

Resolved: The supervisor is authorized to execute any and all documentation necessary to settle the Merritt litigation (Merritt Construction Inc. v Town of Kent Index No. 500289/2017 and Town of Kent v Merritt Construction Inc. Index No. 500529/2017) for a sum not to exceed \$125,000 and to present the stipulation to the Town Board once received in a form approved by the Town Attorney.

Motion carried unanimously

Resolution #62 - Adjourn Executive Session

On a motion by Councilman Denbaum

Seconded by Councilwoman McGlasson

Resolved: Executive Session adjourned at 7:08 p.m.

Motion carried unanimously

Pledge of Allegiance Supervisor Fleming called the Workshop Meeting to order with the Salute to the Flag.

Workshop Meeting

The Board discussed and reviewed all items on the workshop agenda.

Public Comment

Resident Sue Kotzur hopes the town board supports Supervisor Sam Olivera of Putnam Valley in regards to #4. Peekskill Hollow Road Weight Restriction. She said the trucks traveling on the road are already large enough. Supervisor Fleming read a draft of a letter she prepared to send to Putnam County. Sue Kotzur also hoped the board follows through on the mining moratorium.

The Town Board Meeting was called to order at 8:45 p.m. with Roll Call

Supervisor Maureen Fleming – present

Councilman Paul Denbaum – present

Councilwoman Jaime McGlasson – present

Councilman Bill Huestis – present

Councilman Ruthven – present

Resolution #63 - Introducing Local Law # /2020 & Providing for Public Notice & Hearing on Mining Moratorium

On a motion by Councilman Denbaum

Seconded by Councilwoman McGlasson

BE IT RESOLVED that an amendment to Kent Town Code to establish a Temporary Moratorium Prohibiting Mining is hereby introduced by Councilman Denbaum, as Introductory Local Law # ___ of the year 2020 before the Town Board of the Town of Kent in the County of Putnam and State of New York, and

BE IT FURTHER RESOLVED, that copies of the aforesaid proposed Amendment, which is attached hereto, be laid upon the desk of each member of the Board, and

BE IT FURTHER RESOLVED, that the Town Board will hold a public hearing on said proposed Amendment at the Town Hall, in the Town of Kent, New York at 7:00 o'clock P.M. on February 18, 2020, and

BE IT FURTHER RESOLVED, that the Town Clerk publish or cause to be published a public notice in the official newspaper of the Town of Kent of said public hearing at least ten (10) days prior thereto.

Motion carried unanimously

TOWN OF KENT LOCAL LAW NO. ____ of 2019
A LOCAL LAW ESTABLISHING A TEMPORARY LAND USE MORATORIUM
PROHIBITING MINING WITHIN THE TOWN OF KENT

BE IT ENACTED by the Town Board of the Town of Kent, Putnam County, New York, as follows:

Section 1. Legislative Intent.

This local law is intended to temporarily prohibit the issuance of permits for the excavation of sand, gravel, topsoil, rock or other natural material within the Town of Kent for a period of up to six (6) months, pending the further development and adoption of local laws and/or ordinances prepared to regulate and govern such excavation.

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It is deemed necessary to enact this moratorium in order to permit the Town Board adequate time in which to draft suitable legislation to allow for proper and authorized regulation of mining within the Town of Kent. During the term of the moratorium, the Town of Kent shall work to prepare and eventually adopt additional land use provisions and regulatory processes to provide for the benefit, health and general welfare of the residents of the Town of Kent.

The objective of this moratorium is to allow the Town of Kent to assess and address its Code to promote community planning values by properly regulating such excavation. During the pendency of the moratorium, the Town Board will consider how best to permit excavation in certain areas so as to harmoniously integrate such with the existing community and landscape. Moratoria are useful in controlling or temporarily inhibiting development until satisfactory final regulations are adopted.

For these reasons, the Town Board finds that temporary moratorium legislation is both advisable and necessary for a reasonable and defined period of time in order to further develop and adopt necessary zoning and land use changes to the Kent Town Code, thus protecting and furthering the public interest, health and safety.

Section 2. Scope of Moratorium.

There is hereby adopted in the Town of Kent a six (6) month moratorium on the consideration, receipt or grant of temporary permits, pursuant to Chapter 63 of the Town of Kent Town Code entitled "Soil Removal", for the excavation of sand, gravel, topsoil, rock or other natural materials.

During the term of the moratorium, the Town Board intends to develop, consider and adopt changes to its land use local laws so as to regulate Soil Removal and ensure that any mining conducted within the Town is consistent with the terms and goals of the Town's Comprehensive Plan.

While the moratorium is in effect, no applications shall be accepted and no temporary permits issued or approvals given by the Town Board except as authorized pursuant to Section 3, below.

Section 3. Variances and Appeals.

Applications for land use otherwise subject to this moratorium may be exempted from the provisions of this Local Law following a noticed public hearing before the Town Board. It is specifically intended that this moratorium shall supersede New York State law which would otherwise confer variance applications exclusively to the zoning board of appeals.

