

## **CHAPTER 85. Article I. Point-of-Sale Inspections**

[Adopted 3- 8 - 2022 by L.L. No. 1-2022]

### **§ 85-1. Purpose.**

The Village of Gowanda 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.

### **§ 85-2. Definitions.**

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

#### **MORTGAGEE**

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**

Real property located within the Village of Gowanda 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**

Shall be defined pursuant to § 1309 of the 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 § 1310 of the New York Real Property Actions and Proceedings Law one year prior to sale or transfer.

**§ 85-3. Inspection officials.**

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

**§ 85-4. 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 Village of Gowanda 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 Village of Gowanda inspection officials within 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 Village of Gowanda inspection officials not more than 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 30 days prior to such sale, the purchaser or transferee shall have the duty to apply in writing to the Village of Gowanda Code Inspection Bureau within 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 appropriate inspection officials and/or the Code Enforcement Officer of the Village of Gowanda, as may be qualified, pursuant to the Village of Gowanda Code and New York State Law, and further such Code Enforcement Officer may obtain from the appropriate court of competent jurisdiction a warrant to permit entry to such property for the purpose of performing the inspection required by this Section 85-4.E.

**§ 85-5. Fees.**

- A. The fee charged for the point-of-sale inspection certificate shall be:
- (1) Two hundred dollars for a single-family dwelling;
  - (2) Three hundred dollars for a two-family dwelling;

- (3) Two hundred dollars for the first dwelling unit in a multifamily dwelling structure and an additional \$50 for each additional unit in a multifamily structure.

B. A reinspection fee of \$25 shall be charged for each reinspection.

**§ 85-6. Point-of-sale inspection certificates.**

A. Upon successful inspection, the Village of Gowanda inspection officials will issue a point-of-sale inspection certificate indicating compliance with Building, Fire and Safety Codes. Such certificate will expire after a period of 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 90 calendar days of the issuance of the notice of violation, the Village of Gowanda may correct or repair some or all of the violations;

- (3) If the Village of Gowanda corrects or repairs some or all of the violations either with Village 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 Village's Code Enforcement Official may temporarily waive the requirement of a point-of-sale inspection certificate as a prerequisite to transfer of title provided that no later than 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 Village's Code Enforcement Officer and such request includes a written, itemized quote by a licensed contractor approved by the Village of Gowanda, which provides for correction of all violations listed;

- (2) The purchaser or transferee files with the Village's Code Enforcement Officer a written guaranty to correct all violations within 90 days after the closing or a period of time specified by the Village's Code Enforcement Officer;

- (3) The owner or agent or mortgagee or purchaser or transferee provides a sum equal to 150% of the estimated costs contained in the itemized quote above. Such sum shall be payable by certified check or bank draft to the Village of Gowanda at closing and held in escrow by the Village

of Gowanda; 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 Village of Gowanda 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 Village of Gowanda's vital interest in maintaining property values, including but not limited to:

(1) Exterior:

- (a) Roof - chimney.
- (b) Paint - all related carpentry repairs (house and/or garage).
- (c) Porch and step repair.
- (d) Downspouts to storm sewers.
- (e) Replacement of deteriorated windows and/or doors.
- (f) Concrete replacement or major repair.
- (g) Garage replacement or major repair.
- (h) Dead tree removal.
- (i) Fences.

(2) Interior:

- (a) Major electrical repair.
- (b) Major plumbing repair.
- (c) HVAC.
- (d) Foundation - support post, block wall bowed or collapsed.
- (e) Major breach of ceilings, walls or floor.
- (f) 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 Village Board, which shall make a ruling on the appeal.

# Local Law Filing

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

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County  City  Town  Village  
(Select one.)

of Gowanda

Local Law No. 1 of the year 2022

A local law Point-of-Sale Inspections  
(insert Title)

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

County  City  Town  Village  
(Select one.)

of Gowanda as follows:

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

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

**1. (Final adoption by local legislative body only.)**

I hereby certify that the local law annexed hereto, designated as local law No. 1 of 2022 of the (County)(City)(Town)(Village) of Gowanda was duly passed by the March on 8 2022, in accordance with the applicable provisions of law.  
*(Name of Legislative Body)*

**2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer\*.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ and was deemed duly adopted *(Elective Chief Executive Officer\*)* on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**3. (Final adoption by referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. *(Elective Chief Executive Officer\*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

**4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20\_\_\_\_ of the (County)(City)(Town)(Village) of \_\_\_\_\_ was duly passed by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the \_\_\_\_\_ on \_\_\_\_\_ 20\_\_\_\_. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of \_\_\_\_\_ 20\_\_\_\_, in accordance with the applicable provisions of law.

\* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

**5. (City local law concerning Charter revision proposed by petition.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_ of the City of \_\_\_\_\_ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on \_\_\_\_\_ 20 \_\_\_\_\_, became operative.

**6. (County local law concerning adoption of Charter.)**

I hereby certify that the local law annexed hereto, designated as local law No. \_\_\_\_\_ of 20 \_\_\_\_ of the County of \_\_\_\_\_ State of New York, having been submitted to the electors at the General Election of November \_\_\_\_\_ 20 \_\_\_\_\_, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

**(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)**

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph \_\_\_\_\_ above.



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

Date: 3/8/2022

(Seal)

