

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
of Walden
Town
Village

Local Law No. 7 of the year 2016

A local law To amend Section 305-47 of the Code of the Village of Walden entitled “Abandonment of Use”
(Insert Title)

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

of the
County
City
of Walden as follows:
Town
Village

Section 1. Legislative Intent and Purpose:

- 1.1 In order to ensure the clarity and effectiveness of the Village Zoning Ordinance, it is necessary and appropriate to periodically review ordinance provisions that must be construed by the Village Building Department, Planning Board and Zoning Board of Appeals.

A review of Village Ordinance Section 305-47, *Abandonment of Use*, reveals an inconsistency that the Village Board wishes to address in order to provide clarity to the Boards and Officers of the Village of Walden who must construe the terms and provisions of this ordinance in the course of carrying out their required duties. Specifically, the Village Board finds the use of the word “voluntary” before the word “discontinued” in Sections 305-47-a(2) and (3) is ambiguous and infers an element of intent which may be difficult, if not impossible, to glean. This is especially so when a property may have been abandoned as a result of financial difficulties and the owner or owners may be impossible to locate resulting in the element of intent being impossible to ascertain.

Accordingly, the Village Board believes that the removal of the word “voluntary” from this provision of the code will result in a code provision that is clear and unambiguous to the Village Boards and Officers who must enforce and implement the Code as well as clear and unambiguous to those who may own or acquire premises which are subject to this code provision.

Section 2. Code Amendment:

2.1 Village of Walden Code Section 305-47 is hereby deleted in its entirety and replaced with the following:

305-47 Abandonment of use

A nonconforming use shall be deemed to have been abandoned:

(1)

When it is changed to a conforming use.

(2)

In cases where such nonconforming use is of a building or structure designed for such use, when it has been discontinued for a period of 12 consecutive months.

(3)

In cases where such nonconforming use is of a building or structure not designed for such use or is of a lot or land whereon there is no consequential building or structure devoted to such use, when it has been discontinued for a period of six consecutive months.

B.

A nonconforming use that has been abandoned shall not thereafter be reinstated.

Section 3. Severability

3.1 If any clause, sentence, paragraph, subdivision, or part of this local law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any 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 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 such judgment or order shall be rendered.

Section 4. Effective Date

4.1 This local law shall take effect upon the filing with the Secretary of State.