Following a written request for hardship variance relief, within sixty (60) days of receipt of such request, a noticed public hearing shall be held, at which hearing the Town Board may, but is not limited to consider:

A. The proximity of applicant's premises or the subject of applicant's request for relief to natural resources, including but not limited to prime agricultural soils, wetland areas, conservation districts and other areas of environmental concern.

B. The impact of the proposed application on the applicant's premises and upon the surrounding area.

C. Compatibility of the proposed application with the existing land use and character of the area in general proximity to the subject of the application, and its effect upon aesthetic resources of the community.

D. Compatibility of the proposed application with the recommendations of any administrative body charged with such review by the Town of Kent.

E. The written opinion of the Town of Kent Planning Board and the Town of Kent Code Enforcement Officer that such application may be jeopardized or made impractical by waiting until the moratorium is expired.

F. Evidence specifying in detail the nature and level of any alleged hardship imposed on the property owner(s) as a result of this moratorium.

G. Such other considerations and issues as may be raised by the Town Board.

In making a determination concerning a proposed exemption or grant of relief from application of the moratorium, the Town Board may obtain and consider reports and information from any source it deems to be helpful with review of said application. A grant of relief from application of the moratorium shall include a determination of unreasonable hardship upon the property owner (or if there are multiple property owners, a determination that each such owner shall suffer an unreasonable hardship) which is unique to the property owner(s), a finding that there are sufficient existing regulations to adequately govern the application for which a hardship waiver is being requested, and a finding that the grant of an exemption will be in harmony with, and will be consistent with the existing Town of Kent Zoning Ordinance and the recommendations of the Comprehensive Plan as such may exist.

An application for relief from the prohibitions of the moratorium shall be accompanied by a fee as set forth by resolution of the Town Board, together with the applicant's written undertaking, in a form to be approved

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by the Attorney for the Town, to pay all of the expenses of the Town Board and any agent or consultant retained by the Town Board to evaluate and consider the merits of such application, including but not limited to any fees incurred by the Town for services provided by the Attorney for the Town.

Section 4. Penalties.

A. Failure to comply with any of the provisions of this Local Law shall be an unclassified misdemeanor as contemplated by Article 10 and Section 80.05 of the New York State Penal Law, and, upon conviction thereof, shall be punishable by a fine of not more than One Thousand Dollars (\$1,000) or imprisonment for not more than 10 days, or both for the first offense. Any subsequent offense within a three-month period shall be punishable by a fine of not more than Two Thousand Dollars (\$2,000) or imprisonment for a period of not more than 30 days, or both. For purposes of this Clause A, each day that a violation of this Local Law exists shall constitute a separate and distinct offense.

B. Compliance with this Local Law may also be compelled and violations restrained by order or by injunction of a court of competent jurisdiction, in an action brought on behalf of the Town by the Town Board.

C. In the event the Town is required to take legal action to enforce this Local Law, the violator will be responsible for any and all costs incurred by the Town relative thereto, including but not limited to attorney's fees, and such amount shall be determined and assessed by the court. If such expense is not paid in full within 30 days from the date it is determined and assessed by the Court, such expense shall be charged to the property(ies) within the Town on which the violation occurred, by including such expense in the next annual Town tax levy against such property, and such expense shall be a lien upon such property until paid.

Section 5. Application.

The provisions of this local law shall apply to all real property within the Town of Kent, and all applications for the excavation of sand, gravel, topsoil, rock or other natural materials pursuant to Chapter 63 of the Town Code.

Section 6. Conflicts with State Statutes and Local Laws and Authority to Supersede.

To the extent that any provisions of this local law are in conflict with or are construed as inconsistent with the provisions of the New York State Town Law or any local ordinance, law, or regulation, this local law supersedes, amends, and takes precedence over the Town Law and such local ordinances, laws or regulations, pursuant to the Town's municipal home rule powers pursuant to Municipal Home Rule Law § 10 and § 22 to supersede any inconsistent authority. Pursuant to the same powers, and without limiting the generality of the foregoing, this local law supersedes the provisions contained in (a) Article 8 of the Environmental Conservation Law (known as the State Environmental Quality Review Act) and the regulations thereunder to the extent that such provisions require that an agency determine the environmental significance of an application within certain specified timeframes; and (b) Town Law § 267 and § 267-a through c, pertaining to the variance authority of the board of zoning and appeals.

Section 7. Validity and Severability.

If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstance, and the Town Board of the Town of Kent hereby declares that it would have passed this local law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 8. SEQRA Review.

The adoption of a moratorium constitutes a Type II action under 6 NYCRR Part 617, and therefore requires no further review under the State Environmental Quality Review Act (SEQRA).

Section 9. Effective Date.

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law and shall remain in force for a consecutive period of six (6) months from its effective date, unless extended by local law adopted after public hearing upon no less than five (5) days public notice.

