

LOCAL LAW #1 OF 2018

A LOCAL AMENDING CHAPTER 305 OF THE CODE OF THE VILLAGE OF WALDEN ENTITLED “ZONING” TO THE EXTENT OF AMENDING CODE SECTION 305-47, ENTITLED “ABANDONMENT OF USE,” TO PROVIDE CERTAIN SPECIFIC EXCEPTIONS TO THOSE NONCONFORMING USES WHICH WOULD OTHERWISE BE DEEMED ABANDONED

BE IT ENACTED by the Village Board of the Village of Walden as follows:

SECTION 1 - TITLE

This Local Law shall be referred to as “A Local Law Amending Chapter 305 of the Code of the Village of Walden entitled “Zoning” to the extent of amending Code Section 305-47 entitled “Abandonment of Use” to provide certain specific exceptions to those nonconforming uses which would otherwise be deemed abandoned.

SECTION 2 – PURPOSE & INTENT

Zoning became effective in the Village of Walden in 1958. Pursuant to the Village Code, any uses that were in existence as of that date and which may have been subsequently prohibited or disallowed by the express terms of any duly adopted zoning code provision that became effective after 1958, were allowed to continue unless “abandoned” as that term is defined in the Village Code. Recently, it has come to the attention of the Village Board that there exist multiple residential properties in the Village that were originally built or occupied as two family dwellings and/or multi-family dwellings prior to 1958 whose use as a two family and/or multi-family would now be deemed abandoned under the current provisions of the Village Code. In order to utilize these properties as originally and/or historically intended, recourse to the Village Zoning Board of Appeals would therefore be required and the standards of review applicable to said applications would have to be satisfied. The Village finds this result to be unduly onerous and unfair. Accordingly, this local law is enacted to address this fundamental unfairness while at the same time containing provisions ensuring that the public health, safety and welfare of the citizens are protected.

SECTION 3 – AMENDMENT TO TEXT OF CHAPTER 305-47.

Village Code section 305-47 is hereby amended by the addition of the following language:

- C. Notwithstanding anything to the contrary contained in the sections above, or anywhere else in this code, in the case of a structure that was built prior to 1958 that was specifically constructed as a two-family or multi-family residential dwelling, or was being utilized as a two family or multi-family dwelling in 1958 when zoning was first adopted in the Village, the use of such as a two-family or as a multi-family may be continued, or resumed as the case may be, and shall not be deemed abandoned, subject to compliance with the following criteria:
1. In order for a two-family structure to be entitled to the protection provided pursuant to this Section, the following criteria must be satisfied: (a) The structure must have been built prior to 1958; (b) the structure must have been built as a two-family dwelling; (c) each apartment must have a minimum usable floor space of 900 square feet or more; (d) there must be compliance with the off-street parking requirements for each apartment as set forth in Village Code section 305-26; (e) the structure must satisfy all applicable requirements of the New York State Uniform Fire Prevention and Building Code.
 2. In order for a multi-family dwelling to be entitled to the protection provided pursuant to his Section, the following criteria must be satisfied: (a) The structure must have been built prior to 1958; (b) the structure must have been built as a multi-family dwelling; (c) each apartment must have a minimum usable floor space of 1,000 square feet or more; (d) there must be compliance with the off-street parking requirements for each apartment as set forth in Village Code section 305-26; (e) the structure must satisfy all applicable requirements of the New York State Uniform Fire Prevention and Building Code.
- D. Compliance with the requirements of section 305-47(C) must be demonstrated by the submission of proof satisfactory to the Village Building Inspector. Determinations issued by the Building Inspector may be appealed to the Village Zoning Board of Appeals pursuant to the applicable provisions of the New York State Village Law.
- E. The provisions of section 305-47(C) shall not be construed to limit, impair, alter or diminish the continued utilization of any non-conforming use that has not been abandoned and which otherwise qualifies as a nonconforming use pursuant to the provisions of this Code.
- F. As used in section 305-47(C), the terms “two family dwelling” and “multi-family dwelling” shall have the following meanings:
- (1) “Two family dwelling” shall mean a building that contains two separate dwelling units, each with provisions for cooking, living, sanitary and sleeping facilities used, intended or designed to be used, rented , leased, let or hired out to be occupied for living purposes of two families living independently of each other in a stable permanent living arrangement;

- (2) “Multi-family dwelling” shall mean a building that contains more than two separate dwelling units used, each with provisions for cooking, living, sanitary and sleeping facilities, used, intended or designed to be used, rented, leased, let or hired out to be occupied for living purposes by more than two families living independently of each other in a stable permanent living arrangement.

SECTION 4 - VALIDITY

If any clause, sentence, paragraph, word, section or part of this local law shall be adjudged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

SECTION 5 - EFFECTIVE DATE

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