Resolution #64- Introducing Local Law # /2020 & Providing for Public Notice & Hearing on Vacant Property Registry

On a motion by Councilman Denbaum

Seconded by Councilman Ruthven

BE IT RESOLVED that an amendment to Kent Town Code to authorize the addition of Code Chapter 68, entitled "Foreclosure of Mortgages and Vacant Property Registration" is hereby introduced by Councilman Denbaum, as Introductory Local Law #___ of the year 2020 before the Town Board of the Town of Kent in the County of Putnam and State of New York, and

BE IT FURTHER RESOLVED, that copies of the aforesaid proposed Amendment, which is attached hereto, be laid upon the desk of each member of the Board, and

BE IT FURTHER RESOLVED, that the Town Board will hold a public hearing on said proposed

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Amendment at the Town Hall, in the Town of Kent, New York at 7:00 o'clock P.M. on March 3, 2020, and

BE IT FURTHER RESOLVED, that the Town Clerk publish or cause to be published a public notice in the official newspaper of the Town of Kent of said public hearing at least ten (10) days prior thereto.
Motion carried unanimously

LOCAL LAW NO. __ OF THE YEAR 2020

LOCAL LAW CREATING CHAPTER 68 OF THE TOWN CODE OF KENT TO BE ENTITLED, "FORECLOSURE OF MORTGAGES AND VACANT PROPERTY REGISTRY"; REQUIRING THE REGISTRATION AND MAINTENANCE OF CERTAIN REAL PROPERTY BY MORTGAGEES AND VACANT PROPERTY BY OWNERS;

BE IT ENACTED by the Town Board of the Town of Kent, County of Putnam as follows:

Section 1: Name of Chapter:

This Local Law shall be known as: "FORECLOSURE OF MORTGAGES AND VACANT PROPERTY REGISTRY.

Section 2: Purpose.

WHEREAS, the Town Board desires to protect the public health, safety, and welfare of the citizens of the Town of Kent and maintain a high quality of life for the citizens of the Town through the maintenance of structures and properties in the Town; and

WHEREAS, the Town Board recognizes properties subject to foreclosure action or foreclosed upon and vacant properties (hereinafter referred to as "Registrable Properties") located throughout the Town lead to a decline in community and property value; create nuisances; lead to a general decrease in neighborhood and community aesthetic; create conditions that invite criminal activity; and foster an unsafe and unhealthy environment; and

WHEREAS, the Town Board has already adopted property maintenance codes to regulate building standards for the exterior of structures and the condition of the property as a whole; and

WHEREAS, the Town Board recognizes that, in the best interest of the public health, safety, and welfare, a more regulated method is needed to discourage Registrable Property Owners and Mortgagees from allowing their properties to be abandoned, neglected or left unsupervised; and

WHEREAS, the Town Board has a vested interest in protecting neighborhoods against decay caused by Registrable Property and concludes that it is in the best interests of the health, safety, and welfare of its citizens and residents to impose registration requirements of Registrable Property located within the Town to discourage Registrable Property Owners and Mortgagees from allowing their properties to be abandoned, neglected or left unsupervised.

Section 3. Amendment to Town Code.

The Town Board does hereby amend the Town Code by creating Chapter 68, entitled "Foreclosure Mortgages and Vacant Property, Registration Required" to read as follows.

CHAPTER 68.

FORECLOSURE OF MORTGAGES AND VACANT PROPERTY REGISTRY.

Sec. 68-1. PURPOSE AND INTENT.

It is the purpose and intent of the Town Board to establish a process to address the deterioration, crime, and decline in value of Town neighborhoods caused by property with foreclosing or foreclosed mortgages located within the Town and otherwise abandoned properties, and to identify, regulate, limit and reduce the number of these properties located within the Town. It has been determined that Owner-occupied structures are generally better maintained when compared to vacant structures, even with a diligent off-site property Owner. 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 Town Board's 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 in Foreclosure or Foreclosed, or otherwise abandoned properties; and to provide a mechanism to avert foreclosure actions through timely intervention, education, or counseling of property Owners.

Sec. 68-2. DEFINITIONS

The following words, terms, and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Code Enforcement Officer shall mean a person certified by the State of New York as a Code Enforcement Officer, and a duly authorized representative of the Town of Kent.

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Default shall mean 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.

Enforcement Officer shall mean any law enforcement officer, building official, zoning inspector, code enforcement officer, fire inspector, building inspector, or other person authorized by the Town to enforce the applicable code(s).

Evidence of Vacancy shall mean any condition that on its own, or combined with other conditions present, would lead a reasonable person to believe that the property is vacant. Such conditions may include, but are not limited to: overgrown and/or dead vegetation; past due Utility notices and/or disconnected Utilities; accumulation of trash junk or debris; abandoned vehicles, auto parts and/or materials; the absence of furnishings and/or personal items consistent with habitation or occupancy; the presence of an unsanitary, stagnant swimming pool; the accumulation of newspapers, circulars, flyers and/or mail; statements by neighbors, passers-by, delivery agents or government agents; and/or the presence of boards over doors, windows or other openings in violation of applicable code.

Foreclosure or Foreclosure Action shall mean 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.

Mortgagee shall mean 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.

Owner shall mean every person, entity, or Mortgagee, who alone or severally with others, has legal or equitable title to any Real Property as defined by this Chapter; has legal care, charge, or control of any such property; is in possession or control of any such property; is shown to be the owner or owners on the record of the Town of Kent Assessor's Office; and/or is vested with possession or control of any such property. The Property Manager shall not be considered the Owner.

Property Manager shall mean any party designated by the Owner as responsible for inspecting, maintaining and securing the property as required in this Chapter.

Real Property shall mean any residential or commercial 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 Town limits.

Registrable Property shall mean:

- (a) Any Real Property located in the Town, whether vacant or occupied, that is 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 Judgement 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" shall 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; or
- (b) Any property that is vacant for more than thirty (30) days or has been subject to any cancellation of Utility or Service, whichever occurs first.

Registry shall mean a web-based electronic database of searchable Real Property records, used by the Town to allow Mortgagees and Owners the opportunity to register properties and pay applicable fees as required in this Chapter.

Semi-Annual Registration shall mean six (6) months from the date of the first action that requires registration, as determined by the Town, 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.

Utilities and Services shall mean any utility and/or service that is essential for a building to be habitable and/or perform a service necessary to comply with all Town codes. This includes, but is not limited to, electrical, gas, water, sewer, lawn maintenance, pool maintenance, and snow removal.

Vacant shall mean any parcel of land in the Town that contains any building or structure that is not lawfully occupied.

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Sec. 68-3. APPLICABILITY AND JURISDICTION

This Chapter applies to Foreclosing, Foreclosed, and Vacant property within the Town of Kent.

Sec. 68-4. ESTABLISHMENT OF A REGISTRY

In accordance with the provisions of Section 68-6, the Town, or its designee, shall establish a registry cataloging each Registrable Property within the Town, containing the information required by this Chapter.

Sec. 68-5. INSPECTION AND REGISTRATION OF REAL PROPERTY UNDER FORECLOSURE

- (a) Any Mortgagee who holds a mortgage on Real Property located within the Town shall perform an inspection of the property upon default by the mortgagor as evidenced by the filing of a Foreclosure Action.
- (b) Property inspected pursuant to subsection (a) above that remains in Foreclosure shall be inspected every thirty (30) days by the Mortgagee or Mortgagee's designee. If an inspection shows a change in the property's occupancy status the Mortgagee shall, within ten (10) days of that inspection, update the occupancy status of the property registration.
- (c) Within ten (10) days of the date any Mortgagee files a Foreclosure Action, the Mortgagee shall register the Real Property with the Town Registry, and, at the time of registration, indicate whether the property is Vacant, and if so shall designate in writing a Property Manager to inspect, maintain, and secure the Real Property subject to the mortgage under a Foreclosure Action. A separate registration is required for each property under a Foreclosure Action, regardless of whether it is occupied or vacant.
- (d) Initial registration pursuant to this section shall contain, at a minimum, the name of the Mortgagee, the mailing address of the Mortgagee, email address, telephone number and address of the Property Manager.
- (e) At the time of initial registration, each registrant shall pay a non-refundable Semi-Annual Registration fee in the amount set by resolution the Town Board, as amended from time to time, for each property. Subsequent non-refundable Semi-Annual renewal registrations of properties and fees in the amount set by resolution the Town Board, as amended from time to time, are due within ten (10) days of the expiration of the previous registration. Said fees shall be used to offset the costs of: (1) registration and registration enforcement, (2) code enforcement and mitigation related to Defaulted properties, (3) for any related purposes as may be adopted in the policy set forth in this Chapter. Said fees shall be deposited to a special account in the Town's Building Department 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 shall be utilized for the legal defense of Foreclosure Actions.
- (f) 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 shall 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.
- (g) 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 shall 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.
- (h) If the Foreclosing or Foreclosed 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 shall be charged for every thirty-day period (30), or portion thereof, the property is not registered and shall be due and payable with the registration.
- (i) This section shall also apply 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.
- (j) Properties subject to this section shall remain subject to the Semi-Annual Registration requirement, and the inspection, security, and maintenance standards of this section as long as the property remains Registrable Property.
- (k) Failure of the Mortgagee and/or property Owner of record to properly register or to modify the

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registration to reflect a change of circumstances as required by this Chapter is a violation of this Chapter and shall be subject to enforcement by any of the enforcement means available to the Town.

- (l) If any property is in violation of this Chapter the Town 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.

Sec. 68-7. INSPECTION AND REGISTRATION OF REAL PROPERTY THAT IS NOT SUBJECT TO A MORTGAGE IN FORECLOSURE.

- (a) Any Owner of Vacant property located within the Town shall within ten (10) days after the property becomes Vacant, register the Real Property with the Town Registry.
- (b) Initial registration pursuant to this section shall contain, at a minimum the name of the Owner, the mailing address of the Owner, e-mail address, and telephone number of the Owner, and if applicable, the name and telephone number of the Property Manager and said person's address, e-mail address, and telephone number.
- (c) At the time of initial registration each registrant shall pay a non-refundable Semi-Annual Registration fee the amount set by resolution the Town Board, as amended from time to time, for each Vacant property. Subsequent non-refundable Semi-Annual renewal registrations of Vacant properties and fees in the amount set by resolution the Town Board, as amended from time to time, are due within ten (10) days of the expiration of the previous registration. Said fees shall be used to offset the costs of: (1) registration and registration enforcement, (2) code enforcement and mitigation related to Vacant properties, and (3) for any related purposes as may be adopted in the policy set forth in this Chapter. Said fees shall be deposited to a special account in the Town's Department dedicated to the cost of implementation and enforcement of this local law, and fulfilling the purpose and intent of this Chapter.
- (d) If the property is sold or transferred, the new Owner is subject to all the terms of this Chapter. Within ten (10) days of the transfer, the new Owner shall register the Vacant property or update the existing registration. The previous Owner(s) will not be released from the responsibility of paying all previous unpaid fees, fines, and penalties accrued during that Owner's involvement with the Vacant property.
- (e) If the Vacant property is not registered, or either the registration fee or the Semi-Annual Registration fee is not paid within thirty (30) days of when the registration or Semi-Annual Registration is required pursuant to this section, a late fee shall be equivalent to ten percent (10%) of the Semi-Annual Registration fee shall be charged for every thirty (30) day-period, or portion thereof, the property is not registered and shall be due and payable with the registration. This section shall apply to the initial registration and registrations required by subsequent Owners of the Vacant property.
- (f) Properties subject to this section shall remain subject to the Semi-Annual Registration requirement, and the inspection, security, and maintenance standards of this section as long as the property is Vacant.
- (g) Failure of the Owner to properly register or to modify the registration to reflect a change of circumstances as required by this local law is a violation of this Chapter and shall be subject to enforcement by any of the enforcement means available to the Town.
- (h) If any property is in violation of this Chapter the Town may take the necessary action to ensure compliance with and place a lien on the property for the cost of the outstanding obligation and any additional cost incurred to bring the property into compliance.
- (i) Properties registered as a result of this section are not required to be registered again pursuant to the Foreclosure mortgage property section unless such property shall subsequently become subject to a mortgage in foreclosure.

Sec. 68-8. EXEMPTIONS FROM REGISTRATION REQUIREMENTS.

A building which has suffered fire damage or damage caused by extreme weather events shall be exempt from the registration requirement for a period of 180 days (or that time required to settle an active insurance claim) after the date of the fire or extreme weather event, if the property owner submits a request for exemption, in writing, to the Building Inspector. This request shall include the following information supplied by the owner:

- (a). A description of the premises.
- (b) The names and address of the owner or owners.
- (c) A statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building.

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Sec. 68-9. MAINTENANCE REQUIREMENTS

- (a) In addition to the conditions set forth in Chapter 55-A of the town Code regarding Property Maintenance, properties subject to this chapter shall 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 shall 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 shall be maintained in accordance with the applicable code(s) at the time registration is required.
- (d) Registrable yard maintenance shall 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 shall not include weeds, gravel, broken concrete, asphalt or similar material.
- (e) Maintenance shall include, but not be limited to, watering, irrigation, cutting and mowing of required ground cover or landscape and removal of all trimmings.
- (f) Pools and spas shall be maintained so the water remains free and clear of pollutants and debris and shall comply with the regulations set forth in the applicable code(s).
- (g) Failure of the Mortgagee, Owner, 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 Town. Pursuant to a finding and determination by the Town Sheriff, Town Judge or a court of competent jurisdiction, the Town may take the necessary action to ensure compliance with this section.

Sec. 68-10. SECURITY REQUIREMENTS

- (a) Properties subject to these Sections shall be maintained in a secure manner so as not to be accessible to unauthorized persons.
- (b) A "secure manner" shall include, but not be limited to, the closure and locking of windows, doors, gates and other openings of such size that may allow a child to access the interior of the property or structure. 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 repaired. Broken windows shall be secured by re-glazing of the window.
- (c) If a property is Registrable, and the property has become vacant or blighted, a Property Manager shall be designated by the Mortgagee and/or Owner to 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 Town.

- (e) When a foreclosure property subject to this Chapter becomes Vacant, it shall be posted with the name and twenty-four (24) hour contact telephone number of the Property Manager. The Property Manager shall be available to be contacted by the Town Monday through Friday between 9:00 a.m. and 5:00 p.m., legal holidays excepted. The sign shall be placed in a window facing the street and shall be visible from the street. The posting shall be no less than eighteen (18) inches by twenty-four (24) inches and shall be of a font that is legible from a distance of forty-five (45) feet. The posting shall 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 _____.

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- (f) The posting required in subsection (e) above shall 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 shall be constructed of and printed with weather-resistant materials.
- (g) Failure of the Mortgagee and/or property Owner of record to properly inspect and secure a property subject to this Chapter, and post and maintain the signage noted in this section, is a violation and shall be subject to enforcement by any of the enforcement means available to the Town. The Town may take the necessary action to ensure compliance with this section, and recover costs and expenses in support thereof.

Sec. 68-11. PROVISIONS SUPPLEMENTAL

The provisions of this Chapter are cumulative with and in addition to other available remedies. Nothing contained in this Chapter shall prohibit the Town from collecting on 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 local law

Sec. 68-12. PUBLIC NUISANCE

All Registrable Property is at risk of being a public nuisance and if vacant or 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 Town.

Sec. 68-13. 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 code Enforcement Officer may temporarily secure the property at the expense of the Mortgagee or Owner, and may bring the violations before the Justice Court as soon as possible to address the conditions of the property. Nothing herein shall limit the Town from abating any nuisance or unsafe condition by any other legal means available to it.
- (b) The Sheriff, Town of Kent Police Department, Code Enforcement Officer, or Justice Court shall have the authority to require the Mortgagee or Owner 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 Sheriff, Town of Kent Police Department, Town Board or Justice Court may direct the Town to abate the violations and charge the Mortgagee or Owner with the cost of the abatement.
- (d) If the Mortgagee or Owner does not reimburse the Town for the cost of temporarily securing the property, or of any abatement directed by the Sheriff, Town of Kent Police Department, code enforcement officer, Town Board or Justice Court, within thirty (30) days of the Town sending the Mortgagee or Owner the invoice then the Town may lien the property with such cost, along with an administrative fee as determined in the Town's fee local law to recover the administrative personnel services. In addition to filing a lien the Town may pursue financial penalties against the Mortgagee or Owner. The Town shall maintain a record of the lien against the property in the Building Department records until such lien is satisfied.
- (e) The Town may contract with an entity to implement this Chapter, and, if so, any reference to the Enforcement Officer herein shall include the entity the Town contract with for that purpose.

Sec. 68-14. OPPOSING, OBSTRUCTING ENFORCEMENT OFFICER; PENALTY

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

Sec. 68.15 IMMUNITY OF ENFORCEMENT OFFICER

Any Enforcement Officer or any person authorized by the Town to enforce the sections here within shall 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.

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Sec. 68-16. PENALTIES

Unless otherwise provided for in this Chapter, a violation of this Chapter is declared unlawful. Any person who commits or permits any act in violation of any provisions of this chapter shall be deemed to have violated this chapter and to have committed a misdemeanor against the chapter and, shall be liable to the following penalties, following prosecution consistent with the laws of the State of New York:

a) For each violation of the provisions of this chapter, the person violating the same shall be subject to a fine of not more than _____ hundred dollars (\$_____.) nor less than _____ dollars (\$_____.) or imprisonment not to exceed one (1) year, or to both such fine and imprisonment. Each day that the violation continues shall be a separate offense.

In addition to the above-provided penalties, the Town Board may maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation of this chapter.

Sec. 68-17. AMENDMENTS

Registration fees and penalties outlined in this Article may be modified by resolution, administrative order, or an amendment to this Article, passed and adopted by the Town Board.

Sec. 68-17. AMENDMENTS

Registration fees and penalties outlined in this Article may be modified by resolution, administrative order, or an amendment to this Article, passed and adopted by the Town Board.

Section 3. Severability.

If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstance, and the Town Board of the Town of Kent hereby declares that it would have passed this local law or the remainder thereof had such invalid application or invalid provision been apparent.

Section 4: Effective Date.

This local law shall take effect immediately upon filing in the Office of the New York State Secretary of State in accordance with Section 27 of the Municipal Home Rule Law.

Resolution #65 - Table Public Hearing & Notice on DEC Acquisition

On a motion by Councilman Denbaum

Seconded by Councilman Huestis

Resolved: The public hearing and notice on DEC Acquisition was tabled.

Motion carried unanimously

Resolution #66 - Appointing Member to Beautification Committee

On a motion by Councilman Denbaum

Seconded by Supervisor Fleming

WHEREAS, there is currently a vacancy on the Town of Kent Beautification Committee, and Maureen Galway-Perotti has expressed a desire to fill said vacancy; and

WHEREAS, the Town Board wishes to appoint Ms. Galway-Perotti to fill the vacant position on the Beautification Committee;

NOW, THEREFORE, BE IT RESOLVED, that Maureen Galway-Perotti be appointed to the Beautification Committee for a five year term to expire on December 31, 2024.

Motion carried unanimously

Resolution #67 -Authorizing Town Clerk to Advertise Positions of Conservation Advisory Committee Member

On a motion by Councilwoman McGlasson

Seconded by Supervisor Fleming

WHEREAS, the Town of Kent wishes to advertise for applications to fill vacancies on the Conservation Advisory Committee ("CAC"); and

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WHEREAS, the Town Board of the Town of Kent wishes to authorize its Town Clerk, Yolanda D. Cappelli, to advertise for applications to fill the vacancies on the CAC;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby authorizes its Town Clerk, Yolanda D. Cappelli, to advertise for applications to fill the vacancies on the CAC.
Motion carried unanimously

Resolution #68 - Re-Appointing Member to Conservation Advisory Committee

On a motion by Councilwoman McGlasson

Seconded by Supervisor Fleming

WHEREAS, Phil Tolmach is currently a member of the Town of Kent Conservation Advisory Committee and wishes to be reappointed for an additional five year term; and

WHEREAS, the Town Board of the Town of Kent wishes to reappoint Phil Tolmach to the Conservation Advisory Committee;

NOW, THEREFORE, BE IT RESOLVED, that Phil Tolmach be appointed for an additional term of 5 years, commencing immediately and terminating on December 31, 2024.
Motion carried unanimously

Resolution #69 - Authorizing Town Clerk to Advertise for the Positions of Board of Assessment Review Member

On a motion by Councilwoman McGlasson

Seconded by Councilman Huestis

WHEREAS, the Town of Kent wishes to advertise for applications to fill vacancies on the Board of Assessment Review ("BAR"); and

WHEREAS, the Town Board of the Town of Kent wishes to authorize its Town Clerk, Yolanda D. Cappelli, to advertise for applications to fill the vacancies on the BAR;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby authorizes its Town Clerk, Yolanda D. Cappelli, to advertise for applications to fill the vacancies on the BAR.
Motion carried unanimously

Resolution #70 - Authorizing Correction of Violations, Acceptance of Proposal & Charge to Property Owners

On a motion by Councilwoman McGlasson

Seconded by Supervisor Fleming

WHEREAS, the Code Enforcement Officer of the Town of Kent issued an Order to Remedy a Violation (the "Order to Remedy") directing the removal of rubbish from the following properties:

124 Horsepound Road	Tax Map 33.17-1-81
236 Lakeshore Drive E.	Tax Map 33.34-1-24; and

WHEREAS, the Order to Remedy requires each owner to correct the violations or respond to the Code Enforcement Office within ten days and, to date, the owners of the Properties have not responded; and

WHEREAS, pursuant to Chapter 55A of the Town Code of the Town of Kent regarding "Property Maintenance", upon the failure of any owner to comply, the Building Inspector is authorized to correct a violation subject to the approval of the Town Board; and the Town Board wishes to authorize the Building Inspector to correct the violations if the owner does not correct the violations or respond to the Code Enforcement Office within the ten days; and

WHEREAS, consistent with the Town's Procurement Policy, the Town of Kent requested three proposals from contractors to correct the violations on the Properties and received proposals in response, copies of which are annexed hereto and incorporated by reference; and

WHEREAS, the Town Board wishes to accept the lowest proposal submitted on the properties as further outlined below:

124 Horsepound Road	\$ 700	J Jax Landscaping Inc.
236 Lakeshore Drive E.	\$3,000	FI Adams Inc.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby accepts the proposals of J Jax Landscaping Inc. and FI Adams Inc., as described above for a total cost not to exceed \$3,700; and

BE IT FURTHER RESOLVED, that the actual cost of the correction of the violation, plus the accrued legal rate of interest from the date of completion of the work, shall be charged to the property owners by the Town in accordance with Chapter 55A-12 (B).
Motion carried unanimously

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Resolution #71 - Authorizing Destruction of Computers & Other Equipment

On a motion by Councilman Ruthven

Seconded by Supervisor Fleming

WHEREAS, the Town Board received a letter dated January 15, 2020, from Richard Harris, IT Consultant, recommending that the Town have the hard drives deleted and destroyed and other items recycled from a number of computers and other equipment, from various Town Departments, as outlined on the letter annexed hereto; and

WHEREAS, the Town Board wishes to accept the recommendation and authorize the IT Consultant to cause the destruction and recycling of the computers and other equipment; and

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Kent hereby authorizes its IT consultant to cause the destruction and recycling of the computers and other equipment; and

BE IT FURTHER RESOLVED, that the Town Supervisor is hereby authorized and directed to execute any and all agreements and other documents necessary to give effect to this Resolution, consistent with the terms hereof, all in form satisfactory to the Supervisor and the Town Attorney.

Motion carried unanimously

Resolution #72 - Table Financial Advisory Services Agreement

On a motion by Councilman Ruthven

Seconded by Councilwoman McGlasson

Resolved: Financial Advisory Services Agreement was tabled.

Motion carried unanimously

Resolution #73 -Setting Standard Work Day Elected & Appointed Officials

On a motion by Councilman Ruthven

Seconded by Supervisor Fleming

WHEREAS, the Town of Kent wishes to establish a standard work day for its elected and appointed officials;

NOW, THEREFORE, BE IT RESOLVED, that the Town of Kent hereby establishes the standard work days for its elected and appointed officials as set forth on the attached schedule and will report days worked to the New York State and Local Employee's Retirement System based on the time keeping system or the record of activities maintained and submitted by these members to the clerk of this body.

Motion carried unanimously

Resolution #74 - Approving Stormwater Maintenance & Easement Agreements for Patterson Crossing Retail Center

On a motion by Councilman Ruthven

Seconded by Supervisor Fleming

WHEREAS, as a condition of approvals by the Planning Boards of the Town of Kent for the "Patterson Crossing Retail Center", Patterson Crossing Realty Company, LLC ("Patterson Crossing") has submitted three copies of (i) the Stormwater Management Facilities Inspection and Maintenance Agreement together with the TP-584, (ii) Stormwater Management Facilities Inspection and Maintenance Easement together with the TP-584, and (iii) Stormwater Management Facilities Management Agreement together with the TP-584, (hereinafter, collectively the "Agreements") copies of which is annexed hereto and hereby made a part hereof; and

WHEREAS, the Town Board recommends the approval of the Agreements;

NOW, THEREFORE, BE IT RESOLVED, that the Town Board hereby approves the Agreements; and

BE IT FURTHER RESOLVED, that the Town Board of the Town of Kent hereby authorizes and directs the Town Supervisor to execute any and all documents, in a form satisfactory to the Town Attorney, and to take any and all other necessary or appropriate actions to give effect to this resolution.

Motion carried unanimously

Resolution #75 - Add to the Agenda

On a motion by Supervisor Fleming

Seconded by Councilman Ruthven

Resolved: Amend Resolution #311/2019 was added to the agenda.

Motion carried unanimously

Resolution #76 - Amend Resolution #311/2019

On a motion by Supervisor Fleming

Seconded by Councilman Huestis

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WHEREAS, on August 22, 2019, by Resolution #311 the Town Board appointed Lieutenant Kevin Owens, who had been acting as the Chief of Police, to the position of Chief of Police at a pay rate of \$57 per hour; and

WHEREAS, the Town Board wishes to amend Resolution #311 to include that in addition to the pay rate of \$57 per hour, Chief Owens will receive benefits that are equal to those received by his predecessors.

Motion carried unanimously

Resolution #77 - Approval of Vouchers and Claims

On a motion by Councilman Huestis

Seconded by Councilman Ruthven

Resolved: All Vouchers #200153684 - #200153801 and claims submitted by :

2019 VOUCHERS

1. Cemco Water	\$5,823.38	Town Hall: Auto Flush Installed
2. City Carting	\$9,763.97	Lake Carmel Garbage
3. DiBella Electric	\$6,930.00	Balance: Smokey Hollow Generator
4. Fullerton Services	\$2,380.00	Police: June and Dec
5. Hogan & Rossi	\$2,771.31	Out of Retainer: December
6. Jim Liebler, Inc.	\$7,670.00	Balance: Frame at Garage
7. Morton Salt	\$83,062.44	Salt

In the amount of \$143,701.04 may be paid.

2020 VOUCHERS

1. Barney Zipkin Tree Service	\$8,265.00	Tree Service
2. Chemung Supply Corp.	\$43,445.99	Drainage Pipes
3. City Carting	\$6,328.27	Lake Carmel Garbage
	\$8,663.66	
4. DiBella Electric	\$4,305.00	Electrical: Fuel Pumps
5. Hogan & Rossi	\$5,416.63	Legal Services: January
6. Kent Public Library	\$566,686.00	2020 Budget
7. Lexipol	\$9,460.00	Law Enforcement Subscription
8. Magna5	\$6,437.43	Telephone Service
9. NYCOMCO	\$2,846.00	Police: 2 Way Radios
10. NYS Dept. of Civil Service	\$206,261.79	Health Insurance: January
11. Spain Agency	\$65,920.16	Quarterly Installment
12. Trius, Inc.	\$35,085.00	Asphalt Box

In the amount of \$1,000,799.18 may be paid.

Motion carried unanimously

Correspondence -Attached

Public Comment

There was none.

Resolution #78 - Adjourn to Executive Session

On a motion by Supervisor Fleming

Seconded by Councilman Denbaum

Resolved: The town board adjourned at 9:00 p.m. to executive session to discuss the hiring of an individual.

Motion carried unanimously

Resolution #79 - Hire Part-Time Court Officers – Minutes of Executive Session taken by Jamie Spillane

On a motion by Councilman Denbaum

Seconded by Councilman Huestis

Resolved: John Olimpio and Vinny Bade were hired as part time Court Officers subject to completion of all necessary requirements and qualifications.

Motion carried unanimously

Resolution #80 - Adjournment

On a motion by Councilwoman McGlasson

Seconded by Councilman Denbaum

Resolved: The town board adjourned at 9:30 p.m.

Motion carried unanimously

Respectfully submitted,

Yolanda D. Cappelli

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Town Clerk